

**MINUTES
CITY COUNCIL MEETING
June 7, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, June 7, 2011, at 5:30 o'clock P.M. Council President Doug Sturm called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Mayor Ken Chamberlain.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on May 26, 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 Alexander, whereas the Clerk has prepared copies of the Minutes of the meeting of May 17, 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.

Council President Sturm 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: ADMINISTRATIVE PROFESSIONAL, SU, 89.00; ALARM PROS, SE, 79.13; AMERICAN BROADBAND, SE, 1670.14; AMERITAS, SE, 3273.73; APPEARA, SE, 151.19; AS CENTRAL SERVICES, SE, 448.00; ASCAP, FE, 309.00; BACKFLOW APPARATUS, SU, 26.30; BANK FIRST, FE, 330.00; BLACK HILLS ENERGY, SE, 821.29; BOMGAARS, SU, 770.25; BROWN SUPPLY, SU, 62.33; CARHART LUMBER COMPANY, SE, 522.76; CITY EMPLOYEE, RE, 136.41; CASEY ROOFING, SE, 185.00; CHARTWELLS, SE, 5785.00; CITY OF NORFOLK, SE, 318.50; CITY OF WAYNE, RE, 350.00; CITY OF WAYNE, RE, 43.20; CITY OF

WAYNE, PY, 125308.25; CITY EMPLOYEES, RE, 100.00; CITY OF WAYNE, RE, 247.10; CITY OF WAYNE, RE, 2410.71; COMMUNITY HEALTH, RE, 6.00; CONNEY SAFETY PRODUCTS, SU, 97.43; COPY WRITE, SU, 276.39; DAVE SWANSON, SE, 42.50; DE LAGE LANDEN FINANCIAL, SE, 77.00; DGR & ASSOCIATES, SE, 116.00; CITY EMPLOYEE, RE, 177.49; DUTTON-LAINSON, SU, 459.03; EAKES OFFICE PLUS, SU, 76.28; ECHO GROUP, SU, 80.76; EISCHEID ARTIFICIAL RAIN, SE, 160.00; ELECTRIC FIXTURE, SU, 479.46; ENDURANCE POWER PRODUCTS, SU, 192.86; ERIKSEN CONSTRUCTION, SE, 328561.00; ERNEST E PING, SE, 284.00; FIRST CONCORD GROUP, SE, 3897.01; FIRST NATIONAL INSURANCE, SE, 273.70; FLOOR MAINTENANCE, SU, 429.71; FORT DEARBORN LIFE, SE, 1638.49; FREDRICKSON OIL, SE, 5.00; GERHOLD CONCRETE, SU, 323.88; GILL HAULING, SE, 133.00; HAUGE ASSOCIATES, RE, 335.50; HAWKINS, SU, 1467.89; CITY EMPLOYEE, RE, 79.76; HTM SALES, SE, 1340.19; ICMA, FE, 25.00; ICMA, SE, 11269.99; INNOVATIVE PROTECTIVES, SE, 950.00; IRS, TX, 38101.07; JACK'S UNIFORMS, SU, 479.36; JASON CAROLLO, SE, 315.00; JAY O'LEARY, RE, 500.00; JEO CONSULTING GROUP, SE, 50981.52; CITY EMPLOYEE, RE, 593.09; KAREN MECSEJI, RE, 500.00; KIRKHAM MICHAEL, SE, 4453.87; KRIZ-DAVIS, SU, 234.35; LEAGUE OF NEBRASKA, FE, 135.00; MIDWEST OFFICE AUTOMATION, SE, 183.38; MSC