

**MINUTES
CITY COUNCIL MEETING
December 17, 2013**

The Wayne City Council met in regular session at City Hall on Tuesday, December 17, 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, Jennifer Sievers, Nick Muir, Kaki Ley, Matt Eischeid, and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 5, 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 Sievers made a motion, which was seconded by Councilmember Haase, whereas, the Clerk has prepared copies of the Minutes of the meeting of December 3, 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, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMERITAS, SE, 2292.20; APPEARA, SE, 27.86; BAKER & TAYLOR BOOKS, SU, 1242.00; BANK FIRST, FE, 120.00; BARONE SECURITY SYSTEMS, SE, 138.00; BIG T ENTERPRISES, SU, 108.95; BMI, FE, 294.30; BOARD OF EXAMINERS, FE, 10.00; BSN SPORTS, SU, 52.61; CITY EMPLOYEE, RE, 125.66; CITY EMPLOYEE, RE, 152.33; CHARTWELLS, SE, 5657.42; CHILD SUPPORT, RE, 100.00; CHILDREN'S SAFETY PUB, SU, 150.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, PY, 61272.58; CITY OF WAYNE, RE, 805.81; CIVICPLUS, SE, 400.00; COMMUNITY HEALTH, RE, 4.00; DAKOTA BUSINESS

SYSTEMS, SE, 209.00; DAVE'S DRY CLEANING, SE, 111.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; CITY EMPLOYEE, RE, 61.30; DUTTON-LAINSON, SU, 1696.61; EASYPERMIT POSTAGE, SU, 1730.12; CITY EMPLOYEE, RE, 603.91; ED. M FELD EQUIPMENT, SU, 741.00; EXHAUST PROS, SE, 16.00; FASTENAL, SU, 8.20; FLOOR MAINTENANCE, SU, 127.25; GEMPLER'S, SU, 133.65; GLEN'S AUTO BODY, SE, 103.96; HD SUPPLY WATERWORKS, SU, 583.73; HR SPECIALIST, SU, 199.00; ICMA, SE, 6372.87; INGRAM BOOK CO, SU, 1145.47; IPMA, SU, 138.50; INTERSTATE ALL BATTERY, SU, 263.70; IRS, TX, 23736.74; JOHN'S WELDING AND TOOL, SE, 30.00; CITY EMPLOYEE, RE, 928.17; KRIZ-DAVIS, SU, 1330.72; KTCH, SE, 1552.78; CITY EMPLOYEE, RE, 167.31; MATT PARROTT AND SONS, SU, 284.37; CITY EMPLOYEE, RE, 4.93; MICROFILM IMAGING SYSTEMS, SU, 60.17; MIDWEST LABORATORIES, SE, 703.95; N.E. NEB ECONOMIC DEV DIS, SE, 674.96; NE AIR FILTER, SU, 47.04; NE DEPT OF REVENUE, TX, 3413.04; NE ECONOMIC DEVELOP ASSN, FE, 200.00; NE EMERGENCY SERVICE, FE, 60.00; NE SAFETY COUNCIL, SE, 8.38; NPPD, SE, 257,157.97; NNPPD, SE, 5375.68; NNPPD, SE, 13185.52; OLSSON ASSOCIATES, SE, 4032.09; PAC N SAVE, SU, 6.56; CITY EMPLOYEE, RE, 27.79; PRESTO X, SE, 48.60; QUALITY 1 GRAPHICS, SU, 25.00; RANDOM HOUSE, SU, 54.00; ROBERT WOEHLE & SONS, SE, 22637.32; SAND CREEK POST & BEAM, RE, 193900.00; SHOPKO, SU, 96.63; SPARKLING KLEAN, SE, 1507.48; STATE NEBRASKA BANK, SE, 59.36; STATE NATIONAL BANK, RE, 5907.17; STEVE LAMOUREUX, SE, 60.00; TOM'S BODY & PAINT SHOP, SE, 276.90; CITY EMPLOYEE, RE, 112.84; TYLER TECHNOLOGIES, SE, 200.00; US BANK, SU, 3715.89; WAYNE AUTO PARTS, SU, 260.50; WAYNE COMMUNITY SCHOOLS, RE, 6613.75; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SE, 1356.58; CITY EMPLOYEE, RE, 237.42; WESCO, SU, 1198.40; WAPA. SE, 32051.27; ZACH OIL, SU, 4319.92; APPEARA, SE, 129.73; CITY EMPLOYEE, RE, 210.08; CITY EMPLOYEE, RE, 455.39; BROWN SUPPLY, SU. 602.78; CARHART LUMBER CO, SU, 155.62; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 3511.65; DEARBORN NATIONAL LIFE, SE, 1773.76; CITY EMPLOYEE, RE, 150.00; FREDRICKSON OIL, SU, 1046.61; CITY EMPLOYEE, RE, 1336.97; GLEN'S AUTO BODY, SU, 1666.00; GROSSENBURG IMPLEMENT, SU, 872.99; HAWKINS, SU, 2980.90; HILLYARD/SIOUX FALLS, SU, 978.76; INTERSTATE ELECTRIC MOTOR, SE, 9349.71; JEO CONSULTING GROUP, SE, 2072.50; JULIE CULL, RE, 2407.89; KEPSCO ENGRAVING, SU, 48.45; KIRKHAM MICHAEL, SE, 2392.00; KRIZ-DAVIS, SU, 90.53; MIRIAN AGUIRRE, SE, 50.00; N.E. NE AMERICAN RED CROSS, RE, 29.62; CITY EMPLOYEE, RE, 125.58; PIEPER & MILLER, SE, 104.00; STADIUM SPORTING GOODS, SU, 136.00; UNITED WAY, RE, 6.20; VOSS LIGHTING, SU, 378.40; WAED, SE, 7766.66; WESCO, SU, 2229.05

