

**MINUTES
CITY COUNCIL MEETING
February 5, 2013**

The Wayne City Council met in regular session at City Hall on Tuesday, February 5, 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, Nick Muir, and Jill Brodersen; City Attorney Eric Knutson; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Cale Giese, Kaki Ley, and Jennifer Sievers.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on January 24, 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 Haase made a motion, which was seconded by Councilmember Brodersen, whereas, the Clerk has prepared copies of the Minutes of the meeting of January 15, 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 Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMAZON.COM, SU, 419.36; AMAZON, SU, 45.22; AMERICAN BROADBAND, SE, 2206.01; AMERITAS, SE, 1975.39; APPEARA, SE, 159.77; ARNIE'S FORD-MERCURY, SE, 481.77; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, SE, 150.00; BENSCOTER PLUMBING, SE, 19680.20; BLACK

HILLS ENERGY, SE, 1603.41; BLUE CROSS BLUE SHIELD, SE, 23614.26; BOMGAARS, SU, 3.50; BROWN SUPPLY, SU, 856.26; CENTER POINT PUBLISHING, SU, 391.11; CENTURLINK, SE, 312.31; CITY EMPLOYEE, RE, 160.23; CITY OF NORFOLK, SE, 449.76; CITY OF WAYNE, RE, 200.00; CITY OF WAYNE, RE, 3.00; CITY OF WAYNE, PY, 58557.32; CITY OF WAYNE, SE, 160.00 ; CITY OF WAYNE, RE, 1054.65; COMMUNITY HEALTH, RE, 4.00; COVENTRY HEALTH, SE, 543.96; DAKOTA BUSINESS SYSTEMS, SE, 103.50; JACK'S UNIFORMS, SU, 53.85; DE LAGE LANDEN FINANCIAL, SE, 471.00; DEARBORN NATIONAL LIFE, SE, 106.64; DGR & ASSOCIATES, SE, 1152.00; ECHO GROUP, SU, 132.85; CITY EMPLOYEE, RE, 100.00; ED. M FELD EQUIPMENT, SE, 734.67; EGAN SUPPLY, SU, 49.48; ELECTRIC FIXTURE & SUPPLY, SU, 51.00; EMBASSY SUITE, SE, 557.24; EMPLOYERS MUTUAL CASUALTY, RE, 3000.00; FIRST CONCORD GROUP, SE, 3701.94; CITY EMPLOYEE, RE, 3800.00; CITY OF WAYNE, RE, 1091.39; CITY EMPLOYEE, RE, 52.92; GODFATHERS, SU, 65.50; HOLIDAY INN OF KEARNEY, SE, 319.80; ICMA, RE, 5738.80; INLAND TRUCK PARTS, SU, 24.66; INTERSTATE ALL BATTERY, SU, 49.90; INTERSTATE ELECTRIC MOTOR, SE, 1375.36; IRS, TX, 20522.23; JEO CONSULTING GROUP, SE, 3905.75; JOHN'S WELDING AND TOOL, SU, 85.00; CITY EMPLOYEE, RE, 28.03; CITY EMPLOYEE, RE, 587.84; MAIN STREET AUTO CARE, SE, 90.00; CITY EMPLOYEE, RE, 120.02; MSC INDUSTRIAL, SU, 663.05; MULTIMEDIA SALES & MARKET, SE, 370.50; MUNICIPAL PIPE SERVICE, SU, 727.31; CITY EMPLOYEE, RE, 971.45; NE DEPT OF REVENUE, TX, 2782.37; NE DEPT OF ROADS, SE, 2000.00; NE PUBLIC HEALTH, SE, 1713.00; NE RURAL WATER, FE, 375.00; NMC EXCHANGE LLC, SE, 4193.00; N.E. NE AMERICAN RED CROSS, RE, 29.62; NNPPD, SE, 4106.00; NWOD, FE, 10.00; OFFICE SYSTEMS COMPANY, SU, 1272.68; OLSSON ASSOCIATES, SE, 942.92; OVERHEAD DOOR CO, SE, 1636.00; CITY EMPLOYEE, RE, 88.31; PITNEY BOWES, SU, 648.00; PRESTO X, SE, 85.00; PUSH-PEDAL-PULL, SU, 12210.94; QUILL, SU, 847.38; RON'S RADIO, SE, 51.25; SKARSHAUG TESTING LAB, SU, 76.83; STADIUM SPORTING GOODS, SU, 324.00; STATE NATIONAL BANK, FE, 40.00; STATE NATIONAL BANK, RE, 99.81; SUPERCIRCUITS, SU, 315.57; TACO'S AND MORE, SU, 24.00; THE COFFEE SHOPPE, SU, 62.82; CITY EMPLOYEE, RE, 56.47; UNITED COMMUNICATIONS, SU, 212.58; UNITED WAY, RE, 6.20; UNIVERSITY OF NE-LINCOLN, FE, 90.00; UTILITIES SECTION, FE, 935.00; VERIZON, SE, 325.41; VIAERO, SE, 212.54; VICTORIA KNIESCHE, RE, 363.30; VOSS LIGHTING, SU, 291.94; WAHOO HERITAGE INN, SE, 299.75; WAYNE COMMUNITY HOUSING, SE, 1150.00; WAYNE COUNTY TREASURER, FE, 903.00; ALL-AMERICAN PUBLISHING, SE, 289.00; APPEARA, SE, 128.82; AQUA-CHEM, FE, 150.00; CITY EMPLOYEE, RE, 454.59; BIG T ENTERPRISES, SU, 377.85; BOMGAARS, SU, 1045.15; CITY EMPLOYEE, RE, 7800.00; CAPSTONE PRESS, SU, 264.87; CARHART LUMBER COMPANY, SU, 683.24; CHARTWELLS, SE, 5205.55; CITY OF WAYNE, RE, 295.89; COPY WRITE PUBLISHING, SU, 56.44; DEMCO, SU, 700.13; CITY EMPLOYEE, RE, 717.14; DUTTON-LAINSON, SU, 40.45; EASYPERMIT POSTAGE, SU, 1702.68; ECHO GROUP, SU, 38.67; ELLIS PLUMBING & HEATING, SE, 175.00; FREDRICKSON OIL, SE, 12.00; GILL HAULING, SE, 155.00; GRAPHIC CONTROLS, SU, 456.77; CITY EMPLOYEE, RE, 27.96; HEIKES

