

**MINUTES  
CITY COUNCIL MEETING  
October 18, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, October 18, 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, Kathy Berry and Jill Brodersen; City Attorney Mike Pieper; City Administrator Lowell Johnson and City Clerk Betty McGuire. Absent: Councilmembers Jim Van Delden and Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on October 6, 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 Sturm made a motion, which was seconded by Councilmember Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of October 4, 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:

**ADDITIONS & CORRECTIONS FROM CLAIMS LIST OF 10/4/11:** DELETE -  
NE U.C. FUND UNEMPLOYMENT COMP \$334.66

**VARIOUS FUNDS - FISCAL YEAR CLAIMS 2011-2012:**  
4IMPRINT, SU, 803.99; ADVANTAGE TAPE, SE, 225.00; BROWN SUPPLY, SU,  
194.75; CARHART LUMBER CO, SE, 786.98; CHARTWELLS, SE, 5738.85; DANKO  
EMERGENCY EQUIPMENT, SU, 545.85; DEETS FURNITURE, SU, 995.00;  
DIGITAL ALLY, SU, 127.50; FLETCHER FARM SERVICE, SU, 695.60;  
FREDRICKSON OIL, SE, 119.39; FREDRICKSON TYRFIL, SE, 50.00; GEMPLER'S,

SE, 39.00; GREAT PLAINS ONE-CALL, SE, 73.37; HARDING & SHULTZ, SE, 40263.46; HDR ENGINEERING, SE, 1806.65; INNOVATIVE PROTECTIVES, SU, 641.70; IRS, TX, 17120.41; KTCH, SE, 160.00; LEAGUE OF NEBRASKA, FE, 1416.00; MCGRATH NORTH, SE, 3096.00; MES-MIDAM, SU, 2216.66; MUNICIPAL SUPPLY, SU, 89.88; NE AIR FILTER, SU, 45.45; NE DEPT OF REVENUE, TX, 2573.66; NE LAW ENFORCEMENT, FE, 50.00; NORFOLK TRUCK CENTER, SU, 92475.00; NORTHEAST EQUIPMENT, SU, 123.75; NNPPD, SE, 12180.28; OMAHA WORLD-HERALD, SE, 1332.62; PAMIDA, SU, 93.25; PEPSI-COLA, SU, 484.20; POLLARD PUMPING, SE, 222.50; QUALITY FOODS, SU, 2.97; STAN HOUSTON EQUIPMENT, SU, 347.27; STATE NATIONAL BANK, SE, 49.98; STEFFEN, SU, 5200.00; US BANK, SU, 5980.61; UTILITIES SECTION, FE, 105.00; WAYNE AUTO PARTS, SU, 312.14; WAYNE COMMUNITY SCHOOLS, RE, 1644.50; WAYNE COUNTY CLERK, SE, 11.00; WAYNE HERALD, SE, 967.50; ZACH OIL, SU, 5100.15; DAVE'S DRY CLEANING, SE, 96.00; MATT FRIEND TRUCKING, SU, 7713.00; NE HARVESTORE, SU, 27.04; PROVIDENCE MEDICAL CENTER, SE, 200.00

