

**MINUTES
CITY COUNCIL MEETING
December 15, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, December 15, 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, Doug Sturm, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 3, 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 Sturm, whereas the Clerk has prepared copies of the Minutes of the meeting of December 1, 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:

VARIOUS FUNDS: AMERITAS, RE, 2184.34; APPEARA, SE, 107.45; BAKER & TAYLOR BOOKS, SU, 543.69; BANK FIRST, FE, 210.00; BARONE SECURITY SYSTEMS, SU, 302.50; BROWN SUPPLY, SU, 1090.87; CABLEONE ADVERTISING, FE, 300.00; CHARTWELLS, SE, 4961.05; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 170.00; CITY OF WAYNE, RE, 634.97; CITY OF WAYNE, RE, 1940.68; CITY OF WAYNE, RE, 118.80; CITY OF WAYNE, PY, 54288.94; CITY OF WAYNE, RE, 150.00; COMMUNITY HEALTH, RE, 4.00; COMPRESSION SYSTEMS, SU, 1783.91; COPY

WRITE PUBLISHING, SU, 166.78; DAKOTA BUSINESS SYSTEMS, SE, 100.00; DAVE'S DRY CLEANING, SE, 105.00; DITCH WITCH OF OMAHA, SU, 78.66; EAKES OFFICE PLUS, SU, 396.00; ECHO GROUP, SU, 171.39; EGAN SUPPLY, SU, 156.51; ELECTRIC FIXTURE, SU, 45.60; FLOOR MAINTENANCE, SU, 108.83; GILL HAULING, SE, 2327.20; GREAT PLAINS ONE-CALL, SE, 78.78; HAUFF MID-AMERICAN SPORTS, SU, 225.00; HAWKINS, SU, 671.48; ICMA, RE, 5357.86; IRS, TX, 17641.95; KELLY SUPPLY, SU, 71.29; KIRKHAM MICHAEL, SE, 7900.00; KTCH AM/FM RADIO, SE, 1004.00; LAYNE CHRISTENSEN, SE, 69293.70; LP GILL, SE, 5714.92; MARYBETH O'MALLEY, RE, 419.74; MATT PARROTT AND SONS, SU, 163.64; MID-CONTINENT SALES, SU, 7393.51; MIDWEST LABORATORIES, SE, 426.75; MOONLIGHT TOWING, SE, 756.15; NE AIR FILTER, SU, 447.55; NE DEPT OF LABOR, FE, 144.00; NE DEPT OF REVENUE, TX, 2678.27; NPPD, SE, 165735.08; NORTHEAST EQUIPMENT, SU, 79.31; NNPPD, SE, 10698.54; OLSSON ASSOCIATES, SE, 447.74; PAC N SAVE, SU, 93.35; PAMIDA, SU, 115.59; PEPSI-COLA, SU, 421.67; PETERSON INDUSTRIAL, SE, 11614.05; PETRA ROC INC, SU, 160.94; PRESTO X, SE, 74.95; PUSH-PEDAL-PULL, SU, 6454.35; QUALITY BOOKS, SU, 449.53; QUALITY FOOD, SU, 2.61; QWEST, SE, 1311.65; RANDOM HOUSE, SU, 240.00; S & S WILLERS, SU, 205.88; SKILLPATH SEMINARS, FE, 298.00; STADIUM SPORTING GOODS, SU, 138.00; STANLEY SECURITY SOLUTION, SU, 793.88; STATE NATIONAL BANK, SE, 47.32; STATE NATIONAL BANK, RE, 18283.75; US BANK, SU, 3049.63; UTILITY EQUIPMENT, SU, 243.00; WAYNE COUNTY CLERK, SE, 56.50; WAYNE GRAIN & FEED, SE, 70.00; WAYNE HERALD, SE, 649.88; WAYNE VETERINARY CLINIC, SE, 238.00; WEB SOLUTIONS OMAHA, SE, 275.00; WAPA, SE, 27608.73; ZACH OIL, SU, 4577.23; ZEE MEDICAL SERVICE, SU, 92.11; ALIGNMENT TECHNOLOGIES, SU, 323.38; BOMGAARS, SU, 971.11; BROWN SUPPLY, SU, 23.56; CARHART LUMBER CO, SU, 634.49; CITY OF WAYNE, RE, 99.72; CITY OF WAYNE, RE, 670.37; CITY OF WAYNE, RE, 125.00; COVENTRY HEALTH, SE, 16345.59; CULLIGAN, SE, 42.25; DE LAGE LANDEN FINANCIAL, SE, 471.00; FREDRICKSON OIL, SE, 5300.45; GILMORE & ASSOCIATES, SE, 22.68; GOVERNMENTAL ACCOUNTING, SU, 195.00; MAIN STREET AUTO CARE, SE, 160.00; MATTHEW BENDER, SU, 287.94; MID-STATE ENGINEERING, SE, 2079.50; N.E. NE AMERICAN RED CROSS, RE, 29.62; OMB POLICE SUPPLY, SU, 1579.00; PAMIDA, SU, 235.52; PURCHASE POWER, SU, 500.00; STAN HOUSTON EQUIPMENT CO, SU, 20.40; STATE NATIONAL BANK, RE, 350.69; STEFFEN, SU, 38.64; UNITED WAY, RE, 16.16; VOSS LIGHTING, SU, 191.40; WAYNE AUTO PARTS, SU, 1184.56; WAYNE STATE COLLEGE, RE, 600.00; WESCO, SU, 3895.54

