

**MINUTES
CITY COUNCIL MEETING
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. Benscoter 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 Benscoter, President of Benscoter 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.