

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

The Wayne City Council met in regular session at City Hall on Tuesday, September 21, 2010, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Jim Van Delden, Jon Haase, Doug Sturm, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Brian Frevert, Dale Alexander, Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 9, 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.

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

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

Anthony Lawrence, Department Asst. City Administrator, advised the Council that he has been working on a grant from the Nebraska Game & Parks Recreational Trails Program for the purpose of placing signage on segments of the pedestrian trail. This is an 80/20 matching grant to get 30 signs and 5 Ipods with chargers and memory cards, for a

total cost of \$14,000. The Ipods will serve as a narration tool for people walking along the trail. There will also be a cost for surveying the property, the amount of which is not known at this time. Volunteers will be used to install the signage.

Administrator Johnson stated the money needed for the 20% match will come from the unused money for the Phase II portion of the trail.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain 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 Jim Van Delden, Jon Haase, Lois Shelton, and Doug Sturm; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Brian Frevert, Dale Alexander, Kaki Ley and 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 17, 2010, meeting.

Member Shelton made a motion and seconded by Member Sturm approving the minutes of the August 17, 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 take action to set a price on Lot 4, Kardell Subdivision.

Administrator Johnson stated this lot is slightly more than 10 acres, and his recommendation is to set the purchase price at \$20,000 per acre, for a total of \$200,000. The appraised value is \$125,000. The basis for this \$20,000 per acre comes from the improvements that were made out there (e.g. paved street, water and sewer). In addition, this property contains a large amount of high quality lean clay that could be sold for a profit.

It was noted that the land for the opportunity building was set at \$12,500 per acre.

Member Sturm had some concerns about setting the price too high. However, it was noted that the purchase price could always be negotiated.

Administrator Johnson explained that the hook-up fees, in lieu of assessments, for sewer would be approximately \$25,000. The paving assessment would have been \$135,000, which then leaves about \$40,000 for the land. This does not take into account the price for the water hook-up.

Member Shelton made a motion and seconded by Member Sturm setting the purchase price for Lot 4, Kardell Subdivision, at \$200,000.

Chair Chamberlain opined he would not mind putting a more sellable price on this lot to get a business out there, and if the CDA were to do that, he would recommend putting stipulations on the purchase similar to what has been done in Western Ridge (e.g. Improvements completed within 12-24 months). This would help prevent people from purchasing the property just for the dirt and then trying to sell it.

Finance Director Nancy Braden stated the City paid for the street, water and sewer improvements. The City did not annex the property, so there is no way for the City to recoup any of those costs. This would be a way for the City to recoup some of the expenses for those improvements.

Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Sturm made a motion and seconded by Member Shelton to adjourn as the Community Development Agency and reconvene as Council. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Nancy Braden, Finance Director, presented the Council with a proposal from Incode for an electronic on-line utility bill payment option. This was one of Council's goals. The initial cost would be \$1,576, which is a promotional 50% discount for the first year if the contract is signed by September 30th. The annual maintenance fee would be \$2,352. Incode charges a fee of \$1.25 to the customer who is paying their bill on-line, and it goes directly to Incode.

Councilmember Alexander arrived at 6:00 p.m.

Staff could not justify the expense of this option at this time. The City offers automatic bank debit and payment by credit/debit cards, which can be done over the phone. The City bears the cost of the credit card option which is about \$2,000 per year.

Councilmember Sturm made a motion and seconded by Councilmember Alexander to not take any action on the electronic on-line utility bill payment proposal

from Incode. 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 Van Delden, whereas the Clerk has prepared copies of the Minutes of the meeting of September 7, 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.

