

**MINUTES
CITY COUNCIL MEETING
April 16, 2013**

The Wayne City Council met in regular session at City Hall on Tuesday, April 16, 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 April 4, 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 Van Delden, whereas, the Clerk has prepared copies of the Minutes of the meeting of April 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:

CORRECTIONS TO CLAIMS LIST OF 4/1/13: DELETE STADIUM SPORTS, SU, 601.36

VARIOUS FUNDS: AMERICAN BACKFLOW, FE, 70.00; AMERITAS, SE, 2500.29; APPEARA, SE, 161.72; BANK FIRST, FE, 150.00; CITY EMPLOYEE, RE, 161.27; BIG RED PRINTING, SU, 206.73; CITY EMPLOYEE, RE, 67.13; CITY EMPLOYEE, RE, 121.15; CITY OF NORFOLK, SE, 307.56; CITY OF WAYNE, RE, 200.00; CITY

OF WAYNE, PY, 77566.88; CITY OF WAYNE, RE, 382.96; COMMUNITY HEALTH, RE, 4.00; COPY WRITE, SU, 252.59; CRANE RENTAL & RIGGING, SE, 1265.00; DAVE'S DRY CLEANING, SE, 87.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; ECHO GROUP, SU, 66.81; ELLIS PLUMBING & HEATING, SE, 351.00; EMPLOYERS MUTUAL CASUALTY, RE, 91.22; ENGINEERED FLUID, SU, 1,640.83; ERNEST E PING, SE, 65.00; ESRI, SE, 2350.00; FLOOR MAINTENANCE, SU, 542.65; GRAINGER, SU, 57.05; GROSSENBURG IMPLEMENT, SU, 96.58; CITY EMPLOYEE, RE, 13.90; HD SUPPLY WATERWORKS, SU, 2698.91; HEWLETT-PACKARD, SU, 998.77; HIRERIGHT SOLUTIONS, SE, 20.00; HOLIDAY INN-DOWNTOWN, SE, 84.00; HUBER TECHNOLOGY, SU, 1311.00; ICMA, RE, 8145.92; IIMC, FE, 145.00; IRS, TX, 31180.77; J.P. COOKE COMPANY, SU, 137.00; CITY EMPLOYEE, RE, 82.61; KELLY MEYER, SU, 959.20; KRIZ-DAVIS, SU, 2262.06; KTCH, SE, 1427.32; LEAGUE OF NEBRASKA, FE, 95.00; MAIN STREET AUTO CARE, SE, 90.00; MARRIOTT HOTELS, SE, 238.00; CITY EMPLOYEE, RE, 74.47; MIDLAND EQUIPMENT, SU, 129.89; MIDWEST LABORATORIES, SE, 288.90; MURPHY TRACTOR & EQUIPMENT, SU, 44.60; NAPA OF WAYNE, SU, 10.81; NE DEPT OF REVENUE, TX, 4676.34; NEBRASKA ENVIRONMENTAL, SU, 519.67; NEBRASKA U.C. FUND, SE, 3837.20; NMPP ENERGY, FE, 2147.50; NORFOLK DAILY NEWS, SE, 156.54; NNPPD, SE, 13024.70; OVERHEAD DOOR, SU, 194.00; PAC N SAVE, SU, 48.42; PARTS ENGINEERING, SU, 104.54; PLUNKETT'S PEST CONTROL, SE, 43.26; PRESTO X, SE, 105.18; CITY EMPLOYEE, RE, 137.99; QUILL, SU, 91.76; ROTO ROOTER, SE, 675.00; SAND CREEK POST & BEAM, SU, 72.00; SHOPKO, SU, 79.45; SPARKLING KLEAN, SU, 1811.21; STADIUM SPORTING GOODS, SU, 530.61; STATE NATIONAL BANK, RE, 5162.50; STEFFEN, SU, 52.52; US BANK, SE, 5835.84; WAYNE COMMUNITY SCHOOLS, SU, 67.00; WAYNE HERALD, SE, 1650.54; WAYNE VETERINARY CLINIC, SE, 126.00; WESCO, SU, 943.16; WAPA, SE, 32282.44; AMY S SCHWEERS, SE, 200.00; BACKFLOW APPARATUS, SU, 527.60; BAKER & TAYLOR BOOKS, SU, 557.39; CITY EMPLOYEE, RE, 290.88; BIG T ENTERPRISES, SU, 99.95; CITY EMPLOYEE, RE, 257.26; BROWN SUPPLY, SU, 290.13; CITY OF WAYNE, RE, 350.00; COMMUNITY DEVELOPMENT, RE, 140000.00; COPY WRITE, SU, 30.36; CITY EMPLOYEE, RE, 47.74; D.V. FYRE-TEC, RE, 320.00; DAKOTA BUSINESS SYSTEMS, SE, 103.50; CITY EMPLOYEE, RE, 674.27; ED. M FELD EQUIPMENT, SU, 302.05; ENERGY FEDERATION, SU, 525.00; FLOOR MAINTENANCE, SU, 113.82; FRY & ASSOCIATES, SU, 5569.00; GEMPLER'S, SU, 120.00; GERHOLD CONCRETE, SU, 6.04; GROSSENBURG IMPLEMENT, SU, 5.13; CITY EMPLOYEE, RE, 1978.61; HEWLETT-PACKARD, SU, 911.64; ICMA, RE, 1464.00; INGRAM BOOK COMPANY, SU, 537.87; INTERSTATE ALL BATTERY, SU, 56.00; IRS, TX, 9199.68; CITY EMPLOYEE, RE, 1089.96; KATHY PRINCE, RE, 11270.23; KTCH, SE, 80.00; L.G. EVERIST, SU, 2695.43; MARCO, SU, 174.18; NE DEPT OF REVENUE, TX, 1370.97; NE SAFETY COUNCIL, SE, 8.43; NPPD, SE, 271464.47; NEBRASKA ARBORETUM, FE, 100.00; NESCA TRAINING, FE, 60.00; NIAGARA CONSERVATION CORP, SU, 179.11; OLSSON ASSOCIATES, SE, 7803.71; PITNEY BOWES, SU, 648.00; POSTMASTER, SU, 499.59; PROVIDENCE MEDICAL CENTER, SE, 117.00; RANDOM HOUSE, SU, 104.25; RON'S RADIO, SU, 191.00; SIRSIDYNIX, SE, 3,449.30; T & S TRUCKING,

