

**MINUTES**  
**CITY COUNCIL MEETING**  
**November 6, 2012**

The Wayne City Council met in regular session at City Hall on Tuesday, November 6, 2012, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Eric Knutson; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on October 25, 2012, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Haase made a motion, which was seconded by Councilmember Van Delden, whereas, the Clerk has prepared copies of the Minutes of the meeting of October 16, 2012, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

**VARIOUS FUNDS:** 4IMPRINT, SU, 228.68; AMAZON.COM, CU, 286.82; AMERICAN BROADBAND, SE, 2211.41; AMERITAS, SE, 5833.75; APPEARA, SE, 301.09; ARNIE'S FORD-MERCURY, SU, 1238.29; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 240.00; CITY EMPLOYEE, RE, 425.74; BENSOTER PLUMBING, SE, 22513.68; BLACK HILLS ENERGY, SE, 243.00; BOMGAARS, SU, 639.98; BROWN SUPPLY, SU, 271.39; CASEY ELECTRIC, SE, 399.34; CENTURYLINK, SE, 311.13; CHEMQUEST, SU, 11085.37; CITY OF NORFOLK, SE, 204.21; CITY OF PONCA, RE, 12671.97; CITY OF WAYNE, RE, 300.00; CITY OF

WAYNE, PY, 130231.56; CITY OF WAYNE, RE, 40.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 389.27; CITY OF WAYNE, RE, 575.96; CITY OF WEST POINT, RE, 18393.96; CITY OF WISNER, RE, 1915.20; CLAUSSEN & SONS IRRIG., SE, 160.00; COACHDECK LLC, SU, 47.50; COMMUNITY HEALTH, RE, 6.00; CONSOLIDATED MANAGEMENT, SE, 297.00; CITY EMPLOYEE, RE, 2598.79; DALE FERNAU, SE, 3800.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEARBORN NATIONAL LIFE, SE, 110.08; DEMCO, SU, 1201.17; DUE FROM AIRPORT, SE, 145.84; CITY EMPLOYEE, RE, 4545.67; ECHO GROUP, SU, 57.12; CITY EMPLOYEE, RE, 1349.49; ED. M FELD EQUIPMENT, SE, 18.33; ELECTRIC FIXTURE & SUPPLY, SU, 118.40; ENGINEERED CONTROLS, SU, 2960.00; FASTENAL, SU, 15.24; FIREMAN'S ASSOCIATION, RE, 5000.00; FIRST CONCORD GROUP, SE, 3102.18; FLOOR MAINTENANCE, SU, 382.97; CITY EMPLOYEE, RE, 290.68; GALE GROUP, SU, 1409.00; GILL HAULING, SE, 155.00; GRAINGER, INC., SU, 42.07; GROSSENBURG IMPLEMENT, SE, 395.40; CITY EMPLOYEE, RE, 5965.17; HACH COMPANY, SU, 69.15; HD SUPPLY WATERWORKS, SU, 2671.20; CITY EMPLOYEE, RE, 21.76; HELENA CHEMICAL, SU, 72.00; IAEI, FE, 102.00; ICMA, SE, 11098.55; IRS, TX, 44493.34; JASON CAROLLO, SE, 50.00; CITY EMPLOYEE, RE, 1525.72; KNOEPFLER CHEVROLET, SU, 133.06; FIREMAN, RE, 425.31; KRIZ-DAVIS, SU, 599.06; LIBERAL GASKET, SU, 262.27; MAIN STREET AUTO CARE, SE, 198.00; MCMASTER-CARR SUPPLY, SU, 257.80; MES-MIDAM, SU, 4689.00; MICHAEL TODD & CO, SU, 995.38; MIDWEST OFFICE AUTOMATION, SE, 1060.18; MULTIMEDIA SALES & MARKET, SE, 313.50; NATIONAL BUSINESS FURNITURE, SU, 894.00; CITY EMPLOYEE, RE, 514.35; NE DEPT OF ENVIRONMENTAL, FE, 300.00; NE DEPT OF HEALTH, FE, 298.00; NE DEPT OF REVENUE, TX, 7214.38; NE HARVESTORE, SU, 14042.48; NE LIBRARY COMMISSION, FE, 662.60; NE SAFETY COUNCIL, SE, 11.49; NISSEN, BRENDA, RE, 500.00; NORTHWEST ELECTRIC, SE, 90.67; OLSSON ASSOCIATES, SE, 383.50; OTTE CONSTRUCTION, SE, 200.00; OVERHEAD DOOR COMPANY, SE, 95.50; PIEPER & MILLER, SE, 3015.00; PONCA RURAL FIRE BOARD, RE, 3032.40; POSTMASTER, SU, 135.00; PRESTO X COMPANY, SE, 57.58; PROVIDENCE MEDICAL CENTER, SE, 10000.00; RITA MCLEAN, RU, 328.07; ROSE EQUIPMENT, SU, 3169.31; SEVERN TRENT, SU, 3627.69; STATE ELECTRICAL DIVISION, FE, 50.00; STATE NATIONAL BANK, RE, 499.10; STATE NATIONAL BANK, RE, 10634.54; TOM'S BODY & PAINT SHOP, SE, 20.80; CITY EMPLOYEE, SU, 150.00; UNITED RENTALS, SU, 1004.18; UPSTART, SU, 183.85; US BANK, SE, 7178.14; VERIZON, SE, 352.32; VIAERO, SE, 207.16; VILLAGE OF WINSIDE, RE, 4053.58; WAED, RE, 7383.33; WAYNE COMMUNITY HOUSING, SE, 1955.00; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, RE, 92.00; WAYNE STATE FOUNDATION, SE, 100.00; CITY EMPLOYEE, RE, 575.96; FIREMAN, RE, 422.25; BACON & VINTON, SE, 4000.00; CHARTWELLS, SE, 6205.00; CITY OF WAYNE, RE, 250.00; CONSOLIDATED MANAGEMENT, SE, 97.25; CITY EMPLOYEE, RE, 144.17; EASYPERMIT POSTAGE, SU, 705.53; ELLIS PLUMBING, SE, 120.00; GREAT PLAINS ONE-CALL, SE, 96.96; HARDING & SHULTZ, SE, 175.00; HOBBY LOBBY, SU, 78.01; JASON CAROLLO, SE, 105.00; JEO CONSULTING GROUP, SE, 8451.75; KELLY SUPPLY, SU, 141.86; KRIZ-DAVIS,

