

**MINUTES  
CITY COUNCIL MEETING  
January 5, 2010**

The Wayne City Council met in regular session at City Hall on Tuesday, January 5, 2010, 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 Kyle Dahl; City Clerk Betty McGuire. Absent: Councilmember Kathy Berry; City Administrator Lowell Johnson.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 24, 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 Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of December 15, 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:** AMAZON, SU, 250.45; AMERITAS, RE, 4313.52; ANDREW PARKER, RE, 52.92; APPEARA, SE, 110.68; ARNIE'S FORD-MERCURY, SE, 119.58; BANK FIRST, FE, 420.00; BARB FREVERT, SE, 30.00; BLACK HILLS ENERGY, SE, 207.15; BMI, FE, 305.00; BNA BOOKS, SU, 236.50; BOMGAARS, SU, 26.16; CITY OF WAYNE, RE, 112.03; CITY OF WAYNE, RE, 10000.00; CITY OF WAYNE, RE, 1370.91; CITY OF WAYNE, RE, 137.00; CITY OF WAYNE, PY, 114909.93; CITY OF WAYNE, SU, 113.68; CITY OF WAYNE, RE, 38000.00; CITY OF WAYNE, RE, 60.58; CITY OF WAYNE, RE, 94.00; CIVICPLUS, SE, 14811.00;

COMMUNITY HEALTH, RE, 8.00; DLT SOLUTIONS, SE, 565.27; DUTTON-LAINSON, SU, 598.21; ED M FELD EQUIPMENT, SU, 2500.00; ELECTRIC FIXTURE, SU, 125.68; FLOOR MAINTENANCE, SU, 541.41; FORT DEARBORN, SE, 1666.02; FOX INTERNATIONAL, SU, 145.86; GALE GROUP, SU, 285.00; HEARTLAND FIRE PROTECTION, SE, 343.47; HIGHSMITH INC, SU, 51.41; ICMA, RE, 10734.72; IRS, TX, 37743.97; JACK'S UNIFORMS, SU, 1145.30; JEO CONSULTING GROUP, SE, 30839.24; LERNER PUBLISHING GROUP, SU, 34.95; M. K. ERVIN, SU, 3030.00; MAEDC, FE, 425.00; MARK CHRISTIANSEN, RE, 25.59; MARSHALL CAVENDISH, SU, 270.01; MIDWEST TAPE, SU, 358.90; NE DEPT OF REVENUE, TX, 5779.49; NE HARVESTORE, SU, 528.70; NE LAW ENFORCEMENT, FE, 50.00; NE NEB INS AGENCY, SE, 61937.00; NE PUBLIC HEALTH, SU, 267.00; NEDA, FE, 150.00; NIBM, SU, 77.00; NORTHEAST EQUIPMENT, RE, 450.00; N.E NE AMERICAN RED CROSS, SE, 15.00; OLSSON ASSOCIATES, SE, 3740.88; PETERSON THERAPY SERVICES, SE, 2857.20; PITNEY BOWES, SU, 637.00; POSTMASTER, SU, 653.66; QUALITY BOOKS, SU, 69.39; QUILL, SU, 232.50; QWEST, SE, 427.10; SPAN PUBLISHING, SU, 144.00; STADIUM SPORTING GOODS, SU, 48.00; STANLEY SECURITY SOLUTION, SU, 63.01; STEVE HARRIS CONSTRUCTION, SE, 70332.34; UNITED STATES PLASTIC, SU, 89.59; VERIZON, SE, 140.85; WAYNE COUNTRY CLUB, SU, 1620.30; WAYNE STATE COLLEGE, RE, 1500.00; WAYNE STATE, RE, 100.00; ALL-AMERICAN PUBLISHING, SE, 215.00; AMERICAN BACKFLOW, SU, 70.00; AMERITAS, RE, 580.00; ARNIE'S FORD-MERCURY, RE, 1275.08; AS CENTRAL SERVICES, SE, 448.00; ASCAP, FE, 310.50; BINSWANGER GLASS, SU, 1000.84; BLACK HILLS ENERGY, SE, 909.04; BOARD OF EXAMINERS, FE, 10.00; BOMGAARS, SU, 998.15; CALIFORNIA CONTRACTORS, SU, 82.19; CARHART LUMBER COMPANY, SU, 549.61; CENTER FOR PREPAREDNESS, SE, 40.00; CHARTWELLS, SE, 4721.40; CITY OF WAYNE, RE, 2918.61; CITY OF WAYNE, RE, 2499.12; COPY WRITE, SE, 164.68; DUTTON-LAINSON, SU, 652.40; ELECTRIC FIXTURE, SU, 126.45; FREDRICKSON OIL, SU, 132.00; GILL HAULING, SE, 2118.90; GLEN'S AUTO BODY, RE, 65.90; HAUFF MID-AMERICAN SPORTS, SU, 25.00; JOHNSON FEED, SE, 250.00; KELLY SUPPLY, SU, 525.25; LIGHT & SIREN, SU, 590.45; LONGE, MELODIE, RE, 315.00; LP GILL, SE, 5163.34; MAIN STREET AUTO CARE, SE, 240.00; MARK McCRIGHT, RE, 500.00; MATT FRIEND TRUCKING, SU, 4315.00; MERCY MEDICAL CLINIC, SE, 106.00; MIKE TOWNE, SE, 800.00; MOONLIGHT TOWING, SE, 191.70; N.E. NEB ECONOMIC DEV DIS, SE, 4779.76; NIAGARA CONSERVATION CORP, SU, 1480.26; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 2842.71; OTTE, GERALD, RE, 207.54; PAC N SAVE, SE, 1603.71; PAMIDA, SU, 235.85; PIEPER, MILLER & DAHL, SE, 1313.50; PLUNKETT'S PEST CONTROL, SE, 40.00; PROVIDENCE MEDICAL CENTER, SE, 65.00; QUALITY FOODS, SU, 48.69; QUILL, SU, 17.09; QWEST, SE, 163.24; S & S WILLERS, SU, 594.22; SEWER-MATIC, SE, 3700.00; SKARSHAUG TESTING, SE, 91.45; STATE STEEL SUPPLY, SU, 1506.43; UNITED WAY, RE, 32.32; VERIZON, SE, 671.50; VIAERO, SE, 72.33; WATERLINK, SE, 1053.42; WAER, RE, 6383.33; WAYNE CO SHERIFF, RE, 154.50; WHITE DOG LAWN SERVICE, SE, 350.00; WOOD PLUMBING & HEATING, SU, 25.00; ZACH OIL COMPANY, SU, 10407.32