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm 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.

Councilmember Sturm made a motion and seconded by Councilmember Ley to recess as Council and convene as the Community Development Agency. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Chamberlain called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Lois Shelton, Doug Sturm, and Kaki Ley; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Kathy Berry.

Chair 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.

The next item on the CDA agenda was to approve the minutes of the October 20, 2009, meeting.

Member Sturm made a motion and seconded by Member Ley approving the minutes of the October 20, 2009, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the CDA agenda was to approve the following claims:

- Ransom G. Roman – appraisal of the Kardell Industrial Tract - \$1,500
- City of Wayne – reimbursement of legal fees - \$1,295

Member Sturm made a motion and seconded by Member Ley approving the minutes of the October 20, 2009, meeting. Chair Chamberlain 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 the consideration and adoption of CDA Res. 2009-8 recommending approval of the Amended Redevelopment Plan/Contract for Louis Bencoter and Javanah Bencoter.

Administrator Johnson stated the reason for the amendment is that there was a change in the lot numbers and lot sizes from the preliminary plat stage to the final plat stage which requires a change in the Redevelopment Plan.

Louis and Javanah Bencoter were present to answer questions.

Member Sturm introduced CDA Resolution No. 2009-8 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2009-8

A RESOLUTION RECOMMENDING APPROVAL OF A REDEVELOPMENT PLAN AMENDMENT OF THE CITY OF WAYNE, NEBRASKA, INCLUDING A REDEVELOPMENT CONTRACT, APPROVING A REDEVELOPMENT PROJECT OF THE CITY OF WAYNE, NEBRASKA; APPROVING A COST BENEFIT ANALYSIS FOR SUCH PROJECT; AND APPROVAL OF RELATED ACTIONS.

Member Ley seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Haase, Alexander, Shelton, Sturm, Ley and Chamberlain. The following Members were absent: Berry.

The passage of CDA Resolution No. 2009-8 having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2009-8 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2009-8, and the Clerk attested to its passage by affixing her signature thereto.

The next item on the CDA agenda was the consideration and passage of CDA Res. 2009-9 Bond Resolution for Northeast Nebraska Investors, LLC.

Nancy Braden, Finance Director, stated this Resolution is the next step that is required to be able to issue the Tax Increment Financing Bond for the motel project.

Member Sturm introduced CDA Resolution No. 2009-9 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2009-9

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WAYNE; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY REDEVELOPMENT LAW; AUTHORIZING THE SALE OF SAID BOND; PROVIDING FOR A GRANT; PROVIDING FOR A REDEVELOPMENT CONTRACT AND PROVIDING FOR THIS RESOLUTION TO TAKE EFFECT.

Member Frevert seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Alexander, Sturm, and Chamberlain. The following Members were absent: Berry. The following Members abstained: Haase, Shelton and Ley.

The passage of CDA Resolution No. 2009-9 having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2009-9 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2009-9, and the Clerk attested to its passage by affixing her signature thereto.

