

**Wayne Planning Commission Meeting Minutes
Monday, July 18, 2011**

Chair Pat Melena called the regular meeting of the Wayne Planning Commission to order at 7:00 P.M., on Monday, July 18, 2011, in the Council Chambers of the Municipal Building. Roll call was taken with the following members present: Bill Kranz, Derek Hill, Jeff Carstens, Jill Sweetland, Mark Sorensen, Chair Pat Melena, and Inspector/Planner Joel Hansen. Absent: Kelby Herman, Lee Brogie, and Jessie Piper.

Motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to approve the minutes as presented for June 6, 2011. Chair Melena stated the motion and second. All were in favor; motion carried unanimously.

Chair Melena read the Open Meetings Act and advised that anyone desiring to speak should limit themselves to three minutes and wait until being recognized by the Chair.

Chair Melena stated the first item on the agenda is a public hearing for the annexation of an area to the City of Wayne, containing 25.46 acres more or less.

Inspector Hansen noted for the Commission that some developers have come to the city asking to be petitioned into the city limits. They are: Victoria Pick, Steve and Cindy Meyer, and Mark and Lona Meyer. The area they wish to annex also includes Glen's Auto Body, which is owned by Glen and Sandra Nichols. This area is west of Western Ridge First Addition. A map was included in the Commission's packet for this area. Western Ridge First Addition is also included in the annexation as the subdivision agreement for this addition states that when the areas around it (Western Ridge First Addition) are annexed it would automatically be annexed as well.

Chair Melena asked for any comments from the public.

Brent Pick, Wayne Ne, was present to address the Commission. He stated that they are currently doing the preliminary plat for this property and the annexation for Bomgaars Corporation. They currently have their purchase agreement in hand for Lot 1. This is driving the annexation and plat as the area has never been platted. The property cannot be sold until these steps take place. The property cannot be sold until it has been platted and a legal description given to it. Mr. Pick stated that was the size of lot Bomgaars Corporation wanted was a four acre lot.

Commissioner Sorensen questioned why the area was not squared off for the whole Western Ridge Addition?

Mr. Pick stated that they wanted to square it off all the way to the back, nearly six acres, but Bomgaars did not want that much they only wanted four acres, which leaves them another lot in the back, nearly two acres in size. Part of the plat is to try and figure out how to get services to the back lot, Lot 2.

Inspector Hansen stated that the area has been blighted which means it is eligible for TIF financing. In order to take part in the TIF financing they have to be annexed into the city, which brought about the annexation. Then the developer needed to decide how big they wanted the subdivision. That essentially is end of the B-1 zoning which is where the developers decided to stop it and part of the reason they decided to stop it is because they have to provide all of the utilities to the land that is subdivided. So if the developers had gone further, they would have needed to put in more sewer and water in and if there are no buyers at this time, the developers would have had a lot of additional costs and no way to recoup them at this time.

Mr. Pick stated that they are only running sewer and water to the top of Lot 2 and currently they are also paving this area all the way to the north end of Lot 2 as well.

There being no further comments, Chair Melena closed the public hearing and opened the discussion up amongst the Commission members.

Chair Melena questioned Inspector Hansen as to what type of comments he has been receiving, the neighbors.

Inspector Hansen noted that when the utilities are done within the subdivision, the other property owner within the subdivision, will be affected because they already own city water so there is no cost for water, but they will have a sewer assessment that will be based on their frontage footage for that sewer. Those estimated costs should be in the annexation plan that was on the table, it also includes some engineering. The property owners to the south, Northeast Nebraska Public Power District will not have any assessments because when they put the sanitary sewer on the south side of the road, they paid for that 100 percent with the agreement they would not have to share on the north side when it went all the way to the corner. So it will not affect them at all. The property owner to the west of the subdivision will have an assessment but it can be deferred until such time as they come into the city and be developed. The assessment will not cost them anything at this time, but if they develop and have a subdivision then the assessment would come into effect.

