

**MINUTES  
CITY COUNCIL MEETING  
March 15, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, March 15, 2011, 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, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Dale Alexander.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on March 3, 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 Haase made a motion and seconded by Councilmember Ley, whereas the Clerk has prepared copies of the Minutes of the meeting of March 1, 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:

**VARIOUS FUNDS:** ADVANCED CONSULTING ENG., SE, 135.00; ALIGNMENT TECHNOLOGIES, SE, 374.50; ALMQUIST, MALTZAHN, GALLOWAY, SE, 18300.00; AMERITAS, SE, 2231.29; APPEARA, SE, 25.56; AS CENTRAL SERVICES, SE, 448.00; BAKER & TAYLOR BOOKS, SU, 1306.85; BANK FIRST, SE, 195.00; BARONE SECURITY SYSTEMS, SE, 115.00; CITY EMPLOYEE, RE, 13.01; CHARTWELLS, SE, 5165.75; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 26.63; CITY OF WAYNE, RE, 32.19; CITY OF WAYNE, PY, 59006.36; CITY OF WAYNE, RE, 149.84; COMMUNITY

HEALTH, RE, 3.00; CONNIE WEBBER, RE, 229.13; COPY WRITE, SE, 197.46; DAKOTA BUSINESS SYSTEMS, SE, 101.50; DANKO EMERGENCY EQUIPMENT, SU, 50.80; DAVE SWANSON, SU, 200.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DOESCHER APPLIANCE, SU, 407.00; EAKES OFFICE PLUS, SE, 59.40; EASYPERMIT POSTAGE, SU, 1168.45; ELECTRIC FIXTURE, SU, 1132.97; ELLIS PLUMBING & HEATING, SU, 588.13; ERIKSEN CONSTRUCTION, SE, 316946.21; FIRST CONCORD GROUP, SE, LLC ANNUAL COMPLIANCE/MAINTENANCE 400.00; GERHOLD CONCRETE, SU, 182.40; GILL HAULING, SE, 133.00; GODFATHER PIZZA, SU, 79.75; GREAT PLAINS ONE-CALL, SE, 5.05; CITY EMPLOYEE, RE, 209.54; CITY EMPLOYEE, RE, 111.82; HARDING & SHULTZ, SE, 22014.97; HAUGE ASSOCIATES, RE, 167.75; HAWKINS, INC, SU, 998.41; CITY EMPLOYEE, RE, 10.20; HOLIDAY INN OF KEARNEY, SE, 155.90; HR SPECIALIST, SU, 97.00; ICMA, SE, 5821.85; INGRAM BOOK COMPANY, SU, 430.17; INTERSTATE BATTERY, S, 91.95; INTERSTATE INDUSTRIAL, SE, 128.44; IRS, TX, 18928.65; J.P. COOKE COMPANY, SU, 130.54; CITY EMPLOYEE, RE, 265.01; CITY EMPLOYEE, RE, 149.04; KNIFE RIVER MIDWEST, SU, 496.23; KTCH, SE, 525.00; LAUREL ADVOCATE, SU, 26.00; LEAGUE OF NEBRASKA, SE, 3035.00; CITY EMPLOYEE, RE, 30.00; MAIN STREET AUTO, SE, 90.00; MARRIOTT HOTELS, SE, 1993.77; CITY EMPLOYEE, RE, 813.85; MICROFILM IMAGING SYSTEMS, SE, 697.68; MIDWEST DIESEL, SU, 39.92; MIDWEST LABORATORIES, SE, 234.15; MIKE TOWNE, SE, 500.00; MSC INDUSTRIAL, SU, 147.92; N.E. MUTUAL AID, RE, 25.00; NE DEPT OF REVENUE, TX, 3014.96; NE JOURNAL-LEADER, SE, 52.30; NE LIBRARY ASSOCIATION, FE, 15.00; NE PLANNING & ZONING, FE, 160.00; NE STATE PATROL, SE, 15.00; NMC, INC, SU, 19.37; NORFOLK TRUCK CENTER, SU, 6.33; NORTHEAST EQUIPMENT, SU, 178.39; NORTHEAST LIBRARY SYSTEM, FE, 20.00; N.E. NE AMERICAN RED CROSS, FE, 270.00; NUCA, SE, 1110.00; PAC N SAVE, SU, 200.98; PAMIDA, SU, 139.53; PEPSI-COLA, SU, 1039.53; PETERSON INDUSTRIAL ENGINE, SE, 4890.00; PIEPER, MILLER & DAHL, SE, 3630.00; PLUNKETT'S PEST CONTROL, SE, 41.60; PRESTO X, SE, 82.15; SIMPLEXGRINNELL, SU, 116.72; SIOUX CITY WINTRONIC, SU, 31.03; STATE NATIONAL BANK, SE, 48.79; STATE NATIONAL BANK, RE, 13820.00; STATE NATIONAL BANK, RE, 141800.00; STATE NATIONAL BANK, RE, 93.91; STATE NATIONAL BANK, SU, 421.61; DAVE'S DRY CLEANING, SE, 105.00; THE PENDER TIMES, SU, 36.45; TIM SCHAEFER, SE, 78.00; TRI AIR TESTING, SE, 434.00; UTILITIES SECTION, FE, 530.00; VOSS LIGHTING, SU, 329.35; WAYNE COMMUNITY HOUSING, RE, 2000.00; WAYNE COUNTY CLERK, SE, 99.50; WAYNE HERALD, SE, 2181.29; WAYNE STATER, SE, 36.00; WAYNE VETERINARY CLINIC, SE, 252.00; WAPA, SE, 32196.59; RON'S RADIO, SU, 62.85; ZACH OIL, SU, 5734.26; CITY OF WAYNE, RE, 555.30; AMAZON, SU, 58.94; CITY EMPLOYEE, RE, 66.33; CITY EMPLOYEE, RE, 74.47; CITY EMPLOYEE, RE, 209.42; BROWN SUPPLY, SU, 156.61; CARHART LUMBER COMPANY, SU, 1055.72; CITY OF WAYNE, RE, 500.00; CITY EMPLOYEE, RE, 28.80; DWAIN SPIEKER, RE, 100.00; FLOOR MAINTENANCE, SU, 50.75; FRED PRYOR SEMINARS, SE, 158.00; FREDRICKSON OIL, SU, 1371.85; GEMPLER'S, SU, 60.00; JOHN'S WELDING AND TOOL, SE, 62.00; KELLY SUPPLY, SU, 65.74; KRATKE'S LAWN SERVICE, SE, 190.00; KTCH, SE, 350.00; MAEDC, FE, 425.00;

