

**MINUTES
CITY COUNCIL MEETING
September 20, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, September 20, 2011, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jon Haase, Dale Alexander, Doug Sturm, and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Jim Van Delden, Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 8, 2011, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Haase made a motion, which was seconded by Councilmember Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of September 6, 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: AMERITAS, SE, 1441.14; CITY EMPLOYEE, RE, 300.00; APPEARA, SE, 157.02; BAKER & TAYLOR, SU, 1084.09; BANK FIRST, FE, 150.00; BLACK HILLS ENERGY, SE, 2267.00; CITY EMPLOYEE, RE, 278.22; CITY EMPLOYEE, RE, 261.92; BRIGGS, INC, SU, 10.00; CARHART LUMBER, SU, 831.31; CITY EMPLOYEE, RE, 36.20; CITY EMPLOYEE, RE, 63.70; CITY OF WAYNE, RE, 1450.00; CITY OF WAYNE, RE, 65.00; CITY OF WAYNE, PY, 53190.00; CITY OF WAYNE, RE, 729.81; COMMUNITY HEALTH, RE, 3.00; COPY WRITE PUBLISHING, SU, 53.16; CREDIT MANAGEMENT, RE, 35.75; DAKOTA

BUSINESS SYSTEMS, SE, 102.50; DALE HANSEN, RE, 255.60; DAVE'S UNIFORM CLEANING, SE, 69.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DIGITAL ALLY, SE, 260.00; CITY EMPLOYEE, RE, 45.44; DON ENDICOTT, RE, 500.00; DUTTON-LAINSON, SU, 63.38; ELLIS PLUMBING & HEATING, SE, 253.54; ERIKSEN CONSTRUCTION, SE, 418028.83; CITY EMPLOYEE, RE, 71.00; FLOOR MAINTENANCE, SU, 236.89; CITY EMPLOYEE, FE, 100.00; GEMPLER'S, SU, 162.55; GERHOLD CONCRETE, SU, 94.19; GREAT PLAINS ONE-CALL, SE, 115.61; GUILDCRAFT ARTS & CRAFTS, SU, 45.23; HARDING & SHULTZ, SE, 28465.35; HAUFF MID-AMERICAN SPORTS, SU, 141.40; HAUGE ASSOCIATES, RE, 167.75; HAWKINS, INC, SU, 1018.85; CITY EMPLOYEE, RE, 325.00; ICMA, SE, 5655.60; INGRAM BOOK COMPANY, SU, 853.37; INNOVATIVE PROTECTIVES, SU, 650.00; IRS, TX, 16756.30; JOANNE BAIER, RE, 500.00; JIM SPETHMAN, SU, 43.23; CITY EMPLOYEE, RE, 90.92; LAYNE CHRISTENSEN, SE, 24230.90; MAIN STREET AUTO CARE, SE, 90.00; MARLON BRINK, RE, 500.00; MIDSTATES ERECTORS, SE, 1737.00; MIDWEST LABORATORIES, SE, 73.55; MIKE MCKENZIE, RE, 500.00; MIKE TOWNE, SE, 250.00; NE DEPT OF REVENUE, TX, 2538.04; NE DEPT OF ROADS, SE, 1000.00; NE PUBLIC HEALTH, SU, 159.00; NE STATE PATROL, SE, 90.00; NPPD, SE, 353261.51; NSAWWA, FE, 150.00; NORTHEAST LIBRARY SYSTEM, FE, 40.00; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 12180.28; ORIENTAL TRADING CO, SU, 116.00; PAC N SAVE, SU, 37.98; PAMIDA, SU, 33.72; CITY EMPLOYEE, RE, 106.23; PEPSI-COLA, SU, 294.90; PRESTO X, SE, 47.00; CITY EMPLOYEE, RE, 979.14; CITY EMPLOYEE, RE, 166.34; QUILL, SU, 5.84; CITY EMPLOYEE, RE, 567.60; ROSE EQUIPMENT, SU, 1369.50; SHELLY FEHRINGER, RE, 500.00; SIOUX CITY JOURNAL, SU, 182.00; SPARKLING KLEAN, SE, 1290.06; STADIUM SPORTING GOODS, SU, 40.00; STATE NATIONAL BANK, SE, 51.80; STATE NATIONAL BANK, RE, 88840.00; TOM'S BODY & PAINT SHOP, SE, 543.60; TURFWERKS, SU, 43.06; U.S. TOY COMPANY, SU, 171.41; UNITED WAY, RE, 10.00; WAYNE AUTO PARTS, SU, 661.76; WAYNE COUNTY COURT, RE, 1800.00; WESCO, SU, 22328.77; WHELEN ENGINEERING, SU, 315.15; CITY EMPLOYEE, RE, 53.48; AMAZON, SU, 343.53; BAKER & TAYLOR BOOKS, SU, 31.54; BARNES & NOBLE, SU, 8.59; BOMGAARS, SU, 23.98; CITY EMPLOYEE, RE, 194.14; BROWN SUPPLY CO, SU, 1094.09; CITY OF NORFOLK, SE, 318.15; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 50.00; CLAUSSEN & SONS IRRIG., SE, 439.65; COVENTRY HEALTH, SE, 18955.13; DENNIS CARROLL, RE, 500.00; DUTTON-LAINSON, SU, 110.30; FIRST SOURCE TITLE&ESCROW, SE, 100.00; CITY EMPLOYEE, RE, 154.98; FORT DEARBORN LIFE, SE, 1469.78; FREDRICKSON OIL CO, SE, 7.36; FRIESEN CHEVROLET, SU, 213.75; GP GFOA, FE, 85.00; GUARANTEE OIL, SU, 95.35; CITY EMPLOYEE, RE, 54.26; JERRY'S TRAILERS, SU, 35.30; CITY EMPLOYEE, RE, 738.72; LAKESHORE LEARNING, SU, 156.27; MCGRATH NORTH, SE, 1936.00; CITY EMPLOYEE, RE, 169.44; PITNEY BOWES, SU, 648.00; RANDOM HOUSE, SU, 73.50; ELITE OFFICE PRODUCTS, SU, 9.90; STADIUM SPORTING GOODS, SU, 1804.00; TOM'S BODY & PAINT SHOP, SE, 72.80; VERIZON, SE, 137.76; VOSS LIGHTING, SU, 1670.00; WESCO, SU, 6453.88

