

**MINUTES
CITY COUNCIL MEETING
March 1, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, March 1, 2011, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, Kaki Ley, and Kathy Berry; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Brian Frevert and Jill Brodersen.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on February 17, 2011, 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 Van Delden made a motion and seconded by Councilmember Ley, whereas the Clerk has prepared copies of the Minutes of the meeting of February 15th and 21st, 2011, 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:

CHANGES TO PREVIOUS CLAIMS LISTS – VOID: CITY EMPLOYEE – CLOTHING REIMBURSEMENT, 64.16 (2/21/11); CITY EMPLOYEE – HEALTH REIMBURSEMENT, 1772.14 (1/26/11); SHAWN STORY – INTERPRETER, 25.00 (7/14/10)

VARIOUS FUNDS: ALARM PROS, SE, 79.13; AMERITAS, SE, 2238.40; APPEARA, SE, 100.50; BANK FIRST, RE, 695.00; CITY EMPLOYEE, RE, 29.75; CITY EMPLOYEE, RE, 10.55; CITY OF WAYNE, RE, 122.40; CITY EMPLOYEE, RE, 7643.66; BLACK HILLS ENERGY, SE, 1458.00; BOMGAARS, SU, 743.70;

BROWN SUPPLY, SU, 63.14; CARTRIDGE WORLD, SU, 227.99; CITY OF WAYNE, RE, 22.03; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 65229.07; CITY OF WAYNE, RE, 43.46; COMMUNITY HEALTH, RE, 3.00; COVENTRY, SE, 20875.42; DAVID LEY, RE, 500.00; DEMCO, SU, 98.62; CITY EMPLOYEE, RE, 90.23; ECHO GROUP, SU, 219.33; EGAN SUPPLY, SU, 168.95; ELLIS PLUMBING, SE, 347.96; EMERITUS, RE, 300.00; ERIKSEN CONSTRUCTION, SE, 458019.09; FIRST CONCORD GROUP, SE, 3954.70; FLOOR MAINTENANCE, SU, 153.38; FORT DEARBORN LIFE, SE, 1706.48; FREDRICKSON OIL, SE, 104.95; GALE GROUP, SU, 160.00; GEMPLER'S, SU, 121.50; HAUFF MID-AMERICAN SPORTS, SU, 42.00; HAUGE ASSOCIATES, RE, 167.75; HEWLETT-PACKARD, SU, 180.00; HOLIDAY INN-DOWNTOWN, SE, 84.00; ICMA, RE, 5885.19; IRS, TX, 20021.55; JEO CONSULTING GROUP, SE, 15815.76; CITY EMPLOYEE, RE, 287.93; KNOEPFLER CHEVROLET, SU, 16.95; KRIZ-DAVIS, SU, 210.87; LAB SAFETY SUPPLY, SU, 128.00; CITY EMPLOYEE, RE, 93.05; MATHESON TRI-GAS, SU, 570.71; CITY EMPLOYEE, RE, 132.26; MERIT MECHANICAL, SU, 341.25; MICROFILM IMAGING SYSTEMS, SE, 537.70; MSC INDUSTRIAL, SU, 126.23; MUNICIPAL SUPPLY, SU, 336.30; CITY EMPLOYEE, RE, 456.07; NE DEPT OF HHS, FE, 120.00; NE DEPT OF REVENUE, TX, 3030.29; NE ENVIRONMENT PRODUCTS, SU, 189.86; NE ENVIRONMENT PRODUCTS, FE, 110.00; NE STATE PATROL, SE, 15.00; NMC, INC., SU, 575.95; N.E.NE AMERICAN RED CROSS, RE, 69.24; CITY EMPLOYEE, RE, 44.20; PITNEY BOWES, SU, 648.00; CITY EMPLOYEE, RE, 64.16; PUSH-PEDAL-PULL, SE, 883.00; QUILL, SU, 364.96; QWEST, SE, 371.52; RON'S RADIO, SE, 35.00; SEALS & SERVICE, SU, 313.56; STEFFEN, SU, 652.16; TOM'S BODY & PAINT SHOP, SE, 20.00; UNITED WAY, RE, 10.00; UNO, FE, 230.00; UPSTART, SU, 66.87; VERIZON, SE, 261.77; VOSS LIGHTING, SU, 687.08; WAYNE AUTO PARTS, SU, 1274.06; WAYNE COMMUNITY SCHOOLS, RE, 2100.00; WAYNE COUNTRY CLUB, RE, 5175.00; WESCO, SU, 25778.33; CITY EMPLOYEE, RE, 3545.17; AMERICAN BROADBAND, SE, 330.00; AMERICAN BROADBAND, SE, 1209.07; APPEARA, SE, 118.38; BLACK HILLS ENERGY, SE, 577.93; CITY OF WAYNE, RE, 380.00; COMPRESSION SYSTEMS, SU, 2536.04; DE LAGE LANDEN FINANCIAL, SE, 77.00; ECHO GROUP, SU, 60.21; EGAN SUPPLY, SU, 32.37; ELECTRONIC ENGINEERING, SE, 485.00; FLOOR MAINTENANCE, SU, 23.90; G-NEIL, SE, 599.90; HANSEN, TOMAS, RE, 4394.00; HDR ENGINEERING, SE, 4865.78; HEWLETT-PACKARD, SU, 1014.07; INNOVATIVE PROTECTIVES, SU, 1190.00; JEO CONSULTING GROUP, SE, 3655.00; KNIFE RIVER, SU, 371.28; KRIZ-DAVIS, SU, 161.88; KTCH, SE, 80.00; LINCOLN COMMISSION, FE, 150.00; MAIN STREET AUTO CARE, RE, 1891.00; MAJESTIC THEATER, RE, 5435.00; MATHESON TRI-GAS, SU, 76.69; CITY EMPLOYEE, RE, 2679.77; NE PUBLIC HEALTH, SE, 127.00; NNPPD, SE, 4580.64; OLSSON ASSOCIATES, SE, 4760.00; SAUNDERS COUNTY, RE, 151.50; SHAWN STORY, SE, 25.00; SKARSHAUG TESTING, SE, 321.66; STADIUM SPORTING GOODS, SE, 22.00; STANLEY SECURITY SOLUTION, SU, 461.24; SWAN'S APPAREL, RE, 2582.00; THOMPSON PUBLISHING GROUP, SE, 468.00; US BANK, SU, 6307.84; VERIZON, SE, 101.30; VIAERO, SE, 137.80; WAED, SE, 6383.33; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SE, 246.00; CITY EMPLOYEE, RE, 1772.14