INDUSTRIAL, SU, 397.27; N.E. NEB ECONOMIC DEV DIS, SE, 2552.80; N.E. NEB ECONOMIC DEV DIS, FE, 7018.40; NE DEPT OF ENVIRONMENTAL, SE, 10553.27; NE DEPT OF ENVIRONMENTAL, SE, 6992.82; NE DEPT OF ENVIRONMENTAL, FE, 790.02; NE DEPT OF REVENUE, TX, 5628.05; NE STATE PATROL, SE, 15.00; NORTHEAST EQUIPMENT, SU, 518.17; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 3159.21; NeFSMA, FE, 360.00; OFFICE SYSTEMS COMPANY, SE, 135.79; PALOS SPORTS, SU, 619.62; CITY EMPLOYEE, RE, 1102.69; CITY EMPLOYEE, RE, 1802.57; PUSH-PEDAL-PULL, SU, 944.40; QUILL, SU, 562.77; QWEST, SE, 488.26; RDG PLANNING & DESIGN, SE, 345.00; REHAB SYSTEMS, SE, 41142.40; ROBERTSON IMPLEMENT, SU, 87.70; SKARSHAUG TESTING LAB, SE, 128.09; SPARLING INSTRUMENTS, SU, 1097.22; STADIUM SPORTING GOODS, SU, 1606.00; STATE NATIONAL BANK, RE, 93235.30; TERRACON CONSULTANTS, SE, 1289.00; TIM SCHAEFER, SE, 150.00; NE ENVIRONMENTAL PRODUCTS, SU, 751.30; TROY BRUNS, RE, 500.00; UNITED WAY, RE, 10.00; VAN DIEST SUPPLY, SE, 597.55; VIAERO, SE, 138.54; VERIZON, SE, 306.16; WAYNE COUNTY CLERK, SE, 5.50; WAYNE GROCERY, RE, 10.00; WAYNE HERALD, SE, 154.00; WAYNE STATE COLLEGE, RE, 504.00; APPEARA, SE, 25.56; AQUA-CHEM, SU, 196.78; BANCROFT TOURNAMENT, FE, 25.00; BRIGGS, INC., SU, 519.74; CDW DIRECT, SU, 1623.87; CITY OF WAYNE, RE, 1677.99; COPY WRITE, SU, 23.89; DAVE'S DRY CLEANING, SE, 72.00; DUTTON-LAINSON, SU, 91.59; ELECTRIC FIXTURE & SUPPLY, SU, 9902.47; FLETCHER FARM SERVICE, SU, 1697.50; FLOOR MAINTENANCE, SU, 20.95; FREDRICKSON OIL, SE, 32.00; GERHOLD CONCRETE, SU, 327.84; HARDING & SHULTZ, SE, 13411.19; HAWKINS, INC, SU, 780.70; HOBBY LOBBY, SU, 103.27; JEO CONSULTING GROUP, SE, 2481.25; KTCH, SE, 605.00; LYNN PEAVEY, SU, 144.90; MCGUIRE & NORBY, SE, 4555.56; MICROFILM IMAGING SYSTEMS, SE, 619.97; MID-SUMMER CLASSIC, FE, 150.00; MIDLAND EQUIPMENT, SU, 434.70; MIDWEST

DIESEL, SU, 432.56; NE LIBRARY COMMISSION, SU, 359.00; OLSSON ASSOCIATES, SE, 375.32; PAC N SAVE, SU, 126.39; PAMIDA, SU, 48.94; PETERSON INDUSTRIAL ENGINE, SU, 6340.75; PIEPER, MILLER & DAHL, SE, 3661.00; SAYRE ANDERSON, RE, 30.00; SCHOLASTIC BOOK CLUBS, SU, 114.40; WAKEFIELD WOODEN BAT, FE, 75.00

Councilmember Frevert made a motion and seconded by Councilmember Haase to approve the claims. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Council President Sturm 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.

