

\* Amended: 7/19/11

AGENDA  
CITY COUNCIL MEETING  
July 19, 2011

5:30 Call to Order

1. Approval of Minutes – July 5, 2011

2. Approval of Claims

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

Anyone desiring to speak on an agenda item is invited to do so, and should limit themselves to three minutes. After being recognized by the Chair, proceed to the rostrum and state your name and address for the record.

The City 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.

3. Report on the Environmental Protection Agency's Final Rule on the National Emission Standard for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines (RICE Rule) — Gene Hansen, Electric Production Superintendent

**Background:** The EPA has required that all internal combustion power plant engines have catalytic converters installed on them by May of 2013. Even though Wayne operates the plant less than 100 hours in most years, we are required to have the catalytic converters in place on all seven engines in order to operate after that or we are in violation of Federal Law.

We will have to install new silencers (mufflers) and catalytic converters to operate our engines to be in compliance with our Lease Agreement with NPPD that pays Wayne about \$636,000 per year through year 2022. The estimated cost of the engineering and construction is about \$700,000. We have planned for that in our cash reserves, and the payback period for this work is less than 18 months.

**Recommendation:** No action is needed at this time. This regulation was finalized by the EPA in 2009. Because all power plants in the United States have the same requirements, with the same deadline, and there are only a fixed number of manufacturers to buy from, Gene has spent a huge amount of time to get Wayne in a position to have this work completed on time to fulfill our NPPD contract. Gene will report the details of this to you at the Council meeting as part of our budget preparation for next year.

4. Public Hearing: Annexation Plan for Property Known as "Western Ridge Third Addition and Western Ridge First Addition" which is Located West of the Western Ridge Subdivision on Highway 35 and to

Consider the Planning Commission's Recommendation Regarding the Matter (Advertised Time: 5:30 p.m.)

5. Ordinance 2011-6: Annexing Property known as "Western Ridge Third Addition and Western Ridge First Addition"

**Background:** This area is being subdivided for commercial development by the owners. The "Annexation Plan" is required to show how the lots will be configured, how they will be served by utilities and surface water drainage systems, and how they will be provided public access.

**Recommendation:** The recommendation of the Planning Official is to approve the Plan.

6. Public Hearing: To Consider the Planning Commission's Recommendation Regarding the Preliminary and Final Plats for Western Ridge Third Addition. Applicants are Victoria Pick, Steven and Cynthia Meyer, and Mark and Lona Meyer (Advertised Time: 5:30 p.m.)

7. Resolution 2011-52: Approving Preliminary and Final Plats and Subdivision Agreement for Western Ridge Third Addition and Authorizing the Execution of the Subdivision Agreement

**Background:** The plat is designed by AECS, a professional engineering firm, and meets the requirements of the owners and the Wayne City Code governing subdivision development.

**Recommendation:** The recommendation of the Planning Commission will be provided after their public hearing on July 18<sup>th</sup>.

8. Public Hearing: To Consider the Planning Commission's Recommendation in regard to Amending Wayne Municipal Code, Section 90-836 Expiration of Exception Use Permits. Applicant is the City of Wayne. (Advertised Time: 5:30 p.m.)

**Background:** Our code currently limits the duration of a "Use by Exception" permit to one year after it is approved by the Planning Commission and the City Council. Recently, the start of a significant building project extended through this time period because of a series of delays, and we required the builder to go through the entire Planning Commission and City Council public hearing process a second time at \$200 each. This proposal would amend the Wayne City Code to extend the time from one year to three years for a developer to begin construction of a project after a "Use by Exception Permit" has been approved.

**Recommendation:** The recommendation of the Building Official and the City Administrator is to approve the longer time period and refund the \$400 cost of the second round of the "Use by Exception Permit" approval process to the recent applicant. The applicant has not requested a refund; however, city staff believes the short time period in the City Code created an unnecessary cost for the project, and because of the increasing regulatory and finance complexity of developments, future projects will benefit from this change.

9. [Ordinance 2011-7: Amending Wayne Municipal Code, Section 90-836 Expiration of Exception Use Permits](#)

10. [Ordinance 2011-8: Amending Chapter 18, Article VI Unsafe Buildings](#)

**Background:** This proposal establishes a fine for violation of the Property Maintenance Code. It is patterned after the system used successfully in Norfolk. It creates a second and simpler avenue to collect the cost of property nuisance enforcement from the actual creator of the nuisance, but keeps in place the secondary option of filing a lien on the property to recover enforcement costs in the future if the option of fines fails.

11. [Update on Information Obtained from other Communities on Fogging Streets and Alleys to Control Bugs/Mosquitoes and Action on the Matter](#)

12. [Action to Amend the Contract with Advanced Consulting Engineering Services for Services to Add Water and Sewer Lines to the Paving of the County Road for Western Ridge Third Addition](#)

**Background:** We have an existing engineering agreement with ACES for design and construction of a paving project to access the newly created Lot 1 in the Western Ridge Third Addition. This amendment (which will be provided to you at the meeting) will add the sewer and water extension projects to access Lot 1 to this ACES Engineering Agreement.

13. [Resolution 2011-53: Authorizing the Allocation of Property Taxes to the Wayne Airport Authority](#)

**Background:** This request for tax allocation is an annual requirement for the Wayne Airport operation to be funded through property taxes. The airport is owned by the City of Wayne, but is outside the city limits in Wayne County. In 2003, the Unicameral passed legislation that removed the airport mill levy from the Airport Authority and placed it within the city's \$.45 mill property tax limit. Since that time, Wayne has had about \$65,000 of tax revenues per year diverted to the airport from use inside the city, but we have found other sources of revenue and have still reduced our total city mill levy below the limit.

The Wayne Airport Authority has leveraged the annual property tax funding with major state and federal aviation gas tax revenue allocations to complete major project improvements at the airport.

**Recommendation:** The recommendation of the City Administrator and Finance Director is to approve the annual Airport Authority request for operating funds.

14. **Approval of the Specifications for the 2011 Lagoon Sludge Removal and Application, Wayne, Nebraska – Lucas Billesbach, JEO Consulting, Inc.**

15. **Authorization for JEO Consulting Group, Inc. to Begin Advertising for Bids for the 2011 Lagoon Sludge Removal and Application, Wayne, Nebraska – Lucas Billesbach, JEO Consulting, Inc.**
16. **Council Action on Resolution 2011-54: Approving Memorandum of Understanding with Bomgaars, Inc. Regarding the Intent of Both Parties to Execute a Redevelopment Contract with the Community Development Agency to Help Finance the Infrastructure Needed for Development of Lot 1, Western Ridge III Addition.**
17. **Council Action on Request by Northeast Nebraska Public Health Department for Waiver of City Code Section 18-341 Regarding Sign Requirements and Prohibition of Signs projecting Out Over the Sidewalk In A Commercial District.**
18. Budget Proposal Briefing and Distribution of Budget Packet for the July 26<sup>th</sup> Budget Work Session
19. Appointments:
  - Swimming Pool Renovation/Replacement Committee: Tammy Evetovich
  - Library Board: Spring Dahl
20. Adjourn

APPROVED AS TO FORM AND CONTENT:

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Mayor

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City Administrator

July 5, 2011

The Wayne City Council met in regular session at City Hall on Tuesday, July 5, 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 Mike Pieper; 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 June 23, 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 Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of June 21, 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 BROADBAND, SE, 330.00; AMERICAN BROADBAND, RE, 1173.00; AMERITAS, SE, 1622.84; APPEARA, SE, 101.62; ARNIE'S FORD-MERCURY, SE, 1769.67; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 165.00; BAUM HYDRAULICS CORP, SU, 26.36; BEIERMANN ELECTRIC, SE, 6563.00; CITY EMPLOYEE, RE, 106.10; BLACK HILLS ENERGY, SE, 1906.56; BLUEGRASS PLAYGROUNDS, SU, 3662.00; CITY EMPLOYEE, RE, 185.22; CARHART LUMBER, SU, 1138.88; CARTRIDGE WORLD, SU, 59.99; CITY OF NORFOLK, SE, 642.10; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 850.00; CITY OF WAYNE, RE, 11.47; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 27.00; CITY OF WAYNE, SE, 400.00; CITY OF WAYNE, RE, 221.85; CITY OF WAYNE, PY, 63480.93; CITY OF WAYNE, RE, 60.00; COMMUNITY HEALTH, RE, 3.00; CRAIG WALLING, RE, 100.00; DAKOTA BUSINESS

SYSTEMS, SE, 102.50; DE LAGE LANDEN FINANCIAL, SE, 77.00; DUTTON-LAINSON, SU, 78.92; ELLIS PLUMBING & HEATING, SE, 90.19; EXHAUST PROS, SE, 115.60; FIRST NATIONAL INSURANCE, SE, 272.42; FLOOR MAINTENANCE, SU, 450.85; FORT DEARBORN LIFE, SE, 106.64; FREDRICKSON OIL, SE, 186.93; CITY EMPLOYEE, RE, 819.37; GEMPLER'S, SU, 190.40; GERHOLD CONCRETE, SU, 908.00; GIS WORKSHOP, SU, 36500.00; H.K. SCHOLZ COMPANY. SE, 48600.00; CITY EMPLOYEE, RE, 203.48; HAUGE ASSOCIATES, RE, 167.75; HAWKINS, SU, 121.39; ICMA, FE, 594.00; ICMA, RE, 5632.63; IRS, TX, 19179.63; JEO CONSULTING GROUP, SE, 21276.76; KRIZ-DAVIS, SU, 797.69; LANGEMEIER, WAYNE, SE, 100.00; LEAGUE OF NEBRASKA, FE, 740.00; MCGUIRE & NORBY, SE, 10481.10; CITY EMPLOYEE, RE, 189.49; MICROFILM IMAGING SYSTEMS, SE, 892.81; MIKE TOWNE, SE, 400.00; NE DEPT OF HEALTH, FE, 148.26; NE DEPT OF REVENUE, TX, 2853.62; NE NEB INS AGENCY, SE, 57149.00; NORFOLK TRUCK CENTER, SU, 58.56; NNPPD, SE, 3361.96; NORTHWEST ELECTRIC, SE, 885.27; OLSSON ASSOCIATES, SE, 343.00; PAMIDA, SU, 552.93; CITY EMPLOYEE, RE, 152.47; PIEPER, MILLER & DAHL, SE, 2199.00; PITNEY BOWES, SU, 213.47; CITY OF WAYNE, RE, 43.03; CITY OF WAYNE, RE, 2234.75; QUALITY 1 GRAPHICS, SU, 100.00; QUILL, SU, 601.74; RAMADA INN - KEARNEY, SE, 144.00; CITY EMPLOYEE, RE, 303.50; ROBERTSON IMPLEMENT, SU, 50.75; RON'S RADIO, SE, 43.85; SARPY CO SHERIFFS OFFICE, RE, 251.00; SIOUXLAND TURF PRODUCTS, SU, 3232.50; STADIUM SPORTING GOODS, SU, 215.00; STANLEY SECURITY SOLUTION, SU, 121.19; STATE NATIONAL BANK, RE, 100.00; STATE NATIONAL BANK, RE, 97.76; THE DIAMOND CENTER, SE, 80.10; TOM ADAMSON, SU, 8.00; TOM'S BODY & PAINT SHOP, SE, 26.00; VERIZON, SE, 161.28; VIAREO, SE, 142.58; WATERLINK, SU, 135.47; WAED, RE, 6431.33; WAYNE AUTO PARTS, SU, 590.49; WAYNE COMMUNITY SCHOOLS, SU, 129.00; AVERY ENTERPRISES, RE, 240.00; BARONE SECURITY SYSTEMS, SE, 1080.00; CARROLL DISTRIBUTING, SU, 263.58; CHARTWELLS, SE, 5597.10; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 750.89; COPY WRITE, SU, 142.10; DEMCO, SU, 62.89; DOING BETTER INSPECTIONS, SE, 900.00; ELECTRIC FIXTURE & SUPPLY, SU, 336.79; FIRST SOURCE TITLE&ESCROW, SE, 50.00; GERHOLD CONCRETE, SU, 38.25; HASTINGS COLLEGE, RE, 69.95; ISLAND SPRINKLER SUPPLY, SU, 125.68; JASON CAROLLO, SE, 280.00; KELLY SUPPLY, SU, 164.36; KTCH, SE, 605.00; LANGEMEIER, WAYNE, SE, 200.00; LAYNE CHRISTENSEN, SE, 27677.57; MIDWEST SERVICE & SALES, SU, 390.00; NNEDD, FE, 50.00; NE LIBRARY COMMISSION, RE, 1250.00; PRESTO X COMPANY, SE, 93.60; ROBERTSON IMPLEMENT, SU, 33.44; S & S WILLERS, SU, 233.67; SKARSHAUG TESTING LAB, SE, 138.44; SUN RIDGE SYSTEMS, SE, 2600.00; TERRACON, SE, 725.00; WAED, RE, 6383.33; WAYNE COUNTY CLERK, SE, 5.50; WAYNE VETERINARY CLINIC, SE, 182.00; ZACH OIL, SU, 5689.46