SE, 838.32; CITY EMPLOYEE, RE, 122.76; UNITED STATES PLASTIC, SU, 155.59; WAED, RE, 7383.33; WAYNE AUTO PARTS, SU, 600.41; WIGMAN CO, SU, 514.20

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.

Mayor Chamberlain declared April 26, 2013, as “Arbor Day”, and also the week of May 5-11, 2013, as “Municipal Clerk’s Week.”

Cap Peterson of Northeast Nebraska Insurance Agency, the city’s property and casualty insurance carrier, presented the City with a dividend check in the amount of \$30,188.52. This is the 15th dividend paid by the Company out of the past 19 years

Mayor Chamberlain stated the time was at hand for the public hearing to consider the Planning Commission’s recommendation regarding the Benscoter Addition PUD Replat 2. The Applicant is Windom Ridge, Inc.

Joel Hansen, Zoning Administrator, stated that the plat before Council is the same plat that previously came before them with the exception that it does not include the hotel property (Cobblestone Hotel). At that time, they were not aware of a lien holder who

would be required to sign the plat. To eliminate that problem, staff felt that it would be easier to redo the plat, leaving the hotel property off thereof, rather than trying to obtain the lien holder's signature.

The Planning Commission reviewed the Replat at their public hearing on April 8, 2013, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

Lou Benscoter was present to answer questions.

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 Brodersen introduced Resolution 2013-34, and moved for approval thereof; Councilmember Ley seconded.

