

**MINUTES  
CITY COUNCIL MEETING  
December 1, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, December 1, 2009, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Doug Sturm and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 19, 2009, 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 Chamberlain made a motion and seconded by Councilmember Ley, whereas the Clerk has prepared copies of the Minutes of the meeting of November 17, 2009, 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 Shelton 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:

**ADDITIONS & CORRECTIONS TO CLAIMS LIST OF 11/17/2009:** DELETE HOLIDAY INN-KEARNEY – LODGING, 906.00; LCAD – TRAINING, 75.00; POWERHOUSE – TRAINING, 378.00

**VARIOUS FUNDS:** ALARM PROS, INC., SE, 79.13; AMAZON, SU, 148.34; AMERICAN PUBLIC POWER, SU, 236.25; APPEARA, SE, 69.68; APWA, FE, 150.00; BINSWANGER GLASS, SU, 705.41; BLACK HILLS ENERGY, SE, 211.46; BRYAN DENKLAU, RE, 500.00; CARLTON INDUSTRIES, SU, 699.45; CITY OF

NORFOLK, SE, 488.70; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 1250.00; CITY OF WAYNE, RE, 423.51; CITY OF WAYNE, RE, 1134.72; CITY OF WAYNE, RE, 38.00; CITY OF WAYNE, RE, 864.00; CITY OF WAYNE, SU, 150.00; CITY OF WAYNE, RE, 174.18; D & N 66 SERVICE, RE, 300.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DOESCHER APPLIANCE, SU, 61.00; EGAN SUPPLY, SU, 63.80; ELECTRIC FIXTURE, SU, 138.05; EXHAUST PROS, SE, 42.54; FLOOR MAINTENANCE, SU, 33.88; FORT DEARBORN LIFE, SE, 106.64; HACH COMPANY, SU, 243.19; HAUFF MID-AMERICAN SPORTS, SU, 450.02; HOLIDAY INN-DOWNTOWN, FE, 906.00; JACK'S UNIFORMS, SU, 21.95; JASON BEIERMANN, RE, 700.00; KAUFMAN TRAILERS, SU, 3790.00; LIVING HERE, SU, 14.00; LOGIN/IACP NET, FE, 250.00; LUNDAHL FARMS, RE, 200.00; MARSHALL CAVENDISH, SU, 126.06; MID-CONTINENT PUBLIC LIB, SU, 18.95; MIDWEST TAPE, SU, 99.97; MIKE TOWNE, SE, 200.00; MURPHY TRACTOR & EQUIPMENT, SU, 84.97; NE LAW ENFORCEMENT, SU, 36.00; NE PUBLIC HEALTH, SU, 191.00; NPPD, SE, 178270.91; N.E. NE AMERICAN RED CROSS, SE, 570.00; OVERHEAD DOOR COMPANY, SE, 247.20; POLE MAINTENANCE, SE, 15000.00; PUSH-PEDAL-PULL, SE, 833.00; QWEST, SE, 428.11; RON'S RADIO, SE, 62.85; ROURKE PUBLISHING, SU, 59.12; SKARSHAUG TESTING LAB, SE, 112.77; STADIUM SPORTING GOODS, SU, 217.50; STATE NATIONAL BANK, RE, 4583.75; STATE NATIONAL BANK, RE, 416.79; STEFFEN, SU, 15534.00; TOP HEALTH, SU, 237.60; VERIZON, SE, 245.89; VIAERO, SE, 72.09; WAYNE AUTO PARTS, SU, 993.95; WAYNE STATE COLLEGE, RE, 400.00; WESCO, SU, 201.87; WOOD PLUMBING & HEATING, SU, 370.00; ZEE MEDICAL SERVICE, SU, 40.15; ARNIE'S FORD-MERCURY, SE, 496.62; AS CENTRAL SERVICES, SE, 448.00; BENSCOTER PLUMBING, SE, 4000.00; BIG T ENTERPRISES, SU, 313.85; BLACK HILLS ENERGY, SE, 108.50; CAPSTONE PRESS, SU, 250.66; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 5238.00; CITY OF WAYNE, RE, 835.37; CITY OF WAYNE, RE, 134.64; CITY OF WAYNE, RE, 573.12; COLONIAL RESEARCH, SU, 104.48; DANKO EMERGENCY EQUIPMENT, SU, 2170.84; ELITE OFFICE PRODUCTS, SE, 60.00; GLOCK PROFESSIONAL, SU, 151.00; INGRAM BOOK COMPANY, SU, 34.32; JEO CONSULTING GROUP, SE, 30321.33; JORGENSEN, JASON, SE, 475.00; LERNER PUBLISHING GROUP, SU, 62.54; LOOSELEAF LAW PUBLICATION, SU, 24.90; N.E. MUTUAL AID, FE, 50.00; N.E. NEB ECONOMIC DEV DIST, SE, 1560.00; NMPP ENERGY, SE, 1100.00; NNPPD, SE, 2056.94; OLDE ENGLISH CRACKERS, SU, 27.45; PIEPER, MILLER & DAHL, SE, 3239.38; POSTMASTER, SU, 679.74; PRESTO X COMPANY, SE, 35.00; QWEST, SE, 184.44; RON WHITT, RE, 500.00; SAYRE ANDERSON, RE, 417.00; VERIZON, SE, 387.99; WAED, SE, 12766.66; WAYNE COUNTY, SU, 3151.00