Councilmember Sturm made a motion and seconded by Councilmember Ley 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.

Bill Melena, representing The White Dog Pub, was present requesting Council consideration to extending the hours of sale of alcoholic liquor to 2:00 a.m. on the Friday, July 8<sup>th</sup>, and Saturday, July 9<sup>th</sup>, nights of the Wayne Henoween and Chicken Show.

Administrator Johnson stated the State now allows communities to make that decision separately. Staff does not have a recommendation on this matter. Sergeant Marlen Chinn advised him if this is approved, the Police Department will accommodate it.

City Clerk McGuire noted for the record she received a phone call from Wes Blecke who was in favor of this proposal. She, along with members of the City Council, received a phone call from "Susie" opposing the same.

Mr. Melena stated there are about 94 communities in the State of Nebraska that have already passed measures allowing bars to remain open until 2:00 a.m. This is his business, and if approved, it would be an opportunity for him to maximize his ability to

make extra money. He felt this was a way to test the waters. He requested Council to waive the three readings so that this could be in effect for this weekend.

Councilmember Frevert introduced Ordinance 2011-5, and moved for its approval, with the clarification being that the 2:00 a.m. closing time is for the business day Friday, July 8<sup>th</sup>, and Saturday, July 9<sup>th</sup>; Councilmember Van Delden seconded.

#### ORDINANCE NO. 2011-5

#### AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR CHICKEN SHOW ACTIVITIES.

Ken Jorgensen, owner of “The Max” was also present and stated that they (bar owners) are just like anybody else – just trying to make a living. He thought this would slow down the house parties. He noted there is no off-sale of alcoholic liquor after 1:00 a.m. This weekend would be the best test to see how this would work.

It was noted that this is not mandatory. If bar owners still want to close at 1:00 a.m., they can.

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

Councilmember Sturm made a motion and Councilmember Frevert seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who voted Nay, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Alexander seconded to move for final approval of Ordinance No. 2011-5. Mayor Chamberlain stated the

motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who voted Nay, 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 \$620,853.79. The engineer on the project has approved the same.

Garry Poutre, Supt. of Public Works & Utilities, updated the Council on the project.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander approving Application for Payment No. 11 for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I Project, in the amount of \$620,853.79 to Eriksen Construction Co. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The following Resolution is a requirement by the Nebraska Department of Roads when a state highway will be closed for a celebration/parade. This Resolution pertains to the Wayne State College Homecoming Parade, which will include Band Day, on Saturday, October 8, 2011.

Councilmember Sturm introduced Resolution No. 2011-50 and moved for its approval; Councilmember Brodersen seconded.

#### RESOLUTION NO. 2011-50

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

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

Joel Hansen, City Planner, stated the following Resolution would accept a plan to extend city services and set the public hearing on the proposed annexation of real estate located north across Highway 35 from Northeast Nebraska Public Power District. The owners of this undeveloped property have proposed a subdivision development for that area. The public hearing is scheduled for Tuesday, July 19<sup>th</sup>, at 5:30 p.m.

A map outlining the area was distributed to Council. The annexation would also include Western Ridge First Addition. There is an agreement in place with the owner of Western Ridge First Addition that when the property to the west is annexed that their property would automatically be annexed as well. The Code also provides that before any developer submits a final plat for consideration by the Council, they have to also include a petition for annexation.

Councilmember Sturm introduced Resolution No. 2011-49 and moved for its approval; Councilmember Ley seconded.

#### RESOLUTION NO. 2011-49

A RESOLUTION ACCEPTING A PLAN TO EXTEND CITY SERVICES AND SETTING A PUBLIC HEARING ON THE PROPOSED ANNEXATION AREA TO THE CITY OF WAYNE.

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

Garry Poutre, Supt. of Public Works & Utilities, advised the Council that the following Resolution would approve an agreement with Olsson Associates for professional engineering services on the Highway 35 Water and Sewer Extension Project.

The cost of the project for Phase 1 through 2 will be \$7,600, with Phases 3 through 4 being provided on a time and expense basis. These utilities will serve the property that is proposed to be annexed.

Councilmember Sturm introduced Resolution No. 2011-51 and moved for its approval; Councilmember Frevert seconded.

#### RESOLUTION NO. 2011-51

#### A RESOLUTION APPROVING AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF WAYNE AND OLSSON ASSOCIATES FOR THE HIGHWAY 35 WATER AND SEWER EXTENSION PROJECT.

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

Discussion took place in regard to fogging streets for mosquitoes. An e-mail was sent out to the City Administrator's list serve. Responses were received back from 8 or 9 communities. About half of them do fogging. All of those communities do what Wayne does now, which is treat standing water with larvacide wafers. In the past couple of years, Wayne has also been spraying the parks, etc.

Garry Poutre, Supt. of Public Works & Utilities, conferred with a company from Newman Grove who contracts with the Village of Carroll. This company has about 23 communities. He sprays in Carroll every Tuesday night about 11:00 p.m., June through September. They fog one week and then do an ultraviolet spray the next week. The cost is about \$2,500 per year. He advised Mr. Poutre that the cost of a sprayer like what Wayne would need would cost somewhere in the neighborhood of \$9,000 to \$10,000.

Mr. Poutre stated Wayne has not fogged for around 20 years. The fogging equipment that the City had was old and it could not be calibrated. He felt this matter

might be something that justifies some public comment, because his department will receive calls from people in the community when they spray the grass on the street bricks. He noted employees must be certified to spray or apply the chemicals that are sprayed in the parks, etc.

Mayor Chamberlain was of the opinion that if property owners wanted their yards treated for mosquitoes, they are more than welcome to do that. However, he found it difficult to justify spending the City's money to do that.

Councilmember Haase stated he has been asked by some citizens with all of the equipment the City owns, why we don't invest in a fogger.

Joel Hansen stated the last time the City fogged was probably in 1991. A contributing factor to getting rid of the fogging machine and not purchasing a new one was that the City of Bridgeport was sued and lost \$375,000 because they were spraying with uncertified operators and a child in the community had a reaction to the chemical. It later turned out they weren't even applying enough chemical to kill the mosquitoes. Bridgeport's website asks all residents, as a precaution, to close their windows during the time they are spraying, and if you have asthma or breathing difficulties, you may want to take additional precautions, up to and including leaving town for the evening.

Councilmember Frevert asked if you have a problem in your yard with mosquitoes, etc., wouldn't you spray it yourself instead of expecting the City to do it for you?

Councilmember Haase stated in his area, he has received complaints.

Councilmember Sturm made a motion and seconded by Councilmember Ley directing staff to obtain information regarding the cost of a fogging machine, the cost to

fog for mosquitoes, the time it would take to fog, and to contact other City Administrators to find out whether or not the fogging machines really work, and report this information back to Council at the next meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain requested Council consideration to the following appointments to the Swimming Pool Renovation/Replacement Committee: Jean Loberg, Jodi Pulfer, Jeff Carstens, BJ Woehler, Mandi Fernau, Karla Jensen, Heather Claussen, and Nana Peterson. This committee will start exploring the future of the swimming pool.

Administrator Johnson stated the pool, itself, is not in bad shape. The last renovation took place in the early 90's. He has received several comments concerning zero entry improvements to the pool.

Councilmember Brodersen shared concerns regarding the bath house.

Administrator Johnson stated that Jeff Carstens of WSC has advised him that because of their Title IX violation, they are going to have to look at options for competitive sports that include more women, and swimming is one of the things they are looking at. They are also looking at the general future of their pool. This may be able to be a joint venture.

Councilmember Ley made a motion and seconded by Councilmember Berry approving the appointments of Jean Loberg, Jodi Pulfer, Jeff Carstens, BJ Woehler, Mandi Fernau, Karla Jensen, Heather Claussen, and Nana Peterson to the Swimming Pool Renovation/Replacement Committee. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain requested Council consideration to the following appointment to the Library Board: Jenny Hammer.

Councilmember Ley made a motion and seconded by Councilmember Sturm approving the appointment of Jenny Hammer to the Library Board. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley made a motion and seconded by Councilmember Brodersen setting the budget work sessions for Tuesday, July 26<sup>th</sup>, at 5:30 p.m. and Tuesday, August 2<sup>nd</sup> after the Council meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm made a motion and seconded by Councilmember Alexander to enter into executive session to discuss the pending litigation matter regarding the pre-determination settlement offer – Phillip Shear v. City of Wayne and to allow City Attorney Mike Pieper and City Administrator Johnson to be in attendance. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 6:33 p.m.

Mayor Chamberlain again stated that the matter to be discussed in execution session relates to the pending litigation matter regarding the pre-determination settlement offer – Phillip Shear v. City of Wayne.

Councilmember Ley made a motion and seconded by Councilmember Alexander to resume open session. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 6:38 p.m.

Councilmember Alexander made a motion and seconded by Councilmember Haase denying the pre-settlement determination offer – Phillip Shear vs. City of Wayne. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley made a motion and 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 6:40 p.m.

