

**AGENDA
CITY COUNCIL MEETING
September 7, 2010**

5:30 Call to Order

1. Approval of Minutes – August 17, 2010

2. Approval of Claims

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

Anyone desiring to speak on an agenda item is invited to do so, and should limit themselves to three minutes. After being recognized by the Chair, proceed to the rostrum and state your name and address for the record.

The City 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.

3. Action on Request of the Wayne State College Student Senate to Close the West half of First Street from Main to Pearl for a Street Dance on September 10, 2010

Background: This is the September 10th street dance we gave you a heads up about last month. Lance has approved this as is required. WSC Campus Security Staff and Wayne PD will be on site. This is intended to be a mixer event for students and local residents. The dance area will be enclosed with a fence. There will be a beer garden on the north sidewalk area of 1st Street, and it will be surrounded by a double fence with a 4' gap between as required, no beer can be carried out, and all people entering the beer garden will be carded and marked. The Student Senate has agreed to pay for the live band using student fees, and there will be no charge for attending the concert/dance.

Recommendation: Recommendation of WAED, City Administrator, and WSC Vice-President and Dean of Students is to approve the closing and use of the street for this event.

4. Action on Request to Close off 10th Street from Providence Road to Hillside Avenue on Saturday, October 2nd, from 6:30 a.m. until 5:00 p.m. for an Electric Vehicle Car Rally — Greg VanderWeil

5. Presentation on Groundwater Green Site Designations — Joel Hansen

Background: The Nebraska Groundwater Foundation has designated Bressler Park and the Summer Sports Complex in Wayne as “Groundwater Green Sites”. The purpose of this program is to educate property managers and educate the public about low maintenance vegetation, safe use and handling of chemicals and irrigation to prevent pollution of the groundwater. An extensive review of property management and chemical application practices was done for each of these city-owned locations before the designations were awarded.

Joel will point out some of the priority best management practices to use to protect the area's groundwater from pollution.

6. Action on Certificate of Payment No. 5 for the Muhs Acres Water Main Extension Project in the Amount of \$18,181.18 to Robert Woehler & Sons Construction

Recommendation: This is for work completed and approved by the Project Engineer.

7. Action on Application for Payment No. 1 for the 2009-2010 Wastewater Treatment Facility Improvement Phase I Project in the Amount of \$119,250.00 to Eriksen Construction Co.

Recommendation: This is for work completed and approved by the Project Engineer.

8. Action on Request for an Extension on the Well House & Municipal Well 2009 Project — Layne Christensen Company

Background: The original project deadline was May 14th and an extension was granted until July 23, 2010.

9. Resolution 2010-68: Approving Agreement with American Broadband

Background: Our contract with Qwest is nearing an end. Nancy secured quotes from Qwest and ABB for a new agreement. ABB has the lower cost for equivalent service for three years.

Enclosure: Comparison Spreadsheet showing quotes for phone service.

Recommendation: The recommendation of the Finance Director is to approve the ABB Agreement for lower cost of service for three years.

10. Resolution 2010-69: Accepting Bid and Awarding Contract on the "Benscoter Addition Phase I Paving & Utility Improvements, Wayne, Nebraska - 2010" Project

Background: Bids were opened on Thursday to extend paving, water and sewer on Tomar Drive from the fire hall 340' south to the south side of the Cobblestone Inn and Suites' property, and to extend paving, water and sewer for Jaxon Street and connect it to Dearborn Street at the entrance to the wastewater treatment plant.

Enclosure: Bid sheet logging the bids from the bid opening

Recommendation: The apparent low bidder for the paving is Sioux City Engineering at \$281,734. The apparent low bidder for the water and sewer is Benscoter Plumbing at \$98,341.25. Olsson Associates, the project engineer, will review the bids and make a recommendation at the Council meeting. Recommendation of the City Fiscal Agent, Phil Lorenzen, is to accept bids and award contracts subject to no objections being received and not execute contracts and notice to proceed until on or after September 22nd.

11. Public Hearing: Budget Hearing (Advertised Time: 5:30 p.m.)

Background: This is the final opportunity for public input or changes to be made by the City Council in the budget before it is approved and submitted to the State of Nebraska.

12. Ordinance 2010-21: Approving Annual Appropriation Bill

Background: Passage of this Ordinance is required for authority to expend any of the budgeted funds in the next fiscal year.

13. Action on Approving Allowable 1% Increase in Base Limitation of Restricted Funds Budget

Background: Nebraska Municipalities operate only under the authorization and rules of Nebraska Statutes. In 1998, the Unicameral enacted a spending lid for Restricted Funds (our General Fund) with 1998 as the base year. The lid allows a 1% increase in expenditures each year after approval by the City Council. If a 1% increase is disapproved in any year, it can't be made up by a 2% increase at any time after that.

14. Resolution 2010-70: Adopting 2010-2011 Budget

15. Public Hearing: Tax Asking/Property Tax Levy (Advertised Time: 5:30 p.m.)

Background: The proposed budget will require a city mill levy of \$.406868 or \$40.69 per \$1,000 assessed value on a home. With the levy for the airport included, the total mill levy will be \$45.22 per \$1,000 of valuation. The total mill levy for the City and airport last year was \$45.45 per \$1,000.

16. Resolution 2010-71: Approving Final Property Tax Request for 2010-2011

17. Ordinance 2010-22: Authorizing a Loan from the Nebraska Department of Environmental Quality in the Amount of \$7,000,000 to Pay the Costs of New Wastewater Treatment Facilities. (The loan is to be evidenced by a promissory note (constituting a combined utilities revenue bond) and governed by the terms of a related Contract for Loan which the proposed ordinance also authorizes.)

Background: This agreement is the financing agreement for the wastewater plant project. It will finance the cost of the engineering, construction of the new plant, demolition of the old treatment plant and demolition of the lagoon. This is a 2% loan for 20 years with a 1% state administrative fee.

18. Resolution 2010-72: Approving Interlocal Agreement with Wayne County for Responsible Charge Services

Background: Wayne County is required by the Nebraska Department of Roads to have a county employee on staff designated as their Responsible Charge (RC) to use any federal funding for county road or bridge projects. They currently

don't have a person on staff designated as RC and have asked if the City and County can approve an interlocal agreement for us to cover this requirement for each other in the event that one of us is without an RC in place. We have already done this with the City of Laurel.

Recommendation: Approve an interlocal agreement for RC back-up services.

19. Appointments

Board of Appeals: Dave Shelton
Dave Hix
Don Buryanek
Shelly Myers

20. Adjourn

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

August 17, 2010

The Wayne City Council met in regular session at City Hall on Tuesday, August 17, 2010, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jon Haase, Dale Alexander, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Jim Van Delden, Doug Sturm, and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August 5, 2010, 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 meetings of August 3 and August 10, 2010, 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, as corrected.

The following claims were presented to Council for their approval:

ADDITIONS TO CLAIMS LIST OF 8/17/10: VOID UTILITY REFUND, 1500.00
VARIOUS FUNDS: AMERITAS, RE, 2156.47; APPEARA, SE, 136.92; ARCADIAN MARKSMANSHIP, FE, 100.00; BAKER & TAYLOR BOOKS, SU, 898.89; BANK FIRST, FE, 195.00; BROWN SUPPLY, SU, 75.56; CITY OF WAYNE, RE, 125.00; CITY OF WAYNE, RE, 600.00; CITY OF WAYNE, RE, 2000.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 64323.50; CITY OF WAYNE, RE, 959.26; COMMUNITY DEVELOPMENT, RE, 1131.64; COMMUNITY HEALTH, RE, 4.00; DAKOTA BUSINESS SYSTEMS, SE, 101.50; DAVE'S DRY CLEANING, SE, 108.00; DIGITAL ALLY, RE, 260.00; DUNRITE, SU, 40.33; EAKES OFFICE PLUS, SU, 137.31; ECHO GROUP, SU, 28.60; ENGINEERED CONTROLS, RE, 757.00;

ENGINEERED FLUID, SU, 645.13; FLOOR MAINTENANCE, SU, 232.60; GREAT PLAINS ONE-CALL, SE, 87.51; GWEN JENSEN, RE, 500.00; HABITAT FOR HUMANITY, RE, 14395.44; CITY EMPLOYEE, RE, 500.00; HARDING & SHULTZ, SE, 3139.14; ICMA, RE, 5507.94; INDUSTRIAL TOOL, SU, 23.09; IRS, TX, 19609.42; J.V. BRUMMELS, RE, 30.00; JACK'S UNIFORMS, SU, 419.65; JASON CAROLLO, SE, 175.00; JEFF ELLIS, SE, 462.46; JOHN'S WELDING AND TOOL, SE, 2968.46; JOHNSTONE SUPPLY, SU, 94.89; CITY EMPLOYEE, RE, 310.27; KRIZ-DAVIS COMPANY, SU, 92.04; KTCH, SE, 705.00; LANGEMEIER, WAYNE, SE, 250.00; LAYNE CHRISTENSEN, SE, 38969.83; LEAGUE OF NEBRASKA, FE, 5460.00; CITY EMPLOYEE, RE, 145.92; MICROFILM IMAGING SYSTEMS, SE, 530.48; MID-STATE ENGINEERING, SE, 3340.00; MIDLAND EQUIPMENT, SU, 308.11; MIDWEST LABORATORIES, SE, 73.55; MIDWEST TAPE, SU, 371.96; MULTIMEDIA SALES & MARKET, SE, 249.00; N.E. NEB ECONOMIC DEV DIS, SE, 3272.06; NE DEPT OF REVENUE, TX, 2862.82; NE POWER REVIEW BOARD, FE, 891.09; NPPD, SE, 316236.82; NNPPD, SE, 11051.96; OCLC, SU, 101.70; OFFICE SYSTEMS COMPANY, SU, 94.28; PAMIDA, SU, 87.83; PEPSI-COLA, SU, 240.30; PRESTO X, SE, 112.20; QUILL, SU, 198.39; QWEST, SE, 1345.60; RANDOM HOUSE, SU, 32.00; ROBERT WOHLER & SONS, SE, 14968.55; ROBERTSON IMPLEMENT, SU, 7.78; SIMPLEXGRINNELL, SU, 499.36; SPARKLING KLEAN, SE, 1232.00; STADIUM SPORTING GOODS, SE, 44.00; STATE NATIONAL BANK, SE, 48.44; STATE NATIONAL BANK, RE, 107.89; UTILITIES SECTION, FE, 2232.00; VAN DIEST SUPPLY, SU, 276.70; WASTE CONNECTIONS, SE, 46.70; WAED, RE, 2850.45; WAYNE GRAIN & FEED, SE, 330.00; WAYNE HERALD, SE, 1446.46; WAYNE STATE COLLEGE, RE, 950.00; WAYNE VETERINARY CLINIC, SE, 259.00; CITY EMPLOYEE, RE, 158.83; WAPA, SE, 33382.48; DUANE WITT, RE, 30.00; ZACH OIL, SU, 5070.11; ZEE MEDICAL SERVICE, SU, 134.31; AMAZON, SU, 284.93; APPEARA, SE, 120.29; CITY EMPLOYEE, RE, 180.24; BROWN SUPPLY, SU, 130.71; CARTRIDGE WORLD, SU, 64.19; CITY EMPLOYEE, RE, 167.50; CITY OF NORFOLK, SE, 624.42; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 1784.67; CLAUSSEN & SONS IRRIG., SE, 224.85; COVENTRY HEALTH, SE, 18476.42; CULLIGAN, SE, 42.25; DE LAGE LANDEN FINANCIAL, SE, 394.00; DEMCO, SU, 470.31; ECHO GROUP, SU, 92.11; EGAN SUPPLY, SE, 2745.06; FLOOR MAINTENANCE, SU, 202.93; FREDRICKSON OIL, SE, 10.00; GERHOLD CONCRETE, SU, 81.00; IN THE SWIM, SU, 782.94; JASON CAROLLO, SE, 40.00; JEO CONSULTING GROUP, SE, 824.50; NE FIRE CHIEFS ASSOC., FE, 80.00; NE LIBRARY COMMISSION, SE, 29.68; NE NEBRASKA VOLUNTEER, FE, 50.00; NE PUBLIC HEALTH, SU, 151.00; NIAGARA CONSERVATION CORP, SU, 647.01; NORTHEAST EQUIPMENT, SU, 1530.41; NOVELTY MACHINE & SUPPLY, SU, 1010.00; OFFICEMAX, SU, 58.10; OLSSON ASSOCIATES, SE, 16662.39; PITNEY BOWES, SU, 648.00; PUSH-PEDAL-PULL, SE, 833.00; QUILL, SU, 59.39; REHAB SYSTEMS, SE, 14960.00; SNAKEY JAKES, SU, 84.75; STADIUM SPORTING GOODS, SU, 70.00; STANLEY SECURITY SOLUTION, SU, 325.92; STATE NATIONAL BANK, RE, 428.19; VOSS LIGHTING, SU, 765.00; WAYNE AUTO PARTS, SU, 641.85; WAYNE HIGH SCHOOL, SE, 60.00; WESTRUM LEAK DETECTION, SE, 2500.00

Councilmember Van Delden arrived at 5:36 p.m.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander 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 read a proclamation to reaffirm the City's commitment to work towards full ADA compliance in the City of Wayne.

