

**MINUTES
CITY COUNCIL MEETING
January 2, 2013**

The Wayne City Council met in regular session at City Hall on Wednesday, January 2, 2013, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Jim Van Delden, Jon Haase, Dale Alexander, Kaki Ley, Jennifer Sievers and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Cale Giese.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 20, 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 Ley, whereas, the Clerk has prepared copies of the Minutes of the meeting of December 18, 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, with the exception of Councilmember Giese who was absent, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: 4IMPRINT, SU, 228.12; AMERITAS, SE, 2530.91; APPEARA, SE, 102.79; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, SE, 150.00; BLACK HILLS ENERGY, SE, 586.19; BOMGAARS, SU, 108.06; CECILIA MODRELL, SE, 60.00; CITY EMPLOYEE, RE, 1940.82; CITY OF WAYNE, PY, 58731.05; CITY OF WAYNE, SE, 180.00; COMMUNITY HEALTH, RE, 3.00; DEARBORN NATIONAL LIFE, SE, 106.64; DHHS, SE, 399.48; ECHO GROUP, SU,

48.13; EISENBRAUN & ASSOC., SE, 4212.00; ELLIS PLUMBING & HEATING, SU, 188.00; FLOOR MAINTENANCE, SU, 109.20; CITY EMPLOYEE, RE, 166.45; GENO'S STEAKHOUSE, SE, 4173.76; GLEN'S AUTO BODY, SE, 207.56; HANK'S FRONT END SERVICE, SE, 80.00; ICMA, SE, 5613.86; IRS, TX, 19297.54; JEO CONSULTING GROUP, SE, 1094.05; KEPCO, SU, 11.90; KRIZ-DAVIS, SU, 203.68; LEAGUE OF NEBRASKA, FE, 150.00; LUXA CONSTRUCTION, SE, 8084.21; MAEDC, FE, 300.00; MAIN STREET AUTO CARE, SE, 90.00; CITY EMPLOYEE, RE, 68.35; NE DEPT OF REVENUE, TX, 3070.21; NE HARVESTORE, SU, 559.34; NE PUBLIC HEALTH ENVIRONM, SE, 355.00; NIFA, FE, 100.00; NNPPD, SE, 3670.00; NWOD, FE, 10.00; PRESTO X, SE, 105.01; SIOUX CITY ENGINEERING, SE, 48775.62; SKARSHAUG TESTING LAB, SE, 134.94; STATE NATIONAL BANK, RE, 499.63; TOM'S BODY & PAINT SHOP, SU, 22.00; TOP SAFETY, SU, 138.60; TRANS-IOWA EQUIPMENT, SU, 65.20; UNITED STATES PLASTIC, SU, 125.63; VAKOC BUILDER'S RESOURCE, SU, 49.40; VERIZON, SE, 222.10; VESSCO, SU, 450.05; VIC'S ENGINE SERVICE, SU, 79.95; WARREN GARAGE DOOR, SE, 296.00; WAED, RE, 25.00; CITY EMPLOYEE, RE, 86.00; APPEARA, SE, 52.09; ARNIE'S FORD-MERCURY, SU, 717.55; ASCAP, FE, 327.00; BLACK HILLS ENERGY, SE, 159.58; BOMGAARS, SU, 440.80; CITY EMPLOYEE, RE, 228.06; CENTURYLINK, SE, 311.13; CITY OF NORFOLK, SE, 509.28; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 898.07; CIVICPLUS, SE, 3613.20; DE LAGE LANDEN FINANCIAL, SE, 77.00; ELLIS PLUMBING & HEATING, SE, 741.18; EMPLOYERS MUTUAL CASUALTY, RE, 2636.49; EXLINE, SU, 808.56; FIRST CONCORD GROUP, RE, 3102.18; FLOOR MAINTENANCE, SU, 491.90; GEMPLER'S, SU, 283.55; GILL HAULING, SE, 155.00; GROSSENBURG IMPLEMENT, SU, 777.19; CITY EMPLOYEE, RE, 30.52; HEIKES AUTOMOTIVE, SU, 687.70; HEWLETT-PACKARD, SU, 5771.37; AMERICAN BROADBAND, SE, 2206.01; INTERSTATE ALL BATTERY, SU, 130.55; CITY EMPLOYEE, RE, 393.69; KELLY SUPPLY, SU, 46.26; KRIZ-DAVIS, SU, 85.20; LANGEMEIER, WAYNE, SE, 55.00; CITY EMPLOYEE, RE, 71.14; MIKE TOWNE, SE, 1500.00; MOONLIGHT TOWING, SE, 223.66; MOORE MEDICAL, SU, 1489.94; ONE CALL CONCEPTS, SE, 15.15; CITY EMPLOYEE, RE, 187.82; PROVIDENCE MEDICAL CENTER, RE, 150.00; CITY EMPLOYEE, RE, 324.53; RON'S RADIO, SE, 140.00; UNITED STATES PLASTIC, SU, 133.67; US BANK, SU, 2496.12; VAREC, INC, SU, 265.19; VERIZON, SE, 102.36; VIAERO, SE, 208.06; VOSS LIGHTING, SU, 37.20; WAED, RE, 7383.33; WAYNE COMMUNITY HOUSING, SE, 2070.00

Councilmember Ley made a motion, which was seconded by Councilmember Haase, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Giese who was absent, 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.