## CLAIMS LISTING JULY 19, 2011

ALIGNMENT TECHNOLOGIES	BIO DISK REPAIR	674.50
AMERICAN BROADBAND	TELEPHONE CHARGES	1,306.78
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	1,842.98
ANTIQUES ON MAIN	DTR GRANT	972.00
APPEARA	LINEN & MAT SERVICE	104.21
AQUA-CHEM, INC.	POOL LADDER TREAD	583.98
BAKER & TAYLOR BOOKS	BOOKS	579.83
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	165.00
BARONE SECURITY SYSTEMS	FIRE HALL PANEL BATTERY	222.00
BELSON OUTDOORS, INC	CHAISE LOUNGE	780.02
BIG T ENTERPRISES, INC	SIREN BATTERIES	419.90
BINSWANGER GLASS	ADJUST CITY HALL BACK DOOR	75.00
BOMGAARS	DRILL BITS/CONNECTORS/CLAMPS/PLUGS ETC	827.72
CARHART LUMBER COMPANY	SOFTENER SALT/PLYWOOD/TURBINE/EPOXY	356.47
CITY EMPLOYEE	HEALTH REIMBURSEMENT	17.57
CITY EMPLOYEE	VISION REIMBURSEMENT	132.38
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUNDS	450.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	100.00
CITY OF WAYNE	CLOTHING REIMBURSEMENT	31.89
CITY OF WAYNE	PAYROLL	65,044.69
CITY OF WAYNE	UTILITY REFUNDS	1,131.39
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
COPY WRITE PUBLISHING	PRINTING	72.00
COUNTRY NURSERY INC	WASH STONE RIVER ROCK/SHRUBS	2,412.00
DAKOTA BUSINESS SYSTEMS	LIBRARY COPIER EQUIPMENT LEASE	102.50
DAVE'S UNIFORM CLEANING	POLICE UNIFORM CLEANING	69.00
EMPLOYERS MUTUAL CASUALTY	EEOC COMPLAINT DEDUCTIBLE	3,000.00
ERIKSEN CONSTRUCTION CO	TREATMENT PLANT	620,853.79
FIVE STAR ENTERPRISES	LIBRARY NAMETAG	7.72
FLETCHER FARM SERVICE INC	WEED KILLER	46.05
FLOOR MAINTENANCE	AIR FRESHENER	71.40
GILL HAULING, INC	SANITATION SERVICE	133.00
GODFATHER PIZZA	7 BUFFET/PARK REC	41.93
GRAHAM TIRE	2 TIRES	183.94
GREAT PLAINS ONE-CALL	DIGGERS HOTLINE	70.52
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	49.95
HARDING & SHULTZ P.C.	ATTORNEY FEES	14,930.09
HAUFF MID-AMERICAN SPORTS	HOME PLATE	79.60
HAUGE ASSOCIATES, INC.	PAYROLL DEDUCTION	167.75
HAWKINS, INC	POOL CHEMICALS	1,439.83
HAWKINS, INC	POOL CHEMICALS-REISSUED	1,018.50
CITY EMPLOYEE	HEALTH REIMBURSEMENT	100.78
HYTREK LAWN SERVICE	SOD-TERRACE HANK OVERIN FIELD	170.00
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,642.29
INGRAM BOOK COMPANY	BOOKS	128.17
IRS	FEDERAL WITHHOLDING	20,078.61
JEO CONSULTING GROUP	WELLHEAD PROTECTION	2,924.99
JOHN'S WELDING AND TOOL	COOLANT HEADERS FOR ENGINE	8,149.92
CITY EMPLOYEE	HEALTH REIMBURSEMENT	1,066.50
KRIZ-DAVIS COMPANY	CONNECTORS	748.44

LANGEMEIER, WAYNE	MOWINGS	700.00
LINDNER CONSTRUCTION	DTR GRANT	10,000.00
MAJESTIC THEATER	DTR GRANT	743.89
MERIT MECHANICAL	CAC BOILER REPAIR	18,187.75
MIDWEST LABORATORIES, INC	BOD TESTING	91.05
MIDWEST LAND	DTR GRANT	1,708.00
MILO MEYER CONSTRUCTION	WESTERN RIDGE-DOZER/SCRAPER	1,385.00
NE DEPT OF REVENUE	STATE WITHHOLDING	2,997.27
NE DEPT OF ROADS	TRAIL II CONSULTING AGREEMENT	3,357.68
NMPP ENERGY	LOAD CONTROL SWITCH TRANSFORMER	698.75
NORTHEAST EQUIPMENT	REPAIR RECOIL STARTER ROPE	597.25
N.E.NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	59.24
NORTHEAST NE PUBLIC POWER	WHEELING CHARGES	11,634.98
OLSSON ASSOCIATES	WAYNE TRAIL	1,438.06
PAC N SAVE	POPCORN-LIBRARY SRP MOVIE	5.97
PAMIDA STORE # 165	BROOM/DUCT TAPE/CALCULATOR ETC	164.20
PEPSI-COLA	CAC POP	115.45
POLLARD PUMPING	SB COMPLEX-PORT A POTTIES	762.50
PRESTO X COMPANY	PEST CONTROL	82.15
CITY EMPLOYEE	HEALTH REIMBURSEMENT	101.83
PROVIDENCE MEDICAL CENTER	POLICE SERVICES	110.00
RANDOM HOUSE	CD'S	161.25
RON'S RADIO	KNOB	8.50
SPARKLING KLEAN	JANITORIAL SERVICES/SUPPLIES	2,089.30
SPARLING INSTRUMENTS, INC	SERVICE/OVERHAUL DRIVE METER	519.25
STADIUM SPORTING GOODS	POOL T-SHIRTS/HOODIES	351.50
STALP GRAVEL INC	PEA GRAVEL	1,066.89
STATE NATIONAL BANK	ACH FEES	57.12
CITY EMPLOYEE	VISION REIMBURSEMENT	139.29
UNITED WAY	PAYROLL DEDUCTION	10.00
US BANK	MEALS/LODGING/GSI SERVER/PRINTER ETC	5,067.56
WATERLINK, INC	GYLCOL	1,053.42
WAYNE AREA ECONOMIC DEVEL	DTR GRANT	1,829.00
WAYNE HERALD	ADS AND NOTICES	656.31
WAYNE ROTARY	ANNUAL DUES-N BRADEN	140.00
WESCO DISTRIBUTION INC	TERMINAL/WOOD OWL DRILL BIT	881.82
WESTERN AREA POWER ADMIN	ELECTRICITY	31,905.64
WINNING FINISH	SHAMPOO INTERIOR-HANDIVANS	276.00

Correction to Claims Listing 7/5/11

American Broadband \$1,173.00 to \$1,143.00

Voids on Claims Listing 7/5/11

Icma \$594.00

The Diamond Center \$80.10



July 7, 2011

Mr. Gene Hansen  
Superintendent of Electric Production  
306 Pearl Street  
Wayne, Nebraska 68787

Re: RICE NESHAP Data Gathering  
Wayne, Nebraska  
Olsson Project No. 011-0120

Dear Gene:

In late February 2010 the Environmental Protection Agency (EPA) released its final rule, a National Emission Standard for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines. The rule, known informally as RICE NESHAP, became official March 3, 2010 with compliance required by May 3, 2013.

It is a complex collection of rules that requires many previously unregulated internal combustion engines to meet new standards for emissions and/or control requirements. The EPA's process for these new requirements began in June of 2004 and culminated with the publication of the final rule on March 3, 2010 in 40 CFR63.

The criteria requiring compliance with RICE NESHAP that touch almost every municipal utility with internal combustion generation are as follows:

- The plant qualifies as an Area Source
- They have existing Compression Ignition (CI) engines
- They are currently classified as Non Emergency
- The prime movers are all greater than 500 Hp

Compliance requirements for existing CI, non emergency, reciprocating, internal combustion engines greater than 500 Hp operating non emergency generation at an Area Source are:

- Limit idle and start up to less than 30 minutes
- Reduce CO emissions a minimum of 70%
- Close crankcase ventilation or add filtration
- Use ultra low sulfur diesel fuel

Compliance with the RICE NESHAP regulations must be by May 3, 2013 or all units in a plant must be declared for emergency use only. Emergency use only is currently defined as:

- Operation for emergencies, required testing and maintenance
- 50 Hr/yr maximum for non emergencies – no sellable power
- Does not include peak shaving units
- 15 Hr/yr maximum in an emergency demand response program

The decision to comply with the RICE NESHAP regulations or not for a municipal generating community is driven by the probable cost of compliance versus the lost revenue and generating flexibility for non compliance.

In order to provide municipal generating utilities and their governing bodies with the best available data to make the compliance/non compliance decision, Olsson Associates and Midstates Erectors developed a process to acquire the most accurate opinions of probable construction costs associated with compliance.

On January 18, 2011 Ken Fairchild and Bill Hilger visited the Wayne Municipal Power Plant and began preparations for gathering data on certain engine generator operating characteristics. We also went through the engine O & M books and other related technical material.

The specific data gathered for each engine generator unit was as follows:

- Back pressure in the exhaust system at full load on diesel
- Temperature of the exhaust flow at full load on diesel
- Configuration of the crankcase ventilation system
- Nameplate data
- Circumference of exhaust piping (used to calculate diameter)
- Maximum design flow rate for the engine exhaust
- Maximum allowed backpressure for the exhaust system
- Multiple dimensions relating to the exhaust piping and the silencer including inlet height above grade
- Type of engine "keep warm" system

The main drivers in sizing a diesel oxidation catalyst (DOC) for a given engine are exhaust flow rate and temperature of the exhaust entering the DOC.

The exhaust temperature recorded for the engines in Wayne was taken at the inlet to the silencer on diesel fuel operation. This was done in order to have the lowest temperature that a DOC would see for that engine. Exhaust temperatures are higher near the engine and much higher overall on natural gas.

The maximum design exhaust flow rate for the engines is a required parameter critical to the design of a DOC. If this information was not available at the plant, it became one of the challenges to the process. It is well known which companies have this kind of information but in this RICE NESHAP era they are declining to provide it upon request. For the Nordberg and Worthington engines at Wayne finding this data was an issue. These engines should have the exhaust flow verified in the field.

The attachment to this letter titled WAYNE, NE - RICE NESHAP documents the data gathered during the plant visit. This information along with the sketch of the plant was sent to three companies that manufacturer in-line and combination catalyst/silencer equipment. The information was also sent to Fairbank Morse at their request. The three manufacturers are DCL-International, Universal and Maxim. Responses were received from DCL-International and

RICE NESHAP Data Gathering  
Wayne, Nebraska  
July 7, 2011  
Page Three

Fairbanks Morse. Universal elected to send their quote in by way of Fairbanks Morse. Subsequent to our analysis of the quotes we concluded that we were not looking at quotes on like equipment. We will be asking Universal/Fairbanks to provide additional quotes. The pressure drops associated with the Universal/Fairbanks quotes were unacceptably high. The DCL quotes were complete and used for Wayne.