Councilmember Sievers made a motion, which was seconded by Councilmember Ley, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, 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.

Police Chief Marlen Chinn introduced Jason Sears, the newly hired Police Sergeant.

Lauran Lofgren, Library Director, presented the 2013 Advocacy Award given out by the Nebraska Library Association PLTS Section to Charlene Rasmussen. This is in recognition of her exceptional support to the local library.

Administrator Johnson was requesting Council consideration to giving notice to Nebraska Public Power District on the City of Wayne's intent to reduce its contract power purchase. Johnson provided Council with a history of the relationship with NPPD and what has brought us to this action item. We will probably lose money in the short-run, but the long-run looks really good. All of the options work out, it's just some take longer to break even than others.

Attorney Miller explained that Wayne is different than the other towns that are looking at this proposal in that Wayne also has a lease capacity agreement with NPPD. Every year NPPD pays the City of Wayne approximately \$640,000 for the use of its power plant. That contract states that in the event we decide we are going to exercise our option and reduce our capacity agreement that they can terminate the lease agreement and they then no longer have to pay the City the \$640,000. She contacted the attorney for

NPPD because it is not specified in the contract what “exercising the option” means. She wanted to know if “exercising the option” meant as soon as we give NPPD notice or if it meant as soon as the reduction started. If we want to give notice up to 30% or less, we are required to give them a three year notice. Anything greater than 30% requires a five year notice. So, it’s important to know what they consider “exercising their option” is, because if they said well we consider you exercising your option to reduce as of the date you give us notice, then they can terminate those payments as of the date we gave notice and that would either leave three years of us not getting the \$640,000 payment or five years of us not getting the \$640,000 payment. It is our position that exercising the option is defined as the time when the reduction actually starts and not when the notice is given. She would recommend giving NPPD the five year notice that we are going to reduce by 90%. If NPPD would take the position to stop the lease capacity payments immediately, we would be forced to litigate the matter.

Todd Hegwer, Timber Canyon Energy Consulting, LLC, was present, and is recommending the City enter into a contract with Big Rivers Electric Corporation. Administrator Johnson would prefer going out on the open market and purchasing electricity.