Cap Peterson with Northeast Nebraska Insurance Agency presented and reviewed the 2013 Property and Casualty Insurance Package. The 2013 premium is \$253,779, which is approximately \$20,881 higher than the 2012 premium. This represents about a 6% increase which is mostly on the property side of the coverage. The City buildings and contents are insured at a 90% replacement value, with the exception of the power plant. The power plant building is insured by way of separate coverage at an agreed upon value, which is \$30,163,900. The power plant has a \$50,000 deductible. The company provides and has done a risk management analysis of all city buildings, etc., at no cost. In addition, Mr. Peterson advised the Council that because of the safety programs initiated and the decline in workers compensation claims, the experience modification has dropped from 1.33 in 2009 to 1.12 in 2010 to .89 in 2011 to .81 in 2012, and to .88 this year. This represents a significant savings in the premium.

Mr. Peterson also advised the Council that to increase the umbrella portion of the package to \$5 million (it's now at \$4 million), which is the maximum allowed by State Statute, would cost the City an additional \$707.

Councilmember Giese arrived at 5:40 p.m.

Councilmember Sievers made a motion, which was seconded by Councilmember Ley, approving the 2013 Property and Casualty Insurance Package with Northeast Nebraska Insurance Agency, and increasing the umbrella portion of the policy from \$4 million to \$5 million for an additional sum of \$707. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Lee Stegemann, on behalf of Alex Koch, Recreation Services Director, and representing the Wayne Basketball Development Association, was present requesting Council consideration to allowing them to purchase permanent basketball hoops for the City Auditorium. By doing this, it will allow them to host more teams for their basketball tournaments.

The proposed hoops will cost approximately \$1,750 each. Kelby Herman has offered to donate the money for one hoop. The other hoop will be purchased with funds donated by the Wayne Basketball Development Association tournament held in February. City crews will help with installing the hoops. Mats/Padding will be installed to cover the walls under the hoops for protection. Pat Garvin will donate the padding.

Discussion took place on the type of hoops to be installed (e.g. stationary, side fold, or swing up). Mayor Chamberlain would like to see what the costs would be for the side fold and swing up hoops.

Councilmember Sievers made a motion to table the matter until more information can be obtained on the side fold and swing up hoops, etc. This motion died for lack of a second.

Councilmember Alexander made a motion, which was seconded by Councilmember Haase, approving the request of the Recreation Services Director, as is,

to purchase permanent, stationary basketball hoops for the City Auditorium, which shall be paid for by Kelby Herman and the Wayne Basketball Development Association. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Sievers and Brodersen who voted Nay, the Mayor declared the motion carried.

Garry Poutre, Supt. of Public Works & Utilities, stated the following Resolution would accept the 2012 Lagoon Sludge Removal and Application Project and approve the final payment to DRT Biosolids.

Councilmember Ley introduced Resolution No. 2013-1 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2013-1

A RESOLUTION ACCEPTING WORK ON THE “2012 LAGOON SLUDGE REMOVAL AND APPLICATION PROJECT” AND AUTHORIZING FINAL PAYMENT THERETO.

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

Ordinance 2012-62 came on for the second reading. The amendments to said Sec. 78 – Additional Requirements of the Ordinance are as follows:

- (b) The vehicle license shall be renewed no later than April 1 of each year;
- (c) Each and every operator of an ATV or Utility Vehicle shall possess an ATV operator’s permit and shall carry said permit on his or her person while in operation of the ATV or Utility Vehicle;
- (d) Operator’s permits shall be renewed within thirty (30) days prior to the operator’s license’s date of expiration;

Councilmember Brodersen introduced Ordinance 2012-62, and moved for approval of the second reading thereof; Councilmember Sievers seconded.

ORDINANCE NO. 2012-62

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78 BY ADDING ARTICLE VII. TO ALLOW THE OPERATION OF ALL TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS UNDER CERTAIN CIRCUMSTANCES; TO IMPOSE RESTRICTIONS ON THE USE OF ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES; TO ESTABLISH PENALTIES FOR VIOLATION; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Sievers made a motion and Councilmember Ley 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, with the exception of Councilmembers Giese and Alexander who voted Nay, the Mayor declared the motion carried.

Councilmember Sievers made a motion and Councilmember Ley seconded to move for final approval of Ordinance No. 2012-62. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Alexander who voted Nay, the Mayor declared the motion carried.

