

**AGENDA  
CITY COUNCIL MEETING  
September 21, 2010**

**5:30 Call to Order**

**1. [Approval of Minutes – September 7, 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 Membership Application of Jennie Lunz to the Wayne Volunteer Fire Department — Tom Sievers, Fire Chief](#)**

**4. [Public Hearing: Regarding Contract Amendment to the Nebraska Department of Economic Development for Community Development Block Grant Project No. 09-DTR-104 \(Downtown Revitalization\) – Advertised Time: 5:30 p.m.](#)**

**Background:** The City was awarded \$250,000 for downtown revitalization activities. This public hearing is needed to move \$35,714 from streets (ADA ramps) to commercial rehab for façade improvements.

A list of the Downtown Revitalization Grant – Façade Projects is attached. Please note that the area highlighted in green is what was approved in Round 1; the area highlighted in blue is what was approved in Round 2; and the area highlighted in yellow represents the pending projects.

**5. [Action Approving Budget Amendment to the Nebraska Department of Economic Development for Community Development Block Grant Project No. 09-DTR-104 \(Downtown Revitalization\)](#)**

**Recommendation:** Approve the budget amendment so that this money can be used for commercial rehab façade improvements.

**6. [Resolution 2010-72: To Apply for Assistance from the Nebraska Game & Parks Recreational Trails Program for the Purpose of Placing Signage on Segments of the Pedestrian Trail](#)**

**Background:** Anthony Lawrence, administrative intern, has researched applying for a grant from the Nebraska Game & Parks Recreational Trails Program to place signage on segments of the Phase I Trail. This is an 80/20 matching grant.

The request is for 30 signs estimated to cost \$400 each, 5 Ipods w/ chargers and extra memory cards estimated to cost \$400 each, for a total of \$14,000. The Ipods will serve as a narration tool for people walking along the trail. In addition, there will be a cost for surveying the property, the amount of which is not known at this time.

Anthony will be at the meeting to make the presentation.

7. [Ordinance 2010-23: Amending Wayne Municipal Code Chapter 86 Vegetation, Article II Trees, Sections 86-37 Removal, 86-38 Property Owner Removal, 86-39 Required Trimming, 86-41 Acts Declared Nuisances; Notice; Abatement, and 86-43 Enforcement](#)

**Background:** Current city code requires the owners of property that abut city streets and alleys to mow the terraces along the street and half the width of the alley abutting their property. The code also authorizes the City to prune tree branches away from utility lines in the alleys. The existing code, however, does not require abutting property owners to prune back shrubs and other vegetation that are growing into the alley and impeding utility access or vehicle traffic. The added phrases will amend the code to require abutting property owners to prune back their own shrubs, trees and other vegetation from projecting into the alley and blocking traffic flow and utility access.

**Recommendation:** The recommendation of the Superintendent of Public Works & Utilities and Certified Street Superintendent is to approve the amendment.

8. [Resolution 2010-73: Approving Reimbursement of Funds Temporarily Advanced to Pay for Street and Sidewalk Improvements for the Downtown Street/Sidewalk Improvement Project](#)

**Background:** Phil Lorenzen of D.A. Davidson & Co., the City's Fiscal Agent, will be here to go over Agenda Item Nos. 8, 9, 10, and 11.

**Attachments:** Resolutions and Ordinances prepared by Phil Lorenzen.

9. [Ordinance 2010-24: Authorizing the Issuance and Sale of Bond Anticipation Notes, Series, 2010, of the Principal Amount \\$890,000 for the purpose of providing Interim Financing for a portion of the costs of Constructing Improvements in Street Improvement District No. 2010-1, and Street \(Sidewalk\) Improvement District Nos. 2010-2, 2010-3, and 2010-04 Pending the Issuance of Permanent General Obligation Bonds](#)

**Background:** This authorizes the Finance Director to secure temporary funding to build the project and then pay this funding back from the issuance of long-term municipal bonds.

10. [Resolution 2010-74: Calling Public Safety Tax Anticipation Refunding Bonds, Series 2005 \(Limited Tax Bonds\) for Redemption](#)
11. [Ordinance 2010-25: Authorizing the Issuance of Public Safety Tax Anticipation Refunding Bonds in the Principal Amount of \\$490,000 to Refund and Retire, together with funds on hand, \\$480,000](#)

Public Safety Tax Anticipation Refunding Bonds, Series, 2005,  
Dated May 15, 2005

12. Action on Contractor's Pay Estimate No. 3 for the Former Kardell Landfill Stream Restoration Project - \$29,316.55 to Gana Trucking & Excavating, Inc.

**Recommendation:** This is for work completed under contract and approved by the project engineer.

13. Action on Request for an Extension on the Well House & Municipal Well 2009-1 Project

**Background:** A request for a second extension has been received from Layne Christensen Company on the Well House & Municipal Well 2009-1 Project. The first extension request gave them until July 23, 2010, to complete the project. A copy of the request is included with this packet, along with a letter from JEO regarding the matter.

**Recommendation:** The recommendation of the Mayor, City Administrator and Superintendent of Public Works & Utilities is to deny this request.

14. Action on Application for Payment No. 9 for the Well House and Municipal Well 2009-1 Project - \$39,391.94 to Layne Christensen Co.

**Recommendation:** This is for work completed under contract and approved by the project engineer.

15. Action on Electronic Utility Bill Payment Proposal from Incode

**Background:** This electronic utility bill payment proposal is a result of Council discussions during retreat and budget work sessions. The purchase price is \$1,576, and the annual maintenance fee is \$2,352. With this proposal, the customer will pay a \$1.25 fee per transaction for paying their bill on-line.

16. Recess

- a. Convene as Community Development Agency
- b. Approve Minutes – August 17, 2010
- c. Action to Set a Price on Lot 4, Kardell Subdivision

17. Adjourn as Community Development Agency and Reconvene as Council

18. Adjourn

**APPROVED AS TO FORM AND CONTENT:**

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Mayor

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City Administrator

**Planning Commission Meeting Minutes - August 2, 2010**

September 7, 2010

The Wayne City Council met in regular session at City Hall on Tuesday, September 7, 2010, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Doug Sturm, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Jon Haase, Dale Alexander and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August 26, 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 Sturm made a motion and seconded by Councilmember Van Delden, whereas the Clerk has prepared copies of the Minutes of the meetings of August 17, 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:

**VARIOUS FUNDS:** ALARM PROS, SE, 79.13; AMERITAS, SE, 2183.56; APPEARA, SE, 101.18; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 195.00; CITY EMPLOYEE, RE, 124.88; CITY EMPLOYEE, RE, 675.53; BLACK HILLS ENERGY, SE, 379.81; BOMGAARS, SU, 838.22; CITY EMPLOYEE, RE, 292.90; CITY EMPLOYEE, RE, 133.74; BROWN SUPPLY, SU, 211.22; CITY EMPLOYEE, RE, 96.24; CHARLOTTE ENDORF, SU, 55.00; CITY OF NORFOLK, SE, 94.90; CITY OF WAYNE, RE, 200.00; CITY OF WAYNE, RE, 1500.00; CITY OF WAYNE, PY, 64972.37; CITY OF WAYNE, RE, 60.00; CITY OF WAYNE, RE, 1086.51; CLAUSSEN & SONS IRRIG., SE, 1570.39; CLAYTON BRATCHER, RE, 500.00; COLONIAL RESEARCH, SU, 116.00; COMMUNITY HEALTH, RE, 4.00;

CONNEY SAFETY PRODUCTS, SU, 112.74; COPY WRITE PUBLISHING, SU, 536.84; CUMING CO. COURT, RE, 300.00; DAVE SWANSON, SE, 62.80; DE LAGE LANDEN FINANCIAL, SE, 77.00; DITCH WITCH, SE, 179.43; CITY EMPLOYEE, RE, 117.78; CITY EMPLOYEE, RE, 130.62; EAKES OFFICE PLUS, SU, 279.00; ECHO GROUP, SU, 88.50; EISCHEID ARTIFICIAL RAIN, SE, 64.25; ELLIS PLUMBING & HEATING, SE, 959.34; FIRST CONCORD GROUP, SE, 3824.78; FLOOR MAINTENANCE, SU, 279.45; FORT DEARBORN LIFE, SE, 1698.27; GEMPLER'S INC, SU, 70.92; GERHOLD CONCRETE, SU, 37.75; GUTTER CREW, SE, 140.00; CITY EMPLOYEE, RE, 291.48; HAUFF MID-AMERICAN SPORTS, SU, 107.00; HEGGEMEYER, LOWELL, RE, 39.80; ICMA, RE, 5524.24; INGRAM BOOK COMPANY, SU, 349.51; IRS, TX, 20154.74; JEO CONSULTING GROUP, SE, 11924.74; JIM'S SMALL ENGINE REPAIR, SE, 12.50; CITY EMPLOYEE, RE, 412.77; JV BRUMMELS, RE, 500.00; KIRKHAM MICHAEL, SE, 3010.00; KRIZ-DAVIS, SE, 1323.24; LAYNE CHRISTENSEN, SE, 12247.84; CITY EMPLOYEE, RE, 131.87; LOVE SIGNS, SE, 216.60; MARK LEWON, RE, 500.00; CITY EMPLOYEE, RE, 284.86; MERCY MEDICAL CLINICS, SE, 28.00; MICROFILM IMAGING SYSTEMS, SE, 757.91; MIDLAND EQUIPMENT, SU, 212.87; N.E. NEB ECONOMIC DEV DIS, SE, 1590.00; NATIONAL McGRUFF HOUSE, SU, 32.14; NE DEPT OF ENVIRONMENTAL QUALITY, FE, 500.00; NE DEPT OF REVENUE, TX, 2881.12; NE DEPT OF ROADS, FE, 500.00; NMPP ENERGY, SE, 1382.50; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 2168.39; NORTHWEST ELECTRIC INC., SE, 125.00; OFFICEMAX, SU, 52.91; OMAHA PAPER COMPANY, SU, 1944.50; OTTE, GERALD, RE, 193.56; PAMIDA, SU, 141.65; PIEPER, MILLER & DAHL, SE, 4407.00; CITY OF WAYNE, RE, 92.91; PUSH-PEDAL-PULL, SE, 63.31; QUILL, SU, 123.30; QWEST, SE, 431.26; QWEST, SE, 187.71; REHAB SYSTEMS, SE, 16146.20; RODNEY HEFTI, RE, 500.00; RYAN HOBZA, RE, 500.00; CITY OF WAYNE, RE, 150.00; CITY EMPLOYEE, RE, 566.22; SIMPLEXGRINNELL, SE, 794.00; SIOUX CITY JOURNAL, SU, 156.00; STADIUM SPORTING GOODS, SU, 67.50; STANLEY SECURITY SOLUTION, SU, 284.43; STATE NATIONAL BANK, RE, 2000000.00; STATE NATIONAL BANK, RE, 99.71; STEVE HARRIS CONSTRUCTION, SE, 24295.72; SUTTON, TIM, RE, 500.00; TERRACON CONSULTANTS, SU, 2300.00; TONI HYTREK, RE, 500.00; TYLER TECHNOLOGIES, SE, 13607.25; UNITED WAY, RE, 32.32; VAN DIEST SUPPLY, SU, 276.70; VERIZON, SE, 494.99; VIAERO, SE, 135.57; CITY EMPLOYEE, RE, 847.35; VOSS LIGHTING, SU, 1523.41; WAED, RE, 278.00; WAYNE COMMUNITY SCHOOLS, RE, 2440.00; WAYNE COUNTY COURT, RE, 400.00; CITY EMPLOYEE, RE, 60.00; ZACH HEATING & COOLING, SE, 748.20; ZACH OIL, SU, 4981.19; CITY EMPLOYEE, RE, 584.20; BARONE SECURITY SYSTEMS, SE, 180.00; CITY EMPLOYEE, RE, 49.82; BROWN SUPPLY, SU, 1032.77; JASON CAROLLO, SE, 175.00; CHARTWELLS, SE, 5922.35; COPY WRITE PUBLISHING, SE, 1.20; DUTTON-LAINSON, SU, 516.32; EASYPERMIT POSTAGE, SU, 1110.19; ECHTENKAMP, DOUGLAS, RE, 484.62; CITY EMPLOYEE, RE, 126.62; FREDRICKSON OIL, SE, 307.50; GERHOLD CONCRETE, SU, 191.98; GILL HAULING, SE, 3490.40; GREAT PLAINS ONE-CALL, SE, 113.77; HARDING & SHULTZ, SE, 3315.72; HAWKINS, SU, 1141.06; HEIKES AUTOMOTIVE SERVICE, SE, 69.23; HYTREK LAWN SERVICE, SU, 37.00; CITY EMPLOYEE, RE, 836.67;

CITY EMPLOYEE, RE, 83.00; CITY EMPLOYEE, SU, 211.21; KENT'S PHOTO LAB, SE, 13.49; CITY EMPLOYEE, RE, 1437.86; N.E. NEB ECONOMIC DEV DIS, SE, 325.00; NIAGARA CONSERVATION CORP, SU, 858.35; PAC N SAVE, SU, 42.10; PAMIDA, SU, 140.34; PEPSI-COLA, SU, 116.03; PLUNKETT'S PEST CONTROL, SU, 181.60; PRESTO X, SE, 32.91; QWEST, SE, 1174.89; S & S WILLERS, SU, 693.24; SIOUX CITY JOURNAL, SU, 156.00; STATE NATIONAL BANK, SE 49.77; ULTRAMAX AMMUNITION, SU, 995.00; VELLVIN TEMME, RE, 500.00; WASTE CONNECTIONS, SE, 46.70; WAED, SE, 750.00; WAYNE COUNTY CLERK, SE, 16.50; WAYNE GRAIN & FEED, SE, 315.00; WAYNE HERALD, SE, 1329.90; WAYNE VETERINARY CLINIC, SE, 224.00

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

Mayor Shelton advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, she advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Councilmember Berry arrived at 5:33 p.m.