Councilmember Sturm arrived at 5:39 p.m.

Tom Sievers, Fire Chief, was present requesting Council consideration to approving the membership application of Dillon Phillips to the Wayne Volunteer Fire Department.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving the membership application of Dillon Phillips to the Wayne Volunteer Fire Department. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Tom Sievers, Fire Chief, was present requesting Council consideration to approving the membership application of Jacob Stenka to the Wayne Firefighter Cadet Program. The Cadet Program is for individuals ranging from age 16 through age 19.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving the membership application of Jacob Stenka to the Wayne Firefighter Cadet Program. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Tom Sievers, Fire Chief, was present requesting Council consideration to approving the membership application of Riley McManus to the Wayne Firefighter Cadet Program.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the membership application of Riley McManus to the Wayne Firefighter Cadet Program. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place regarding the \$3,000 stipend to be paid to the Fire Chief. This was included in this year's budget.

Administrator Johnson stated his recommendation is to pay the \$3,000 in the form of an IRA contribution. This is due to the added costs that would be incurred if it were paid as "wages." The Fire Chief has proposed to share the \$3,000 with some of the others in the department, and the department is not opposed to this. This contribution would be for the year ending May, 2010, when the Fire Chief was reelected.

While the decision to share the \$3,000 with others in the department would fall under the discretion with every Chief that is elected, it was Fire Chief Sievers' opinion that all of the Chief's should share in it (e.g. Rescue Captain, Asst. Fire Chiefs). He noted as long as he is the Fire Chief, it will stay that way.

Councilmember Sturm stated as long the amount is shared, he does not have a problem with it. However, if in the future the Fire Chief would not want to share the stipend, he would then have a problem with it.

Mayor Shelton thought there needed to be consistency on this matter.

Mr. Sievers suggested having the department approve this action at one of their meetings. The action would then be in their minutes.

Councilmember Frevert stated he had some strong feelings in the beginning about whether or not a volunteer fire department should be paid. He feels better about the stipend being shared.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the \$3,000 compensation to the Fire Chief this year, with the caveat that the matter be revisited next year. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation on a Request for a Use by Exception, according to Section 90-424(14) Two-Family Dwelling of the Wayne Municipal Code. The applicants, David and Connie Stuthmann, are seeking the request to construct a two-family dwelling at 721 Windom Street, more particularly described as Lot 1, Block 8, John Lake's Addition.

The Planning Commission held a public hearing on this matter and recommended approval of the Use by Exception request under Sec. 90-424(14) in the B-3 Neighborhood Commercial District for Dave and Connie Stuthmann to construct a two-family dwelling at 721 Windom Street, with the "Findings of Fact" being staff's

recommendation and the use fits with the comprehensive plan and the current and future land use maps.

City Clerk McGuire had not received any comments for or against this public hearing.

Sheryl Lessman, the daughter of Merlin and Leona Lessman who are property owners adjacent to the property in question, was present and share concerns regarding drainage, ingress and ingress location proximity to the property line, and how maintenance of the structure would be accomplished in relation to that property line.

Dave and Connie Stuthmann were present to answer questions. The plan he is working with provides more than adequate distance between his property and the Lessman property. It will be farther away from the lot line than the structure that is already there. The lot already slopes towards the alley for drainage purposes.

Joel Hansen, Building Inspector/Planner, was present and stated the concerns of Ms. Lessman would be addressed through the building permit process.

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

Councilmember Ley introduced Resolution No. 2010-63 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2010-63

A RESOLUTION APPROVING THE APPLICATION FOR ZONING USE BY EXCEPTION PERMIT TO ALLOW FOR THE CONSTRUCTION OF A TWO-FAMILY DWELLING ON LOT 1, BLOCK 8, JOHN LAKE'S ADDITION (721 WINDOM STREET).

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

Councilmember Sturm introduced Ordinance No. 2010-17, and moved for approval of the second reading thereof; Councilmember Chamberlain seconded.

ORDINANCE NO. 2010-17

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV, BY AMENDING SECTIONS 90-205, 90-235, 90-265, 90-294 and 90-315 REGARDING EXCEPTIONS - ACCESSORY USES.

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 Alexander 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 Alexander seconded to move for final approval of Ordinance No. 2010-17. 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 is necessary to allow the Mayor to sign the grant documents.

Councilmember Sturm introduced Resolution No. 2010-64 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2010-64

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO REQUEST COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

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

Administrator Johnson presented the Transfer Station Operation Agreement with Gill Hauling, Jackson, Nebraska.

Councilmember Alexander recommended inserting the words “at no cost to the City” at the end of the first sentence in Sec. 10 on Page 2. Said sentence would then read “Gill agrees to accept garbage from City buildings, parks, facilities, and special events, including, but not limited to, the annual Wayne Chicken Show and related activities **at no cost to the City.**”

Administrator Johnson stated there will be no changes at the transfer station, with the exception that there will now be a container for glass recycling.

Garry Poutre, Supt. of Public Works and Utilities, stated Gill is going to take a serious look at being open another half day.

Councilmember Ley introduced Resolution No. 2010-65 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2010-65

A RESOLUTION APPROVING AGREEMENT WITH GILL HAULING FOR OPERATION OF THE WAYNE TRANSFER STATION.

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 Ordinances and Resolutions pertain to creating the street, water and sanitary sewer improvement districts in the Benscoter Addition.

Councilmember Sturm introduced Ordinance No. 2010-18, and moved for its approval; Councilmember Haase seconded.

ORDINANCE NO. 2010-18

AN ORDINANCE OF THE CITY OF WAYNE, NEBRASKA, CREATING A STREET IMPROVEMENT DISTRICT WITHIN THE CITY OF WAYNE TO BE KNOWN AS STREET IMPROVEMENT DISTRICT NO. 2010-5; DEFINING THE BOUNDARIES OF SAID DISTRICT AND PROPERTY CONTAINED THEREIN; AND, PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS THEREIN.

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. 2010-18. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm introduced Resolution No. 2010-66 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2010-66

A RESOLUTION APPROVING THE HIRING OF SPECIAL ENGINEERS AND APPROVING PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR THE CONSTRUCTION OF CERTAIN WATER SYSTEM IMPROVEMENTS TO BE CONSTRUCTED IN THE CITY OF WAYNE, NEBRASKA.

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

Councilmember Chamberlain introduced Ordinance No. 2010-19, and moved for its approval; Councilmember Ley seconded.

ORDINANCE NO. 2010-19

AN ORDINANCE CREATING WATER EXTENSION DISTRICT NO. 2010-1 OF THE CITY OF WAYNE, NEBRASKA; ESTABLISHING THE OUTER BOUNDARIES OF THE DISTRICT; DESIGNATING THE SIZE, LOCATION AND TERMINAL POINTS OF WATER MAINS AND LINES AND WITHIN SAID DISTRICT; AND REFERRING TO PLANS AND SPECIFICATIONS AND COST ESTIMATES AS PREPARED BY THE ENGINEER IN CONNECTION THEREWITH AND ON FILE WITH THE CITY CLERK.

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 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. 2010-19. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm introduced Resolution No. 2010-67 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2010-67

A RESOLUTION APPROVING THE HIRING OF SPECIAL ENGINEERS AND APPROVING PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR THE CONSTRUCTION OF CERTAIN SANITARY SEWER IMPROVEMENTS TO BE CONSTRUCTED IN THE CITY OF WAYNE, NEBRASKA.

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

Councilmember Sturm introduced Ordinance No. 2010-20, and moved for its approval; Councilmember Ley seconded.

ORDINANCE NO. 2010-20

AN ORDINANCE CREATING SANITARY SEWER EXTENSION DISTRICT NO. 2010-1 OF THE CITY OF WAYNE, NEBRASKA; ESTABLISHING THE OUTER BOUNDARIES OF THE DISTRICT; DESIGNATING THE SIZE, LOCATION AND TERMINAL POINTS OF SANITARY SEWER MAINS AND SANITARY SEWER LINES WITHIN SAID DISTRICT; AND REFERRING TO PLANS AND SPECIFICATIONS AND COST ESTIMATES AS PREPARED BY THE ENGINEER IN CONNECTION THEREWITH AND ON FILE WITH THE CITY CLERK.

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 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 Ley made a motion and Councilmember Sturm seconded to move for final approval of Ordinance No. 2010-20. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated a pay request has been received from Steve Harris Construction for the Kardell Subdivision Paving, Drainage and Water Improvement Project in the amount of \$24,295.72. The engineer on the project has approved the same.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving Certificate of Payment No. 6 for the Kardell Subdivision Paving, Drainage and

Water Improvement Project in the amount of \$24,295.72 for Steve Harris Construction. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated a changer order has been received on the Kardell Subdivision Paving, Drainage, and Water Improvement Project (Change Order No. 3 listed current contract price incorrectly at \$521,729.83; corrected amount shown on this Change Order - \$523,729.83). The engineer on the project has approved the same.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving Change Order No. 4 (Final) on the Kardell Subdivision Paving, Drainage, and Water Improvement Project (Change Order No. 3 listed current contract price incorrectly at \$521,729.83; corrected amount shown on this Change Order - \$523,729.83). Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Roger Protzman, Engineer with JEO Consulting Group, updated the Council on the status with the Environmental Protection Agency. In July, we received a letter from the EPA regarding their inspection in October, 2009. With there letter was a request for information. Essentially what they wanted to know was what has the City of Wayne been doing with its sludge since 1995 when the new regulations came into being. JEO advised them that the City was putting the sludge into the lagoon as storage because that is what the previous City Administrator had told the EPA in 1995. The EPA is suggesting in their letter for us to say how much sludge is in the lagoon and to characterize it. The EPA is suggesting that the lagoon, which we call a storage lagoon, be called a surface disposal site. We would like to refer to it as a "tank", where we store

the sludge and then take it out and dispose of it when we want to get rid of it. They want to call it a landfill – they want us to meet all of the landfill criteria. At this point in time, we’re sending them a letter saying no, we told you in 1995 that we are calling it a storage unit, and we still continue to maintain that it is a storage unit. The problem lies in the fact that according to their regulations, a storage unit needs to be emptied every two years. It’s been since 1995 that the City has hauled any sludge out of there. This is where the problem lies. In 1995, the City told them we had the intent to haul sludge out of there, but it has never been done. Mr. Protzman was asking Council for some assurance that sludge will be hauled out by the year 2013. That is the schedule they proposed in their letter. This gives us this next year in which to get the new plant built and almost two years of operational data on the plant to see where it is going. Within that time, we need to have a plan within that two years of disposing of the sludge and getting at least what is in there hauled out and disposed of. JEO is estimating there is about 1.7’ of sludge in the lagoon.

JEO is hoping to drain the lagoon down as low as we can and use our permit to be able to discharge, because he did not think we would get a new permit for the lagoon to discharge after January of next year, just based on what the State has said. JEO is still going to continue to stress that this is a “storage unit.” If we can get them to agree to that, then the City needs to commit to them that every two years we will dispose of some sludge, and then do that so we can demonstrate compliance with that regulation to the EPA.

Mr. Protzman estimates that there is about 7 million gallons of sludge in the lagoon at this time. The City will initially have to dispose of that amount, which is estimated to cost about \$500,000.

Mr. Protzman stated that loans with the State can be open for 2-2 ½ years. He believes that the City would have to pay interest charges every six months until the loan is closed, and then the principal and interest payments would start. The interim financing is at a 1% interest rate until the loan is closed, at which time it goes to 3%. There needs to be a plan by the middle of 2012 on what to do with the sludge since there is a window of opportunity to dispose of it on farm ground usually in October/November. The cutoff is July, 2013, which doesn't quite get us to the October/November of 2013 to have for disposal.

Mr. Protzman stated we need to be able to assure the EPA in the next 30-60 days that Council intends to spend or appropriate funds for the disposal of the sludge by July, 2013. The Council needs to commit that they will comply with the Federal Regulations by the year 2013.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain to move forward and do whatever we need to do to become compliant by July, 2013. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Sturm 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 August 3, 2010, meeting.

Member Alexander made a motion and seconded by Member Haase approving the minutes of the August 3, 2010, 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 to consider a request from Lou Bencoter, President of Bencoter Plumbing & Heating, for a second three-month extension of the twelve-month deadline of April 16th to obtain an occupancy permit for the houses on Lots 6 and 11, Western Ridge II Subdivision (deadline then would be October 16th) — Lou Bencoter, President of Bencoter Plumbing & Heating.

Lou Bencoter was present to answer questions.

Member Frevert was not in favor of approving this request since a precedent had been set with a similar situation back in 2005. Excerpt of those minutes were distributed to Council. In those minutes, Attorney Pieper stated that whatever Council does now will affect what is done in the future. At that time, the Council levied a \$1,500 fine against

the property owners. The situations are very similar. We granted the extension, but because of the lost property taxes, that \$1,500 was assessed.

