

**MINUTES  
CITY COUNCIL MEETING  
January 15, 2013**

The Wayne City Council met in regular session at City Hall on Tuesday, January 15, 2013, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Jim Van Delden, Jon Haase, Nick Muir, Kaki Ley, Jennifer Sievers and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Dale Alexander.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on January 3, 2013, 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 Ley made a motion, which was seconded by Councilmember Brodersen, whereas, the Clerk has prepared copies of the Minutes of the meeting of January 2, 2013, 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 Alexander 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:** AHERN CO., SE, 315.00; AMAZON.COM, SU, 119.62; AMERITAS, SE, 2121.31; APPEARA, SE, 188.89; BAKER & TAYLOR BOOKS, SU, 344.50; BANK FIRST, FE, 150.00; BIG T ENTERPRISES, SU, 104.95; BSN SPORTS, SU, 1735.69; CHARTWELLS, SE, 4321.40; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, PY, 56560.98; CITY OF WAYNE, RE, 498.95; CITY OF WAYNE, SE, 30.00; COMMUNITY HEALTH, RE, 4.00; COPY WRITE, SE, 104.38; DAVE'S

UNIFORM CLEANING, SE, 60.00; DIETRICH UPHOLSTERY, SE, 98.50; CITY EMPLOYEE, RE, 191.02; DRT BIOSOLIDS, SE, 17500.00; EASYPERMIT POSTAGE, SU, 718.78; ECHO GROUP, SU, 90.78; ELLIS PLUMBING, RE, 208.00; FASTENAL, SU, 22.88; FREDRICKSON OIL, SU, 638.50; CITY EMPLOYEE, RE, 193.62; GALE GROUP, SU, 24.79; GROSSENBURG IMPLEMENT, SU, 70.88; HARDING & SHULTZ, SE, 992.22; HIRERIGHT SOLUTIONS, SE, 20.00; ICMA, SE, 5740.86; INGRAM BOOK COMPANY, SU, 458.54; INTERSTATE ALL BATTERY, SU, 86.30; IRS, TX, 20815.68; JOHN'S WELDING AND TOOL, SU, 108.88; JOHNSTONE SUPPLY, SE, 10.22; JORGENSEN LAW OFFICE, SE, 406.25; KTCH, SE, 605.00; MIDWEST MESSENGER, SU, 32.80; MIDWEST TAPE, SU, 29.99; MSC INDUSTRIAL, SU, 94.02; N.E. NEB ECONOMIC DEV DIS, SE, 675.76; NE DEPT OF REVENUE, TX, 2909.12; NE NEB INS AGENCY, SE, 63456.00; NE PLANNING & ZONING, FE, 40.00; NE RURAL WATER, FE, 500.00; NE SAFETY COUNCIL, SE, 11.53; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 12418.90; NOVELTY