Councilmember Alexander made a motion and seconded by Councilmember Van Delden to approve the claims. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton 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, she 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.

Administrator Johnson advised the Council that the City has received the Annual Renewal Maintenance Agreement from the Nebraska Department of Roads. This is a standard form agreement.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving the Annual Renewal Maintenance Agreement (2010) with the Nebraska Department of Roads. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Garry Poutre, Supt. of Public Works & Utilities, stated we have received Pay Application No. 2 to Layne Christensen Co. for \$69,293.70 on the Well House and Municipal Well 2009-1 Project. This is primarily for the digging of the well. JEO Consulting Group, the engineer on the project, has reviewed the same and is recommending approval thereof. Mr. Poutre also updated the Council on the project.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving Pay Application No. 2 in the amount of \$69,293.70 to Layne Christensen Co. for the Well House and Municipal Well 2009-1 Project. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve the Engineering Agreement with JEO Consulting Group for the Downtown Sidewalk Improvement Project. The fee was negotiated and reduced from \$72,600 to \$56,140. Their site visits were reduced. Staff will be monitoring portions of the project.

The commitment for getting the \$250,000 for the façade developments on Main Street and the ADA accessibility was that we would help the property owners replace their sidewalks. If we do not do this district or if the district gets voted out, we will have to repay the \$250,000 back to the State. The project is scheduled to start next summer.

Councilmember Chamberlain introduced Resolution No. 2009-109 and moved for its approval; Councilmember Frevert seconded.

#### RESOLUTION NO. 2009-109

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR SERVICES WITH JEO CONSULTING GROUP, INC., FOR THE DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE DOWNTOWN SIDEWALK IMPROVEMENT PROJECT.

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

Nancy Braden, Finance Director, stated the following Resolution would approve the Loan Contract with the Department of Environmental Quality in the amount of \$1,050,000 (stimulus funding) for the following Projects:

- New Well #11
- Muhs Acres Water Line
- Booster Pump Station
- Looping water mains

\$50,000 of this amount is for the administration portion of the grant and is not a part of the forgivable portion of the loan. Of the remaining \$1,000,000, \$250,000 will be forgivable. The remainder or \$750,000 will be a 3% loan with a 20-year payback period.

Councilmember Chamberlain introduced Resolution No. 2009-110 and moved for its approval; Councilmember Ley seconded.

#### RESOLUTION NO. 2009-110

A RESOLUTION APPROVING CONTRACT FOR LOAN BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF WAYNE.

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

Administrator Johnson stated a recommendation has been received from the LB840 Sales Tax Advisory Committee to grant \$200,000 to Project Majestic for the downtown theater revitalization project. The building was purchased by Wayne Area Economic Development. The motion from the committee was: To approve the application up to \$200,000 with conditions to include: (1) \$100,000 granted on January 1, 2010, (2) the LB840 committee will review Project Majestic's financial status at its May meeting to determine the need for the \$100,000 disbursement or portion thereof on July 1, 2010, (3) if other grants/honored pledges are received by Project Majestic and the funds raised surpass the project costs, the excess money up to \$100,000 will be returned to the Wayne Economic Development fund and (4) request a primary lien position on the property and if the building and/or business would sell for a profit, the Wayne Economic Development Program fund would be reimbursed from said profits up to \$200,000.