Attorney Pieper advised the Council that at that time, the matter involved the City and this matter involves the Community Development Agency.

Administrator Johnson stated the request for this extension is because Mr. Bencoter is working on other projects for the city.

Mr. Bencoter advised the Council that the house on Lot 6 is basically done. He just needs a final inspection. The other house will have an occupant by Labor Day.

Administrator Johnson stated Mr. Brugger missed the deadline of December 31st when the County Assessor sets the taxes for the upcoming year, so that did actually have a financial impact on the City. With the Bencoter situation, from the original deadline of April 15th through October 15th, he is not passing through that time frame when the County Assessor sets the taxes for the next year. If we allow the extension to go past December 31st, the City would lose revenue on the taxes.

Councilmember Alexander opined that the City Council seemed to hold Mr. Brugger to a different standard.

Councilmember Frevert stated that the stipulation of having the house built within a certain timeframe should be thrown out if we are not going to abide by it.

Chair Chamberlain stated he has not seen any unwillingness to move forward on the projects by Mr. Bencoter.

Councilmember Sturm stated with Mr. Brugger's case, we were going to lose some property taxes. With Mr. Bencoter's case, we are not, provided he is done and has an occupancy permit by December 31st. While it's unfortunate, timing is everything.

Chair Chamberlain suggested amending the terms of the purchase agreements to provide that no extensions will be given past December 31st of the year of completion.

Councilmember Van Delden asked what the City's penalty might have been if the EPA levied us for not complying with their regulations. Where this is leading to is that sometimes we just need to be a bit lenient. The EPA has not levied the City for us not cleaning the lagoon every two years as had been stated, and that could have been a hefty fine. We're talking peanuts basically in this particular situation were we to levy Mr. Bencoter a similar fine as Mr. Brugger some years ago.

Chair Chamberlain stated the reason for the one-year time line was to prevent speculators from purchasing the lots and not building a house on them for several years.

Member Shelton made a motion and seconded by Member Van Delden approving the request of Lou Bencoter, President of Bencoter Plumbing & Heating, for a second three-month extension of the twelve-month deadline of April 16th to obtain an occupancy permit for the house on Lots 6 and 11, Western Ridge II Subdivision (October 16th). Chair Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Members Frevert and Alexander who voted Nay, the Chair declared the motion carried.

Councilmember Frevert left the meeting.

Member Sturm made a motion and seconded by Member Shelton 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.

Nancy Braden, Finance Director, and City Administrator Johnson continued budget workshop discussions. Consensus was to change the transfer station budget now since it is going to be operated by Gill Hauling. By doing this, the budget will not have to be amended at a later time. Discussion took place in regard to replacing the bleachers in the parks, at the pool, etc. Consensus was to leave the money in the budget for that item. There were no changes to the remainder of the budget that was presented.

Councilmember Alexander made a motion and seconded by Councilmember Van Delden 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 7:51 p.m.

CLAIMS LISTING SEPTEMBER 7, 2010

ALARM PROS, INC.	MONITORING	79.13
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,183.56
APPEARA	LINEN & MAT SERVICE	101.18
AS CENTRAL SERVICES	TELECOMMUNICATION CHARGES	448.00
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	195.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	124.88
CITY EMPLOYEE	HEALTH REIMBURSEMENT	675.53
BLACK HILLS ENERGY	GAS BILLS	379.81
BOMGAARS	FLOOR DRY/RAKE/SPOTLIGHTS/BOLTS ETC	838.22
CITY EMPLOYEE	HEALTH REIMBURSEMENT	292.90
CITY EMPLOYEE	SAFETY SHOES	133.74
BROWN SUPPLY CO	RUBBER METER GASKET WASHERS	211.22
CITY EMPLOYEE	HEALTH REIMBURSEMENT	96.24
CHARLOTTE ENDORF	BOOKS	55.00
CITY OF NORFOLK	INSPECTION FEES	94.90
CITY OF WAYNE	AUDITORIUM REFUND	200.00
CITY OF WAYNE	BUILDING DEPOSIT REFUND	1,500.00
CITY OF WAYNE	PAYROLL	64,972.37
CITY OF WAYNE	RAZING BOND REFUND	60.00
CITY OF WAYNE	UTILITY REFUNDS	1,086.51
CLAUSSEN & SONS IRRIG.	SB COMPLEX IRRIGATION REPAIRS	1,570.39
CLAYTON BRATCHER	ENERGY INCENTIVE	500.00
COLONIAL RESEARCH	FLOOR SWEEPING COMPOUND	116.00
COMMUNITY HEALTH	HEALTH CHARITIES	4.00
CONNEY SAFETY PRODUCTS	SAFETY HATS	112.74
COPY WRITE PUBLISHING	SUPPLIES/SHIPPING CHARGES	536.84
CUMING CO. COURT	BOND	300.00
DAVE SWANSON	REPAIR DOOR HANDLE	62.80
DE LAGE LANDEN FINANCIAL	COPIER LEASE	77.00
DITCH WITCH OF OMAHA	CABLE ASSEMBLY	179.43
CITY EMPLOYEE	HEALTH REIMBURSEMENT	117.78
CITY EMPLOYEE	HEALTH REIMBURSEMENT	130.62
EAKES OFFICE PLUS	VERTICAL FILING CABINET	279.00
ECHO GROUP INC JESCO	ELEMENT FUSES	88.50
EISCHEID ARTIFICIAL RAIN	LIB/SR IRRIGATION REPAIR	64.25
ELLIS PLUMBING & HEATING	AC/URINAL/WATERFOUNTAIN REPAIRS	959.34
FIRST CONCORD GROUP LLC	CAFETERIA PLAN FEES	3,824.78
FLOOR MAINTENANCE	TOILET TISSUE/GELS/CLEANERS	279.45
FORT DEARBORN LIFE	VFD/DISABILITY-LIFE INSURANCE	1,698.27
GEMPLER'S INC	LATEX GLOVES	70.92
GERHOLD CONCRETE CO INC.	EAST PARK GRAVEL/CONCRETE	37.75
GUTTER CREW	RESEAL TS GUTTERS	140.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	291.48
HAUFF MID-AMERICAN SPORTS	MARKING PAINT/BATTING TEE	107.00
HEGGEMEYER, LOWELL	HEALTH REIMBURSEMENT	39.80

ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,524.24
INGRAM BOOK COMPANY	BOOKS	349.51
IRS	FEDERAL WITHHOLDING	20,154.74
JEO CONSULTING GROUP	SIDEWALK REPLACEMENT/TREATMENT PLANT	11,924.74
JIM'S SMALL ENGINE REPAIR	REWIND REPAIR	12.50
CITY EMPLOYEE	HEALTH REIMBURSEMENT	412.77
JV BRUMMELS	ENERGY INCENTIVE	500.00
KIRKHAM MICHAEL	BANK STABILIZATION	3,010.00
KRIZ-DAVIS COMPANY	EMERGENCY LIGHTS/METERS/CONNECTORS	1,323.24
LAYNE CHRISTENSEN CO	WELL 11	12,247.84
CITY EMPLOYEE	HEALTH REIMBURSEMENT	131.87
LOVE SIGNS	CAC READER BOARD TRACK REPAIR	216.60
MARK LEWON	ENERGY INCENTIVE	500.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	284.86
MERCY MEDICAL CLINICS	PREEMPLOYMENT TESTING	28.00
MICROFILM IMAGING SYSTEMS	DIGITIZE WAYNE HERALD	757.91
MIDLAND EQUIPMENT INC	SPINDLES/SLEEVE/PIN/NUTS/BOLTS	212.87
N.E. NEB ECONOMIC DEV DIS	WESTERN RIDGE	1,590.00
NATIONAL McGRUFF HOUSE	STICKERS/BADGES	32.14
NE DEPT OF ENVIRONMENTAL	TS ANNUAL OPERATING FEE	500.00
NE DEPT OF REVENUE	STATE WITHHOLDING	2,881.12
NE DEPT OF ROADS	HWY RIGHT OF WAY	500.00
NMPP ENERGY	LOAD MANAGEMENT METERING WORK	1,382.50
N.E. NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	59.24
NORTHEAST NE PUBLIC POWER	ELECTRICITY	2,168.39
NORTHWEST ELECTRIC INC.	YASKAWA ROADSHOW TRAINING	125.00
OFFICEMAX	OFFICE SUPPLIES	52.91
OMAHA PAPER COMPANY, INC.	75 CASES OF PAPER	1,944.50
OTTE, GERALD R	ENERGY INCENTIVE	193.56
PAMIDA STORE # 165	TAPE/COFFEE/PAPER TOWELS/CABLE ETC	141.65
PIEPER, MILLER & DAHL	ATTORNEY FEES	4,407.00
CITY OF WAYNE	HEALTH/CLOTHING REIMBURSEMENT	92.91
PUSH-PEDAL-PULL	FITNESS MACHINE REPAIRS	63.31
QUILL CORPORATION	OFFICE SUPPLIES	123.30
QWEST	TELEPHONE CHARGES	431.26
QWEST BUSINESS SERVICES	LONG DISTANCE	187.71
REHAB SYSTEMS	JET/VAC & TELEVISIONING SEWER	16,146.20
RODNEY HEFTI	ENERGY INCENTIVE	500.00
RYAN HOBZA	ENERGY INCENTIVE	500.00
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	150.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	566.22
SIMPLEXGRINNELL	CAC FIRE ALARM REPAIRS	794.00
SIOUX CITY JOURNAL	SUBSCRIPTION RENEWAL	156.00
STADIUM SPORTING GOODS	SHIRTS/EMBROIDERY	67.50
STANLEY SECURITY SOLUTION	DOOR KNOB/W LOCKSET	284.43
STATE NATIONAL BANK	INVESTMENTS	2,000,000.00
STATE NATIONAL BANK	PETTY CASH	99.71

STEVE HARRIS CONSTRUCTION	KARDELL PAVING/WATER/SEWER	24,295.72
SUTTON, TIM	ENERGY INCENTIVE	500.00
TERRACON CONSULTANTS INC	PIEZOMETER	2,300.00
TONI HYTREK	ENERGY INCENTIVE	500.00
TYLER TECHNOLOGIES	SOFTWARE MAINTENANCE AGMT	13,607.25
UNITED WAY	PAYROLL DEDUCTIONS	32.32
VAN DIEST SUPPLY	MOSQUITO INSECTICIDE	276.70
VERIZON WIRELESS SERVICES	CELL PHONES	494.99
VIAERO	CELL PHONES	135.57
CITY EMPLOYEE	HEALTH REIMBURSEMENT	847.35
VOSS LIGHTING	LIGHT BULBS/RECYCLING BOX	1,523.41
WAYNE AREA ECONOMIC DEVEL	LEADERSHIP PROGRAM	278.00
WAYNE COMMUNITY SCHOOLS	LIGHTING EFFICIENCY	2,440.00
WAYNE COUNTY COURT	BOND	400.00
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	60.00
ZACH HEATING & COOLING	AUDITORIUM/PWD AC REPAIR/RECLAIM FREON	748.20
ZACH OIL COMPANY	GASOLINE	4,981.19
CITY EMPLOYEE	HEALTH REIMBURSEMENT	584.20



Economic Development
Chamber ■ Main Street

August 30, 2010

Chief of Police Lance Webster
City of Wayne
306 Pearl St.
PO Box 8
Wayne, NE 68787

Dear Chief Webster:

On behalf of Wayne Area Economic Development and the Wayne State College Student Senate, this letter is a request for a street and alley closing on Friday and Saturday, September 10th and 11th to hold a street dance for the entire Wayne community and WSC college students. There will also be a beer garden involved in the public way operated by the Max and/or the White Dog.

On Friday and Saturday, September 10th and 11th, we are requesting the closure of 1st Street from Main Street to the west side of the alley (1/2 of a block) and the alley (north and south) from the back of the White Dog on the north to the lot lines of Godfathers and Quality One Graphics on the south. This request is from 5:00 pm (September 10) until 2:00 am (September 11).

Wayne Area Economic Development and the Wayne State College Student Senate appreciate your consideration of this request. Please contact me at 375-2240 if you have any questions or concerns. Please notify the WAED office at 108 W. 3rd when a decision has been determined.

Sincerely,

A handwritten signature in black ink, appearing to read "Wes Blecke".

Wes Blecke
Executive Director
Wayne Area Economic Development



CERTIFICATE OF PAYMENT NO. 5

Date of Issuance: September 7, 2010

Project No. 007-1652

Project: Muhs Acres Water Main Extension Wayne, Nebraska - 2009

Contractor: Robert Woehler & Sons Construction, Inc., 123 Fairgrounds Ave., Wayne, NE 68787

DETAILED ESTIMATE		
Description	Unit Prices	Extensions
See Attached		

PLEASE REMIT PAYMENT TO: Robert Woehler & Sons Construction, Inc.