Wes Blecke, representing the Wayne State College Student Senate, was requesting Council consideration to close the east half of First Street from Main Street to the alley for a street dance they want to sponsor on Friday, September 10, 2010, from 5:00 p.m. until 2:00 a.m. The beer garden will be located on the street with a double fence around it. The actual dance will be in Godfather's parking lot. This is an event to help bring the college students and the community together.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the request of the Wayne State College Student Senate to close

the east half of First Street from Main Street to the alley for a street dance they are sponsoring on Friday, September 10, 2010, from 5:00 p.m. until 2:00 a.m. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

A request was received from Greg VanderWeil for Council consideration to allowing them to close off the east end of 10<sup>th</sup> Street from Providence Road to Hillside Drive (First Bank Card Center) for an electric vehicle car rally on Saturday, October 2, 2010, from 6:30 a.m. until 5:00 p.m. OPPD and NPPD will be providing the required \$1,000,000 liability insurance coverage and naming the City as an additional insured.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving the request of Greg VanderWeil to close off the east end of 10<sup>th</sup> Street from Providence Road to Hillside Drive (First Bank Card Center) for an electric vehicle car rally on October 2, 2010, from 6:30 a.m. until 5:00 p.m. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector/Planner, gave a presentation on the Groundwater Guardian Green Site Designations. Wayne has two Groundwater Guardian Green Sites – Bressler Park and the Summer Sports Complex. The Groundwater Foundation gave the City two plaques to honor those two sites.

Administrator Johnson stated a pay request has been received from Robert Woehler & Sons Construction for the Muhs Acres Water Main Extension Project in the amount of \$18,181.18. The engineer on the project has approved the same.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving Certificate of Payment No. 5 for the Muhs Acres Water Main

Extension Project in the amount of \$18,181.18 for Robert Woehler & Sons 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 pay request has been received from Eriksen Construction Co. for the 2009-2010 Wastewater Treatment Facility Improvement Phase I Project in the amount of \$119,250.00. The engineer on the project has approved the same.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm approving Application for Payment No. 1 for the 2009-2010 Wastewater Treatment Facility Improvement Phase I Project in the amount of \$119,250.00 for Eriksen Construction Co. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Agenda Item No. 8 – Action on Request for an Extension on the Well House and Municipal Well 2009 Project was postponed until the next meeting.

The following Resolution would approve the agreement with American Broadband to provide telephone service to City offices and facilities. The agreement would be for three years. American Broadband agrees to credit the City for the penalty that will be assessed by Qwest for opting out of our current agreement with them.

Jay Anderson and Cory Sandoz, representing America Broadband, were present to answer questions.

Councilmember Sturm introduced Resolution No. 2010-68 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2010-68

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

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

Administrator Johnson stated bids for the Benscoter Addition Phase 1 Paving & Utility Improvement Project were opened on September 2<sup>nd</sup>. The apparent low bidder for the paving portion of said project is Sioux City Engineering in the amount of \$281,734. The apparent low bidder for the water and sewer portion of said project is Benscoter Plumbing in the amount of \$98,341.25. Olsson Associates has reviewed the bids and recommends that the project be awarded to these two low bidders. The recommendation of the City's Fiscal Agent is to accept the bids and award the contracts subject to no objections being received and to not execute any contracts or the notice to proceed until on or after September 22<sup>nd</sup>. The financing for this project will be by way of bonds and tax increment financing.

Councilmember Sturm had concerns about the contractor for the water and sewer project getting the work done in a timely manner in light of the fact that time is of the essence for the hotel project. Lou Benscoter of Benscoter Development stated he will be hiring Sioux City Engineering to do the water and sewer improvements on Tomar Drive.

Councilmember Sturm introduced Resolution No. 2010-69 and moved for its approval subject to there being no objections to the improvement districts; Councilmember Chamberlain seconded.

RESOLUTION NO. 2010-69

A RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACTS ON THE "BENSCOTER ADDITION PHASE 1 PAVING & UTILITY

IMPROVEMENTS, WAYNE, NEBRASKA, 2010 PROJECT.”

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 on the proposed FY2010-2011 budget.

The total of the FY2010-2011 budget is \$37,905,847. The property tax proposal for the General Fund operation is \$626,275, which compares to the 2009 tax asking of \$628,525. Pursuant to State Law, the maximum levy for a municipality is \$0.45 per \$100 of property valuation. When combined with the debt service asking, the combined amount for the proposed budget year is \$718,525 or \$.0406868 per \$100 of property valuation. The valuation in the community, as reported by the County Assessor for 2010 is \$176,598,938.

City Clerk McGuire had not received any communication, written or verbal, for or against this public hearing.

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

Discussion took place in regard to amending the budget to allow for a cost of living increase to the employees. This could be done at a later date.

Councilmember Sturm introduced Ordinance 2010-21, and moved for its approval; Councilmember Ley seconded.

#### 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; TO PROVIDE FOR AN EFFECTIVE DATE.

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

Councilmember Chamberlain made a motion and Councilmember Ley 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 Ley seconded to move for final approval of Ordinance No. 2010-21. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The base year started in 1998. The restricted funds are the property taxes, payments in lieu of property taxes, local option sales taxes, motor vehicle taxes, state aid, transfers of surpluses from any user fee, and any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements, but which were not spent and are not expected to be spent for capital improvements. Cities are given the opportunity to increase the base limitation of the restricted funds budget by 1%. The State Auditor is also recommending that entities pass this 1% increase.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the allowable 1% increase in base limitation of the restricted funds budget. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Chamberlain introduced Resolution 2010-70, and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2010-70

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

Councilmember Chamberlain requested Finance Director Nancy Braden to prepare a budget amendment with a 1% cost of living increase for employees.

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

Mayor Shelton declared the time was at hand for the public hearing regarding the tax asking/property tax levy.

To support the proposed general operating and debt service budgets for the City and the Airport Authority, a total property tax levy of \$.452198 per hundred dollars of property value is included. The levy equates to a tax request of \$718,525. Last year's tax levy was \$.408985 per hundred dollars of valuation; this year it is \$.406868, excluding the airport.

City Clerk McGuire had not received any communication, written or verbal, for or against this public hearing.

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

The following Resolution would approve the final property tax request of \$718,525. This Resolution does not include the airport levy.

Councilmember Ley introduced Resolution 2010-71, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2010-71

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

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 ordinance would authorize the issuance of bonds to pay the costs of the new wastewater treatment facility.

Councilmember Sturm introduced Ordinance No. 2010-22, and moved for its approval; Councilmember Chamberlain seconded.

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.

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 Ley seconded to move for final approval of Ordinance No. 2010-22. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Action on Resolution 2010-62 – Approving Interlocal Agreement with Wayne County for Responsible Charge Services was postponed until the next meeting.

Mayor Shelton requested Council consideration to the following appointments to the Board of Appeals: Dave Shelton, Dave Hix, Don Buryanek, and Shelly Myers.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving the appointments of Dave Shelton, Dave Hix, Don Buryanek, and Shelly Myers to the Board of Appeals. 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 seconded by Councilmember Chamberlain to adjourn the meeting. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:25 p.m.

## CLAIMS LISTING SEPTEMBER 21, 2010

AMAZON	BOOKS	113.28
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,138.57
APPEARA	MAT & TOWEL SERVICE	64.65
BAKER & TAYLOR BOOKS	BOOKS	671.86
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	195.00
BEHLEN MFG CO	RETURN BENCH/TRASH CANS	7,287.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	150.96
BIG T ENTERPRISES, INC	BATTERIES	505.88
BLACK HILLS ENERGY	PIPING TO WESTERN RIDGE	2,267.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	59.95
CITY EMPLOYEE	HEALTH REIMBURSEMENT	103.38
CARHART LUMBER COMPANY	BATTERIES/TRAFFIC PAINT/WASHER ETC	652.41
CITY OF NORFOLK	INSPECTION FEES	388.30
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	250.00
CITY OF WAYNE	PAYROLL	56,885.10
CITY OF WAYNE	REFUND FIRE HALL RENTAL/DEPOSIT	530.00
CITY OF WAYNE	REFUND PARKING TICKET OVERPAYMENT	15.00
COMMUNITY HEALTH	HEALTH CHARITIES	4.00
COUNTRY NURSERY INC	EDGING/PLASTIC/STAKES LIB/SR	23.00
CULLIGAN WATER OF NE	WATER FILTER RENTAL	43.95
DAKOTA BUSINESS SYSTEMS	LIBRARY COPIER EQUIPMENT LEASE	101.50
DAVE'S UNIFORM CLEANING	POLICE UNIFORM CLEANING	111.00
DE LAGE LANDEN FINANCIAL	CH COPIER LEASE	394.00
DEMCO INC	BOOK REPAIR ITEMS	481.93
CITY EMPLOYEE	HEALTH REIMBURSEMENT	286.18
CITY EMPLOYEE	HEALTH REIMBURSEMENT	130.56
ECHO GROUP INC JESCO	ELEMENT FUSES	61.00
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	39.59
ED M FELD EQUIPMENT INC	BUNKER GEAR	501.90
ERIKSEN CONSTRUCTION CO,	WASTEWATER TREATMENT PLANT	119,250.00
FLOOR MAINTENANCE	FILTER FOR VACUUM	139.42
FORT DEARBORN LIFE	LIFE/DISABILITY INSURANCE MAY/SEPT	3,207.56
FREDRICKSON OIL CO	OIL	1,653.00
GANZEL GROUP	DVD'S	26.75
GERHOLD CONCRETE CO INC.	EAST PARK CONCRETE	37.75
CITY EMPLOYEE	HEALTH REIMBURSEMENT	176.21
HD SUPPLY WATERWORKS, LTD	WATER METERS	700.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	131.03
CITY EMPLOYEE	HEALTH REIMBURSEMENT	4,340.45
HIRERIGHT SOLUTIONS INC	COLLECTION FEE	20.00
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,524.24
IRS	FEDERAL WITHHOLDING	18,352.21
JANWAY COMPANY	PENCILS	143.47
JOHN'S WELDING AND TOOL	COOLANT PIPE PATCH LEAK	160.00
K & M SEEDS	GRASS SEED -WESTERN RIDGE	390.00

KRIZ-DAVIS COMPANY	SHIPPING ON SHORTAGE/PVC	94.85
KTCH AM/FM RADIO	RADIO ADS	605.00
MAIN STREET AUTO CARE	ALIGNMENT	71.21
MATT FRIEND TRUCKING	HEAD LIGHT REPAIR	49.00
MERCY MEDICAL CLINICS	COLLECTION FEE	28.00
MIDWEST LABORATORIES, INC	BOD TESTING	130.55
MIDWEST TAPE LLC	DVD'S/AUDIO BOOKS	453.46
MSC INDUSTRIAL	CAR GREASE	98.20
NE DEPT OF REVENUE	STATE WITHHOLDING	2,708.76
NEBR PUBLIC POWER DIST	ELECTRICITY	332,771.14
NORTHEAST EQUIPMENT	OIL/BEARINGS/LEAF BLOWER/STRING TRIM	537.07
NORTHEAST LIBRARY SYSTEM	ANNUAL MEETING REGISTRATION	45.00
NORTHEAST NE PUBLIC POWER	WHEELING CHARGES	11,634.98
NORTHWEST ELECTRIC INC.	REPLACE VFD FOR WELL 6	7,766.90
PRESTO X COMPANY	PEST CONTROL	44.29
CITY EMPLOYEE	HEALTH REIMBURSEMENT	1,802.72
PROPERTY EXCHANGE PARTNER	LIGHTING EFFICIENCY	100.00
QUALITY FOODS CENTER	SENIOR CENTER MEALS	213.37
QWEST	TELEPHONE CHARGES	139.65
ROBERT WOehler & SONS	MUHS ACRES WATER MAIN EXT	18,181.18
ROBERTSON IMPLEMENT CO	BELT/IDLER	149.86
CITY EMPLOYEE	HEALTH REIMBURSEMENT	3,435.49
CITY EMPLOYEE	MILEAGE REIMBURSEMENT	150.50
SIRCHIE FINGER PRINT LAB	EVIDENCE BAGS	359.84
SPARKLING KLEAN	JANITORIAL SERVICES/SUPPLIES	1,460.97
STADIUM SPORTING GOODS	VOLLEYBALL/YOUTH FOOTBALL SHIRTS	782.75
STATE NATIONAL BANK	LIBRARY PETTY CASH	112.90
STATE NATIONAL BANK	SERIES 2006 INTEREST	64,840.00
ULINE	CD ENVELOPES	160.57
US BANK	CONFERENCE/MEALS/GAS/STORAGE MEDIA	1,803.47
WAYNE AREA ECONOMIC DEVEL	SEPT 10 CONTRIBUTION	6,383.33
WAYNE AUTO PARTS	ROTOR/LAMPS/SEALS/BEARINGS/WIRE ETC	898.01
WAYNE COMMUNITY SCHOOLS	YEARBOOK AD	80.00
WAYNE COUNTY COURT	BOND	300.00
WAYNE HERALD	REC/CAC ADS	522.00
WAYNE STATE COLLEGE	LIGHTING EFFICIENCY	2,160.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	104.49
WESCO DISTRIBUTION INC	METER SOCKET/STRAP	484.59
WESTERN AREA POWER ADMIN	ELECTRICITY	32,407.92
WHELEN ENGINEERING CO INC	TONE DECODER REPAIR	83.35

VOID FROM ADDITION TO CLAIMS 9/7/10

CITY EMPLOYEE- CLOTHING REIMBURSEMENT \$83.00

WAYNE VOLUNTEER FIRE DEPARTMENT  
And Rural Fire District No. 2  
510 Tomar Drive, Wayne, NE 68787

APPLICATION FOR MEMBERSHIP

This form is to be completed by the Applicant and filed with the Secretary at a regular meeting of the Wayne Volunteer Fire Department.

Name Jennie Lunz Address 1106 Douglas St  
Phone Number 369-0158 Social Security # 508-96-3455

Employer Northstar Services Occupation DSS  
How long have you been employed by your present employer? 13 yr  
Previous Employer and Address R-Way -

Have you previously been a member of a Fire Department? yes Wakefield  
If so, give the name of the fire department, your rank and positions held. If applicable, identify any related credentials and record of training. EMT B, Co-Captain Rescue 3 yrs

♀ EMTAS-00700 - fema 15-00100-FW, fema-15-00200-FW, IV Therapy, Albuterol/neb Therapy

Do you have any physical ailments or disabilities that could affect your performance on the department?  
None

- As a member of this department, you will be required to give freely of your time to attend fire calls, meetings, drills, serve and provide leadership on committees, and participate in community events and fundraising activities. Do you agree to this? Y
- There is a 30-day waiting period from the date of this application until the Department formally acts upon this request. Do you agree to this? Y
- Have you read the Bylaws of the Department, and do you understand them? Y Do you agree to abide by them? Y
- The applicant must understand that if accepted for membership he/she will be placed on probation for a six-month period. During that time, he/she must meet certain criteria as stated in the Bylaws and follow the Standard Operating Guidelines.

Applicant's Signature Jennie Lunz Date 8-2-2010

Sponsor's Signature (if applicable) Brook R. Webb Date 8-2-2010

.....  
I agree to a background check with information provided by the Wayne Police Department.