Councilmember Frevert made a motion and Councilmember Haase seconded 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.

Mayor Chamberlain introduced Mary Crawford from Congressman Fortenberry's office.

Administrator Johnson stated State Law makes volunteer fire fighters become city employees as soon as (1) they get a page to respond to any emergency and (2) when they are training or attending any official functions. The proposed job description will function to describe the duties and requirements of the fire fighter position just as other job descriptions do for other city positions. This is almost identical to the City of Norfolk's job description. It clearly describes our expectations for the fire fighters.

Councilmember Brodersen made a motion and seconded by Councilmember Haase adopting the fire fighter job description as presented. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Tom Sievers, Fire Chief, was present requesting Council consideration to approving the membership applications of both Dean Brodersen and Chris Weddel to the Wayne Volunteer Fire Department.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the membership applications of both Dean Brodersen and Chris Weddel to the Wayne Volunteer Fire Department. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

A request was received from Layne Beza, representing the Wayne Vet's Club, to reduce the occupation tax and Class C Liquor License fee for non-profits. The fee for a Class C Liquor License is \$300. The occupation tax is double that amount or \$600 (which is allowed by State Statute) for a total cost of \$900. Wayne has been collecting an occupation tax of two times the license fee since at least 1983. We only have the ability to reduce the occupation tax. Staff undertook a survey of other municipalities to see who has a reduced occupation tax for non-profits. Of the 35 who responded, 8 have a reduced occupation tax. Staff recommendation was to reduce the occupation tax from \$600 to \$150.

Councilmember Sturm had concerns of reducing this amount in light of the fact that the budget has already been set or approved. The City will have to come up with the additional \$450 somewhere. He thought decisions like this should be considered and made prior to setting the budget.

Councilmember Frevert stated the Vet's Club is only open 3 nights a month. The time they are open is very minimal compared to other establishments.

It was noted this change would affect all non-profit organizations, and that even though the recommendation was to reduce it to \$150, Council can change that amount if they so desire.

Councilmember Frevert introduced Ordinance No. 2011-17 and moved for approval thereof which reduces the occupation tax to \$150 for non-profit Class C Liquor Licenses; Councilmember Haase seconded.

ORDINANCE NO. 2011-17

AN ORDINANCE AMENDING CHAPTER 22, ARTICLE II OCCUPATION TAXES, SECTION 22-32 ALCOHOLIC LIQUORS OF THE WAYNE MUNICIPAL CODE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Ken Jorgensen, owner of The Max, was present requesting Council consideration to extending the hours of sale of alcoholic liquor to 2:00 a.m. on the following dates:

- October 6th, 7th, and 8th – Wayne State College Homecoming Activities
- October 29th – Halloween Party
- December 15th and 16th – Wayne State College Graduation
- December 31st – New Year's Eve

Councilmember Brodersen stated she liked the idea of extending the hours of sale for special events, but she thought the request for the homecoming activities was extensive since homecoming is on Saturday. Mr. Jorgensen responded that the activities start on Thursday.

Mayor Chamberlain advised the Council that the reason he asked that these requests each be a separate ordinance was to allow Council the opportunity to table the other requests until after homecoming to see how it goes.