Value of Work Stored & Completed: \$123,105.28

Original Contract Cost:	\$128,442.00
Approved Change Orders:	
No.	\$0.00
Total Contract Cost:	\$128,442.00

Value of completed work and materials stored	\$123,105.28
Less retained percentage (10%)	\$12,310.52
Net amount due including this estimate	\$110,794.76

Less: Estimates previously approved:

No. 1	\$38,526.37	No. 6	\$0.00
No. 2	\$20,944.95	No. 7	\$0.00
No. 3	\$18,173.71	No. 8	\$0.00
No. 4	\$14,968.55	No. 9	\$0.00
No. 5	\$0.00	No.10	\$0.00

Total Previous Estimates: \$92,613.58

NET AMOUNT DUE THIS ESTIMATE: \$18,181.18

The undersigned hereby certifies that the work done and materials delivered have been checked as to quantity and conformance with the plans and specifications and the Contractor, in accordance with the contract, is entitled to payment as indicated above.

cc: Project File

OLSSON ASSOCIATES

By _____

No.	Description	Unit	Plan Quantity	Unit Price \$	Contract Price \$	Total Amount Stored	Quantities Completed	Total Amount Stored + Completed	SP% Due Contractor	10% Retainage	Amt. Paid Prev. Est.	Total Due This Est.
Bid Section "A"												
1	Mobilization	LS	1	\$4,000.00	\$4,000.00		1	\$4,000.00	\$2,600.00	\$400.00	\$3,600.00	\$0.00
2	Traffic Control & Temporary Access	LS	1	\$1,000.00	\$1,000.00		1	\$1,000.00	\$900.00	\$100.00	\$900.00	\$0.00
3	12" PVC Water Main-C909	LF	1075	\$18.00	\$19,350.00		1075	\$19,350.00	\$17,415.00	\$1,935.00	\$17,415.00	\$0.00
4	8" PVC Water Main-C909	LF	1275	\$12.50	\$15,937.50		1275	\$15,937.50	\$14,343.75	\$1,593.75	\$12,951.45	\$1,392.30
5	12" M.J. Gate Valve w/ Box	EA	1	\$2,000.00	\$2,000.00		1	\$2,000.00	\$1,800.00	\$200.00	\$1,800.00	\$0.00
6	8" M.J. Gate Valve w/ Box	EA	2	\$1,200.00	\$2,400.00		2	\$2,400.00	\$2,160.00	\$240.00	\$2,160.00	\$0.00
7	Ductile Iron Fittings	LB	1723	\$2.50	\$4,307.50		1723	\$4,307.50	\$3,676.75	\$430.75	\$3,847.36	\$29.39
8	Fire Hydrant Assembly	EA	5	\$2,750.00	\$13,750.00		5	\$13,750.00	\$12,375.00	\$1,375.00	\$12,375.00	\$0.00
9	Blow Off Hydrant Assembly	EA	1	\$1,500.00	\$1,500.00		1	\$1,500.00	\$1,350.00	\$150.00	\$190.43	\$1,199.57
10	1" Water Service Connection	EA	21	\$400.00	\$8,400.00	\$713.28	18	\$7,913.28	\$7,121.95	\$791.33	\$4,493.66	\$2,628.29
11	1" Water Service Tubing, P.E. Pipe	LF	904	\$8.00	\$7,232.00	\$37.00	804	\$6,469.00	\$5,822.10	\$646.90	\$301.03	\$5,521.07
12	Remove & Replace 6" Concrete Driveway	SY	149	\$40.00	\$5,960.00		196	\$7,840.00	\$7,056.00	\$784.00	\$0.00	\$7,056.00
13	Crushed Rock Surfacing	TON	27	\$30.00	\$810.00		0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
14	Gravel Surfacing	TON	239	\$15.00	\$3,585.00		98	\$1,470.00	\$1,323.00	\$147.00	\$1,323.00	\$0.00
15	Remove & Replace 8" Corrugated HDPE Culvert	LF	28	\$20.00	\$560.00		28	\$560.00	\$504.00	\$56.00	\$109.44	\$394.56
16	Erosion Control	LS	1	\$1,000.00	\$1,000.00		0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17	Type 'B' Seeding (Residential)	AC	0.4	\$2,000.00	\$800.00		0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18	Type 'B' Seeding (Rural)	AC	0.1	\$500.00	\$50.00		0.1	\$50.00	\$45.00	\$5.00	\$45.00	\$0.00
Total Base Bid Section "A" (Items 1-18)					\$92,642.00	\$750.28		\$88,547.28	\$79,692.55	\$8,854.73	\$61,511.37	\$18,181.18
Bid Section "B"												
1	Mobilization	LS	1	\$2,000.00	\$2,000.00		1	\$2,000.00	\$1,800.00	\$200.00	\$1,800.00	\$0.00
2	Traffic Control & Temporary Access	LS	1	\$1,000.00	\$1,000.00		1	\$1,000.00	\$900.00	\$100.00	\$900.00	\$0.00
3	12" PVC Water Main-C909	LF	1300	\$18.00	\$23,400.00		1300	\$23,400.00	\$21,060.00	\$2,340.00	\$21,060.00	\$0.00
4	12" Gate Valve	EA	1	\$2,000.00	\$2,000.00		1	\$2,000.00	\$1,800.00	\$200.00	\$1,800.00	\$0.00
5	Ductile Iron Fittings	LB	528	\$2.50	\$1,320.00	\$128.00	428	\$1,196.00	\$1,078.20	\$119.80	\$1,078.20	\$0.00
6	Wet Out-In	EA	2	\$500.00	\$1,000.00		1	\$500.00	\$450.00	\$50.00	\$450.00	\$0.00
7	Crushed Rock Surfacing	TON	30	\$30.00	\$900.00		26	\$780.00	\$702.00	\$78.00	\$702.00	\$0.00
8	Gravel Surfacing	TON	152	\$15.00	\$2,280.00		152	\$2,280.00	\$2,052.00	\$228.00	\$2,052.00	\$0.00
9	Erosion Control	LS	1	\$1,000.00	\$1,000.00		1	\$1,000.00	\$900.00	\$100.00	\$900.00	\$0.00
10	Type 'B' Seeding (Rural)	AC	0.2	\$2,000.00	\$400.00		0.2	\$400.00	\$360.00	\$40.00	\$360.00	\$0.00
11	Abandon Meter Pit	EA	1	\$500.00	\$500.00		0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Base Bid Section "B" (Items 1-11)					\$35,800.00	\$128.00		\$34,558.00	\$31,102.20	\$3,455.80	\$31,102.20	\$0.00
Total Base Bid Section "A" & "B"					\$128,442.00	\$878.28		\$123,105.28	\$110,794.75	\$12,310.53	\$92,613.57	\$18,181.18



August 31, 2010

Lowell D. Johnson
City Administrator
City of Wayne
PO Box 8
Wayne, NE 68787

RE: Wayne, NE
2009-2010 Wastewater Treatment Facility Improvements, Phase I
JEO Project No. 090621 / 617S7

Dear Lowell:

Enclosed for the Council's consideration are three (3) copies of Application for Payment No. 1 for the above referenced project. Work completed to date includes portions of mobilization, site clearing, grading, excavation, and erosion control. The Contractor is seeking payment on \$132,500 less retainage. JEO recommends payment in the amount of \$119,250.00 to Eriksen Construction Co. Inc.

A progress meeting was held on August 26, 2010 and meeting minutes will be forwarded. Also enclosed with the pay application are copies of the daily field reports with a copy also being forwarded to staff for review. To date the Contractor has stripped the top soil and is nearly complete with the excavation for the Aquarius tank. In the next month the excavation and soil work should be completed. Also steel and forms for the base slab of the Aquarius tanks should begin to take shape.

Upon approval of the pay application, please forward one copy with payment to the Contractor, and return one copy to JEO. You can provide photocopies to NDEQ or USEPA for reimbursement through the funding agencies.

Sincerely,

A handwritten signature in blue ink that reads "Roger S. Protzman".

Roger S. Protzman, P.E.
Project Manager

RSP:skw
Enclosures

Pc: Gary Poutre w/Field Reports

Application and Certificate for Payment, containing Contractor's signed certification is attached. In tabulations below, amounts are stated to the nearest Dollar.

Application Number: 1
Application Date: 08/24/10
Period From: 08/01/10
Period To: 08/23/10
Eng. Project No.: 617S7

Use Column 1 on Contracts where variable retainage for line items may apply.

Retainage: 10%

A No.	B Description of Work	C Scheduled Value	D Work Completed			G Total Completed and Stored to Date D+E+F	H % G/C	I C-G	Retainage 10%
			Previous Applications	Work In Place	Stored Materials				
1	Bonds and Insurance	75,000.00	0.00	75,000.00	0.00	75000.00	100%	0.00	7500.00
2	Mobilization	68,680.00	0.00	25,000.00	0.00	25000.00	36%	43680.00	2500.00
3	Site Clearing	85,360.00	0.00	15,000.00	0.00	15000.00	18%	70360.00	1500.00
4	Grading	25,660.00	0.00	5,000.00	0.00	5000.00	19%	20660.00	500.00
5	Excavation	50,724.00	0.00	5,000.00	0.00	5000.00	10%	45724.00	500.00
6	Aquarius Tank Rock Base & Sub	39,780.00	0.00	0.00	0.00	0.00	0%	39780.00	0.00
7	Fill	9,780.00	0.00	0.00	0.00	0.00	0%	9780.00	0.00
8	Backfill	80,126.00	0.00	0.00	0.00	0.00	0%	80126.00	0.00
9	Surcharge	19,375.00	0.00	0.00	0.00	0.00	0%	19375.00	0.00
10	Staging Area	34,607.00	0.00	0.00	0.00	0.00	0%	34607.00	0.00
11	Demolition	2,120.00	0.00	0.00	0.00	0.00	0%	2120.00	0.00
12	Rock Around Lift Station	2,163.00	0.00	0.00	0.00	0.00	0%	2163.00	0.00
13	Errosion Control	15,000.00	0.00	7,500.00	0.00	7500.00	50%	7500.00	750.00
14	Fence	40,783.00	0.00	0.00	0.00	0.00	0%	40783.00	0.00
15	Seeding	5,000.00	0.00	0.00	0.00	0.00	0%	5000.00	0.00
16	Pavement	32,000.00	0.00	0.00	0.00	0.00	0%	32000.00	0.00
17	Concrete	294,000.00	0.00	0.00	0.00	0.00	0%	294000.00	0.00
18	Rebar	196,100.00	0.00	0.00	0.00	0.00	0%	196100.00	0.00
19	Hollow Core	2,500.00	0.00	0.00	0.00	0.00	0%	2500.00	0.00
20	Masonry	151,450.00	0.00	0.00	0.00	0.00	0%	151450.00	0.00
21	Misc. Metals	65,000.00	0.00	0.00	0.00	0.00	0%	65000.00	0.00
22	Handrails/Stairs/Grating	21,000.00	0.00	0.00	0.00	0.00	0%	21000.00	0.00
23	Final Clarifier Demo	4,400.00	0.00	0.00	0.00	0.00	0%	4400.00	0.00
24	Flat Covers	250,000.00	0.00	0.00	0.00	0.00	0%	250000.00	0.00
25	Carpentry	28,500.00	0.00	0.00	0.00	0.00	0%	28500.00	0.00
26	Trusses	10,500.00	0.00	0.00	0.00	0.00	0%	10500.00	0.00
27	Water Repellants	3,500.00	0.00	0.00	0.00	0.00	0%	3500.00	0.00
28	Insulation	1,000.00	0.00	0.00	0.00	0.00	0%	1000.00	0.00
29	Gutters	3,000.00	0.00	0.00	0.00	0.00	0%	3000.00	0.00
30	Joint Sealants	8,000.00	0.00	0.00	0.00	0.00	0%	8000.00	0.00
31	Doors & Hardware	7,800.00	0.00	0.00	0.00	0.00	0%	7800.00	0.00
32	Overhead Doors	12,000.00	0.00	0.00	0.00	0.00	0%	12000.00	0.00
33	Drywall	1,000.00	0.00	0.00	0.00	0.00	0%	1000.00	0.00
34	Painting	45,000.00	0.00	0.00	0.00	0.00	0%	45000.00	0.00
35	Toilet Accessories	4,700.00	0.00	0.00	0.00	0.00	0%	4700.00	0.00
36	Grit and Screw Classifier System	200,000.00	0.00	0.00	0.00	0.00	0%	200000.00	0.00
37	Submersible Lift Station Pumps	33,000.00	0.00	0.00	0.00	0.00	0%	33000.00	0.00
38	Rotary Lobe Pumps	4,800.00	0.00	0.00	0.00	0.00	0%	4800.00	0.00
39	Scraper Clarifiers	165,000.00	0.00	0.00	0.00	0.00	0%	165000.00	0.00
40	Verticle Fine Screen	98,000.00	0.00	0.00	0.00	0.00	0%	98000.00	0.00
41	Interally Fed Drum Screen & Comp	142,500.00	0.00	0.00	0.00	0.00	0%	142500.00	0.00
42	Gates	14,000.00	0.00	0.00	0.00	0.00	0%	14000.00	0.00
43	Aquarius MSABP	1,326,600.00	0.00	0.00	0.00	0.00	0%	1326600.00	0.00

Continuation Sheet

Application and Certificate for Payment, containing Contractor's signed certification is attached. In tabulations below, amounts are stated to the nearest Dollar.

