

**MINUTES
CITY COUNCIL MEETING
December 4, 2012**

The Wayne City Council met in regular session at City Hall on Tuesday, December 4, 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 Amy Miller; 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 November 23, 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 November 20, 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, 2183.77; APPEARA, SE, 136.93; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, SE, 150.00; CITY EMPLOYEE, RE, 204.00; BLACK HILLS ENERGY, SE, 610.75; BOMGAARS, SU, 7.99; CARMIE MAROTZ, RE, 500.00; CENTURYLINK, SE, 310.91; CITY EMPLOYEE, RE, 27.50; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 350.00; CITY OF WAYNE, PY, 68596.31; COMMUNITY HEALTH, RE, 3.00; CONSOLIDATED MANAGEMENT, SE, 37.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEARBORN NATIONAL LIFE, SE, 96.32; EAKES OFFICE PLUS, SE, 23.55; ECHO GROUP, SU, 3.11; FLOOR

MAINTENANCE, SU, 38.99; GINA HUGHES, RE, 30.00; GODFATHER'S, SU, 107.50; GROSSENBURG IMPLEMENT, SU, 63.91; CITY EMPLOYEE, RE, 68.47; HOLIDAY LITES & TRIM, SU, 204.64; ICMA, RE, 5623.52; INTERSTATE ALL BATTERY, SU, 47.62; IRS, TX, 22659.06; JACK'S UNIFORMS, SU, 99.00; JEO CONSULTING GROUP, SE, 3605.75; CITY EMPLOYEE, RE, 1151.65; KELLY MEYER, SU, 1027.25; KORY LESEBERG, SE, 3049.00; LIQUID ENGINEERING, SE, 4762.80; MATT PARROTT AND SONS, SU, 197.40; CITY EMPLOYEE, RE, 203.35; MIKE TOWNE, SE, 1600.00; NATL ARBOR DAY FOUNDATION, FE, 50.00; NE DEPT OF REVENUE, TX, 3407.26; NE HARVESTORE, SU, 400.00; NNPPD, SE, 4473.00; PIEPER & MILLER, SE, 5527.00; QUILL, SU, 713.08; SIOUXLAND DISTRICT, SE, 26.00; VERIZON, SE, 216.84; VIAERO, SE, 82.82; AMERICAN BROADBAND, SE, 2211.17; CITY EMPLOYEE, RE, 60.20; BROWN SUPPLY, SE, 2403.61; CITY OF NORFOLK, SE, 142.20; CITY OF WAYNE, RE, 369.89; CONSOLIDATED MANAGEMENT, SE, 60.25; EASYPERMIT POSTAGE, SU, 1708.03; EISENBRAUN & ASSOC., SE, 7950.50; FIRST CONCORD GROUP, SE, 4603.27; GILL HAULING, SE, 155.00; CITY EMPLOYEE, RE, 9.57; CITY EMPLOYEE, RE, 200.71; HAWKINS, SU, 921.86; HD SUPPLY WATERWORKS, SU, 2671.20; HHS REGULATION, FE, 115.00; JOHN HADCOCK, RE, 500.00; KELBY HERMAN, RE, 1400.00; KELLY SUPPLY COMPANY, SU, 145.02; KEPSCO, SU, 11.40; MERCY MEDICAL CLINIC, SE, 72.00; NATIONAL SEMINAR GROUP, FE, 50.00; NE AIR FILTER, SU, 102.39; NE EXPRESSWAYS, SE, 883.44; NE SAFETY COUNCIL, SE, 188.87; CITY EMPLOYEE, RE, 349.87; SCOTT HASEMANN, RE, 500.00; SKARSHAUG TESTING LAB, SU, 76.32; STATE NATIONAL BANK, SE, 209.04; VERIZON, SE, 102.36

Councilmember Sturm made a motion and Councilmember Ley 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.

Councilmember Ley made a motion, which was seconded by Councilmember Alexander, to adjourn the meeting sine die. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

This being the time for the new Mayor and new Council to organize and Doug Sturm, Jennifer Sievers, Cale Giese, and Jon Haase having qualified for Councilmembers of the 1st, 2nd, 3rd, and 4th Wards respectively, Judge Robert B. Ensz presented the oaths of office to Doug Sturm, Jennifer Sievers, Cale Giese and Jon Haase.

