

**MINUTES
CITY COUNCIL MEETING
January 7, 2014**

The Wayne City Council met in regular session at City Hall on Tuesday, January 7, 2014, 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, Matt Eischeid, and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 26, 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 Eischeid, whereas, the Clerk has prepared copies of the Minutes of the meeting of December 17, 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 SEPTEMBER 24, 2013: MILO MEYER, SE, \$270.00

VARIOUS FUNDS: AMAZON.COM, SU, 288.82; AMERICAN BROADBAND, SE, 2427.46; AMERITAS, SE, 2513.67; APPEARA, SE, 151.16; ARNIE'S FORD-MERCURY, SE, 617.29; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, SE, 120.00; BLACK HILLS ENERGY, SE, 1456.55; CITY EMPLOYEE, RE, 386.24;

BOMGAARS, SU, 108.07; BROWN SUPPLY, SU, 1576.66; CITY EMPLOYEE, RE, 57.50; CENTURION TECHNOLOGIES, SE, 57.33; CENTURYLINK, SE, 313.71; CHILD SUPPORT, RE, 100.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, PY, 60158.65; CITY OF WAYNE, RE, 800.00; CITY OF WAYNE, FE, 140.00; CLAUSSEN, HEATHER, SE, 80.00; CLEAN TO A T, SE, 1300.00; COMMUNITY HEALTH, RE, 4.00; CITY EMPLOYEE, RE, 352.51; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEARBORN NATIONAL LIFE, SE, 103.20; DEMCO, SU, 511.26; DENNIS SPANGLER, RE, 500.00; DIGITAL ALLY, SU, 190.00; ED. M FELD EQUIPMENT, SU, 589.89; FIRST CONCORD GROUP, SE, 3,004.66; FLOOR MAINTENANCE, SU, 311.07; FREDRICKSON OIL, SE, 14.00; CITY EMPLOYEE, RE, 1115.91; GENO'S STEAKHOUSE, SE, 3905.94; GLEN'S AUTO BODY, SU, 117.05; GOVERNMENTAL ACCOUNTING, SU, 225.00; GROSSENBURG IMPLEMENT, SU, 5.36; HILLYARD/SIOUX FALLS, SU, 377.54; HOEMAN, TODD, RE, 83.81; HOLIDAY LIGHT & TRIM, SU, 150.00; HOMETOWN LEASING, SE, 73.51; HUBER TECHNOLOGY, SU, 235.00; ICMA, SE, 6375.23; IRS, TX, 22530.84; JEO CONSULTING GROUP, SE, 1514.00; JOSH PICKINPAUGH, RE, 500.00; CITY EMPLOYEE, RE, 332.74; MERCY MEDICAL CLINIC, SE, 178.00; MILO MEYER CONSTRUCTION, SE, 270.00; NE DEPT OF REVENUE, TX, 3186.11; NE HARVESTORE, SU, 807.21; NE PUBLIC HEALTH, SE, 1582.00; NE SAFETY COUNCIL, SE, 128.08; NNPPD, SE, 4657.00; NWOD, FE, 10.00; ONE CALL CONCEPTS, SE, 29.75; PAUL VELDKAMP, RE, 292.62; CITY EMPLOYEE, RE, 265.37; PITNEY BOWES, SU, 648.00; CITY EMPLOYEE, RE, 3988.08; QUALITY FOODS, RE, 5080.00; QUILL, SU, 390.41; RONALD GENTRUP, RE, 500.00; SEBADE CONSTRUCTION, RE, 500.00; SKARSHAUG TESTING LAB, SE, 138.47; STATE NEBRASKA BANK, RE, 438.21; CITY EMPLOYEE, RE, 167.36; UNIVERSITY OF NE-LINCOLN, FE, 140.00; VERIZON, SE, 380.97; VESSCO, SU, 516.20; VIAERO, SE, 245.26; WAYNE AIRPORT, RE, 820100.52; WAED, RE, 296.00; WESCO, SU, 143.78; APPEARA, SE, 31.31; ASCAP, FE, 330.00; BOMGAARS, SU, 1000.00; CITY EMPLOYEE, RE, 35.57; BROWN SUPPLY, SU, 731.00; CITY EMPLOYEE, RE, 74.45; CHARTWELLS, SE, 5618.92; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 1821.17; CITY EMPLOYEE, RE, 375.71; COPY WRITE PUBLISHING, SU, 402.44; DAVE'S DRY CLEANING, SE, 84.00; EASYPERMIT POSTAGE, SU, 740.84; ECHO GROUP, SU, 45.44; CITY EMPLOYEE, RE, 539.59; ED. M FELD EQUIPMENT, SU, 69.95; FLOOR MAINTENANCE, SU, 146.20; FREDRICKSON OIL, SE, 84.77; GEMPLER'S, SE, 39.00; GILL HAULING, SE, 155.00; GROSSENBURG IMPLEMENT, SU, 625.51; CITY EMPLOYEE, RE, 297.80; HANSEN, THOMAS, SE, 3490.00; HARDING & SHULTZ, SE, 109.00; HEIKES AUTOMOTIVE, SE, 69.23; IPMA, SE, 185.00; JOHN'S WELDING AND TOOL, SU, 10.40; KEPSCO, SU, 8.96; KRIZ-DAVIS, SU, 11306.31; KTCH, SE, 648.60; LEAGUE OF NEBRASKA, FE, 300.00; MAEDC, FE, 125.00; CITY EMPLOYEE, RE, 66.53; MERCY MEDICAL CLINIC, SE, 30.00; MIDWEST LABORATORIES, SE, 583.50; MIDWEST SERVICE & SALES, SU, 137.73; MIKE TOWNE, SE, 1000.00; MURPHY TRACTOR & EQUIPMENT, SU, 180.34; NE NEB INS AGENCY, SE, 223.00; PAC N SAVE, SU, 39.94; PIEPER & MILLER, SE, 9244.00; PLUNKETT'S PEST CONTROL, SE, 43.26; POSTMASTER, SU, 130.00; CITY EMPLOYEE, RE, 3130.39; QUILL, SU, 57.48; S & S WILLERS, SU, 1321.64;