Application Number: 1
 Application Date: 08/24/10
 Period From: 08/01/10
 Period To: 08/23/10
 Eng. Project No.: 617S7

Use Column 1 on Contracts where variable retainage for line items may apply.

Retainage: 10%

A No.	B Description of Work	C Scheduled Value	E Work Completed			G Total Completed and Stored to Date D+E+F	H % G/C	I C-G	Retainage 10%
			This Application						
			D Previous Applications	Work In Place	F Stored Materials				
44	Possitive Displacement Blower	64,050.00	0.00	0.00	0.00	0.00	0%	64050.00	0.00
45	Casework/Counter Top	11,865.00	0.00	0.00	0.00	0.00	0%	11865.00	0.00
46	Hoist/Trolley/Crane	13,650.00	0.00	0.00	0.00	0.00	0%	13650.00	0.00
47	Valves	117,600.00	0.00	0.00	0.00	0.00	0%	117600.00	0.00
48	Yard Piping	238,975.00	0.00	0.00	0.00	0.00	0%	238975.00	0.00
49	Manholes	174,900.00	0.00	0.00	0.00	0.00	0%	174900.00	0.00
50	Process Piping	98,322.00	0.00	0.00	0.00	0.00	0%	98322.00	0.00
51	Mechanical	86,000.00	0.00	0.00	0.00	0.00	0%	86000.00	0.00
52	Electrical	613,900.00	0.00	0.00	0.00	0.00	0%	613900.00	0.00
53		0.00	0.00	0.00	0.00	0.00	0%	0.00	0.00
		5,098,770.00	0.00	132,500.00	0.00	132500.00	3%	4966270.00	13250.00

Layne Christensen Company

4601 North 252nd Street • PO Box 597 • Valley, NE 68064 • (402) 359-2042 • Fax: (402) 359-2310

August 27, 2010

Mr. Lowell Johnson, City Administrator
City of Wayne
306 Pearl Street
P.O. Box 8
Wayne, NE 68787

RE: Well House & Municipal Well 2009
City of Wayne, Nebraska

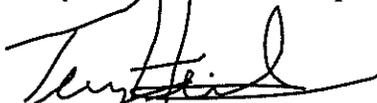
Dear Mr. Johnson,

Layne Christensen Company (Layne) recently received a written reminder notification from JEO Consulting Group (JEO) that the revised completion date for the above reference project was July 23, 2010, and that liquidated damages would commence from that date until the date the project is complete. As previously discussed with JEO, the construction progress schedule provided by Layne on May 14th was not stated or intended to be a firm schedule for completing this project. This schedule was our best estimate for completion given the state of the project at that time. There have been consistent weather delays since May 14th, and Layne now requests a final time extension until September 24th to finalize this project. It is my understanding that you have discussed and agreed in kind to said time extension with our subcontractor, Lou Benscoter.

Please let me know if you are in agreement with this time extension request and I can assure you and the City of Wayne that we will work diligently with our subcontractors to complete the remaining work and finalize this project to your satisfaction. Layne Christensen Company appreciates your consideration of this request.

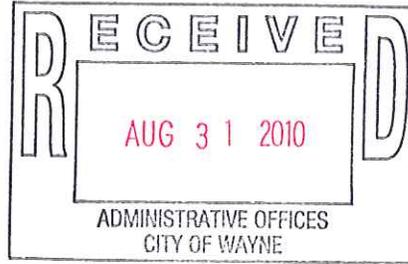
Sincerely,

Layne Christensen Company



Terry Heiliger
Project Manager





Engineering
Architecture
Surveying
Planning

August 30, 2010

City of Wayne
Attn: Lowell D. Johnson, City Administrator
PO Box 8
Wayne, NE 68787

RE: Wayne, NE
Well House and Municipal Well 2009-1
JEO Project No. 617W6 / R090317

Dear Lowell,

We are writing to address the terms and conditions of our Agreement since the above referenced project is still not complete. Per our previous discussion, the Wayne well project has not been constructed within the original contract completion date of March 28, 2010 nor the extended time frame of July 23, 2010 afforded to the Contractor.

The extended time frame to complete the project has caused the project time line to exceed the time frame outlined in our Agreement with the City. Exhibit C, Article C4.01 outlined an anticipated schedule of 15 month from February 2009 to April 2010. We have tried to stretch our budget to match the Contractor's delayed schedule; however, at this point we can no longer do this.

To date we have made numerous site trips to visit the site to check the Contractor's progress on the project only to find no one on site working. It is our opinion the primary delay is the subcontractor completing the well house construction. Our additional time to track down the subcontractor and efforts to try to move the project along has caused us to expend additional effort to complete this project, beyond what is normally anticipated.

Therefore, we are requesting the City consider the following:

1. Compensate JEO for services provided to date that are beyond our contract amount in the amount of \$6,439.00
2. Compensate JEO for services yet to be provided to continue to monitor and review the work of the Contractor. We anticipate an effort of approximately 48 more hours (12 hrs/wk for 4 weeks) totaling approximately \$5,232.
3. Consider enforcing the liquidated damages provision of the agreement for the delay in the amount of \$242.00 for each calendar day of delay from July 23, 2010 to date of completion to offset the additional cost of our services due to their extended time frame to complete the project so that the City does not directly incur additional costs on this project.

City of Wayne
August 30, 2010
Page 2

Please advise us of your decision as soon as possible so that we can plan accordingly. In addition, we want to assure you that JEO will continue to provide the quality service you've come to anticipate. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Roger S. Protzman". The signature is written in a cursive style.

Roger S. Protzman, P.E.
Project Manager

RSP:skw

RESOLUTION NO. 2010-68

A RESOLUTION APPROVING AGREEMENT WITH AMERICAN BROADBAND (AB) TO PROVIDE TELEPHONE SERVICE TO CITY OFFICES AND FACILITIES.

WHEREAS, the City has numerous offices and facilities in need of telephone service; and

WHEREAS, a proposal to provide telephone service to said offices and facilities has been received from AB, with the first 12 months being charged a monthly fee of \$1,008.84, and the next 12 months being charged a monthly fee of \$1,202.04; and

WHEREAS, AB is aware that the City will be opting out of its current contract with Qwest and that a penalty will be assessed in the amount of \$2,016.54; and

WHEREAS, AB agrees to credit the amount of \$504.13 on the first four monthly invoices that the City receives from AB for said penalty.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that agreement with American Broadband to provide telephone service to all city offices and facilities is hereby approved, and the Mayor is hereby authorized to execute the agreement on behalf of the City.

PASSED AND APPROVED this 7th day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

American Broadband



1605 Washington St
P.O. Box 400
Blair, Nebraska 68008-0400

Main 402.533.1000
Fax 402.426-6298

www.ABBNebraska.com

City of Wayne

Attn: Lowell Johnson, City Administrator
August 17, 2010

Mr. Johnson:

This is an agreement to provide telephone service to all city offices and facilities. American Broadband will not charge any installation or labor costs during the switchover from Qwest.

The City of Wayne is currently utilizing 44 phone lines throughout its different buildings and locations. Our plan is to transition these 44 lines over to our network on a building by building basis. This transition [Back to Top](#) will take 3 to 4 working days.

American Broadband is aware that the City of Wayne will be opting out of their current contract and a penalty will be assessed by the current provider (Qwest). Our company will give credit for this penalty by deducting the penalty amount off of the monthly American Broadband service invoice that we send to the city, the penalty that the city will incur after an October 2010 switch to American Broadband will be \$2,016.54. There will be a credit issued for \$504.13 on the first four monthly invoices that the city receives from American Broadband.

Once we have received the signed agreement our expectations would be to have this project completed by the third week of October 2010.

Thank you for choosing American Broadband as your communications service provider.

Jay P. Anderson
Account Executive
American Broadband

American Broadband

1605 Washington St
P.O. Box 400
Blair, Nebraska 68008-0400

Main 402.533.1000
Fax 402.426-6298

www.ABBNebraska.com

Costs Recap:

Construction & Installation Costs:

Construction Costs Material & Labor	\$0
Installation Costs Material & Labor	\$0
Total Construction & Installation Costs	\$0

Monthly Communications Charge

Monthly Invoice (1 st 12 months)	\$1,008.84
Monthly Invoice (After 12 months)	\$1,202.04

Please sign this Service Agreement and fax it back to me after review and approval. Thank you.

City of Wayne

Signature _____ Date _____

Printed Name & Title _____

American Broadband Nebraska

Signature _____ Date _____

Printed Name & Title Mike Storjohann, Director of Operations

American Broadband

City of Wayne - Qwest Current

City of Wayne - ABB 1st 12 mo

City of Wayne - ABB after 12 mo

Current Contract	QTY	CURRENT		QTY	Proposed		QTY	Proposed
Business Centrex Lines	42	\$1,301.81		42	\$755.58		42	\$948.78
Surcharges Federal Access Charge Hearing Impaired @ \$.03 E-911 @ \$1.00 Grand Total				42	\$210.00 \$1.26 \$42.00		42	\$210.00 \$1.26 \$42.00
Monthly Price Difference					-\$292.97			-\$99.77
Annual Price Difference					-\$3,515.64			-\$1,197.24

*This quote does not include any applicable taxes & does not include E-911 trunking
 Pricing based on 36 month contract*

Jay P. Anderson

Account Executive

American Broadband

402-426-6227

jaanderson@americanbb.com

RESOLUTION NO. 2010-69

**A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE
“BENSCHOTER ADDITION PHASE 1 PAVING & UTILITY IMPROVEMENTS,
WAYNE, NEBRASKA 2010 PROJECT.”**

WHEREAS, _____ bids were received on September 2, 2010, on the “Benschoter Addition Phase 1 Paving & Utility Improvements, Wayne, Nebraska – 2010 Project”; and

WHEREAS, the bids have been reviewed by the City’s engineer on the project, Olsson Associates; and

WHEREAS, Olsson Associates is recommending that the contract be awarded to _____ in the amount of \$_____, **subject to there being no objections to any of the improvement districts.**

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the bid for the “Benschoter Addition Phase 1 Paving & Utility Improvements, Wayne, Nebraska – 2010 Project”, as submitted by the following contractor, is reasonable and responsive, and the same is hereby accepted:

Bidder

Amount

BE IT FURTHER RESOLVED, that the bid, as set forth and filed with the City Clerk in accordance with the general terms calling for the proposals for the furnishing of labor, tools, materials, and equipment required for said project in the City of Wayne, Nebraska, be and the same is hereby accepted.

BE IT FURTHER RESOLVED, that the Mayor be, and she is hereby instructed and authorized to enter into a contract on behalf of the City of Wayne, Nebraska, with the contractor for the above project, and the City Administrator is authorized to approve and execute change orders in amounts not to exceed five percent of the contract amount.