MACHINE & SUPPLY, SE, 1201.31; ORIENTAL TRADING CO, SU, 74.25; PASTICARDS, SU, 430.00; PIEPER & MILLER, SE, 7648.00; PUSH-PEDAL-PULL, SU, 12210.94; QUALITY 1 GRAPHICS, SU, 150.00; RANDOM HOUSE, SU, 32.50; SIOUX CONTRACTORS, SE, 16895.00; UNITED WAY, RE, 11.20; WASTE CONNECTIONS, SE, 28.00; WATSON LABEL PRODUCTS, SU, 174.16; WAED, RE, 6000.00; WAYNE COUNTY CLERK, SE, 275.07; WAYNE COUNTY COURT, RE, 326.50; WAYNE HERALD, SE, 2404.87; WAYNE VETERINARY CLINIC, SE, 229.00; WESCO, SU, 8381.15; WAPA, SE, 35228.86; ALTEC INDUSTRIES, SU, 143.69; APPEARA, SE, 27.86; AWWA, FE, 295.00; BIG T ENTERPRISES, SU, 197.95; CITY EMPLOYEE, RE, 633.70; CALIFORNIA CONTRACTORS, SU, 205.99; CARHART LUMBER COMPANY, SU, 585.47; CITY OF WAYNE, RE, 125.00; CITY OF WAYNE, RE, 225.00; CITY OF WAYNE, RE, 612.47; CITY EMPLOYEE, RE, 25.70; DEARBORN NATIONAL LIFE, SE, 1714.27; CITY EMPLOYEE, RE, 29.47; ECHO GROUP, SU, 516.79; EMPLOYERS MUTUAL CASUALTY, RE, 80.00; FLOOR MAINTENANCE, SU, 66.64; CITY EMPLOYEE, RE, 150.00; HD SUPPLY WATERWORKS, SU, 44.91; INLAND TRUCK PARTS, SE, 273.79; MATHESON TRI-GAS, SU, 13.13; MES-MIDAM, SU, 65.56; MIDWEST LABORATORIES, SE, 1189.95; MIRIAN AGUIRRE, SE, 50.00; MOONLIGHT TOWING, SE, 58.58; MURPHY TRACTOR & EQUIPMENT, SE, 878.93; CITY EMPLOYEE, RE, 349.98; NE DEPT OF REVENUE, TX, 41.59; NE SAFETY COUNCIL, SE, 11.53; NPPD, SE, 252312.31; NEBRASKA U.C. FUND, RE, 1763.00; NOTARY PUBLIC, SE, 105.00; OLSSON ASSOCIATES, SE, 1744.86; OVERHEAD DOOR CO, SE, 504.50; PAC N SAVE, SU, 146.48; PAT GARVIN, SE, 3500.00; PEPSI-COLA, SU, 570.30; PLUNKETT'S PEST CONTROL, SE, 43.26; POSTMASTER, FE, 110.00; PRESTO X, SE, 105.01; QUILL, SU, 203.98; SHOPKO, SU, 54.91; SPARKLING KLEAN, SE, 622.25; STADIUM SPORTING GOODS, SU, 140.00; STATE NATIONAL BANK, SE, 59.28; STEFFEN, SU, 1692.92; TALL T SALES, SU, 4000.00; TOP SAFETY, SU, 170.52; TYLER TECHNOLOGIES, SE, 1138.95; UNITED COMMUNICATIONS, SU, 79.04; UNITED RENTALS, SE, 383.09; VOSS LIGHTING, SU, 87.00; WAYNE AUTO PARTS, SU, 900.56; WAYNE HERALD, SE, 719.00; WAYNE SENIOR CENTER, SE, 33.00; CITY EMPLOYEE, RE, 612.47; WESCO, SU, 622.39; CITY

