

**MINUTES
CITY COUNCIL MEETING
May 21, 2013**

The Wayne City Council met in regular session at City Hall on Tuesday, May 21, 2013, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Dale Alexander, Nick Muir, Jennifer Sievers and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and Finance Director Nancy Braden. Absent: Councilmember Kaki Ley and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on May 9, 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 Brodersen made a motion, which was seconded by Councilmember Sievers, whereas, the Clerk has prepared copies of the Minutes of the meetings of both May 7 and May 14, 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 Ley 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 APRIL 11, 2013, AND APRIL 16, 2013:

Delete (4/11/13) Echo Group – Light Bulbs \$66.81 and add (4/16/13) WTG Midwest – UV Ballast/lamps/sleeves \$3,490.00

VARIOUS FUNDS: AMAZON.COM, SU, 545.42; AMERITAS, SE, 1891.96; APPEARA, SE, 86.79; ASQ PROMOTIONAL PRODUCTS, SU, 396.16; BANK FIRST, SE, 135.00; BARONE SECURITY SYSTEMS, SE, 716.04; CITY EMPLOYEE,

RE, 91.81; BROWN SUPPLY, SU, 55.69; CARHART LUMBER COMPANY, SU, 899.81; CITY OF WAYNE, RE, 450.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 59503.74; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 4031.19; CITY OF WAYNE, RE, 20.00; COMMUNITY DEVELOPMENT, RE, 112000.00; COMMUNITY HEALTH, SE, 4.00; DAKOTA BUSINESS SYSTEMS, SE, 104.50; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 522.00; ECHO GROUP, SU, 99.43; EMPLOYERS MUTUAL CASUALTY, SE, 1911.00; FASTENAL, SU, 10.39; FLOOR MAINTENANCE, SU, 21.15; GROSSENBURG IMPLEMENT, SU, 5.36; CITY EMPLOYEE, RE, 2578.48; ICMA, SE, 6375.37; IRS, TX, 21814.73; JEFF MEYER, RE, 500.00; JOHNNY P LEMPKE, SE, 73.00; CITY EMPLOYEE, RE, 799.63; KRIS HINNERICHS, RE, 17.03; KTCH, SE, 80.00; LYNN PEAVEY, SU, 196.88; MAIN STREET AUTO CARE, SE, 90.00; CITY EMPLOYEE, RE, 418.62; NNEDD, SE, 75.00; NE DEPT OF REVENUE, TX, 3037.82; NE DEPT OF ROADS, SE, 2500.00; NHHS, FE, 185.00; OVERHEAD DOOR COMPANY, SE, 768.25; CITY EMPLOYEE, RE, 629.48; CITY EMPLOYEE, RE, 107.90; PROVIDENCE MEDICAL CENTER, SE, 560.00; RAMADA INN – KEARNEY, SE, 79.00; REBECCA LEONARD, RE, 109.80; SEVERN TRENT, SE, 1798.24; SPARKLING KLEAN, SE, 1481.73; CITY EMPLOYEE, RE, 188.79; WAYNE AUTO PARTS, SU, 235.26; WAYNE COUNTY COURT, RE, 300.00; WAYNE STATER, SE, 66.00; WAPA, SE, 30974.84; AMERICAN LEGAL, SE, 4335.00; APPEARA, SE, 53.89; BIG T ENTERPRISES, SU, 608.75; BOMGAARS, SU, 651.54; BSN SPORTS, SU, 1202.84; CENTURYLINK, SE, 310.93; CITY OF WAYNE, RE, 522.59; CLAUSSEN & SONS IRRIG., SE, 409.31; DE LAGE LANDEN FINANCIAL, TX, 240.01; DUTTON-LAINSON, SU, 46.86; ECHO GROUP, SU, 738.28; ED. M FELD EQUIPMENT, SU, 226.00; ELLIS PLUMBING & HEATING, SE, 123.00; EMERITUS, RE, 160.00; FASTENAL, SU, 245.80; FLOOR MAINTENANCE, SU, 270.64; FREDRICKSON TYRFIL, SU, 116.10; CITY EMPLOYEE, RE, 44.88; HUBER TECHNOLOGY, SE, 2200.00; JACK'S UNIFORMS, SU, 175.20; KARA WOehler, RE, 72.30; KIRKHAM MICHAEL, SE, 5520.00; KRIZ-DAVIS, SU, 112.20; ALLAN WITTIG, RE, 50.00; NNEDD, SE, 1658.81; NAPA OF WAYNE, SU, 14.43; NE AIR FILTER, SU, 94.70; NE DEPT OF ENVIRONMENTAL, SE, 201268.37; NE PUBLIC HEALTH, SU, 1036.00; NE SAFETY COUNCIL, SE, 8.98; NPPD, SE, 256331.72; OLSSON ASSOCIATES, SE, 18573.42; PIEPER & MILLER, SE, 11613.21; PITNEY BOWES, SU, 648.00; PRESTO X, SE, 144.63; SD MEYERS, SE, 2508.00; STADIUM SPORTING GOODS, SU, 48.00; THE DIAMOND CENTER, SE, 110.00; VERIZON, SE, 232.94; VOSS LIGHTING, SU, 849.13; WESCO, SU, 222.16; WESTERN OFFICE TECHNOLOGIES, SE, 65.00; ZEE MEDICAL SERVICE, SU, 49.79