AUTOMOTIVE, SU, 878.34; INTERSTATE ALL BATTERY, SU, 49.90; GODFATHER'S PIZZA, SU, 93.50; KELLY SUPPLY, SU, 252.83; KTCH, SE, 605.00; CITY EMPLOYEE, RE, 209.15; MES-MIDAM, SU, 1265.39; MICHAEL TODD & CO, SU, 158.92; MOORE MEDICAL, SU, 126.18; CITY EMPLOYEE, RE, 60.00; NE CODE OFFICIAL ASSOC., FE, 130.00; NE RURAL WATER, FE, 275.00; NMC EXCHANGE, SE, 3128.00; OFFICE SYSTEMS COMPANY, SU, 222.59; PAC N SAVE, SU, 116.53; PIEPER & MILLER, SE, 5287.00; QUILL, SU, 3.47; SHOPKO, SU, 83.28; STADIUM SPORTING GOODS, SU, 1760.00; STATE FARM INSURANCE, FE, 563.00; STATE NATIONAL BANK, SE, 59.60; TOM'S BODY & PAINT SHOP, SE, 209.18; UNITED COMMUNICATIONS CORP, SU, 79.04; US BANK, SU, 2475.65; WAED, SE, 12383.33; WAYNE COMMUNITY SCHOOLS, RE, 7205.75; WAYNE COUNTY CLERK, SE, 76.00; WAYNE HERALD, SE, 1085.44; WAYNE VETERINARY CLINIC, SE, 378.00; ZACH HEATING & COOLING, SU, 430.15; ZACH OIL, SU, 4433.40

Councilmember Van Delden 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 Councilmembers Giese, Ley and Sievers who were 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.

Wes Blecke, Executive Director of Wayne Area Economic Development, provided the Council with the six-month LB 840 activity update.

Mayor Chamberlain stated the time was at hand for the public hearing regarding the Catering Application for a Retail Class C Liquor License for BaHa, Inc., d/b/a "Rain Tree Liquors."

Joey Baldwin, co-owner, was present to answer questions. The \$40 per day license fee is waived for the holder of a catering license, and the number of events allowed is unlimited. Otherwise, they are limited to six catering events per year.

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 Alexander introduced Resolution No. 2013-3 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2013-3

A RESOLUTION APPROVING APPLICATION FOR RETAIL CLASS CK LIQUOR LICENSE — BAHA, INC., D/B/A “RAIN TREE LIQUORS.”

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

Mayor Chamberlain declared the time was at hand for the public hearing on the One and Six Year Street Improvement Program.

Joel Hansen, Building Inspector/Planner/Certified Street Superintendent, presented the One and Six Year Street Improvement Program. This is a yearly requirement to receive Highway Allocation Funds from the Nebraska Department of Roads. He noted that just because a project is in the One and Six Year Plan does not mean the project has to be done that year. However, if the City would want to do a project that is not in the One and Six Year Plan, another public hearing would have to be held to amend the plan.