Inspector Hansen noted for the Commission that he has spoken to Kelby Herman (property owner to the east and Commission member). He is going to be impacted because once he is annexed he also has to hook onto the city sewer, as he is on a septic system currently. He is not against being in the city, but he does have some concern about how soon he would have to hook onto sanitary sewer. And again this was also included in the subdivision agreement on a piece of property he purchased and he was aware that agreement was in place when he purchased the property. That is a separate issue and he may need to be on the council agenda at a later time to deal with it. At this point in time, Kelby needs to be annexed and he has to be hooked onto city sewer based on that subdivision agreement.

Inspector Hansen further noted for the Commission that he has spoken to the other property owner, Glen Nichols. Inspector Hansen noted that Mr. Nichols is not happy about the assessment. Mr. Nichols is not opposed to being in the city limits, but he again has a working septic system and is concerned about how long he would have to hook-up to city sewer. This will be worked on in the next agenda item, the subdivision agreement.

Commissioner Kranz questioned how Mr. Nichols would hook-up his sewer.

Inspector Hansen noted that the sewer main would need to go in front of his property and then the septic system would need to be disconnected in the back and come along with a line and he would pay an assessment based on the costs through the annexation plan, but he would not have a hook-up fee because the assessment covers the hook-up fee. And the assessment can be strung out over ten years at probably five percent interest. In fact that will probably be the option for all the properties. Inspector Hansen stated that Mr. Nichols will not be allowed to put grease, etc down the sewer. That will need to be drained separately.

Commissioner Kranz was questioning if there were any other businesses in town doing the same thing.

Inspector Hansen stated that there are even some homes in town with floor drains in their garage that they have required them to put in a trap such that the oil and grease coming from the car won't end up in the sanitary system too.

Commissioner Sweetland questioned if the cost gets recouped through the assessments.

Inspector Hansen stated that was correct. He further noted that when council creates a district, they could choose. Some cities when they do a sanitary sewer district, the city pays for the manholes and assesses out just the cost of the line. So it is more a question for the city council what they decide to do when they create a utility district.

Commissioner Hill questioned why the legal read 25.46 acres more or less.

Inspector Hansen stated that typical survey language. When measuring something in square feet, it may read 18 decimals long, which is the reason for the wording 'more or less'.

There being no further discussion, motion made by Commissioner Sorensen and seconded by Commissioner Hill to approve and forward a recommendation of approval to the City Council for the annexation area, with the finding of facts being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Hill – aye; Commissioner Kranz – aye; and Chair Melena – aye. Chair Melena stated the motion carried unanimously.

Chair Melena stated the next item on the agenda is the preliminary and final plat for Western Ridge Third Addition.

Inspector Hansen stated this is essentially the same area of the annexation, minus Western Ridge First Addition, property owned by Kelby and Joelle Herman. A copy of the plat was included in the packet, as well as the annexation plan. Some of the numbers are harder to read; a larger copy is available in Council Chambers for anyone desiring to review it. Sharon Braun, local registered abstractor, reviewed the plat as well as himself prior to submittal and made recommendations for changes. Ms. Braun stated she is comfortable with the plat as it sits in front of the Commission.

Inspector Hansen noted that the subdivision goes to the center of the county road and the annexation goes across the road. Essentially that got brought in just because state statute says that if you annex something up to a road, you automatically annex the road.

Chair Melena asked for any comments from the public.

Brent Pick, Wayne NE, was present to address the Commission on the plat. Mr. Pick noted for the Commission that the state right-of-way has been purchased back by both Glen Nichols and the parties selling. They bought that state right-of-way line. The red line on the aerial photo in the packet was the original right-of-way line.

Inspector Hansen noted for the Commission that the legal description for the annexation will not match the legal description for the subdivision. The part that was purchased from the state was already annexed into the city.

There being no further discussion, Chair Melena closed the public hearing and opened discussion up amongst the Commission members.