Applicant's Signature Jennie Lunz Date 8-2-2010

We, the undersigned representing the Standing Membership Committee, having investigated the background of the applicant, feel that he/she would be an asset to the Department and hereby recommend him/her for membership.

Julie Melan Sarah Lusk Mark Miller  
Secretary's Signature \_\_\_\_\_ Date \_\_\_\_\_

Chief's Signature Tom Giv Date \_\_\_\_\_

.....  
Council approved on \_\_\_\_\_ certified by City Clerk \_\_\_\_\_

.....  
For record purposes only: Date of Birth 5-12-1964 revised February 4, 2006

## CDBG CONTRACT AMENDMENT REQUEST FORM

**This form must be completed and submitted to the Nebraska Department of Economic Development when making a contract amendment request. All attachments identified under the applicable amendment type must be submitted along with this form.**

CDBG Grant # 09-DTR-104 CDBG Grantee City of Wayne

DED Program Representative Kevin Anderson

Person Completing this form Name Lisa Hurley

Contact Number 402-379-1150 Ext. 110

Email lisa@nenedd.org

**Complete the sections for each type of amendment requested and submit this form, along with the required attachments, to the Department.**

**Extension of Contract End Date**

Original Contract End Date \_\_\_\_\_

Current Contract End Date including any previously approved extensions \_\_\_\_\_

Proposed Contract End Date \_\_\_\_\_

Required Attachments

Attachment 1: A letter from the Chief Elected Official stating the following:

1. Certification that the local governing body has approved the extension;
2. Identification and reasons for the proposed amendment; including
  - a. Changes to the nature of the project requiring the amendment;
  - b. Steps being taken to avoid any future amendment requests for the same reasons.
3. If additional local matching funds are required as a result of this extension, certification that such funds are available.

Attachment 2: A revised implementation schedule showing when major milestones will be completed for each activity.

**Decrease in proposed accomplishments**

Original Proposed Accomplishments \_\_\_\_\_ Current Proposed Accomplishments \_\_\_\_\_

Required Attachments

Attachment 1: A letter from the Chief Elected Official stating the following:

1. Certification that the local governing body has approved the decrease in proposed accomplishments;
2. Identification and reasons for the proposed amendment; including
  - a. Changes to the nature of the project requiring the amendment;
  - b. Steps being taken to avoid any future amendment requests for the same reasons.
3. If additional local matching funds are required as a result of this decrease, certification that such funds are available.

Attachment 2: A revised implementation schedule showing when major milestones will be completed for each activity.

**Amendment to Housing Program Guidelines**

Required Attachments

Attachment 1: Letter from the Chief Elected Official stating the following:

1. Certification that the local governing body has approved the amendment to the housing program guidelines;
2. Identification and reasons for the proposed amendment;
3. If additional local matching funds are required as a result of this amendment, certification that such funds are available.

Attachment 2: If the housing program guidelines amendment will affect major milestones, a revised implementation schedule showing when major milestones will be completed for each activity.

Attachment 3: A complete copy of the proposed revised housing program guidelines.

**Budget Amendment**

Original Contract Budget Approved

Activity Name	Activity Number	CDBG Funds	Other Funds	Total Funds
Streets	230	\$144,800	\$249,600	\$394,400
Comm. Reha	590	\$90,200	\$0	\$90,200
General Admin	181	\$15,000	\$0	\$15,000
<b>Total</b>		<b>\$250,000</b>	<b>\$249,600</b>	<b>\$499,600</b>

Proposed Budget After Amendment

Activity Name	Activity Number	CDBG Funds	Other Funds	Total Funds
Streets	230	\$88,800	\$249,600	\$338,400
Comm. Rehab	590	\$146,200	\$0	\$146,200
General Admin	181	\$15,000	\$0	\$15,000
<b>Total</b>		<b>\$250,000</b>	<b>\$249,600</b>	<b>\$499,600</b>

Attachment 1: Letter from the Chief Elected Official including:

1. Certification that the local governing body has approved the budget amendment;
2. Identification and reasons for the proposed budget amendment; including
  - a. Changes to the nature of the project requiring the amendment;
  - b. Steps being taken to avoid any future amendment requests for the same reasons.
3. If additional local matching funds are required as a result of this amendment, certification that such funds are available.
4. If the amendment includes a new activity, certification that the activity meets the national objective.

Attachment 2: Minutes from the public hearing held on the proposed amendment (required if reallocating more than 10% of the total original grant amount).

Attachment 3: If the budget amendment will affect major milestones, a revised implementation schedule showing when major milestones will be completed for each activity.

Attachment 4: Certification of re-evaluation of the environmental assessment (this form is included in the CDBG Administration Manual Chapter 6: Environmental Review).

DED Use Only	
Date amendment request received	
Date amendment approved/denied	

**City of Wayne  
Downtown Revitalization Grants  
FAÇADE PROJECTS**

First Round Awards	Percentage of Match				Unused grant funds	
	Total Budget	Grant \$	Private \$	Expended		Grant \$
Antiques on Main	\$ 21,495.00	\$ 10,000.00	\$ 11,495.00	\$ 3,363.00	\$ 1,564.00	\$ 8,436.00
Christian Book	\$ 5,500.00	\$ 4,100.00	\$ 1,400.00	\$ 4,927.00	\$ 3,673.00	\$ 427.00
Community Theatre	\$ 17,818.50	\$ 16,100.00	\$ 1,718.50	\$ 17,818.15	\$ 16,100.00	\$ -
Open - client declined		\$ 10,000.00				\$ 10,000.00
McAfee Insurance	\$ 13,800.00	\$ 10,000.00	\$ 3,800.00	\$ 10,155.00	\$ 10,000.00	\$ -
Movie Theatre/Majestic	\$ 64,900.00	\$ 10,000.00	\$ 54,900.00	84.59%		\$ 10,000.00
Peterson Therapy	\$ 21,000.00	\$ 10,000.00	\$ 11,000.00	52.38%	\$ 9,122.20	\$ 877.80
Sand Creek	\$ 18,000.00	\$ 10,000.00	\$ 8,000.00	44.44%	\$ 10,000.00	\$ -
Tom Hansen	\$ 21,640.00	\$ 10,000.00	\$ 11,640.00	53.79%	\$ 4,397.00	\$ 5,603.00
<b>Totals</b>	<b>\$ 184,153.50</b>	<b>\$ 90,200.00</b>	<b>\$ 103,953.50</b>		<b>\$ 84,188.56</b>	<b>\$ 35,343.80</b>

When weather clears up contractor will do work done  
done/refund of \$2,796.30 due from McAfee  
In progress  
done  
done  
Still waiting on contractor for more work

**ADA PROJECTS**

Movie Theatre - ADA	\$ 10,000.00	\$ 10,000.00	\$ -			\$ 10,000.00	In progress
---------------------	--------------	--------------	------	--	--	--------------	-------------

sidewalk ADA bids Grant  
\$ 109,085.52  
\$ 144,800.00

\$ 35,714.48 This includes the \$10,000 for the Movie Theatre-ADA  
\$ 10,000.00  
\$ 25,714.48 Funds available for remaining projects

Second Round Awards	Percentage of Match				Unused grant funds	
	Total Budget	Grant \$	Private \$	Expended		Grant \$
Lindner	18700	7000	11700	62.57%		
Gemstone	7586	3000	4586	60.45%		
<b>Totals</b>	<b>\$ 26,286.00</b>	<b>\$ 10,000.00</b>	<b>\$ 16,286.00</b>		<b>\$ -</b>	<b>\$ -</b>

Remaining Projects	Percentage of Match				Unused grant funds	
	Total Budget	Grant \$	Private \$	Expended		Grant \$
Lindner	11700	3000	8700	74.36%		
Gemstone	4586	2613	1973	43.02%		
Wayne Community Theatre	14800	10000	4800	32.43%		
Midwest Land	3950	1950	2000	50.63%		
Main Street Auto	14350	10000	4350	30.31%		
Swans Apparel	3443	2582.25	860.75	25.00%		
Wayne Economic Development	3958	2900	1058	26.73%		
<b>Totals</b>	<b>\$ 56,787.00</b>	<b>\$ 33,045.25</b>	<b>\$ 23,741.75</b>		<b>\$ -</b>	<b>\$ -</b>

**RESOLUTION NO. 2010-72**

**A RESOLUTION TO APPLY FOR ASSISTANCE FROM THE NEBRASKA GAME AND PARKS RECREATIONAL TRAILS PROGRAM FOR THE PURPOSE OF PLACING SIGNAGE ON SEGMENTS OF THE PEDESTRIAN TRAIL.**

WHEREAS, the City of Wayne, Nebraska, is applying for federal assistance from the Recreational Trails Program for the purpose of placing signage on segments of the "Pedestrian" Trail; and

WHEREAS, the City Administrator of Wayne, Nebraska, is authorized to sign the application for federal assistance, and any other official project documents that are necessary to obtain such assistance, including any agreements, contracts or other documents that are required by the State of Nebraska or the Federal Highway Administration; and

WHEREAS, the City of Wayne, Nebraska, currently has the written commitment for the 20% local matching share for the project elements that are identified on the application form and the supplemental documents and will, as it becomes necessary, allocate the local funds for the project; and

WHEREAS, the City of Wayne, Nebraska, will commit the necessary financial resources to operate and maintain the completed project in a safe and attractive manner for 25 years; and

WHEREAS, the City of Wayne, Nebraska, will not discriminate against any person on the basis of race, color, age, religion, disability, sex or nation origin in the use of any property or facility that is acquired or developed pursuant to the project proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, and any of the regulations promulgated pursuant to such Act; and

WHEREAS, the City of Wayne, Nebraska, will comply with all rules and regulations of the Recreational Trails Program, applicable Executive Orders and all state laws that govern the grant applicant during the performance of the project; and

WHEREAS, the City of Wayne, Nebraska, will comply with the Federal disability access and use standards where they can be reasonably applied, in accord with the American with Disability Act of 1991; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the City of Wayne applies for assistance from the Nebraska Game and Parks Recreational Trails Program for the purpose of placing signage on segments of the "Pedestrian" Trail.

PASSED AND APPROVED this 21<sup>st</sup> day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2010-23**

**AN ORDINANCE AMENDING THE WAYNE MUNICIPAL CODE. CHAPTER 86, ARTICLE III, SECTIONS 86-37 REMOVAL; 86-38 PROPERTY OWNER REMOVAL; 86-39 REQUIRED TRIMMING; 86-41 ACTS DECLARED NUISANCES; NOTICE; ABATEMENT; AND 86-43 ENFORCEMENT; TO PROVIDE FOR THE REPEAL OF CONFLICTING SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE**

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

Section 1. That Chapter 86, Article III, Sections 86-37, 86-38, 86-39, 86-41 and 86-43 of the Wayne Municipal Code are hereby amended to read as follows:

**Sec. 86-37. Removal**

The **Superintendent of Public Works & Utilities or his duly authorized agent** shall remove any tree, **hedge, or bush, etc.**, on the right-of-way, streets **or alleys** within the city which interferes with the making of improvements or with travel.

**Sec. 86-38. Property owner removal**

Whenever the limbs or branches of any tree, **hedge, or bush, etc.**, extend over sidewalks, streets **or alleys** contrary to the provisions of this Code so as to interfere with the convenience of the public using the sidewalks, streets, **or alleys** or whenever trees, **hedges, or bushes, etc.**, have become diseased or damaged or whenever such trees, **hedges, bushes, etc.**, constitute a danger to the public or have been declared a nuisance, the **Superintendent of Public Works & Utilities or his duly authorized agent** shall serve written notice to abate such nuisance upon the abutting owner, ordering the removal and abatement thereof as provided in section 86-43.

**Sec. 86-39. Required trimming**

The owner or agent of the abutting property shall keep the trees, **hedges, or bushes, etc.**, on or overhanging the street **or alley** trimmed so that all branches shall be at least 12 feet above the surface of the street **or alley** and seven feet above the sidewalks; however, the city reserves the right to trim and maintain a tree, **hedge, or bush, etc.**, maintenance program.

**Sec. 86-41. Acts declared nuisances; notice; abatement**

It is declared a nuisance for any person who is required to maintain trees, **hedges, or bushes, etc.**, on any property to allow or permit to stand upon the property any dead tree, **hedge, or bush, etc.**, or dead part of a tree, **hedge, bush, stump**, or any diseased or damaged tree, **hedge, or bush, etc.**, or any diseased or damaged part of a tree, **hedge, or bush, etc.**, or any healthy tree, **hedge, or bush, etc.**, or to allow branches below 12 feet above the surface of the street and below seven feet above the sidewalk when such trees, **hedges, or bushes, etc.**, constitute a hazard to life and property or constitute a potential threat to other trees, **hedges, or bushes, etc.**, within the city. Any such tree, **hedge, or**

**bush, etc.,** or part of a tree, **hedge, or bush, etc.,** on public or private property, meeting the criteria stated in this section, may be declared to be a nuisance by the **Superintendent of Public Works & Utilities or his duly authorized agent.**

#### **Sec. 86-43. Enforcement**

- (a) The proper execution and enforcement of the provisions of this article are made the duty of the **Superintendent of Public Works & Utilities or his duly authorized agent.** To that end, the **Superintendent of Public Works & Utilities or his duly authorized agent** may enter upon public or private property at all reasonable hours for purposes of inspecting trees, **hedges, or bushes, etc.,** thereon. It shall be unlawful for any person to prevent the **Superintendent of Public Works & Utilities or his duly authorized agent** from entering on public or private property for purposes of carrying out the duties under this article, or to interfere with the **Superintendent of Public Works & Utilities** in the lawful performance of the duties under the provisions of this article.
- (b) The **Superintendent of Public Works & Utilities or his duly authorized agent** shall notify the person required to maintain property pursuant to this article of any nuisance as described in this article. The notice shall require the owner to abate such nuisance within 30 days from the date thereof.
- (c) The **Superintendent of Public Works & Utilities or his duly authorized agent** shall have the power and is authorized and instructed, after the expiration of 30 days from the date of notice sent by certified mail or personal service, to determine if compliance to abate a nuisance has been attained. If compliance has not been made, the city shall abate such nuisance by causing such trees, **hedges, or bushes, etc.,** ~~to shrubs~~ which are deemed to be a nuisance under this article to be removed or pruned at the expense of the owner of the land whereon the trees, **hedges, or bushes, etc.,** ~~and shrubs~~ stand or the terrace abutting thereto. If the owner fails to reimburse the city after being billed, the cost of such abatement together with a \$30.00 administrative fee shall be levied, equalized, and assessed as are other special assessments.
- (d) The **Superintendent of Public Works & Utilities or his duly authorized agent** may order any person required to maintain property pursuant to this article to perform such maintenance as is required to abate interference with any public utility from any tree, **hedge, or bush, etc.,** ~~or shrub~~ that is located on such property or the terrace, alley, or dedicated right-of-way.
- (e) In the case of a community disaster or emergency as declared by the council, the city may aid the property owner in the removal, trimming, and/or cleanup of trees, **hedges, bushes, etc.,** ~~and shrubs~~ within the section of the street so abutting dedicated as a right-of-way.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect after the passage, approval, and publication as provided by law.