Councilmember Alexander made a motion and seconded by Councilmember Haase 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.

Penny Vollbracht, Senior Center Coordinator, was present requesting Council consideration to approving the Senior Center Budget that has to be submitted to the Northeast Nebraska Area Agency on Aging. The Senior Center must apply for state funding for the meal program, and Council must approve the budget to be submitted to the Northeast Nebraska Area Agency on Aging.

Councilmember Ley made a motion and seconded by Councilmember Alexander approving and authorizing the submission of the Senior Center budget to the Northeast Nebraska Area Agency on Aging. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Frevert arrived at 5:40 p.m.

Wes Blecke, Executive Director of WAED, was present and advised the Council that the LB840 Sales Tax Advisory Committee met and reviewed an application to Wayne's Economic Development Program Fund. The applicant, DRJ LLC/Inet Library, requested the sum of \$86,038. One-half of the amount was requested to be a

performance-based loan and one-half was requested to be a low-interest loan. The Committee met, and their modified recommendation was to reduce the initial \$86,308 request to \$43,019, with the same being a low interest, 10-year loan to be used to assist with expansion and start-up expenses. The reason the Committee reduced the amount requested was that the application had some strong anticipated sales for 2011. The Committee felt that if those sales came in like expected that the additional funds would not be needed. Of the 15 jobs that would be available immediately, 8 of those would be full-time and 7 would be part-time equivalent.

Gurkan Ozenci, a co-applicant and officer of the company, was present to answer questions and to request Council to reconsider their original request of \$86,038. Dr. Dennis Jensen, the other co-applicant was unable to be at the meeting. Mr. Ozenci stated they are trying to rebuild the company which previously employed 144 people. They will be trying to sell their product to other countries, and are currently working on Nigeria's school systems. The performance-based loan would tie the company to the community. The company is still conducting sales, and the people who are helping with the website are doing so voluntarily. There is not a similar company like this in Nebraska. The company will be located in the old First National Bank drive-thru at the corner of 7th and Main Streets. He noted that the company's owner at this time is Dr. Dennis Jensen. The company is currently serving some schools, and at one time, had 9,300 schools as customers. Currently, there are still around 2,000 school sites still using this product. Part of their business plan is to hire additional sales people to contact those previous customers who used to use this service.