We also received opinions of probable costs for the installation of the DOC equipment on the engines at the plant. These were provided by Midstates Erectors.

The attachment to this letter titled "Wayne Compliance Options" details the probable costs for RICE NESHAP compliance. Units 1, 3, 4, 6, 7 & 8 will require combination catalyst/silencers. Unit 5 can utilize an in-line catalyst. Units 3, 4, 5, 6, 7 & 8 will require crankcase ventilation demist systems.

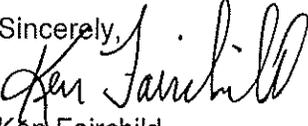
The compliance options probable cost are summarized below:

Unit No. 1	Nordberg	\$ 60,919	(Exhaust flow should be verified)
Unit No. 3	Worthington	\$ 88,350	(Exhaust flow should be verified)
Unit No. 4	Cooper Bessemer	\$ 75,874	
Unit No. 5	Cooper Bessemer	\$ 60,704	
Unit No. 6	Cooper Bessemer	\$111,543	
Unit No. 7	Enterprise	\$109,207	
Unit No. 8	Enterprise	\$109,207	
	Wayne Compliance	\$615,804	
	Engineering and Compliance Testing	<u>\$ 62,000</u>	
		\$677,804	

Not included in the above costs are Nebraska Sales Tax and tail pipe section as it varies so greatly from engine to engine.

For 21,025 kW capacity the cost per kW = \$32.24

With the "Keep Warm" system in place at the plant and the compliance modifications in this letter report, Wayne will be in compliance with RICE NESHAP 4Z.

Sincerely,  
  
Ken Fairchild

Encl.

City	Engine Name	Engine Make	Engine Model	Engine Type	KW	Horse Power	RPM	Fuel	Cylinders	C/A	Exhaust Diameter		Manufacturer	Exhaust Flow	Serial Number	Exhaust Temp. @ Sil. (°F)	Back Pres. @ Sil.	Max back Pres.	Crank Case Vent. Sys. Config.	Jacket Water/Lube Oil Heat Sys.	Compliance Options	Drawing No.
											Before Sil.	At Stack										
Wayne	UNIT 1	Nordberg	FSG-168-3C	C	1500	1750	377	DF	8	4	18"	20,003 cfm (calc.)	5003-0316	No Test	600	3.4"WC	10"	TO ATM	LO/JW HEAT	A	2	
	UNIT 2	Superior	VDSS-8	C	1800	1440	360	DF	8	4	16"	No Test	11182	No Test	710	No Test	13.4"WC	9" WC	TO ATM	LO/JW HEAT	A	2
	UNIT 3	Worthington	SMGO-12	C	1900	2670	450	DF	12	4	24"	13,350 cfm (calc.)	VG9209	892	11.4"WC	15" WC	TO ATM	LO/JW HEAT	A	2		
	UNIT 4	Cooper-Blossmer	LSV-42	C	2000	2800	327	DF	12	4	20"	18,230 cfm	6278	906	4.4"WC	15" WC	TO ATM	LO/JW HEAT	B	2		
	UNIT 5	Cooper-Blossmer	LSV-16-GDT	C	3500	4892	500	DF	16	4	24"	34,610 cfm	7010	823	8.6"WC	15" WC	TO ATM	LO/JW HEAT	A	2		
	UNIT 6	Cooper-Blossmer	LSV-20-GDT	C	5125	7120	400	DF	20	4	30"	83,400 B/W	74030-4304	761	5.8"WC	10" WC	TO ATM	LO/JW HEAT	A	2		
	UNIT 7	Enterprise	DSR-48	C	3500	4875	450	DF	8	4	30"	40,100 B/W	74012	761	6.2"WC	10" WC	TO ATM	LO/JW HEAT	A	2		
	UNIT 8	Enterprise	DSR-48	C	3500	4875	450	DF	8	4	30"	40,100 B/W	74012	761	6.2"WC	10" WC	TO ATM	LO/JW HEAT	A	2		
AP STEELER COMBINATION BE-INLINE CATALYST																						

Wayne, NE - RICE NESHAQ



BPS: 3.4" WC  
ETS: 620 °F

18" dia.

- MAX. BACK PRESSURE: UNKNOWN
- MANF. EXHAUST FLOW: UNKNOWN
- CCV IS UNKNOWN

UNIT 1

- UNIT 1**
- NORDBERG
  - SN: 9019-0316
  - MODEL: FSG-16B-SC
  - 1,500 KW
  - 327 RPM
  - 1,750 HP
  - 4 CYCLE
  - 8 CYLINDERS

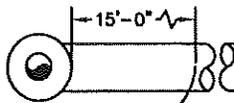


16" dia.

- MAX. BACK PRESSURE: 10" WC
- MANF. EXHAUST FLOW: UNKNOWN
- CCV TO ATM.

UNIT 2

- UNIT 2**
- SUPERIOR
  - SN: 12182
  - MODEL: VDSS-8
  - 1,000 KW
  - 360 RPM
  - 1,440 HP
  - 4 CYCLE
  - 8 CYLINDERS



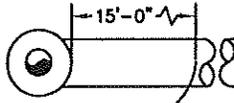
BPS: 13.4" WC  
ETS: 719 °F

24" dia.

- MAX. BACK PRESSURE: 9" W.C.
- MANF. EXHAUST FLOW: UNKNOWN
- CCV TO ATM.

UNIT 3

- UNIT 3**
- WORTHINGTON
  - SN: V03429
  - MODEL: SWGO-12
  - 1,900 KW
  - 450 RPM
  - 2,670 HP
  - 4 CYCLE
  - 12 CYLINDERS



BPS: 11.4" WC  
ETS: 892 °F

20" dia.

- MAX. BACK PRESSURE: 15" WC
- MANF. EXHAUST FLOW: 18,230 CFM
- CCV TO ATM.

UNIT 4

- UNIT 4**
- COOPER BESSEMER
  - ENGINE #: 6278
  - MODEL: LSV-12
  - 2,000 KW
  - 327 RPM
  - 2,820 HP
  - 4 CYCLE
  - 12 CYLINDERS

BPS: 4.4" WC  
ETS: 906 °F

24" dia.

- MAX. BACK PRESSURE: 15" W.C.
- MANF. EXHAUST FLOW: 34,610 CFM
- CCV TO ATM.

UNIT 5

- UNIT 5**
- COOPER BESSEMER
  - ENGINE #: 7040
  - MODEL: LSV-16-GDT
  - 3,500 KW
  - 360 RPM
  - 4,892 HP
  - 4 CYCLE
  - 16 CYLINDERS

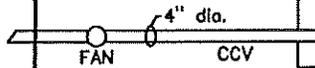
BPS: 8.6" WC  
ETS: 823 °F

30" dia.

- MAX. BACK PRESSURE: 15" WC
- MANF. EXHAUST FLOW: 44,921 CFM
- CCV TO ATM.

UNIT 6

- UNIT 6**
- COOPER BESSEMER
  - ENGINE #: 7070
  - MODEL: LSV-20-GDT
  - 5,125 KW
  - 400 RPM
  - 7,120 HP
  - 4 CYCLE
  - 20 CYLINDERS



BPS: 5.8" WC  
ETS: 761 °F

36" dia.

- MAX. BACK PRESSURE: 10" W.C.
- MANF. EXHAUST FLOW: 40,100 ACFM
- CCV TO ATM.

UNIT 7

- UNIT 7**
- ENTERPRISE
  - SN: 74010-2604
  - MODEL: DSR-48
  - 3,500 KW
  - 450 RPM
  - 4,875 HP
  - 4 CYCLE
  - 8 CYLINDERS



BPS: 6.2" WC  
ETS: 761 °F

36" dia.

- MAX. BACK PRESSURE: 10" W.C.
- MANF. EXHAUST FLOW: 40,100 ACFM
- CCV TO ATM.

UNIT 8

- UNIT 8**
- ENTERPRISE
  - SN: 74012
  - MODEL: DSR-48
  - 3,500 KW
  - 450 RPM
  - 4,875 HP
  - 4 CYCLE
  - 8 CYLINDERS



DWG: F:\Projects\011-0120\_PWEL\Exhibits\Wayne Power Plant.dwg  
DATE: May 03, 2011 8:37am  
USER: jjohansen  
XREFS:

SWITCHGEAR

PROJECT NO: 011-0120  
DRAWN BY: JGJ  
DATE: 1/20/11

# POWER PLANT WAYNE, NE



1111 Lincoln Mall, Suite 111  
P.O. Box 84608  
Lincoln, NE 68501-4608  
TEL 402.474.6311  
FAX 402.474.5160

EXHIBIT

Wayne - Compliance Options											
City	Engine Name	Engine Make	Engine Model	Compliance Option A			Compliance Option B			CCV Labor	Compliance OPC
				DCL Exhaust	Solberg Crankcase	DCL Exhaust	Solberg Crankcase	Labor			
Wayne	UNIT 1	NORDBERG	FSG-168-SC	\$ 14,570.00	\$ 6,100.00	\$ -	\$ -	\$ 30,169.00	\$ 10,080.00	\$ 60,919.00	
	UNIT 3	WORTHINGTON	SWG0-12	\$ 43,865.00	\$ 6,100.00	\$ -	\$ -	\$ 28,305.00	\$ 10,080.00	\$ 88,350.00	
	UNIT 4	COOPER-BESSEMER	LSV-12	\$ 20,970.00	\$ 6,100.00	\$ -	\$ -	\$ 38,724.00	\$ 10,080.00	\$ 75,874.00	
	UNIT 5	COOPER-BESSEMER	LSV-16-GDT	\$ -	\$ 9,000.00	\$ 14,784.00	\$ -	\$ 26,840.00	\$ 10,080.00	\$ 60,704.00	
	UNIT 6	COOPER-BESSEMER	LSV-20-GDT	\$ 63,303.00	\$ 9,000.00	\$ -	\$ -	\$ 29,160.00	\$ 10,080.00	\$ 111,543.00	
	UNIT 7	ENTERPRISE	DSR-48	\$ 57,909.00	\$ 9,000.00	\$ -	\$ -	\$ 32,218.00	\$ 10,080.00	\$ 109,207.00	
	UNIT 8	ENTERPRISE	DSR-48	\$ 57,909.00	\$ 9,000.00	\$ -	\$ -	\$ 32,218.00	\$ 10,080.00	\$ 109,207.00	
	A= SILENCER COMBINATION								Wayne Compliance	\$ 615,804.00	
B= INLINE CATALYST								Engineering/Testing	\$ 62,000.00		
									TOTAL:	\$ 677,804.00	
									TOTAL KW:	21,025	
									PRICE PER KW	\$ 32.24	

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**ORDINANCE NO. 2011-6**

**AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHWEST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The City of Wayne does hereby find and declare that the following described real estate:

A tract of land located in the South 1/2 of the Southwest 1/4 of Section 12 and a part of the Southeast 1/4 of the Southeast 1/4 of Section 11, T26N, R3E of the 6th P.M. and, Wayne County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of the Southwest 1/4 of Section 12, T26N, R3E of the 6th P.M., Wayne County, Nebraska; thence N 88°13'37" E on an assumed bearing on the South line of said Southwest 1/4, 1605.62 feet; thence N 01°46'23" W and perpendicular to said South line, 67.86 feet to a point on the North Right-of-Way line of Highway 35, said point being the Southeast corner of Western Ridge First Addition and the point of beginning; thence S 88°02'41" W on said North Right-of-Way line, 993.95 feet to a point 64.7 feet North of said South line; thence N 83°32'17" W on said North Right-of-Way line, 512.45 feet to a point 138.10 feet North of said South line and 105.00 feet East of the West line of said Southwest 1/4; thence N 06°44'43" W on said North Right-of-Way line, 361.20 feet; thence S 88°01'08" W and perpendicular to said West line, 108.00 feet to a point on the West Right-of-Way line of Pheasant Run; thence N 01°58'52" W on said West Right-of-Way line, 327.17 feet; thence N 88°13'37" E and parallel to said South line, 1310.49 feet to the Northwest corner of Outlot B of Western Ridge II Addition; thence S 02°08'07" E on the West line of said Outlot B, 183.25 feet to the Southwest corner of said Outlot B; thence N 89°36'24" E on the South line of said Outlot B, 326.48 feet to the Southeast corner of said Outlot B; thence S 02°08'07" E on the West line of said Addition, 565.76 feet to the point of beginning, containing 25.46 acres, more or less,

is immediately adjoining and contiguous to the corporate limits of the City of Wayne, Nebraska.

