

**MINUTES
CITY COUNCIL MEETING
October 4, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, October 4, 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, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; and City Clerk Betty McGuire. Absent: Councilmembers Jim Van Delden and Doug Sturm and City Administrator Lowell Johnson.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 22, 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 20, 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:

CORRECTIONS TO CLAIMS LIST OF MARCH 15, 2011: DELETE CITY EMPLOYEE, RE, 10.20 AND TIM SCHAEFER, RE, 78.00

VARIOUS FUNDS: AMERICAN BROADBAND, SE, 1260.48; AMERITAS, SE, 1516.79; APPEARA, SE, 27.09; ARNIE'S FORD-MERCURY, SU, 149.10; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, SE, 150.00; BLACK HILLS ENERGY, SE, 205.89; BLACK STRAP, SU, 1256.85; BLUE DEVIL BOOSTER CLUB, SE, 85.00; BOMGAARS, SU, 1059.77; BROWN SUPPLY CO, SU, 1159.30; CARTRIDGE WORLD, SU, 869.95; CITY EMPLOYEE, RE, 56.62; CENTURYLINK,

SE, 308.57; CITIZENS NATIONAL BANK, RE, 3371.22; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 1700.00; CITY OF WAYNE, RE, 318.45; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, PY, 54488.91; CITY OF WAYNE, RE, 200.00; COMMUNITY HEALTH, SE, 3.00; CITY EMPLOYEE, RE, 163.39; CITY EMPLOYEE, RE, 207.74; DUNRITE INC, SU, 263.25; DUTTON-LAINSON, SU, 101.18; EISCHEID ARTIFICIAL RAIN, SE, 175.00; ELLIS PLUMBING & HEATING, SE, 311.38; FIRST CONCORD GROUP, SE, 3828.87; FIRST NATIONAL INSURANCE, SE, 272.42; FLOOR MAINTENANCE, SU, 308.81; FORT DEARBORN LIFE, SE, 106.64; GERHOLD CONCRETE, SU, 1023.76; GLENN SHEPARD, SU, 299.00; CITY EMPLOYEE, RE, 214.28; HAUGE ASSOCIATES, RE, 167.75; CITY EMPLOYEE, RE, 10.20; CITY EMPLOYEE, RE, 124.96; ICMA, SE, 5658.06; IRS, TX, 17152.52; JEO CONSULTING GROUP, SE, 54719.20; CITY OF WAYNE, RE, 139.09; KEPSCO, SU, 6.50; KRIZ-DAVIS, SE, 571.91; LANGEMEIER, WAYNE, SE, 125.00; LOGAN VALLEY FOOTBALL, FE, 100.00; CITY EMPLOYEE, RE, 42.00; MATT LEY, RE, 700.00; MCGUIRE & NORBY, SE, 999.58; CITY EMPLOYEE, RE, 