RESOLUTION NO. 2013-34

A RESOLUTION APPROVING THE BENSCOTER ADDITION PLANNED UNIT DEVELOPMENT REPLAT 2.

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 Sievers introduced Ordinance No. 2013-22 and moved for approval of the second reading thereof; Councilmember Muir seconded.

ORDINANCE NO. 2013-22

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE I, SECTION 78-11 STOP SIGN LOCATIONS; EAST OF MAIN STREET, NORTH OF SEVENTH STREET; 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 Councilmember Alexander who was absent, the Mayor declared the motion carried. The third and final reading will take place at the next Council meeting.

Joel Hansen, Zoning Administrator stated the following Ordinance would amend Article VII Moving Buildings, Section 18-301 Permit Required.

The current City Code allows used mobile homes to be moved into the city limits after being inspected and approved. They must comply with 8 safety issues before they can be occupied. However, because the code is unclear, it requires a longer list of building code requirements for a mobile home already in Wayne, but being moved along or across a street. The proposed amendment will allow mobile homes to be moved into or within the City of Wayne after an inspection to determine structural soundness and they must meet the same 8 safety requirements before they can be occupied.

Councilmember Muir introduced Ordinance No. 2013-26 and moved for approval thereof; Councilmember Giese seconded.

ORDINANCE NO. 2013-26

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 18, ARTICLE VII MOVING BUILDINGS, SECTION 18-301 PERMIT REQUIRED; 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 Councilmember Alexander who was absent, the Mayor declared the motion carried.

Councilmember Muir made a motion and Councilmember Brodersen 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 Councilmember Alexander who was absent, the Mayor declared the motion carried.

Councilmember Muir made a motion and Councilmember Giese seconded to move for final approval of Ordinance No. 2013-26. 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.

Discussion took place on the proposed amendments to Resolution 2013-32 amending the Housing Construction Loan Incentives for Builders.

Lou Benscoter was present and explained the “HERS” (Home Energy Rating System) and Energy Star Rating to Council. He thought the 62 rating was a good number. This was the same number used under the Energy Star Program.

Councilmember Giese wanted to table action on this Resolution so he could do more research of the “HERS” rating.

Administrator Johnson recommended adding the following highlighted language in No. 4 as follows: Builder/Buyer shall participate in the “Home Energy Rating System” (HERS) with a rating of 62, *as verified by an independent third party.*

Councilmember Giese made a motion, which was seconded by Councilmember Muir, to table action on Resolution 2012-32 until the next meeting. 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.

Garry Poutre, Supt. of Public Works & Utilities, stated that the following Resolution would approve a long-term proposal with Liquid Engineering Corporation to internally inspect, maintain and clean the water towers over a period of 15 years. We have used this company for a number of years. The last time the east water tower was cleaned, which was in 2007, the cost to do that was \$3,100. The last time the west water tower was cleaned cost \$4,585. The contract proposal before you is for \$23,575. The cost in this proposal to clean the east tower is \$2,950, which is lower than the cost in 2007. The cost in this proposal to clean the west tower is \$3,925, which again is lower than the cost the last time. In 2028, we will be paying less than what we are paying today for cleaning the water towers, if this is approved.

Mr. Poutre stated Health & Human Services requires cleaning every five years, and suggests cleaning every three years. He would like to amend the contract to clean the tanks every four years. In order to do that, one more cleaning would need to be added to the contract in that 15 year time period. That additional cleaning would cost the City an additional \$3,925 because the cleaning would take place on the west water tower. He was asking for Council consideration to this amendment.

Councilmember Sievers introduced Resolution No. 2013-35 and moved for its approval, with the change that the contract includes an additional cleaning of the west

water tower over the 15 year period (total cost of contract then being \$27,500); Councilmember Van Delden seconded.

RESOLUTION NO. 2013-35

A RESOLUTION ACCEPTING PROPOSAL AND APPROVING CONTRACT WITH LIQUID ENGINEERING CORPORATION FOR POTABLE WATER RESERVOIR MAINTENANCE SERVICES.