SU, 242.29; MAISE ELECTRICAL, SU, 17645.65; MATTHEW BENDER & CO, SU, 312.31; MIKE TOWNE, SE, 1700.00; NANCY RODRIGUEZ, SU, 43.75; NNPPD, SE, 3255.00; PEPSI-COLA, SU, 1003.20; PLUNKETT'S PEST CONTROL, SE, 97.34; QUALITY FOODS, SU, 102.75; STADIUM SPORTING GOODS, SU, 1762.00; STATE NATIONAL BANK, SE, 65.68; TOM'S BODY & PAINT SHOP, SE, 121.00; USA BLUE BOOK, SU, 270.71; UTILITIES SECTION, FE, 190.00; WAYNE COUNTY CLERK, SE, 10.50; WAYNE KIWANIS, FE, 130.00; WAYNE MANUFACTURING, SU, 571.62; WESCO, SU, 7918.64; WAPA, SE, 26498.04; ZEE MEDICAL SERVICE, SU, 94.06

Councilmember Haase made a motion and Councilmember Sturm seconded to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Mayor Chamberlain rearranged the order of the agenda.

Councilmember Frevert made a motion, which was seconded by Councilmember Van Delden to recess as Council and convene as the Community Development Agency. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Dale Alexander, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Eric Knutsen; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Chair Haase advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

The next item on the CDA agenda was to approve the minutes of the October 16, 2012, meeting.

Member Frevert made a motion and Member Chamberlain seconded approving the minutes of the October 16, 2012, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to take action on a proposal submitted by Kelby Herman to build market rate homes, in return for reduced lot prices, in the Western Ridge II Subdivision.

Kelby Herman, d/b/a Progressive Property Inspections, LLC, was present and stated he would like to purchase a minimum of 5 lots, with an option to purchase an additional 5 lots, within the Western Ridge II Subdivision at a 25% discount off of the current list price. The first 5 lots will be purchased and homes constructed within the next 30 months. Should he fail to construct 5 homes on these discounted lots within the 30 month time frame, the following penalty will result: (ex: Progressive Property Inspections purchases 4 lots at the discounted price and builds four homes in the 30-month time frame, but fails to purchase and build on the fifth lot. Progressive Property Inspections will pay the city the amount of the discount given on the first four lots as a penalty for not completing the five structures in the 30-month time frame). The penalty to be paid will only be the discount given on the lots that have been purchased. If due to the housing demand, less than five lots are purchased again, the penalty will only be the discount given on the lots purchased.