Upcoming projects, which include some carry-over projects from previous year(s), include the following:

<u>Project Number</u>	<u>Year</u>	<u>Improvement</u>	<u>Estimated Cost</u>
M – 617(92)	2013	Windom Street from 645’ N of Fairground Ave to E. 7 th – 1,750’ Reconstruct Concrete Paving, Curb & Gutter, Storm Drainage, Sidewalks	\$590,000
M – 617(80)	2013	East 10 th Street from Main St. to Windom St. – 1,225’ Reconstruct Concrete Paving, Curb & Gutter, Storm Drainage	\$500,000
M – 617(105)	2013	Tomar Drive & E. 4 th St. to the Summer Sports Complex – 1,800’ Construct Concrete Paving	\$400,000
M – 617(108)	2013	Milo Drive from W. 7 th to 420’ N of W. 7 th – 420’	\$ 80,000

M – 617(91)	2014	Trail & Pedestrian Underpass on W. 7 th Street Located between CAC and Oak Drive	\$566,000

M – 617(89)	2015	Lage Subdivision – South of Fairgrounds Avenue – 900’ Construct Concrete Paving, Curb & Gutter, Storm Drainage	\$ 175,000

M – 617(107)	2016	Clark Street & Pearl Street . – 745’ Construct Concrete Paving, Curb & Gutter, Storm Drainage	\$180,000
M – 617(104)	2016	S. Lincoln Street from W. 1 st St. to 300’ S. of W. 1 st St. Construct Concrete Paving, Curb & Gutter	\$ 80,000

M – 617(98)	2017	Sherman Street from W. 5 th St. to W. 6 th St. – 300’ Construct Concrete Paving, Curb & Gutter, Storm Drainage	\$ 80,000

	2018	Maintenance Only	

Some of these projects involve a collector or arterial street, which allows the City to utilize its federal funding at 80/20 cost-share. The City then pays only 20% of the cost of the project(s). This cost-share option is not available on some streets that need repaired.

No written or oral comments had been received by the City Clerk's Office concerning the proposed program.

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

Councilmember Brodersen introduced Resolution 2013-4 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2013-4

A RESOLUTION APPROVING THE ONE AND SIX YEAR STREET IMPROVEMENT PROGRAM.

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

Penny Vollbracht, Senior Center Coordinator, stated the following Resolution is an annual requirement to obtain funding from the Department of Roads to help pay for the operating costs of the local public transportation system.

Councilmember Alexander introduced Resolution 2013-5, and moved for its approval; Councilmember Van Delden seconded.

RESOLUTION NO. 2013-5

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO APPLY FOR NEBRASKA PUBLIC TRANSPORTATION ACT FUNDS FOR THE OPERATION OF THE WAYNE PUBLIC TRANSPORTATION SYSTEM.

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

Penny Vollbracht, Senior Center Coordinator, requested Council consideration to approving the Senior Center Budget that has to be submitted to the Northeast Nebraska

Area Agency on Aging. The Senior Center must apply for state funding for the meal program, and Council must approve the budget to be submitted to the Northeast Nebraska Area Agency on Aging.

Councilmember Alexander made a motion and seconded by Councilmember Haase approving and authorizing the submission of the Senior Center budget for 2014 to the Northeast Nebraska Area Agency on Aging. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried.

Lowell Heggemeyer and Todd Hoeman, representatives from the Public Works Department, were present requesting Council consideration to approving the purchase of Rainbow Turf-Bonded surface to place underneath the new park equipment that has been purchased for Western Ridge. This surface will meet ADA requirements. They are applying for a DEQ grant which will pay for 25% of the cost. The intent was to purchase multi-colored material for the surface so that the heat would not be an issue.

Councilmember Brodersen made a motion, which was seconded by Councilmember Alexander approving the purchase of the Rainbow Turf- Bonded surface to place underneath the new park equipment in Western Ridge. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried.

Gene Hansen, Superintendent of Electric Production, stated a Certificate of Payment No. 1 (Final) in the amount of \$15,092.45 to Mid-States Energy Works, Inc.,

has been received on behalf of the Wayne RICE NESHAP Compliance Project. The project engineer has approved the same for payment.

Councilmember Alexander made a motion, which was seconded by Councilmember Van Delden, approving Certificate of Payment No. 1 (Final) in the amount of \$15,092.45 to Mid-States Energy Works, Inc., for the Wayne RICE NESHAP Compliance Project. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried.

The following Resolution will reaffirm Eisenbraun Associates as the project engineer, and approve the plans and specifications for the East 10th Street – Main Street to Windom Street Project and authorize staff to begin the bid process.

Discussion took place regarding liquidated damages. Staff recommendation was to increase the liquidated damages to \$1,500 per day if the project is not substantially completed by the project end date — August 9th. In addition, an incentive payment of \$1,500 per day, up to a maximum of ten days or \$15,000, would also be given if the project is substantially completed ahead of the August 9th date. The estimated cost of the project is \$550,000, plus engineering fees.

Administrator Johnson asked if there was a “smoothness standard” included in the specifications. If there is not, he would also like this included in the motion.