The following claims were presented to Council for their approval:

ADDITIONS & CORRECTIONS TO CLAIMS LIST OF SEPTEMBER 7, 2010:

DELETE CITY EMPLOYEE, RE, 83.00

VARIOUS FUNDS: AMAZON, SU, 113.28; AMERITAS, SE, 2138.57; APPEARA, SU, 64.65; BAKER & TAYLOR BOOKS, SU, 671.86; BANK FIRST, SE, 195.00; BEHLEN MFG, SU, 7287.00; CITY EMPLOYEE, RE, 150.96; BIG T ENTERPRISES, SU, 505.88; BLACK HILLS ENERGY, SE, 2267.00; CITY EMPLOYEE, RE, 59.95; CITY EMPLOYEE, RE, 103.38; CARHART LUMBER COMPANY, SU, 652.41; CITY OF NORFOLK, SE, 388.30; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, PY, 56885.10; CITY OF WAYNE, RE, 530.00; CITY OF WAYNE, RE, 15.00; COMMUNITY HEALTH, RE, 4.00; COUNTRY NURSERY, SU, 23.00; CULLIGAN, SE, 43.95; DAKOTA BUSINESS SYSTEMS, SE, 101.50; DAVE'S UNIFORM CLEANING, SE, 111.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DEMCO, SE, 481.93; CITY EMPLOYEE, RE, 286.18; CITY EMPLOYEE, RE, 130.56; ECHO GROUP, SU, 61.00; CITY EMPLOYEE, RE, 39.59; ED M FELD EQUIPMENT, SU, 501.90; ERIKSEN CONSTRUCTION, SE, 119250.00; FLOOR MAINTENANCE, SU, 139.42; FORT DEARBORN LIFE, SE, 3207.56; FREDRICKSON OIL, SU, 1653.00; GANZEL GROUP, SU, 26.75; GERHOLD CONCRETE, SU, 37.75; CITY EMPLOYEE, RE, 176.21; HD SUPPLY WATERWORKS, SU, 700.00; CITY EMPLOYEE, RE, 131.03; CITY EMPLOYEE, RE, 4340.45; HIRERIGHT SOLUTIONS, SE, 20.00; ICMA, SE, 5524.24; IRS, TX, 18352.21; JANWAY COMPANY, SU, 143.47; JOHN'S WELDING AND TOOL, SU, 160.00; K & M SEEDS, SU, 390.00; KRIZ-DAVIS, SE, 94.85; KTCH, SE, 605.00; MAIN STREET AUTO CARE, SE, 71.21; MATT FRIEND TRUCKING, SE, 49.00; MERCY MEDICAL CLINICS, SE, 28.00; MIDWEST LABORATORIES, SE, 130.55; MIDWEST TAPE, SU, 453.46; MSC INDUSTRIAL, SU, 98.20; NE DEPT OF REVENUE, TX, 2708.76; NPPD, SE, 332771.14; NORTHEAST EQUIPMENT, SU, 537.07; NORTHEAST LIBRARY SYSTEM, FE, 45.00; NDPPD, SE, 11634.98; NORTHWEST ELECTRIC, SE, 7766.90; PRESTO X, SE, 44.29; CITY EMPLOYEE,

