

MINUTES
CITY COUNCIL MEETING
December 21, 2010

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

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 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.

The next item on the agenda was the mayoral appointment of a Fourth Ward candidate. Mayor Chamberlain requested Council consideration to the following mayoral appointment: Jill Brodersen to fill the vacancy in Fourth Ward.

Councilmember Sturm made a motion and seconded by Councilmember Van Delden approving the mayoral appointment of Jill Brodersen as Fourth Ward Councilmember. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Attorney Pieper presented the oath of office to Jill Brodersen.

Councilmember Sturm made a motion and seconded by Councilmember Ley, whereas the Clerk has prepared copies of the Minutes of the meeting of December 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 Chamberlain 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:

VARIOUS FUNDS: AMAZON, SU, 238.00; AMERITAS, SE, 2184.21; APPEARA, SU, 72.27; BAKER & TAYLOR BOOKS, SU, 276.03; BANK FIRST, FE, 195.00; BILL KAUP, RE, 221.63; CITY EMPLOYEE, RE, 137.58; CARTRIDGE WORLD, SU, 365.98; CITY EMPLOYEE, RE, 30.80; CITY OF NORFOLK, SE, 12.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, PY, 58707.36; CITY OF WAYNE, RE, 528.26; COMMUNITY HEALTH, RE, 3.00; COPY WRITE, SE, 528.64; CULLIGAN, SE, 43.95; DAKOTA BUSINESS SYSTEMS, SE, 101.50; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 11.59; ED M FELD EQUIPMENT, SU, 53.50; ERIC SCHOH, RE, 600.00; ERIKSEN CONSTRUCTION, SE, 184335.24; FLOOR MAINTENANCE, SU, 31.46; FREDRICKSON OIL, SU, 467.50; FRY, TERRY, RE, 105.56; GENO'S, SE, 2526.83; CITY EMPLOYEE, RE, 28.18; HAWKINS, INC, SU, 1931.42; HDR ENGINEERING, SE, 1948.00; HEIMAN, SU, 631.85; HIRERIGHT SOLUTIONS, SE, 20.00; ICMA, SE, 5535.91; IRS, TX, 19505.28; JOHN'S WELDING AND TOOL, SE, 1035.99; CITY EMPLOYEE, RE, 197.38; KELLY MEYER, SU, 827.75; KRIZ-DAVIS, SU, 307.75; KTCH, SE, 80.00; LERNER PUBLISHING GROUP, SU, 109.74; CITY EMPLOYEE, RE, 131.87; M.E. COLLINS, SE, 203785.92; MAIN STREET AUTO CARE, RE, 3675.00; MATT EISCHEID, RE, 1311.25; MICROFILM IMAGING SYSTEMS, SE, 541.50; MIDWEST LABORATORIES, SE, 787.33; MIDWEST TAPE, SU, 572.83; MIKE BARRY, RE, 145.35; N.E. NEB ECONOMIC DEV DIS, SE, 1312.50; NE DEPT OF REVENUE, TX, 2989.45; NE NEB AMERICAN RED CROSS, RE, 39.24; PAC N SAVE, SU, 29.43; PAMIDA, SU, 213.55; PEPSI-COLA, SU, 904.66; PRESTO X, SE, 77.20; CITY EMPLOYEE, RE, 99.45; PUSH-PEDAL-PULL, SE, 1343.58; QUILL, SU, 112.63; QWEST, SE, 441.08; RANDOM HOUSE, SU, 219.92; RON'S RADIO, SE, 54.95; ROURKE PUBLISHING, SU, 15.95; SPARKLING KLEAN, SE, 1432.85; STADIUM SPORTING GOODS, SU, 282.82; STATE NATIONAL BANK, RE, 16462.50; STEFFEN, SU, 29.73; THE FINAL TOUCH, SU, 1324.00; THE JOURNAL OF LIGHT, SU, 59.95; UNITED WAY, RE, 10.00; US BANK, SE, 2825.81; WAYNE AUTO PARTS, SU, 626.54; WAYNE COMMUNITY HOUSING, RE, 1097.48; WAYNE COMMUNITY SCHOOLS, SE, 100.00; WAYNE HOSPITALITY GROUP, RE, 250000.00; CITY EMPLOYEE, RE, 104.49; CITY EMPLOYEE, RE, 174.66; APPEARA, SE, 99.83; ASSOCIATED FIRE, SE, 1000.00; CITY EMPLOYEE, RE, 138.40; BOARD OF EXAMINERS, FE, 10.00; CITY EMPLOYEE, RE, 375.42; BOMGAARS, SU, 16.27; CITY EMPLOYEE, RE, 63.72; BRIAN BRUCKNER, RE, 98.56; BROWN SUPPLY, SU, 346.66; CARHART LUMBER, SU, 625.63; CITY EMPLOYEE, RE, 22.96; CITY OF NORFOLK, SE, 196.67; CITY OF WAYNE, RE,