Joseph Salitros, previous City Administrator from 1990 to 2000, who has just recently retired, was present to make a contribution back to the City and to the Boy Scout Program. Mr. Salitros spoke of what the community of Wayne meant to him and his family for those 10 years, and that now since retiring from municipal government, he has chosen to give back to each of those communities in which he served \$100 for each year of employment. Mr. Salitros donated \$600 to the City of Wayne to purchase two benches to be installed along the Wayne Trail. He also donated \$400 to the Wayne Boy Scout Troop 174 not just because of the positive impact the program had on his two sons, but because of the things they do for our youth. Checks for those amounts were then presented to Council President Sturm and Gary Wright, who represented the Boy Scouts.

An Application for a Special Designated Liquor License Permit was received from The Max Again for a beer garden which will be located in the parking lot of Carhart/Final Touch/Riley's on Main Street for Saturday, July 9, 2011, which is in conjunction with the Chicken Show Activities. No one was present to answer questions.

Councilmember Frevert made a motion and seconded by Councilmember Haase approving the request of The Max Again for a Special Designated Liquor License Permit for a beer garden which will be located in the parking lot of Carhart/Final Touch/Riley's on July 9, 2011, in conjunction with the Chicken Show Activities. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Bill Melena was present requesting Council consideration to allowing him to close the south portion of the alley behind the White Dog Pub for the "Hamburger Cookout Competition" on Saturday, August 13th, from 12:00 noon until 10:00 p.m.

Councilmember Ley made a motion and seconded by Councilmember Alexander approving the request of Bill Melena to close the south portion of the alley behind the White Dog Pub for the "Hamburger Cookout Competition" on Saturday, August 13th, from 12:00 noon until 10:00 p.m.

Mr. Melena was asked to provide the necessary Certificate of Insurance naming the City as an additional insured.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson stated a request has been made by the Wayne State College Student Activities Board and WAED to close Highway 15 between First and

Second Streets for the “Stay-Cation” event hosted by the Wayne State College Student Activities Board on August 27th. This is a way to help bring the college students and the community together.

Bill Melena was present and did not have a problem with this. The Student Senate did this last year, but the activity was held on First Street, with the band being set up in the Godfather’s parking lot.

Administrator Johnson advised the Council that the Council must take action on the matter before it is sent to the State of Nebraska Dept. of Roads for consideration. It was noted that the City must provide the barriers to block off the street.

The reason for wanting to have the event held on the highway this year is because they would like to have 2-3 bands. There is only enough room in the Godfather’s parking lot for one band.

Councilmember Ley made a motion and seconded by Councilmember Brodersen approving the request of the Wayne State College Student Activities Board to close Highway 15 between First and Second Streets for the “Stay-Cation” event they are sponsoring on Saturday, August 27, 2011. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson stated the following Resolution is to comply with some new requirements being implemented by the Nebraska Department of Roads when closing State highways. State approved barriers must now be used to provide uniformity throughout the State when highways are closed. Another change is that the NDOR wants 30 days notice of the street closure, and in addition is requiring that if a claim is made

against the State, the City will indemnify, defend, and hold harmless the State from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event. There will be the same insurance arrangements this year as there was last year.

Councilmember Alexander introduced Resolution No. 2011-41 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-41

A RESOLUTION ACKNOWLEDGING NEBRASKA DEPARTMENT OF ROADS' REQUIREMENTS FOR THE TEMPORARY USE OF THE STATE HIGHWAY SYSTEM FOR SPECIAL EVENTS.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Wayne Area Economic Development, Inc., on behalf of the Chicken Days Committee, was requesting the following streets be closed during the Chicken Show activities:

- ❖ On Friday, July 8th, the Committee is requesting the closure of the following streets from 3:00 pm until 12 Midnight for the Annual Henoween Celebration: Main Street from 1st to 4th Street (not including the end intersections); 2nd Street from the alley west of Main Street to the alley east of Main Street; and 3rd Street from Pearl Street (not including the intersection) to the alley East of Main Street.