SEBADE CONSTRUCTION, RE, 40000.00; SHOPKO, SU, 92.11; SMOOTHWALL, SU, 5150.00; SOLOMON CORP, SU, 3408.00; STATE NEBRASKA BANK, RE, 101.77; STEFFEN, SU, 106.50; CITY EMPLOYEE, RE, 78.56; TYLER TECHNOLOGIES, SE, 1435.83; US BANK, SU, 3083.93; WAYNE COUNTY CLERK, SE, 86.00; WAYNE COUNTY TREASURER, FE, 933.50; WAYNE GROCERY, SU, 16.29; WAYNE HERALD, SE, 187.50; WAYNE VETERINARY CLINIC, SE, 112.00; WAPA, SE, 35302.82; ZACH OIL COMPANY, SU, 4035.00

Councilmember Sievers made a motion, which was seconded by Councilmember Muir, 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.

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, Director of Wayne Area Economic Development, was present and advised the Council that the LB840 Sales Tax Advisory Committee met and is recommending approval of a request by WAED for a \$5,000 grant to help cover the costs associated with administering the LB840 Fund for the City of Wayne (community marketing/administration).

Councilmember Brodersen made a motion, which was seconded by Councilmember Muir, approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$5,000 to Wayne Area Economic Development to be used to help cover the costs associated with administering the LB840

Fund for the City of Wayne (community marketing/administration). 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.

In addition, Mr. Blecke advised the Council that the LB840 Sales Tax Advisory Committee is also recommending approval of a request by Rod L. Lutt and Christine E. Cook-Lutt, d/b/a “Lutt Oil and Service” for a low interest loan in the amount of \$50,000 to be used towards the purchase of Zach Oil (property and business). The terms of the loan requested and recommended include up to 10 years at 3% interest.

Rod Lutt was present to answer questions.

Councilmember Brodersen made a motion, which was seconded by Councilmember Sievers, approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a low interest loan in the amount of \$50,000 to Rod L. Lutt and Christine E. Cook-Lutt, d/b/a “Lutt Oil and Service”, with the terms being 10 years at 3% interest. 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.

At the December 17th Council meeting, the Council approved a motion to award a contract to Big Rivers Electric Corporation to supply wholesale electric power at a 10% discount from the Nebraska Public Power District (NPPD) blended rate to Wayne from January 1, 2019, to December 31, 2026, if it was approved by the City Council before December 31, 2013. After that date, the Big Rivers’ 10% discount was based on the NPPD Generation Station Rate, which historically has been approximately 3% higher. Todd Hegwer, our RFP negotiator, stated that the total discount for Wayne would be 13%

if the Council approved the Big Rivers' contract at the December 17th Council meeting and only 10% if approved after that date.