Section 2. The above described real estate is annexed to the City of Wayne, Nebraska, and is declared to be within the corporate limits of the City of Wayne, Nebraska, pursuant to Section 19-916 (R.R.S. 1943).

Section 3. The corporate limits of the City of Wayne, Nebraska, are hereby extended to include said real estate.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 19<sup>th</sup> day of July, 2011.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AS TO FORM AND CONTENT:

\_\_\_\_\_  
City Attorney

# City of Wayne Annexation Plan

Current Boundary



Proposed Boundary



Highway 35 West

**RESOLUTION NO. 2011-52**

**A RESOLUTION APPROVING THE PRELIMINARY AND FINAL PLATS AND SUBDIVISION AGREEMENT FOR WESTERN RIDGE THIRD ADDITION, AND AUTHORIZING THE EXECUTION OF THE SUBDIVISION AGREEMENT.**

WHEREAS, the Planning Commission, upon review of the Preliminary and Final Plats of Western Ridge Third Addition, legally described as:

A tract of land located in the South 1/2 of the Southwest 1/4 of Section 12 and a part of the Southeast 1/4 of the Southeast 1/4 of Section 11, T26N, R3E of the 6th P.M. and, Wayne County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of the Southwest 1/4 of Section 12, T26N, R3E of the 6th P.M., Wayne County, Nebraska; thence N 88°13'37" E on an assumed bearing on the South line of said Southwest 1/4, 1605.62 feet; thence N 01°46'23" W and perpendicular to said South line, 67.86 feet to a point on the North Right-of-Way line of Highway 35, said point being the Southeast corner of Western Ridge First Addition and the point of beginning; thence S 88°02'41" W on said North Right-of-Way line, 993.95 feet to a point 64.7 feet North of said South line; thence N 83°32'17" W on said North Right-of-Way line, 512.45 feet to a point 138.10 feet North of said South line and 105.00 feet East of the West line of said Southwest 1/4; thence N 06°44'43" W on said North Right-of-Way line, 361.20 feet; thence S 88°01'08" W and perpendicular to said West line, 108.00 feet to a point on the West Right-of-Way line of Pheasant Run; thence N 01°58'52" W on said West Right-of-Way line, 327.17 feet; thence N 88°13'37" E and parallel to said South line, 1310.49 feet to the Northwest corner of Outlot B of Western Ridge II Addition; thence S 02°08'07" E on the West line of said Outlot B, 183.25 feet to the Southwest corner of said Outlot B; thence N 89°36'24" E on the South line of said Outlot B, 326.48 feet to the Southeast corner of said Outlot B; thence S 02°08'07" E on the West line of said Addition, 565.76 feet to the point of beginning, containing 25.46 acres, more or less,

on July 18, 2011, recommended approval thereof, based upon the following "Findings of Fact":

1. Staff's recommendation; and

WHEREAS, the same is also conditioned upon the execution of a Subdivision Agreement, as required in Section 404.05 of the Wayne Subdivision Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Preliminary and Final Plats of Western Ridge Third Addition be approved subject to the recommendations of the Planning Commission and the foregoing "Findings of Fact", and that the Mayor is hereby authorized to sign the Subdivision Agreement on behalf of the City of Wayne.

PASSED AND APPROVED this 19<sup>th</sup> day of July, 2011.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

DRAFT

Western Ridge Third Addition  
SUBDIVISION AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between Victoria C. Pick, Mark Meyer, Lona Meyer, Steve B. Meyer, Cynthia J. Meyer, Glen C Nichols, Sandra L. Nichols (hereinafter referred to as "subdivider") and the CITY OF WAYNE, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

WITNESSETH

WHEREAS, the Subdivider is the owner of the land included within the proposed plat attached hereto as Exhibit "A", commonly known as, (hereinafter referred to as the "Area to be Developed") is within the City's zoning and platting jurisdiction; and

WHEREAS, the Subdivider requires public improvements in the area to be developed; and

WHEREAS, the Subdivider desires to have the area to be developed and annexed within the City's corporate limits; and

WHEREAS, the Subdivider wishes to connect the system of sanitary sewers to be constructed within, the area to be developed, to the sewer system of the City; and

WHEREAS, the parties wish to agree upon the manner and the extent to which public funds may be expended in connection with public improvements to be constructed within the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of same shall be specially assessed.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

For the purpose of this Agreement, the following words and phrases shall have the following meanings:

- A. The "cost" or "entire cost" of a type of improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs; financing costs and miscellaneous costs. The Subdivider will have the option of to install water, sewer, storm water system and street improvements in accordance with city standards or establish extension Districts with the City to have the work completed. In the use of improvement districts, financing costs shall include all financing fees and bond fees and financing to date of levy of special assessments. The date of levy of special assessments shall mean within six (6) months after acceptance of the improvement by the

City.

- B. "Property benefited" shall mean property within the Subdivider's subdivision Exhibit "A") which constitutes building sites.
- C. "District" shall mean an improvement district formed by action of the Wayne City Council for the purpose of designing, financing and constructing public improvements for the subdivision.

#### SECTION I

Subdivider and City covenant that public improvements shall be installed and provided as set forth herein.

- A. Concrete paving of internal streets dedicated, per the plat (Exhibit "A") all of said paving to be twenty eight (28) feet in width, and thirty two (32) feet for Pheasant Run and constructed according to city standards. The entire cost of paving and storm sewer improvements except for intersections shall be paid by the Subdivider or specially assessed to the property benefited.
- B. All sanitary sewer mains, manholes and related appurtenances constructed according to city standards in dedicated street rights-of-way and easements, per plat (Exhibit "A"), same to be located on sanitary sewer plan prepared by Nebraska Licensed Civil Engineer. The entire cost of sanitary sewer improvements shall be paid by the Subdivider or specially assessed to the property benefited.
- C. Storm water system, inlets, manholes, and related appurtenances constructed according to city standards in street rights-of-way and easements, per plat (Exhibit "A"), to be located on storm water system plan prepared by Nebraska Licensed Civil Engineer. The Subdivider or the District will be responsible for the design, financing and construction of said storm sewer improvements. The entire cost of storm sewer improvements shall be paid by the Subdivider or specially assessed to the property benefited.
- D. Water distribution mains, hydrants and valves constructed according to city standards within street rights-of way and easement per plat (Exhibit "A") on water plan prepared by Nebraska Licensed Civil Engineer. The Subdivider or District will be responsible for the design, financing and construction of said water distribution improvements. The entire cost of the water distribution improvements shall be paid by the Subdivider or specially assessed to the property benefited.
- E. Natural gas distribution mains located within dedicated street rights-of-way dedicated per plat (Exhibit "A") to be installed by the local gas franchisee. Any additional cost participation required by the local gas franchisee for the installation of gas mains, if any, shall be borne by the Subdivider.
- F. Underground electrical service to each buildable lot within the subdivision shall be

provided by the City of Wayne at no cost to the Subdivider

- G. Street lighting for public streets dedicated per plat (Exhibit "A") shall be provided by the Subdivider.
- H. The sidewalk on each lot within the area to be developed shall be constructed at the cost of the builder at the time each lot is developed.
- I. Grading for the subdivision shall be completed by the Subdivider at the Subdivider's expense.
- J. Prior to planting any trees within public street right-of-way, approval for such planting must be approved from the City of Wayne Street Department.

## SECTION II

Subdivider and City covenant and agree that the District created by the City will:

- A. Abide by and incorporate into all of its construction contracts the provisions required by the regulations of the City pertaining to construction of public improvements in subdivisions and testing procedures therefore except as otherwise provided in this agreement.
  - 1. Except as may otherwise be mutually agreed to by the City and the Subdivider, all of said Districts' levy of special assessments shall be made in such a manner so as to assure that the entire burden of the levy is borne, on an equitable basis, by lots or parcels which are truly building sites.
- B. If any lot, parcel or other area within the area to be developed is not a building site by reason of insufficient size of dimensions, or by reason of easements or similar burdens, or for any other reason, then no portion of the total amount shall be levied against said unbuildable lot, parcel or other area.
- C. The District's engineer shall provide the following information to the City at least 20 days prior to the meeting of the City Council held to propose the levy of special assessments:
  - (1) A detailed schedule of the proposed special assessment and/or the amount of general obligation costs of any improvement or acquisition.
  - (2) A plat of the area to be assessed.
  - (3) A full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:
    - (a) The amount paid to the contractor.

(b) A special itemization of all other costs of the project, including but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, including, but not limited to, interest on all warrants to date of levy of special assessments, estimated fiscal agent's fees and bond fees.

(c) A special itemization of all costs of the District not itemized in (a) and (b) above.

- D. The City agrees that it will not unreasonably delay acceptance of an improvement and that City shall levy special assessments within six (6) months after acceptance of the improvement.

### SECTION III

- A. Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the Subdivider to connect its sewer system to the sewer system of the City in such manner and at such place or places designated on plans submitted by the District's engineer and approved by the City.
- B. Without prior written approval by the City, the Subdivider shall not permit any sewer lines or sewers outside the presently described boundaries to be connected to: The sewer or sewer lines of the subdivision, any sewers of the City, any outfall sewer of the City, or any sewage treatment plant of the City. The City shall have exclusive control over connections to its sewers whether inside or outside the subdivision boundaries.
- C. At all times, all sewage from and through said subdivision into the City sewer system shall be in conformity with the ordinances, regulations, and conditions applicable to sewers and sewage within the City as now existing and as from time to time may be amended.
- D. Before any connection from any premises to the sewer system of the subdivision may be made, a permit shall be obtained for said premises and its connection from the City, it being expressly understood that the City reserves the right to collect all connection charges and fees as required by city ordinances or rules now or hereafter in force; all such connections shall comply with minimum standards prescribed by the City.
- E. Notwithstanding any other provisions of this Agreement, City retains the right to disconnect the sewer of any industry, or other sewer user within the area to be developed, which is discharging into the sewer system in violation of any applicable ordinance, statute, rule or regulation.
- F. Existing septic systems within the Western Ridge Third Addition subdivision will be required to be abandoned within three years of the final approval of the subdivision by the city council and the sewer service connected to the city sewer system.