**FISCAL YEAR CLAIMS 2011-2012:** AMERICAN BROADBAND, RE, 330.00; AMERICAN LIBRARY ASSOC, FE, 180.00; AMERITAS, SE, 1411.11; APPEARA, SE, 159.09; BANK FIRST, SE, 150.00; BROWN SUPPLY, SU, 934.06; CITY OF WAYNE, RE, 117.00; CITY OF WAYNE, PY, 55187.01; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 297.99; COMMUNITY HEALTH, RE, 3.00; CONSOLIDATED MANAGEMENT, RE, 47.00; CORBY SCHWEERS, RE, 232.50; COUNTRY NURSERY, SE, 120.00; CREDIT BUREAU SERVICES, RE, 112.16; DALE PAULSON/PAULSON CONST, SE, 7001.54; DE LAGE LANDEN FINANCIAL, SE, 394.00; CITY EMPLOYEE, RE, 122.12; ENGINEERED CONTROLS, SE, 450.00; FLOOR MAINTENANCE, SU, 39.95; FORT DEARBORN LIFE, SE, 1471.19; GILL HAULING, SE, 133.00; CITY EMPLOYEE, RE, 700.00; HAUGE ASSOCIATES, RE, 167.75; CITY EMPLOYEE, RE, 11.48; HR SPECIALIST, SU, 139.00; ICMA, RE, 5659.83; KRIZ-DAVIS, SU, 1559.16; MARK AHMANN, RE, 480.00; CITY EMPLOYEE, RE, 66.71; MIDWEST LABORATORIES, SE, 626.95; MIKE TOWNE, SE, 800.00; NATIONAL BUSINESS INST., RE, 688.00; CITY EMPLOYEE, RE, 1567.50; NE CODE OFFICIAL ASSOC, FE, 200.00; NE LIBRARY COMMISSION, SU, 566.00; NE PUBLIC HEALTH, SE, 84.00; NE SAFETY COUNCIL, FE, 330.00; NPPD, SE, 323076.12; NEBRASKA U.C. FUND, RE, 1158.60; N.E. NE AMERICAN RED CROSS, RE, 29.62; NE NEB INS AGENCY, SE, 55194.00; OAKSTONE PUBLICATIONS, SU, 139.92; PAMELA EVERETT, RE, 500.00; CITY EMPLOYEE, RE, 22.12; PETERSON'S, A NELNET CO, SU, 107.80; PRESTO X, SE, 47.00; PROVIDENCE MEDICAL CENTER, RE, 10,000.00; SOCIETY FOR HUMAN, FE, 180.00; SOOLAND BOBCAT, SU, 185.37; SPARKLING KLEAN, SE, 1138.00; STADIUM SPORTING GOODS, SE, 28.00; STATE NATIONAL BANK, RE, 577021.67; STATE NATIONAL BANK, RE, 81148.32; STATE NATIOANL BANK, RE, 100.00; SUTTON, TIM, RE, 285.59; TRI-CITY SIGN COMPANY, SE, 5445.00; UNITED WAY, RE, 5.00; CITY EMPLOYEE, RE, 20.62; CITY EMPLOYEE, RE, 33.00; WALTER OTTE, RE, 477.25; WASTE CONNECTIONS, SE, 48.10; WATERLINK, INC, SE, 1053.42; WAYNE COMMUNITY SCHOOLS, SE, 100.00; WAPA, SE, 25657.66; CITY EMPLOYEE, RE, 71.00; WRIEDT, RONALD, SE, 50.00;

ZEE MEDICAL SERVICE, SU, 60.60; 4IMPRINT, SU, 116.67; AMAZON.COM, SU, 208.77; CITY EMPLOYEE, RE, 128.60; BIG T ENTERPRISES, SU, 609.80; CITY EMPLOYEE, RE, 21.00; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, SE, 160.00; CONSOLIDATED MANAGEMENT, SE, 73.50; COVENTRY HEALTH, SE, 18012.69; DAKOTA BUSINESS SYSTEMS, SE, 102.50; DGR & ASSOCIATES, SE, 238.00; DUTTON-LAINSON, SU, 290.43; ELECTRIC FIXTURE & SUPPLY, SU, 498.77; ELECTRONIC ENGINEERING, SE, 704.85; ELLIS PLUMBING & HEATING, SE, 1643.89; EXHAUST PROS, RE, 75.00; FIREMAN'S ASSOCIATION, SE, 5000.00; FLOOR MAINTENANCE, SU, 71.25; FRIESEN CHEVROLET, SU, 17.35; GREEN SOURCE, SU, 19.95; CITY EMPLOYEE, RE, 15.76; HERITAGE HOMES, RE, 2100.00; CITY EMPLOYEE, RE, 576.61; KORY LESEBERG, SE, 1250.00; KRIZ-DAVIS, SU, 879.69; MARRIOTT HOTELS, SE, 1655.26; MIDWEST TAPE, SU, 599.80; NE DEPT OF LABOR, SE, 403.00; NET-TECH, SU, 325.36; NORTHSTAR SERVICES, RE, 80.00; NSAWWA, FE, 150.00; OLSSON ASSOCIATES, SE, 681.00; PITNEY BOWES, SE, 648.00; PRESTO X, SE, 35.15; CITY EMPLOYEE, RE, 138.49; PUSH-PEDAL-PULL, SE, 234.28; SKARSHAUG TESTING LAB, SE, 336.54; STATE NATIONAL BANK, RE, 5182.50; CITY EMPLOYEE, RE, 231.21; TOM SIEVERS, RE, 500.00; CITY EMPLOYEE, RE, 282.33; W.T. COX SUBSCRIPTIONS, SU, 2455.09; WAED, RE, 6383.33; WAYNE GREENHOUSE, SU, 24.34; CITY EMPLOYEE, RE, 547.40; WESCO, SU, 3977.56; ZEE MEDICAL SERVICE, SU, 31.75