Councilmember Ley made a motion and seconded by Councilmember Alexander approving the request of the Chicken Days Committee to close the following streets on Friday, July 8th from 3:00 p.m. until 12 Midnight for the Annual Henoween Celebration: Main Street from 1st to 4th Street (not including the end intersections); 2nd Street from the alley west of Main Street to the alley east of Main Street; and 3rd Street from Pearl Street (not including the intersection) to the alley East of Main Street. Council President

Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Wayne Area Economic Development, Inc., on behalf of the Chicken Days Committee, was requesting the following streets be closed during the Chicken Show activities:

- ❖ On Saturday, July 9th, the Committee is requesting the closure of the following streets from 6:00 a.m. until 5:00 p.m., for the Annual Chicken Show Celebration in Bressler Park: 10th Street from Lincoln Street to Douglas Street; Lincoln Street from 10th Street to 8th Street; and Douglas Street from 8th Street to 10th Street. Intersections at 10th and Douglas and 10th and Lincoln Streets are also requested to be closed.

Councilmember Ley made a motion and seconded by Councilmember Alexander approving the request of the Chicken Days Committee to close the following streets on Saturday, July 9th from 6:00 a.m. until 5:00 p.m. for the annual Chicken Show celebration in Bressler Park: 10th Street from Lincoln Street to Douglas Street; Lincoln Street from 10th Street to 8th Street; Douglas Street from 8th Street to 10th Street; and the intersections at 10th and Douglas and 10th and Lincoln Streets. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Wayne Area Economic Development, Inc., on behalf of the Chicken Days Committee, was requesting the following streets be closed during the Chicken Show activities:

- ❖ On Saturday, July 9th for the Annual Chicken Show Parade from 9:00 a.m. until 11:30 a.m. (or until the end of the parade): Main Street from 1st to 10th Street (including intersections) and 10th Street from Main Street to Lincoln Street.

Councilmember Frevert made a motion and seconded by Councilmember Alexander approving the request of the Chicken Days Committee to close the following

streets on Saturday, July 9th for the Annual Chicken Show Parade from 9:00 a.m. until 11:30 a.m. (or until the end of the parade): Main Street from 1st to 10th Street (including intersections) and 10th Street from Main to Lincoln Street. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Alexander introduced Resolution No. 2011-42 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-42

A RESOLUTION ACKNOWLEDGING NEBRASKA DEPARTMENT OF ROADS' REQUIREMENTS FOR THE TEMPORARY USE OF THE STATE HIGHWAY SYSTEM FOR SPECIAL EVENTS.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Darin Greunke, Leader of the Sharp Shooters 4-H Club, was present requesting Council consideration to allowing them to operate a shooting gallery style air gun trailer at the Henoween and Chicken Show activities in July. This is an annual request.

Councilmember Ley made a motion and seconded by Councilmember Frevert approving the request made by Darin Greunke, Leader of the Sharp Shooters 4-H Club, to operate a shooting gallery style air gun trailer at the Henoween and Chicken Show activities in July. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Mr. Greunke was also requesting Council consideration to allowing them to host the 2012 Nebraska State 4-H BB Gun and Air Rifle Championships at the Community Activity Center. They hosted this event at the Community Activity Center in 2003 and

2007. He has visited with Karla Jensen, CAC Director, regarding rental fees, etc. They are expecting approximately 150 families from across the State of Nebraska to participate or come to Wayne that weekend. They have a liability policy of \$1,000,000 through the University of Nebraska. The dates for this event will be April 14th and 15th for the actual competition. They will set up on April 13th.

Mr. Greunke advised the Council that there is not enough room at the City Auditorium for this event to be held there. He also advised the Council that eye protection on the line is a requirement for both the shooters and the coaches.

Councilmember Ley made a motion and seconded by Councilmember Frevert to allow the Sharp Shooters 4-H Group to rent the Community Activity Center Facility for their 2012 Nebraska State 4-H BB Gun and Air Rifle Championships on April 13th, 14th and 15th, 2012. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Discussion took place regarding liquidated damages on the Well House and Municipal Well 2009-1 Project.