#### SECTION IV

- A. All buildings built in the Subdivision, shall be constructed in compliance with the most recent National Energy Code Requirements at the time of application for the building permit.
- B. A minimum shade canopy of two large species deciduous trees is required to be maintained perpetually on each residential lot in the subdivision
- C. A permanent soak away storm water detention area with the holding capacity of 1/2" of runoff from the impermeable surfaces on each lot will be required within the boundaries of each lot at the cost of the Subdivider unless mitigated with the written approval of the city

#### SECTION V

Additional Platting.

In the event the Subdivider shall final plat additional lots which area a part of an approved preliminary plat which he wishes to connect to the city sewer system, this Agreement shall be amended by the parties to provide payment of the current fee for the additional lots before any building permits are issued by the City.

#### SECTION VI

- A. Installation of entrance signs or related fixtures and any median landscaping and related fixtures shall be paid for by the Subdivider. Plans for such proposed improvements that are to be located in public right-of-way and a proposed maintenance agreement for the improvements must be submitted to the City for review and approval prior to the installation of improvements.
- B. No separate administrative entity nor joint venture, among the parties, is deemed created by virtue of the Subdivision Agreement.
- C. The administration of this Subdivision Agreement shall be through the offices of the undersigned officers for their respective entities.
- D. Binding Effect. This Subdivision Agreement shall be binding upon parties, their respective successors and assigns.
- E. This agreement replaces and declares void any prior agreements or resolutions regarding the development of the area being subdivided.

IN WITNESS WHEREOF, we the executing parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year first above written.

ATTEST:

CITY OF WAYNE

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Date

Subdivider

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

ATTEST:

---

CITY CLERK

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2011, before me a Notary Public, duly commissioned and qualified in and for said County, appeared \_\_\_\_\_, who is personally known by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his/her voluntary act and deed as such officer of said corporation.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
(My commission expires: \_\_\_\_\_)

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2011, before me a Notary Public, duly commissioned and qualified in and for said County, appeared \_\_\_\_\_, who is personally known by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his/her voluntary act and deed as such officer of said corporation.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
(My commission expires: \_\_\_\_\_)

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

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Notary Public  
(My commission expires: \_\_\_\_\_)

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

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Notary Public  
(My commission expires: \_\_\_\_\_)

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

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Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
(My commission expires: \_\_\_\_\_)

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

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Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
(My commission expires: \_\_\_\_\_)

NOTARY PUBLIC

STATE OF NEBRASKA  
COUNTY OF WAYNE

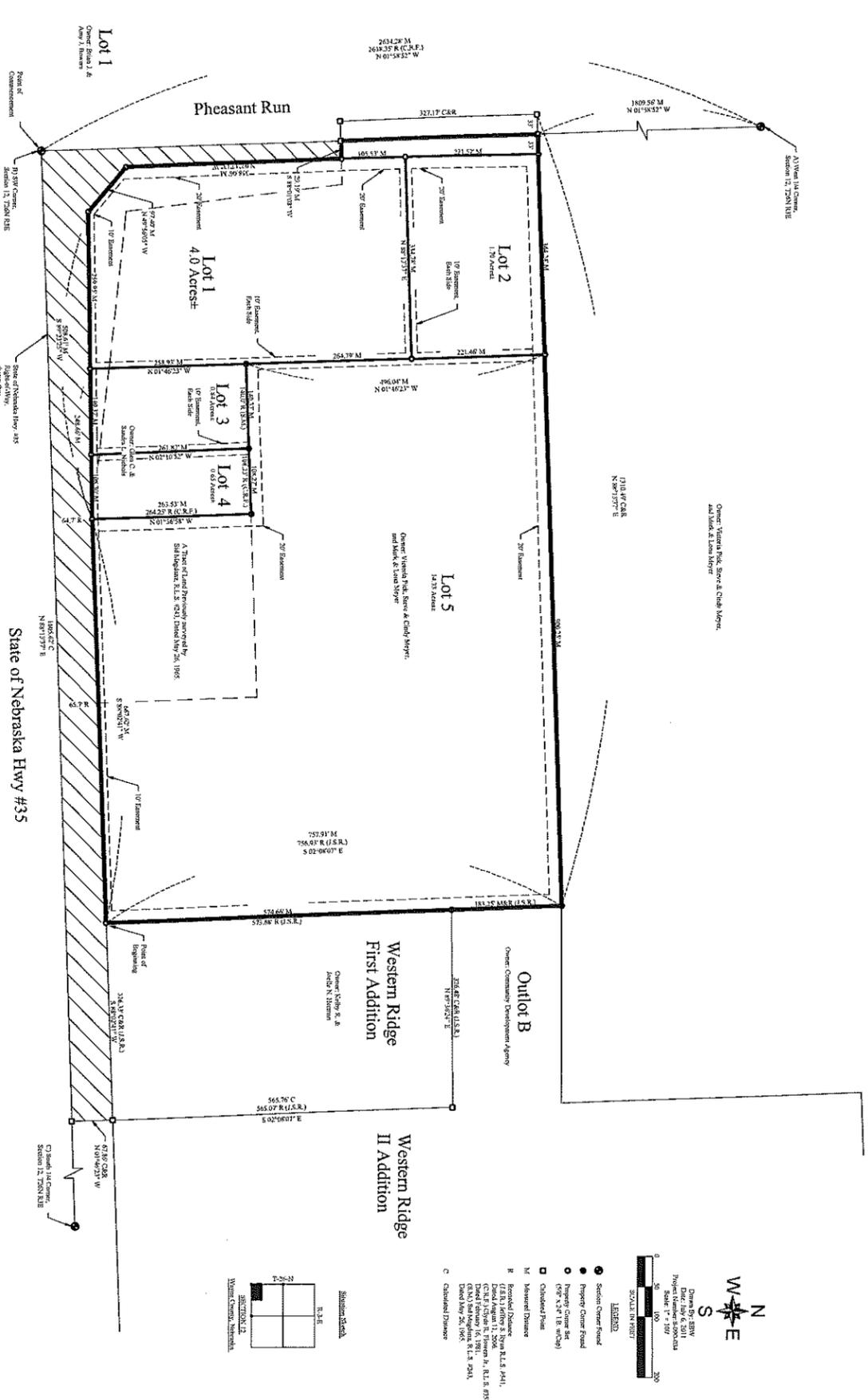
On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me a Notary Public, duly commissioned and qualified in and for said County, appeared \_\_\_\_\_, who is personally known by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his/her voluntary act and deed as such officer of said corporation.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
(My commission expires: \_\_\_\_\_)

# PLAT OF WESTERN RIDGE THIRD ADDITION

Office of South 12 of the Southwest 1/4 of Section 12, T26N, R3E of the 6th P.M., in the County of Wayne, Nebraska.



### FIELD NOTES

The survey was prepared at the request of Brent Peck, Wayne County, Nebraska.

A) West 1/4 Corner, Section 12, T26N, R3E; found 1 1/4" Iron Pipe by Glen L. Hicks, R.L.S. #699, (N.D.C.R. 1, Dated May 12, 2009) previously recorded as Plat of Western Ridge First Addition; hence 3 89'02.14" W, on said North Right-of-Way line, 756.31 feet to the southwest corner of Lot 5 of Western Ridge Third Addition and the point of beginning; thence 8 88'32.77" W, on said North Right-of-Way line, 677.62 feet to a point 64.70 feet south of said south line; thence 8 89'23.25" W, on said Right of Way line, 508.61 feet; thence N 49'56.05" W, 97.40 feet; thence N 07'17.13" W, 358.06 feet; thence 8 88'01.08" W, 29.19 feet; thence N 01'58.22" W, 327.05 feet; thence N 88'13.97" E, and parallel to said South line, 1310.49 feet to the Northwest corner of Outlot B of Western Ridge II Addition; thence S 02'08.07" E, 797.91 feet to the point of beginning, containing 21.77 acres, more or less.

### LEGAL DESCRIPTION

A tract of land located in the South 1/2 of the Southwest 1/4 of Section 12, T26N, R3E of the 6th P.M., Wayne County, Nebraska, more particularly described as follows:

Commence at the Southwest corner of the Southwest 1/4 of Section 12, T26N, R3E of the 6th P.M., Wayne County, Nebraska; thence N 88'13.97" E, on an assumed bearing on the South line of said Southwest 1/4, 1605.42 feet; thence N 01'40.23" W, and perpendicular to said South line, 67.86 feet to a point on the North Right-of-Way line of Highway 35, said point being the southeast corner of Western Ridge First Addition; thence 3 89'02.14" W, on said North Right-of-Way line, 756.31 feet to the southwest corner of Lot 5 of Western Ridge Third Addition and the point of beginning; thence 8 88'32.77" W, on said North Right-of-Way line, 677.62 feet to a point 64.70 feet south of said south line; thence 8 89'23.25" W, on said Right of Way line, 508.61 feet; thence N 49'56.05" W, 97.40 feet; thence N 07'17.13" W, 358.06 feet; thence 8 88'01.08" W, 29.19 feet; thence N 01'58.22" W, 327.05 feet; thence N 88'13.97" E, and parallel to said South line, 1310.49 feet to the Northwest corner of Outlot B of Western Ridge II Addition; thence S 02'08.07" E, 797.91 feet to the point of beginning, containing 21.77 acres, more or less.

### CONSENT AND DEEDICATION OF OWNER

KNOWN ALL MEN BY THESE PRESENTS THAT WA, Victoria C. Peck, Steve B. Meyer and Cynthia L. Meyer, husband and wife, Mark Meyer and Lora Meyer, husband and wife, and Glen C. Nichols and Sandra L. Nichols, being the owners of the land described herein, have authorized and consented to the recording of this plat of the Southwest 1/4 of Section 12 of the Southwest 1/2 of the Southwest 1/4 of the South 1/2 of the Southwest 1/4 of Section 12, T26N, R3E of the 6th P.M., in the County of Wayne, Nebraska, as shown on the accompanying plat thereof, and their free and voluntary addition is made with free consent and in accordance with the desire of the undersigned owners and proprietors.

### CITY ZONING

The above plat approved by the City Zoning Administrator of the City of Wayne, Nebraska, on the \_\_\_\_ day of \_\_\_\_\_, 2011.

Zoning Administrator, City of Wayne \_\_\_\_\_

### CONSENT OF LEASE HOLDERS

The above plat is submitted at with the consent of the undersigned lease holder(s) against said property as described herein.

