

**MINUTES
CITY COUNCIL MEETING
November 16, 2010**

The Wayne City Council met in regular session at City Hall on Tuesday, November 16, 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, Jon Haase, Doug Sturm, Kathy Berry, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Dale Alexander and Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 4, 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 Haase made a motion and seconded by Councilmember Van Delden, whereas the Clerk has prepared copies of the Minutes of the meeting of November 2, 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 NOVEMBER 2, 2010:

ADD CITY OF WAYNE, RE, 366.48 AND CITY OF WAYNE, PY, 59481.51

VARIOUS FUNDS: AMERITAS, SE, 2170.03; APPEARA, SE, 72.25; BANK FIRST, FE, 195.00; BARONE SECURITY SYSTEMS, SE, 69.96; CITY EMPLOYEE, RE, 119.55; CITY EMPLOYEE, RE, 452.56; BOMGAARS, SU, 1194.38; BROWN SUPPLY, SU, 844.38; CITY OF WAYNE, RE, 650.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, PY, 59481.51; CITY OF WAYNE, RE, 521.28; CITY EMPLOYEE, RE, 22.96; COPY WRITE, SU, 1116.62; DAVE'S DRY CLEANING, SE, 117.00; DGR

& ASSOCIATES, SE, 56.50; CITY EMPLOYEE, RE, 183.34; CITY EMPLOYEE, RE, 64.76; DUTTON-LAINSON, SU, 104.24; ECHO GROUP, SU, 189.14; ENDURANCE POWER PRODUCTS, SU, 418.54; ERIKSEN CONSTRUCTION, SE, 92137.50; FORT DEARBORN LIFE, SE, 1623.65; FRED KRENK, RE, 217.84; GERHOLD CONCRETE, SU, 238.50; GREAT PLAINS ONE-CALL, SE, 154.17; CITY EMPLOYEE, RE, 317.86; HACH COMPANY, SU, 30.90; HARDING & SHULTZ, SE, 8604.34; HAWKINS, INC, SU, 763.50; CITY EMPLOYEE, RE, 4.06; CITY EMPLOYEE, RE, 25.59; HOLIDAY INN OF KEARNEY, SE, 142.00; ICMA, RE, 5535.91; INGRAM BOOK COMPANY, SU, 742.73; IRS, TX, 18983.21; JOHN'S WELDING AND TOOL, SU, 70.07; CITY EMPLOYEE, RE, 199.04; CITY EMPLOYEE, RE, 50.00; CITY EMPLOYEE, RE, 197.00; CITY EMPLOYEE, RE, 603.09; KTCH, SE, 1061.00; LARRY MITCHELL, RE, 500.00; LAURA TEST, RE, 320.10; CITY EMPLOYEE, RE, 277.79; M.E. COLLINS, SE, 150290.01; MERCY MEDICAL CLINIC, SE, 240.00; MIDWEST LABORATORIES, SE, 61.35; MORLOK, JEFF, RE, 900.00; MUNICIPAL SUPPLY, SU, 84.72; N.E. NEB ECONOMIC DEV DIS, SE, 612.50; NE DEPT OF REVENUE, TX, 2840.87; NE LIBRARY ASSOCIATION, FE, 250.00; NNPPD, SE, 11634.98; OLSSON ASSOCIATES, SE, 779.72; PAMIDA, SU, 143.69; PEPSI-COLA, SU, 374.52; PLUNKETT'S PEST CONTROL, SE, 93.60; PRESTO X, SE, 77.20; CITY EMPLOYEE, RE, 804.29; QUALITY FOODS, SE, 148.91; QUILL, SU, 852.77; ROSE EQUIPMENT, SU, 53.50; ROY GRAMLICH, RE, 500.00; CITY EMPLOYEE, RE, 92.98; SKARSHAUG TESTING LAB, SE, 102.72; STADIUM SPORTING GOODS, SU, 