Councilmember Sievers made a motion, which was seconded by Councilmember Brodersen, to give notice to Nebraska Public Power District on the City of Wayne’s intent to reduce its contract power purchase by 90% with a five year notice. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that Resolution No. 2013-126 would approve the contract with Big Rivers Electric Corporation.

Attorney Miller stated that the \$6.6 million dollar savings would be if the Council approves a contract with Big Rivers Electric Corporation. The other option is to just purchase power on the open market. Buying on the open market is risky, for the reason that you could see more or you could see lesser savings.

Councilmember Ley introduced Resolution No. 2013-126 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2013-126

A RESOLUTION APPROVING THE CONTRACT WITH BIG RIVERS ELECTRIC CORPORATION.

The Big Rivers' contract would be an 8-year contract, which would start in 2019 and go through 2026. This is the contract that Ms. Barron said whatever NPPD's rate was, their rate would be 13% less if the City signs up with them before the end of 2013.

Administrator Johnson stated there is risk going out on the open market, but he thought the market would continue to stay low. This is what Neligh does. At any point and time in the open market, we can start looking for long-term contracts – that can be done every year if Council so desires.

Mr. Hegwer advised the Council that we are in the bottom now, and it has been the bottom since 2008. Moving forward another 5-10 years, he does not believe it's going to stay that way. The Big Rivers contract is a guaranteed savings. You don't know what's going to happen on the open market.

Mayor Chamberlain stated right now we have five years before we have to start buying anything on the open market. We have the next five years to enter into another

contract. The risk in that is not getting the same rate as what we would get now with Big Rivers Electric Corporation.

Mr. Hegwer, in response to Councilmember Giese's question, stated the Big Rivers' proposal is a really good deal. You have a guaranteed savings with Big Rivers. When you go to the market, you don't know what is going to happen with rates. He was going to try to hedge 2019 and beyond and he could not get anybody to give him a quote for that period. If they are not going to give him a quote now, then he would not recommend the City going out into the market.

Attorney Miller advised the Council that Wayne has two rate consultants – Todd Hegwer who represents the Emerson, South Sioux City, NNPPD, Wayne, and Wakefield group, and Mike Towne who just represents the City. They have agreed on everything except for the fact that Mr. Hegwer is recommending that the City sign a contract with Big Rivers and Mr. Towne is recommending that the City buy from the open market.

Mayor Chamberlain asked Mr. Hegwer if he thought there was a lot of risk even just shopping this for 12 months. Mr. Hegwer responded that right now, the City would lose the 3% on the Big Rivers deal if they waited. Mayor Chamberlain stated he likes the security of the Big Rivers contract, but we've been doing a lot of focus on where we go from here with NPPD, and he thought having a little bit of time to shop it a little bit more that we might be able to come up with another 10-year arrangement that's better.

Mr. Hegwer stated his gut feeling is that prices are going to start moving back up because they've been at the bottom for a long time.

If the Council would decide not to go with Big Rivers at this time or wait until after December 31st to enter into a contract with them, the savings would go from 13% to 10%, which would result in losing \$180,000.

Mr. Hegwer stated he thought the Wayne would lose approximately \$1,200,000 by waiting until January to approve the contract.

Jim Litchfield, the City Administrator of Wakefield, is recommending that his Council go with the Big Rivers contract.

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

Because the Council approved Resolution 2013-126, no action needed to be taken on Agenda Item No. 6 - Action to approve a five-year notice to Nebraska Public Power District to terminate the City of Wayne's capacity lease agreement effective December 31, 2018.

Todd Hoeman, Street Foreman, and Lowell Heggemeyer, Assistant Street Foreman, updated the Council on the Street Sweeper specifications that are being advertised for bid at this time. The current street sweeper is 15 years old. A new one should last at least 15 years if not longer. The old sweeper will either be sold or traded in for this new one. The new sweeper should cost around \$170,000, with a trade-in value being between \$20,000 and \$30,000.

Mayor Chamberlain stated the time was at hand for the public hearing regarding the application for a Retail Class CK Liquor License for Gander Foods, LLC, d/b/a "Godfather's Pizza."

Philip Anderson, co-owner, was present to answer questions. Cale Giese is the other co-owner.