MERCY MEDICAL CLINIC, SE, 28.00; MIDWEST TAPE, SU, 253.91; MOONLIGHT TOWING, SE, 207.68; MSC INDUSTRIAL, SU, 135.18; NPPD, SE, 231868.08; NNPPD, SE, 11634.98; OLSSON ASSOCIATES, SE, 3160.06; CITY EMPLOYEE, RE, 1542.51; RANDOM HOUSE, SU, 243.67; SPARKLING KLEAN, SE, 1381.73; WAYNE AUTO PARTS, SU, 1207.88; WAYNE COUNTY, SE, 49.02; WAYNE STATE COLLEGE, RE, 432.00; WESTERN IOWA TECH, FE, 100.00; CITY EMPLOYEE, RE, 126.35

Councilmember Ley made a motion and seconded by Councilmember Van Delden 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.

Tom Sievers, Fire Chief, introduced Kelsey Rewinkel and Chris Jones, and requested Council consideration to approving their membership applications to the Wayne Volunteer Fire Department. Both are Wayne State College students.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the membership applications of Kelsey Rewinkel and Chris Jones 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.

Garry Poutre, Superintendent of Public Works & Utilities, advised the Council that 4 bids were received on the 4-wheel drive cab and chassis truck. The lowest bid was submitted by Norfolk Truck Center in the amount of \$92,475. This truck will replace the

1977 truck that is used for plowing snow. This truck will also have a sloped hood for high visibility. This bid does not include the box or snowplow for the truck; those will be purchased separately. This is a 2012 model, and the proposed delivery date is July 31, 2011. This is the second four-wheel drive truck the Public Works Department has purchased. The box and plow, which is estimated to cost around \$20,000, could be purchased in the next budget year.

Councilmember Sturm introduced Resolution No. 2011-16 and moved for its approval; Councilmember Brodersen seconded.

#### RESOLUTION NO. 2011-16

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE PURCHASE OF A 4-WHEEL DRIVE CAB AND CHASSIS TRUCK FOR THE PUBLIC WORKS DEPARTMENT.

Mayor Chamberlain 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 Company for the Wastewater Treatment Plant Project in the amount of \$316,947.21. The engineer on the project has approved the same.