Registered Landholder \_\_\_\_\_

Representative of Bank of Nebraska \_\_\_\_\_  
New known as Bank First \_\_\_\_\_

### NOTARY

STATE OF NEBRASKA ) ss  
COUNTY OF WAYNE )

Before me, a Notary Public, qualified for said county, personally came, Mila W. Meyer and Brent C. Meyer, known to be the identical persons who signed the foregoing Declaration and acknowledge the execution thereof to be their voluntary act and deed.

Witness by my hand and official seal This \_\_\_\_ day of \_\_\_\_\_, 2011.

Notary Public \_\_\_\_\_  
Notary Public \_\_\_\_\_

### NOTARY

STATE OF NEBRASKA ) ss  
COUNTY OF WAYNE )

Before me, a Notary Public, qualified for said county, personally came, Mark Meyer and Lora Meyer, husband and wife, known to be the identical persons who signed the foregoing Declaration and acknowledge the execution thereof to be their voluntary act and deed.

Witness by my hand and official seal This \_\_\_\_ day of \_\_\_\_\_, 2011.

Notary Public \_\_\_\_\_  
Notary Public \_\_\_\_\_

### NOTARY

STATE OF NEBRASKA ) ss  
COUNTY OF WAYNE )

Before me, a Notary Public, qualified for said county, personally came, Glen C. Nichols and Sandra L. Nichols, husband & wife, known to be the identical persons who signed the foregoing Declaration and acknowledge the execution thereof to be their voluntary act and deed.

Witness by my hand and official seal This \_\_\_\_ day of \_\_\_\_\_, 2011.

Notary Public \_\_\_\_\_  
Notary Public \_\_\_\_\_

### NOTARY

STATE OF NEBRASKA ) ss  
COUNTY OF WAYNE )

Before me, a Notary Public, qualified for said county, personally came, Terry L. Schultz, a Registered Land Surveyor of the State of Nebraska, do hereby certify that the survey described above was made by me on June 21, 2011, also that all dimensions are in feet and are correct to the best of my knowledge and belief.

Witness by my hand and official seal This \_\_\_\_ day of \_\_\_\_\_, 2011.

Notary Public \_\_\_\_\_

### ABSTRACTER'S CERTIFICATE

I, \_\_\_\_\_, a Registered Land Abstracter, hereby state that on the \_\_\_\_ day of \_\_\_\_\_, 2011, Victoria C. Peck, Steve B. Meyer and Cynthia L. Meyer, Mark Meyer and Lora Meyer, Glen C. Nichols, Mila W. Meyer and Brent C. Meyer, and Bank of Nebraska, now known as Bank First, appeared as the holder(s) of record of the land described in the surveyon certificate.

Registered Land Abstracter \_\_\_\_\_

### CITY COUNCIL APPROVAL

The above plat approved by the City of Wayne, Nebraska, by resolution Number \_\_\_\_\_ day passed by the City Council on this \_\_\_\_ day of \_\_\_\_\_, 2011.

Mayor, City of Wayne \_\_\_\_\_ City Clerk \_\_\_\_\_

### PLANNING COMMISSION APPROVAL

The foregoing was heard at Public Hearing by the Planning Commission at a regular meeting after proper notice on \_\_\_\_ day of \_\_\_\_\_, 2011.

Chairman \_\_\_\_\_ Secretary \_\_\_\_\_

### SURVEYOR'S CERTIFICATE

I, Terry L. Schultz, a Registered Land Surveyor of the State of Nebraska, do hereby certify that the survey described above was made by me on June 21, 2011, also that all dimensions are in feet and are correct to the best of my knowledge and belief.

Witness by my hand and official seal This \_\_\_\_ day of \_\_\_\_\_, 2011.

Notary Public \_\_\_\_\_



ORDINANCE NO. 2011-7

AN ORDINANCE TO AMEND CHAPTER 90, ARTICLE XI EXCEPTIONS AND CONDITIONAL USES, SECTION 90-836 EXPIRATION OF EXCEPTION USE PERMITS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 90, Article XI Exceptions and Conditional Uses, Section 90-836 of the Wayne Municipal Code is amended to read as follows:

**Sec. 90-836. Expiration of Exception Use Permits.**

Within ~~three~~ **one** years of the approval, construction of the proposed site shall have commenced or the approval is void. ~~However, the applicant may file a letter requesting an extension prior to the expiration of the approval to the planning commission or the council, whichever granted the original permit. The planning commission or the council shall review all requests for extensions. They may approve for a specified period up to 12 months or disapprove, indicating their reasons for such an action. The planning commission's or the council's reasons for disapproval shall be forwarded to the applicant.~~

(b) After expiration, a new application is required if construction has not started and processed according to the provisions outlined in this chapter.

Section 2. That the original Section and all ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2011-8

AN ORDINANCE TO AMEND CHAPTER 18, ARTICLE VI UNSAFE BUILDINGS, BY AMENDING SECTION 18-242 PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE; AND BY ADDING SECTIONS 18-243 CONFLICTS, 18-244 ADDITIONS, INSERTIONS AND CHANGES, AND 18-245 STRUCTURES DAMAGED BY FIRE, FLOOD, WIND, DISASTER OR OTHER CALIMITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Article VI Unsafe Buildings, Section 18-242 is amended to read as follows:

**Sec. 18-242. Property maintenance code adopted by reference.**

~~To provide the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures, the 2006 International Property Maintenance Code, printed in book or pamphlet form, is incorporated by reference in addition to all amendments thereto as though printed in full in this section insofar as such code does not conflict with the state statutes. One copy of the code adopted in this section is on file at the office of the building inspector and is available for public inspection at any reasonable time. The provisions of the code adopted in this section shall be controlling throughout the city and throughout its zoning jurisdiction.~~

A certain document, one (1) copy which is on file in the office of the building inspector of the City of Wayne, Nebraska, being marked and designated as the "International Property Maintenance Code 2006," as published by The International Code Council, Inc., is hereby adopted as the property maintenance code of the City of Wayne, Nebraska, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in section 18-244 of this article.

**State law references:** Adoption by reference authorized, R.R.S. 1943, 18-132.

Section 2. That Article VI Unsafe Buildings is amended by adding the following sections as follows:

**Sec. 18-243. Conflicts.**

In the event of a conflict between the provisions of the publication adopted by reference in this article and any other provisions of this Code, such other provisions shall be controlling.

**Sec. 18-244. Additions, insertions and changes.**

The following sections of the property maintenance code adopted in section 18-242 are hereby revised as follows:

*Section 101.1 Title.* Insert: the City of Wayne, Nebraska.

*Section 103.5 Fees.* Amend section to read as follows:

“The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be charged as necessary to reasonably recover costs.”

*Section 110.1 General.* Amend section to read as follows:

"The code official shall order the owner of any structure or the owner of the premises upon which any structure is located that has been condemned by the code official pursuant to this code, or in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the structure owner's or property owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure. In the event the structure and premises upon which the structure is located are in separate ownership, then both the owner of the structure and the owner of the premises shall be responsible for said removal."

*Section 110.3 Failure to comply.* Amend section to read as follows:

Any person who fails to comply with a demolition order within the time prescribed shall be deemed guilty of an offense punishable by a fine of not less than five hundred dollars. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The code official may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

*Section 111.1 Application for appeal.* Amend section to read as follows:

"Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. A fee set forth by the city council shall accompany each application for appeal to the board of appeals; and a schedule of such fees is on file and available in the city clerk's office. Such fee shall be refunded to the applicant in the event the board of appeals finds in favor of the applicant. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship."

*Section 302.4 Weeds.* Insert: twelve (12) inches.

*Section 304.14 Insect Screens.* Insert: April 1 to November 1.

*Section 602.3 Heat supply.* Amend section to read as follows:

"Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68 F. (20 C.) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code."

*Section 602.4 Occupiable work spaces.* Amend section to read as follows:

"Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65 F. (18 C.) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities."

**Sec. 18-245. Structures damaged by fire, flood, wind, disaster or other calamity.**

Any structure becoming uninhabitable, unusable or unoccupiable as a result of fire, flood, wind, disaster or other calamity shall be completely repaired within one (1) year of the fire, flood, wind, disaster or other calamity. If repairs are not completed within one (1) year, the structure shall be inspected by the code official. If following the inspection, the structure is determined to be uninhabitable, unusable or unoccupiable by the code official, the structure shall be demolished by the owner of the property. In the event the structure and premises upon which the structure is located are in separate ownership, then both the owner of the structure and the owner of the premises shall be responsible for said removal. Any appeal of the code official's decision shall be governed by the appeal provisions contained in the property maintenance code adopted by the city.

**Secs. 18-246 — 18-300. Reserved**

Section 3. That the original Sections and all ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law. This ordinance may be published in pamphlet form as authorized by law.

PASSED AND APPROVED this 19<sup>th</sup> day of July, 2011.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## Mosquito Spraying Info

I spoke again with Tom Bagley of Complete Pest Elimination on Newman Grove. This is the company I spoke of at the last meeting that sprays in Carroll.

In Carroll he:

- \* Sprays weekly for the months of June-Sept.
- \* Sprays once a week. (Tuesday night about 11:00)
- \* Considered to be population management.
- \* One month he does Thermal Fogging with Malithion. This puts out a smoky cloud.
- \* The next month uses Control 4-4 or phenothrin through an Ultra Low Volume (ULV) sprayer which puts out a fine mist that's hard to see.
- \* Both applications can have a 300 ft. drift.

Tom said that he charges on average about \$1-1.25 per capita in a community. Our cost would likely be under this since we are a larger community.

He believes it would be better to always do the ULV spraying, rather than the fogging, but often because residents don't see the fog coming out of the machine, they don't think they are getting the product like they should.

**I would expect his services to be about \$5,000/mo. or \$20,000 annually.**

I also spoke with Van Deist Supply about our purchasing the spraying equipment and chemicals.

- They highly recommend ULV mist spraying rather than any kind of fogging. Fogging isn't more effective and the product can be hard on vehicle paint.
- They suggest the Clark Brand, Cougar Model sprayer which would cost \$10,000. See picture on next page.
- This puts out a fine mist that will float 300' or a City block.
- Applicator will drive 10 mph with this sprayer.
- Chemical used would be Biomist 3+15, considered to be very safe.
- Chemical will cost \$150/hr. I expect we'd do the community in 2-3 hrs each application. Labor and vehicle would be approximately \$30/hr, depending on who the operator is. **Total cost for each application should be \$500-\$600.**

Garry Poutre

# COUGAR

**\$10,000**



The COUGAR provides the professional performance of larger ULV units, in an economical size and price. This ULV cold aerosol generator is lightweight and easy to operate. It features a high output rate, while operating efficiently and reliably. **Now with new larger fuel tank for operation up to 8 hours at 6 PSI and 11 hours at 4 PSI.**

An 9 HP Briggs & Stratton engine combined with an electric starter gives you the power you need to get the job done right the first time. With standard features you'd expect, the COUGAR is an economical choice for professional use.

