

**MINUTES**  
**CITY COUNCIL MEETING**  
**April 19, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, April 19, 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, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on April 7, 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 Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of April 5, 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:** AMERICAN BACKFLOW, FE, 70.00; AMERITAS, SE, 2206.73; APPEARA, SE, 25.56; CITY EMPLOYEE, RE, 57.50; BAKER & TAYLOR BOOKS, SU, 812.59; BANK FIRST, FE, 195.00; BARNHILL PIANO SERVICE, SE, 88.00; CITY EMPLOYEE, RE, 2427.46; CITY EMPLOYEE, RE, 67.07; CITY EMPLOYEE, RE, 759.53; CALIFORNIA CONTRACTORS, SU, 210.00; CHARTWELLS, SE, 6165.65; CITY OF NORFOLK, SE, 388.30; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 26.63; CITY OF WAYNE, RE, 124.44; CITY OF WAYNE, PY, 60205.84; CITY OF WAYNE, RE, 80.00; CITY OF WAYNE, RE, 666.79; CITY OF WAYNE, RE, 217.78; COMMUNITY HEALTH, RE, 3.00; COPY WRITE PUBLISHING, SU, 251.82; COUNTRY NURSERY, SE, 296.00;

DAVE'S DRY CLEANING, SE, 84.00; DIGITAL ALLY, SU, 4150.00; CITY EMPLOYEE, RE, 33.91; ECHO GROUP, SU, 40.38; ED M FELD EQUIPMENT, SU, 2.88; ELLIS PLUMBING & HEATING, SE, 103.00; FLOOR MAINTENANCE, SU, 114.00; GAYLE MCQUISTAN, RE, 500.00; GUMDROP BOOKS, SU, 421.04; HAUGE ASSOCIATES, RE, 167.75; HD SUPPLY WATERWORKS, SU, 7998.50; CITY OF WAYNE, RE, 5666.94; HIRERIGHT SOLUTIONS, SE, 146.30; HOLIDAY INN ""MIDTOWN", SE, 210.00; HOLIDAY INN-DOWNTOWN, SE, 77.00; HTM SALES, SU, 162.32; ICMA, SE, 5645.11; INGRAM BOOK COMPANY, SU, 402.83; IRS, TX, 18956.16; JEO CONSULTING GROUP, SE, 570.00; JEO CONSULTING GROUP, SE, 35691.50; JOHN'S WELDING AND TOOL, SU, 26.40; JOHNSON HARDWARE, SU, 360.00; KEITH ADAMS, RE, 500.00; KENDALL HOFFMAN, RE, 173.40; KRIZ-DAVIS, SU, 411.67; KTCH, SE, 525.00; LIBERAL GASKET, SU, 34.47; LUNDAHL, EARL, RE, 350.00; MARK ALBENESIUS, SE, 100574.42; CITY EMPLOYEE, RE, 6.33; MIDWEST LABORATORIES, SE, 61.35; MIDWEST TAPE, SU, 322.91; CITY EMPLOYEE, RE, 225.00; MSC INDUSTRIAL, SU, 196.62; N.E. NEB PUBLIC HEALTH, RE, 1340.00; NE DEPT OF REVENUE, TX, 2930.12; NE STATE PATROL, SE, 255.00; NPPD, SE, 236221.46; NMPP ENERGY, FE, 125.00; NNPPD, SE, 11634.98; OTTE CONSTRUCTION, SE, 1755.00; OTTE CONSTRUCTION, SE, 950.00; OVERHEAD DOOR COMPANY, SE, 120.10; PAC N SAVE, SU, 88.55; PAMIDA STORE, SU, 38.30; CITY EMPLOYEE, RE, 93.77; PEPSI-COLA, SU, 815.04; CITY EMPLOYEE, RE, 40.14; POWDERHORN INDUSTRIES, SU, 588.85; PRESTO X, SE, 82.15; PUSH-PEDAL-PULL, SU, 104.00; QWEST, SE, 156.08; RANDOM HOUSE, SU, 195.00; CITY EMPLOYEE, RE, 270.98; SPARKLING KLEAN, SE, 1367.72; STANLEY SECURITY SOLUTION, SU, 335.00; STATE NATIONAL BANK, SE, 48.44; STATE NATIONAL BANK, RE, 4505.40; STATE NATIONAL BANK, RE, 102.00; STATE NATIONAL BANK, RE, 104.46; SWAN ENGINEERING, SU, 301.35; TODD BARNER, RE, 1000.00; TRIVIEW COMMUNICATION, SU, 341.50; US BANK, SE, 5432.26; VAKOC BUILDER'S RESOURCE, SU, 24.99; WAED, RE, 6383.33; WAYNE AUTO PARTS, SU, 1634.45; WAYNE CO SHERIFF, SE, 48.19; WAYNE HERALD, SE, 1355.31; WAYNE STATE COLLEGE, RE, 100.00; CITY EMPLOYEE, RE, 2346.74; CITY EMPLOYEE, RE, 217.78; WAPA, SE, 32208.48; ZEE MEDICAL SERVICE, SU, 25.03; ABCREATIVE, SU, 4763.00; AHERN, SU, 593.00; AMAZON, SU, 611.38; APPEARA, SE, 75.40; APPLIED INDUSTRIAL TECH, SU, 142.68; CITY EMPLOYEE, RE, 37.59; CITY OF WAYNE, RE, 1250.00; COVENTRY HEALTH, SE, 19857.52; CREDIT BUREAU, SE, 129.59; CUMING CO. COURT, RE, 123.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 124.39; ELECTRIC FIXTURE, SU, 160.16; F & M BANK, RE, 120000.00; HTM SALES, SU, 114.50; IIMC, FE, 135.00; INDUSTRIAL CHEM LABS, SU, 909.61; CITY EMPLOYEE, RE, 329.48; KRIZ-DAVIS, SU, 169.34; LANGEMEIER, WAYNE, SE, 100.00; MAGNUSON HOPKINS EYE, SE, 144.00; MAIN STREET AUTO CARE, SE, 90.00; MICROFILM IMAGING SYSTEMS, SE, 534.66; NE PUBLIC HEALTH, SU, 111.00; PITNEY BOWES, SU, 648.00; CITY EMPLOYEE, RE, 257.47; QUALITY 1 GRAPHICS, SU, 100.00; CITY EMPLOYEE, RE, 214.51; STADIUM SPORTING GOODS, SU, 1950.00; STATE NATIONAL BANK, RE, 60000.00; UNITED STATES PLASTIC, SU, 157.35; VERIZON, SE,