Councilmember Ley made a motion, which was seconded by Councilmember Sturm approving the Application for Payment No. 7 for the Wastewater Treatment Plant Project in the amount of \$316,947.21 for Eriksen Construction Company. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector/Planner, requested Council consideration to amending Wayne Municipal Code Sec. 18-46 Building Permits; Cash Deposits. The change he was recommending was to reword the ordinance that was passed in 2007 so

that the building permit cash deposits cannot be waived. In 2007, issues were had with contractors not contacting the building department for timely inspections. He has had two requests since he has been the building inspector to waive the deposit, which he has denied. Mr. Hansen does not want to be put in a position to pick and choose who should or should not get a waiver. The deposits are an incentive for the contractors or homeowners to call for timely inspections. One concern he has had is that some people think the deposit amounts are steep. Therefore, he is also recommending that the deposit amounts be reduced.

Councilmember Sturm introduced Ordinance 2011-4, and moved for its approval; Councilmember Ley seconded.

#### ORDINANCE NO. 2011-4

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 18, ARTICLE II BUILDING CODE, SECTION 18-46 BUILDING PERMITS; CASH DEPOSITS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

BJ Woehler, representing Robert Woehler & Sons Construction, spoke in opposition to amending the ordinance as recommended.

Councilmember Sturm noted the deposits are returned to the contractor/homeowner upon issuance of the occupancy permit.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Frevert and Berry who voted Nay, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Joel Hansen, Building Inspector/Planner, stated the following Resolution would amend the building permit cash deposit fees as follows:

Building Permit Cash Deposit:

- a. On a project valued at ~~\$10,000~~ ~~\$5,000~~ or less ~~\$100.00~~ ~~\$250.00~~
- b. On a project valued at ~~\$10,001~~ ~~5,001~~ - \$100,000 ~~\$250.00~~ ~~\$500.00~~
- c. On a project valued over \$100,000 ~~1~~ ~~\$500.00~~ ~~\$1,000.00~~

Usually, it is the homeowner that puts down the deposit and not the contractor.

These amounts are still enough of an incentive to make people comply, but yet it wouldn't be quite so cumbersome on some of the homeowners that have larger projects.

Mayor Chamberlain asked if there was a reason to have a deposit greater than \$250. Mr. Hansen stated if the Council wanted to amend the amounts or go with two levels in lieu of three, he would not be opposed to that.

Councilmember Haase stated he would prefer there be no building permit cash deposit requirement.

Mayor Chamberlain advised the Council that they could change the building permit cash deposits that have been recommended by staff.

Mr. Hansen stated the deposit is an incentive for the contractors/property owners to contact his office for timely inspections, etc., and eliminates the legal battles and expenses that have occurred in the past. Before he took over as building inspector and before the deposits were put in place, he understood that there was a lot of time spent in his department dealing with some of those issues.

Councilmember Berry made a motion and seconded by Councilmember Brodersen to change the building permit cash deposits in Resolution No. 2011-17 as follows:

- a. On a project valued at \$50,000 or less \$100.00
- b. On a project valued over \$50,000 \$250.00

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

the Mayor declared the motion carried.

Councilmember Berry introduced Resolution No. 2011-17 and moved for its approval as amended; Councilmember Brodersen seconded.

RESOLUTION NO. 2011-17

A RESOLUTION AMENDING DEPOSIT FEES FOR BUILDING PERMITS AND A PENALTY FOR OBTAINING NO BUILDING PERMIT.

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 approve an interlocal agreement with Wayne Community Schools for the use of Hank Overin Field for the high school baseball program. This is similar to the interlocal agreement we have with Wayne Community Schools for the use of the softball complex for the high school softball program.

Garry Poutre, Supt. of Public Works clarified that the City mows the softball fields and the School mows the soccer fields.

Councilmember Ley introduced Resolution No. 2011-18 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2011-18

A RESOLUTION TO SHARE FACILITIES AND EQUIPMENT BETWEEN THE CITY OF WAYNE AND WAYNE COMMUNITY SCHOOLS FOR THE USE OF HANK OVERIN FIELD.

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, presented the specifications for the Industrial Road from Highway 35 to Industrial Way Project. This is the street located by

Pacific Coast. The City will not hire an engineer for this project. Per State requirement, a project has to be over \$86,000 before an engineer must be hired. This project is part of the One and Six Year Street Improvement Plan.

Councilmember Ley introduced Resolution No. 2011-19 and moved for its approval; Councilmember Haase seconded.

#### RESOLUTION NO. 2011-19

A RESOLUTION APPROVING SPECIFICATIONS AND ESTIMATE OF COST FOR THE INDUSTRIAL ROAD STREET IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO ADVERTISE FOR BIDS.

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

Discussion took place again regarding the recommendation of the LB840 Sales Tax Advisory Committee to approve a \$43,019 low-interest loan to DRJ LLC/Inet Library to be used to assist with expansion and start-up expenses. This matter was tabled at the last Council meeting.