Garry Poutre, Supt. of Public Works & Utilities, provided some background on the situation regarding the Well Project. The project is now complete. A pay application that was brought forward at the last meeting was tabled because of an issue with the roof on the building. The general contractor, Layne Christensen, has offered a \$1,500 deduct for the roof because we are unable to get the 10-year manufactured warranty as provided in the specifications. In addition, liquidated damages of \$242 per day have accrued since July 23, 2010. That amount is in the neighborhood of \$45-46,000. Additional engineering fees of \$11,500, which were approved by Council in January, have been

incurred. Staff has worked out what they thought their costs were for labor throughout the period that was attributable to this project and that was \$100 per week for 27 weeks, totaling \$2,700. There were some other miscellaneous expenses, which totaled \$2,300. All of those costs, including the \$1,500 deduct, total \$18,000.

Mr. Poutre also advised the Council that he had Paulson Construction look at the roof. They were concerned about the wrinkles on the roof, because that means that the adhesive isn't bonding like it should. He then asked Paulson what the cost would be if a new roof had to be put on today. Paulson stated if they were to roof the building today, the cost would be roughly \$3,700.

Mr. Poutre stated staff recommendation is to accept the \$1,500 deduct for the roof and assess \$16,500 for liquidated damages to close the contract. This amount would be deducted from the retainer that we still have.

Council President Sturm thought this amount was satisfactory.

Councilmember Frevert opined that not knowing what the cost of the roof might be in 10 years, he thought the City should get more than a \$1,500 credit.

Councilmember Alexander wanted to know why it took so long to get the project done. We waited longer for the project to get done, and we still didn't get what was supposed to be completed (e.g. the roof).

Councilmember Frevert questioned why we have a \$242 penalty per day and then don't enforce it. He understood that what is proposed covers the costs, but wondered what's the purpose of having a penalty if it isn't going to be enforced.

Mr. Poutre stated what is proposed makes the City whole.

Administrator Johnson stated when he, the Mayor and staff talked about this, they didn't want it to cost any more.

Councilmember Frevert stated there is no incentive to get a project completed on time if there is no penalty.

Mr. Poutre stated that had this been the UV Project, we would have been in a world of hurt, but the other thing we took into consideration and had some discussion on was that we don't want to be the City that doesn't get good bids in the future because of this kind of thing. The penalty is put on these projects, hoping we don't need to use them.

Mr. Poutre stated he, Roger Protzman of JEO, representatives from Layne Christenson and Administrator Johnson all conferred concerning this matter.

Councilmember Alexander responded that in his eyes, the City is not the bad guy in this situation because the contractor was given an extension and they still didn't get the project completed on time. Those penalties are there because we want the contractor who gets the bid to get the project done on time and in the timeframe that we ask.

Roger Protzman of JEO Consulting Group, engineer on the project was present to answer questions. He stated the original completion date was February 28, 2010, and because of the winter, they asked the contractor to provide them with a schedule of when they thought they could complete the project. At that time, the contractor advised them that they could get the project completed by July 23, 2010. Council approved that extension. When the project wasn't quite done at that point, they had a meeting on site which included the former Mayor and staff. At that point, the contractor stated they thought they could get the project done by early October. The well wasn't able to be put

on line until January 26, 2011. Mr. Protzman then addressed the roof issue. JEO was the one that identified that this was a concern. He asked the contractor to have the people that represent Firestone to have their person come out and inspect the roof and tell us what was wrong. We were never able to obtain that type of inspection. Mr. Poutre then found another contractor to inspect the roof. The upshot of this whole thing is these types of products are to be installed by a certified installer. In this case, that was not done, which cost the City the 10-year warranty.

The retainer still being held is \$35,730.90. The penalty of \$242 per day includes Saturdays and Sundays. Mr. Protzman advised the Council that they use the Nebr. Dept. of Roads' equation to determine liquidated damages.