Councilmember Sturm, with a second by Councilmember Alexander, nominated Jill Brodersen as Council President, and made a motion to cease nominations. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain asked Council to cast their ballots, and Councilmember Brodersen received the majority of votes from Council to be duly elected as Council President.

Councilmember Alexander made a motion and seconded by Councilmember Sturm to reconvene the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain presented plaques to Kathy Berry in appreciation of her valued contributions made to the City of Wayne as Councilmember from 2008-2012, and to Brian Frevert in appreciation of his valued contributions made to the City of Wayne as Councilmember from 2004-2012.

Mayor Chamberlain stated he has received notification from Doug Sturm declining to serve as 4th Ward Councilmember.

Councilmember Sievers made a motion, which was seconded by Councilmember Ley, to accept the refusal of Doug Sturm to serve as 1st Ward Councilmember. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Doug Sturm thanked the citizens of his Ward for giving him 20 years to serve as a Councilmember, city staff for making not only his job, but that of the Mayor and Council easier, and also present and past Councilmembers and Mayors.

Councilmember Giese made a motion, which was seconded by Councilmember Ley, declaring a notice of vacancy in Ward One and authorizing the City Clerk to publish notice regarding the same. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The Mayor's Youth Council was present to make a recommendation on proposed park equipment for the Western Ridge Subdivision. Reed Trenhaille, Austin Frideres, and Caley Janke were present. The playground equipment the group has picked out for this park will cost approximately \$35,000. They were also suggesting that the park be named "Beverly Park" named after Beverly Sturm. The group will also be meeting with the people in the neighborhood to let them know of the plans for the park.

Mayor Chamberlain stated the group has been working on this for a few months now. There is \$15,000 budgeted for park equipment. There is also another \$20,000 in the budget for park updates. This is where the money would come from to pay for this park equipment.

It was noted that the \$35,000 is for equipment only, and does not include costs of landscaping, etc.

If this is approved, monies that were budgeted for another park would be used to fund this park equipment at Western Ridge.

Councilmember Brodersen made a motion, which was seconded by Councilmember Haase, to approve the Mayor's Youth Council recommendation on park equipment for the Western Ridge Subdivision and to approve naming the park "Beverly Park." Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Van Delden who abstained, Mayor Chamberlain declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Sec. 90-710 Parking Regulations, Schedule of Minimum Off-Street Parking & Loading Requirements.

Joel Hansen, Zoning Administrator, stated the Planning Commission met on this matter and their recommendation was to not change these regulations. They could not come to a consensus for a recommendation.

Over the last few months, Mr. Hansen's office has had several developers and contractors visit with him about constructing multi-family structures. Currently, the code provides for one and one-half parking spaces per dwelling unit. Some of the units that have been constructed and others that are being constructed, with the current code, will only need to provide a minimum of six parking stalls for a four unit apartment that has three bedrooms per unit. Staff is recommending that the code be amended to require one parking space per sleeping room for multi-family residential structures and two spaces per dwelling unit for single-family and two-family residential structures. This would be for new construction only.

Mr. Hansen advised the Council that the garage can be counted as parking stalls. The driveway for a single-car garage would be considered the second parking space.

Council consensus was that “new construction” needed to be better defined.

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

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

Councilmember Ley made a motion, which was seconded by Councilmember Alexander, to table action on Ordinance No. 2012-60 Amending the Wayne Municipal Code, Section 90-710 Parking Regulations, Schedule of Minimum Off-Street Parking & Loading Requirements until the next meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the LB840 Sales Tax Advisory Committee is recommending approval of a request by WAED for community marketing/administration in the amount of a \$5,000 grant. Community marketing includes the Wayne Works campaign, people/workforce attraction, and the continual business and industry marketing.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$5,000 to Wayne Area Economic Development to be used for community marketing/administration. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson advised the Council that staff bid out the 2013 health insurance coverage back in October. Of the three proposals received, which included the

renewal rate from Coventry, Blue Cross/Blue Shield of Nebraska was the lowest cost provider.

Gary Boehle of First National Agency reviewed the Blue Cross/Blue Shield health insurance proposal. This would still be a \$5,000 single/\$10,000 family deductible. The City would still self-insure as it has done in the past and cover 80% of the medical costs between the in-house deductibles and the full deductibles. The savings from the self-funding amounts to approximately \$20,000 per month, which is used to help fund the self-insurance portion of the plan. The incentive for employees to receive the lower deductible is to have annual physicals and be non-smokers.