848.50; STATE NATIONAL BANK, SE, 48.51; STATE NATIONAL BANK, RE, 480422.71; STEVE HARRIS CONSTRUCTION, SE, 5097.61; TYLER TECHNOLOGIES, SE, 138.00; UNITED RENTALS, SU, 177.00; US BANK, SE, 2931.51; WALTER OTTE, RE, 500.00; WAYNE HERALD, SE, 2669.80; WESCO, SU, 2086.11; WAPA, SE, 26572.00; WHELEN ENGINEERING, SE, 23.35; WILLIAM SLAYMAKER, RE, 185.86; CITY EMPLOYEE, RE, 31.36; AMAZON, SU, 246.03; APG CASH DRAWER, SU, 24.93; BAKER & TAYLOR BOOKS, SU, 1277.64; CITY EMPLOYEE, RE, 71.44; CITY EMPLOYEE, RE, 172.36; BROWN SUPPLY, SU, 428.62; CITY EMPLOYEE, RE, 58.40; CITY OF PONCA, RE, 16279.60; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 250.00; CITY OF WISNER, RE, 2446.50; CLAUSSEN & SONS IRRIG, SE, 50.00; COVENTRY HEALTH, SE, 18482.77; CULLIGAN, SE, 43.95; DAKOTA BUSINESS SYSTEMS, SE, 101.50; DE LAGE LANDEN FINANCIAL, SE, 394.00; CITY EMPLOYEE, RE, 28.80; FLOOR MAINTENANCE, SU, 104.51; FREDRICKSON OIL, SU, 103.50; GALE GROUP, SU, 449.48; GODFATHERS PIZZA, SU, 43.50; HAUFF MID-AMERICAN SPORTS, SU, 119.97; HAWKINS, SU, 476.28; HDR ENGINEERING, SE, 327.05; HEARTLAND FIRE PROTECTION, SU, 163.00; HEIKES AUTOMOTIVE SERVICE, SE, 1598.32; HOLIDAY INN OF KEARNEY, SE, 559.09; HYDRAULIC EQUIPMENT, SU, 499.40; CITY EMPLOYEE, RE, 758.13; CITY EMPLOYEE, RE, 1025.77; KEPSCO, SU, 11.20; FIREMEN, RE, 787.32; LERNER PUBLISHING GROUP, SU, 550.50; MARSHALL CAVENDISH, SU, 69.95; MIDWEST OFFICE AUTOMATION, SE, 97.92; MIDWEST TAPE, SU, 34.99; NORFOLK DAILY NEWS, SU, 120.50; NORTHEAST NE AMERICAN RED, SE, 350.00; ODEYS, SE, 8000.00; PONCA RURAL FIRE BOARD, RE, 3912.43; CITY EMPLOYEE, RE, 32.80; PRESTO X, SE, 35.00; RANDOM HOUSE, SU, 340.35; CITY

EMPLOYEE, RE, 200.76; ROBERTSON IMPLEMENT, SU, 424.76; S & S WILLERS, SU, 1468.25; SPARKLING KLEAN, SE, 1273.46; STADIUM SPORTING GOODS, SU, 251.00; STANLEY SECURITY SOLUTION, SU, 5652.30; STATE NATIONAL BANK, RE, 92.22; TACO'S AND MORE, SU, 35.00; TODD LUEDEKE, RE, 100.00; VILLAGE OF WINSIDE, RE, 5184.62; CITY EMPLOYEE, RE, 660.76; WATERLINE ENVIROTECH, SU, 412.79; WAED, RE, 5503.50; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SE, 320.40; WESCO, SU, 1261.69; ZACH OIL, SU, 4769.94

Councilmember Chamberlain made a motion and seconded by Councilmember Haase 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.

Tom Sievers, Fire Chief, and Brent Doring of the Wayne Volunteer Fire Department updated the Council on where they were at with the new fire truck purchase. They have looked at several trucks. They will develop specs and hopefully go out for bids on May 1, 2011. The budget for the fire truck is \$600,000.