PASSED AND APPROVED this 21<sup>st</sup> day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



D.A. Davidson & Co.  
member SIPC

# CITY OF WAYNE, NEBRASKA

## *DISCUSSION AND RECOMMENDATION*

*Issuance of Bond Anticipation Notes  
Downtown Street/Sidewalk Improvements  
Recommended \$890,000, Three Year Maturity*

### *Consideration of Issuance of \$490,000 Refunding of Public Safety Bonds*

Average Coupon of 2005 Bonds	4.21%
Estimated Average Coupon, Refunding Bonds	<u>2.79%</u>
Estimated Interest Rate Reduction	1.43%

Total payment 2005 Bonds	\$599,778
Estimated Net Payment 2010 Refunding	<u>567,742</u>
<u>Estimated Savings, net of all costs</u>	<u>\$ 32,036</u>

*D.A. Davidson & Co.*  
*Phil Lorenzen*  
*Omaha, NE*  
*402-392-7902*  
*fax 402-392-7908*  
email: [plorenzen@dadco.com](mailto:plorenzen@dadco.com)

# *Issuance of Bond Anticipation Notes*

*In the opinion of Bond Counsel, under existing laws, regulations and court decisions and subject to the qualifications set forth herein under "TAX EXEMPTION," interest on the Bonds is not includable in gross income for purposes of regular federal and Nebraska state income taxation. Interest on the Bonds is not subject to the alternative minimum tax imposed on individuals under the Internal Revenue Code of 1986, as amended (the "Code"), but may be required to be included in the calculation of adjusted current earnings to be used in computing corporate alternative minimum taxable income. See the caption "TAX EXEMPTION" herein.*

**PRELIMINARY**

Offering  
Circular

**\$890,000**  
**CITY OF WAYNE, NEBRASKA**  
**Bond Anticipation Notes**

Book-Entry-Only

Dated: Date of Delivery  
Expected on or about October 22, 2010

Due: October 15, 2013

The City Treasurer, Wayne, Nebraska is the Paying Agent and Registrar. Interest is payable semiannually on April 15 and October 15 beginning April 15, 2011. The Bond Anticipation Notes (the "Notes") are issuable as fully registered notes and, when initially issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Notes. Purchases of Notes will be made in book-entry-only form, in the principal amount of \$5,000 or any integral multiple thereof, through brokers and dealers who are, or who act through, DTC Participants. Beneficial owners of the Notes will not receive physical delivery of note certificates so long as DTC or a successor securities depository acts as the securities depository with respect to the Notes. So long as DTC or its nominee is the registered owner of the Notes, payments of the principal or redemption price of and interest on the Notes will be made directly to DTC. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC Participants. See "BOOK-ENTRY-ONLY SYSTEM."

<u>Amount</u>	<u>Maturity</u>	<u>Interest Rate</u>	<u>Price</u>
\$890,000	October 15, 2013	%	100

Optional anytime on or after October 15, 2011 with 30 days written notice.

**PURPOSE AND AUTHORITY:** The Notes are being issued to provide interim financing for the costs of constructing improvements in Street Improvement District Nos. Street Improvement District No. 2010-1 and Street (Sidewalk) Improvement District Nos. 2010-2, 2010-3 and 2010-4

**SECURITY:** The Notes are payable through the proceeds of the issuance of general obligation various purpose to be issued under authority of Sections 16-623, 16-624 and 18-1801 and 18-1802, Reissue Revised Statutes of Nebraska, 2007 and other applicable statutes. The Notes are issued pursuant to Section 10-137 Reissue Revised Statutes of Nebraska, 2007 (See "Obligation of the City to Issue Bonds or Notes to Fund the Bond Anticipation Notes" herein.)



**D.A. Davidson & Co.**  
member SIPC

CITY OF WAYNE, NEBRASKA  
 BOND ANTICIPATION NOTES, SERIES 2010 - CONSTRUCTION FINANCING  
 STREET IMP 2010-1; STREET (SIDEWALK) 2010-2, 2010-3 & 2010-4

=====

Sources and Uses of Funds

=====

Delivery Date: 10/22/10

Sources of Funds  
 =====

Par Amount of Bonds.....	\$890,000.00	
+Premium /-Discount.....	\$0.00	
Bond Proceeds.....		890,000.00
Interest earnings during construction.....		5,000.00
		\$895,000.00

Uses of Funds  
 =====

Project Construction Contract.....		775,000.00
Engineering, testing, legal + misc exp.....		80,000.00
Fiscal, Marketing, Underwriting.....( 1.100000%)...		9,790.00
Legal Opinion of Bond Counsel.....		1,000.00
Capitalized Interest.....		26,492.34
Contingency.....		2,717.66
		\$895,000.00

Filename: WAYNE    Key: BAN10B

CITY OF WAYNE, NEBRASKA  
 BOND ANTICIPATION NOTES, SERIES 2010 - CONSTRUCTION FINANCING  
 STREET IMP 2010-1; STREET (SIDEWALK) 2010-2, 2010-3 & 2010-4

=====

Debt Service Schedule

=====

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
4/15/11			5,132.33	5,132.33	5,132.33
10/15/11			5,340.00	5,340.00	
4/15/12			5,340.00	5,340.00	10,680.00
10/15/12			5,340.00	5,340.00	
4/15/13			5,340.00	5,340.00	10,680.00
10/15/13	890,000.00	1.200000	5,340.00	895,340.00	
4/15/14					895,340.00
	890,000.00		31,832.33	921,832.33	
ACCRUED	890,000.00		31,832.33	921,832.33	
	890,000.00		31,832.33	921,832.33	

Dated 10/22/10 with Delivery of 10/22/10

Bond Years 2,652.694

Average Coupon 1.200000

Average Life 2.980556

N I C % 1.200000 % Using 100.0000000

T I C % 1.200023 % From Delivery Date

Arbitrage Yield 1.200023 %

Filename: WAYNE Key: BAN10B

**RESOLUTION NO. 2010-73**

BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, as follows:

Section 1. The Mayor and Council hereby find and determine that it is necessary and appropriate to declare an official intent to issue tax-exempt bond anticipation notes or bonds by the City and, in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bond anticipation notes or bonds as proposed to be issued by the City in connection with the construction of certain street improvements, water and sanitary sewer improvements and related appurtenant improvements now being or to be constructed in the City of Wayne, Nebraska.

Section 2. This resolution shall stand as a statement of the official intent of the City under Regulation Section 1.150-2 and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond anticipation notes or bond proceeds provided is construction of improvements consisting of street improvements, sidewalk improvements, and other related appurtenant improvements in the downtown central business area in and for the City of Wayne, Nebraska.
2. The principal amount of notes or bonds expected to be issued by the City for that portion of improvements pertaining to this reimbursement resolution is estimated to be \$900,000.

PASSED AND APPROVED this 21<sup>st</sup> day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2010-24**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2010, OF THE CITY OF WAYNE, NEBRASKA, OF THE PRINCIPAL AMOUNT OF EIGHT HUNDRED NINETY THOUSAND DOLLARS (\$890,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NO. 2010-1 AND STREET (SIDEWALK) IMPROVEMENT DISTRICT NOS. 2010-2, 2010-3 AND 2010-4 PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND, ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.**

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

Section 1. The Mayor and City Council hereby find and determine that by Ordinances and Resolution of the City heretofore adopted, Street Improvement District No. 2010-1 and Street (Sidewalk) Improvement District Nos. 2010-2, 2010-3 and 2010-4 were heretofore created; that Olsson Associates, the engineers for the City have prepared estimates for the cost of construction of the improvements in the aforesaid Districts; that bids have been opened and tabulated; that the City has entered into contracts for construction of the improvements; and, that there has been placed on file the City's engineer's estimate showing that the City's costs, including costs of engineering and costs of issuance and underwriting and a portion of interest to accrue on said notes during construction, will be not less than \$890,000; that it is necessary for the City to have funds available to meet its payment obligations under the terms of contracts for the cost of the improvements to be constructed relative to the aforesaid Districts and to provide for payment of a portion of the interest accruing on the Series 2010 Notes prior to their maturity on September 15, 2013, and to meet the initial portion of its obligation to provide interim financing therefor, it is necessary and advisable

that the City now issue its notes in the principal amount of \$890,000 pending permanent financing pursuant to Sections 16-623, 16-626, and 18-1801 and 18-1802, R.R.S. Neb. 2007, and other applicable statutory sections; that the City has authority under Section 10-137, R.R.S. Neb. 2007 to issue notes for the purpose of providing interim financing for the construction of said improvements, including a portion of the interest to accrue on such notes and the costs of issuance thereof, all as set out above; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2010, in the amount of \$890,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 2. For the purpose of providing interim financing for the costs set out in Section 1 pending the issuance of permanent General Obligation Various Purpose Bonds by the City of Wayne, there shall be and there are hereby ordered issued bond anticipation notes of the City of Wayne, Nebraska, to be known as "Bond Anticipation Notes, Series 2010" of the aggregate principal amount of Eight Hundred Ninety Thousand Dollars (\$890,000) (herein referred to as the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof, said notes shall be dated as of date of delivery and each of said notes shall bear interest at the rate of \_\_\_\_\_% per annum payable semiannually on of March 15 and September 15 in each year, commencing March 15, 2011 with the principal of said notes to become due and payable as follows:

<u>Principal</u> <u>Amount</u>	<u>Maturity</u>
\$890,000	September 15, 2013

provided, however, the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after September 15, 2011 upon not less than thirty days written notice, at par and

***Consideration of Issuance of  
\$490,000 Refunding of Public Safety Bonds***

In the opinion of Baird, Holm, McEachen, Pedersen, Hamann & Strasheim, LLP, Bond Counsel, assuming continuing compliance with certain restrictions described herein, under existing laws, regulations, rulings and judicial decisions, interest on the Series 2005 Bonds is not includable in gross income for federal income tax payers generally. See the caption "TAX EXEMPTION" herein. Under existing laws of the State of Nebraska, the Series 2005 Bonds and the income therefrom are exempt from all taxation in the State of Nebraska, except for transfer and estate taxes.

Book-Entry-Only  
Bank Qualified

Offering Circular

**\$630,000**  
**CITY OF WAYNE, NEBRASKA**  
**PUBLIC SAFETY TAX ANTICIPATION REFUNDING BONDS**  
**Series 2005, (Limited Tax Bonds)**

Dated: May 15, 2005

Due: May 1, as shown

The Treasurer of the City of Wayne, in Wayne, Nebraska is the Paying Agent and Registrar. Interest is payable November 1, 2005 and semiannually thereafter on May 1 and November 1. The Bonds are issuable as fully registered bonds and, when initially issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Bonds. Purchases of Bonds will be made in book-entry-only form, in the principal amount of \$5,000 or any integral multiple thereof, through brokers and dealers who are, or who act through, DTC Participants. Beneficial owners of the Bonds will not receive physical delivery of bond certificates so long as DTC or a successor securities depository acts as the securities depository with respect to the Bonds. So long as DTC or its nominee is the registered owner of the Bonds, payments of the principal or redemption price of and interest on the Bonds will be made directly to DTC. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC Participants. See "BOOK-ENTRY-ONLY SYSTEM."

<u>Principal Amount</u>	<u>Maturing May 1</u>	<u>Interest Rate</u>	<u>Price</u>
\$ 85,000	2008	3.30%	100
<del>100,000</del>	2011	3.60	100
75,000	2013	3.85	100
80,000	2015	4.00	100
90,000	2017	4.15	100
50,000	2018	4.20	100
50,000	2019	4.25	100
50,000	2020	4.35	100
50,000	2021	4.40	100

Handwritten notes: "35,000" with a bracket pointing to the 2011 row, and "Balance" written vertically on the left side of the table.

Provided, however, Bonds maturing on and after May 1, 2011 shall be callable at the option of the City any time on or after May 1, 2010 and in addition, the bonds maturing May 1, 2008, 2011, 2013, 2015 and 2017 shall be subject to call for redemption through application of a mandatory sinking fund payment, said bonds being callable by lot in the amount and on the dates as set out below at par plus accrued interest to the date of such call:

\$85,000 Principal Maturing May 1, 2008  
\$25,000 to be called May 1, 2008  
\$30,000 to be called May 1, 2007  
\$30,000 to mature May 1, 2008

\$75,000 Principal Maturing May 1, 2013  
\$35,000 to be called May 1, 2012  
\$40,000 to mature May 1, 2013

\$100,000 Principal Maturing May 1, 2011  
\$30,000 to be called May 1, 2009  
\$35,000 to be called May 1, 2010  
\$35,000 to mature May 1, 2011

\$80,000 Principal Maturing May 1, 2015  
\$40,000 to be called May 1, 2014  
\$40,000 to mature May 1, 2015

\$90,000 Principal Maturing May 1, 2017  
\$45,000 to be called May 1, 2016  
\$45,000 to mature May 1, 2017

The Bonds are offered in book-entry form, when, as and if issued and received by the Underwriter and subject to the approval of legality by Messrs. Baird, Holm, McEachen, Pedersen, Hamann & Strasheim, Omaha, Nebraska, Bond Counsel, and certain other conditions. It is expected that the Bonds will be available for delivery through The Depository Trust Company, in New York, New York, on or about June 14, 2005.