Member Ley made a motion and seconded by Member Alexander to adjourn as the Community Development Agency and reconvene as Council. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mayor Shelton declared the time was at hand for the public hearing to obtain public comment prior to the consideration of a Resolution approving an amended redevelopment plan, including a redevelopment contract, 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"). The Mayor opened the public hearing and invited all interested persons to be heard.

Louis and Javana Bencoter were present to answer questions.

Administrator Johnson stated this is the same Redevelopment Plan/Contract that was approved by the CDA.

Nancy Braden stated the lots that were in the original agreement included lots that belonged to the City. The lot numbers and sizes between the preliminary plat and the final plat stages changed, which is the reason for the amendment to the agreement.

There being no further comments, Mayor Shelton closed the public hearing.

Councilmember Sturm introduced Resolution No. 2009-111 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-111

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA, APPROVING A REDEVELOPMENT PLAN, AS CONTAINED IN A REDEVELOPMENT CONTRACT; MAKING FINDINGS

WITH REGARD TO SUCH PLAN AND APPROVING OTHER ACTION THEREON.

Administrator Johnson noted that there are two TIF agreements in this development area – one is with Northeast Nebraska Investors, LLC, and the other is with Louis and Javanah Bencoter.

Mr. Bencoter stated the lot sizes were increased which decreased the number of lots in the redevelopment area.

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

Administrator Johnson stated we have received Pay Application No. 3 to Steve Harris Construction for \$70,332.34 on the Kardell Subdivision Paving, Drainage and Water Improvement Project. The same has been approved by the engineer on the project.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm approving Pay Application No. 3 in the amount of \$70,332.34 to Steve Harris Construction for the Kardell Subdivision Paving, Drainage and Water Improvement Project. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Garry Poutre, Superintendent of Public Works and Utilities, was present to discuss soliciting bids for a replacement pickup and snow-plow blade. He and his staff put together a set of specs, which is typical of how they have done this process in the past. He explained how the state bidding process works. The Department of Administrative Services and Purchasing Department of the State of Nebraska takes state contracts on every item used in State Government, from a paper clip to a big truck with a snow plow on it. Every political subdivision can buy or purchase from that State

Contract legally without taking bids. What we have done in the past is we develop a set of specs which is as generic as it can possibly be so that every manufacturer can meet those specs. We give those specs to the local dealers and advertise in the newspaper for 2-3 weeks. We also get an actual written bid from the State Contract supplier. They are estimating that the vehicle they would like to purchase should cost around \$22,000 (new). \$20,000 was put in the budget for a used pickup. The two pickups that need to be replaced were brought up to City Hall for the Council to look at.

Todd Hoeman and Lowell Heggemeyer of the Public Works Department were also present to answer questions about the two pickups that were brought up to City Hall for the Council to look at.

It was noted that at this time, the Public Works Department has three pickups with plows and a 1992 Chevy one-ton pickup that has a straight blade plow on it. The Water Department has a three-quarter ton pickup with a V-plow on it. Once the big plows are done with snow removal, then these pickups are on the road working. We get a lot of years out of this equipment.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain directing staff to solicit bids for a replacement pickup and snow-plow blade for the Public Works Department. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Jeff Morlok, representing Otte Construction, Inc., presented a proposal to repair the walking track and exterior wall panel at the Wayne Community Activity Center. The total cost of the work would be \$12,795. Mr. Morlok explained that the water infiltrates through the door which has caused the track to deteriorate. The proposal is based upon

replacing 300 sq. ft. of track, which is a guesstimate. He is anticipating it is going to be about a two-month period from the time the project starts.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving the proposal from Otte Construction, Inc., in the amount of \$12,795 to repair the walking track and exterior wall panel at the Community Activity Center. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson presented the amended Wage and Salary Schedule. The City of Wayne participates in the League of Nebraska Municipalities' Pay Survey each year to provide us with information about the average wage ranges for other Nebraska cities in the population range of Wayne. Cities half and double the size of Wayne are used in the comparability study because that is what the Corps of Industrial Relations will use if there would ever be a dispute. The pay ranges are for the job descriptions and not the people holding that job at this current time, so when you are talking about these wages, we are talking about job descriptions and not the people that hold them. The pay ranges that are on the Resolution have a recommended beginning wage and a recommended maximum wage for each job description. The cost of living adjustment is effective January 1st for all employees with the exception of the City Administrator (pursuant to contract). In the past, the cost of living adjustment has been 2%. As the City Administrator, it is his responsibility to determine the actual salaries paid within the pay ranges. He takes the money that is allocated in the budget for wages and distributes it within those pay ranges as he sees fit for the performance level, experience level, and the requirements of the position. In the past, Johnson noted he has been conservative on