Administrator Johnson advised the Council that Dr. Jensen provided a current business plan for him to review. The business plan meets all of the necessary requirements.

Dr. Dennis Jensen was present and stated he was of the understanding that the performance-based loan would also be on the agenda. He provided some background on Inet Library. It was started back in 1992. At one time they employed 144 full-time people in Wayne that worked on the database. In 2008, he was able to buy Inet Library back from a company located in Atlanta, Georgia. They had not improved this product since 2004. In 2008, they partnered with Britannica, who is creating a new product, and

they are going to use the Inet database as one of its resources. They also had another company come forward, Goldenwest Communications, that will be a distributor for them. Gurkan Ozenci has been able to get Inet Library into Nigeria. They are asking for funds to get them from here to there and also to restart Inet Library with 20 employees (15 initially, with 10 being for research and 5 being for sales). 44,000 schools at one-time had Inet Library either on a trial basis or had purchased it. When they purchased the company back, it only had 9,328 customers across the nation.

Dr. Jensen stated his original request made to the LB840 Sales Tax Advisory Committee was for a \$43,019 performance-based loan and a \$43,019 0% interest loan. Mr. Jensen thought the LB840 Committee had some concerns regarding revenue. There are six different revenue streams; the problem is getting to those revenue streams.

Mayor Chamberlain advised the Council they can approve or deny the \$43,109 low-interest loan that has been recommended by the LB840 Sales Tax Advisory Committee, and if they so desire, they can also approve a \$43,019 performance-based loan.

Attorney Pieper recommended that if Council was going to give consideration to a performance-based loan that the same be placed on the next Council agenda.

Councilmember Berry made a motion and seconded by Councilmember Brodersen approving the recommendation of the LB840 Sales Tax Advisory Committee for a \$43,019 3% interest loan to DRJ LLC/Inet Library.

Councilmember Sturm opined he would rather approve a 0% loan for the whole amount than to give them half at a 3% loan and then the other half as a performance-based loan.

Councilmember Frevert stated because we don't have this money sitting here and we have to borrow it from our other funds, he was inclined not to go with the performance-based loan. However, he would be in favor of a low-interest loan.

Gurkan Ozenci stated the Council could require them to have 10 full-time people employed within 5 years. If they don't, then the performance-based loan could then become a regular interest bearing loan.

Mayor Chamberlain stated the performance-based loan would guarantee employees and keep the business in Wayne for a set number of years. It buys the City some guarantees.

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

Councilmember Brodersen left the meeting at 6:50 p.m.

Administrator Johnson stated that G & D Appel, LLC, d/b/a "Riley's" is requesting that the restaurant, kitchen and outdoor patio of their property be deleted from their current liquor license. Council action is needed on this item. In a couple of weeks, a liquor license application will come before you for consideration by the business renting/leasing the restaurant portion of the building.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving the request of G & D Appel, LLC, d/b/a "Riley's" to delete a portion of the premises located at 113 S. Main Street from their liquor license (area being deleted is the café/restaurant, kitchen and outdoor patio).

Joel Hansen advised the Council that the opening between the restaurant portion of the premises and the bar area leading to the convention center now has a door to separate the two businesses.

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 the following Resolution would approve the agreement with NDOR regarding the Wayne Trail Phase 2 Project. Essentially, this agreement supersedes the previous agreements and supplemental agreements for this project. It states that we will follow federal regulations that are now required.

Councilmember Ley introduced Resolution No. 2011-20 and moved for its approval; Councilmember Haase seconded.

#### RESOLUTION NO. 2011-20

#### A RESOLUTION APPROVING LPA AGREEMENT - STP FUNDS FOR THE WAYNE TRAIL PHASE 2 PROJECT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Frevert who voted Nay, the Mayor declared the motion carried.

Councilmember Ley made a motion and seconded by Councilmember Van Delden 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, Ken Chamberlain,

Doug Sturm, Kaki Ley, and Kathy Berry; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Dale Alexander and 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 agenda was to consider action on the request from Lou Bencoter to release the lien on Lot 6, Western Ridge Subdivision.

Member Sturm made a motion and seconded by Member Chamberlain approving the request of Lou Bencoter to release the lien on Lot 6, Western Ridge Subdivision. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the CDA agenda was to approve the minutes of the March 1, 2011, meeting.

Member Chamberlain made a motion and seconded by Member Ley approving the minutes of the March 1, 2011, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Chamberlain made a motion and seconded by Member Sturm 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.

Councilmember Haase made a motion and seconded by Councilmember Van Delden 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 6:58 p.m.