Council President Sturm asked whose responsibility was it to make sure that the roof was done right. Terry Heiliger of Layne Christensen stated the ripples on the roof were known from the beginning. The City made them aware of that. Their company did not install the roof; it was done through a sub-contractor.

Council President Sturm stated this must mean something or else we would be able to get the warranty from Firestone. Sturm then asked Mr. Heiliger if Layne Christensen knew that the roof had to be installed by a certified installer, but chose not to use them. Mr. Heiliger responded that it wasn't that they chose not to use a certified installer, they weren't necessarily made aware that the installer wasn't a certified installer.

Mr. Poutre explained to save some confusion, Layne Christensen is the general contractor. Benscoter Construction is the sub-contractor who built the building. Going

by the specifications of the contract, it would have been the sub-contractor's responsibility to know the type of roof, manufacturer, and the warranty needed.

Louis Benscoter was present and stated this was his mistake. He thought he had a certified installer, and when they looked into getting a warranty on the roof, they found out he wasn't a certified installer. However, he did check with his insurance company, and they will insure the products and workmanship on that for the ten-year period, so the City is covered over and above that \$1,500 by the insurance company. If the roof goes haywire in 5 years, they will come in and depreciate it a little bit and put a new roof on.

Councilmember Alexander asked if the roof would still be covered if Benscoter changed insurance companies. Mr. Benscoter responded that he checked into that too, and yes, it would still be covered. They are bound by what this contract was insured for. He would get that in writing from his insurance company.

Councilmember Alexander stated if the City can get that in writing, he thought the liquidated damages of \$16,500 would be adequate.

Councilmember Brodersen stated she was okay with the roof. We have the product there, and the compensation for not having the warranty she thought was reasonable. However, she does not know why the contractor did not get the project done on time. She thought that in consideration of the original contract price, the \$45,000 in liquidated damages it not too much to ask for, for not getting the project done on time.

Mr. Poutre stated there was a time when Mr. Benscoter was working on two city projects – Western Ridge and the Well. This was taken into consideration when figuring the liquidated damages. The \$242 per day to get up to \$16,500 is much less than the total

number of days we are talking about. We worked this out in a way that we felt we were financially whole.

Councilmember Alexander made a motion, which was seconded by Councilmember Van Delden to assess a \$16,500 liquidated damages penalty, contingent upon receiving a letter from Louis Benscoter's insurance company stating they will cover the roof for a period of 10 years, and a \$1,500 deduct for the roof.

Mr. Protzman stated the warranty periods will start when the project is closed out.

Council President Sturm stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who voted Nay, the Council President declared the motion carried.

Mr. Poutre stated the pay request received from Layne Christensen Co. for the Well House and Municipal Well 2009-1 Project in the amount of \$29,452.27 is the same pay application discussed and tabled at the last meeting. This is separate from the retainer which will cover the liquidated damages.

Councilmember Alexander made a motion, which was seconded by Councilmember Van Delden approving Pay Application No. 10 for the Well House and Municipal Well 2009-1 Project in the amount of \$29,452.27 to Layne Christensen Co. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Garry Poutre, Supt. of Public Works & Utilities, stated the downtown sidewalk replacement project has been completed, and the following Resolution would accept the project and authorize final payment to the contractor. The handrails are installed at Geno's and payment has been made to Arnie's Ford Mercury for damage to the stucco on

the building. The contractor on this project was given an extension, and they substantially completed the project in that timeframe.

Councilmember Ley introduced Resolution No. 2011-35 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-35

A RESOLUTION ACCEPTING WORK ON THE 2010 WAYNE SIDEWALK REPLACEMENT PROJECT.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Tom Sievers, Fire Chief, and Brent Doring of the Wayne Volunteer Fire Department advised the Council that three bids were received on the aerial ladder truck. They have reviewed each of the bids and are recommending that the same be awarded to the low bidder - Smeal Fire Apparatus of Snyder, NE, for \$566,010. Since the bid came in lower than what was budgeted, they were also requesting that Council give consideration to approving the 10 additional LDH hoses in the amount of \$5,130. They should get the truck within 270 – 330 working days.