60.00; NE DEPT OF LABOR, SE, 72.00; NE DEPT OF REVENUE, TX, 2665.02; NEBRASKA U.C. FUND, RE, 334.66; NMC, INC., SU, 1492.50; N.E.NE AMERICAN RED CROSS, RE, 29.62; NNPPD, SE, 3450.81; OPTIMUM DATA, SU, 220.00; OUR SAVIOR LUTHERAN CHURCH, RE, 100.00; PIEPER, MILLER & DAHL, SE, 2057.50; PRESTO X, SE, 35.15; CITY EMPLOYEE, RE, 56.69; PRO CRANE SERVICE, SE, 896.25; QUILL, SU, 266.38; RIEKES EQUIPMENT, SU, 330.29; CITY EMPLOYEE, RE, 400.00; SMEAL FIRE APPARATUS, SE, 2080.00; STADIUM SPORTING GOODS, SU, 3558.75; TIM SCHAEFER, RE, 78.00; TONI HYTREK, SU, 83.00; TRIVIEW COMMUNICATION, SU, 111.00; UNITED WAY, RE, 5.00; VALMONT COATINGS, SU, 2598.97; VERIZON, SE, 161.31; VIAERO, SE, 138.38; WAYNE CO SHERIFF, SE, 99.88; WAYNE COUNTRY CLUB, RE, 125.00; WAYNE EAGLES, RE, 500.00; WAYNE STATE COLLEGE, RE, 7275.00; WESCO, SU, 945.72; CITY EMPLOYEE, RE, 83.40; ZIMCO, SU, 148.75; APPEARA, SE, 74.95; BAKER & TAYLOR BOOKS, SU, 493.76; BERRY, KATHY, RE, 159.57; CITY EMPLOYEE, RE, 214.01; CITY OF NORFOLK, SE, 560.85; CITY OF WAYNE, RE, 1000.00; CITY OF WAYNE, RE, 25.43; CITY OF WAYNE, RE, 277.41; COPY WRITE, SU, 454.96; DE LAGE LANDEN FINANCIAL, SE, 77.00; CITY EMPLOYEE, RE, 72.75; CITY EMPLOYEE, RE, 82.80; EASYPERMIT POSTAGE, SU, 666.64; ECHO GROUP, SU, 613.07; CITY EMPLOYEE, RE, 701.64; ED M FELD EQUIPMENT, SU, 575.00; ELITE OFFICE PRODUCTS, SU, 124.76; FRIESEN CHEVROLET, SE, 6.70; GALE GROUP, SU, 29.69; INDUSTRIAL CHEM LABS, SU, 910.11; INGRAM BOOK COMPANY, SU, 143.64; JANWAY COMPANY, SU, 223.32; JASON CAROLLO, SE, 140.00; JEO CONSULTING GROUP, SE, 7184.25; K & M SEED, SU, 70.00; KELLY SUPPLY COMPANY, SU, 70.93; KRIZ-DAVIS, SU, 906.85; CITY EMPLOYEE, RE, 84.11; KTCH, SE, 725.00; CITY EMPLOYEE, RE, 30.00; CITY EMPLOYEE, RE, 60.00; NE ENVIRONMENTAL PRODUCTS, SU, 196.84; NE LIBRARY COMMISSION, SE, 233.73; NE PUBLIC HEALTH, SU, 660.00; PAC N SAVE, SU, 6.00; CITY EMPLOYEE, RE, 130.18; RAD, INC., SU, 38.96; RANDOM HOUSE, SU, 33.75; ROBERTSON IMPLEMENT, SU, 35.30; S & S WILLERS, SU, 1564.15; STADIUM SPORTING GOODS, SU, 63.75; STAN HOUSTON EQUIPMENT, SU,