Jerry Kabourek, Vice President of M.E. Collins, was present to speak to Council. He had prepared a letter for the Council outlining the factors that he would like Council to consider when making a decision on his request to have the contract end date extended until December 17th. Record rainfall during the months of May, June, July and August delayed the completion of the projects that his crews were on prior to mobilizing to Wayne. In addition, there were utility conflicts, material delivery for water service

replacement, plan changes, etc., that also contributed to additional time being required. They are ready to start on the ramps. Things will now start to get finished and cleaned up. Mr. Kabourek thought that there was about a week's worth of delays in changes that the City and/or property owners wanted.

Councilmember Frevert did not think that M.E. Collins should be penalized for the week to ten days they had to spend on the changes that the City wanted. He wanted to compromise on the date though. Councilmember Sturm suggested December 1st. Councilmember Berry suggested December 10th.

Councilmember Berry made a motion and seconded by Councilmember Van Delden to extend the contract end date on the 2010 Downtown Sidewalk Replacement Project to December 10, 2010. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that the Sales Tax Advisory Committee met and reviewed an application to Wayne's Economic Development Program Fund. The Committee recommended approving the request by the Wayne Music Boosters for a \$10,000 zero percent interest loan to be paid back over 10 years to be used to assist with purchasing new band uniforms for the Wayne High School Band. The modified recommendation by the committee reduced the \$20,000 request and also changed it from a grant to a zero percent interest loan over 10 years. The vote was unanimous with six in favor.

Karen Parker, representing the Wayne Music Boosters stated that their committee met and is requesting Council consideration to changing the LB840 Committee's recommendation from a \$10,000 0% interest loan to a \$5,000 grant. This is due to the

fact that they have made some changes to their order and they have also received a “firm price” on the uniforms. Ms. Parker presented a document to the Council outlining the funding to date. Funding began last March/April this year. They will be purchasing 200 uniforms and the price will be \$69,782 if ordered before December 15th. To date, Wayne Music Boosters will contribute \$22,000; Wayne Community Schools Foundation \$20,000; Wayne High School \$10,000; and Wayne Blue Devil Boosters \$2,500 for a total of \$54,500. The reason they cannot accept a loan, as recommended by the LB840 Committee, is because the Music Boosters is a group of volunteer parents, and they did not feel they could burden future parents with having to pay back a loan.

The old uniforms could be sold to a smaller school if there are enough good ones left. Another option for the uniforms is to make pillows out of them, which they can sell. The current band uniforms are 30 years old.

Council had concerns about setting a precedent for other groups to come before them for uniforms (e.g. baseball, softball, etc.) and the fact that majority of the points used in the matrix to score the project did not meet the requirements.

Ms. Parker, in response, stated that the differentiation would be the line on the application entitled “Encouraging community organizations to promote workforce attraction.” The committee felt this was enough of a connection to fill out the application. If approved, these uniforms will last 20 years.

Councilmember Frevert stated he would possibly consider a loan, but did not know if he would approve a grant.

Mayor Shelton stated she was having a hard time seeing this as a workforce attraction event.

Don Buryanek, who is on the LB840 Committee, was present to address some of the questions. The Committee had some of the same concerns as Council in regard to setting a precedent. The Committee comes to the Council knowing full well that whatever recommendation they make, the Council makes the final decision. He noted that while some of the projects don't meet the requirements of the matrix, that they do meet some of the criteria set. He noted that the vote was not unanimous on this application.

Councilmember Sturm stated he thought this was a stretch to fit into the criteria and the ideas of what they wanted to do with the LB840 funds, and it opens up a bad precedence for future requests.

Ms. Parker replied she thought there were two issues that could be different. One is this is a far longer term project than most of the others. This has a long life. This project has been very well supported by the taxpayers. In addition, they are coming to the Council after the fact, not before the fact.

She noted that the contribution from the Wayne High School is out of their current year budget.