PASSED AND APPROVED this 7th day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

CITY OF WAYNE, NEBRASKA
HISTORY OF PROPERTY TAX RATES, ASKINGS AND VALUATIONS

Total Tax Rate	Tax Year	Valuation	General Fund		Debt Service Fund		Airport Fund	
			Tax Rate	Tax Asking	Tax Rate	Tax Asking	Tax Rate	Tax Asking
0.677500	1983	\$ 73,312,780	0.475700	\$ 348,749	0.140800	\$ 103,224	0.061000	\$ 44,721
0.719800	1984	\$ 73,302,455	0.516400	\$ 378,534	0.131800	\$ 96,613	0.071600	\$ 52,485
0.774900	1985	\$ 73,724,560	0.537700	\$ 396,417	0.155400	\$ 114,568	0.081800	\$ 60,307
0.705200	1986	\$ 75,302,145	0.500100	\$ 376,586	0.125700	\$ 94,655	0.079400	\$ 59,790
0.678900	1987	\$ 75,373,415	0.479600	\$ 361,491	0.119900	\$ 90,373	0.079400	\$ 59,846
0.699000	1988	\$ 73,207,880	0.493800	\$ 361,501	0.123400	\$ 90,339	0.081800	\$ 59,884
0.689700	1989	\$ 74,189,565	0.487300	\$ 361,526	0.121800	\$ 90,363	0.080600	\$ 59,797
0.692200	1990	\$ 76,033,225	0.494500	\$ 375,984	0.118900	\$ 90,404	0.078800	\$ 59,914
0.697800	1991	\$ 77,900,005	0.501900	\$ 381,426	0.116100	\$ 88,126	0.079800	\$ 58,094
0.691700	1992	\$ 82,517,065	0.497500	\$ 400,497	0.115000	\$ 92,532	0.079200	\$ 60,998
0.719000	1993	\$ 86,285,350	0.526700	\$ 424,729	0.120500	\$ 97,159	0.071800	\$ 57,762
0.667300	1994	\$ 93,953,215	0.495400	\$ 454,038	0.108100	\$ 99,005	0.063800	\$ 57,762
0.632700	1995	\$ 106,554,655	0.466700	\$ 485,070	0.102000	\$ 105,965	0.064000	\$ 63,629
0.629610	1996	\$ 112,844,325	0.472060	\$ 519,705	0.098010	\$ 107,900	0.059540	\$ 65,538
0.592100	1997	\$ 110,602,636	0.449685	\$ 485,233	0.091375	\$ 98,598	0.051040	\$ 56,452
0.540311	1998	\$ 112,407,473	0.423312	\$ 475,834	0.090311	\$ 101,516	0.026689	\$ 30,000
0.546587	1999	\$ 118,123,827	0.424554	\$ 501,500	0.086773	\$ 102,500	0.035259	\$ 41,650
0.480231	2000	\$ 133,415,715	0.368004	\$ 490,975	0.069145	\$ 92,250	0.043083	\$ 57,479
0.527248	2001	\$ 136,039,199	0.414289	\$ 563,596	0.067811	\$ 92,250	0.045147	\$ 61,418
0.528371	2002	\$ 137,403,462	0.415171	\$ 570,460	0.067138	\$ 92,250	0.046061	\$ 63,290
0.537718	2003	\$ 143,051,488	0.421317	\$ 602,700	0.071653	\$ 102,500	0.044748	\$ 64,013
0.522948	2004	\$ 145,381,877	0.400815	\$ 582,713	0.070504	\$ 102,500	0.051628	\$ 75,058
0.501678	2005	\$ 148,536,632	0.384366	\$ 570,925	0.069007	\$ 102,500	0.048305	\$ 71,750
0.508200	2006	\$ 152,334,731	0.390259	\$ 594,500	0.070650	\$ 107,625	0.047291	\$ 72,040
0.504770	2007	\$ 156,618,741	0.401309	\$ 628,525	0.057464	\$ 90,000	0.045997	\$ 72,040
0.457923	2008	\$ 172,641,653	0.364063	\$ 628,525	0.052131	\$ 90,000	0.041728	\$ 72,040
0.454550	2009	\$ 175,685,113	0.357757	\$ 628,525	0.051228	\$ 90,000	0.045566	\$ 80,052
0.452198	2010	\$ 176,598,938	0.354631	\$ 626,275	0.052237	\$ 92,250	0.045330	\$ 80,052

ORDINANCE NO. 2010-21

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That after complying with all procedures required by law, the budget presented and set forth in the budget statement is hereby approved as the Annual Appropriation Bill for the fiscal year beginning October 1, 2010, through September 30, 2011. All sums of money contained in the budget statement as fund totals are hereby appropriated for the necessary expenses and liabilities of the City of Wayne. A copy of the budget document shall be forwarded, as provided by law, to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Wayne County, Nebraska, for use by the levying authority.

Section 2. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

PASSED AND APPROVED this 7th day of September, 2010.

THE CITY OF WAYNE, NEBRASKA

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

RESOLUTION NO. 2010-70

A RESOLUTION TO ADOPT THE 2010-2011 BUDGET FOR THE CITY OF WAYNE.

WHEREAS, LB 989 changed budget limitation provisions regarding restricted funds for political subdivisions; and

WHEREAS, LB 1114 established Levy Limits for local governments; and

WHEREAS, the 2010-2011 Budget document meets the requirements of the legislative laws; and

WHEREAS the Mayor and Council of the City of Wayne, Nebraska, has conducted a public hearing as prescribed by law and heard and considered comments concerning the 2010-2011 budget for the City of Wayne; and

WHEREAS, the Mayor and Council of the City of Wayne, Nebraska, hereby finds and determines that it is in the best interest of the City that the 2010-2011 Budget be adopted as the Official Budget for fiscal year 2010-2011.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the 2010-2011 Budget of the City of Wayne, Nebraska, be and is hereby adopted.

PASSED AND APPROVED this 7th day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

RESOLUTION NO. 2010-71

**A RESOLUTION APPROVING FINAL PROPERTY TAX
REQUEST FOR FY2010-2011.**

WHEREAS, Nebraska Revised Statute 77-16-01.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the City of Wayne passes by a majority vote a resolution or ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interests of the City of Wayne that the property tax request for the current year be different than the property tax request for the prior year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that:

1. The 2010-2011 property tax request be set at \$718,525; said calculated levy being \$.406868; and
2. A copy of this resolution be certified and forwarded to the County Clerk prior to October 1, 2010.

PASSED AND APPROVED this 7th day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

ORDINANCE NO. 2010-22

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED UTILITIES REVENUE BOND, SERIES 2010A, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF SEVEN MILLION DOLLARS (\$7,000,000), IN THE FORM OF A PROMISSORY NOTE ISSUED TO EVIDENCE INDEBTEDNESS TO THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; APPROVING THE FORM OF SAID BOND (ISSUED AS A SINGLE PROMISSORY NOTE) AND RELATED CONTRACT FOR LOAN; PLEDGING AND HYPOTHECATING THE REVENUES AND EARNINGS OF THE WATERWORKS PLANT AND WATER SYSTEM AND THE SEWAGE DISPOSAL PLANT AND SANITARY SEWER SYSTEM OWNED BY THE CITY FOR THE PAYMENT OF SAID BOND; PROVIDING FOR THE ISSUANCE AND SALE OF SAID BOND; AUTHORIZING THE DELIVERY OF SAID BOND TO THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; DETERMINING THAT INTEREST ON SAID BOND SHALL NOT BE EXCLUDABLE FROM GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SAID BOND; AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA, AS FOLLOWS:

Section 1. The Mayor and Council of the City of Wayne, Nebraska (the "City") hereby

find and determine as follows:

- A. The City owns and operates its own waterworks plant and water system, which represents a "revenue-producing facility" of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007 (the "Act"); said plant and system as now existing together with all additions and improvements thereto hereafter acquired or constructed is herein referred to as the "Water System".
- B. The City owns and operates its own sewage disposal plant and sanitary sewer system, which represents a "revenue-producing facility" of the City under the provisions of the Act; said plant and system as now existing together with all additions and improvements thereto hereafter acquired or constructed are herein referred to as the "Sewer System".
- C. The Water System and the Sewer System, as combined (the "Combined Utilities") further represent a revenue-producing undertaking and facility of the City under the provisions of the Act, for which the City is authorized to issue revenue bonds with a combined pledging of revenues.
- D. The City currently has outstanding the following revenue bond for which the revenues of the Combined Utilities have been pledged:

Combined Utilities Revenue Bond, Series 2010, Date of Issue – December 1, 2009, issued pursuant to Ordinance No. 2010-2 of the City (the "2010 Ordinance"), in the stated original principal amount of \$1,050,000 (the "Series 2010 Bond") (issued as a single promissory note to the Nebraska Department of Environmental Quality ("NDEQ")).

Other than the Series 2010 Bond, there are no other bonds, notes or other indebtedness for which the revenues of the Combined Utilities have been pledged or made security.

- E. The Nebraska Department of Environmental Quality (“NDEQ”) has approved a project of the City for its Sewer System designated as Project No. C317369 consisting of construction of a new wastewater treatment plant and system, including decommission and/or modification of existing sludge lagoon and related improvements and equipment (the “2010A Project”).
- F. NDEQ has agreed to lend the City funds in the amount of \$7,000,000 (the “2010A Loan”) to provide for a portion of the costs of the 2010A Project and in such connection has agreed to accept the Series 2010A Bond payable from the revenues of the Combined Utilities. In connection with the 2010A Loan it will be necessary for the City to approve, execute and deliver an agreement entitled “Contract for Loan between the Nebraska Department of Environmental Quality and the City of Wayne Project No. C317369” (the “NDEQ Contract”) and it is necessary and advisable for the City to approve the execution and delivery of the NDEQ Contract. The NDEQ Contract provides for the borrowings under the NDEQ Contract to be evidenced by a promissory note which is intended by the City and by NDEQ to constitute a revenue bond of the City which is authorized under the terms of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007, (the “Act”) and which in this Ordinance is referred to as the “NDEQ 2010A Note” or the “Series 2010A Bond”.
- G. Sections 6 and 7 of the 2010 Ordinance permit the issuance of “Additional Bonds” of equal lien on the revenues of the Combined Utilities under certain terms and conditions which cannot be met but are to be waived by NDEQ as the sole holder of the Series 2010 Bond.

Section 2. Unless the context shall clearly indicate otherwise, the following terms (in addition to any terms herein defined by parentheses) shall have the following meanings when used in this Ordinance:

“Additional Bonds” shall mean any and all bonds hereafter issued by the City pursuant to the terms of this Ordinance which are equal in lien to the Series 2010 Bond and the Series 2010A Bond, including any such bonds issued pursuant to Section 6 hereof and refunding bonds issued pursuant to Section 7 hereof, as and when such bonds become equal in lien to the Series 2010 Bond and the Series 2010A Bond, according to their terms and the terms of said Sections 6 and 7.

“Average Annual Debt Service Requirements” shall mean that number computed by adding all the principal and interest which will become due when computed to the absolute maturity of the Series 2010 Bond and the Series 2010A Bond, as then outstanding, and of the Additional Bonds, if any, then outstanding and all of the principal and interest of any Additional Bonds to be issued and dividing such sum total by the number of years remaining that the longest bond of any issue of bonds (including the Additional Bonds to be issued) has to run to maturity. For such purposes any bonds issued as term bonds with scheduled mandatory redemptions shall be treated as maturing in accordance with such schedule of mandatory redemptions. Any amounts due and

owing to NDEQ for fees, rather than principal and interest, shall not be included in any such computation as being a part of debt service.

“Deposit Securities” shall mean direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America.

“Net Revenues” shall mean the gross revenues derived by the City from the ownership or operation of the Combined Utilities, including investment income, but not including any income from sale or disposition of any property belonging to or forming a part of the Combined Utilities, less the ordinary expenses to the City of operating and maintaining the Combined Utilities payable from the Operation and Maintenance Account described in Section 4 of this Ordinance. Operation and maintenance expenses for purposes of determining “Net Revenues” shall not include depreciation, amortization or interest on any bonds or other indebtedness. Net Revenues for all purposes of this Ordinance shall be shown by an audit for the fiscal year in question as conducted by independent certified public accountants.

Section 3. To provide for the payment of the costs of the 2010A Project, there shall be and there is hereby ordered issued the City’s Combined Utilities Revenue Bond, Series 2010A, (being one and the same as the NDEQ 2010A Note), in the form of and evidenced by a single promissory note in the principal amount (maximum drawable amount) of Seven Million Dollars (\$7,000,000), with such NDEQ 2010A Note to be in such form and to have such payment terms as are set forth in Exhibit A to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. In connection with the issuance of the NDEQ 2010A Note, the City shall also execute and deliver the NDEQ Contract, being in the form set forth in Exhibit B to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. The terms of the NDEQ 2010A Note and the NDEQ Contract are hereby approved and the Mayor and City Clerk are hereby authorized to execute and deliver the NDEQ 2010A Note and the NDEQ Contract with such changes from the forms presented and attached hereto as such officers shall deem appropriate for and on behalf of the City. The Mayor and City Clerk and any other officer or officers of the City are hereby further authorized to take such further actions and to execute such certificates and other documents as shall be deemed necessary or appropriate by any of them in connection with the issuance and delivery of the NDEQ 2010A Note and the NDEQ Contract. For all purposes of this Ordinance, the NDEQ 2010A Note shall constitute a revenue bond of the City of Wayne as authorized by the Act and shall be included within the terms “bond” and “combined revenue bond” where such inclusion is appropriate.

Section 4. The City hereby pledges and hypothecates the entire revenue and earnings of the Combined Utilities (subject only to the payment of reasonable operating expenses of said Combined Utilities) to the payment of the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds and interest on such Series 2010A Bond, Series 2010 Bond and any Additional Bonds as the same fall due. The pledge and hypothecation provided for the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds hereafter issued as provided for in this Ordinance are intended to and shall provide for a first and prior pledge or lien upon and security interest in the revenues of the Combined Utilities superior to any pledge, lien or security interest made or given with respect to any other indebtedness of the City as to its Combined Utilities and are intended as a full exercise of the powers of the City provided for in the Act, as now or hereafter amended, with respect to the City's Combined Utilities and the revenues and earnings thereof. In connection with such pledge, the City does hereby agree with the holders of said Series 2010A Bond, Series 2010 Bond and Additional Bonds that there shall be and there is hereby established a separate fund to be held by the City Treasurer, designated as the "Wayne Combined Utilities Fund" (herein referred to as the "Combined Utilities Fund"), into which all of the revenues of the Combined Utilities are required to be deposited as and when received, provided that the City may in its discretion maintain within the Combined Utilities Fund such separate deposits, credits and accounting for the separate components of the Combined Utilities as the Mayor and Council and the officers of the City, including the Treasurer, shall deem appropriate so long as the funds, investments and accounts related to the Combined Utilities are kept separate and apart from the general funds and accounts of the City. Said Combined Utilities Fund shall be maintained so long as the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds remain outstanding. Within the Combined Utilities Fund, in accordance with the requirements of this Ordinance, the accounts and sub-accounts shall be maintained as follows:

(a) OPERATION AND MAINTENANCE ACCOUNT - Out of the Combined Utilities Fund there shall be monthly credited into the Operation and Maintenance Account such amounts as the City shall from time to time determine to be necessary to pay the reasonable and necessary expenses of operating and maintaining the Combined Utilities and the City may withdraw funds credited to the Operation and Maintenance Account as necessary from time to time to pay such expenses.