500.00; CITY OF WAYNE, RE, 500.00; CONTINUUM WORLDWIDE CORP, SE, 2200.00; COVENTRY HEALTH, SE, 18189.76; CUSTOMER SOLUTIONS, FE, 50.00; CITY EMPLOYEE, RE, 130.56; DAVE'S DRY CLEANING, SE, 111.00; DUTTON-LAINSON, SU, 1274.87; ECHO GROUP, SU, 734.33; ELECTRIC FIXTURE, SU, 265.05; FLOOR MAINTENANCE, SU, 104.34; FORT DEARBORN LIFE, SE, 1598.54; GENO'S STEAKHOUSE, SE, 68.00; CITY EMPLOYEE, RE, 59.25; CITY EMPLOYEE, RE, 133.49; IRS, TX, 918.00; CITY EMPLOYEE, RE, 90.03; MATTHEW BENDER & CO, SU, 299.94; MIKE KAUP, RE, 307.92; MIKE TOWNE/DOROTHY TOWNE, SE, 1000.00; NATL ARBOR DAY FOUNDATION, FE, 15.00; NE ECONOMIC DEVELOP ASSN, FE, 100.00; NE LAW ENFORCEMENT, FE, 330.00; NET-TECH, SU, 56.65; OAKSTONE PUBLICATIONS, SU, 118.80; OLSSON ASSOCIATES, SE, 706.30; OPTIMUM DATA, SU, 715.00; CITY EMPLOYEE, RE, 104.74; PITNEY BOWES, SE, 648.00; QWEST, SE, 309.27; RON'S RADIO, SE, 150.00; CITY EMPLOYEE, RE, 2611.86; STANLEY SECURITY, SU, 82.34; STATE NATIONAL BANK, SU, 5541.00; STEFFEN, SU, 1150.74; THE GLASS EDGE, SU, 399.00; TOM'S BODY & PAINT SHOP, SE, 321.04; VERIZON, SE, 204.28; WAYNE COUNTY VETS MEMORIAL, RE, 1508.78; WAYNE HERALD, SE, 442.90; WAYNE STATE COLLEGE, RE, 100.00; WAYNE STATER, SE, 24.00; CITY EMPLOYEE, RE, 17.66; WESCO, SU, 15930.27; WEST-E-CON, SE, 1580.00; ZEE MEDICAL SERVICE, SU, 70.29; CITY EMPLOYEE, RE, 33.65

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

Mayor 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. In addition, he 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 Chamberlain stated Matt and Sandy Ley have purchased Lots 8 and 9 in Fairway Estates Subdivision. They are building a house on these two lots. The utility easements located between these two lots will never be used. The following Ordinance would release those side-yard utility easements located between these two lots.

Councilmember Sturm introduced Ordinance 2010-29, and moved for its approval; Councilmember Frevert seconded.

ORDINANCE NO. 2010-29

AN ORDINANCE AUTHORIZING THE RELEASE AND ABANDONMENT OF THE SIDE YARD UTILITY EASEMENTS LOCATED IN LOTS 8 AND 9, FAIRWAY ESTATES SUBDIVISION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

Mayor Chamberlain 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 Frevert seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley made a motion and Councilmember Sturm seconded to move for final approval of Ordinance No. 2010-29. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the following Ordinance would amend sections of the Building Codes to adopt the 2006 IRC Code and to eliminate the language which adopts all future building codes by reference. This would eliminate the requirement to install fire suppression systems/sprinkler systems in new homes beginning January 1, 2011.