148.62; VOSS LIGHTING, SU, 62.62; CITY EMPLOYEE, RE, 8.93; ZEE MEDICAL SERVICE, SU, 38.23; ZIMCO, SU, 1404.95

Councilmember Frevert 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.

Attorney Dahl advised the Council that his office has received information that a claim may be filed against the City on April 25, 2011, by a former employee for discrimination, retaliation and hostile work environment. No official action needs to be taken at this time.

Administrator Johnson stated if a claim is filed, it will be submitted to the City's insurance carrier for their review. The City's insurance carrier will provide legal defense on this matter.

Cap Peterson advised the Council that the letter and accompanying documents have been forwarded to EMC for their review.

Administrator Johnson stated when a claim for damages is filed against the City, staff cannot make the decision as to whether or not it gets paid. If a claim is filed on April 25<sup>th</sup>, staff recommendation would be that it be placed on the agenda and that Council table the matter and defer the claim to Employers Mutual Company for their attorneys to review and make a recommendation on.

Mayor Chamberlain stated the time was at hand for the public hearing regarding the application for a Retail Class CK Liquor License for Godfather's of Wayne, LLC, d/b/a "Godfather's Pizza."

Ann Milligan, co-owner, was present to answer questions.

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

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

Councilmember Frevert introduced Resolution No. 2011-28 and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2011-28

A RESOLUTION APPROVING APPLICATION FOR RETAIL CLASS CK LIQUOR LICENSE — GODFATHER’S OF WAYNE, LLC, D/B/A “GODFATHER’S PIZZA.”

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

Mayor Chamberlain proclaimed the week of May 1<sup>st</sup> – 7<sup>th</sup> as “Drinking Water Week” and April 29<sup>th</sup> as “Arbor Day.”