the actual salaries paid and the pay ranges recommended. They have generally been less than the League's comparable average wages. Staff has not objected to this. At this time, we are working on a 3-year contract with the Police FOP. We are doing a comparability study with the FOP, and there are some disparities starting to develop between the FOP comparabilities and everybody else. There is a point where the spread can't continue. There is a legal obligation by the Council to pay comparable wages. Since 2003, city staffing levels have been decreased by 10 full-time employees in order to pay reasonable, comparable wages and still control costs.

The Police Department has been treated as a separate entity. However, since the Police Chief and Lieutenant are not part of the FOP, they have been added to this wage Resolution.

The Resolution shows non-salaried or hourly positions that have been moved to different pay grades to coincide with the League's comparability study. The pay grid for the hourly positions provides a 2.7% increase for each year of service unless you are at the top of your pay grade. If we also adjust the cost of living, that is an additional 2%. So, unless somebody is at the top of their pay grade, they will receive a 4.7% increase, which is the way it has been done in the past.

Adjustments have also been made to the exempt salary positions pursuant to the League's comparability study.

Councilmember Alexander stated he could justify the non-exempt wage increases, but did not know how he could justify the exempt salary wage increases – based upon the minimum wage increases (\$900-\$1,200 per month). He had no problem with approving

the wage schedule for the hourly employees, but wanted to discuss salaried employee wages further.

Administrator Johnson stated with the FOP comparabilities, the hourly employees are starting to get into the pay ranges of the administrative staff. At some point, you have to fix that. Statewide, with the city's our size, these wages are the average of what people are getting paid. We have very good staff that work really hard. We have fewer of us doing the work, and we have people that have jumped up and gotten a hold of a lot of grant money and a lot of stimulus funding. There is a point where you don't want the disparity to get totally out of hand between the nonunion people and the union people.

It was noted that the reason the minimum monthly salary ranges increased substantially was that they probably had not been changed for a quite some time. Information regarding the minimum wages for salaried employees would be researched and distributed to the Council.

Councilmember Sturm made a motion and seconded by Councilmember Frevert to table action on Resolution 2009-113 Amending the Wage and Salary Schedule until the next meeting. 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 extend the construction start date for the Wayne Trail — Phase 2 Project to August 15, 2010, and acknowledge the RC on the project.

Councilmember Sturm introduced Resolution No. 2009-114 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-114

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF SUPPLEMENTAL AGREEMENT NO. 11 WITH THE NEBRASKA DEPARTMENT OF ROADS RELATING TO THE WAYNE TRAIL PROJECT (PHASE 2) STPB-90(4).

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

Councilmember Berry arrived at 6:40 p.m.

Administrator Johnson stated the following Ordinance would establish two handicapped parking spaces on the north side of the auditorium.

Councilmember Chamberlain introduced Ordinance 2009-24, and moved for its approval; Councilmember Frevert seconded.

ORDINANCE NO. 2009-24

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE III, SECTION 78-96 LOCATION RESERVED FOR HANDICAPPED PARKING OF THE WAYNE MUNICIPAL CODE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Administrator Johnson stated Council must approve the grant agreement with the U.S. Environmental Protection Agency for the new wastewater treatment plant to receive the \$520,400 grant.

Councilmember Sturm made a motion and seconded by Councilmember Haase approving the grant agreement with the U.S. Environmental Protection Agency for the

Water/Wastewater Treatment Facility Project. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley left the meeting at 6:45 p.m.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander to enter into executive session to discuss pending litigation – Lassila v. City of Wayne, Nebraska Fair Employment Practice Act. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 6:45 p.m.

Mayor Shelton again stated that the matter to be discussed in executive session relates to the pending litigation matter – Lassila v. City of Wayne, Nebraska Fair Employment Practice Act.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander to resume open session. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 6:52 p.m.

Councilmember Alexander made a motion and seconded by Councilmember Chamberlain 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 6:53 p.m.