Councilmember Alexander made a motion, which was seconded by Councilmember Ley to approve the proposal received from Blue Cross/Blue Shield of Nebraska for the 2013 group health insurance and to increase the deductibles to \$600 single/\$1,200 family, with the same incentives as in 2012 to reduce the deductibles down to \$250 single/\$500 family. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Street Superintendent, advised the Council that the City has received the Annual Renewal Maintenance Agreement from the Nebraska Department of Roads. This is a standard form agreement.

Councilmember Brodersen made a motion, which was seconded by Councilmember Ley, approving the Annual Renewal Maintenance Agreement (2013) with the Nebraska Department of Roads. 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 Energy Star Program for FY 2012-13 and 2013-14 as follows:

1. In addition to the existing City of Wayne heat incentive program for heat pumps the Energy Saver Program will allocate on a first come, first serve basis the set aside of City of Wayne energy incentive funds to City residential, commercial, and industrial utility customers at a 30% cost-share rate, with a maximum of \$500 per heat pump with a 15 SEER rating or equal to the latest U.S. Department of Energy SEER requirement for federal tax incentives and in the absence of a heat pump installation, a maximum of \$500 per property per year for the installation of the following energy saving practices: ~~permanently installed radiant electric heat~~, attic insulation, non-power and powered attic ventilation, exterior wall insulation, thermal windows, and Energy Star Qualified exterior doors.
2. In addition, the Energy Saver Program will designate \$45,000 per year for two years of the \$75,000 per year of our budgeted incentive program funds to a trial incentive for the Energy Star plus geothermal heat pump program as follows:
 - \$3,000 one time incentive (NPPD reimburses us \$500 for each geothermal heat pump) to a first-time homebuyer of a new construction single-family residence within the City of Wayne qualifying for the Energy Star plus geothermal heat pump program;
 - Applicants would be approved on a first come, first serve basis;
 - Third Party Certification that Energy Star requirements have been met in the completed home before receipt of the incentive by the home buyer; and
 - Two shade trees that are large species must be planted on each lot.
3. The City will receive applications for cost-share from utility customers and must approve funding before any equipment is purchased or any work begins.
4. The City will reimburse qualified applicants for the approved activities after the installation is inspected and approved by the City and a copy of the invoice for the approved work has been submitted.
5. The City will advertise and administer the Energy Incentive Program and Energy Saver Cost-Share Program.
6. The City will reimburse qualified applicants the sum of \$100 for undertaking an energy audit of their home or business by a certified energy auditor.
7. The City will provide an incentive of \$10.19 per installed kw to all commercial customers that design their facilities towards electric usage.

This is for new construction only, and removes the requirement for the State to review architectural plans ahead of time and review installation after the fact. This would be a trial program.

Joel Hansen, Street Superintendent suggested that Council define shade trees that are large species as “deciduous trees with a mature height over 40’.” This is a requirement of the City’s cost-share program.

Councilmember Ley introduced Resolution No. 2012-89 and moved for its approval and adding that shade trees be defined as “deciduous with a mature height of 40’; Councilmember Haase seconded.

RESOLUTION NO. 2012-89

A RESOLUTION AMENDING THE ENERGY INCENTIVE PROGRAM OF THE CITY OF WAYNE TO ESTABLISH AND FUND THE ENERGY SAVER PROGRAM AND PROVIDE FOR COST-SHARING USING A SET ASIDE OF CITY OF WAYNE ENERGY SAVING INCENTIVE FUNDS.

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

Councilmember Brodersen introduced Ordinance 2012-59, and moved for approval of the second reading thereof; Councilmember Alexander 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.

Councilmember Brodersen made a motion and Councilmember Alexander seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. 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 and Councilmember Alexander seconded to move for final approval of Ordinance No. 2012-59. 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 ordinance would restrict or prohibit parking on the north side of Third Street between Douglas and Sherman Streets (south of Middle School) from 7:00 a.m. to 9:00 a.m., Monday through Friday. This is being recommended because the traffic flow is so heavy during this time period.