Councilmember Sievers 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 Ley who was absent, the Mayor declared the motion carried.

A claim was received from Dick Soden in the amount of \$7,073.02 regarding sewer problems at 700 Pine Heights Road. The claim is for part of the work done to replace and reroute the residential sewer service line that Mr. Soden believes was damaged during the construction of the 7th Street project in 1997 when the Nebraska Department of Roads widened Highway 35 through Wayne.

The claim was submitted to the City's insurance, EMC, for review, and they have determined that the City has no liability in this matter and are declining to pay anything on the claim.

Councilmember Haase made a motion, which was seconded by Councilmember Giese, to deny the claim filed by Dick Soden in the amount of \$7,073.02 regarding sewer problems on 700 Pine Heights Road. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who was absent and Councilmember Greve who voted Nay, 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.

Pat Pope, CEO of Nebraska Public Power District, was present to update the Council on contract negotiations, rates, etc. Larry Arens, Account Manager of NPPD, was also present.

Mayor Chamberlain stated the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-710 Parking Regulations.

City code requires off-street parking for various structures and uses. In the past, City staff has allowed the terrace area to be utilized to meet these requirements. However, the code, as currently written, requires those spaces to be provided on the lot. Different sections of the City code define streets differently. This amendment will allow the terrace to be used to provide required parking, limit corner lots to only use one terrace for parking rather than both, and exempt non-residential uses in the downtown area from the parking requirements.

The Planning Commission reviewed this amendment at their public hearing on May 6, 2013, and forwarded a recommendation to approve and allow the terrace to be used for required parking, place restrictions on terrace parking on corner lots after May 1, 2013, and to exempt non-residential uses from the off-street parking and loading requirements in the B-2 District, 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.

Joel Hansen, Zoning Administrator, 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 Ordinance 2013-29, and moved for approval thereof; Councilmember Giese seconded.

ORDINANCE NO. 2013-29

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE VIII, SECTION 90-710 PARKING REGULATIONS; 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 Ley who was absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

The following ordinance would amend Section 1-2 Definitions and Rules of Construction as follows:

- (a) Such construction would be inconsistent with the manifest intent of the council; OR**
- (b) ANY OF THE FOLLOWING IS DEFINED IN A SUBSEQUENT DEFINITION SECTION. IF A TERM IS DEFINED IN A SUBSEQUENT CHAPTER OR SECTION, SUCH SUBSEQUENT DEFINITION SHALL BE APPLIED THROUGHOUT SAID CHAPTER OR SECTION.**

Street. The term "street" shall embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public streets and ways in the city and shall embrace all parts constituting the designated right-of-way, unless otherwise ~~stated~~ **DEFINED IN A SUBSEQUENT CHAPTER OR SECTION.**

Councilmember Giese introduced Ordinance 2013-32, and moved for approval thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2013-32

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 1, SECTION 1-2 DEFINITIONS AND RULES OF CONSTRUCTION; 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 Ley who was absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing on the Application for Community Development Block Grant Funds to conduct a needs assessment/comprehensive revitalization strategy for targeted areas of the City.

This grant project is similar to the downtown revitalization project that the City completed a few years ago that resulted in improvements to downtown businesses, ADA access and sidewalks on the side street.

The Comprehensive Investment & Stabilization (CIS) Category is to provide flexible investments in Nebraska communities that will contribute to the stabilization, revitalization, or redevelopment of housing and infrastructure. The grants are for municipalities with a population of less than 20,000 and 5,000 or greater. If awarded, the project will be carried out in two phases. First a pre-development phase which will result in the completion of a well defined multi-year Comprehensive Investment & Stabilization pre-development study. The maximum is a \$10,000 grant with a 25% match. The pre-development phase addresses neighborhoods or community-wide initiatives principally benefiting low-and moderate income persons.