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 Brodersen introduced Resolution No. 2013-131 and moved for its approval; Councilmember Sievers seconded.

RESOLUTION NO. 2013-131

A RESOLUTION APPROVING APPLICATION FOR RETAIL CLASS CK LIQUOR LICENSE — GANDER FOODS, LLC, D/B/A “GODFATHER’S PIZZA.”

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Giese abstaining due to a conflict of interest, the Mayor declared the motion carried.

Discussion then took place on the Blighted and Substandard Study for the “North Central Redevelopment Area” which was tabled at the last meeting. The map was revised pursuant to the requested changes made at the last meeting.

Councilmember Giese questioned leaving the church parking lot in the blighted area.

Councilmember Sievers introduced Resolution No. 2013-123 and moved for its approval with the map staying as is; Councilmember Haase seconded.

RESOLUTION NO. 2013-123

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA, MAKING FINDINGS AND DECLARING PORTIONS OF THE CITY TO BE BLIGHTED AND SUBSTANDARD PURSUANT TO THE

NEBRASKA COMMUNITY DEVELOPMENT LAW; ORDERING PUBLICATION OF NOTICE AND OTHER MATTERS.

Councilmember Giese stated if we are going to need more tax increment financing area, he wanted to see the big gravel parking lot area by the church at the corner of 9th and Logan Streets taken out. There's no point in having it in there. There's no benefit to the city.

Councilmember Haase rescinded his second to the motion. Said motion then died for lack of a second.

Councilmember Giese then introduced Resolution No. 2013-123 and moved for its approval minus the parking lot on the southeast corner of 9th and Logan Streets; Councilmember Brodersen seconded.

RESOLUTION NO. 2013-123

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA, MAKING FINDINGS AND DECLARING PORTIONS OF THE CITY TO BE BLIGHTED AND SUBSTANDARD PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT LAW; ORDERING PUBLICATION OF NOTICE AND OTHER MATTERS (NORTH CENTRAL REDEVELOPMENT AREA).

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

Councilmember Ley introduced Ordinance 2013-51, and moved for approval of the third and final reading thereof; Councilmember Giese seconded.

ORDINANCE NO. 2013-51

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE VII, DIVISION 4 PUD PLANNED UNIT DEVELOPMENT, SECTION 90-641 INTENT; 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, the Mayor declared the motion carried.

The following Resolution would direct the City Clerk to file a lien against 111 Fairgrounds Avenue for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owner.

Councilmember Ley introduced Resolution No. 2013-132 and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2013-132

A RESOLUTION DIRECTING CITY CLERK TO CERTIFY RAZING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON TAX LOT 22 (50X100 FT. TRACT) IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 26 NORTH, RANGE 4, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 111 FAIRGROUNDS AVENUE, WAYNE, NEBRASKA.

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

Attorney Miller stated that clarification needed to be made on the motion that was made at the last Council meeting which approved the action to foreclose on property commonly described as 111 Fairgrounds Avenue after the owner has had the ability to pay the liens. There needed to be a specific timeframe given to the property owner in which to pay the liens.

Councilmember Giese made a motion, which was seconded by Councilmember Muir, approving the demand letter to the property owner of 111 Fairgrounds Avenue in the amount of a 30 day timeframe.

Attorney Miller requested the motion also include giving the property owner the opportunity to pay.

Councilmember Giese then amended his motion and Councilmember Muir seconded the same approving the demand letter to the property owner of 111 Fairgrounds Avenue and giving the property owner the opportunity to pay within 30 days.

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

The following Resolution and Ordinance would authorize and direct the sale of the pole yard property to Wayne County for the sum of \$50,000.

Administrator Johnson stated that the police department can use the building for 12 months exclusively for evidence.

Councilmember Ley introduced Resolution No. 2013-133 and moved for its approval; Councilmember Muir seconded.

RESOLUTION NO. 2013-133

A RESOLUTION AUTHORIZING THE SALE OF TAX LOT 32 LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 26 NORTH, RANGE 3, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, TO THE COUNTY OF WAYNE, NEBRASKA.