City Attorney Miller has determined that the actual total discount would mathematically be 12.75% instead of 13% if the spread between NPPD rates is exactly 3%. Using the 13-year projected electric rates presented to the Council, the .25% mathematical difference would mean about \$300,000 less savings over the life of the Wayne-Big Rivers' contract. The actual difference between the NPPD Blend Rate and Generation Station Rate is set by NPPD rate calculations and not guaranteed to be 3%. We would be saving ten percent off of a rate that could be up to 3% lower.

The concern by the City Attorney was that this information was not presented clearly to the Council at the meeting and may have made a material difference in the Councilmembers' deliberation and vote on the contract. If the Councilmembers determine the corrected information would have made a material difference to their votes and they want to have a second vote, a motion to reconsider can only be made by a Councilmember who voted on the prevailing side at the December 17th Council meeting. If there is a re-vote, and the contract is not approved, then the Council would be back to the options of:

- 1) Approving the Big Rivers' contract at a later date at a lower discount;
- 2) Advertising for bids again next year; or
- 3) Going to the market later and hedging prices like Neligh.

Mark Shults, General Manager of Northeast Nebraska Public Power District (NNPPD), was present to further clarify the matter. The City of Wayne will have a guaranteed 10% off NPPD's blended rate to the City, plus whatever additional percentage there continues to be between Northeast Nebraska Public Power District's rate

(generation) and the City's rate. NPPD discounts NNPPD's rate because they let them have the benefit of their WAPA, so the more benefit WAPA power is, the greater that spread gets. There is a limit to how much WAPA power there is available from the dams, so if there is plenty of water, there is cheaper power and theoretically that spread could increase. He also advised the Council that the contract with Big Rivers has one protection after another (guarantees, options and outs) if anything would come up. The contract provides the City guaranteed savings over NPPD and all sorts of options to craft your own future which you don't have today. This is a legitimate undertaking – you are voting with other people's money.

Councilmember Eischeid opined he thought the Council made the right decision approving the Big Rivers' contract at the last meeting.

Attorney Miller also advised the Council that in the event NPPD terminates the lease capacity agreement with the City, Big Rivers is going to pay the City of Wayne \$1.5 KW, which is not as much as what NPPD was paying the City, and they will never ask the City to run its generation plant. She again reiterated that the savings is 10% of a base that could be 3% lower.

After further discussion, no action was taken on the matter, and the contract with Big Rivers Electric Corporation that was approved at the December 17, 2013, meeting stood as approved.

Joel Hansen, Street Superintendent, stated the following Ordinance would vacate East 12th Street lying between the west line of the north-south alley between Windom Street, extended north, and Walnut Street and the west line of Walnut Street, with

ownership reverting to Wayne State College. The City still reserves street utility easements for installing and/or maintaining all utilities in said street.

Councilmember Giese introduced Ordinance 2014-1, and moved for approval; Councilmember Greve seconded.

ORDINANCE NO. 2014-1

AN ORDINANCE APPROVING VACATION OF A PORTION OF EAST 12TH STREET LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, DESCRIBED AS E. 12TH STREET LYING BETWEEN THE WEST LINE OF THE NORTH-SOUTH ALLEY BETWEEN WINDOM STREET, EXTENDED NORTH, AND WALNUT STREET AND THE WEST LINE OF WALNUT 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. The second reading will take place at the next meeting.

Discussion took place regarding proposed amendments to sections of the Wayne Municipal Code pertaining to parking restrictions. Joel Hansen, Street Superintendent, presented a map of Wayne showing the parking ordinances that are now in place and the proposed new parking ordinance changes on streets that are new or haven't been acted upon in the past. He reviewed each quadrant of the city.

Councilmember Eischeid stated there are new areas or streets in Wayne that do not have the traffic that some of the other streets have. He recommended waiting until 80-90% of the lots are sold before placing parking restrictions on those streets. He did not think a blanket ordinance throughout the city was good.

Councilmember Sievers stated last year, the City sent out postcards to the residents of Wayne regarding parking, and the response was that the residents did not want things changed.