Councilmember Frevert made a motion and Councilmember Haase seconded to approve the claims.

Councilmember Alexander stated he just received an e-mail about the claim of McGrath North for Attorney's fees in the amount of \$3,096.00, and asked what this was in regard to.

Attorney Pieper responded that claim is for attorney's fees involving one of the police officers.

Councilmember Alexander asked Council to hold off on paying this claim until more information is found out about it.

Administrator Johnson advised the Council he did not have a problem with holding payment on that claim until the next meeting, and that the motion can be amended to exclude that particular claim.

Councilmember Alexander asked the Councilmembers who made and seconded the motion, if they would consider amending their motion to exclude the claim of McGrath North. Councilmember Haase stated he would; however, Councilmember Frevert stated he would not.

Mayor Chamberlain then asked Councilmember Haase if he was okay with his second if Councilmember Frevert would not amend his motion. Councilmember Haase responded that he was.

Councilmember Brodersen asked if this was something the City should not be paying. Councilmember Alexander replied he did not know, which is why he wanted to table that claim.

Attorney Pieper advised the Council that the City does have an opinion that the claim can be paid.

Councilmember Alexander stated this got brought to his attention right before the Council meeting, and he is not comfortable with approving it. If we had to have an opinion to pay it, he thought the Council should probably review it.

Councilmember Sturm stated if he has questions concerning the claims or there is something on the claims list he doesn't understand, he contacts staff prior to the meeting.

Councilmember Brodersen stated she was informed that there might be an issue with this claim.

Councilmember Alexander stated it was 5:10 p.m. when he received this e-mail, and asked how he was supposed to know what it is when it's a line item on the paper.

Councilmember Sturm stated that Attorney Pieper has told them that the City's attorney has reviewed the claim, and when it comes to legal things, he trusts that they

know more than he does. Since the City's attorney has reviewed the matter and has advised the Council that it can be paid, he is comfortable with that.

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

Lukas Rix and Terri Buck were present to extend an invitation to Council to attend "Wayne Innovation Night" on Friday, November 11<sup>th</sup>, at 7:00 p.m. at the Wayne Fire Hall. It's an opportunity for members of the community to come to the Fire Hall and share their ideas for more opportunities for Wayne to become innovative.

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.

Tom Sievers, Fire Chief, introduced Kimberly Marie Zuniga and requested Council consideration to approving her membership application to the Wayne Volunteer Fire Department Cadet Program.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving the membership application of Kimberly Marie Zuniga to the Wayne Volunteer Fire Department Cadet Program. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

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

Councilmember Sturm introduced Ordinance No. 2011-23 and moved for approval of the third and final reading thereof; Councilmember Brodersen 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.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding a Special Condition and Condition for Granting Exception Request under Sec. 90-355(4) of the B-1 Highway Business District for a drive-through coffee shop. The Applicant is Diane Pick.

Joel Hansen, Zoning Administrator, stated that the Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the following "Findings of Fact":

- Staff's recommendation; and

- This is consistent with the comprehensive plan and the current and future land use maps.

Wayne Municipal Code requires one condition for a use permit such as this which is that the business must prove it has the ability to stack three cars behind the car being served. Use by exception permits do not involve the property owner or any tenants; it involves the property only and the use permit is attached to the deed for all time.

Molly Younts, one of the owners of the drive through coffee shop, was present to answer questions and explain a little bit about the company. The location of the property is at the corner of 7<sup>th</sup> Street and Dearborn Avenue. They have been working on this project/concept for over one year.