EMPLOYEE, RE, 12.80; ZACH OIL, SU, 5515.54; ZEE MEDICAL SERVICE, SU, 45.68

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

Phil Monahan, Fire Chief, introduced Trent Kumm and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department.

Councilmember Ley made a motion, which was seconded by Councilmember Giese, approving the membership application of Trent Kumm to the Wayne Volunteer Fire Department. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Alexander who was absent, the Mayor declared the motion carried.

Amy Haase of RDG Planning & Design presented the Housing Study. Major findings were:

- Wayne has increased its percentage of Wayne County's population from 42% in 1960 to 59% in 2010. Wayne has an aging population.

- Wayne is anticipated to continue to attract residents from both the outlying areas of Wayne County and outside the region.
- The age dynamics of the permanent resident population of Wayne suggest a naturally declining population.
- Continued migration of residents from outside the city limits is anticipated to overcome, and lead to, moderate ongoing population growth,
- Wayne's median household income is comparable to other college and regional communities.
- Despite having a greater median household income than other geographics, Wayne has a larger number of households making \$10,000 a year or less and few households earning more than \$200,000 a year, suggesting a firmly middle class population.

#### Housing Trends:

- Rental housing accounts for 46% of the City's occupied housing units, but only 7% of the City's construction activity in the last 10 years. A lack of multi-family construction and changes in lending practices have likely created a significant demand for new rental housing.
- While housing values and rental costs appear to be moderate, the median year of construction is over 50 years resulting in a number of units needing modern updates and more significant maintenance repairs.
- Over the next 10 years, continued population growth and replacement of lost units will create a demand of approximately 111 new units.
- Much of the City's new construction should focus on the moderately priced market and higher market rate rental units.
- Rental rates are a little bit below other communities.
- Wayne has construction capabilities, with a number of contractors in Wayne, which is a positive for the City.

#### Issues and Challenges:

- Housing and neighborhood revitalization. Wayne has a large stock of older housing, so we should continue to invest and strategically invest in those older parts of the community.
- Rental Costs – there is a certain mentality if I'm moving into a smaller community, I should be paying way less in rent than I would anywhere else, but it doesn't cost any less to build that or to maintain that unit than it does in some of the larger communities.
- Senior Housing. Wayne has a strong senior population. There are not a lot of choices for the seniors in Wayne, so there is some opportunity to capture some senior housing market here within the City, but also regionally to attract seniors to the community.
- Rental demand and development continues to be strong and there is a lot of interest in that.

- Demand for affordable move-up housing. This is a big struggle for families - to move up from one level house to another. The market is slim.

Strategic goals related to housing:

- Improving the overall quality of housing.
- Increasing the number of market rate rentals within the community.
- Promoting the development of existing sites and lots.
- Continuing to increase the appeal of rehab.

How to do all of this:

- Housing development partnerships
- Affordable equity housing
- Educating young people on their rights regarding lease agreements, getting a deposit back, letting landlord on their property, etc.
- Educating landlords
- Rent-to-Own
- Rental Rehab Incentive Programs – Market Rate
- Land Development

Ms. Haase advised the Council she would provide a copy of her power point presentation to them.

Mandy Bencoter, representing Bencoter Development, gave a presentation on Angel Village Development, a 20-unit retirement village with garages and basements on property located south of the Wayne Fire Hall on Tomar Drive. These will be rental and owner-occupied.

Rod Hanson of Olsson Associates was present regarding Change Order No. 2 – (\$11,033.00) for the Bencoter Addition – Phase I Paving & Utility Improvement Project. This is an adjustment for final quantities.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, approving Change Order No. 2 – (\$11,033.00) for the Bencoter Addition – Phase 1 Paving & Utility Improvement Project.

In response to Councilmember Haase's question, Mr. Hanson stated the cost of the pipe was \$13.00 lf. The Engineer's estimate on the project was \$20.00 lf. This includes installation. The bid called for "installed pipe."

Administrator Johnson stated Bencoter bid the project throwing in much of his labor costs.

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

In addition, Mr. Hanson presented Certificate of Payment No. 4 (Final) in the amount of \$19,680.20 to Bencoter Plumbing & Construction for the Bencoter Addition – Phase 1 Utility Project. This also includes the retainage.

Councilmember Brodersen made a motion, which was seconded by Councilmember Ley, approving Certificate of Payment No. 4 (Final) in the amount of \$19,680.20 to Bencoter Plumbing & Construction for the Bencoter Addition – Phase 1 Utility Project. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Alexander who was absent, the Mayor declared the motion carried.

Wes Blecke, Director of Wayne Area Economic Development, stated the LB840 Sales Tax Advisory Committee met and reviewed two applications. The first application was made by Mandy Bencoter and Louis Bencoter for \$50,000 in funds as a loan to construct/buy two commercial buildings. The Committee recommended approving this request, with the terms being modified to be \$25,000 as a zero percent interest loan for 10 years, with repayment starting once the first building is leased, and a second \$25,000 zero

percent interest loan for 10 years once the shell of the second building is being erected. Repayment on the second loan would begin once the building is leased or after three years, whichever comes first. The loans would be payable in full if the building sells.

Councilmember Giese questioned the matrix that the LB840 Committee uses for these applications. He recommended eliminating the “Somewhat Meets” category so that the Committee is forced into making more decisive decisions.