Commissioner Kranz questioned the little circle on the drawing.

Inspector Hansen stated that was a scribble from before when they were looking at the sanitary sewer that was added on when they did Northeast Nebraska Public Power District on the south side of the road because there is a question on where the sanitary sewer sits.

Commissioner Kranz questioned where the surface drainage is going to be handled.

Inspector Hansen stated that is the subdivision agreement which goes with the plat. It states that the state will allow water to come into their current right-of-way but no more than what is currently coming in. So through grade changes and such the developers will need to do some detention on those lots to keep the first half-inch before it runs off into the ditch. Also, the one map in the packet showed some topo lines. The developers have intentions to remove a large amount of dirt off that hill, so before that lot is sold and they start developing impermeable surfaces on it, it will have a lot different look to the topo of that land out there. The west side will probably look like Kelby Herman's east side where the housing is where there is a more level area then a large bank coming up to his property. It will probably look similar to that area.

Commissioner Kranz was questioning the paving of roads.

Inspector Hansen noted that the county road currently there will probably be dropped by about eleven feet before it is paved. There will be a lot of dirt work done to this area so that the north half of that area will drain back to the north.

Commissioner Sorensen noted that they are basically taking the knob off that road.

Inspector Hansen stated that was correct. He further noted that there will still be a small knob there because they cannot make it level because it already comes up at a grade off the highway with concrete so they need to somewhat match that, so it won't be perfectly level across there but it will greatly improve the site distance. They are also working with the neighbor to the west to try and engineer their driveway so everything will work. Once the plans are done the neighbors to the west will be involved in discussions to see what will work best for them.

Inspector Hansen noted that a comment was made earlier about how the current landowners feel. It states in the subdivision agreement as well, that 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. The owner would like to have more time. The City Administrator would be comfortable going up to five years instead of three, if need be. That will be dealt with at the City Council level.

Commissioner Sorensen questioned what the delay would be, just for more time to start accumulating funds to do the work.

Inspector Hansen stated that essentially that and the argument they have a working septic system so why would they want to throw away a working septic system and make them spend the money to hook on to city sewer.

Inspector Hansen stated that Glen Nichols will have the assessment immediately regardless of whether or not he will hook on. The extra costs at this time will be just to run the pipe from the y that is put in the line to his building. In the opinion of City Administrator Johnson, if you are in the city you help pay for the cost of the sewer and the system improvements we are doing now. By city code, you are given sixty days from once you receive official notice from the city and the code says that if you are annexed into the city you are suppose to be on city sewer. If you went strictly by the code, the property owner basically gets sixty days, where the city is offering three years via the subdivision agreement.

Commissioner Sorensen opined that he felt the city was being very generous by allowing the property owners three years, where the code states sixty days.

Commissioner Kranz opined that he did not want it to be forgotten about, like the sidewalk ordinance which states that the property owner needs to put in a

sidewalk once a new residential structure has been built. The property owner gets a waiver and the sidewalk never gets built. Commissioner Kranz opined that the key here is not necessarily an extension of time but that it not be forgotten.

Commissioner Sorensen questioned how do you not forget about these?

Inspector Hansen stated that the City Clerk has the city calendar on her computer, essentially it is a large outlook calendar and puts dates on there so when it gets to be so close to the deadline she gets a notice on her computer that the deadline is about up and when the day comes, she gets another message as well.

Chair Melena questioned if the Commission was making the decision on the term.

Inspector Hansen stated that the Commission is only making a recommendation and that the Council will have the final decision.

Commissioner Sorensen questioned if the Commission wanted to recommend sixty days rather than three years, they could.

Inspector Hansen stated that was correct; they just need to make it a part of the motion.

Chair Melena opined that the Commission should follow what is written in the agreement.

Commissioner Sorensen concurred that they should follow the agreement.