Alyssa Silhacek, Community Planner with Northeast Nebraska Economic Development District, was present to answer questions.

This grant will be for \$10,000, of which \$9,000 will be used to conduct the needs assessment and \$1,000 will be used for general administration. The city will provide \$3,000 in matching funds.

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 Sievers introduced Resolution No. 2013-46 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2013-46

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

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

Councilmember Alexander made a motion, which was seconded by Councilmember Sievers, 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 Ley 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, Rod Greve, Dale Alexander, Ken Chamberlain, Nick Muir, Jennifer Sievers, and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and Finance Director Nancy Braden. Absent: Member Kaki Ley 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 Giese made a motion, which was seconded by Member Chamberlain, to approve the minutes of the May 7, 2013, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Member Ley 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:

State National Bank (10th & Main Property) - \$47,133.50
State National Bank (Cashier check fee) - \$5.00
Pieper & Miller Trust (10th Street Property) - \$64,845.10

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

Chair Haase stated the following CDA Resolution would recommend approval of a Redevelopment Plan/Contract for Western Ridge, a Partnership. The property affected would be all of the lots in Western Ridge Third Addition.

Administrator Johnson stated this involves the Tax Increment Financing Agreement regarding Western Ridge, LLC. The owners of the property (not Tipton Holdings) have submitted this request. The proposal is for \$97,000 in tax incentives to help pay for street, sewer and water costs that will be incurred by extending those services or improvements to the site.

Matt Ley, representing the Wayne Main Street/Revitalize Wayne Group, opposed the passage of this resolution.

This is giving an incentive to a business that is already here and helping it to move out of the downtown area.

Finance Director Braden stated that the owner, Steve Meyer, told her he did not want any assessments against the lot which is why he came forward to request the tax increment financing.

Member Sievers made a motion to table action on CD Resolution 2013-8 recommending approval of a Redevelopment Contract (Western Ridge, a Partnership), until the next regular meeting (June 4th). Said motion died for lack of a second.

Member Muir made a motion to not consider the adoption of CDA Resolution 2013-8 recommending approval of a Redevelopment Contract (Western Ridge, a Partnership). Member Chamberlain seconded the motion. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Member Sievers who voted Nay and Member Ley who was absent, the Chair declared the motion carried.

The next item on the agenda was to re-price Lots 41 through 46, Western Ridge Subdivision. These are the lots that were combined in the Bressler Court cul-de-sac.

Member Giese made a motion, which was seconded by Member Sievers to set the price for Lots 41 through 46 (which are the combined lots in the Bressler Court cul-de-sac) in the Western Ridge Subdivision at \$15,000 each. Chair Haase stated the motion, and the result of roll call being all Yeas, with the exception of Member Ley who was absent, the Chair declared the motion carried.

The next item on the agenda was to amend the Western Ridge Planned Unit Development Guidelines.

Finance Director Braden advised the Council that since Phase III of the Western Ridge Subdivision has been paved, we need to amend the building requirements to include Phase III therein. In addition, she requested certain items in the guidelines be stricken since they are no longer in effect.

Member Chamberlain made a motion, which was seconded by Member Giese, to amend the Western Ridge Planned Unit Development Guidelines as presented. Chair

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

Member Giese made a motion, which was seconded by Member Alexander, 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 Member Ley who was absent, the Chair declared the motion carried.

The Mayor stated that it was now past 5:30 p.m., at which time a public hearing was to be held to obtain public comment prior to the consideration of a Resolution approving a redevelopment plan amendment for an area of the City previously declared blighted and substandard and in need of redevelopment pursuant to the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the “Act”) — All Lots in Western Ridge Third Addition to the City of Wayne, Wayne County, Nebraska. The Clerk reported that notice of the public hearing had been published in the Wayne Herald on May 2 and 9, 2013, and that notice of the public hearing had been mailed by United States Certified Mail, return receipt requested, sufficient postage affixed, to all parties required by Section 18-2115 of the Act. The Mayor opened the public hearing and invited all interested persons to be heard.

The following appeared in person or by agent or attorney and were heard: None.

All persons desiring to be heard having been heard, the Mayor closed the public hearing.

Resolution No. 2013-47 died for lack of a motion.

Discussion took place again on Resolution 2013-32 – Amending Housing Construction Loan Incentives for Builders. The same was tabled from the last meeting.

Kelby Herman was present to review the “HERS” rating and provided comparisons or examples of electric heat vs. gas heat, etc. After discussion, he recommended putting together a committee to review the loan incentives and then bringing the same back for Council approval at a later date.

Mayor Chamberlain advised the Council he would put together a subcommittee to start the review process of this document.