Mr. Blecke advised the Council that \$644,000 of LB840 funds have been awarded as grants, and \$45,000 have been awarded as revolving loans. The only current loan is Godfathers.

Councilmembers Frevert and Sturm were concerned about not having the LB840 monies in hand and having to borrow from the electric fund to pay out on these requests.

Councilmember Sturm stated he would like to know a little more of the history of what happened to the company. Mr. Blecke advised the Council that he had spoken with Dr. Jensen about this, and Dr. Jensen advised him that when the company was sold off in 2002 to a company in Atlanta, they neglected this part of the company, which is why he was able to buy it back in 2008 and start working on it himself. It has been him and 8 or 9 volunteers around the world helping him to make sure the information on the system is accurate, especially in light of getting involved in the international market.

When asked if they had a business plan, Mr. Ozenci replied that they did not exactly write a business plan recently, but that Dr. Jensen had a previous business plan. If the Council wished to hold off on making a decision this evening because they did not have a business plan, he would not be opposed to that.

Councilmember Sturm opined he would not be opposed to one-half of the requested amount being a 3% loan and the other half being a 0% loan, both with a ten-year payback period.

Mayor Chamberlain stated he thought this was as good a project as any that the City has given money to from an economic standpoint.

Councilmember Sturm made a motion and seconded by Councilmember Frevert to table action on the request of DRJ LLC/Inet Library for \$86,038 of LB840

funds until the next meeting so that a business plan can be prepared and presented to the Council, with one-half of the amount being a 3% loan and the other half being 0% loan, both with a payback period of 10 years. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Tom Sievers, Fire Chief, and Shawn Percy updated the Council on the status of the purchase of the aerial ladder truck for the fire department. They received information from four different companies. They will be preparing the bid documents which will take about two months. The truck will be yellow, and they are very optimistic that the bids will come in under budget.

Councilmember Alexander made a motion and seconded by Councilmember Ley to recess as Council and convene as the Community Development Agency. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Dale Alexander, Ken Chamberlain, Doug Sturm, Kaki Ley and Kathy Berry; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Jill Brodersen.

Chair Haase 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 February 15, 2011, meeting.

Member Chamberlain made a motion and seconded by Member Alexander approving the minutes of the February 15, 2011, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Nancy Braden, Finance Director, stated the following Resolution will amend the Redevelopment Plan for Western Ridge. Previously, the process has been that when lots are sold in Western Ridge and added to the TIF, we are required to hold a public hearing to amend the redevelopment plan. This is a rolling TIF to make sure we get the full 15-year term for each lot that is sold. Attorney Bacon has suggested that the CDA approve this Amended Redevelopment Plan which includes all of the lots in Western Ridge, and then once a year, pass a Resolution that includes all of the houses or building permits that were issued during the year. The resolution would then be taken to the County Assessor's office to set the TIF schedule for those lots. This simplifies the process.

Member Chamberlain introduced CDA Resolution No. 2011-1 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2011-1

A RESOLUTION RECOMMENDING APPROVAL OF A REDEVELOPMENT PLAN AMENDMENT FOR THE WESTERN RIDGE SINGLE-FAMILY RESIDENTIAL PLANNED UNIT DEVELOPMENT PROJECT IN THE CITY OF WAYNE, NEBRASKA; AND APPROVAL OF RELATED ACTIONS.

Member Frevert seconded the motion. On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Alexander, Chamberlain, Sturm, Ley, and Berry. The following Members were absent or did not vote: Brodersen.

The passage of CDA Resolution No. 2011-1, having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2011-1 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2011-1, and the

Clerk attested to its passage by affixing her signature thereto. A true and complete copy of CDA Resolution No. 2011-1 is attached hereto as Exhibit C.

Administrator Johnson stated a request has been received from Lou Benscoter to release the lien on Lot 6 in Western Ridge. An occupancy permit has been issued. Mr. Benscoter was given two extensions on this lot to fulfill the initial requirements of the sale. The deadline for the second extension was October 16, 2010.

