

**MINUTES
CITY COUNCIL MEETING
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 10th 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 10th 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 2nd. 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 22nd. 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.