The recommendation of the City Administrator is:

- Two shade trees of a large species would be planted on each lot;
- Discount limited to \$9,000 and \$12,000 lots;
- Lots 9, 10, 29, 30, 31 as first five;
- Discount incentive be paid at the end of performance; and
- All homes would meet blower door test of 5 ACH @ 50 pascals.

The discount only comes into effect after 30 months have passed. Mr. Herman would pay full price for the lots, and after 30 months, if he has done what he said he would do, then he would receive the performance discount from the City.

Member Frevert made a motion, which was seconded by Member Sturm, to approve the proposal submitted by Kelby Herman to purchase Lots 9, 10, 29, 30, and 31 in the Western Ridge II Subdivision, at a 25% discount off of the current list price, provided homes are constructed thereon within the next 30 months, that 2 shade trees of large species are planted on each lot, that all homes will meet blower door test of 5 ACH @ 50 pascals, with the discount incentive being paid at the end of 30-month performance period. Chair Haase stated the motion, and the result of roll call being all yeas, the Chair declared the motion carried.

The next item on the agenda was to take action on CDA Resolution 2012-7 authorizing the issuance of a tax increment revenue bond for the Progressive Property Inspections, LLC, project. This authorizes the issuance of TIF financing that was already approved for the duplex to be built on First Street by Progressive Property Inspections, LLC.

Member Chamberlain introduced CDA Resolution No. 2012-7 titled as follows and moved for its passage and approval by the Agency:

CDA RESOLUTION NO. 2012-7

A RESOLUTION OF THE CITY OF WAYNE, NEBRASKA, ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE ACTING AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF SAID CITY; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY DEVELOPMENT LAW; AUTHORIZING THE SALE OF SAID BOND; PROVIDING FOR A GRANT; PROVIDING FOR A REDEVELOPMENT CONTRACT AND PROVIDING FOR THIS RESOLUTION TO TAKE EFFECT.

Member Sturm seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion:

Frevert, Van Delden, Alexander, Chamberlain, Sturm, Ley, Berry, and Brodersen. The

following Members voted against the motion: None; the following member was absent:

None; and the following members abstained due to a conflict of interest: None. The

Chair declared the motion carried.

Member Sturm made a motion and Member Frevert seconded to adjourn as the Community Development Agency and reconvene as Council. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mayor Chamberlain stated the time was at hand for the public hearing regarding an application for a Retail Class C Liquor License for Malachi, Inc., d/b/a “Wildcat Lanes.”

Rick Barner, representing Malachi, Inc., d/b/a “Wildcat Lanes”, was present to answer questions.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further public comments, Mayor Chamberlain closed the public hearing.

Councilmember Sturm introduced Resolution No. 2012-83 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2012-83

A RESOLUTION APPROVING APPLICATION FOR RETAIL CLASS C LIQUOR LICENSE — MALACHI, INC., D/B/A “WILDCAT LANES.”

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would amend the housing construction loan incentives that were approved at the last Council meeting.

Councilmember Sturm introduced Resolution No. 2012-84 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2012-84

A RESOLUTION AMENDING HOUSING CONSTRUCTION LOAN INCENTIVES FOR BUILDERS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve the Wage and Salary Schedule for the Police Department. This will correct an error in the wage scale that was approved at the last Council meeting. The wage range for the Senior Patrolman position should have been \$18.22 - \$24.25 instead of \$18.22 - \$23.60.

Councilmember Van Delden introduced Resolution No. 2012-85 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2012-85

A RESOLUTION APPROVING WAGE AND SALARY SCHEDULE FOR THE POLICE DEPARTMENT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sturm who abstained, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would amend the rules and regulations for the reimbursement of expenses and fees for members of the Wayne Volunteer Fire Department. This will make the requirements for firefighters when they attend meetings, training, etc., the same as the reimbursement requirements for city staff.

