

**MINUTES
CITY COUNCIL MEETING
November 20, 2012**

The Wayne City Council met in regular session at City Hall on Tuesday, November 20, 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, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Doug Sturm and Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 8, 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 Van Delden made a motion, which was seconded by Councilmember Haase, whereas, the Clerk has prepared copies of the Minutes of the meeting of November 6, 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: AMERITAS, SE, 2507.43; APPEARA, SE, 93.31; BAKER & TAYLOR BOOKS, SU, 766.41; BANK FIRST, FE, 120.00; BARONE SECURITY SYSTEMS, SE, 81.96; CITY EMPLOYEE, RE, 1595.03; BIG T ENTERPRISES, SU, 192.85; BLAZE PUBLICATION, SE, 32.00; BLUETARP FINANCIAL, SU, 411.39; BROWN SUPPLY, SU, 680.24; CENTER POINT PUBLISHING, SU, 78.62; CHEMQUEST, SU, 1567.50; CITY OF WAYNE, RE, 1300.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, PY, 63104.78; CLAUSSEN & SONS IRRIG., SE, 185.00; COMMUNITY HEALTH, RE, 3.00; CONSOLIDATED MANAGEMENT, SE, 97.25;

COPY WRITE PUBLISHING, SU, 502.54; CITY EMPLOYEE, RE, 124.43; DAKOTA BUSINESS SYSTEMS, SE, 103.50; DAVE'S DRY CLEANING, SE, 114.00; DEARBORN NATIONAL LIFE, SE, 1585.34; DGR & ASSOCIATES, SE, 151.50; DUTTON-LAINSON, SU, 501.24; EAKES OFFICE PLUS, SU, 599.80; ED. M FELD EQUIPMENT, SU, 177.45; EISENBRAUN & ASSOC., SE, 3201.00; ELLIS PLUMBING & HEATING, SE, 309.00; FLOOR MAINTENANCE, SU, 102.95; FREDRICKSON OIL, SE, 630.13; GALE GROUP, SU, 70.82; GREEN SOURCE, SU, 19.95; GROSSENBURG IMPLEMENT, SU, 4.34; CITY EMPLOYEE, RE, 155.92; HAMPTON INN KEARNEY, SE, 539.70; HAWKINS, INC, SU, 541.39; CITY EMPLOYEE, RE, 47.66; HOA SOLUTIONS, SU, 2009.00; HOLIDAY INN OF KEARNEY, SE, 157.90; HOLIDAY INN-DOWNTOWN, SE, 801.90; HTM SALES, SU, 399.38; ICMA, SE, 5608.77; INGRAM BOOK COMPANY, SU, 510.61; IRS, TX, 21469.38; JACK'S UNIFORM, SU, 249.65; JEO CONSULTING GROUP, SE, 3141.50; JOHN'S WELDING AND TOOL, SU, 30.00; CITY EMPLOYEE, RE, 5458.12; JORGENSEN CONCRETE, SE, 3700.00; KLEIN ELECTRIC, SE, 11518.50; KTCH, SE, 525.00; LOVE SIGNS, SU, 125.00; MERCY MEDICAL CLINIC, SE, 150.00; MIDWEST LABORATORIES, SE, 756.90; MIDWEST OFFICE AUTOMATION, SE, 203.80; MIDWEST TURF & IRRIGATION, SU, 11173.00; MSC INDUSTRIAL, SU, 160.55; MURPHY TRACTOR & EQUIPMENT, SU, 1534.97; NE DEPT OF REVENUE, TX, 3461.51; NE DEPT OF ROADS, SU, 6731.00; NE NEB INS AGENCY, SE, 60.00; NE SAFETY COUNCIL, SE, 11.41; NPPD, SE, 252947.40; NMC, INC., SE, 481.50; NORFOLK DAILY NEWS, SU, 