Staff was directed to take the cost of the mirrors at the Community Activity Center out of the building fund budget in lieu of the general fund budget.

Councilmember Ley made a motion and seconded by Councilmember Chamberlain 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.

Mayor Shelton declared the time was at hand for the public hearing on the Engineering Report for the Construction of a Wastewater Treatment Facility as required for State Revolving Loan Funding from the Nebraska Department of Environmental Quality and other funding agencies.

Roger Protzman of JEO Consulting Group, the City's engineer on the project, advised the Council that the purpose of the public hearing is to allow the public to have a voice in the environmental impact of the proposed improvements to the wastewater treatment plant facility. This public hearing is very similar to the one that the City held as a requirement for the EPA funding; only now we are doing it for the Nebraska Department of Environmental Quality funding. All of the existing environmental solicitation letters are applicable here. The main comment received was from the U.S. Fish and Wildlife Association regarding the possible depletion issue on the Platte River,

and we were able to resolve that to their satisfaction. One of the others things that NDEQ wanted them to do was make sure they went over were the financing of the improvements. Originally we were looking at an \$8.5 million dollar project. The average user would have to pay in the neighborhood of \$41.00 a month to finance that debt. Since that time, the City has applied for and received an EPA grant. In addition, the City has decided they would contribute at least \$1 million dollars from the city sales tax to buy down the loan, thereby reducing the financing to about \$7 million dollars. JEO then ran some numbers using a 3% interest rate, and they came up with an average of \$35.46 per month. Staff is looking at other options to reduce the debt further. If the City would subsidize \$100,000 per year for 14 years, it would reduce the monthly user fee to \$31.07. If the City would subsidize \$250,000 per year for 14 years, it would reduce the monthly user fee then to \$24.50. Depending upon which options the City pursues in the financing will reflect what the user rates will be. How the City structures the rate is up to the Council (base charge and charge per thousand gallons).