Councilmember Ley introduced Ordinance 2010-30, and moved for its approval; Councilmember Frevert seconded.

ORDINANCE NO. 2010-30

AN ORDINANCE TO AMEND ARTICLE II BUILDING CODE, SECTIONS 18-41 ADOPTED BY REFERENCE AND 18-44 ENERGY CODE ADOPTED BY REFERENCE; ARTICLE III ELECTRICAL CODE, SECTION 18-81

ADOPTED BY REFERENCE; ARTICLE IV ONE AND TWO FAMILY DWELLING CODE, SECTION 18-151 ADOPTED BY REFERENCE; ARTICLE V PLUMBING CODE, SECTION 18-181 ADOPTED BY REFERENCE; ARTICLE VI UNSAFE BUILDINGS, SECTIONS 18-241 SPECIAL ASSESSMENTS AND 18-242 PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE; AND ADDING ARTICLE IX HEATING, VENTILATION AND COOLING (HVAC), SECTION 18-351 ADOPTED BY REFERENCE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Joel Hansen, Zoning Administrator, advised the Council that the interlocal agreement between the City of Wayne and the City of Norfolk for building inspection services states that the City will adopt and stay with the 2006 Codes until Norfolk adopts a new code.

Mayor Chamberlain 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 Ley seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain 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 Ley seconded to move for final approval of Ordinance No. 2010-30. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Certified Street Superintendent, stated two bids were received to haul the stockpile of mixed fill material from the Kardell landfill site to Western Ridge. This stockpile was placed in the flood plain. At the time it was placed there, we were unaware that it was in the flood plain. It should not have been placed there. This was part of a change order in the Kardell Subdivision project. The savings from this change

order was over \$100,000. However, now we need to spend an additional \$20,000 to haul this material out of there. If we had realized this was in the flood plain at that time, this would have been a part of that change order to haul the material to a different location.

This is the second time we have been this out. These bids are coming in around 60% less than the first bids.

The bids/proposals have been reviewed, and the recommendation is to award the project to the low bidder – Robert Woehler & Sons Construction at \$4.74 per cubic yards for a total of \$18,960. It's estimated that there is 4,000 cubic yards to haul. When asked why city staff could not do this, Mr. Hansen responded that using the city trucks, it would take about 800 truck loads. The contractors have side dumpster trucks, which can haul 3.5 times what our trucks can haul.

Councilmember Sturm introduced Resolution No. 2010-102 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2010-102

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT TO HAUL THE STOCKPILE OF MIXED FILL MATERIAL TO THE SILT POND LOCATED IN WESTERN RIDGE.

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

Todd Hoeman, representing the Wayne Volunteer Fire Department, was present requesting Council consideration to approving the membership application of Aaron Sage to the Wayne Volunteer Fire Department. Mr. Hoeman stated the department has 34 members at this time.

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

Irene Fletcher, Assistant Director of Wayne Area Economic Development, stated the LB840 Sales Tax Advisory Committee is recommending approval of a request by WAED for community marketing and promotion in the amount of a \$10,000 grant. This is the same amount that was requested and approved last year. Community marketing includes the Wayne Works campaign, the Pride in Wayne campaign, and the continual business and industry marketing, which includes the opportunity building and wind towers.

Councilmember Sturm made a motion and seconded by Councilmember Haase approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$10,000 to Wayne Area Economic Development to be used for community marketing and promotion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Kim Schulz, the Emergency Response Coordinator with Northeast Nebraska Public Health Department, was present requesting Council consideration to approving a Memorandum of Understanding which would allow them to use the fire hall as a “sub-hub site” during a mass dispensing event. The fire hall would be used as a dispensing/distribution location for the vaccine. The high school would be used as a dispensing point for the public.

Councilmember Sturm introduced Resolution No. 2010-97 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2010-97

A RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WAYNE AND NORTHEAST NEBRASKA PUBLIC HEALTH DEPARTMENT.