Wes Blecke, Director of WAED, was in favor of the Planning Commission's recommendation on the use by exception permit.

There being no further comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Sturm introduced Resolution 2011-79, and moved for its approval; Councilmember Haase seconded.

#### RESOLUTION NO. 2011-79

A RESOLUTION APPROVING THE APPLICATION FOR A ZONING USE BY EXCEPTION PERMIT TO ALLOW FOR A DRIVE-THROUGH COFFEE SHOP AT 527 E. 7<sup>TH</sup> STREET, LEGALLY DESCRIBED AS LOTS 1 AND 17, BLOCK 1, EAST ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA."

In response to a question posed by Councilmember Sturm, Mr. Hansen advised the Council that the use permit is only for the two center lots on the map. It is specific to just those two parcels and has to be there for all time regardless who owns the property.

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

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the amendment of Sec. 90-358(1) Front Yard – Minimum Yard Requirements of the B-1 Highway Business District. The applicant is the City of Wayne.

Joel Hansen, Zoning Administrator, stated the following ordinance would amend Sec. 90-358(1) as follows:

**Sec. 90-358. Minimum Yard Requirements**

The minimum requirements are as follows:

1. Front yard. There shall be a minimum front yard of not less than a depth of 100 feet from the centerline of a federal aid-primary ~~or federal aid secondary~~ designated street or highway or 35 feet from the property line, whichever is greater. In all other streets or highways, there shall be a minimum front yard of not less than a depth of 25 feet from the property line. These yard requirements shall apply to any yard abutting a federal aid-primary ~~or federal aid secondary~~ designated street or highway regardless of the lot's being an interior or corner lot.
2. Rear yard. No rear yard is required, except the minimum rear yard abutting an R district shall be 25 feet.
3. Side yard. No side yard is required, except the minimum side yard abutting an R district shall be ten feet.
4. Distance between structures. The minimum distances between a residential or other principal structure and other structure shall be ten feet.

Mr. Hansen stated the only change is the omission of the words “or federal aid secondary.” All federally classified side streets intersecting 7<sup>th</sup> Street and Main Street currently have a 100’ setback requirement from the center line of the street. This action will make all side streets coming off of Highway 35 and Highway 15 have the same setback as the rest of the B-1 side street front setbacks, which is 25 feet from the property line. In some instances, this change would almost double the buildable space on some

lots. This should open up a lot more redevelopment opportunities on some of these lots as well.

This is also the recommendation in the B-3 zoning district, which is the next public hearing item on the agenda.

The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the following “Findings of Fact”:

- Staff’s recommendation; and
- This is consistent with the comprehensive plan and the current and future land use maps.

There being no further comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Frevert introduced Ordinance 2011-24, and moved for its approval; Councilmember Sturm seconded.

#### ORDINANCE NO. 2011-24

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-1 HIGHWAY BUSINESS DISTRICT, SECTION 90-358 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE 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.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission’s recommendation regarding the amendment of Sec.

90-428(a) Front Yard – Minimum Yard Requirements of the B-3 Neighborhood Commercial District. The applicant is the City of Wayne.

Joel Hansen, Zoning Administrator, stated the following ordinance would amend Sec. 90-428(a) as follows:

**Sec. 90-428. Minimum Yard Requirements**

The minimum requirements are as follows:

- (a) Front yard. In a B-3 district, there shall be a minimum front yard of not less than a depth of 80 feet from the centerline of a federal aid-primary ~~or federal aid-secondary~~ designated street or highway or 15 feet from the property line, whichever is greater. On all other streets or highways, there shall be a minimum front yard of not less than a depth of 15 feet from the property line. These yard requirements shall apply to any yard abutting a federal aid-primary ~~or federal aid-secondary~~ designated street or highway regardless of the lot's being an interior or corner lot.
- (b) Rear yard. The minimum rear yard abutting an R district shall be ten feet.
- (c) Side yard. The minimum side yard abutting an R district shall be ten feet.
- (d) Distance between structures. The minimum distance between a residential or other principal structure and another structure shall be ten feet.