It was noted that the Nebraska Rural Water Association is undertaking a rate study analysis for the City. They know which communities have upgraded their facilities and which communities have not upgraded their facilities. They will bring that perspective to the table as well.

Nancy Braden, Finance Director, advised the Council that the \$100,000 for 14 years would be from the City sales tax, and because this is a combined water and sewer system, staff is also recommending transferring \$150,000 from the water revenues for this project every year to help with the debt service (total subsidy would then be

\$250,000 per year for 14 years). For the remaining six years, only \$150,000 would be transferred, and the sewer rates would have to pick up the other \$100,000.

Mr. Protzman stated the \$8.5 million does not include the cost of moving the plant to a different location. They are in the process of finishing up the preliminary design, and their plan is to have a meeting with the staff to go over this and then discuss this with the Council at a subsequent meeting. It appears that there is going to be another round of stimulus funding, and they are trying to position themselves to go after some of that money as well for this project.

Mr. Protzman also advised the Council he ran another option taking the \$250,000 and applying it towards the principal rather than subsidizing the user rates, and if the user rates were kept at \$35.00 per month, the loan could be paid off in 14 years.

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

Cap Peterson with Northeast Nebraska Insurance Agency presented and reviewed the 2010 Property and Casualty Insurance Package. The 2010 premium is \$246,024, which is slightly lower than the 2009 premium. The City buildings and contents are insured at a 90% replacement value, with the exception of the power plant. The power plant building is insured at an agreed amount, which is \$28,324,200. The company provides and has done a risk management analysis of all city buildings, etc., at no cost. In addition, Mr. Peterson advised the Council that because of the safety programs initiated and the decline in workers compensation claims, the experience modification has dropped from 1.33 to 1.12. This represents a significant savings in the premium. Workers compensation represents approximately one-third of the total premium, which is not unusual. In addition, because the City is a policyholder, EMC offers what is called

“attorney access”, which allows up to 90 minutes of free legal consultation per calendar quarter.

Mr. Peterson, in response to Councilmember Haase’s inquiry, stated it is less expensive to insure the buildings and contents at 90% rather than at 80%. This idea was presented to the Council several years ago, and at that time, the Council did not want to change the percentage of coverage.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the 2010 Property and Casualty Insurance Package with Northeast Nebraska Insurance Agency. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Wes Blecke, Director of Wayne Area Economic Development, gave a report on the LB 840 Activity for the past six months. As of December 31, 2009, the Council has committed \$658,800 of the LB 840 Funds. Eight applications have been approved, of which 3 were performance-based loans, 3 were zero percent loans, and 2 were grants. Grants will not be paid back. The performance based loans are loans if the applicants do not meet the qualifications or benchmarks set forth by the committee. A little over 20% of the total LB 840 funds have already been committed. As the administrator of the program, it is his job to get the information out to potential businesses, organizations, and individuals that can utilize this money in some way. There is an Advisory Committee that reviews the applications and determines whether they are or are not going to forward a favorable recommendation to the Council. The Council makes the final determination. The Advisory Committee makes no decisions other than a recommendation to the Council.

Mr. Blecke also reviewed the matrix that the Committee uses to review the applications. There are ten different items that are looked at to either meet, somewhat meet or do not meet. They do not use a numbered scale to determine whether or not an application receives or does not receive a favorable recommendation. The projects that have come before them are so different that the Committee did not want to handcuff themselves by saying that the applicants had to meet a certain number to get funded. They have added a section regarding applications which provide for the expansion or enhancement of existing micro-enterprise (5 FTE's or fewer) business/entities in Wayne. The categories in the matrix can change if Council so desires.

Gary Boehle, who is also a member of the Committee, was present, and stated there are a lot of things happening in Wayne which is very positive, and the Committee has tried to be good stewards with the money.

Mayor Shelton stated with the economic situation we are in now, the fact that we have businesses that are interested in investing and coming to us for money speaks volumes.