Councilmember Alexander introduced Resolution No. 2013-6 and moved for its approval, including the following stipulations:

- Liquidated damages of \$1,500 per day if the project is not substantially completed by the project end date — August 9th;

- Incentive payment of \$1,500 per day, up to a maximum of ten days or \$15,000, if the project is substantially completed ahead of the August 9th date; and
- A “Smoothness standard” included in the specifications.

Councilmember Brodersen seconded.

RESOLUTION NO. 2013-6

A RESOLUTION REAFFIRMING THE PROJECT ENGINEER AND APPROVING THE PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR THE CONSTRUCTION OF CERTAIN STREET IMPROVEMENTS TO BE CONSTRUCTED IN THE CITY OF WAYNE, NEBRASKA (10TH STREET, MAIN TO WINDOM IMPROVEMENTS).

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

Garry Poutre, Superintendent of Public Works & Utilities, stated a proposal has been received from JEO Consulting Group to do the “Sludge Treatment and Disposal Evaluation” for a lump sum fee of \$12,000. His recommendation would be to approve the same.

Councilmember Muir introduced Resolution No. 2013-7 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2013-7

A RESOLUTION APPROVING AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BETWEEN THE CITY OF WAYNE AND JEO CONSULTING GROUP FOR A SLUDGE TREATMENT AND DISPOSAL EVALUATION.

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

The following Resolution will amend the legal description that was identified on Exhibit “A” and attached to Resolution 2012-74 declaring the area known as “Angel Acres” blighted and substandard.

Councilmember Alexander introduced Resolution No. 2013-8 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2013-8

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA, AMENDING EXHIBIT “A” TO RESOLUTION 2012-74 – ANGEL ACRES BLIGHT DETERMINATION.

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

Administrator Johnson stated the following Ordinance would amend Section 74-192 Dedication (Park Land) to read as follows:

Sec. 74-291. Dedication

Every subdivider who subdivides land shall dedicate a portion of such land, or pay a fee, as set forth in this article for the purpose of providing a park, recreational facilities, and open spaces to serve future residents of such subdivision. **Regardless of when said land was dedicated to the City under this article, the Council, only through a super majority vote of 6 ayes, may at any time:**

- 1. Trade park fee land acquired pursuant to this article for an equal area of land to be used for a public park within the same subdivision or within 1,000 feet of the subdivision; or**
- 2. Sell park fee land at current market value and use the sale funds within 24 months to purchase an equal amount of land within the same subdivision or within 1,000 feet of the subdivision or to purchase playground equipment or other public recreation enhancements in a public park within the same subdivision or within 1,000 feet of the same subdivision.**

Sec. 74-295. Use of proceeds

With the exception provided in Section 74-291 of this article, land and fees received under this article shall be used **only** for the purpose of providing parks, recreational facilities and open spaces to serve the approximate area of the subdivision for which received and location of the land and amount of fees shall bear a reasonable relationship to the use of the parks, recreational facilities and open spaces by the future inhabitants of the subdivision.

This will give the Council authority to trade or sell park fee land. At this time, there is a request to purchase some of the park land the City owns in the Longe's Subdivision; however, until this section of the code is amended, the Council does not have the authority or flexibility to do so.

Councilmember Van Delden introduced Ordinance 2013-8 and moved for approval thereof; Councilmember Muir seconded.

ORDINANCE NO. 2013-8

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 74 SUBDIVISIONS, ARTICLE VIII - DEDICATION OF LAND FOR PARK, RECREATIONAL FACILITIES OR OPEN SPACES, SECTIONS 74-291 DEDICATION AND 74-295 USE OF PROCEEDS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Ken Jorgensen, owner of "The Max", was present requesting Council consideration to passing the following Ordinances which would allow liquor licensed establishments to stay open until 2:00 a.m. on the following dates:

1. Saturday, March 16th (St. Patrick's Day)
2. Friday, March 29th, and Saturday, March 30th (Wayne High Alumni Weekend)

Councilmember Brodersen introduced Ordinance 2013-9 and moved for approval thereof; Councilmember Haase seconded.

ORDINANCE NO. 2013-9

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR ST. PATRICK'S DAY ACTIVITIES.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Muir introduced Ordinance 2013-10 and moved for approval thereof; Councilmember Haase seconded.

ORDINANCE NO. 2013-10

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE HIGH SCHOOL ALUMNI ACTIVITIES.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Chamberlain requested Council consideration to approving the appointment of Ellen Imdieke to the Library Board.

Councilmember Brodersen made a motion, which was seconded by Councilmember Alexander, approving the appointment of Ellen Imdieke to the Library

Board. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried.

Councilmember Brodersen 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, with the exception of Councilmembers Giese, Ley and Sievers who were absent, the Mayor declared the motion carried and the meeting adjourned at 6:33 p.m.