Councilmember Sievers made a motion, which was seconded by Councilmember Brodersen, approving the recommendation of the LB840 Sales Tax Advisory Committee to approve the request of Mandy Bencoter and Louis Bencoter for \$50,000 in funds to construct/buy two commercial buildings, with the terms being:

- A \$25,000 zero percent interest loan for 10 years, with repayment starting once the first building is leased;
- A second \$25,000 zero percent interest loan for 10 years once the shell of the second building is being erected;
- Repayment on the second loan would begin once the building is leased or after three years, whichever comes first; and
- The loans would be payable in full if the building sells.

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

Councilmember Brodersen left the meeting at 6:34 p.m.

The second application was made by the City of Wayne for a sanitary sewer extension across Highway 35 for commercial development in Western Ridge II. The Committee approved the request, but modified the amount. The committee recommended 50% of the project (up to \$17,500) to be funded by LB840 funds. The committee expressed concern that the LB840 fund is capped at \$3.2 million over 15

years, while the capital improvement portion of the City's sales tax is not statutorily limited in the amount collected. Since sales tax receipts are coming in strong at this point to the City, the committee felt this was a prudent action.

The remaining \$17,500 could either be paid through the Sales Tax Capital Projects side or the Sewer Fund. TIF could also be used to cover the balance of the project costs.

Councilmember Sievers made a motion, which was seconded by Councilmember Van Delden, approving the recommendation of the LB840 Sales Tax Advisory Committee to approve the request of the City of Wayne for a sanitary sewer extension across Highway 35 for commercial development in Western Ridge III, with the modification being 50% of the project (up to \$17,500) to be funded by LB840 funds. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Ley 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, with the exception of Councilmembers Alexander and Brodersen who were absent, 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, Ken Chamberlain, Nick Muir, Kaki Ley, and Jennifer Sievers; City Attorney Amy Miller; City

Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Dale Alexander and Jill Brodersen.

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 Chamberlain made a motion, which was seconded by Member Van Delden, to approve the minutes of the January 2, 2013, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Members Alexander and Brodersen who were absent, the Chair declared the motion carried.

Dan Rose updated the CDA on the status of the Wayne NG Cars, LLC, project, and their purchase of Lot 2A, Replat of Kardell Industrial Park, of which the third extension ended December 31, 2012. At this time, the project is still on hold. They don't have a timeline, so he cannot ask for another extension on the property. If the property is still available when they are ready to move forward with the project, they will come back and make a request to purchase it.

Tipton Holding, LLC, has signed a purchase agreement for Lot 1 of the Replat of Lot 5 of Western Ridge Third Addition. They are requesting tax increment financing to help with site preparation and infrastructure costs. This is a "fast start" for the developer, and the Memorandum of Understanding acknowledges both parties' intent to execute an agreement for tax increment financing. The developer proceeds at their own risk though. This is not an absolute guaranty that TIF will be done.

Member Chamberlain made a motion, which was seconded by Member Giese, approving the Memorandum of Understanding between Tipton Holding, LLC, and the Community Development Agency of Wayne to complete a tax increment financing

agreement for new construction on Lot 1 of the Replat of Lot 5 of Western Ridge Third Addition. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Members Alexander and Brodersen who were absent, the Chair declared the motion carried.

Member Van Delden 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, with the exception of Members Alexander and Brodersen who were absent, the Chair declared the motion carried.

Councilmember Sievers introduced Resolution No. 2013-2 and moved for its approval; Councilmember Giese seconded.

#### RESOLUTION NO. 2013-2

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WAYNE AND TIPTON HOLDING, LLC, TO COMPLETE A TAX INCREMENT FINANCING AGREEMENT FOR NEW CONSTRUCTION ON LOT 1 OF THE REPLAT OF LOT 5 OF WESTERN RIDGE THIRD ADDITION.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Haase requested that Council table Agenda Items 12-18 for two to three months.