Councilmember Brodersen introduced Resolution No. 2011-37 and moved for its approval, including the additional 10 LDH hoses for \$5,130; Councilmember Frevert seconded.

RESOLUTION NO. 2011-37

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE PURCHASE OF AN AERIAL LADDER FIRE TRUCK.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President 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 \$197,550.00. The engineer on the project has approved the same.

Councilmember Ley made a motion, which was seconded by Councilmember Alexander approving Application for Payment No. 10 for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I Project, in the amount of \$197,550.00 to Eriksen Construction Co. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson stated the proposed change orders for the new treatment plant project are for operational purposes and not construction. We originally had more of these dissolved oxygen sensors in the design, but in an effort to cut the bid cost down, they were omitted. This will allow us to track, on a per hour basis, dissolved oxygen levels in the tanks. This is a good management tool so we can better see what is going on in the system.

Roger Protzman, JEO Consulting Group, stated the change order has two proposals:

- Proposal 1: Electrical work omitted from the electrical plans in the amount of \$12,560.80.
- Proposal 2: Installation of six additional dissolved oxygen meters in the amount of \$43,326.23.

Mr. Protzman stated that prior to bidding out the project, they pulled some of these instruments out to make sure that the project came in under budget. We received a bid which was about \$1,000,000 under budget. This is as good a time as any before the concrete is poured to get this equipment added back in. The instruments will save about

½ hour of labor per day, which means that this will pay for itself over the life of the project. They thought the six oxygen meters that were left in the bid were the bare minimum that we could get by with, and for the sake of the operator, they are wanting to add the additional six back in and give the operator the best available information to run that plant. Wayne will be unique because this is one of the first plants like this in the nation, and they want to give those operators every chance they can to succeed, and this is part of doing that. Proposal No. 2 is estimated to take about one month of labor, and they are recommending a one-month extension for this Change Order. Mr. Protzman has contacted DEQ and is waiting for a response on whether or not this extension would pose a problem.

Councilmember Ley made a motion, which was seconded by Councilmember Alexander approving the Change Orders for the 2009-2010 Wastewater Treatment Facility Improvements – Proposal No. 1 for \$12,560.80 (electrical work) and Proposal No. 2 - \$43,326.23 (six additional dissolved oxygen meters). Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Gene Hansen, Electric Production Superintendent, stated one bid was received on the “Power Plant Cooling Tower Improvement Project – Installation”, and that was from Midstates Erectors, Inc., in the amount of \$612,762.00. The City’s engineer on the project, HDR Engineering, has reviewed the bid and is recommending approval thereof.

Administrator Johnson stated when completed, these improvements are estimated to save the City approximately \$60,000 per year in electrical costs.

Councilmember Frevert introduced Resolution No. 2011-36 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-36

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “POWER PLANT COOLING TOWER IMPROVEMENT PROJECT - INSTALLATION.”

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Gene Hansen, Electric Production Superintendent, stated because of the additional requirements of the Federal Stimulus grant, they have asked HDR Engineering for additional professional services to meet those requirements. This is for work they have already completed in time to meet the grant requirements. The additional engineering fees are \$15,000.

Councilmember Alexander made a motion and seconded by Councilmember Frevert to amend the HDR Professional Services Contract for engineering services on the Power Plant Cooling Tower Project. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson stated the following Resolution would amend the original Resolution that approved the Use by Exception Permit for the dental clinic of Dr. Rob Burrows on Pearl Street to identify the property by legal description rather than just a street address so that the document can be filed against the property.