Councilmember Brodersen introduced Resolution No. 2012-86 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2012-86

A RESOLUTION AMENDING THE RULES AND REGULATIONS FOR THE REIMBURSEMENT OF EXPENSES AND FEES FOR MEMBERS OF THE WAYNE VOLUNTEER FIRE DEPARTMENT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve a Letter Agreement for Professional Services with Olsson Associates for the “Chief’s Way Sanitary Sewer Project” for a fee not to exceed \$29,590. This will extend sewer south underneath Highway 35 in front of John Deere and then west. Since an improvement district for sanitary sewer cannot be created outside city limits, we will use the equivalent of what the assessments would be, which includes the engineering fees, as the hook-up fees.

Councilmember Sturm introduced Resolution No. 2012-87 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2012-87

A RESOLUTION APPROVING LETTER AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF WAYNE AND OLSSON ASSOCIATES FOR THE “CHIEF’S WAY SANITARY SEWER PROJECT.”

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Betty McGuire, City Clerk, stated the following Resolution would amend the City’s ICMA Retirement Corporation Agreement to provide for “Roth” individual retirement accounts (IRA’s) for city employees. A representative from ICMA recently presented a new Roth IRA option being made available to city employees. There would be no cost to the City; however, the Council must amend the plan to include this option.

Councilmember Ley introduced Resolution No. 2012-88 and moved for its approval; Councilmember Berry seconded.

RESOLUTION NO. 2012-88

A RESOLUTION REAFFIRMING ICMA-RC DEFERRED COMPENSATION RETIREMENT SAVINGS PLAN AND ADOPTING ICMA-RC INDIVIDUAL RETIREMENT ACCOUNTS (“IRAs”) FOR ALL REGULAR FULL-TIME EMPLOYEES.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sturm who abstained, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would amend the energy incentive program as follows:

1. Add a new trial incentive to encourage new energy efficient home construction that is certified through the Five Star Energy program.

This would designate \$45,000 per year for two years of already budgeted incentive program funds to a trial incentive for the Five Star Energy Program as follows:

- a) \$3,000 one-time incentive to a first-time homebuyer of a new construction single-family residence within the City of Wayne that qualifies for the Five Star Energy Plan;
- b) Applicants would be approved on a first come, first serve basis;
- c) Third Party Certification that Five Star requirements have been met in the completed home before receipt of the incentive by the homebuyer; and
- d) Two shade trees that are large species must be planted on each lot.

This reallocates funds within our existing program.

Controlling summer peak load still drives the NPPD incentives and our local incentives. This will help first time homebuyers with down payments and will help demonstrate the effect of this level of energy efficiency on summer peak load control of the City and NPPD electric systems.

2. Eliminate an old incentive to install permanent resistance heat in commercial buildings and residences. This incentive was intended to help level out the electric load of the Wayne electric system by adding winter electric use while at the same time we're working to reduce summer peak loads. With new EPA air quality requirements and apparent long-term, low cost natural gas, the best use of incentive funds would seem to be to focus on summer peak control. The cost of summer peak load power used for air conditioning is projected to climb.

Lou Benscoter was also present regarding this matter.

After discussion, a motion was made by Councilmember Frevert, and seconded by Councilmember Brodersen to table action on this matter until the next Council meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Nancy Braden, Finance Director, stated the following Resolution is part of a process that WAED is doing again to become recognized as a certified economic development community. This simply gives the community a leg up in the search for economic development prospects and opens an avenue for some additional funds that we wouldn't be eligible for without the certification.

Councilmember Sturm introduced Resolution 2012-90, and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2012-90

A RESOLUTION SUPPORTING THE CITY OF WAYNE'S PARTICIPATION  
IN NEBRASKA'S ECONOMIC DEVELOPMENT CERTIFIED PROGRAM.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Lou Benscoter, representing Benscoter Development, was present regarding his offer to purchase the three city owned lots legally described as Lots 12, 13, & 14, Benscoter Addition Planned Unit Development Replat 1, for the sum of \$2,000 each. Mr. Benscoter stated that these lots were appraised for \$3,400 each.

Councilmember Sturm made a motion, which was seconded by Councilmember Brodersen, approving the offer submitted by Benscoter Development to purchase the three city-owned lots legally described as Lots 12, 13, & 14, Benscoter Addition Planned Unit Development Replat 1, for the sum of \$2,000 each. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Brodersen made a motion, which was seconded by Councilmember Van Delden, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:35 p.m.