## Discover the Clarke advantage today:

- unmatched craftsmanship
- technical support hotline
- easy parts ordering
- strictest quality control
- user friendly operation
- easy installation
- low maintenance
- products made in the USA 

*Economical in size  
and price, put the  
power of a COUGAR  
to work for you.*



**CLARKE**  
Mosquito Control

Tech/Parts Line 1-800-859-2847 • Tech/Parts Fax 763-428-8613

## **Amendment #2 – Design of Water and Sewer Extensions**

**Description:** Extension of water and sewer from present locations along Highway 35 to the intersection with Pheasant Run, then extending north along Pheasant Run to the north end of Western Ridge Third development. The extension includes boring water across Highway 35, this boring will have to be in steel casing and in accordance with NDOR specifications.

### **Scope of Services:**

**Topographic Study:** Gather topographic information on existing site features, including property corners adjacent to the proposed work. We will complete one call and locate all utilities that are adjacent to or may be affected by the proposed construction. Elevations and location of existing water and sewer will be acquired at this time.

**Preliminary design:** Advanced Consulting Engineering Services will prepare preliminary plans to be reviewed by City of Wayne officials, NDOR and developers.

**Final Design:** Advanced Consulting Engineering Services will take the review comments from the preliminary design phase meeting and agency reviews and complete final plans and specifications for the construction of the proposed water and sewer extension. Final plans shall show plan and profile views of the proposed improvements, required cross sections, details, a SWPPP and construction specifications. These plans shall be submitted the proper regulatory authority and the NDOR along with an application to Occupy State Highway R-O-W with a Utility Line. Final plans will be presented to the City prior to bidding.

**Bidding and Negotiating:** There shall be one general contractor for the utility extensions and the paving so this is included in the original contract price.

**Construction Phase Services:** Shall be the same as the original contract. Additional trips will be required to observe utility construction and to witness testing of the proposed work.

**Post Construction Phase:** As-built drawings are to be submitted the proper regulatory agency along with certificate of completion.

The following is a breakdown of the proposed costs as associated with various milestones throughout the water and sewer project:

Description	Cost
Topographic Study	\$1,000
Preliminary Design	\$2,500
Final Design	\$2,500
Construction	\$2,000
<b>Total Lump Sum Fee</b>	<b>\$8,000</b>

\_\_\_\_\_

Owner

 07/14/2011  
Advanced Consulting Engineering Services

**RESOLUTION NO. 2011-53**

**A RESOLUTION AUTHORIZING THE ALLOCATION OF  
PROPERTY TAXES TO THE WAYNE AIRPORT AUTHORITY.**

WHEREAS, the Governor signed LB989 of the 1997 Session into law, and this law authorizes the City Council to allocate property taxes to the Wayne Municipal Airport Authority; and

WHEREAS, LB 1114 allows Airport Authorities to adopt a resolution requesting that the governing body of the city include their tax levy in the city budget; and

WHEREAS, the Wayne Municipal Airport Authority has requested \$62,000 in property tax allocation; and

WHEREAS, the Mayor and Council of the City of Wayne, Nebraska, hereby finds and determines that it is in the best interest of the City to allocate \$62,000 in property taxes to the Wayne Municipal Airport Authority.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the City of Wayne allocates \$62,000 to the Wayne Municipal Airport Authority.

PASSED AND APPROVED this 19<sup>th</sup> day of July, 2011.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**PRELIMINARY LEVY ALLOCATION FROM CITY OF WAYNE**  
RESOLUTION NO. 2011-1

WHEREAS, Nebraska Statute 77-3443 (3) requires all political subdivisions subject to city/village levy authority to submit a preliminary request for levy allocation to the city council/village board; and

WHEREAS, the Wayne City Council is the levy authority for the Wayne Municipal Airport .

NOW, THEREFORE BE IT RESOLVED that the following is said Board's tax request for budget year 2011-2012:

FUND TAX REQUEST  
General Fund                    \$ 62,000  
TOTAL                                \$ 62,000

BE IT FURTHER RESOLVED that said Public Airport has repayment of Interest-Free Loans from the Department of Aeronautics for \$14,900 and this amount is not included in the above tax request as allowed by law.

NOW, THEREFORE BE IT RESOLVED that the following is said Board's tax request for budget year 2010-2011:

TOTAL

Motion by David Ley to adopt Resolution NO. 2011-1. Seconded by Carl Rump.

Voting yes were: Nissen, Rump, Luedeke & Ley

Voting no were: None

Motion carried.

Date this 11<sup>th</sup> day of July, 2011.

Mitchell Nissen Chairman  
David Ley Secretary

**CHANGE ORDER NO. 4**

DATE OF ISSUANCE:	<u>July 14th, 2011</u>	EFFECTIVE DATE:	<u>July 19th, 2011</u>
OWNER:	<u>City of Wayne, NE</u>		
CONTRACTOR:	<u>Eriksen Construction Co., Inc.</u>		
Project:	<u>2009-2010 Wastewater Treatment Facility Improvements, Phase 1</u>		
JEO Project No.:	<u>617S7</u>		
ENGINEER:	<u>JEO Consulting Group, Inc.</u>		

**You are directed to make the following changes in the Contract Documents:**  
Proposal 010, Add 2 1/2 courses of CMU block and clay brick fascia at the Screen Building = \$2,221.47 and Proposal 011, Remove, dispose and replace 12'x20' concrete paving to facilitate 6" waterline connection; Install additional 20 LF of 6" waterline = \$2,306.94.

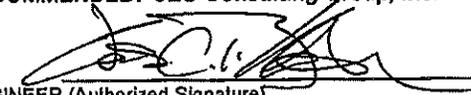
**Reason for Change Order:** Proposal 010 corrects the issue of the vertical screen being too tall for the building. This was due to a change in the design drawings from the manufacturer during design that was not changed on the plans prior to bidding. Proposal 011 is due to an incorrect location of the watermain located during the initial survey of the site.

**Attachments:** Documentation of costs from Eriksen Construction

CHANGE IN CONTRACT PRICE:	
Original Contract Price	
\$	<u>5,098,770.00</u>
Net Increase (Decrease) from previous Change Orders No.: 1 to 3:	
\$	<u>63,924.49</u>
Contract Price prior to this Change Order:	
\$	<u>5,162,694.49</u>
Net Increase (decrease) of this Change Order:	
\$	<u>4,528.41</u>
Contract Price with all approved Change Orders:	
\$	<u>5,167,222.90</u>

CHANGE IN CONTRACT TIMES:	
Original Contract Times:	
Operational:	<u>Aug. 5th, 2011</u>
Ready for final payment:	<u>120 days from Operation</u> (days or dates)
Net change from previous Change Orders No.: 1 to 3:	
Operational:	<u>Sept. 5th, 2011</u>
Ready for final payment:	<u>120 days from Operation</u> (days)
Contract Times prior to this Change Order:	
Operational:	<u>Sept. 5th, 2011</u>
Ready for final payment:	<u>120 days from Operation</u> (days or dates)
Net increase (decrease) this Change Order:	
Operational:	
Ready for final payment:	
Contract Times with all approved Change Orders:	
Operational:	<u>Sept. 5th, 2011</u>
Ready for final payment:	<u>120 days from Operation</u> (days or dates)

**RECOMMENDED:** JEO Consulting Group, Inc.

By:   
 ENGINEER (Authorized Signature)  
 Date: 7/14/2011

**ACCEPTED:** Eriksen Construction Co., Inc.

By: \_\_\_\_\_  
 CONTRACTOR(Authorized Signature)

**APPROVED:** City of Wayne, Nebraska

By: \_\_\_\_\_  
 OWNER (Authorized Signature)  
 Date: \_\_\_\_\_

Date: \_\_\_\_\_

**2009-2010 Wastewater Treatment Facility Improvements, Phase 1  
Wayne, Nebraska  
Project No. 617S7**

July 19, 2011

**CHANGE ORDER NO. 4**

**Owner: City of Wayne, NE**

**Contractor: Eriksen Construction Co., Inc.**

ORIGINAL CONTRACT AMOUNT:		\$ 5,098,770.00
Change Order No. 1	\$ 3,810.83	
Change Order No. 2	\$ 4,226.63	
Change Order No. 3	\$ 55,887.03	
Subtotal		\$ 5,162,694.49

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	ADD	DEDUCT
1	1	LS	Vert. Screen Building Add. Height	\$ 2,221.47	\$ 2,221.47	
2	1	LS	Remove & Replace Paving for Watermain	\$ 2,306.94	\$ 2,306.94	
<b>Net Increase / Decrease This Change Order</b>					\$ 4,528.41	\$ -
<b>Original Contract Amount</b>					\$	5,098,770.00
<b>Previous Change Orders Net Increase / Decrease</b>					\$	63,924.49
<b>NEW CONTRACT AMOUNT</b>					\$	5,167,222.90





## KNUDSON MASONRY, LLC

Troy Knudson

Centerville, SD

Mobile (605) 351-7627 Phone: (605) 563-2827

Fax: (605) 563-3827

E-mail: [troyjen@hcinet.net](mailto:troyjen@hcinet.net)

## QUOTATION

Date: 06/27/11

Customer: ERIKSEN CONSTRUCTION CHANGE ORDER

WAYNE WASTEWATER TREATMENT PLANT

Labor & Materials for additional 70 sq. ft. of block, brick, grout &  
other accessories.

\$2000.00

Thank You,

Troy Knudson

Knudson Masonry, LLC



# Eriksen Construction Co., Inc.

Project: Wayne WWTP

Project No.: 559

Date: 6/29/2011

Cost Issue / Proposal Quotation No.: PR-011

Cost Code & Description	Quantity	Unit Costs			Extended Costs		
		Material	Labor	Equip.	Material	Labor	Equip.
<b>General Conditions</b>							
01000 Project Manager	0.5 /hr	\$ -	\$ 80.00	\$ -	\$ 5.00	\$ -	\$ 5.00
01000 Superintendent	1 /hr	\$ -	\$ 75.00	\$ -	\$ 5.00	\$ -	\$ 5.00
<b>Special Construction</b>							
03000 Demolish & Dispose 12' x 20' Conc. Pavement	240 sf	\$ 0.50	\$ 0.50	\$ -	\$ 120.00	\$ 120.00	\$ -
03000 Place and finish 12' x 20' Concrete Pavement	240 sf	\$ 3.00	\$ 1.00	\$ 0.10	\$ 720.00	\$ 240.00	\$ 24.00
02000 Excavate, Install & Backfill Add'l 6" Waterline	20 LF	\$ 1.75	\$ 5.25	\$ 2.25	\$ 35.00	\$ 105.00	\$ 45.00
15000	ea	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Sales Tax:</b>							
0% Labor Burden:	5%				\$ 875.00	\$ 580.00	\$ 204.00
50% Equipment Maintenance:	0%				\$ -	\$ 290.00	\$ 10.20
					Subtotals:		
					Material	Labor	Equip.
					\$ 875.00	\$ 870.00	\$ 214.20
					Other	Fee	
					\$ 7.50	15%	\$ 295.01
							\$ 2,261.71

Fee on Self Performed Work  
Total Self Performed Work