**Kirkpatrick Pettis**

A Division of D.A. Davidson & Co.  
Fixed Income Capital Markets

**D.A. Davidson & Co.**

member SIPC

CITY OF WAYNE, NEBRASKA  
 PUBLIC SAFETY REFUNDING BONDS, SERIES 2005  
 DATED 5/15/05--DATE OF SETTLEMENT 06/14/05

\*\*\*\*\*  
 Debt Service Schedule  
 \*\*\*\*\*

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
11/ 1/ 5			11,448.24	11,448.24	
5/ 1/ 6	25,000.00	3.300000	12,413.75	37,413.75	48,861.99
11/ 1/ 6			12,001.25	12,001.25	
5/ 1/ 7	30,000.00	3.300000	12,001.25	42,001.25	54,002.50
11/ 1/ 7			11,506.25	11,506.25	
5/ 1/ 8	30,000.00	3.300000	11,506.25	41,506.25	53,012.50
11/ 1/ 8			11,011.25	11,011.25	
5/ 1/ 9	30,000.00	3.600000	11,011.25	41,011.25	52,022.50
11/ 1/ 9			10,471.25	10,471.25	
5/ 1/10	35,000.00	3.600000	10,471.25	45,471.25	55,942.50
11/ 1/10			9,841.25	9,841.25	
5/ 1/11	35,000.00	3.600000	9,841.25	44,841.25	54,682.50
11/ 1/11			9,211.25	9,211.25	
5/ 1/12	35,000.00	3.850000	9,211.25	44,211.25	53,422.50
11/ 1/12			8,537.50	8,537.50	
5/ 1/13	40,000.00	3.850000	8,537.50	48,537.50	57,075.00
11/ 1/13			7,767.50	7,767.50	
5/ 1/14	40,000.00	4.000000	7,767.50	47,767.50	55,535.00
11/ 1/14			6,967.50	6,967.50	
5/ 1/15	40,000.00	4.000000	6,967.50	46,967.50	53,935.00
11/ 1/15			6,167.50	6,167.50	
5/ 1/16	45,000.00	4.150000	6,167.50	51,167.50	57,335.00
11/ 1/16			5,233.75	5,233.75	
5/ 1/17	45,000.00	4.150000	5,233.75	50,233.75	55,467.50
11/ 1/17			4,300.00	4,300.00	
5/ 1/18	50,000.00	4.200000	4,300.00	54,300.00	58,600.00
11/ 1/18			3,250.00	3,250.00	
5/ 1/19	50,000.00	4.250000	3,250.00	53,250.00	56,500.00
11/ 1/19			2,187.50	2,187.50	
5/ 1/20	50,000.00	4.350000	2,187.50	52,187.50	54,375.00
11/ 1/20			1,100.00	1,100.00	
5/ 1/21	50,000.00	4.400000	1,100.00	51,100.00	52,200.00
	630,000.00		242,969.49	872,969.49	
ACCRUED			1,999.99	1,999.99	
	630,000.00		240,969.50	870,969.50	

*Balance*  
*450,000*

Dated 5/15/ 5 with Delivery of 6/14/ 5  
 Bond Years 5.915500  
 Average Coupon 4.107336  
 Average Life 9.389683  
 N I C % 4.107336 % Using 100.0000000  
 T I C % 4.090239 % From Delivery Date  
 Arbitrage Yield 4.090239 %

Filename: WAYNE Key: PUBSAFREF05F

CITY OF WAYNE, NEBRASKA  
 PUBLIC SAFETY BONDS SERIES 2005, BALANCE AS OF OCTOBER 2010  
 BALANCE AS OF CALL DATE OF OCTOBER 22, 2010 AT PAR + ACCRUED

=====  
 Debt Service Schedule  
 =====

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
11/ 1/10			492.06	492.06	
5/ 1/11	35,000.00	3.600000	9,841.25	44,841.25	45,333.31
11/ 1/11			9,211.25	9,211.25	
5/ 1/12	35,000.00	3.850000	9,211.25	44,211.25	53,422.50
11/ 1/12			8,537.50	8,537.50	
5/ 1/13	40,000.00	3.850000	8,537.50	48,537.50	57,075.00
11/ 1/13			7,767.50	7,767.50	
5/ 1/14	40,000.00	4.000000	7,767.50	47,767.50	55,535.00
11/ 1/14			6,967.50	6,967.50	
5/ 1/15	40,000.00	4.000000	6,967.50	46,967.50	53,935.00
11/ 1/15			6,167.50	6,167.50	
5/ 1/16	45,000.00	4.150000	6,167.50	51,167.50	57,335.00
11/ 1/16			5,233.75	5,233.75	
5/ 1/17	45,000.00	4.150000	5,233.75	50,233.75	55,467.50
11/ 1/17			4,300.00	4,300.00	
5/ 1/18	50,000.00	4.200000	4,300.00	54,300.00	58,600.00
11/ 1/18			3,250.00	3,250.00	
5/ 1/19	50,000.00	4.250000	3,250.00	53,250.00	56,500.00
11/ 1/19			2,187.50	2,187.50	
5/ 1/20	50,000.00	4.350000	2,187.50	52,187.50	54,375.00
11/ 1/20			1,100.00	1,100.00	
5/ 1/21	50,000.00	4.400000	1,100.00	51,100.00	52,200.00
	-----		-----	-----	
ACCRUED	480,000.00		119,778.31	599,778.31	
	-----		-----	-----	
	480,000.00		119,778.31	599,778.31	
	=====		=====	=====	

Dated 10/22/10 with Delivery of 10/22/10  
 Weighted Bond Years 2.842.000  
 Weighted Average Life 5.920833  
 Weighted N I C % 4.214578 % Using 0.0000000  
 T I C % 4.206911 % From Delivery Date

Filename: WAYNE Key: PUBSAP05102210

*Payment Balance  
 as of 10-22-2010*

CITY OF WAYNE, NEBRASKA  
 PUBLIC SAFETY BONDS SERIES 2005, REFUNDING BONDS, 10/22/2010  
 ILLUSTRATION OF REFUNDING OF \$480,000 BALANCE OF SERIES 2005

=====  
 Savings Report  
 =====

Date	Principal	Proposed Debt Service Coupon	Interest	Total	Prior Debt Service	Savings	Cumulative Savings
11/ 1/10			299.75				
5/ 1/11	35,000.00	1.400000	5,995.00	41,294.75	45,333.31	4,038.56	6,538.56
11/ 1/11			5,750.00				
5/ 1/12	40,000.00	1.400000	5,750.00	51,500.00	53,422.50	1,922.50	8,461.06
11/ 1/12			5,470.00				
5/ 1/13	40,000.00	1.400000	5,470.00	50,940.00	57,075.00	6,135.00	14,596.06
11/ 1/13			5,190.00				
5/ 1/14	40,000.00	2.250000	5,190.00	50,380.00	55,535.00	5,155.00	19,751.06
11/ 1/14			4,740.00				
5/ 1/15	45,000.00	2.250000	4,740.00	54,480.00	53,935.00	-545.00	19,206.06
11/ 1/15			4,233.75				
5/ 1/16	45,000.00	2.250000	4,233.75	53,467.50	57,335.00	3,867.50	23,073.56
11/ 1/16			3,727.50				
5/ 1/17	45,000.00	2.900000	3,727.50	52,455.00	55,467.50	3,012.50	26,086.06
11/ 1/17			3,075.00				
5/ 1/18	50,000.00	2.900000	3,075.00	56,150.00	58,600.00	2,450.00	28,536.06
11/ 1/18			2,350.00				
5/ 1/19	50,000.00	2.900000	2,350.00	54,700.00	56,500.00	1,800.00	30,336.06
11/ 1/19			1,625.00				
5/ 1/20	50,000.00	3.250000	1,625.00	53,250.00	54,375.00	1,125.00	31,461.06
11/ 1/20			812.50				
5/ 1/21	50,000.00	3.250000	812.50	51,625.00	52,200.00	575.00	32,036.06
-----	490,000.00	-----	80,242.25	570,242.25	599,778.31	-----	32,036.06
ACCRUED	490,000.00	-----	80,242.25	570,242.25	599,778.31	-----	32,036.06
-----	-----	-----	-----	-----	-----	-----	-----

Dated 10/22/10 with Delivery of 10/22/10  
 Weighted Bond Years 2,872.250  
 Weighted Average Life 5.861735  
 Weighted N I C % 2.793707 % Using 0.0000000  
 T I C % 2.777372 % From Delivery Date

N O T E : Cumulative Savings are Net of the Initial Transfer Amount of -2,500.00  
 Net Present Value Savings at: 2.7774% Equals 29,009.80 or 5.9204% of Par of the Current Issue  
 or 6.0437% of Par of the Prior Issue

N O T E : Present Value Savings are Net of the Initial Transfer Amount of -2,500.00

Filename: WAYNE Key: PUBSAFBR2010

*Estimated 2010 Refunding Bonds*

In the opinion of Bond Counsel, under existing laws, regulations and court decisions and subject to the qualifications set forth herein under "TAX EXEMPTION," interest on the Bonds is not includable in gross income for purposes of regular federal and Nebraska state income taxation. Interest on the Bonds is not subject to the alternative minimum tax imposed on individuals under the Internal Revenue Code of 1986, as amended (the "Code"), but may be required to be included in the calculation of adjusted current earnings to be used in computing corporate alternative minimum taxable income. See the caption "TAX EXEMPTION" herein.

Book-Entry-Only  
Bank Qualified

PRELIMINARY Offering Circular  
Not Rated

**\$490,000**  
**CITY OF WAYNE, NEBRASKA**  
**PUBLIC SAFETY TAX ANTICIPATION REFUNDING BONDS**  
**Series 2010, (Limited Tax Bonds)**

Dated: Date of Delivery  
(Estimated on or about October 22, 2010)

Due: May 1, as shown

The Treasurer of the City of Wayne, in Wayne, Nebraska is the Paying Agent and Registrar. Interest is payable May 1, 2010 and semiannually thereafter on May 1 and November 1. The Bonds are issuable as fully registered bonds and, when initially issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Bonds. Purchases of Bonds will be made in book-entry-only form, in the principal amount of \$5,000 or any integral multiple thereof, through brokers and dealers who are, or who act through, DTC Participants. Beneficial owners of the Bonds will not receive physical delivery of bond certificates so long as DTC or a successor securities depository acts as the securities depository with respect to the Bonds. So long as DTC or its nominee is the registered owner of the Bonds, payments of the principal or redemption price of and interest on the Bonds will be made directly to DTC. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC Participants. See "BOOK-ENTRY-ONLY SYSTEM."

<u>Principal Amount</u>	<u>Maturing May 1</u>	<u>Interest Rate</u>	<u>Price</u>
\$35,000	2011	%	
40,000	2012		
40,000	2013		
40,000	2014		
45,000	2015		
45,000	2016		
45,000	2017		
50,000	2018		
50,000	2019		
50,000	2020		
50,000	2021		

Provided, however, Bonds maturing on and after May 1, 2011 shall be callable at the option of the City any time on or after May 1, 2010 and in addition, the bonds maturing May 1, 2008, 2011, 2013, 2015 and 2017 shall be subject to call for redemption through application of a mandatory sinking fund payment, said bonds being callable by lot in the amount and on the dates as set out below at par plus accrued interest to the date of such call:

<u>\$ ,000 Principal Maturing May 1, 20</u>	<u>\$ ,000 Principal Maturing May 1, 20</u>
\$ ,000 to be called May 1, 2__	\$ ,000 to be called May 1, 2__
\$ ,000 to mature May 1, 2__	\$ ,000 to mature May 1, 2__
<u>\$ ,000 Principal Maturing May 1, 20</u>	<u>\$ ,000 Principal Maturing May 1, 20</u>
\$ ,000 to be called May 1, 2__	\$ ,000 to be called May 1, 2__
\$ ,000 to mature May 1, 2__	\$ ,000 to mature May 1, 2__

The Bonds are offered in book-entry form, when, as and if issued and received by the Underwriter and subject to the approval of legality by Baird Holm LLP, Omaha, Nebraska, Bond Counsel and certain other conditions. It is expected that the Bonds will be available for delivery through The Depository Trust Company, in New York, New York, on or about October \_\_, 2010.



**D.A. Davidson & Co.**

**RESOLUTION NO. 2010-74**

**A RESOLUTION CALLING PUBLIC SAFETY TAX ANTICIPATION REFUNDING BONDS, SERIES 2005 (LIMITED TAX BONDS) FOR REDEMPTION.**

BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, as follows:

Section 1. That the following bonds are hereby called for redemption at par plus accrued interest on October 22, 2010 after which date said bonds shall cease to bear interest:

**Public Safety Tax Anticipation Refunding Bonds, Series 2005 (Limited Tax Bonds)**, dated May 15, 2005, in the principal amount of \$480,000, becoming due on May 1 in each year from May 1, 2011, through May 1, 2021, issued by the City to provide funds to provide funds to refund and reissue the outstanding balance of the City's Series 2005 Public Safety Tax Anticipation Refunding Bonds, which Series 2005 Bonds were issued to Refund Series 2001 Bonds originally issued and applied to provide a portion of the funds to pay the costs of construction of a public safety building addition and for the acquisition of certain Public Safety equipment and fire fighting apparatus and vehicles.

Section 2. Said bonds are payable at the office of the Treasurer of the City of Wayne, Nebraska as Paying Agent and Registrar, 306 Pearl Street, PO Box 8, Wayne, Nebraska 68787.

Section 3. A copy of this resolution shall be filed at least 30 days prior to the date of call with the Treasurer of the City of Wayne, Nebraska, as Paying Agent and Registrar and said Paying Agent and Registrar is hereby instructed to give notice of redemption in the manner provided for in the ordinance authorizing said bonds.

PASSED AND APPROVED this 21<sup>st</sup> day of September, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2010-25**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF PUBLIC SAFETY TAX ANTICIPATION REFUNDING BONDS OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF FOUR HUNDRED NINETY THOUSAND DOLLARS (\$490,000) TO REFUND AND RETIRE, TOGETHER WITH FUNDS ON HAND, \$480,000 PUBLIC SAFETY TAX ANTICIPATION REFUNDING BONDS, SERIES 2005, DATED MAY 15, 2005; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASERS; PROVIDING FOR THE DISPOSITION OF BOND PROCEEDS; AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.**

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

Section 1. The Mayor and Council of the City of Wayne, Nebraska (the "City") hereby find and determine that there have been heretofore issued and are now outstanding and unpaid valid interest bearing bonds of the City of Wayne, Nebraska, consisting of:

Public Safety Tax Anticipation Refunding Bonds, Series 2005, dated May 15, 2005 (the "2005 Bonds") of the total remaining principal amount of \$480,000 which mature and bear interest as follows:

<u>Principal Amount</u>	<u>Maturing May 1</u>	<u>Interest Rate</u>
35,000	2011	3.60%
75,000	2013	3.85
80,000	2015	4.00
90,000	2017	4.15
50,000	2018	4.20
50,000	2019	4.25
50,000	2020	4.35
50,000	2021	4.40

which 2005 Bonds became callable at any time on or after May 1, 2010 and all of such 2005 Bonds have been called for redemption in accordance with their call provisions on October 22, 2010 (the

which 2005 Bonds became callable at any time on or after May 1, 2010 and all of such 2005 Bonds have been called for redemption in accordance with their call provisions on October 22, 2010 (the "Series 2005 Redemption Date") at par and accrued interest to the date fixed for redemption; that the 2005 Bonds are valid, interest bearing obligations of the City of Wayne, Nebraska, and that the City has no other bonds outstanding issued in accordance with the terms of Section 18-1802, R.R.S. Neb. 2007.