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.

Administrator Johnson stated the following Resolution would establish the sanitary hook-up fees for the sewer extension line from Kardell Industrial Park Lift Station to the south end in the Pick Industrial Park. This is similar to what the City did when water and sewer was extended to Northeast Nebraska Public Power District. The hook-up fees have not been calculated at this time, for the reason we do not know what the property sizes are going to be until they actually hook on. Just for informational purposes, John Deere's hook-up fee is estimated to be around \$75,000. Robert Woehler & Sons Construction is estimated to be \$26,000.

Administrator Johnson advised the Council that he has told the property owners that these costs will be treated like assessments would be (e.g. payback period of 10 years at an interest rate of 4%).

Councilmember Brodersen introduced Resolution No. 2013-36 and moved for its approval, with the condition that the property owners will be allowed a payback period of 10 years, with interest at 4% if they choose to do so; Councilmember Ley seconded.

RESOLUTION NO. 2013-36

A RESOLUTION OF THE CITY OF WAYNE ESTABLISHING SEWER HOOK-UP FEES FOR THE “KARDELL SANITARY SEWER EXTENSION” WHICH IS THAT SECTION OF THE CITY OF WAYNE SANITARY SEWER LINE EXTENDING FROM MANHOLE 9, SECTION 40 OF THE CITY SANITARY SEWER SYSTEM AND EXTENDING EAST AND SOUTH THROUGH KARDELL INDUSTRIAL PARK, TO AND ACROSS NEBRASKA HIGHWAY 35, AND ALL PRESENT AND FUTURE KARDELL SANITARY SEWER LINE EXTENSIONS AND INDIVIDUAL SEWER HOOK-UPS TO AREAS EAST OF THE CORPORATE LIMITS OF THE CITY AND ON BOTH THE NORTH AND SOUTH SIDES OF NEBRASKA HIGHWAY 35.

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 Muir made a motion, which was seconded by Councilmember Giese, 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 Councilmember Alexander who was 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, Jennifer Sievers, and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Alexander.

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 Sievers, to approve the minutes of the April 2, 2013, meeting. Chair Haase stated the motion, and

the result of roll call being all Yeas, with the exception of Member Alexander who was absent, the Chair declared the motion carried.

Chair Haase stated the next item on the agenda was to approve the following CDA claims:

Windom Ridge – Incentive Loan - \$13,495.39
Windom Ridge – Incentive Loan - \$20,000.00
Pieper Miller Trust – Incentive Loan - \$6,504.61
Homestead Homes – Incentive Loan - \$20,000.00

Member Chamberlain made a motion, which was seconded by Member Muir, to approve the CDA Claims. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Member Alexander who was absent, the Chair declared the motion carried.

The next item on the agenda was amending the original agreement with Kelby Herman for the purchase of lots in the Western Ridge Subdivision. He would like to purchase Lots 12 and 13, and add Lot 40 to his Right of First Refusal Agreement.

When Mr. Herman closes on his first lot (Lot 9), the 30-month time period will begin. He will have 30 months in which to build all five homes and get occupancy permits. If he does that, he will receive a 25% discount on the cost of those five lots. If he does not get that done, he will not receive the discounts. In addition, once he has built on all of these lots or once his 30-month time frame is up, he then has an additional 30 months to build on all of the other lots, if he chooses to do so.

It was noted that there will still be around 28 lots left in Western Ridge. However, there may be a few that are not buildable.

Councilmember Muir made a motion to amend the original agreement with Kelby Herman.

Lou Bencoter was present and stated he was tired of having to compete with reduced price lots. He felt if the City was going to reduce lot prices for one, the City should reduce lot prices for him. He understood that he lost a sale to one of these reduced price lots.