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

Councilmember Muir introduced Ordinance 2013-53, and moved for its approval thereof; Councilmember Ley seconded.

ORDINANCE NO. 2013-53

AN ORDINANCE DIRECTING THE SALE OF TAX LOT 32 LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF

SECTION 13, TOWNSHIP 26 NORTH, RANGE 3, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, TO THE COUNTY OF WAYNE, NEBRASKA.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Two proposals were received to operate a keno-type lottery within the City of Wayne, one of which did not meet the specifications of the proposal.

John Hassett with Advanced Gaming Technologies was present to answer questions. The contractor will receive 12% of the gross proceeds as the operating expense of the lottery while operating stand alone random generated games. That percentage will increase to 14% when the live ball draw game opens. The City shall not receive less than 10% of the gross proceeds after payment of prizes and Contractor's percentage while the keno game is being operated at separate random generated locations. The City's percentage will be reduced to 8% when the live ball draw is open. The contract shall be for five years. If other locations in Wayne are interested in having Keno, they can be connected to the live ball draw.

Ken Jorgensen was also present to answer questions. The City will be taking a lesser percentage than other towns in the area in the hopes of drawing more people to Wayne. The City taking less means more of a payout to the Keno players.

Councilmember Giese introduced Resolution No. 2013-134 and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2013-134

A RESOLUTION ACCEPTING PROPOSAL AND AWARDED CONTRACT TO ADVANCED GAMING TECHNOLOGIES, INC., TO OPERATE THE

KENO-TYPE LOTTERY WITHIN THE CITY OF WAYNE.

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

Finance Director Nancy Braden stated because of the tornado and other things taking precedence over some of the other projects we have, we are asking the Nebraska Department of Economic Development for an extension on the Comprehensive Investment & Stabilization Needs Assessment grant. This is for the southeast quadrant of Wayne. This is a grant to do a study to see what improvements are needed in the area. One of the things being talked about with this grant is the possibility of tornado shelters.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, approving an extension request for Community Development Block Grant #13-CIS-006 (Comprehensive Investment & Stabilization Needs Assessment) to March 31, 2014. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

BJ Woehler gave a presentation on a proposed project he would like to do in the Industrial Drive East Area. In addition, he was requesting a sense of the Council regarding the project and obtaining tax increment financing for the same.

Councilmember Eischeid questioned the order of the agenda – shouldn't the ordinance annexing this property have been before Mr. Woehler's presentation? He felt this was leverage for the Council to annex this area. If the Council chooses not to annex the area, then Mr. Woehler is not eligible for tax increment financing.

In regard to the third reading of Ordinance 2013-50 annexing the Pacific Coast, airport, Williams Form, and Woehler properties, Councilmembers Giese and Eischeid

thought this should be tabled until the next meeting so that the map can be reviewed to determine what should and should not be annexed. Councilmember Giese thought the Council had not given this a serious six weeks of consideration – they were just rushing it through to help Pacific Coast.

Councilmember Eischeid opined that the growth of Wayne should not entirely depend on tax increment financing.

Councilmember Muir questioned why the Council wouldn't annex property if it is being requested by the property owner.

Mayor Chamberlain stated his thought was to move forward with the annexation so that as we try to recruit a new business to town, we can give them the option for tax increment financing. It doesn't mean they have to take or use tax increment financing. It just becomes an option. TIF is a tool that we can use to try and attract new businesses.

Councilmember Sievers thought it was a double edged sword.

Attorney Miller advised the Council that they could annex the Williams Form and Woehler properties without annexing Pacific Coast or the airport.

Councilmember Eischeid stated if Williams Form and Woehlers want to be annexed, those can be annexed, but it should stop there. If a business is interested in the Pacific Coast property, annexation and tax increment financing can be offered to them at that time. Councilmember Sievers agreed.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers to table action on Ordinance 2013-50 until the next meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who voted Nay, the Mayor declared the motion carried.

Since action on the annexation ordinance was postponed until the next meeting, no action was taken on Resolution 2013-129 which would declare the “Industrial Drive East Area” blighted.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 7:30 p.m.