This is essentially doing the same thing as the last item on the agenda, except that it affects the B-3 Zoning District. This eliminates the 80' setback requirement from the centerline of the street and makes it uniform with the rest of the B-3 side street front yard setbacks, which is 15' from the property line.

The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the following "Findings of Fact":

- Staff's recommendation; and
- This is consistent with the comprehensive plan and the current and future land use maps.

There being no further comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Sturm introduced Ordinance 2011-25, and moved for its approval; Councilmember Frevert seconded.

#### ORDINANCE NO. 2011-25

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-428 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE 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.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the amendment of Sec. 90-422 Permitted Principal Uses and Structures, Sec. 90-423(2) Permitted Accessory Uses and Structures, and Sec. 90-424 (13 & 14) Exceptions of the B-3 Neighborhood Commercial District. The applicant is the City of Wayne.

Joel Hansen, Zoning Administrator, stated the following ordinance would amend those sections referred to above as follows:

#### **Sec. 90-422. Permitted principal uses and structures**

The following shall be permitted as uses by right in a B-3 district:

1. Business offices.
2. Professional offices.
3. Retail stores and service establishments which supply commodities or provide services primarily to meet the convenience needs of residents of one or more residential neighborhoods, including:
  1. Apparel stores.

2. Automobile parking.
3. Bakery goods store.
4. Banks and other lending agencies, detached banking facilities, and automatic teller machines, subject to section 90-425.
5. Barbershops, beauty parlors, tanning salons, and shoeshine shops.
6. Bookstores.
7. Car wash establishments, subject to section 90-425.
8. Charitable institutions (soup kitchens, missions, food pantries).
9. Cleaning agencies (pickup and delivery only).
10. Clinic (medical).
11. Coin-operated laundromats, excluding dry cleaning.
12. Drugstores and pharmacies.
13. Dry cleaning and laundry agencies, provided that cleaning and laundering is not done on the premises.
14. Electrical appliances and incidental repair shops.
15. Food lockers (no slaughtering).
16. Food stores, delicatessens, and supermarkets.
17. Funeral homes and mortuaries.
18. Garden supply stores and nurseries, provided that all equipment, supplies, merchandise and plants shall be kept within a completely enclosed building, and provided that fertilizer of any type shall be stored and sold in packaged form only.
19. Hardware stores.
20. Medical, pharmaceutical, dental, and related health care and personal services.
21. Pressing, altering and repairing of wearing apparel establishments.
22. Radio and television, office equipment, electrical and electronic equipment stores, and repair shops.
23. Restaurants, cafeterias, tearooms and cafes, including outdoor cafes.
24. Shoe stores.
25. Specialty shops such as:
  1. Camera shops, photographic supplies and photograph studios.
  2. Candy and confectionery.
  3. Dairy products.
  4. Florists.
  5. Gift shops.
  6. Hobby and art supply.
  7. Locksmiths.

- 8. Newsstand/magazine.
- 9. Soda fountains.
- 10. Stationery stores.
- 11. Video and electronic rentals.
- 26. Tailor and dressmaker shops.
- 27. Variety stores.
- 4. Signs in accordance with the provisions of section 90-713.

**5. Single-Family Dwelling**

**6. Two-Family Dwelling**

**Sec. 90-423. Permitted accessory uses and structures**

The following accessory uses and structures shall be permitted in a B-3 district:

- 1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions, provided that:
  - 1. a) Shall be in conformance with the provisions of Section 90-703 of this code.

~~2. One family dwellings over or to the rear of a permitted use, provided that such dwellings are primarily for the use of the person owning or operating the commercial use on the same site.~~

**Sec. 90-424. Exceptions**

In accordance with article XI of this chapter, the following exceptions are allowed in a B-3 district:

- 1. Auto sales and services, including open air display of new or used cars.
- 2. Bowling alleys.
- 3. Child care centers.
- 4. Child care homes.
- 5. Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks.
- 6. On-premises laundry and cleaning.
- 7. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district.
- 8. Planned unit developments.
- 9. Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private nonprofit schools, churches, parsonages and other religious institutions; parks and playgrounds.

10. Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities.
11. Private club or lodge.
12. Service stations (gasoline), excluding automotive repair services not included in the definition of "service station" as provided in section 90-10, provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides.
- ~~13. Single-family dwelling.~~
- ~~14. Two-family dwelling.~~
15. Mini warehouses.
16. Manufactured homes for residential purposes, provided the home complies with all provisions 90-711.
17. Vehicle Towing Service.

The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the following "Findings of Fact":

- Staff's recommendation; and
- This is consistent with the comprehensive plan and the current and future land use maps.

Currently, single-family and two-family dwellings are permitted in this zoning as a "use by exception." This amendment will reclassify those as permitted uses. This will harmonize our code with our new Comprehensive Plan that encourages mixed use and will also clarify our existing practice which determines that a "use by exception" for these structures in this zoning is ongoing with the property. In addition, this action also eliminates the requirement that dwellings above or behind commercial businesses must be occupied by people owning or operating that business and will allow its use as a general residence.

There being no further comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Sturm introduced Ordinance 2011-26, and moved for its approval; Councilmember Alexander seconded.

ORDINANCE NO. 2011-26

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-422 PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 90-423 PERMITTED ACCESSORY USES AND STRUCTURES, AND SECTION 90-424 EXCEPTIONS, B-3 NEIGHBORHOOD COMMERCIAL DISTRICT; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE 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.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the amendment of Sec. 90-394 Exceptions and adding Sec. 90-402 Conditional Uses of the B-2 Central Business District. The applicant is the City of Wayne.

Joel Hansen, Zoning Administrator, stated the following ordinance would amend those sections referred to above as follows:

**Sec. 90-394. Exceptions**

In accordance with article XI of this chapter, the following exceptions are allowed in the B-2 district:

1. Child care homes and centers.
2. Cleaning and laundry on premises.
3. Commercial recreation facilities (bowling alleys, miniature golf courses, dancehalls, and similar uses).
4. Electric distribution substations and gas regulator stations.
- ~~5. Multifamily residential uses, provided that such uses shall meet the state fire marshal's requirement standards for new construction, unless specifically waived by the planning commission for an existing structure; and;~~

- ~~a. Provided the dwelling meets the regulations contained in the R-3 district, unless otherwise provided for in this subsection.~~
  - ~~b. Provided a minimum of two off-street parking spaces for each unit are available.~~
  - ~~c. Whenever the planning commission considers and rules upon a permit for a use by exception (conditional use) as it may pertain to multifamily residential uses which are proposed to occupy the first or ground floor of a structure in the B-2 district, the commission should exclude, as a condition, the area occupied on a lot within 30 feet of a front lot line at ground level such that it be used/usable for any allowable uses other than residential.~~
  - ~~d. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district.~~
6. Private clubs and lodges.
  7. Service stations (gasoline), excluding automotive repair services not included in the definition of "service station" as provided by this chapter, provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides.
  - ~~8. Single-family dwelling, provided:~~
    - ~~a. Such dwelling meets the regulations contained in the R-3 district, unless otherwise provided for in this subsection.~~
    - ~~b. A minimum of two off-street parking spaces for each unit are available.~~
  9. Storage garages and mini-warehouses.
  - ~~10. Two-family dwelling, provided:~~
    - ~~a. Such dwelling meets the regulations contained in the R-3 district, unless otherwise provided for in this subsection.~~
    - ~~b. A minimum of two off-street parking spaces for each unit are available.~~
  11. Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private nonprofit schools, churches, parsonages, and other religious institutions; parks and playgrounds.
  12. Public uses of an administrative, public service or cultural type, including city, county, state or federal post offices, administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities.
  13. Public utility facilities.
  14. Sports arenas within buildings.
  15. Temporary shelter for homeless.
  16. Manufactured homes, for residential purposes, provided the home complies with all provisions of Section 90-711.