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.

Cap Peterson of Northeast Nebraska Insurance Agency, the city’s property and casualty insurance carrier, presented the City with a dividend check in the amount of \$36,023.18. This is the 13<sup>th</sup> dividend paid by the Company out of the past 17 years.

Mayor Chamberlain stated that Council approved the performance-based loan to DRJ LLC/Inet Library at the last meeting. Staff has negotiated the final terms of this performance-based loan, and he wanted the details or the terms brought before Council for approval.

- DRJ will create 15 FTE's located in Wayne by 10 years;
- DRJ will create 5 FTE's located in Wayne by the end of 3 years or the balance of the note will become payable;
- DRJ will create 10 FTE's located in Wayne by the end of 7 years or the balance of the note will become payable;
- The interest on the current balance of the loan will be zero and the term of the loan will be 10 years with 10% forgiven each year for 10 years if the required job FTE's are created and maintained;
- Requirement of life insurance assignment of \$43,000 to cover the loan on Dr. Jensen and required of any future majority owners; and
- New value of DRJ office equipment and computers is \$40,000 and will be listed as collateral.

Dr. Jensen was present to answer questions.

Councilmember Ley made a motion and seconded by Councilmember Berry approving the following terms of the performance-based loan to DRJ LLC/Inet Library:

- DRJ will create 15 FTE's located in Wayne by 10 years;
- DRJ will create 5 FTE's located in Wayne by the end of 3 years or the balance of the note will become payable;
- DRJ will create 10 FTE's located in Wayne by the end of 7 years or the balance of the note will become payable;
- The interest on the current balance of the loan will be zero and the term of the loan will be 10 years with 10% forgiven each year for 10 years if the required job FTE's are created and maintained;
- Requirement of life insurance assignment of \$43,000 to cover the loan on Dr. Jensen and required of any future majority owners; and
- New value of DRJ office equipment and computers is \$40,000 and will be listed as collateral.

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

Anthony Lawrence, Deputy City Administrator, stated the following Resolution would amend the application to the Nebraska Game & Parks Recreational Trails Program to reflect an increase in the total amount of the grant awarded for the signage project along the trail from \$16,000 to \$20,500, with the local match then being amended from \$3,200 to \$4,100.

Councilmember Sturm introduced Resolution No. 2011-29 and moved for its approval; Councilmember Ley seconded.

#### RESOLUTION NO. 2011-29

A RESOLUTION TO AMEND THE APPLICATION 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 Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Anthony Lawrence, Deputy City Administrator, stated the following Resolution would approve the application to apply for funding from the Natural Resource District for stream bank erosion control at an area below the trail by the Logan Creek Bridge and the storm water drain outlet by Boy Scout Park. Preliminary cost estimates range from \$300,000 to \$500,000. He will be requesting the maximum amount we can receive which is \$25,000 for each project.

Administrator Johnson stated these locations were damaged by erosion from high water in the last two years. These require repair and will be expensive like the bank stabilization project just completed at the former city dump site west of the airport.

Councilmember Ley introduced Resolution No. 2011-30 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2011-30

A RESOLUTION TO APPLY FOR ASSISTANCE FROM THE NEBRASKA NATURAL RESOURCE DISTRICT FOR THE PURPOSE OF CONTROLLING STREAM BANK EROSION.

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

Administrator Johnson stated two bids were received on the “Industrial Road from Highway 35 to Industrial Way Street Improvement Project.” Staff has reviewed the bids and their recommendation is to accept the low bid of Dobson Brothers Construction in the amount of \$70,211.26.

Councilmember Ley introduced Resolution No. 2011-31 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-31

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE “INDUSTRIAL ROAD FROM HIGHWAY 35 TO INDUSTRIAL WAY IMPROVEMENT PROJECT.”

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 Co. for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I Project in the amount of \$310,069.97. The engineer on the project has approved the same.

Councilmember Frevert made a motion, which was seconded by Councilmember Haase approving Application for Payment No. 8 for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I Project, in the amount of \$310,069.97 to

Eriksen Construction Co. 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 Alexander 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 6:12 p.m.