Administrator Johnson requested Council consideration to authorizing staff to make or submit an application to the LB840 Committee requesting funding to extend a sewer line under Highway 35. There is a business prospect looking at purchasing some property on the north side of Highway 35 across from Pac N Save. In order to make that property on the north side developable, we will need to extend another sewer line under the highway. The amount requested would be \$35,000 of LB840 funding.

In addition he advised the Council that there has been no execution of a purchase agreement for Lot 1 of the Administrative Replat of Lot 5 of Western Ridge Third Addition, so there cannot be a TIF agreement at this time.

Brent Pick, representing Western Ridge, advised the Council that they were working on a purchase agreement, but it has been tabled until the end of January. The business prospect has changed the area or lot they want to purchase because of the sign that is located on the property. This will be a 9'000 sq. ft. retail space with a concrete parking lot. He asked that Council still move forward on this even though a Purchase Agreement has not been signed as of this date.

Councilmember Sievers made a motion, which was seconded by Councilmember Ley, directing staff to make an application to the LB840 Committee requesting \$35,000 in funding to extend sewer under Highway 35. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Garry Poutre, Supt. of Public Works and Utilities, was present requesting Council approve the 30-day review period for the Wellhead Protection Plan and set the public hearing for the February 19th Council meeting at 5:30 p.m. This process was started about a year and a half ago. Last June, a public hearing was held on the plan, and Council tabled the matter so that the Committee could meet more and the landowners could have more input on the plan. Since that time, the committee has met several times. The plan has been changed, not as much as some of the landowners wanted, but it was changed as much as we could change it and still have the Department of Environmental Quality approve it. DEQ has approved the draft version again. However, DEQ cannot

approve it as a plan until the City Council has approved it. The review process will start January 10th, with the public hearing being held on February 19th.

The Wellhead Protection Plan must meet the following five criteria:

- Delineating the wellhead protection area;
- Potential contaminant source inventory;
- Contaminant source management;
- Emergency, contingency and long-term planning; and
- Public education and participation.

When asked by Councilmember Ley what if the City does not do anything with this plan, Mr. Poutre responded it would be a detriment to the City's customers and rate payers. The City has to report to government entities such as the NRD, DEQ, and Health & Human Services, and all strongly encourage us to have a wellhead protection plan in place. Wayne has 5,500+ residents and 2,100+ rate payers and millions of dollars invested, and groundwater is the source of water for 90+ percent of the State of Nebraska. Every single public water supplier has to have a wellhead protection area identified, and the EPA has already done that. Any community, rural water district, or college that supplies water to more than 15 different residences with 25 or more people is considered a public water supply. Every public water supply that comes from groundwater has a wellhead protection area identified by the EPA. DEQ suggests that every public water supply have a wellhead protection plan.

Mayor Chamberlain stated he was of the opinion that the Government has made money or grants available to do these plans, because the next step is they will require cities to do it. So, those that did not take advantage of the grant will be paying for the plan out of their own pocket.

Mr. Poutre stated that Council, tonight, is only approving the start of the 30-day public review process. The public hearing will give ample time for any discussion for or against the plan.

Councilmember Sievers made a motion, which was seconded by Councilmember Van Delden to start the 30-day public review period for the Wellhead Protection Plan and to set the public hearing for the February 19th Council meeting at 5:30 p.m. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated that since Brian Frevert was not re-elected, a new Council representative needs to be appointed to the Wayne Area Economic Development Board.

Councilmember Alexander made a motion, which was seconded by Councilmember Brodersen, approving the appointment of Jennifer Sievers to the Wayne Area Economic Development Board. 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 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 Cale Giese, Jim Van Delden, Dale Alexander, Ken Chamberlain, Nick Muir, Kaki Ley, Jennifer Sievers 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.

Member Alexander made a motion and Member Chamberlain seconded approving the minutes of the December 18, 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 CDA agenda was to consider and take action on a Memorandum of Understanding with a commercial retail company to enter into a Tax Increment Financing agreement for new construction on Lot 1 of the Administrative Replat of Lot 5 of Western Ridge Third Addition.

Administrator Johnson requested the CDA table action on this matter since a purchase agreement has not been reached between the parties.

Member Chamberlain made a motion, which was seconded by Member Alexander, to table action on the Memorandum of Understanding with a commercial retail company to enter into a Tax Increment Financing agreement for new construction on Lot 1 of the Administrative Replat of Lot 5 of Western Ridge Third Addition until a later date. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Brodersen made a motion, which was seconded by Member Giese, 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.

Councilmember Brodersen made a motion, which was seconded by Councilmember Alexander to table action on Resolution 2013-2 approving the

Memorandum of Understanding with a commercial retail company to enter into a Tax Increment Financing agreement for new construction on Lot 1 of the Administrative Replat of Lot 5 of Western Ridge Third Addition until a later date. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Giese 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 7:01 p.m.