Staff was directed to poll the Council to see if there would be enough at the next Council meeting so the necessary three reading requirement could be waived. If not, then a special meeting would need to be held so that final action could be taken on this ordinance before the date of the event.

Jeff Carstens, representing Wayne State College, was present to speak against the passage of these ordinances.

Councilmember Frevert stated the people who had talked to him didn't see where the extra hour was going to be that big of a problem.

Councilmember Sturm introduced Ordinance No. 2011-19 and moved for approval thereof; Councilmember Frevert seconded.

ORDINANCE NO. 2011-19

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE STATE COLLEGE HOMECOMING ACTIVITIES (OCTOBER 6TH, 7TH, AND 8TH).

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Frevert introduced Ordinance No. 2011-20 and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-20

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR IN CONJUNCTION WITH A HALLOWEEN PARTY (OCTOBER 29TH).

Councilmember Alexander stated he would like the Council to table the remaining ordinances to see how everything else goes on Homecoming weekend.

Councilmember Sturm stated he would prefer that the Council act on the first reading of the remaining ordinances.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Alexander made a motion to table action on Ordinance No. 2011-21 which would extend the hours of sale of alcoholic liquor to 2:00 a.m. on December 15 and 16th for the Wayne State College Graduation activities, until the November 1st Council meeting; Councilmember Haase seconded the motion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Frevert and Sturm who voted Nay, the Mayor declared the motion carried.

Councilmember Alexander made a motion to table action on Ordinance No. 2011-22, which would extend the hours of sale of alcoholic liquor to 2:00 a.m. on December 31st for New Year's Eve, until the November 1st Council meeting; Councilmember Brodersen seconded the motion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Frevert and Sturm who voted Nay, the Mayor declared the motion carried.

Every ten years, the City has the opportunity to redistrict its wards. Based upon the 2010 census, staff is recommending the redistricting of wards so that the average number of voters in each ward would be approximately 1,415, up from 1,395 ten years ago.

Joel Hansen, City Planner, stated because the populations shifted in some of the wards, the boundary lines needed to be shifted.

Councilmember Brodersen introduced Ordinance No. 2011-23 and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-23

AN ORDINANCE AMENDING CHAPTER 30, ARTICLE I, SECTION 30-6 OF THE WAYNE MUNICIPAL CODE ESTABLISHING ELECTION WARDS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Administrator Johnson stated the following Resolution would amend the Personnel Manual to provide that nonexempt employees will be prohibited from performing work outside of normal working hours without prior authorization. This prohibition will include a ban on the after-hours use of employer-provided cell phones and Blackberry type devices. In addition, if an employee is provided with a city cell phone, they are to accurately record the time they spend using the devices before and after working hours. This comes as a result of some court rulings on employees getting paid for work after hours.

Councilmember Sturm introduced Resolution No. 2011-70 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-70

A RESOLUTION AMENDING SECTION 14.60 COMPENSATION AND OVERTIME; SECTION 14.70 CALL BACK TIME; AND SECTION 30.10 GENERAL PRINCIPLES OF THE PERSONNEL MANUAL.

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

Administrator Johnson requested that no action be taken on Resolution 2011-71 until he receives more information on the matter.

Gene Hansen, Electric Production Superintendent, stated the following Resolution would approve a new agreement with Olsson Associates for professional services for the Wayne Power Plant Cooling Tower Project in an amount not to exceed \$15,000. Mr. Hansen stated the City will sever its relationship with the current engineer on the project who has been unresponsive. It's important that this project keeps moving forward so that the grant does not get jeopardized.

The current engineer has been paid to date and they did the work they were contracted for. The point we are at now in this project is construction oversight. This allows us to change engineers at this time.

Councilmember Alexander introduced Resolution 2011-72, and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2011-72

A RESOLUTION APPROVING LETTER AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF WAYNE AND OLSSON ASSOCIATES FOR THE WAYNE POWER PLANT COOLING TOWER PROJECT.

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

Garry Poutre, Superintendent of Public Works & Utilities, advised the Council that three bids were received on the water and sewer improvement project for Western Ridge Third Addition. Advanced Consulting Engineering Services, the engineer on the project, has reviewed the bids for accuracy and is recommending that the project be awarded to the low bidder, Penro Construction, for \$108,702.42. The starting date is October 15th. The completion date is December 31st.

Councilmember Brodersen introduced Resolution 2011-73, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2011-73

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “WESTERN RIDGE THIRD ADDITION WATER AND SEWER IMPROVEMENT PROJECT.”

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: Spring Dahl to the Library Board and reappoint Pat Melena to the Planning Commission.

Councilmember Frevert made a motion and seconded by Councilmember Sturm approving the appointment of Spring Dahl to the Library Board and the reappointment of Pat Melena to the Planning Commission. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Brodersen 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 6:25 p.m.