177.26; STATE NATIONAL BANK, RE, 123.03; STATE TREASURER OF NE, RE, 597.52; WAYNE HERALD, SE, 889.69; WAYNE KIWANIS, FE, 130.00; WAYNE VETERINARY CLINIC, SE, 70.00

FISCAL YEAR CLAIMS 2011-2012; CITY OF WAYNE, SE, 130.00; LAUREL SUMMER RECREATION, FE, 260.00

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 proclaimed October as “Domestic Violence Awareness Month.”

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 noted that Agenda item nos. 4, 5, and 6 have been stricken from the agenda.

Councilmember Sturm arrived at 5:35 p.m.

Mayor Chamberlain 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 \$48,404.27. The engineer on the project is requesting that this be approved contingent upon Eriksen Construction Co. submitting the necessary weekly wage reports to JEO Consulting Group.

Councilmember Ley made a motion, which was seconded by Councilmember Brodersen, approving Application for Payment No. 14 for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I Project, in the amount of \$48,404.27 to Eriksen Construction Co., contingent upon Eriksen Construction Co. submitting the necessary weekly wage reports to the project engineer, JEO Consulting Group. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Gene Hansen, Electric Production Superintendent, advised the Council that since the cooling tower project is behind schedule, staff has requested and received approval to extend the \$250,000 energy grant project period end date from December 31, 2011, to June 30, 2012. The same must be approved by Council.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, approving the extension of the \$250,000 Energy Efficiency and Conservation Block Grant Program Project period end date from December 31, 2011, to June 30, 2012. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Gene Hansen, Electric Production Superintendent, stated the following Resolution would allow the City to finance the Power Plant Cooling Tower Project with municipal revenue bonds that will be paid back from future electric fund revenues instead of paying for the project out of cash reserves. This recommendation comes as a result of interest rates for ten-year financing ranging anywhere from 1.2% to 4% for that time period.

Councilmember Ley introduced Resolution 2011-75, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2011-75

A RESOLUTION APPROVING REIMBURSEMENT OF FUNDS TEMPORARILY ADVANCED TO PAY 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.

City Clerk McGuire stated two bids were received on the Trail Signage Project. Staff has reviewed the bids and is recommending that the project be awarded to the low bidder, Tri-City Sign Company, in the amount of \$10,890.00. The bid was for 11 signs.

Joel Hansen, City Planner, stated this grant was received through the Nebraska Game & Parks Recreational Trails Program. This is the first project they have allotted grant funds to for an educational project. These signs will be located along the trail from Henry Victor Park to the rugby fields.

Mayor Chamberlain noted that the City's match for this project (20%) has been budgeted for.

Councilmember Ley introduced Resolution 2011-76, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2011-76

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE "HENRY VICTOR MEMORIAL PARK SIGN PROJECT."

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

The following Resolution would direct the City Clerk to file a lien against 509 West First Street for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owner.

Councilmember Brodersen introduced Resolution No. 2011-77 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-77

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON THE WEST 75' OF THE NORTH 150' OF LOT 30, TAYLOR & WACHOB'S ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 509 WEST FIRST STREET, WAYNE, NEBRASKA.

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

John Zwingman of Advanced Consulting Engineering Services advised the Council that he has prepared the plans and specifications for Street Improvement District No. 2011-1 (Pheasant Run Road/Western Ridge Third Addition). The paving will be a 9" thick, 30' wide concrete road extending approximately 875' north from the center of the intersection of Highway 35. There will also be installation of four driveways at unknown locations at this time, for not only the Bomgaars' property but also adjacent properties. They are hopeful that the road will be constructed this calendar year, weather permitting.

The Resolution before Council would confirm the hiring of their firm as the engineer on said project, approve the plans and specs, approve the cost estimate of \$165,000 for the project, and direct the City Clerk to start advertising for bids.

Mr. Zwingman noted that the bid letting date is October 14, 2011, at 11:00 a.m.

Mr. Zwingman also stated that they currently have four different proposed options for the grading of Mr. Bower's driveway to provide them access. Their surveyor is going to go out there and place flags to show Mr. Bowers where each of the proposed driveways would be. The Bowers can then choose which driveway is most acceptable to them.

Mr. Hansen noted that the worst case scenario is that if Mr. Bowers will not let the City on his property, the City can either go through condemnation proceedings or build a retaining wall that would be vertical about 10' in height in order to stay completely off his property.

Mayor Chamberlain stated negotiations with the Bowers will probably take place to try and come up with a solution that works best for everybody.

Councilmember Brodersen introduced Resolution No. 2011-78 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2011-78

A RESOLUTION APPROVING THE HIRING OF SPECIAL ENGINEERS AND APPROVING THE PLANS AND SPECIFICATIONS AND ESTIMATE OF COST FOR THE CONSTRUCTION OF CERTAIN STREET IMPROVEMENTS TO BE CONSTRUCTED IN THE CITY OF WAYNE, NEBRASKA (PHEASANT RUN ROAD).