Councilmember Brodersen introduced Ordinance 2012-61, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2012-59

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE CHAPTER 78, ARTICLE III, PARKING, BY ADDING SECTION 78-143 RESTRICTED PARKING FROM 7:00 A.M. TO 9:00 A.M., MONDAY THROUGH FRIDAY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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.

Garry Poutre, Superintendent of Public Works & Utilities, updated the Council on the 2012 Lagoon Sludge Removal and Application Project. The project is complete, and

the engineer on the project, JEO Consulting Group, has submitted an Application for Payment No. 1 to DRT Biosolids, Inc., in the amount of \$157,500.00. Ten percent (retainer) of the total project cost is being withheld until the final wage documents are received from the contractor.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, approving Application for Payment No. 1 to DRT Biosolids, Inc., in the amount of \$157,500. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson was requesting Council consideration to allowing staff to approve the Housing Incentive Loan Applications if they meet the criteria and if funding is available. This would eliminate the need to have the same come before Council for approval.

Councilmember Haase made a motion, which was seconded by Councilmember Giese, giving City staff the authority to approve the Housing Incentive Loan Applications if they meet the criteria and if funding is available. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector, advised the Council that several years ago, the City used to create sidewalk districts and then cost-share with the property owners on the replacement of existing sidewalk. When the trail was being built, there was a moratorium placed on those sidewalk improvement projects, and the money was allocated towards the trail project. This is a way to encourage homeowners to replace sidewalk that is in poor condition without having to go through the process of establishing sidewalk districts. His recommendation was to place the cost-share amount at \$2.25 sq. ft.

Councilmember Brodersen made a motion, which was seconded by Councilmember Ley, approving the amount of \$2.25 sq. ft. to be reimbursed to property owners for sidewalk replacement. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that NPPD is currently reviewing how it allocates the costs of night-time, off-peak peak costs and transmission line costs to different wholesale customer rate classes. NPPD is also preparing new long-term wholesale power agreements with cities and rural power districts so that NPPD can demonstrate the future revenues needed to go to the bond market for substantial new funds to pay for compliance with new EPA generation plant air quality standards. Johnson, along with several other City Administrators, serves on a state-wide NPPD Rate Review Committee, and they are preparing to analyze the fairness of NPPD cost allocations through rates and to analyze the terms of new NPPD long-term wholesale power contracts. Since the City Administrators are not professional utility rate analysts, they have organized the “Municipal Electric Interests Group” to retain the services of a professional utility rate consultant. Johnson believes Wayne’s share of this rate analyst cost would be less than \$5,000, but if there would be a significant dispute over rates, the cost could be more.

Councilmember Alexander made a motion, which was seconded by Councilmember Ley, approving the allocation of \$5,000 for a rate consultant to evaluate NPPD rates. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Marlen Chinn, Police Chief, updated the Council on the ATV ordinance that was passed in January, 2012, and now expires December 31, 2012. Chinn stated over the past

year that has been minimal problems with this matter. Only 8 ATV's were licensed within the City this past year.

Council consensus was to bring the ordinance back before Council at the next meeting.

Discussion took place on the request of Lou Benscoter to put in a 400', 8' high visual barrier fence on the northwest boundary of the City of Wayne railroad right-of-way on the southeast edge of Wriedt Trailer Court beginning 200' southeast of Dearborn Avenue. Mr. Benscoter has offered to install the fence at his own cost. The cost of materials, which would be borne by the City, would not exceed \$8,500. The developer has two home sales pending, with the condition that a visual barrier fence be installed at this location.

Council had concerns about the City paying for this and blocking the view of the people living in the trailer court. The consensus was that if developer wanted a fence, then he should build it on his own property at his own expense.

This matter died for lack of a motion.

Mayor Chamberlain requested Council consideration to the appointment of Dr. Jason Karsky to the Civil Service Commission. He would fill the unexpired term of Galen Wiser which will end December 31, 2013.

Councilmember Alexander made a motion, which was seconded by Councilmember Brodersen, approving the appointment of Dr. Jason Karsky to the Civil Service Commission (term expiring December 31, 2013). Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place in regard to setting a date for the Council Retreat.

Councilmember Brodersen made a motion, which was seconded by Councilmember Ley, setting the date for the Council Retreat for Friday, January 25th and Saturday, January 26th, 2013. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, 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 7:21 p.m.