Councilmember Sturm stated this is a very successful program at the high school. He could not understand why the administration or school board had not been budgeting for new uniforms over the past 30 years. He stated all but one person he has talked to does not think this is something the sales tax money should be spent on. He was concerned about borrowing from Peter to pay Paul.

Administrator Johnson stated the project is outside the parameters in the Economic Development Plan, which is what is making it difficult for the Council.

Ms. Parker stated if this project does not meet that criteria, is it even possible for any group to meet that criteria. She felt a small grant would be appropriate and that the Council could explain that to people who disagree – that they didn't meet every criteria for every economic development facet possible, but that they met the criteria for attraction and image that Wayne portrays once a year in Lincoln or Omaha, and that image is quite attractive to workforce development.

Administrator Johnson stated the criteria that most towns are using are limiting the funds strictly to actual business ventures. The intent is job creation and tourism is one of them, which is where the hotel and the Veterans Memorial fit in.

Councilmember Frevert made a motion and seconded by Councilmember Chamberlain denying the request of the Wayne Music Boosters for a \$5,000 grant from the LB840 Funds which would be used to purchase band uniforms. Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Berry and Van Delden who voted Nay, and Councilmember Sturm abstaining from the vote, the Mayor declared the motion failed.

Administrator Johnson stated Council could act on the LB840 Committee's recommendation for the loan or table the discussion until the next meeting.

When asked, Ms. Parker stated she could not accept the loan on behalf of the Wayne Booster Club.

Councilmember Frevert made a motion and seconded by Councilmember Chamberlain to table action on the recommendation of the LB840 Committee for the \$10,000 zero percent loan to the Wayne Music Boosters to purchase band uniforms until

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

Administrator Johnson advised the Council that the City has received the Annual Renewal Maintenance Agreement from the Nebraska Department of Roads. This is a standard form agreement.

Councilmember Chamberlain made a motion and seconded by Councilmember Frevert approving the Annual Renewal Maintenance Agreement (2011) with the Nebraska Department of Roads. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to the following appointment: Lou Wiltse to the LB840 Citizens Economic Development Advisory Committee.

Councilmember Chamberlain made a motion and seconded by Councilmember Frevert approving the appointment of Lou Wiltse to the LB840 Citizens Economic Development Advisory Committee. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to the following reappointments: Rod Garwood and Byron Heier to the Recreation-Leisure Services Commission (three-year terms).

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the reappointment of Rod Garwood and Byron Heier to the Recreation-Leisure Services Commission. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to the following appointment:

Jane Collier to the Recreation-Leisure Services Commission.

Councilmember Frevert made a motion and seconded by Councilmember Chamberlain approving the appointment of Jane Collier to the Recreation-Leisure Services Commission. 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 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, Lois Shelton, Doug Sturm, and Kathy Berry; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Dale Alexander and Kaki Ley.

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 October 19, 2010, meeting.

Member Shelton made a motion and seconded by Member Sturm approving the minutes of the October 19, 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 on the request from Lou Benscoter

to release the lien on the spec house he built at 809 Brookedale Drive. This was the house that Mr. Bencoter was given an extension on. To his knowledge, the house was done in time; he just did not call for a final inspection.

Administrator Johnson stated this is brought before the CDA for their approval since Mr. Bencoter was given an extension. Typically, these lien releases are not brought before the CDA if they meet all of the requirements within the appropriate timelines. Mr. Bencoter now has an occupancy permit and the property is being sold.

Member Berry made a motion and seconded by Member Sturm approving the lien release on Lot 11, Western Ridge II Subdivision which is owned by Lou Bencoter and more commonly known as 809 Brookedale Drive. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Frevert made a motion and seconded by Member Sturm 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.

Discussion took place regarding proposed dates for the 2011 Council Retreat. Those dates set were: January 21 and 22, January 28 and 29, or February 4 and 5. Council will be contacted to let staff know which weekend works best for them.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm 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 6:48 p.m.