Councilmember Giese made a motion, which was seconded by Councilmember Haase to table action on Resolution 2013-32 amending housing construction loan incentives for builders until approved by a committee, which will be named at a later date. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who was absent, the Mayor declared the motion carried.

Joel Hansen, Building Inspector, stated two bids were received for the demolition of 111 Fairgrounds Avenue. Up until the time the contractor moves in to start the work, the owner still can remove this building as approved by the District Court at his own cost. The costs to us to demolish will be billed to the property owner. The bids received were from: Milo Meyer Construction - \$9,880 and Robert Woehler & Sons Construction - \$14,499. Recommendation is to award the contract to the low bidder – Milo Meyer Construction for \$9,880.

Mr. Hansen updated the Council on this matter. The property owner has begun to remove some of the debris without a razing permit.

Councilmember Giese introduced Resolution No. 2013-43 and moved for its approval; Councilmember Muir seconded.

RESOLUTION NO. 2013-43

A RESOLUTION ACCEPTING BID OF MILO MEYER CONSTRUCTION FOR \$9,880 FOR THE DEMOLITION AND REMOVAL OF THE STRUCTURE LOCATED AT 111 FAIRGROUNDS AVENUE.

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

Garry Poutre, Supt. of Public Works & Utilities, advised the Council that he received bids for three mowers. A total of \$15,000 has been budgeted to purchase a new mower for the Water and Sewer Departments. His recommendation was to purchase the John Deere mower from Grossenburg Implement for \$10,575. This bid is about \$300 higher than the lowest bid, but being able to get parts and assistance locally will more than cover the additional cost while the City owns the machine.

Councilmember Alexander introduced Resolution No. 2013-48 and moved for its approval; Councilmember Giese seconded.

RESOLUTION NO. 2013-48

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE PURCHASE OF A MOWER FOR THE WATER/SEWER DEPARTMENT – JOHN DEERE FROM GROSSENBURG IMPLEMENT FOR \$10,575.

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

The following Resolution would approve the short form of agreement between the City and Advanced Consulting Engineering Services for the design and construction phase services for the intersection and turning lanes at 10th & Main Street for \$18,250.

Councilmember Sievers introduced Resolution No. 2013-49 and moved for its approval; Councilmember Muir seconded.

RESOLUTION NO. 2013-49

A RESOLUTION ACCEPTING PROPOSAL AND APPROVING THE SHORT FORM OF AGREEMENT BETWEEN THE CITY OF WAYNE AND ADVANCED CONSULTING ENGINEERING SERVICES FOR DESIGN AND CONSTRUCTION PHASE SERVICES FOR THE INTERSECTION & TURNING LANES AT 10TH AND MAIN STREET.

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

Discussion continued on Ordinance 2013-28 regarding Poultry.

Attorney Miller stated she had not received any comments or recommendations to amend the draft ordinance created by their office.

Councilmember Alexander made a motion to not approve Ordinance 2013-28 – Amending Wayne Municipal Code by Adding Article V – Poultry; Councilmember Sievers seconded. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Muir and Brodersen who voted Nay, and Councilmember Ley who was absent, the Mayor declared the motion carried.

Administrator Johnson stated a request was received for a stop sign to control east bound traffic at intersections on Sherman Street (Fairacres Road and Sherman Street and Westwood Road and Sherman Street).

Police Chief Chinn advised the Council that there have not been any accidents at these intersections in the past 5 years. He has had two traffic complaints in this area.

Councilmember Giese made a motion, which was seconded by Councilmember Haase, to table action on Ordinance 2013-30 – Amending Wayne Municipal Code Section 78-10 Stop Sign Locations; West of Main Street, North of 7th Street (Fairacres Road & Sherman Street and Westwood Road and Sherman Street) until the June 4th meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who was absent, the Mayor declared the motion carried.

Administrator Johnson stated a request was also received for a stop sign to control east bound traffic at the intersection of Nathan Drive onto Donner Pass.

Councilmember Brodersen introduced Ordinance No. 2013-31 and moved for its approval; Councilmember Giese seconded.

ORDINANCE NO. 2013-31

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE I, SECTION 78-13 STOP SIGN LOCATIONS; WEST 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 Ley who was absent, the Mayor declared the motion carried. The second reading will take place at the next Council meeting.

Police Chief Marlen Chinn presented the job description for Dispatch Supervisor.

Councilmember Sievers made a motion, which was seconded by Councilmember Alexander, to approve the job description for Dispatch Supervisor. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who was absent, 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, with the exception of Councilmember Ley who was absent, the Mayor declared the motion carried and the meeting adjourned at 8:08 p.m.