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

Councilmember Sturm introduced Ordinance No. 2011-17 and moved for approval of the second reading thereof which reduces the occupation tax to \$150 for non-profit Class C Liquor Licenses; Councilmember Alexander 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 third and final reading will take place at the next meeting.

Councilmember Sturm introduced Ordinance No. 2011-19 and moved for approval of the second reading 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).

Ken Jorgensen, representing The Max, originally made the request and was present again requesting Council consideration to approving the ordinance.

Cale Giese and Joe Whitt, representing the Wayne State College Student Senate, spoke in favor of the passage of the ordinance.

Jeff Carstens, representing Wayne State College, and John Nelson, representing Project Extra Mile, spoke against the passage of the ordinance.

Councilmember Ley stated she has heard from three citizens in her ward that are opposed to this. Therefore, she would not be able to support the ordinance.

Councilmember Sturm, in response to a statement that had been made, stated this is not a last minute request. Mr. Jorgensen was here on at least two occasions. His personal belief is that this ordinance will not have any affect on the number of drunk

drivers or MIP's in Wayne. Drinking is the individual. Mr. Jorgensen is not doing anything wrong here; he is just asking for what the law has allowed.

Councilmember Frevert stated when the Council originally talked about this, the Council agreed they would more than likely give this a try on a case by case basis. If there are problems, more than likely other requests will not be approved.

Councilmember Brodersen opined that when Mr. Jorgensen had originally requested a 2:00 a.m. permanent closing time, the Council said no, let's do it on an event basis. Mr. Jorgensen has come back and done exactly what the Council wanted him to do. They tried it out on Chicken Show weekend. She agreed that this is a different group of people, but that it would also be a good trial period.

Councilmember Alexander stated this, for him, is a little bit more of what would fall into our special occasion or special event category, than the next item on the agenda (Halloween Party).

Michelle Meyer, co-owner of Mikey's Place, questioned whether or not the inclusion of Thursday on this trial basis as opposed to just the weekend was the problem.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Ley and Berry who 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.

Councilmember Sturm stated the comment was brought up that we did not allow a permanent 2:00 closing time, but we, as a Council, told people to bring it back for a few times and we'll give it a try. If this doesn't work on those special occasions, we can

change it. If we don't approve this, he didn't know what this would say for them as a City Council.

Mayor Chamberlain stated the motion, and the result of roll call being five Yeas (Frevert, Haase, Alexander, Sturm, and Brodersen) and 2 Nays (Councilmembers Ley and Berry), the Mayor declared the motion failed.

It was noted that in order to waive the three readings, there must be an affirmative vote of three-fourths of the Council or six members.

Councilmember Sturm introduced Ordinance No. 2011-20 and moved for approval of the second reading thereof; Councilmember Frevert 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 that to him, Halloween does not fall into that "special event" category.

Mayor Chamberlain stated the motion, and the result of roll call being four Nays (Councilmembers Haase, Alexander, Ley and Berry), and three Yeas (Councilmembers Frevert, Sturm, and Brodersen), the Mayor declared the motion failed.

Councilmember Alexander introduced Ordinance No. 2011-23 and moved for approval of the second reading thereof; Councilmember Haase 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 third and final reading will take place at the next meeting.

Mayor Chamberlain stated that Ho-Chunk Community Development Corporation is asking whether or not Wayne would like to be part of a grant to create a twenty-year planning document to identify goals and projects to further economic development in the area. The project will examine the current status of the region and focus on Livability Principals, which include transportation choices, affordable housing, infrastructure needs, support existing communities, enhance economic competitiveness, coordinate policies and leverage investments and value communities. There is a 20% match for this grant and HCCDC is requesting both financial and time support from the surrounding communities over the next three years. The amount they would be requesting from Wayne would be \$5,000 to participate in this grant.

Councilmember Frevert made a motion, which was seconded by Councilmember Sturm to not participate in the Sustainable Communities Regional Planning Grant with Ho-Chunk Community Development Corporation. 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 Sturm 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 6:30 p.m.