(b) BOND PAYMENT ACCOUNT - Out of the Combined Utilities Fund there shall be credited monthly on or before the first day of each month to the Bond Payment Account, starting with the month of November 2010, the following amounts:

- (1) during the period from and including November 1, 2010, until and including that December 1 or June 1 which immediately follows the "Initiation of Operation" (as defined in the NDEQ Contract; in this Ordinance hereafter referred to as the "Initiation of Operation") of the 2010A Project, an amount such that if the same amount were credited on the first day of each calendar month from such date of credit until the next payment date upon which any amount falls due on the NDEQ 2010A Note, whether for principal or interest, the amount accumulated by such monthly credits shall equal the amount falling due on such payment date on the NDEQ 2010A Note;
- (2) during the period from and including that January 1 or that July 1 which immediately follows the Initiation of Operation until the NDEQ 2010A Note has been paid in full an amount equal to one-sixth of the installment amount (principal and interest) due on the next installment payment date for the NDEQ 2010A Note; and
- (3) during such periods and in such amounts, all such payments as are required under the terms of the 2010 Ordinance with respect to the Series 2010 Bond and any ordinance authorizing the issuance of Additional Bonds with respect to the principal and interest on such Additional Bonds.

The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond Payment Account, or if the monies in such Account are insufficient, then from the Bond Reserve Account (as and to the extent that amounts are available in a sub-account therein designated in the authorizing ordinance) and next from the Surplus Account, an amount sufficient to pay, when due, the principal of and interest on the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds and to transfer the appropriate amounts due to the direct payee for the Series 2010A Bond and the Series 2010 Bond and the respective paying agents or direct payees (as may be applicable) for any Additional Bonds, on or before each principal and interest payment date. Upon the issuance of any Additional Bonds pursuant to this Ordinance, appropriate additional credits to the Bond Payment Account shall be provided for sufficient to pay principal and interest on said Additional Bonds.

(c) BOND RESERVE ACCOUNT: The Bond Reserve Account is established as an account in the Combined Utilities Fund for purposes of assuring the timely payment of principal and interest in the event that there are insufficient monies on hand for such purposes in the Bond Payment Account. A separate sub-account within the Bond Reserve Account shall be established for any series of bonds for which any such reserve is determined to be necessary by the Mayor and Council at the time of issuance. The Mayor and Council have previously determined that no such sub-account was required for the Series 2010 Bond. The Mayor and Council hereby determine that no such sub-account or amount is required for the Series 2010A Bond, in view of the provisions of the NDEQ Contract. In the event of the issuance of any Additional Bonds, a separate sub-account for each such issue of Additional Bonds may be established within the Bond Reserve Account, as and to the extent determined appropriate by the Mayor and Council. Monies credited to the Bond Reserve Account may be withdrawn, but only from the designated sub-account for a specific issue, as needed, to provide funds to pay, when due, the principal of and interest on any Additional Bonds issued pursuant to this Ordinance for which a reserve sub-

account has been established, if the Bond Payment Account contains insufficient funds for that purpose, and the City Treasurer is hereby authorized and directed to make such withdrawal if and when needed. In the event of a withdrawal from the Bond Reserve Account, there shall be credited to the Bond Reserve Account in the month following such withdrawal all monies in the Combined Utilities Fund remaining after making the payments required to be made in such month to the Operation and Maintenance Account and Bond Payment Account and each month thereafter all such remaining monies shall be credited to the Bond Reserve Account until such account has been restored to the required balance for each sub-account. Upon the issuance of any Additional Bonds, the amount required to be accumulated and maintained in the Bond Reserve Account, in a separate sub-account for such Additional Bonds, shall be set at an amount determined appropriate by the Mayor and Council in connection with any such issue of Additional Bonds (which may be \$-0-). Any such required accumulation shall be provided for either by credit made from bond proceeds or current funds of the Combined Utilities then available or by equal monthly credits from the Combined Utilities Fund made in such amounts so that the required amount shall be accumulated in a period of not more than thirty-six months. Each sub-account in the Bond Reserve Account shall be held solely for the specific issue for which it is established. In the event of withdrawal from any such sub-account which results in the amount in such sub-account being deficient to meet the required balance, available amounts for restoring sub-account balances shall be credited to each deficient sub-account on a pro rata basis in accordance with the respective outstanding principal amounts for those issues for which the respective sub-accounts are then deficient. When any issue of Additional Bonds for which a sub-account has been established is no longer outstanding, the particular sub-account for such issue shall no longer be required to be maintained. Anything in this subsection 4(c) to the contrary notwithstanding, the amount required to be maintained in the Bond Reserve Account with respect to any issue of Additional Bonds shall not at any time exceed the maximum amount permitted to be invested without yield restriction under Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended, (the "Code") and applicable regulations of the United States Treasury Department.

(d) SURPLUS ACCOUNT: After providing for the Operation and Maintenance Account and after making the payments as hereinabove required to be made into the Bond Payment Account and the Bond Reserve Account, all remaining funds in the Combined Utilities Fund shall be deposited into the Surplus Account to be used as follows:

- 1) to fill any deficiency in the foregoing accounts;
- 2) for the purpose of calling under their option provisions the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds or for purchasing on the open market Additional Bonds;
- 3) for improvements, replacements, extensions and enlargements to the Combined Utilities; or
- 4) for any other legal municipal purpose of the City.

Any ordinance authorizing Additional Bonds may provide for the creation of additional accounts and sub-accounts not having priority over the Operation and Maintenance Account, the Bond Payment Account or the Bond Reserve Account, including sub-accounts in the Surplus Account or other accounts as may be established for such reserve or other purposes as the Mayor and Council shall deem appropriate. In the event that there is a deficiency in any of the accounts described in this Section 4, all moneys in the Surplus Account shall be applied for the purpose described in (1) above prior to any application to the purposes described in (2), (3) or (4) above.

Moneys on deposit in the Combined Utilities Fund shall be invested in such obligations as are permitted by law for cities of the class to which the City belongs, maturing at such times not later than ten years from the date of such investment and in such amounts as shall be determined by the Mayor and Council. Earnings from the investment of such moneys shall not be credited to the particular fund, account or sub-account from which the investment was made, but shall be treated as earnings of the Combined Utilities and shall be treated as any other revenues of such Combined Utilities. All investments held for the credit of any Fund or Account or sub-account may be sold when required to make the payment to be made from such Fund or Account or sub-account. Any moneys credited to the Combined Utilities Fund or any Account or sub-account therein which are not invested shall be secured in the manner provided by law for the security of funds of cities of the class to which the City of Wayne belongs.

It is understood that the revenues of the Combined Utilities are to be credited to the various accounts and sub-accounts hereinabove described and as set out in this Ordinance in the order in which said accounts and sub-accounts have been listed in this Ordinance, and, if within any period the revenues are insufficient to credit the required amounts in any of the said accounts or sub-accounts, the deficiencies shall be made up the following period or periods after payment into all accounts enjoying a prior claim on the revenues have been made in full.

The provisions of this Section 4 shall require the City to maintain a set of books and records in accordance with such accounting methods and procedures as are generally applicable to municipal utility enterprises, which books and records shall show credits to and expenditures from the several accounts and sub-accounts required by this Section. Monies credited to the Combined Utilities Fund or any of the accounts or sub-accounts therein as established by this Ordinance shall be deposited or invested separate and apart from other City funds. Except as specified below for the Bond Reserve Account, the City shall not be required to establish separate bank or investment accounts for the accounts or sub-accounts described in Subsections 4(a), 4(b), 4(c) and 4(d). Monies credited to the Bond Reserve Account (or any sub-account therein) shall, if maintained in a demand or time deposit account, be kept in a separate account and not commingled with other Combined Utilities funds or accounts. If invested, monies credited to the Bond Reserve Account (or any sub-account therein) may be commingled with other

Combined Utilities funds or accounts so long as the City maintains books and records clearly identifying the specific investments, or portions thereof, which belong to the Bond Reserve Account (or any sub-account therein).

Section 5. The City agrees that it will maintain and collect rates and charges for all services furnished by the Combined Utilities adequate to produce revenue and earnings sufficient at all times:

- (a) to provide for the payment of interest on and principal of the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds as such interest and principal become due;
- (b) to pay all reasonable costs of operation and maintenance of the Combined Utilities, including adequate insurance as provided by this Ordinance and to pay for the necessary and reasonable repairs, replacements and extensions of said Combined Utilities; and
- (c) to establish and maintain the Bond Reserve Account as provided for in this Ordinance.

Section 6. To provide funds for any purpose related to the Combined Utilities, the City may issue Additional Bonds (other than Additional Bonds issued for refunding purposes which are governed by Section 7 of this Ordinance) payable from the revenues of the Combined Utilities having equal priority and on a parity with the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds previously issued and then outstanding only upon compliance with the following conditions:

(a) Such Additional Bonds shall be issued only pursuant to an ordinance which shall provide for an increase in the monthly credits into the Bond Payment Account in amounts sufficient to pay, when due, the principal of and interest on the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds then outstanding and the proposed Additional Bonds and for such monthly credits (if any) to the Bond Reserve Account (including any appropriate sub-account determined upon by the Mayor and Council) as may be required under Subsection 4(c).

(b) The City shall have complied with one or the other of the two following requirements:

(1) The Net Revenues derived by the City from its Combined Utilities for the fiscal year next preceding the issuance of the Additional Bonds shall have been at least equal to 1.10 times the Average Annual Debt Service Requirements of the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds; or

2) The City shall have received a projection made by a consulting engineer or firm of consulting engineers or certified public accountant or firm of certified public accountants, either of which is recognized as having experience and expertise in municipal utility systems, projecting that the Net Revenues of the Combined Utilities in each of the three full fiscal years after the issuance of such Additional Bonds will be at least equal to 1.25 times the Average Annual Debt Service Requirements of the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds. In

making such projection, the consulting engineer or certified public accountant shall use as a basis the Net Revenues of the Combined Utilities during the last fiscal year for which an independent audit has been prepared and shall adjust such Net Revenues as follows: (A) to reflect changes in rates which have gone into effect since the beginning of the year for which the audit was made, (B) to reflect such engineer's or accountant's estimate of the net increase over or net decrease under the Net Revenues of the Combined Utilities for the year for which the audit was made by reason of: (i) changes of amounts payable under existing contracts for services; (ii) additional general income from sales to customers under existing rate schedules for various classes of customers or as such schedules may be revised under a program of changes which has been adopted by the Mayor and Council of the City; (iii) projected revisions in costs for labor, wages, salaries, machinery, equipment, supplies and other operational items; (iv) revisions in the amount of service to be supplied and any related administrative or other costs associated with such increases due to increased supply from the acquisition of any new facility; and (v) such other factors affecting the projections of revenues and expenses as the consulting engineer or accountant deems reasonable and proper. Annual debt service on any proposed Additional Bonds to be issued may be estimated by the consulting engineer or accountant in projecting Average Annual Debt Service Requirements, but no Additional Bonds shall be issued requiring any annual debt service payment in excess of the amount so estimated in a final projection furnished by the consulting engineer or accountant.

If the City shall find it desirable, it shall also have the right when issuing Additional Bonds to combine with the Water System and the Sewer System any other utilities of the City authorized to be combined under the Act, as may constitute a revenue producing facility or undertaking, and to cause all of the revenues of such combined utilities systems to be paid into the Combined Utilities Fund and to provide that the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds previously issued, all as then outstanding, and the proposed issue of Additional Bonds shall be payable from the revenues of such combined utilities systems and shall stand on a parity and in equality as to security and payment, provided, however, no such additional utility shall be combined with the Water System and the Sewer System as contemplated in this paragraph unless the City is current with all the payments required to be made into the accounts set out in this Ordinance and the revenues of the Combined Utilities (as proposed to be then newly combined) shall satisfy one or the other of the requirements for Additional Bonds provided above in this Section 6. For purposes of meeting such requirement, the definition of revenues shall be altered to include the gross revenues of the additional utility or utilities and there shall be deducted from such revenues the ordinary expenses of operating and maintaining the additional utility or utilities (not including any deduction for depreciation or interest) and for such purposes any engineer or

accountant furnishing projections may take into consideration the factors similar to those described above with respect to such additional utility or utilities. Revenues of the additional utility or utilities shall be based upon the report or reports of independent certified public accountants in the same manner as is required above.