Joel Hansen, Zoning Administrator, stated if the Council would approve the first ordinance creating new definitions, they would have to act on the remaining ordinances

which place those definitions into the zoning districts. Otherwise, you would have some businesses that would now be considered nonconforming uses.

If these ordinances are not acted upon, we would not make anyone stop what they are doing — those businesses would be what are called a “legal nonconforming use”, which means they could not expand at their current location. They could still operate. The new definitions are meant to be inclusive so that the Zoning Administrator can make the determination as to whether or not a business would be a permitted use. Right now, the zoning code is very specific as to the uses. If a use is not specifically stated in the code, it is not a permitted use.

RDG, the firm that did the housing study and had been commissioned to review the zoning codes back in 2008, stated that Wayne needed to make things more friendly for businesses and make the codes more inclusive and easier and create less hurdles for them to jump through to get here. Some of these definitions are recommendations from RDG for industrial areas.

Mayor Chamberlain noted that these ordinances were tabled six months ago.

Attorney Miller explained “legal nonconforming.”

Mr. Hansen stated that one thing the Council needed to keep in mind was that this is not about a specific individual or business or a specific tract of land; this is about potential uses of property in certain zoning districts.

BJ Woehler, representing Robert Woehler & Sons Construction, asked the Council to defer action on these ordinances for 60 days. The reason for this request is the fact that they were asked to wait until December 31<sup>st</sup> on the proposed land purchase between the City and Wayne NG Cars. They have met with Administrator Johnson

regarding a proposed purchase agreement or offer on the land that was originally being held for Wayne NG Cars. These ordinances changes will drastically affect his business. Mr. Woehler stated he was on the original Zoning Steering Committee that wanted these kinds of definitions brought forward. In addition to changes being made to the industrial zoning districts, there were also changes recommended for both the residential and commercial zoning districts. However, none of those have been brought forward yet, so he did not think there was any drastic timeline for these amendments. He also stated he had visited with Mr. Hansen today, and was advised that the Zoning Steering Committee is, for all purposes, dead.

Councilmember Ley made a motion, which was seconded by Councilmember Van Delden, to table action on Ordinance No. 2013-1 which would amend Section 90-10 Definitions by adding Agricultural Industry, Light Industry, General Industry and Heavy Industry, for up to 60 days.

Lynn Sievers, who is an adjacent property to Mr. Woehler's concrete crushing business, stated they would like to see this business move elsewhere, and it sounds like there is a possibility that this could happen. Therefore, she did not have any problem with Council tabling these ordinances for 60 days.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Ley made a motion, which was seconded by Councilmember Haase, to table action on Ordinance No. 2013-2 which would amend Section 90-114 Exceptions in the A-1 Agricultural Zone by adding (24) Heavy Industry, for up to 60

days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to table action on Ordinance No. 2013-3 which would amend Section 90-482 Permitted Principal Uses and Structures in the I-1 Light Industrial and Manufacturing Zone by adding (46) Light Industry and (47) General Industry, for up to 60 days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Ley, to table action on Ordinance No. 2013-4 which would amend Section 90-484 Exceptions in the I-1 Light Industrial and Manufacturing Zone by adding (5) Heavy Industrial, for up to 60 days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Haase, to table action on Ordinance No. 2013-5 which would amend Section 90-512 Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone by adding (56) Agricultural Industry, (57) Light Industry, (58) General Industry and (59) Heavy Industry, for up to 60 days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Haase, to table action on Ordinance No. 2013-6 which would amend Section 90-754 Nonconforming Uses by adding (I) Heavy Industry, for up to 60 days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Haase, to table action on Ordinance No. 2013-7 which would amend Section 90-714(b)(1) Physical Appearance, Performance Standards for Industrial Uses, for up to 60 days. Mayor Chamberlain stated the motion, with the exception of Councilmembers Alexander and Brodersen who were absent, 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 Sievers, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Alexander and Brodersen who were absent, the Mayor declared the motion carried and the meeting adjourned at 7:27 p.m.