276.00; N.E. NE AMERICAN RED CROSS, RE, 88.86; NNPPD, SE, 12418.90; NORTHWEST ELECTRIC, SU, 132.32; O'KEEFE ELEVATOR CO, SE, 1052.00; OLSSON ASSOCIATES, SE, 1291.00; PAC N SAVE, SU, 48.09; PITNEY BOWES, SU, 648.00; PRESTO X, SE, 144.39; CITY EMPLOYEE, RE, 147.58; RAINBOW WORLD, RE, 100000.00; RANDOM HOUSE, SU, 123.71; RON'S RADIO, SU, 1363.77; ROSE EQUIPMENT, SU, 7280.99; CITY EMPLOYEE, RE, 406.41; TOM'S BODY & PAINT SHOP, SE, 38.71; UNITED WAY, RE, 15.00; W.T. COX SUBSCRIPTIONS, SU, 1994.23; WAYNE BASEBALL ASSOCIATION, SU, 50.00; WAYNE HERALD, SE, 902.38; WAYNE SENIOR CENTER, SE, 358.97; WESCO, SU, 1882.28; CITY EMPLOYEE, RE, 101.74; ZACH OIL COMPANY, SU, 5473.24; ZIMCO, SU, 1806.00; AMAZON.COM, SU, 98.87; APPEARA, SE, 131.91; CITY EMPLOYEE, RE, 83.26; CAPSTONE PRESS, SU, 283.35; CARHART LUMBER CO, SU, 230.60; CONSOLIDATED MANAGEMENT, RE, 74.00; COVENTRY, SE, 21417.02; CREDIT BUREAU SERVICES, RE, 2.79; DANKO EMERGENCY EQUIP, SE, 1239.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DISPLAY SALES CO, SU, 310.00; DUTTON-LAINSON, SU, 392.67; E.J. OBERMEYER, SU, 18.00; ECHO GROUP, SU, 184.47; ED. M FELD EQUIPMENT, SE, 30.60; ELECTRIC FIXTURE, SU, 41.07; FLOOR MAINTENANCE, SU, 207.08; FRANCES POEHLMAN, RE, 335.61; GALE GROUP, SU, 545.46; GAYLORD BROS, SU, 116.44; GOVERNMENTAL ACCOUNTING, SU, 225.00; HD SUPPLY WATERWORKS, SU, 2756.40; JOHN'S WELDING AND TOOL, SE, 187.64; JOHN NAVRKAL, SE, 250.00; CITY EMPLOYEE, RE, 636.30; KEPSCO, SU, 21.30; KNIFE RIVER MIDWEST, SU, 979.66; KRIZ-DAVIS, SU, 415.35; KTCH, SE, 80.00; CITY EMPLOYEE, RE, 202.97; METRO AREA PLANNING AGENCY, SE, 6692.00; NE DEPT OF ENVIRONMENTAL, SE,

191650.28; NE PUBLIC HEALTH, SE, 284.00; PITNEY BOWES, SU, 203.98; GARRY POUTRE, RE, 143.29; PRONUNCIATOR, SU, 450.00; QUILL, SU, 742.52; RON'S RADIO, SE, 1559.06; SPARKLING KLEAN, SE, 1218.00; STADIUM SPORTING GOODS, SU, 54.00; STATE NATIONAL BANK, RE, 97.75; THE JOURNAL OF LIGHT, SU, 29.95; UNITED RENTALS, SU, 698.56; VOSS LIGHTING, SU, 52.60; WAYNE AUTO PARTS, SU, 728.98; WAYNE HERALD, SE, 441.50; WESCO, SU, 131.63

Councilmember Haase made a motion and Councilmember Brodersen 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.

Councilmembers Sturm and Ley arrived at 5:32 p.m.

Discussion took place again on Resolution 2012-89 which would amend the Energy Star Program for FY2012-13 and FY2013-14. However, because Lou Benscoter and Kelby Herman were not at the meeting, Administrator Johnson suggested Council might want to table the matter, again, since both gentlemen had some thoughts on the matter.