RE, 1802.72; PROPERTY EXCHANGE PARTNER, RE, 100.00; QUALITY FOODS, SU, 213.37; QWEST, SE, 139.65; ROBERT WOehler & SONS, SE, 18181.18; ROBERTSON IMPLEMENT, SU, 149.86; CITY EMPLOYEE, RE, 3435.49; CITY EMPLOYEE, RE, 150.50; SIRCHIE FINGER PRINT LAB, SU, 359.84; SPARKLING KLEAN, SE, 1460.97; STADIUM SPORTING GOODS, SU, 782.75; STATE NATIONAL BANK, RE, 112.90; STATE NATIONAL BANK, RE, 64840.00; ULINE, SU, 160.57; US BANK, SE, 1803.47; WAED, RE, 6383.33; WAYNE AUTO PARTS, SU, 898.01; WAYNE COMMUNITY SCHOOLS, SE, 80.00; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SE, 522.00; WAYNE STATE COLLEGE, RE, 2160.00; CITY EMPLOYEE, RE, 104.49; WESCO, SU, 484.59; WAPA, SE, 32407.92; WHELEN ENGINEERING, SE, 83.35; ALIGNMENT TECHNOLOGIES, SU, 2698.00; APPEARA, SE, 75.61; BAUM HYDRAULICS, SU, 32.81; CITY EMPLOYEE, RE, 144.00; BIG RED PRINTING, SU, 827.84; BOMGAARS, SU, 13.98; CITY EMPLOYEE, RE, 97.33; CITIZENS NATIONAL BANK, RE, 3320.38; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 393.86; CONCORD COMPONENTS, RE, 4200.00; COVENTRY HEALTH, SE, 18064.44; DEAN METZ, RE, 362.20; DOESCHER APPLIANCE, SE, 71.00; DUTTON-LAINSON, SU, 259.18; ECHO GROUP, SU, 356.52; ED M FELD EQUIPMENT, SE, 224.00; ELECTRONIC ENGINEERING, SE, 391.25; ELLIS PLUMBING & HEATING, SE, 271.56; FORT DEARBORN LIFE, SE, 106.64; GREEN SOURCE, SU, 19.95; CITY EMPLOYEE, RE, 148.60; CITY EMPLOYEE, RE, 34.91; HDR ENGINEERING, SE, 6602.00; INDUSTRIAL CHEM LABS, SU, 909.16; JACK'S UNIFORMS, SU, 96.81; JOHNSON HARDWARE, SU, 31.14; LINWELD, SU, 401.81; CITY EMPLOYEE, RE, 150.00; CITY EMPLOYEE, RE, 131.87; METROCOUNT, SU, 631.00; MID-STATE ENGINEERING, SE, 245.00; MILO MEYER CONSTRUCTION, SE, 230.00; MOTION INDUSTRIES, SU, 166.19; MUNICIPAL SUPPLY, SU, 772.84; NE EXPRESSWAYS, FE, 581.04; NE RURAL WATER, FE, 120.00; NE STATE TREASURER, RE, 546.25; NMC, INC., SU, 150.05; NORTHEAST EQUIPMENT, SE, 173.95; NOVELTY MACHINE & SUPPLY, SU, 319.00; OLSSON ASSOCIATES, SE, 14930.74; OTTE CONSTRUCTION COMPANY, SU, 494.56; PEERLESS WIPING CLOTH, SU, 270.00; PITNEY BOWES, SE, 648.00; QWEST, SE, 309.43; TERRACON CONSULTANTS, SE, 3657.15; VERIZON, SE, 303.58; VOSS LIGHTING, SU, 18.90; WAYNE COUNTY COURT, RE, 150.00; WIGMAN COMPANY, SU, 51.73

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

Mayor Shelton advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, she advised the public that the Council may go into closed

session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Mayor Shelton declared the time was at hand for the public hearing regarding the contract amendment to the Nebraska Department of Economic Development for Community Development Block Grant No. 09-DTR-104, which is “Downtown Revitalization.”

Nancy Braden, Finance Director, stated the City originally allocated \$56,000 from the Street Code for ADA ramp improvements. This full amount was not needed for the ADA portion of the sidewalk improvement project. Therefore, the purpose of this amendment is to move \$35,714 from the Street Code to the Commercial Rehab Code for façade improvements. There is another \$33,000 in requests for downtown improvements on buildings which this money could be used for.

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

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

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the budget amendment to the Nebraska Department of Economic Development for Community Development Block Grant Project No. 09-DTR-104 – Downtown Revitalization. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Chamberlain introduced Resolution No. 2010-72 and moved for its approval; Councilmember Sturm seconded.

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.

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

Garry Poutre, Supt. of Public Works and Utilities, stated the following ordinance would amend sections of the Code by adding language which would require property owners to trim bushes and hedges or overgrowth that blocks the alleys. We have always had an ordinance in place for trimming trees to a certain height above the streets and sidewalks, but we have not had the wording in place where we could enforce the same in the alleys. A majority of the property owners when asked to trim the bushes or overgrowth in the alley do so. This, however, was challenged a year or two ago because the code did not have this language in it. This would be much like the requirement to mow your lawn or scoop the snow off the sidewalk. If after being contacted and the property owner does not, then the City will pay to have it done and then bill the property owner.