Finance Director Nancy Braden stated the following Resolution would approve borrowing \$500,000 from the Electric Fund at 3% interest and transferring it to the LB 840 Fund to cash-flow and fund the LB 840 economic development projects that have been recommended by the Advisory Committee and approved by the Council. We do not have the funds collected yet from the LB 840 sales tax to disburse for the projects. The LB 840 plan allows us to borrow funds. The repayment schedule would be a five-year payback to the Electric Fund at 3% interest. If we were to go out and borrow the funds through bonds, we would be looking at a 4.5% interest rate. We are saving 1.5% to do

this internally. The City Sales Tax will pay back the 3% interest rate which is an allowable expense.

Councilmember Sturm stated for the record he did not like giving people free money and then paying interest on that money. You don't go very many places and get loans that don't require you to pay interest. He is not in favor of giving zero percent loans. In the future, it may be harder to convince him to give away money. He thought this was taking away sales tax money that could be loaned out. He does not like loaning money we don't have. He would prefer a very small payback in lieu of no interest loans. In addition, he did not believe the LB 840 money was going to be open to everybody, which is why he thinks the applicants should have to pay a small percentage back. If everybody that applied would get approved, then he could look at it differently, but some people will get a distinct advantage over other people. He felt it has happened with our Wayne Revolving Loan Fund and it is going to happen with this.

Mayor Shelton stated the interest is earning money in the electric fund. This was spelled out in the sales tax language and was approved. Some of the businesses who have received LB 840 money will be collecting or generating sales tax on items they will be selling. We have contributed to the overall expenses that they will be incurring to get the businesses up and running.

Councilmember Ley introduced Resolution No. 2010-1 and moved for its approval; Councilmember Chamberlain seconded.

#### RESOLUTION NO. 2010-1

A RESOLUTION OF THE LB 840 ECONOMIC DEVELOPMENT PLAN OF THE CITY OF WAYNE, NEBRASKA, AUTHORIZING THE BORROWING OF FUNDS FROM THE CITY OF WAYNE ELECTRIC FUND, WAYNE, NEBRASKA.

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

Discussion took place again on the Wage and Salary Schedule which had been tabled from the last meeting. Additional information was distributed to the Council.

Because Administrator Johnson was not at the meeting, Mayor Shelton read some of the comments he wanted to make:

- The wage scale is prepared using the league survey and was adjusted by a 2% cost of living increase.
- State Statute does state that municipalities shall set comparable wages and conditions for municipal employees.
- The scale that Council is looking at approving represents appropriate comparable pay ranges for comparable job descriptions. The scale is not based on people or job performance. It is based only on job descriptions.
- Pay ranges are for the standard comparable job descriptions.
- These changes do not mean that an employee will automatically go to the top of their range. Employees are placed on the scale based on job performance and years of service as they have always been.
- The budget for the wages is set, and it is Council's job to set the scale, but the Administrator's job to meet the budget.

In addition, in the Resolution there a couple of designations that were reversed: Chief of Electric Production and Power Plant Foreman should be reversed on the Labor Grade scale. The Power Plant Foreman should be a Labor Grade 21 and the Chief of Electric Production should be a Labor Grade 23.

The Building Inspector/Planner II position was moved from salary to hourly and placed in a Labor Grade 22.

It was explained that exempt status employees are salaried, and non-exempt status employees are paid hourly and subject to overtime. Exempt status employees do not get paid overtime or comp time.

Mayor Shelton advised the Council that she requested staff to put in the hourly rates next to the exempt salary monthly wages because she thought it would be easier for them to compare the non-exempt hourly wages with the exempt hourly wages. There are quite a few exempt employees that are making less than many of the hourly employees.

If an employee is at the top of their scale, they would receive a 2% cost of living increase. The scale was adjusted by 2%. If there is a comparable job at a higher pay rate, then the position could be moved on the scale which would then allow the employee some room to move. If an employee is not at the top of their scale, and they have a satisfactory performance evaluation, they could receive approximately a 4.55% increase, which includes the 2% cost of living increase. Job performance reviews are done annually on their anniversary dates, with the exception of the exempt status employees, which are done annually, usually in December.

Councilmember Alexander stated not all department heads work over 40 hours per week. In addition, he thought everyone that worked for the City had job security.

Councilmember Chamberlain stated there is job security until we have to squeeze another truck, etc., to make room for salaries.