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

Garry Poutre, Superintendent of Public Works and Utilities, advised the Council that we just completed our annual review of the electric rates. This is done by the same consultant we have used for a number of years. Last year when we went through this process, we did have increases in our wholesale power purchase rates from NPPD and WAPA. Rather than having a rate adjustment or increase last year, we collected those increases through our "Production Cost Adjustment" which is the PCA line item on the utility bill. The consultant has stated we can always choose to collect the increases through the PCA or we can raise the rates. This year, the consultant is suggesting the rates be increased by 6% across the board. If this is done, then the monthly PCA would not be as high. Mr. Towne has stated in his comments if we did not increase rates or collect a PCA, we would lose \$750,000 this year. This is not uncommon. We only pass on to our retail customers the increases we receive from our wholesale power suppliers.

Mr. Towne is also recommending increasing the rates 5% in 2012, 2013 and 2014. We review our rates annually, so that could change.

Mr. Poutre explained the Production Cost Adjustment. The PCA makes us whole every month, for the reason that there are fluctuations in prices on the NPPD bill, such as

fuel costs, etc., which then changes what it costs them to produce the power that month. This is calculated monthly and is not unlike what Black Hills Energy has on their bill. This is why we didn't tell the people who want to sell us energy from the wind turbines that we will just give you a flat amount for the electricity. We will not know until the end of the year exactly how much we have paid for electricity, and we are not willing to pay them more than what we would otherwise have paid NPPD.

Councilmember Frevert introduced Resolution No. 2010-98 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2010-98

A RESOLUTION ESTABLISHING A SCHEDULE OF ELECTRICAL RATES TO BE CHARGED CUSTOMERS FOR ENERGY AND POWER FROM THE ELECTRIC DISTRIBUTION SYSTEM OF THE CITY; TO REPEAL CONFLICTING RATES AND SCHEDULES; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

No action was taken on Agenda Item Nos. 12 and 13 regarding the Franchise and Pole Agreements with Huntel. These will be brought forward for action at a future meeting.

Mayor Chamberlain stated the following Resolution would add Habitat for Humanity as a participant to the Energy Saver Program. This is the same program used by Wayne Community Housing Development Corporation which provides up to \$2,000 for energy reduction practices for income qualified homes.

Councilmember Sturm introduced Resolution No. 2010-100 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2010-100

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF WAYNE AND WAYNE COMMUNITY HOUSING DEVELOPMENT CORPORATION AND HABITAT FOR HUMANITY TO ESTABLISH THE ENERGY SAVER PROGRAM AND PROVIDE FOR COST-SHARING USING A SET ASIDE OF CITY OF WAYNE ENERGY SAVING INCENTIVE FUNDS.

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

Mayor Chamberlain stated the following Resolution would amend the Energy Incentive Program by adding exterior doors as a qualified improvement for reimbursement.

Councilmember Sturm introduced Resolution No. 2010-101 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2010-101

A RESOLUTION AMENDING THE ENERGY INCENTIVE PROGRAM OF THE CITY OF WAYNE TO ESTABLISH AND FUND THE ENERGY SAVER PROGRAM AND PROVIDE FOR COST-SHARING USING A SET ASIDE OF CITY OF WAYNE ENERGY SAVING INCENTIVE FUNDS.

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

Councilmember Berry arrived at 6:15 p.m.

Mayor Chamberlain stated the Trail Committee has met and is recommending the Phase I Trail be named the “Will Wiseman Trail” and the Phase II Trail be named as the “Leila Maynard Trail.” Will Wiseman was a driving force in the movement to get a trail in Wayne. Leila Maynard is a former Wayne resident who was a World War II war hero.

Councilmember Sturm made a motion and seconded by Councilmember Brodersen to name the Phase I Trail the “Will Wiseman Trail” and to name the Phase II Trail the “Leila Maynard Trail.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Haase who voted Nay, the Mayor declared the motion carried.

Councilmember Brodersen made a motion and seconded by Councilmember Ley to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:20 p.m.