Councilmember Sturm introduced Ordinance 2010-23, and moved for its approval; Councilmember Alexander seconded.

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

Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Phil Lorenzen of D.A. Davidson & Co., was present regarding the next four agenda items. The IRS Code finds that if a city uses cash on hand and spends that money on project costs without having in place a “reimbursement resolution”, you can still borrow money to replace that cash, but you can’t borrow it on a tax exempt basis. The recommendation is for Council to adopt the following resolution that clears the way for the Council to use the cash you have on hand to reimburse yourself and later be able to borrow on a tax exempt basis to issue bonds or notes.

Councilmember Sturm introduced Resolution No. 2010-73 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2010-73

A RESOLUTION APPROVING REIMBURSEMENT OF FUNDS TEMPORARILY ADVANCED TO PAY FOR STREET AND SIDEWALK IMPROVEMENTS FOR THE DOWNTOWN STREET/SIDEWALK IMPROVEMENT PROJECT.

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

Mr. Lorenzen stated that work is underway on the downtown street and street/sidewalk improvement projects. Because the Council did not have enough members present to waive the required three readings of the following two ordinances, his recommendation would be to defer action on those ordinances and the resolution until the October 5th meeting.

Administrator Johnson left the meeting to contact Councilmember Berry to see if she would be able to come to the meeting so that the required number of Councilmembers would be present to waive the three readings of the ordinances.

A pay request has been received from Gana Trucking & Excavating, Inc, for the Former Kardell Landfill Stream Restoration Project in the amount of \$29,316.55. The engineer on the project has approved the same.

Councilmember Alexander made a motion and seconded by Councilmember Haase approving Contractor's Pay Estimate No. 3 for the Former Kardell Landfill Stream Restoration Project in the amount of \$29,316.55 for Gana Trucking & Excavating, Inc. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that Councilmember Berry would not make the meeting.

Administrator Johnson stated that a request has been received from the general contractor, Layne Christensen, to extend the completion date for the Well House and Municipal Well 2009-1 Project to September 24th. The original completion date was May 14th. An extension was given at that time until July 23, 2010. A meeting was held on the project with the general contractor, the engineer and city staff. The recommendation is to deny the request for a second extension. We are incurring additional engineering fees because of the time it is taking to complete this project. While we do not want to make any money on the liquidated damages, we do not want to incur any costs either. It is the job of the general contractor to see that the job gets completed in a timely fashion.

Garry Poutre, Superintendent of Public Works & Utilities, stated the project was going along fairly well until it had to stop because of winter. Then, there was a late start in the spring, but there could have been considerably more work done up until the time when they asked for their initial extension. That extension was granted until July 23rd. On September 1st, there was still a lot of work left to be done, which is why he asked for a meeting of all of the contractors and the engineer. They expressed to everyone at this meeting that it is the City's intention to have these liquidated damages stay in place. The engineer has indicated to us that they do have additional costs because they are still having to deal with this project that they thought would have been wrapped up and put on the shelf months ago. He agreed with Administrator Johnson in that the City does not need to make any money on this, but we should not have to incur any additional costs either.

Mayor Shelton stated what concerns her is that the company was granted an extension until July 23rd, and they have not come back until now to ask the City for another extension.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm to deny the request of Layne Christensen Co. for a second extension on the Well House & Municipal Well 2009-1 Project. 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 seconded by Councilmember Sturm to table action on Ordinance 2010-24 until the October 5th meeting. 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 seconded by Councilmember Sturm to table action on Resolution 2010-74 until the October 5th meeting. 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 seconded by Councilmember Sturm to table action on Ordinance 2010-25 until the October 5th meeting.

In response to Councilmember Sturm's question, Mr. Lorenzen advised the Council that a special meeting to take action on these ordinances was not necessary.

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 Layne Christensen Co. for the Well House and Municipal Well 2009-1 Project in the amount of \$39,391.94. The engineer on the project has approved the same.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving Application for Payment No. 9 for the Well House and Municipal Well 2009-1 Project in the amount of \$39,391.94 for Layne Christensen Co. 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 6:32 p.m.