Councilmember Sturm stated if the matter is tabled until the next meeting, there will be new Councilmembers on board who will not have any idea what has been talked about. The Resolution will probably have to be tabled again to bring them up to speed.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, to table action on Resolution 2012-89 until the next meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sturm who voted Nay, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution and Ordinance will formalize the action taken at the last meeting accepting Lou Bencoter's offer to purchase Lots 12, 13, and 14, Bencoter Addition Planned Unit Development Replat 1 for \$2,000 each. One lot has already been sold to Mr. Bencoter for \$10,000, which was the initial lot price agreed upon in the "first right of refusal" clause in the Subdivision Agreement. Mr. Bencoter said at the last meeting that he had the lots appraised, and they were appraised at \$3,400 each.

It was noted that the following Resolution and Ordinance have a provision therein which states that the previous resolution and ordinance regarding the sale of Lot 10 for \$10,000 are rescinded.

Councilmember Brodersen introduced Resolution No. 2012-91 and moved for its approval; Councilmember Berry seconded.

RESOLUTION NO. 2012-91

A RESOLUTION AUTHORIZING THE SALE OF CERTAIN PROPERTY TO BENCOTER, INC., A NEBRASKA CORPORATION.

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

Councilmember Ley introduced Ordinance 2012-59, and moved for approval thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2012-59

AN ORDINANCE DIRECTING THE SALE OF LOTS 12, 13, AND 14, BENSCOTER ADDITION PLANNED UNIT DEVELOPMENT REPLAT 1, OF THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, TO BENSCOTER, INC., A NEBRASKA CORPORATION.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Discussion took place regarding the Planning Commission's decision not to act on the City Planner's proposal to amend city code to require one stall per bedroom for new multi-unit housing. The Council will hear this matter by way of a public hearing on December 4th. The code currently requires 1.5 parking stalls per apartment unit. The reasons behind the Planning Commission's decision will be explained at the public hearing when City Planner Joel Hansen is present.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander 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.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander 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 Amy Miller; 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 November 6, 2012, meeting.

Member Van Delden made a motion and Member Chamberlain seconded approving the minutes of the November 6, 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 approve the following claims: Pieper Miller Trust – Kelby Herman Incentive Loans for \$40,000, and City of Wayne — title services for \$16.66.

Member Chamberlain made a motion and Member Sturm seconded approving the claims. 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 the “Right of First Refusal Agreement” for Kelby Herman on Lots 26, 28, 32, 34, and 39, Western Ridge II Subdivision.

Attorney Miller advised the Council that Mr. Herman isn't actually purchasing the lots. If someone else wants to purchase any of those particular lots in question, this would give him the right to purchase the lot or lots first.

Mayor Chamberlain stated the same stipulations would be placed on this set of lots as was placed on the first set of lots that were sold to Mr. Herman or else he does not receive the 25% discount.

Member Chamberlain made a motion, which was seconded by Member Frevert approving the Right of First Refusal Agreement for Kelby Herman on Lots 26, 28, 32, 34, and 39, Western Ridge II Subdivision, with the same expiring in 36 months. Chair Haase stated the motion, and the result of roll call being all yeas, 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.

Discussion took place on setting a date for the first Council meeting in January since the same falls on New Year's Day. Per City Code, the meeting date must be either the preceding Monday or the subsequent Wednesday or Thursday.

Councilmember Alexander made a motion, which was seconded by Councilmember Brodersen to change the date of the first Council meeting in January from Tuesday, January 1, 2013, to Wednesday, January 2, 2013.

Councilmember Sturm asked that the motion be withdrawn until the December 4th meeting when the new Council is sworn in so they can have some input into the decision. Councilmember Alexander would not withdraw his motion.

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

Councilmember Haase made a motion, which was seconded by Councilmember Alexander, 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 6:10 p.m.