The Mayor and Council hereby further find and determine that since the 2005 Bonds (hereinafter sometimes referred to as the "Called Bonds") were issued, the rates of interest available in the market have so declined that by issuing its public safety tax anticipation refunding bonds to provide funds together with other available funds of the City for the payment and redemption of the Called Bonds all as set out above, a substantial savings in the amount of yearly running interest will be made to the City; that for the purpose of providing for the payment and redemption of the Called Bonds as above set out, and to pay costs of issuance of said bonds, it is in the best interest of the City to issue Public Safety Tax Anticipation Refunding Bonds of the City of the principal amount of \$490,000; that the City has no bond sinking funds on hand for the retirement of said Called Bonds not required for the timely payment of principal and interest on the Called Bonds including the accrued interest due on the Redemption Date and costs of issuance of said bonds; and, that all conditions, acts, and things required to exist or to be done precedent to the issuance of Public Safety Tax Anticipation Refunding Bonds of the City of Wayne, Nebraska, in the principal amount of \$490,000 pursuant to Section 10-142, and Sections 18-1201 and 18-1202, Reissue Revised Statutes of Nebraska, 2007 and other applicable statutes do exist and have been done as required by law.

Section 2. The Mayor and Council further find and determine: That the taxable valuation of all taxable property within the City as most recently determined, is \$177,459,103; that pursuant to Section 18-1201 and 18-1202, R.R.S. Neb. 2007, as amended, the Mayor and Council of the City of Wayne have provided for the levying of a special tax, all as more specifically described in Section 10 hereof; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Public Safety Tax Anticipation Refunding Bonds in the amount of \$490,000 pursuant to Section 10-142, and Sections 18-1201 and 18-1202, R.R.S. Neb. 2007 do exist and have been done as required by law and in order to provide for the refunding of the outstanding Series 2005 Bonds as set out in sections 1 and 2 hereof, there are hereby ordered issued Public Safety Tax Anticipation Refunding Bonds of the City of Wayne, Nebraska in the principal amount of Four Hundred Ninety Thousand Dollars (\$490,000) (the "Bonds") with said Bonds bearing interest at the rates per annum and to become due on May 1 of the year as indicated below:

<u>Principal Amount</u>	<u>Maturing May 1</u>	<u>Interest Rate</u>
\$35,000	2011	1.75%
40,000	2012	1.75
40,000	2013	1.75
40,000	2014	2.50
45,000	2015	2.50
45,000	2016	2.50
45,000	2017	3.25
50,000	2018	3.25
50,000	2019	3.25
50,000	2020	3.50
50,000	2021	3.50

*provided, that the Bonds shall bear interest at any lower rates per annum as shall be determined in a written designation (the "Designation") signed by the Mayor of the City and also signed by the City Treasurer (the "Authorized Officers") on behalf of the City and which may be agreed to by D.A. Davidson & Co. (the "Underwriter"), which Designation may also determine or modify the principal amount for each maturity of the Bonds, mandatory redemption provisions (if any), and pricing terms as set forth in Section 10 herein, all within the following limitations:*

*(a) the weighted average coupon on the Bonds shall not exceed 3.25% per annum;*

*(b) two or more of the principal maturities may be combined and issued as "term bonds" and the Authorized Officers may determine the mandatory sinking fund payments and mandatory redemption amounts. Any Bonds issued as "term bonds" shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the date of redemption and may be selected for redemption by any random method of selection determined appropriate by the Registrar (as hereinafter designated) or by the Depository (as hereinafter designated).*

*The Authorized Officers are hereby authorized to make such determinations on behalf of the City and to evidence the same by execution and delivery of the Designation and such determinations, when made and agreed to by the Underwriter, shall constitute the action of the Mayor and City Council without further action of the Mayor and City Council. Should the above interest rate levels not be achievable due to changing market conditions or unforeseen negative economic events, then this ordinance shall be repealed and the bonds not issued.*

The Bonds shall be issued in fully registered form the denomination of \$5,000 or any integral multiple thereof. The date of issue for the Bond shall be date of original delivery. Interest on the Bonds, at the respective rates for each maturity, shall be payable on May 1, 2011, and semi-annually thereafter on May 1 and November 1 of each year (each an "Interest Payment Date"), and the Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 4 hereof. The Bonds shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as



September 9, 2010

RE: Contractor's Pay Estimate No. 3  
Former Kardell Landfill  
Stream Restoration Project  
Wayne, Nebraska  
KM-1001235

Mr. Lowell Johnson  
City of Wayne  
306 Pearl Street  
Wayne, Nebraska 68787

Dear Lowell:

Transmitted herewith for your review and official approval are four copies of Contractor's Pay Estimate No. 3 in the amount of \$29,316.55 for Gana Trucking & Excavating, Inc., contractor for construction of the referenced project.

This includes all work approved within Change Order No. 2 resulting from flood damage, except the final seeding. The Contractor has indicated the seeding will be completed yet this fall during the seeding season. The retainage has been reduced to two percent to cover the seeding work that remains.

After the enclosed document has been approved and executed, please send one copy of the Contractor's Pay Estimate No. 3 to the contractor with payment and return one copy to us for our files.

Sincerely,

KIRKHAM MICHAEL

A handwritten signature in black ink that reads 'Rich L. Robinson'.

Rich L. Robinson, P.E.  
Project Manager

RLR/sjt

Enclosures

Copy to: Gana Trucking & Excavating, Inc.  
B. Birkel – Kirkham Michael Omaha (w/encl.)

S:\1001235\CONSTRUCTION\MGMT\JOHNSON-LTR-CPE-3.RLR.DOC

**CONTRACTOR'S PAY ESTIMATE NO. 3**

**PROJECT:** City of Wayne, NE  
Former Kardell Landfill – Stream Restoration Project

**DATE:** September 9, 2010

**ENGINEER:** Kirkham Michael

**OWNER:** City of Wayne  
306 Pearl Street  
P.O. Box 8  
Wayne, NE 68787  
Attn: Lowell Johnson

**KM PROJECT NO.:** 1001235

**CONTRACT FOR:** Entire Work

**CONTRACT DATE:** 12/3/2009

**CONTRACTOR:** Gana Trucking & Excavating, Inc.  
2700 W Panama Road  
Martell, NE 68404

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Total Contract Amount plus Approved Change Orders	\$	109,669.54
Total Completed and Stored to Date .....	\$	96,486.14
Retained 2% .....	\$	1,929.72
Previous Estimates .....	\$	65,239.87
Due the Contractor This Estimate .....	\$	29,316.55

---

I have reviewed this estimate and it appears to be correct.

KIRKHAM MICHAEL

By: Rich Robinson  
Rich Robinson, P.E.

Date: 9-9-10

Approved: \_\_\_\_\_  
(Owner)

Date: \_\_\_\_\_

**Progress Estimate**



2200 W. Panama Road  
Martell, NE 68404  
794-5000

Number: KM-0805249 Project: Kardell Landfill  
Period From: 6/14/10 To: 8/24/2010  
Application No.: 3  
Date: 8/24/10

DESCRIPTION	CONTRACT			QUANTITY			COMPLETED COST		PERCENT COMPLETED	
	QTY	Unit	Unit Price	Extension	Current	Previous	Todate	Current		Todate
Mobilization	1	LS	\$4,497.00	\$4,497.00	0	1	1	\$0.00	\$4,497.00	100.0%
Clear & Grub	1	LS	\$1,900.19	\$1,900.19	0	1	1	\$0.00	\$1,900.19	100.0%
Excavation	1069	CY	\$10.53	\$11,256.57	0	1069	1069	\$0.00	\$11,256.57	100.0%
Remove 36" Tree	2	EA	\$434.00	\$868.00	0	2	2	\$0.00	\$868.00	100.0%
Rip Rap	1010	TN	\$35.90	\$36,259.00	0	1010	1010	\$0.00	\$36,259.00	100.0%
Silt Fence	305	LF	\$2.75	\$838.75	0	305	305	\$0.00	\$838.75	100.0%
Seeding	0.5	AC	\$1,250.00	\$625.00	0	0.5	0.5	\$0.00	\$625.00	100.0%
Clay Borrow	616	CY	\$11.59	\$7,139.44	0	616	616	\$0.00	\$7,139.44	100.0%
Erosion Blanket	888	SY	\$2.09	\$1,855.92	0	888	888	\$0.00	\$1,855.92	100.0%
<b>CO1 &amp; CO2 Items</b>										
Mobilization	1	LS	\$2,970.00	\$2,970.00	1	0	1	\$2,970.00	\$2,970.00	100.0%
Prep Track Loader	1	HR	\$135.00	\$135.00	29.5	0	29.5	\$3,982.50	\$3,982.50	2950.0%
Prep Track Hoe	1	HR	\$155.00	\$155.00	15	0	15	\$2,325.00	\$2,325.00	1500.0%
Rip Rap	600	TN	\$35.90	\$21,540.00	588.58	0	588.58	\$21,130.02	\$21,130.02	98.1%
Silt Fence	305	LF	\$2.75	\$838.75	305	0	305	\$838.75	\$838.75	100.0%
Seeding	1	AC	\$1,250.00	\$1,250.00	0	0	0	\$0.00	\$0.00	0.0%
Matting	888	SY	\$2.09	\$1,855.92	0	0	0	\$0.00	\$0.00	0.0%
<b>TOTAL</b>				<b>\$93,984.54</b>				<b>\$31,246.27</b>	<b>\$96,486.14</b>	<b>102.7%</b>

\*\*\*Please see attached invoice  
  
 Jake Whitefoot

(a) Gross Amount Earned \$96,486.14  
 (b) Less Retainage 0% \$0.00  
 (c=a-b) Net Amount Earned \$96,486.14  
 (d) Less Previous PMTS -\$65,239.87  
 (e=c-d) **NET AMOUNT DUE \$31,246.27**

## *Layne Christensen Company*

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4601 North 252<sup>nd</sup> 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

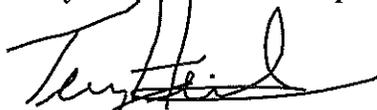
Dear Mr. Johnson,

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 14<sup>th</sup> 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 14<sup>th</sup>, and Layne now requests a final time extension until September 24<sup>th</sup> 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

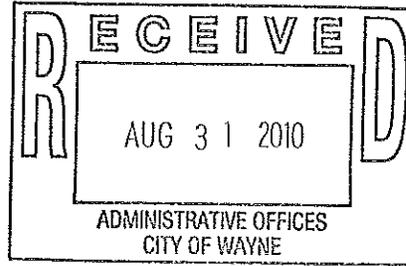


Terry Heiliger  
Project Manager





August 30, 2010



Engineering  
Architecture  
Surveying  
Planning

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.

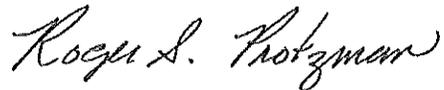
Therefore, we are requesting the City consider the following:

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 cursive script that reads "Roger S. Protzman".

Roger S. Protzman, P.E.  
Project Manager

RSP:skw

APPLICATION FOR PAYMENT NO. 9

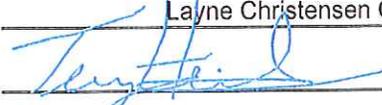
To: City of Wayne, Nebraska  
From: Layne Christensen Co.  
Contract For: Well House and Municipal Well 2009-1  
ENGINEER'S Project No. 617W6  
For Work accomplished through the date of: August 30, 2010

1. Original Contract Price:	\$ 363,651.00
2. Net change by Change Orders and Written Amendments (+ or -):	\$ (5,088.00)
3. Current Contract Price (1 plus 2):	\$ 358,563.00
4. Total completed and stored to date:	\$ 324,584.26
5. Percent of Project Completed	<u>91%</u>
6. Retainage (per agreement):	
<u>10%</u> of completed Work and Stored Materials:	<u>\$ 32,458.43</u>
(10% of the first 50% of work completed & stored)	
Total Retainage:	\$ 32,458.43
7. Total completed and stored to date less retainage (4 minus 6):	\$ 292,125.83
8. Less previous Application for Payments:	\$ 252,733.89
<b>9. DUE THIS APPLICATION (7 MINUS 8):</b>	<b>\$ 39,391.94</b>

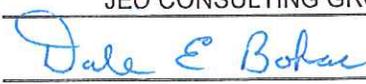
Accompanying Documentation:

CONTRACTOR'S Certification:

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied on account to discharge CONTRACTOR's legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered 1 through 8 inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective.

Dated: August 30, 2010  
By:  Layne Christensen Co.

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated: 9-14-2010  
By:  JEO CONSULTING GROUP, INC.

APPLICATION APPROVED BY: City of Wayne, Nebraska

By: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

ATTEST:  
By: \_\_\_\_\_ Title: \_\_\_\_\_

**CONTRACTOR'S PROGRESS ESTIMATE**

Owner: City of Wayne, Nebraska

Date: 08/30/10

Project: Well House and Municipal Well 2009-1

Estimate No.: 9

Contractor: Layne Christensen Co.