The City hereby covenants and agrees that so long as any of the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds are outstanding, it will not issue any bonds or notes payable from the revenues of the Combined Utilities except in accordance with the provisions this Ordinance.

Section 7. The City may issue refunding bonds, which shall qualify as Additional Bonds of equal lien, to refund the Series 2010A Bond, the Series 2010 Bond or Additional Bonds then outstanding provided that, if the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds are to remain outstanding after the issuance of such refunding bonds, the aggregate principal payments due in any calendar year in which those bonds which are to remain outstanding mature, or in any calendar year prior thereto, shall not be increased over the aggregate amount of such principal payments due in each such calendar year immediately prior to such refunding. Refunding Bonds issued in accordance with this paragraph of this Section 7 may be issued as Additional Bonds of equal lien without compliance with the conditions set forth in Subsection 6(b) of this Ordinance.

The City may also issue refunding bonds which shall qualify as Additional Bonds of equal lien to refund the Series 2010A Bond, the Series 2010 Bond or Additional Bonds, then outstanding, provided that, if the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds then outstanding are to remain outstanding after the application of the proceeds of the refunding bonds to the payment of the bonds which are to be refunded, such issuance must comply with the Net Revenues test set forth in Subsection 6(b)(1) of this Ordinance and, if the proceeds of such refunding bonds are not to be applied immediately to the satisfaction of the bonds which are to be refunded, then such refunding bonds must provide by their terms that they shall be junior in lien to the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds outstanding at the time of issuance of such refunding bonds until the time of application of their proceeds to the satisfaction of the bonds which are to be refunded. In computing Average Annual Debt Service Requirements to show compliance with said Net Revenues test for such

refunding bonds, all payments of principal and interest due on such refunding bonds from time of their issuance to the time of application of the proceeds of such refunding bonds to the satisfaction of the bonds which are to be refunded shall be excluded from such computation to the extent that such principal and interest are payable from sources other than the revenues of the Combined Utilities, such as bond proceeds or investment earnings on bond proceeds, or from monies in the Surplus Account, and all payments of principal and interest due on the bonds which are to be refunded from and after the time of such application shall also be excluded. For purposes of this paragraph of this Section 7, the time of application of the proceeds of the refunding bonds to the satisfaction of the bonds which are to be refunded shall be the time of deposit with the paying agent for such bonds which are to be refunded pursuant to Section 10-126, R.R.S. Neb, 2007 (or any successor statutory provision thereof) or the time when such bonds which are to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner. In the event that refunding bonds are proposed to be issued at a time when the audited financial statements of the City for its Combined Utilities for the most recently completed fiscal year are not yet available, compliance with the test based upon Net Revenues as set forth in Section 6(b)(1) may be determined with reference to the Net Revenues for the most recent fiscal year for which financial statements have been issued and unaudited financial statements for the most recently completed fiscal year as certified by the City Treasurer, provided that compliance shall be determined to be shown for each such fiscal year.

Section 8. Nothing in this Ordinance shall prevent the City from issuing bonds, revenue notes, or other forms of indebtedness, the payment of principal and interest of which is a charge upon all or a portion of the revenues of the Combined Utilities, junior or inferior to the Series 2010A Bond, the Series 2010 Bond and any Additional Bonds and to the payments to be made into the Operation and Maintenance Account, the Bond Payment Account and the Bond Reserve Account described in Section 4 of this Ordinance and the City shall have the right to pay interest thereon and the principal thereof, as long as no deficiency exists in the payments into such Accounts, from funds available in the Surplus Account.

Section 9. The City of Wayne shall keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to

the Combined Utilities and the holder of the Series 2010A Bond, the holder of the Series 2010 Bond and holder or holders of any Additional Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect said Combined Utilities and all properties comprising the same. Within ninety days following the close of each fiscal year, the City shall cause an audit of such books and accounts to be made by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Combined Utilities and such audit will be available for inspection by the holders of any of the aforesaid bonds. All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City of Wayne shall furnish a copy of each such audit: (i) to the holder of the Series 2010A Bond and the holder of the Series 2010 Bond, (ii) to the initial purchaser of any series of Additional Bonds and (iii) to the holder of at least twenty-five percent (25%) of any issue of bonds outstanding, upon request, after the close of each fiscal year.

Section 10. The City Treasurer and the City Clerk shall be bonded, in addition to their official bond, by an insurance company licensed to do business in Nebraska, in such amounts as shall be determined by the Mayor and Council to be sufficient to cover at all times all the revenues and earnings of the Combined Utilities placed in their hands. Any other person employed by the City in the collection or handling of monies derived from the operation of the Combined Utilities shall also be bonded in an amount determined by the Mayor and Council sufficient to cover all monies which may at any time be placed in such person's hands. The amount of such bonds shall be fixed by the Mayor and Council and the cost thereof shall be paid from the earnings of said Combined Utilities, and they shall secure the faithful accounting of all monies.

Section 11. The City will carry adequate insurance on the Combined Utilities in such amounts as are normally carried by private companies engaged in similar operations, including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance any insurance covering such risks as shall be recommended by a consulting engineer. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense. All such insurance proceeds except from public liability insurance shall be used in making good the loss or damage in respect of which they

were paid either by repairing the property damaged or replacing the property destroyed. The proceeds of any and all policies for public liability shall be used in paying the claims on account of which they are paid.

Section 12. The City will maintain the Combined Utilities in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holder or holders from time to time of the Series 2010A Bond and the Series 2010 Bond and the holders of any Additional Bonds that the City will continue to own, free from all liens and encumbrances, except the liens and pledges provided for in this Ordinance and will adequately maintain and efficiently operate the Combined Utilities; provided, however, the City may dispose of property which is recommended for disposal by the manager or superintendent of the utilities, or an independent consulting engineer and which is determined as a matter of record by the Mayor and Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 13. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate a water or sewer plant or system in competition with the Water System and the Sewer System.

Section 14. While the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds are outstanding, the City will render bills to all customers for services of the Combined Utilities. If bills are not paid within sixty days after due, the portion of service of the Combined Utilities, for which payment is delinquent, shall be discontinued, subject to state and federal laws governing the termination of utility service. The City agrees that it will make appropriate charge for use of all properties of the City connected to the Combined Utilities.

Section 15. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes additions or alterations of any kind shall be made by the City in the provisions of this Ordinance in any manner; provided, however, that from time to time the holder of the Series 2010A Bond by an instrument in writing signed by such holder and filed with the City Clerk shall have power to assent to and authorize any modification of the rights and obligations of the City and of the holder of the Series

2010A Bond and the provisions of this Ordinance that shall be proposed by the City, and any action authorized to be taken with the assent and authority given as aforesaid of the holder of the Series 2010A Bond shall be binding upon such holder and upon the City as fully as though such action were specifically and expressly authorized by the terms of this Ordinance. Any modification of the provisions of this Ordinance shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of said City.

Section 16. So long as the Series 2010A Bond, the Series 2010 Bond or any Additional Bonds are outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this Ordinance shall be deemed to be a covenant between the City and the holders of said bonds, and this Ordinance and every provision and covenant hereof shall constitute a contract of the City with every holder from time to time of said bonds. The holder of the Series 2010A Bond, of the Series 2010 Bond or of any Additional Bond may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this Ordinance and every provision and covenant thereof including, without limiting the generality of the foregoing, the enforcement of the performance of all duties required of the City by this Ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Combined Utilities, the segregation of the revenues of the Combined Utilities and the application thereof to the respective Fund, Accounts and sub-accounts referred to and described in Section 4 of this Ordinance. Any holder of the Series 2010A Bond, of the Series 2010 Bond or of any Additional Bonds shall, after default in payment, have the right to request the appointment of a receiver for the Combined Utilities.

Section 17. The City's obligations under this Ordinance and the liens, pledges, covenants and agreements of the City herein made or provided for with respect to the Series 2010A Bond or any Additional Bonds shall be fully discharged and satisfied and any such bond shall no longer be deemed outstanding hereunder if such bond shall have been purchased and cancelled by the City or when payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof, or (b) shall have been provided for by

depositing with a national or state bank having trust powers or trust company, in trust solely for such payment, (i) sufficient money to make such payment and/or (ii) Deposit Securities in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that, with respect to the Series 2010A Bond or any Additional Bond, if it is to be paid prior to maturity, the City shall have duly given notice of redemption of such bond as provided by law or made irrevocable provisions for the giving of such notice. Any such money so deposited with a bank or trust company may be invested and reinvested in Deposit Securities and all interest and income from such Deposit Securities in the hands of such bank or trust company, in excess of the amount required to pay principal of and interest on the bond for which such monies were deposited, shall be paid over to the City as and when collected. With respect to any deposit made for purposes of satisfying the Series 2010A Bond under this Section 17, there shall be furnished to NDEQ and the Nebraska Investment Finance Authority (“NIFA”) an opinion of nationally recognized bond counsel that such deposit for payment of the Series 2010A Bond will not adversely affect the exclusion for interest from gross income for federal tax purposes on any bonds issued by NIFA to provide funds for deposit into the Nebraska Wastewater Treatment Facilities Construction Loan Fund and the furnishing of such opinion shall be a condition required to be satisfied prior to the making of any such deposit in trust for payment and satisfaction with respect to the Series 2010A Bond unless the Series 2010A Bond is to be prepaid and redeemed within 60 days from the time of such deposit.

Section 18. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 19. The Mayor and Council hereby expressly declare the intent and understanding that interest on the Series 2010A Bond shall not be excludable from gross income under the terms of Section 103 of the Code and the City as issuer shall not file any information report with respect to the issuance of the Series 2010A Bond pursuant to Section 149(e) of the Code.

Section 20. The Mayor, the City Clerk and the City Treasurer are hereby each separately authorized to act as the City's "Authorized Representative" under the terms of the NDEQ Contract.

Section 21. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 22. This Ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this 7th day of September, 2010.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

[SEAL]

Exhibit "A"

NDEQ 2010A Note

Exhibit B
NDEQ Contract

Betty McGuire - Nebraska Library Commission Funded for Library Broadband Builds Nebraska Communities Project

From: "Ryan, Mary Jo" <maryjo.ryan@nebraska.gov>
To: NLC broadband program <NLC.broadbandprogram@nebraska.gov>
Date: 09/02/2010 1:42 PM
Subject: Nebraska Library Commission Funded for Library Broadband Builds Nebraska Communities Project

The Nebraska Library Commission is pleased to announce that the U.S. Department of Commerce has awarded the Library Commission a **\$2,416,403** grant to fund Nebraska's public computer center project, *Library Broadband Builds Nebraska Communities*. The three-year project is designed to expand broadband capacity; upgrade public computing resources in libraries; and advance access to employment, learning, health information, and E-Government services. The Department of Commerce National Telecommunications and Information Administration (NTIA) Broadband Technology Opportunities Program (BTOP), funded by the American Recovery and Reinvestment Act (ARRA), provides funding to expand broadband access and adoption in communities across the U.S. and intends to increase jobs, spur investments in technology and infrastructure, and provide long-term economic benefits. In addition to the federal grant, the Bill & Melinda Gates Foundation will provide **\$1,251,786** in matching funds, including a grant and technical assistance to support the project. The total project budget is **\$3,668,189**.

Thanks to the involvement of your library and to the hundreds of letters of support we received, this grant project has become reality and we are ready to release the announcement of this award. The news release (to be released to the media today) is located on the Commission's *Library Broadband Builds Nebraska Communities* website at www.nlc.state.ne.us/lbbnc/index.html. Also on this website are a customizable news release template and a Project Fact Sheet at www.nlc.state.ne.us/lbbnc/marketing.html for you to use with local media. Since further details are not yet available, it would be good to limit your remarks to this more general information.

Additionally, Nebraska has received financial support from the Bill & Melinda Gates Foundation specifically to begin implementing our project. The first step in implementation is a Kickoff event, November 9-10 in Lincoln, to bring together our many partners and stakeholders. The *Nebraska Library Computer Centers Kickoff* will ensure a successful start to our project and support planning for the long-term sustainability of these activities. Given the broad geography and scope of our project, an in-person meeting is the best way to bring all of our partners together at the start of this effort. Library directors from all of our 140 participating libraries will receive an invitation to the Kickoff very soon. Please save the date: **November 9-10**—more details to come!

This Kickoff and other project implementation information will be discussed in **Library Computer Centers & Broadband Project Webinars** this month. Please go to www.nlc.state.ne.us/lbbnc/webinars.html to register for one of these sessions.

Thanks again for your role in helping us to successfully complete this application process. We look forward to working with you throughout this three-year project. We will keep you abreast of new information as it becomes available. See www.nlc.state.ne.us/lbbnc/contact.html for contact information.

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"If we couldn't laugh, we would all go insane," Jimmy Buffett.