There being no further discussion, motion was made by Commissioner Kranz and seconded by Commissioner Carstens to forward a recommendation of approval for the Preliminary Plat for Western Ridge Third Addition, with the findings of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Kranz – aye; Commissioner Hill – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. Chair Melena stated the motion carried unanimously.

A motion was made by Commissioner Kranz and seconded by Commissioner Sweetland to forward a recommendation of approval for the Final Plat for

Western Ridge Third Addition, with the findings of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Hill – aye; Commissioner Kranz – aye; and Chair Melena – aye. Chair Melena stated the motion carried unanimously.

Chair Melena stated the next item on the agenda is the discussion and recommendation for the Redevelopment Plan for Lot 1 of Western Ridge Third Addition.

Inspector Hansen stated this is a contract between the City of Wayne and Bomgaars. Inspector Hansen stated the Commission's only responsibility is to verify this development is compatible with the comprehensive plan. This is strictly a document that is negotiated with the Council and the developer.

Chair Melena asked for any comments from the public, there being none, Chair Melena opened discussion amongst the Commission.

Commissioner Kranz questioned if this document is needed for the Tax Increment Financing.

Inspector Hansen stated that was correct. The TIF spells out how many taxes will be used to cover the assessments for the water, sewer, and paving. What is left, the developer can use it to help pay for land acquisition, dirt moving/grading, parking area, and connection of utilities to the building. The funds cannot be used for the building.

Chair Melena asked if this is consistent for what TIF is normally used for.

Inspector Hansen stated that was correct.

Chair Melena asked Inspector Hansen to review what the TIF funds can and cannot be used for.

Commissioner Sweetland asked if job creation can be used for TIF.

Inspector Hansen stated no, it cannot.

There being no further discussion, motion was made by Commissioner Carstens and seconded by Commissioner Sorensen to approve and forward a

recommendation of approval to the City Council for the Redevelopment Plan for Lot 1, Western Ridge Third Addition to the City of Wayne, Wayne Nebraska, with the findings of fact being it is consistent with the Comprehensive Plan and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Hill – aye; Commissioner Kranz – aye; and Chair Melena – aye. Chair Melena stated the motion carried unanimously.

Chair Melena stated the last item on the agenda is a public hearing amending Section 90-836 Expiration of Exception Use Permits.

Inspector Hansen stated this was a topic that came up at last month's meeting for discussion to see what the group wanted to do and to give them a heads-up as well. This topic really came about due to the Burrows dental clinic on West 7th and Pearl Streets. They came to the Planning Commission and asked for a Use by Exception permit and it was granted; they then went to the City Council and their use was granted again.

Commissioner Sweetland opined that this topic was discussed at the last meeting in length and the Commission felt that it would be less hassle for the Commission if the time was extended to the three years. Commissioner Sweetland opined that they want to help people develop and the Commission felt strongly about it last time.

Chair Melena opined that he is not against it, but he asked the Commission to keep it mind, that a special meeting should be an exception and not three or four times a year because of a time constraint.

There being no further discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to approve the amended language for Section 90-836 Expiration of Exception Use Permits from one year to three years and forward a recommendation of approval to the City Council, with the findings of fact being staff's recommendation. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Kranz – aye; Commissioner Hill – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. Chair Melena stated the motion carried unanimously.

Commissioner Carstens questioned if the prior agenda item needed to have the motion amended to include approval of the Resolution.

Inspector Hansen stated that it probably should be included in the motion.

Commissioner Carstens amended and Commissioner Sweetland seconded the motion for the Redevelopment Plan for Lot 1 Western Ridge Third Addition to read as follows: to amend the initial motion to also include approval of the resolution for the redevelopment plan with the four findings under the "resolved" portion of the resolution. Chair Melena stated the motion and second. Roll call vote was taken: Commissioner Kranz – aye; Commissioner Hill – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. Chair Melena stated the motion carried unanimously.

There being no further discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Hill to adjourn the meeting. Chair Melena stated the motion and second. Chair Melena stated the motion carried unanimously; meeting was adjourned.