In response to Member Chamberlain's question, Mr. Bencoter stated some of his houses are priced at \$130,000.00. Member Chamberlain responded that Mr. Herman has only one house completed or that is close to being completed with this incentive, and that home is priced at \$142,000. It has not been sold yet.

Lots 12 and 13 are not market rate lots. Discussion took place in regard to whether or not the 25% discount should be given on the lots that are not market rate lots or those that are priced at \$5,000. The agreement would be rewritten so that any new \$5,000 lots would not be eligible for the discount.

Member chamberlain made a motion to table action on the Agreement with Kelby Herman until the next meeting; Member Giese seconded. 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 amending the Tax Increment Financing bidding requirements.

Administrator Johnson stated that current policy is that all work to be funded by TIF funds must be submitted for bids through a public bid process, with the exception of acquisition of property. The City Attorney's office reviewed Nebraska Statutes, and as long as the cost is not being assessed to the property and is over \$30,000, it does not have to be bid out. Paving, sewer, and other utilities that would be assessed back to the property would have to be bid out.

We asked for clarification from Mike Bacon, our special counsel for Tax Increment Financing, and his thoughts are as follows: Contractors may want to use TIF funds for tree removal, site prep, and other general work, the cost of which will not be assessed to the lots. Current Wayne policy would require contractors to go through the bidding process (i.e. 3 weeks of publication, engineering costs, approving bids, etc.) prior to commencing any of this site work, and as we know, time is of the essence for these contractors. The recommendation of Administrator Johnson, City Attorney Miller, and Attorney Bacon, is to require bidding for only TIF funded work done that will be assessed back to the property.

Member Chamberlain made a motion to amend Section 6.02, Paragraph 4 of the Redevelopment Contract with Progressive Property Inspections, LLC, dated April 2, 2013; the Redevelopment Contract with Angel Village, Inc., dated March 5, 2013; and the Redevelopment Contract with Windom Ridge, Inc., for Angel Acres dated March 5, 2013, as follows: 'In the event that any utility extension project or paving, including storm drain system work to be assessed to properties in this redevelopment area is intended to be paid for with Tax Increment Financing Funds, then said projects only, shall be required to go through the public bidding process.' and, that this same amended bidding requirement be included in all future TIF Redevelopment Contracts. Member Giese seconded the motion. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Member Alexander who was absent, the Chair declared the motion carried.

Agenda item f. – action on Memorandum of Understanding to Complete a Tax Increment Financing Agreement for Bob Wriedt was removed from the agenda.

Member Giese made a motion, which was seconded by Member Muir, 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 Muir made a motion to amend Section 6.02, Paragraph 4 of the Redevelopment Contract with Progressive Property Inspections, LLC, dated April 2, 2013; the Redevelopment Contract with Angel Village, Inc., dated March 5, 2013; and the Redevelopment Contract with Windom Ridge, Inc., for Angel Acres dated March 5, 2013, as follows: 'In the event that any utility extension project or paving, including storm drain system work to be assessed to properties in this redevelopment area is intended to be paid for with Tax Increment Financing Funds, then said projects only, shall be required to go through the public bidding process.' and, that this same amended bidding requirement be included in all future TIF Redevelopment Contracts. Councilmember Brodersen seconded the motion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Alexander who was absent, the Chair declared the motion carried.

Agenda Item No. 14 – Resolution 2013-37 approving Memorandum of Understanding to Complete a Tax Increment Financing Agreement for Bob Wriedt was removed from the agenda.

Mayor Chamberlain advised the Council that he has received Councilmember Jim Van Delden's resignation as Councilmember for Ward 1.

Councilmember Sievers made a motion, which was seconded by Councilmember Ley, to accept the resignation of Councilmember Jim Van Delden as 1st Ward

Councilmember. 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 made a motion, which was seconded by Councilmember Sievers, 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, with the exception of Councilmember Alexander who as absent, the Mayor declared the motion carried.

Councilmember Brodersen 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 Councilmember Alexander who was absent, the Mayor declared the motion carried and the meeting adjourned at 7:08 p.m.