JEO Project No.: 617W6

ITEM NO.	CONTRACT QTY	UNIT	DESCRIPTION	QTY TO DATE	UNIT PRICE	TOTAL
1	1	LS	Mobilization / Demobilization	1	\$18,385.00	\$18,385.00
2	259	VF	Drill Hole	259	\$61.00	\$15,799.00
3	46	VF	18" SS Screen (90 Slot) (16" SS Screen Change)	46	\$160.00	\$7,360.00
4	3	VF	18 SS Screen (0 Slot) (16" SS Screen Change)	3	\$427.00	\$1,281.00
5	216	VF	18" Steel Casing (16" PVC Certa-Lok change)	212	\$106.00	\$22,472.00
6	1	LS	Bentonite, Grout, & Gravel Pack	1	\$15,373.00	\$15,373.00
7	1	LS	Develop & Disinfect Well	1	\$6,267.00	\$6,267.00
8	30	HR	Step Drawdown & Constant Rate Pump Test	25	\$166.00	\$4,150.00
9	1	LS	Plumbness & Alignment Test	1	\$633.00	\$633.00
10	1	LS	Chemical Analysis	1	\$5,341.00	\$5,341.00
11	1	LS	Pump, Motor, & Column	1	\$42,584.00	\$42,584.00
12	1	LS	Fluoride Chemical Feed Equipment		\$14,813.00	\$0.00
13	1	LS	Discharge Piping	1	\$30,911.00	\$30,911.00
14	1	LS	Well Building & Site Work	0.75	\$53,105.00	\$39,828.75
15	1	LS	Electrical w/Generator & VFD	0.3	\$104,393.00	\$31,317.90
16	1	LS	Access Drive	0.75	\$6,632.00	\$4,974.00
17	2	EA	10" 90 Bend	2	\$316.00	\$632.00
18	110	LF	10" DIP Pipe	110	\$34.00	\$3,740.00
19	1	EA	10" Gate Valve & Box	1	\$1,947.00	\$1,947.00
20	1	EA	Connect to Existing 16' Main w/ 16" x 10" Tapping Sleeve	1	\$5,526.00	\$5,526.00
21	1	LS	Seeding		\$1,053.00	\$0.00
	1	LS	Stored Materials	1	\$66,062.61	\$66,062.61
<b>SUBTOTAL GROUP "A"</b>						<b>\$324,584.26</b>

Utility Customer Information and Billing  
Information Systems Proposal  
*Utility Billing Online*

Prepared for

City of Wayne

Nancy Braden  
City Treasurer  
306 N Pearl St  
Wayne, NE 68787-1959  
Phone: (402) 375-1733  
FAX: (402) 375-1733  
nancy@cityofwayne.org

Prepared By:  
Tyler Technologies  
DK Robertson  
(800) 646-2633  
August 4, 2010

**tyler**  
TECHNOLOGIES



Customer Name: City of Wayne  
Contact: Nancy Braden  
Date: August 4, 2010  
Salesman: DK Robertson

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### Summary Investment

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<u>Summary Investment</u>		<u>Annual Maintenance Fees</u>	
Internet Application(s)	3,152	Internet Applications	2,352
Promo - 50% off 1st year cost	-1,576		
Valid until 9-30-10 with 2 year agreement			
Total Purchase Price	<u>1,576</u>	Total Annual Fees	<u>2,352</u>

*Note: Proposal provided by INCODE is valid for 120 days. After 120 days proposal pricing is subject to change.*



Customer Name:  
Contact:  
Date:  
Salesman:

City of Wayne  
Nancy Braden  
August 4, 2010  
DK Robertson

**Online Services and Products**

Service	QTY	Charges	Initial Year	Annual Fee
<b>INCODE Online Component Setup</b>				
One Time Setup Fee - Hardware Configuration - DNS registration	1	800	800	
Monthly fee to support and host Web site		100 /month	1,200	1,200
<b>INCODE Utility Billing On-Line Component</b>				
Utility Billing Online (4 cents per bill, per month) - Data extraction and storage - Display of: <ul style="list-style-type: none"> <li>• Current status (late, cut off etc)</li> <li>• Action needed to avoid penalty</li> <li>• Current Balance</li> <li>• Deposits on file (optional)</li> <li>• Last payment date</li> <li>• Last payment amount</li> <li>• Payment arrangements on file</li> <li>• Last bill amount</li> <li>• Last bill date</li> <li>• Bill due date</li> <li>• Contracts on file and status</li> <li>• Transaction history</li> </ul>	2,400	0.04 /month	1,152	1,152
<ul style="list-style-type: none"> <li>- Address information including <ul style="list-style-type: none"> <li>• Mapping</li> <li>• Legal description*</li> <li>• Precinct*</li> <li>• School district*</li> <li>• Services at address</li> <li>* - Subject to data availability</li> </ul> </li> <li>- Consumption history by service, including graphs</li> <li>- Request for service (optional)</li> <li>- Information change request (optional)</li> <li>- Security - SSL (Secure Socket Layer)</li> </ul>				
Online Payments <ul style="list-style-type: none"> <li>• Payment packet is created to be imported to Utility System</li> </ul> NOTE: Customer pays \$1.25 fee per transaction for payment on-line.				
<b>Total</b>			3,152	2,352

Note: INCODE's Online modules support merchant accounts through ETS and Authorize.net.  
 INCODE's Online modules utilize INCODE Web Services which require a dedicated public IP address (provided by Entity).



**incode**  
a tyler financial solution

## Incode Utility Billing Online

Tyler's INCODE Utility Billing Online provides citizen access to certain utility information and bill payment through the Internet. Through secured and non-secured areas, citizens can view average consumption, flood plain information, legal description, and transaction history. Online payment of utility bills is accomplished through credit card transactions. Transactions are user-defined, meaning you decide the level of access granted to citizens. Online Utility Billing reduces phone inquiries for general information, increases staff efficiencies, and offers citizens 24/7 access and payment opportunities. Utility Billing Online is another key product in Tyler's complete end-to-end solution for your local government.

Secured Access enables the city to provide detailed information about an account to the account holder in a secured section. Once an account holder logs into the secured section, the following information can be viewed: financial information (current due, last payment, amount past due, contract information, etc.), address information, transaction information (with copies of statements), and consumption information (with comparisons to like accounts and graphing).

### Citizen Secured Access

- View last payment date, payment amount, and bill due date.
- Access contracts on file and status.
- Generate transaction history.
- Review payment arrangements available on file.
- Make a request for service, an optional feature that can be added by the agency.
- Submit an information/account change or disconnect request, an optional feature provided at the agency's discretion.
- Receive an automated email response to a request.
- View current balances.
- View deposits on file.
- View graphs detailing consumption history by service.

### IT Friendly

- Provides Secure Socket Layer (SSL).
- Manages system functions including data extraction and storage.

### Easy Online Setup

- Sends daily data files from the utility system to Tyler for transfer to Tyler's server.
- Uses a simple link on your city's existing website to send citizens to the Utility Billing Online section hosted by Tyler.

Empowering people who serve the public™



For more information, visit  
[www.tylertech.com](http://www.tylertech.com)

or email  
[info@tylertech.com](mailto:info@tylertech.com)

**COMMUNITY DEVELOPMENT MEETING MINUTES  
OF AUGUST 17, 2010**

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 16<sup>th</sup> to obtain an occupancy permit for the houses on Lots 6 and 11, Western Ridge II Subdivision (deadline then would be October 16<sup>th</sup>) — 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 31<sup>st</sup> 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 15<sup>th</sup> through October 15<sup>th</sup>, 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 31<sup>st</sup>, 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. Benscoter.

Councilmember Sturm stated with Mr. Brugger's case, we were going to lose some property taxes. With Mr. Benscoter's case, we are not, provided he is done and has an occupancy permit by December 31<sup>st</sup>. 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 31<sup>st</sup> 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 16<sup>th</sup> to obtain an occupancy permit for the house on Lots 6 and 11, Western Ridge II Subdivision (October 16<sup>th</sup>). 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.

**Wayne Planning Commission Meeting Minutes  
Monday, August 2, 2010**

Chair Braun called the regular meeting of the Wayne Planning Commission to order at 7:00 P.M., on Monday, August 2, 2010, in the Council Chambers of the Municipal Building. Roll call was taken with the following members present: Bill Kranz, Derek Hill, Pat Melena, Jessie Piper, Jill Sweetland, Chair Sharon Braun and Inspector/Planner Joel Hansen. Absent: Mark Sorensen, Lee Brogie, and Kelby Herman.

Motion was made by Commissioner Sweetland and seconded by Commissioner Hill to approve the minutes as presented for July 12, 2010, with one correction on page four, seventh paragraph, to change the word "shuttle" to "subtle". Chair Braun stated the motion and second. All were in favor; motion carried unanimously.

Chair Braun read the Open Meetings Act and advised that anyone desiring to speak should limit themselves to three minutes and wait until being recognized by the Chair.

Chair Braun stated the first item on the agenda is a public hearing amending Section 90-424 Exceptions by adding "vehicle towing service" and Section 90-425 Special Conditions and Conditions for Granting Exceptions, applicants are Main Street Auto Care and City of Wayne.

Chair Braun opened the public hearing and asked for any comments from the public.

Ted Kurpgeweit, co-owner of Main Street Auto Care, was present to address the Commission on the amendment of the zoning language. Mr. Kurpgeweit stated they have been working with the city for awhile to get a use by exception in their zoning for the towing service they operate. Mr. Kurpgeweit noted for the Commission that a towing service has been operating out of that facility for a number of years.

Chair Braun questioned Mr. Kurpgeweit, if before they purchased the property, did the previous owners provide a towing service as well.

Mr. Kurpgeweit stated they did provide a towing service, which was owned by D&N Service. They had a towing service there for nearly twenty years.'

Chair Braun questioned if there was a gap between when D&N owned the facility and when it was purchased for Main Street Auto Care.

Mr. Kurpgeweit stated there was no gap in between the two owners for the use of a towing service. Main Street provided a towing service from the day they owned the property; they had no tow truck only a trailer and wrench. Mr. Kurpgeweit believed that the issue is that there was no wrecker on site for almost a year as they just used a trailer and wrench.

Chair Braun questioned Mr. Kurpgeweit, to his knowledge, how long did D&N occupy the property and provide a towing service?

Mr. Kurpgeweit believed it was nearly eighteen years, as well as the previous owners.

Chair Braun asked for any other comments from the public; there being none Chair Braun closed the public hearing and opened discussion among the Commission members.

Inspector Hansen added some background information to the Main Street Auto situation. Inspector Hansen noted for the Commission that if vehicle towing service had been listed as a use by exception in B-3, the Commission would not be meeting about this agenda item. The code states that if a use existed as a use by exception when the code was amended in 1993, if the use existed at the property at that time, it would have become a lawful conforming use and would be grandfathered in for that property for all time. However, vehicle towing service was not listed as a use by exception in B-3, so that went away for Main Street Auto. The grandfathering in of the use was ruled on by the previous zoning administrator and he ruled that his definition, which included the use of a towing/wrecker truck and the definition proposed, vehicle towing service, was not in the zoning definitions. The definition proposed to the Committee about a month prior was about having an actual tow or wrecker truck, by that definition, then Zoning Administrator Lowell Johnson ruled that Main Street Auto was not using a tow or wrecker truck for a period of one year and therefore Main Street Auto lost the use. In order to get the use back, Main Street Auto had to either appeal the decision, which there was nothing to appeal due to a lack of definition in the zoning. Now, the only opportunity for Main Street Auto to get their use back is to amend the zoning and get the use back. Inspector Hansen further noted that at the meeting the Commission is not specifically discussing Main Street Auto, the Commission is really discussing all property in Wayne which is zoned B-3 could come and apply for a use by exception permit to run a vehicle towing service as defined in the city code.

Commissioner Kranz was questioning Heikes Automotive. Inspector Hansen stated Heikes Automotive is zoned B-2 and they can keep the business as is,

unless there would be a twelve month time period where vehicle towing would not take place and the building would sit empty. Then the use would go away. Commissioner Kranz wanted to know the difference between the two. Inspector Hansen stated Main Street Auto is zoned B-3 and Heikes is zoned B-2.

Commissioner Kranz questioned where the definition of vehicle towing service was in the code as he did not find it. Inspector Hansen stated the definition probably is not in their code books yet as it was only passed a couple months ago and that the code book on the web page is most current.

Inspector Hansen noted that when the use was added as an exception in the B-1, the Planning Commission did not add a definition for the use at the same time.

Commissioner Sweetland questioned Inspector Hansen if there were any B-3 areas where he would view this as an issue.

Inspector Hansen noted that basically all the B-3 areas are along Seventh Street and then some are along the north end of Main and some along Tenth Street near the college. Inspector Hansen opined he views this as a use that is reasonable between a residential and commercial district. Part of this is the conditions and there are a set of conditions placed on the storage of towed vehicles in the B-1 district, which has been brought forward to the Commission, which is the second part of the amended language, Section 90-425 Special Conditions and Conditions for Granting Exceptions. If the Commission would approve adding vehicle towing service, the Commission then has the option to place conditions on those permits.

Commissioner Sweetland questioned if that would be each time someone would apply for this use by exception.

Inspector Hansen noted that every time someone would apply for the use by exception, they would need to comply with those conditions. Inspector Hansen noted that the Commission was supplied with the same list of conditions as are in the B-1 for discussion purposes and also every time someone comes before the Commission and asks for a use by exception permit, that lists in the zoning code is the minimum requirements, the Commission has the option to look at where the use would be located and place additional conditions on them.

Commissioner Kranz questioned if whatever the Commission recommends tonight needs to have the conditions as part of the motion.

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Commissioner Melena opined the conditions they were given were only suggested; the Commission can decide what they want.

Inspector Hansen stated the Commission will amend both sections of the code at this meeting. If the Commission only approves adding the use and not the conditions, then the Commission has approved the use without any conditions, unless the Commission puts conditions on the permit when they apply.

Commissioner Sweetland questioned if they need to set a height for the fence or is that for each separate request.

Inspector Hansen stated that the Commission can be set a fence requirement each time a request comes before them.

Commissioner Melena was questioning the difference between towed and stored vehicles. What is the difference between a vehicle coming in because it was damaged in an accident and is awaiting for an insurance claim or if the vehicle gets towed in because it had something wrong that needs to be repaired that day or the next. Are they a towed vehicle or a stored vehicle?

Commissioner Sweetland opined that according to the language, a towed vehicle and a stored vehicle have the same language.

Commissioner Melena opined that he believes it should not be that way. A stored vehicle is waiting for a third party to decide on its outcome and not just waiting for a chance to get into the service station for repair. However, the vehicle arrived, if it was driven in or pulled in.

Commissioner Melena opined that conditions need to be set for stored vehicles and leave towed vehicles out of it and set those conditions for something that will be sitting there for a few days or a few weeks. Commissioner Melena opined he would like to see the word towed vehicles removed as it may not apply to all vehicles which have arrived there because it had a flat tire and an hour later it is going down the road again or maybe the next day. Commissioner Melena opined that he would like to separate towed and stored.

Commissioner Sweetland opined that she felt they should only be discussing towed vehicles and not stored vehicles, so maybe they should take out stored vehicles, no matter where they are stored. She was unsure what a stored vehicle was.

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Commissioner Melena opined that a stored vehicle to him is one that was involved in a serious accident and gets pulled in and is waiting for the insurance adjuster or whomever to make a decision on the vehicle, if it is stored until then.

Commissioner Sweetland questioned, was the vehicle towed in?

Chair Braun questioned, wouldn't that be covered under number 8a, vehicles shall only be stored on-site, pending settlement or legal disposition of vehicles by insurance carrier and/or owner.