Councilmember Alexander introduced Resolution No. 2011-38 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-38

A RESOLUTION AMENDING RESOLUTION NO. 2011-3 APPROVING THE APPLICATION FOR ZONING USE BY EXCEPTION PERMIT TO ALLOW FOR A DENTAL CLINIC 617 PEARL STREET, BY LEGALLY DESCRIBING THE PROPERTY AS “THE EAST 63’ OF THE NORTH 78’ OF CRAWFORD & BROWN’S OUTLOT 2 TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA; AND THE WEST 87’ OF THE NORTH 78’ OF CRAWFORD & BROWN’S OUTLOT TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.”

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President 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 June 21, 2011, at or about 5:30 p.m. In the original calculation of the assessments, the \$10,000 credit for the double water rates that former Mayor Shelton and he had agreed to verbally was not provided to the engineer. This was to be a part of the financing of the project to be recommended to the Council. Those customers in the district were paying double rates in addition to paying repairs on their service line. This is a reasonable request in his opinion, because we do charge double rates for customers outside city limits, but the City maintains those lines. In this case, we were charging those customers double water rates, but they were maintaining their own service line. The City paid for the first quarter mile of line from the well house. The remainder was assessed to the property owners in the district.

Councilmember Frevert introduced Resolution No. 2011-39 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-39

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).

Council President Sturm stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Alexander and Council President Sturm voted Nay, the Council President declared the motion carried.

Administrator Johnson stated the following Resolution would amend the schedule of fees as follows:

- Add a fee of \$25 per day to rent the walk-in cooler by itself; and
- Change the moving permit fee from \$200 for any structure to \$100 for a Primary Structure and \$50 for an Accessory Structure.

Councilmember Alexander introduced Resolution No. 2011-40 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2011-40

A RESOLUTION AMENDING SCHEDULE OF FEES.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson requested Council consideration to continue participating in the Tri-County Mutual Finance Organization for FY2011-12 and to appoint him as the representative from the City of Wayne. This allows us to apply for State cost-sharing for rural fire departments. Wayne's share last year was about \$24,000.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, to continue participating in the Tri-County Mutual Finance Organization for FY2011-12 and to appoint Lowell Johnson as the representative from the City of Wayne. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson stated a proposal has been received from Advanced Consulting Engineering Services for design services for a 500'-600' paving district on Pheasant Run Road for a sum of \$11,750. The services listed on their proposal that are not included in that lump sum fee can be included as an addition to the contract or billed on an hourly basis.

Councilmember Ley made a motion, which was seconded by Councilmember Frevert approving the proposal for design services submitted by Advanced Consulting Engineering Services for paving improvements on Pheasant Run Road. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Van Delden to recess as Council and convene as the Community Development Agency. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President 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, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Ken Chamberlain.

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 March 15, 2011, meeting.

Member Sturm made a motion and seconded by Member Alexander approving the minutes of the March 15, 2011, meeting. 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 the consideration and passage of CDA Res. 2011-2 Bond Resolution for Windom Ridge LLC.

Administrator Johnson stated this Resolution is the next step that is required to be able to issue the Tax Increment Financing Bond for the eight-plex project on Windom Street. The bond amount is \$84,700, and the interest rate on the same is 6.75%.

Member Sturm introduced CDA Resolution No. 2011-2 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2011-2

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WAYNE; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY REDEVELOPMENT LAW; AUTHORIZING THE SALE OF SAID BOND; PROVIDING FOR A GRANT; PROVIDING FOR A REDEVELOPMENT CONTRACT AND PROVIDING FOR THIS RESOLUTION TO TAKE EFFECT.

Member Alexander seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Alexander, Sturm, Ley, Berry and Brodersen. The following Members were absent: Chamberlain.

The passage of CDA Resolution No. 2011-2 having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2011-2 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2011-2, and the Clerk attested to its passage by affixing her signature thereto.

Member Alexander 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 Alexander made a motion and seconded by Councilmember Frevert to adjourn the meeting. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried and the meeting adjourned at 7:34 p.m.