Councilmember Giese thought that the parking restrictions needed to be in place when the streets are put in or when the subdivision is empty because after people move in, you can't get them to agree.

It was noted that petitions can be brought forward to Council requesting changes in the parking restrictions.

Mr. Hansen stated cul de sacs in Wayne do not have any parking, with the exception of Emerald Drive and that is because it is a very large cul de sac. Safety is the main concern.

Staff reiterated that parking restrictions are put in place for safety and efficiency for snow removal, street cleaning, etc. In addition, mail carriers can more efficiently deliver mail if there is no parking on one side of the street.

Marlen Chinn, Police Chief, stated the midnight to 5:00 a.m. parking restriction aids the police in protecting the neighborhoods.

BJ Woehler was glad the Council was addressing the parking issues in Wayne. He did not like the midnight to 5:00 a.m. parking restrictions and thought declaring a snow emergency took care of the snow plowing. He asked the Council to remove the midnight to 5:00 a.m. parking restriction.

Mayor Chamberlain stated his opinion was that if we didn't have midnight to 5:00 a.m. parking restrictions, some areas of Wayne would become a parking lot.

Councilmember Brodersen stated her only objection to the parking restrictions would be to the cul de sacs because it would leave people no where to park.

Mr. Hansen stated this was just brought forward as a first reading – there would still be two more readings in which to amend the same.

Councilmember Muir introduced Ordinance 2014-2 and moved for approval. The introduction and motion died for lack of a second.

Discussion took place on a proposed ordinance that would restructure the membership of the Community Development Agency. At this time, the Community Development Agency, by way of ordinance, is limited to the Mayor and Council. Mayor Chamberlain was recommending that the CDA membership include fewer elected officials and more members of other subdivisions of government and community members. He recommended either a 7 or 9 member board consisting of the Mayor, two Councilmembers, the School Superintendent, a County Commissioner, and two or four at-large citizens. For the at-large members, he would seek someone who understands finances and wants to see the community grow. He recommended that the terms be set at four years.

Councilmember Sievers wanted to see a councilmember from each ward be a member of the CDA, but understood the concern of then having a quorum.

Councilmember Haase thought five members would be sufficient (Mayor, Councilmember, School Superintendent, County Commissioner, and finance person).

Mayor Chamberlain stated if the CDA would begin to get aggressive as far as wanting to acquire property (e.g. Pacific Coast property), they would have to come to the City for money. Therefore, the more city representation on there, the better, at least in its infancy. The CDA in South Sioux City generates its own money because they buy property cheap and sell it high.

Councilmember Sievers introduced Ordinance 2014-3, and moved for approval, with said Community Development Agency consisting of the Mayor, two

Councilmembers, the Superintendent of Wayne Community Schools, a Wayne County Commissioner, and two at-large citizens, with staggering four year terms; Councilmember Greve seconded.

ORDINANCE NO. 2014-3

AN ORDINANCE AMENDING ORDINANCE NO. 93-4 RESTRUCTURING THE COMMUNITY DEVELOPMENT AGENCY AND PROVIDING FOR THE FUNCTIONING AND POWERS OF SUCH 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. The second reading will take place at the next meeting.

Garry Poutre, Superintendent of Public Works and Utilities, advised the Council that one bid was received for the 2014 Elgin Pelican Street Sweeper. The purchase price, net of trade-in value (\$22,000) for the existing street sweeper, was \$147,848.00, and the bid was submitted by Nebraska Environmental Products of Lincoln. Staff will first try selling the existing street sweeper before taking the trade-in value.

Councilmember Sievers introduced Resolution No. 2014-1 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2014-1

A RESOLUTION ACCEPTING BID AND AUTHORIZING THE PURCHASE OF A REPLACEMENT STREET SWEEPER.

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 pay request has been received from Robert Woehler & Sons Construction for the Chief's Way Sanitary Sewer & Water Extension Project in the amount of \$43,879.73. The engineer on the project has approved the same.

Garry Poutre, Superintendent of Public Works & Utilities, updated the Council on the project.

Councilmember Brodersen made a motion, which was seconded by Councilmember Giese, approving Pay Application No. 4 in the amount of \$43,879.73 to Robert Woehler & Sons Construction for the Chief's Way Sanitary Sewer & Water Extension Project. 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 Sievers, 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 7:40 p.m.