Commissioner Melena stated that it would; but in 8b, it states all towed and stored vehicles shall be...and those in a serious accident should be behind the front property line.

Commissioner Piper opined that if you bring in a vehicle with a flat tire you want it out front to be serviced quickly.

Commissioner Melena opined that all the other conditions sounds fine, they just need to change 8b to say all stored vehicles shall be stored behind the front building line.

Commissioner Piper questioned those vehicles sitting there to be purchased later.

Commissioner Sweetland opined they risk others not agreeing with the definition of stored vehicles. Someone could argue it was towed in so it could be a towed vehicle.

Commissioner Melena opined he would be satisfied if they took out towed vehicles from item 8b.

Inspector Hansen opined that the Zoning Administrator needs to have some common sense; it needs to be realized that some vehicles will only be there one or two days and those for salvage when they have been sitting there for several days or weeks.

Commissioner Piper questioned if there was any room behind the building at Main Street Auto.

Commissioner Kranz noted there is a barrier wall on the back side.

Chair Braun opined that the Commission delete item 8e and remove the barrier fence requirement since items a through f are just the minimum requirements, that a barrier fence could be an additional condition placed on the use. This would give the Planning Commission some leeway to add a recommendation and Council would be the one to ultimately decide, because you need to look at each use on a case by case basis as not all properties would need a barrier of sufficient height. If it is in there, that is a minimum for all to meet.

Inspector Hansen noted that the conditions before them came from the B-1 zone and that is the only reason the staff recommendations were made, was to give the Commission a point of discussion to begin.

Chair Braun stated that on any use by exception permit there are minimum requirements that will need to be met.

Inspector Hansen noted that when you have the use by exception permits, they are advertised to the public, there is a notice posted on the property, and all the property owners within 300 hundred feet are notified. If a fence would be an issue in the neighborhood, the property owners will be there at the meeting and remind the Commission of the need for a fence.

Commissioner Sweetland noted that the Commission is not deciding about Main Street Auto, they are setting minimum requirements for this in general and that will come up at the public hearing for the use and not this hearing. Commissioner Sweetland opined that she is okay with taking out the word towed and taking out item 8e.

Chair Braun opined she does not have a problem with the words towed and stored.

Inspector Hansen noted that if you take towed out, and as Zoning Administrator, if he would need to interpret this, he would look under the heading and see Storage of Towed Vehicles and he would put towed in there, just based on the heading, it is implied by the heading.

Chair Braun opined that the whole purpose of this is to protect the neighbors that surround this property so that they do not need to look at a wrecked vehicle for months on end.

Inspector Hansen noted for the Commission that if someone is in violation of the conditions, the only way he will know is if someone complains about the stored vehicles, if someone complains about stored vehicles sitting out and he goes to

verify and does not see anything that is wrecked. Then he will need to go back to the one who complained and ask that they verify the wrecked vehicle was there for several days; as he could not determine if it was towed there or driven.

Commissioner Sweetland asked what would be easier to enforce.

Inspector Hansen opined that it is splitting hairs and if the language already exists in the code under the B-1 section, he probably would not change it; it would make it more confusing as to why it reads one way in the code and another way in another part of the code. Inspector Hansen opined that he believes everyone is in agreement that they are after the same thing.

Chair Braun opined that she would like to see item 8e stricken from the draft language, due to the fact, that anyone who comes before the Commission for this use, will need to put up a solid barrier or fence, no matter where they are located.

Inspector Hansen opined that a chain-link fence could be a solid barrier fence if it had the slats in it. It would help hide the visibility of the wrecked vehicles.

Commissioner Hill questioned if these conditions are from the B-1 zoning.

Inspector Hansen stated that they are right out of the book.

There being no further discussion, a motion was made by Commissioner Melena and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council by amending Section 90-424 Exceptions in the B-3 Neighborhood Commercial District by adding "vehicle towing service" to the list of exceptions and amending Section 90-425 Special Conditions and Conditions for Granting Exceptions in the B-3 Neighborhood Commercial District by adding item # 8 "storage of towed vehicles", with the exception of "e", as stated in the attachment with the findings of fact being staff's recommendation and the comprehensive plan, and the current and future land use map. Chair Braun stated the motion and second. Roll call vote was taken with the following: Commissioner Kranz – aye; Commissioner Melena – aye; Commissioner Hill – aye; Commissioner Piper – aye; Commissioner Sweetland – aye; and Chair Braun – aye. Chair Braun declared the motion carried unanimously.

Chair Braun stated the next item on the agenda is a public hearing for a request for a use by exception, under Section 90-424(14) two-family dwelling, applicants David & Connie Stuthmann.

Chair Braun opened the public hearing and stated the Commission would accept comments from the public.

Sheryl Lessman, who owns property immediately to the south of the subject property, was present to address the Commission. Ms. Lessman stated they have not seen any plans yet and they have some concerns. One concern is how the two-family dwelling drainage would handle and secondly, there is an existing retaining wall that they wanted to know how it would be affected. They are also concerned as to how close to the property line it would be built. Also, what the criteria really is and how measurements take place.

Inspector Hansen noted that he had received two phone calls on the issue which they were just asking some questions and another call was from someone who lived on Walnut Drive that asked what they are doing; they had no comments other than positive.

Ms. Lessman questioned where the entrances and exists would be in relation to her property.

Chair Braun opined that the only person to really answer those questions would be the applicant; which she asked to step forward.

Connie Stuthmann was present to address the Commission on the use by exception request. Ms. Stuthmann stated they are proposing a two-family dwelling which would face towards the north, so the entrances would be off of 8<sup>th</sup> Street and the garage would also come off of 8<sup>th</sup> Street. They do not have final plans in place yet as their intentions when they bought the structure were to remodel; however, after several meetings with the Norfolk inspector and Inspector Hansen that it would be complicated for them to meet building code. So their plans have changed. At this point they have not gotten too far into it, as they did not know if their use by exception would be granted or not, so they could go ahead and make plans and get bids. Ms. Stuthmann stated they do have a plan of sorts in place.

Chair Braun reiterated that the entrances would face north and the property lines are set by code.

Inspector Hansen stated that the setback line is zero; they can build directly up to the property line, except they must stay ten feet away from any existing structure on the abutting property and on the east side, which is a side yard, they can build up to the property line there as well, which is the alley. The ten feet needs to be away from any existing structure, which would include the shed or the house.

Chair Braun then said there is the issue of the existing retaining wall.

Inspector Hansen said until they actually get out there and have a surveyor find the corner pins that will be the question of where that retaining wall fits on one side of the property or the other.

Ms. Lessman was concerned about the drainage and where it would run off to.

Mr. Stuthmann was present and he said it will be sloped to drain towards the alley.

Inspector Hansen noted the property lines will be determined when the footing inspection is conducted, because the property pins need to be exposed and a string line layout so that a measurement can be taken to determine setback.

Ms. Lessman questioned technically they could build right up next to the retaining wall, even though the Stuthmann's stated they would not.

Inspector Hansen stated that if the retaining wall is the dividing line, Stuthmann's could build right up next to it.

Chair Braun questioned if the retaining wall would be considered a structure.

Inspector Hansen read the definition of structure to the Planning Commission and in his opinion the retaining wall would be considered a structure.

Mr. Stuthmann noted for the Commission there would not be a walk-out basement, only a half-basement.

Commissioner Kranz questioned if there would be enough room for a driveway.

Inspector Hansen said that is an 80 foot right-of-way so there is a lot of space to work with. They would have almost 19 feet of terrace that they will have before the property line and then the set back from the property line he believed was 15 feet on that side.

Chair Braun asked for any further comments from the public. There being none, Chair Braun closed the public hearing and opened discussion among the Commission members.

There being no discussion, Chair Braun stated she would entertain a motion.

A motion was made by Commissioner Sweetland and seconded by Commissioner Melena to approve and forward a recommendation of approval to the City Council for the Use by Exception request under Section 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 map. Chair Braun stated the motion and second. Roll call vote was taken with the following: Commissioner Sweetland – aye; Commissioner Piper – aye; Commissioner Hill – aye; Commissioner Melena – aye; Commissioner Kranz – aye; and Chair Braun – aye. Chair Braun declared the motion carried unanimously.

Chair Braun stated the next item on the agenda is public hearing for the Benscoter Addition Planned Unit Development Replat 1, A Replat of Lots 3 and 4, and Plat of Dedicated Jaxon Street, applicant being Louis Benscoter Jr.

Chair Braun opened the public hearing and asked for any comments from the public.

Lou Benscoter, father of Louis Jr. was present to address the Commission as he stated he has been involved in this more. Mr. Benscoter stated that their goal here is that a retailer has a minimum area requirement they wish to build on. So Benscoter moved Jaxon Street to give the retailer the additional area they are requiring for what they wish to build.

Commissioner Piper questioned where Jaxon Street moved.

Mr. Benscoter stated that Jaxon Street actually straightened out. By doing this they needed a utility easement to run the sewer and storm sewer on the west side of that lot. They combined lots 21 and 22 and then 19 and 20 to make lots 19 and 20. Mr. Benscoter further noted for the Commission that by straightening Jaxon Street and if the hotel plans hold true they are planning to have Jaxon be the entry into the hotel.

Commissioner Piper questioned what the plans are for Lot 3.

Mr. Benscoter noted they are planning for a mini-strip mall, small stop shop. Benscoter noted that should the retailer back out of Lot 4, they are planning for a mini-strip mall on that lot as well.

Commissioner Kranz noted that there was a lot adjustment to the lot on the north.

Chair Braun noted that the surveyor has some corrections to be made to the plat. Those corrections are as follows: in the bottom left corner it states a 'special meeting' by the Commission, the plat was heard at a regular meeting; the plat will need the consent of all the property owners being Louis Benscoter, Javanah Benscoter, Investment Group, and the City of Wayne. Chair Braun noted that Inspector Hansen had commented on a couple corrections.

Inspector Hansen stated that the text under the "Notes" section that the zoning is R-4 for lots 5 through 25, it should be for lots 5 through 23.

Inspector Hansen stated he had one more item, that the rear-yard setback for lots 5 through 14, which is zoned R-4, that the setback is ten feet. In a Planned Unit Development, the peripheral of the development must meet the zoning setbacks for that district, which in an R-4 is the smaller of 25 feet or 20 percent of the total lot depth. The lot depths are 80 feet which would be 16 feet. The City does not have an issue with this, as the land behind the lots is the old railroad right-of-way. The motion would just need to state that the Planning Commission is okay waiving the rear yard requirement for those particular lots.

Chair Braun questioned Inspector Hansen if he thought that a finding of fact, the Commission would be okay reducing the rear yards due to the permanent railroad-right-of-way easement.

Mr. Benscoter opined that he does not like changing as the plat was done last fall, but he has a retailer who is coming which would be very beneficial to the city and if they could get them a site it would help.

There being no further business, Chair Braun closed the public hearing and opened the discussion up among the Commission members.

Chair Braun opined that with the changes which need to be made, she would be comfortable sending a recommendation, but adding to it pending the changes, the surveyor correcting the PC approval date, and the owners of record need to be shown.

There being no further discussion, motion was made by Chair Braun and seconded by Commissioner Kranz to approve and forward a recommendation of approval to the City Council for the Benscoter Addition Planned Unit Development Replat 1, Part of the Northwest Quarter of the Northeast Quarter and Part of the Northeast Quarter of the Northwest Quarter of Section 18, Township 26 North, Range 4 East of the 6<sup>th</sup> P.M., Wayne County Nebraska, with the findings of fact being: staff's recommendation and the replat is consistent

with the comprehensive plan and the current and future land use map, subject however to the following being met: Olsson Associates accurately describing the name of the replat in the Surveyor's Certificate, and subject to Olsson Associates accurately showing the property owners being Louis Bencoter Jr. and Javanah Bencoter, Northeast Nebraska Investors LLC, and the City of Wayne, and subject to Olsson Associates properly showing that the Planning Commission heard this at a regular meeting after proper notice on August 2, 2010 which appears in the bottom left-hand corner, and subject to the notes on the left hand side of Replat 1, it should reflect that zoning is R-4 for lots 5 through 23, and part of the recommendation is that the Planning Commission is in agreement with reducing the rear-yard setbacks for lots 5 through 14 as set forth in the subdivision agreement filed of record and entered into between the Bencoter's, the LLC and the City of Wayne. Chair Braun stated the motion and second. Roll call vote was taken with the following: Commissioner Hill – aye; Commissioner Piper – aye; Commissioner Sweetland – aye; Commissioner Melena – aye; Commissioner Kranz – aye; and Chair Braun – aye. Chair Braun declared the motion carried unanimously.

Chair Braun stated the last item on the agenda is the discussion and recommendation of the amendments to the Redevelopment Plan for Lot 1 of Bencoter Addition Planned Unit Development Replat 1.

Chair Braun noted for the Commission that they are just amending the Redevelopment Plan for the plan year of the hotel project.

Mr. Bencoter stated that the Redevelopment Plan needs to have the dates current.

Chair Braun noted for the Commission, their only concern is whether or not it is consistent with the Comprehensive Plan. It is in the correct zoning district.

Commissioner Kranz stated for the Commission that he will not sign the Resolution as he felt it was not his responsibility, but rather that of City Council.

There being no further discussion, motion was made by Chair Braun and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council for the amended Redevelopment Plan for Lot 1 of Bencoter Addition Planned Unit Development with the following findings with respect to the Redevelopment Plan: 1) The Planning Commission has reviewed the Redevelopment Plan as to its conformity with the general plan for the development of the City as a whole; and 2) the Planning Commission confirms that the area described in the Redevelopment Plan and the

Redevelopment Contract is blighted and substandard as defined in the Nebraska Community Development Law; and 3) The Planning Commission finds that the Redevelopment Contract and Redevelopment Plan, if implemented will help eliminate blight and substandard conditions in the area affected by the Plan; and 4) the Planning Commission recommends the adoption and approval of the Redevelopment Plan, as contained in the Redevelopment Contract attached hereto as Attachment A, with such amendments, additions and deletions as are deemed necessary by the Agency. Chair Braun stated the motion and second. Roll call vote was taken with the following: Commissioner Melena – aye; Commissioner Hill – aye; Commissioner Piper – aye; Commissioner Sweetland – aye; Commissioner Kranz – aye; and Chair Braun – aye. Chair Braun declared the motion carried unanimously.

There being no further discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Hill. Chair Braun stated the motion and second. All were in favor; motion carried unanimously. The meeting was then adjourned. Next meeting date is September 13, 2010.