Reggie Yates, Curt Frye and Jeff Morlok spoke in favor of the recommendation. Mr. Yates advised the Council that the fundraising for this project will be from grants, donations, and LB840 funds. They have donations of approximately \$200,000. The total project cost will be in the neighborhood of \$570,000. The LB840 funds will also be used to repair/replace the roof of the old City Hall/Fire Department building on 2<sup>nd</sup> Street.

The facility will be used as a multi-purpose building. They have saved quite a bit of money with volunteers helping with the demolition of the inside of the building. They will have two digital displays on the marquee. The front door will be made handicapped accessible as well as the restrooms. They will be applying for many different grants (World Herald, Lied Foundation, Railroad, etc.). A lot of the money being raised will come in increments over the next two years. A lot of the donations/contributions have not been a lump sum.

Nancy Braden, Finance Director, provided Council with a spreadsheet showing what the City would get from the LB840 sales tax with a 2% increase. The City has averaged, over the past 9 years, a 2% increase in its sales tax revenues every year. The second spreadsheet shows over the 15 year time period of collecting the sales tax what staff is projecting the City will collect – approximately \$3.1 million dollars, and with the projects the Council has approved right now and including the theater, by 2012, we will have the funds raised to pay for these projects. She also provided a spreadsheet showing the funds that would be received if the sales tax revenue decreased by 2/3rds. The same reflected that the City would have the funds raised to pay for these projects by 2014. Recommendation is also to take a loan (\$500,000) from the electric fund at a 3% interest

rate to help cover the projects initially. We will not have enough money upfront to cover all of these projects.

Mayor Shelton stated that instead of investing the \$500,000 in a bank for a CD, we would be investing in the community at 3%.

Even if we grant the \$500,000 out, when the sales tax money comes in, we will pay back interest on the electric fund monies that we borrowed. Interest is allowable under the LB840 guidelines.

Mr. Frye stated the Project Majestic representatives have agreed that if the project comes in under budget, or if they have grants in excess of what they need for their budget, that money will be returned to the LB840 funds. He thinks this is a good investment.

Councilmember Chamberlain had concerns regarding the amount of the grant and the same being labeled as “free money.”

Mr. Morlok advised the Council that they are not a business. He wanted them to consider them as a “service organization.” They are not out to make a profit. They are out to pay their bills, and they are hoping that they can get service groups in the community to actually operate the theater on a nightly basis, with the goal of taking a percentage of the concessions as a fundraising effort for their own organization. They only hope to have one part-time and maybe, depending upon the use of the facility, one full-time employee. Because of the facility that is there now, they can make it multi-purpose with the stage, etc. He does not consider the grant as “free money.” He considers it as an investment in Wayne. They are hoping to form another non-profit organization because they do not anticipate being able to keep the ticket prices low and

their concession prices reasonable where it will ever turn a profit. One thing they have learned in their research is that all of their ticket prices go to pay for the cost of the movies, so their hope is that they can generate enough from concessions to pay their utility bill and their coordinator.

Councilmember Alexander stated he understood Councilmember Chamberlain's concerns because what if they would decide to sell it – what if it gets so successful that they do decide to sell it and you get \$600,000 for the building. Mr. Morlok said he was agreeable with the stipulation that if they sell it for a profit, the City would get its money back. Alexander stated if they just sold it for \$100,000, he sees that as being a profit.

Mayor Shelton stated one of the functions that the LB840 Sales Tax Committee has is to look at the broader good of the community and to make those decisions on that basis rather than just a few constituents. It has to be for what is best for the community.

Councilmember Alexander made a motion and seconded by Councilmember Chamberlain approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$200,000 to Wayne Area Economic Development for Project Majestic (downtown theater revitalization project), with the stipulation that if it is sold for a profit that any of the profit money will come back to the LB840 fund (maximum of \$150,000), with the time limit being June 30, 2024. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Irene Fletcher, Assistant Director of Wayne Area Economic Development, stated the LB840 Sales Tax Advisory Committee is also recommending approving a request by WAED for community marketing as a grant in the amount of \$10,000. This would be in

lieu of WAED making an administrative funding request for 2010. Community marketing includes the Wayne Works campaign, the Pride in Wayne campaign, and the continual business and industry marketing, which includes the opportunity building.

Nancy Braden who is a member of the Marketing Committee stated they are doing a lot of things to sell the community of Wayne.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$10,000 to Wayne Area Economic Development to be used for community marketing. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley made a motion and seconded by Councilmember Alexander to adjourn the meeting. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:40 p.m.