Section 2. That Chapter 90, Article V Business and Commercial Districts, Division 2. B-2 Central Business District of the Wayne Municipal Code shall be amended by adding Section 90-402. Permitted conditional uses thereto:

**Sec. 90-402. Permitted conditional uses.**

**A building or premises in a B-2 district may be used for the following in conformance with the prescribed conditions:**

- 1. Multifamily Residential Uses:**
  - a. Provided that such use shall meet the State Fire Marshal's requirements.**
  - b. Provided the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this subsection.**
  - c. Provided a minimum of two off-street parking spaces for each unit are available.**
  - d. Provided the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for nonresidential use.**
- 2. Single-family dwelling, provided:**
  - a. Provided that such use shall meet the State Fire Marshal's requirements.**
  - b. Provided the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this subsection.**
  - c. Provided a minimum of two off-street parking spaces for each unit are available.**
  - d. Provided the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for nonresidential use.**
- 3. Two-family dwelling, provided:**
  - a. Provided that such use shall meet the State Fire Marshal's requirements.**
  - b. Provided the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this subsection.**
  - c. Provided a minimum of two off-street parking spaces for each unit are available.**
  - d. Provided the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for nonresidential use.**

The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the following "Findings of Fact":

- Staff's recommendation; and
- This is consistent with the comprehensive plan and the current and future land use maps.

Staff has been dealing with several entities looking to purchase downtown buildings that are currently empty but need the revenue from upstairs (or rear) apartments to help cash-flow their renovations to get the business started. The use is currently allowed, but requires a fee and public hearings that can delay a business opportunity. Conditions are already outlined in the code for multifamily use, and making this a conditional use would allow the Zoning Administrator to verify these same conditions were met without the added cost and process of two public hearings. This will hopefully spur more downtown development.

This action would also keep the same requirements for the dwellings as follows”:

1. Meets the State Fire Marshal requirements
2. Dwelling meets the R-3 regulations
3. Provides two off-street parking spaces per unit; and
4. The first 30 feet of frontage at ground level is reserved for commercial use.

The recommendation of the Zoning Official and City Administrator is to also approve the amendment and to further clarify requirement #4 by adding the following phrase through a Council motion to approve: "Provided the lot must also contain an existing nonresidential use." This will keep the commercial nature of the district intact and prevent someone from building a stand-alone residential structure and setting it 30 feet from the front lot line and still meet the conditions as currently written.

There being no further comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Brodersen introduced Ordinance 2011-27, and moved for its approval, with an additional condition being added as item (e) in Sections 1, 2, and 3 of Sec. 90-402: “Provided the lot must also contain an existing nonresidential use”; Councilmember Sturm seconded.

ORDINANCE NO. 2011-27

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-2 CENTRAL BUSINESS DISTRICT, SECTION 90-394 EXCEPTIONS; AND BY ADDING SECTION 90-402 PERMITTED CONDITIONAL USES; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE 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.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission’s recommendation in regard to a rezoning request to amend all of Western Ridge Third Addition to B-1 Highway Business District.

Joel Hansen, Zoning Administrator, stated when Western Ridge Third Addition was in the process of being platted, it was discovered that the zoning district line had been drawn in, and no true metes and bounds descriptions were done. Therefore, an indescribable zoning district line was left, and where it was drawn cannot be verified to line up with the platted lots. The City is therefore making the rezoning request to legally define the zoning district line and have all of Western Ridge Third Addition be zoned to B-1 Highway Business District.

The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the following “Findings of Fact”:

- Staff's recommendation; and
- This is consistent with the comprehensive plan and the current and future land use maps.

There being no further comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Sturm introduced Ordinance 2011-28, and moved for its approval; Councilmember Brodersen seconded.

#### ORDINANCE NO. 2011-28

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF ALL OF WESTERN RIDGE THIRD ADDITION TO B-1 HIGHWAY BUSINESS.

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.

Mayor Chamberlain declared the time was at hand for the public hearing on the Wayne Revolving Loan Fund (WRLF) application of Miss Molly's Coffee Company, LLC, for \$50,000 which will be used to renovate the second floor and improve the face of the building located at 203 Main Street.

Wes Blecke, Executive Director of Wayne Area Economic Development, advised the Council that Wayne Industries has reviewed the application and unanimously recommended approval thereof.

Melodee and Molly Younts were present to answer questions. The building being purchased is the former McNatt building.

There being no further public comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Sturm introduced Resolution No. 2011-80 and moved for its approval; Councilmember Alexander seconded.