Staff was directed to find out if the City has lost a year's worth of taxes because the occupancy permit was not issued until January 24, 2011.

Member Chamberlain made a motion to table the request of Lou Benscoter to release the lien on Lot 6, Western Ridge, until the next meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

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

The Mayor stated that it was now past 5:30 p.m., at which time a public hearing was to be held to obtain public comment prior to the consideration of a resolution approving a redevelopment plan amendment for an area of the City previously declared blighted and substandard and in need of redevelopment pursuant to the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the "**Act**"). The Clerk reported that notice of the public hearing had been published in the Wayne Herald on February 10, 2011, and February 17, 2011, as indicated on **Exhibit C** attached hereto. The Clerk further reported that notice of the public hearing had been mailed by United States Certified Mail, return receipt requested,

sufficient postage affixed, to all parties required by Section 18-2115 of the Act, as indicated on **Exhibit D** attached hereto. The Mayor opened the public hearing and invited all interested persons to be heard.

The following appeared in person or by agent or attorney and were heard: None.

All persons desiring to be heard having been heard, the Mayor closed the public hearing.

Councilmember Ley then introduced Resolution No. 2011-12 and moved for its passage and approval:

RESOLUTION NO. 2011-12

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA APPROVING A REDEVELOPMENT PLAN AMENDMENT; AND RELATED MATTERS

Councilmember Alexander seconded the motion. On roll call vote, the following Council Members voted in favor of the motion: Frevert, Van Delden, Haase, Alexander, Sturm, Ley, and Berry. The following Councilmembers were absent or did not vote: Brodersen.

The passage of Resolution No. 2011-12 having been agreed upon by a majority of the Council, the Mayor declared Resolution No. 2011-12 passed and, in the presence of the Council, signed and approved Resolution No. 2011-12. The Clerk attested to the passage of Resolution No. 2011-12 by signing the same and affixing the seal of the City to Resolution No. 2011-12. A true and complete copy of Resolution No. 2011-12 is attached hereto as **Exhibit E**.

City Administrator Johnson stated the work has been completed on the Muhs Acres Water Main Extension Project. The engineer on the project, Olsson Associates,

has provided written documentation that the work has been completed according to the plans and specifications and in general compliance with the terms of the contract.

Councilmember Sturm introduced Resolution No. 2011-13 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-13

A RESOLUTION ACCEPTING WORK ON PUBLIC UTILITY WATER SERVICE DISTRICT NO. 2009-01 (MUHS ACRES WATER MAIN EXTENSION PROJECT).

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

Administrator Johnson stated the following Resolution would set the Board of Equalization hearing on Public Utility Water Service District No. 2009-01 (Muhs Acres Water Main Extension Project) for April 5, 2011, at or about 5:30 p.m. There are two sections of this project. The transmission line, which is from Well No. 6 to the east end of the Skokan property, will be the city's cost. The City will recover those costs from that portion of the project by way of hook-up fees, which will be on a per linear foot basis. For example, if a person would purchase property that had an 800' frontage, the cost per linear foot times the 800' would be the required hook-up fee.

Councilmember Alexander introduced Resolution No. 2011-14 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2011-14

A RESOLUTION ORDERING PUBLICATION AND SETTING BOARD OF EQUALIZATION HEARING ON PUBLIC UTILITY WATER SERVICE DISTRICT NO. 2009-01 (MUHS ACRES WATER MAIN EXTENSION PROJECT).

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

the Mayor declared the motion carried.

Nancy Braden, Finance Director, stated four proposals were received for auditing services. The audit committee reviewed the proposals, using a matrix of values that was advertised with the “Request for Qualifications” notice. The following Resolution would approve the contract with Almquist, Maltzahn, Galloway & Luth, PC, which is the City’s current auditing firm, for auditing services from 2011-2015 at a cost of \$16,600 per year.

Councilmember Sturm introduced Resolution 2011-15, and moved for its approval; Councilmember Van Delden seconded.

RESOLUTION NO. 2011-15

A RESOLUTION APPROVING THE CONTRACT WITH ALMQUIST, MALTZAHM, GALLOWAY & LUTH, PC, FOR CITY AUDITING SERVICES FROM 2011 THROUGH 2015.

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

Councilmember Haase 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 6:43 p.m.