Finance Director Braden stated that a lot of the departments have lost employees due to budget cuts. She also advised the Council that they use the mid-point of the comparability study, not the high.

Mayor Shelton advised the Council all they are doing are setting the pay ranges. They are not giving anybody an increase at this time. She noted that State Statutes require comparability, not the League of Nebraska Municipalities.

Councilmember Berry arrived at 6:55 p.m.

Councilmember Alexander made a motion and seconded by Councilmember Haase to table action on Resolution 2009-24 until the Council Retreat.

Mayor Shelton stated she did not think the Council Retreat was the proper venue for this discussion. She didn't understand what the issue was, because they were talking about salary ranges and not increases for any particular individual.

Councilmember Ley stated the Council is not comfortable making a decision at this time.

Councilmember Alexander stated by taking action at this time, they open it up and the salary ranges go right into effect. The Council opens that door to allow that to happen, and if we don't want it to happen, then we don't open that door. He wants more time to talk about it.

Councilmember Sturm opined he would prefer to table it to the next meeting rather than wait until the Council Retreat, because of the attendance at the Retreat.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Sturm, Chamberlain and Frevert who voted Nay, the Mayor declared the motion carried.

Councilmember Sturm introduced Ordinance 2009-24, and moved for approval of the second reading thereof; 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.

Councilmember Sturm made a motion and Councilmember Chamberlain seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Chamberlain made a motion and Councilmember Sturm seconded to move for final approval of Ordinance No. 2009-24. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton stated the following Ordinance would restrict parking (no parking midnight to 5:00 a.m.) on the south side of the Grace Lutheran Church (terrace parking). The exact amendment to the Code would read as follows:

*The north side of the centerline of East Ninth Street from the east line of ~~Logan~~ Main Street east to the west line of Pine Heights Road.*

Councilmember Chamberlain introduced Ordinance 2010-1, and moved for approval; Councilmember Sturm seconded.

#### ORDINANCE NO. 2010-1

AN ORDINANCE TO AMEND SECTION 78-127 OF CHAPTER 78, ARTICLE III, OF THE WAYNE MUNICIPAL CODE RELATING TO PARKING; RESTRICTED PARKING 12:00 MIDNIGHT TO 5:00 A.M.; NORTHEAST QUADRANT OF THE CITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Councilmember Chamberlain made a motion and Councilmember Sturm seconded to suspend the statutory rules requiring ordinances to be read by title on three

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

Councilmember Sturm made a motion and Councilmember Chamberlain seconded to move for final approval of Ordinance No. 2010-1. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton stated Amendment No. 1 to the agreement with Kirkham Michael for the Kardell Landfill Improvement Project will provide the construction engineering oversight to document that the work complies with the contract and to submit documentation back to the Nebraska Department of Environmental Control and the U.S. Army Corps of Engineers showing that the work is in compliance with their regulatory requirements.

Councilmember Frevert made a motion and seconded by Councilmember Alexander approving Amendment No. 1 to the Agreement with Kirkham Michael for professional construction engineering services for the Kardell Landfill Improvement Project. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton stated that Olsson Associates have submitted Certificate of Payment No. 1 on behalf of Robert Woehler & Sons Construction for the Muhs Acres Water Main Extension Project in the amount of \$38,526.37. Recommendation is to pay the same for materials ordered and stored.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving Certificate of Payment No. 1 to Robert Woehler & Sons Construction for the Muhs Acres Water Main Extension Project in the amount of

\$38,526.37. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton stated JEO Consulting Group has submitted Application for Payment No. 3 to Layne Christensen Co. for the Well House and Municipal Well 2009-1 Project in the amount of \$17,137.99. Recommendation is to pay the same.

Councilmember Frevert made a motion and seconded by Councilmember Ley approving Application for Payment No. 3 to Layne Christensen Co. for the Well House and Municipal Well 2009-1 Project in the amount of \$17,137.99. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to reappointing Galen Wisner to the Civil Service Commission (4-year term).

Councilmember Sturm made a motion and seconded by Councilmember Ley approving the reappointment of Galen Wisner to the Civil Service Commission (4-year term). Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Haase 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 7:18 p.m.