#### RESOLUTION NO. 2011-80

A RESOLUTION CONFIRMING THE APPLICATION FOR AND APPROVING THE USE OF NOT TO EXCEED \$50,000 FROM THE WAYNE REVOLVING LOAN FUND.

Since this money is going towards the renovation of the building and not the sale of the building, Councilmember Frevert was advised he did not have a conflict and could vote on this matter.

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

Wes Blecke, Executive Director of WAED, was present and advised the Council that the Sales Tax Advisory Committee met and reviewed an application to Wayne's Economic Development Program Fund. The Committee recommended approving the request of Miss Molly's Coffee Company, LLC, for a \$30,000 performance based loan. The terms the Committee is suggesting would be a five year, performance based loan, with \$6,000 to be forgiven per year as long as the company maintains two full-time and 13 part-time employees. This project would put a coffee company, plus other business potentials, on Main Street in the old McNatt building. The vote on the motion to

recommend approving the request was unanimous with 7 members present voting in favor.

When asked how the Committee determines the criteria when recommending a performance based loan, Mr. Blecke responded that the Committee determines what is reasonable and whether or not they think the company can meet the requirements based upon the information provided to them by the applicants. There is no formula used.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving the recommendation of the LB 840 Sales Tax Advisory Committee to approve a \$30,000 performance based loan to Miss Molly's Coffee Company, LLC, which will be a five-year note, with \$6,000 being forgiven each year as long as the company maintains two full-time and 13 part-time employees. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing on the Wayne Revolving Loan Fund (WRLF) application of Fourth Generation Family Limited Partnership, d/b/a Bomgaars, for \$150,000 which will be used to construct a new retail building on the west end of Wayne, with said funds going towards drainage and water runoff.

Wes Blecke, Executive Director of Wayne Area Economic Development, advised the Council that Wayne Industries has reviewed the application and unanimously recommended approval thereof. This is a twenty year note, with a balloon payment due in seven years. This will be a 26,500 sq. ft. facility. Their current building is 15,000 sq.

ft. They are hoping to be open the middle of October, 2012. They will physically move the store in two days.

There being no further public comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Alexander introduced Resolution No. 2011-81 and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2011-81

A RESOLUTION CONFIRMING THE APPLICATION FOR AND APPROVING THE USE OF NOT TO EXCEED \$150,000 FROM THE WAYNE REVOLVING LOAN FUND.

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

Mayor Chamberlain declared the time was at hand for the public hearing on the Wayne Revolving Loan Fund (WRLF) application of Wayne Area Economic Development for \$150,000 which will be used to bring a car assembly plant to Wayne where the Noble line of vehicles will be assembled.

Wes Blecke, Executive Director of Wayne Area Economic Development, advised the Council that Wayne Industries has reviewed the application and unanimously recommended approval thereof.

They are working on bringing a contract manufacturing facility of the Noble line of vehicles to Wayne. There is a draft business plan in place, and at this time, they are looking at \$400,000 in financing. If approved, \$150,000 will come from the Wayne

Revolving Loan Fund; \$150,000 will come from LB840 funds; and \$100,000 will come from local investors. WAED will not be the owner of this, nor are they investing in this project. At some point, they will hand this off to a company yet to be named.

There being no further public comments, Mayor Chamberlain closed the public hearing.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Brodersen introduced Resolution No. 2011-82 and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2011-82

A RESOLUTION CONFIRMING THE APPLICATION FOR AND APPROVING THE USE OF NOT TO EXCEED \$150,000 FROM THE WAYNE REVOLVING LOAN FUND.

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

Wes Blecke, Executive Director of WAED, was present and advised the Council that the Sales Tax Advisory Committee met and reviewed an application to Wayne's Economic Development Program Fund. The Committee recommended approving the request by Wayne Area Economic Development on behalf of a company yet to be named for a loan guarantee up to \$150,000. This project would bring a compressed natural gas vehicle assembly plant to Wayne. This project would need to find conventional financing before the guarantee would be utilized. The vote on the motion to recommend approving the request was 5 of the 7 members present in favor thereof. He noted that the Council

has to commit the funds, but the funds wouldn't actually be expended unless something would happen.

Mr. Blecke noted that loan guarantees are not something he ever advocated for with LB840 funds, because you are tying up funds that you are not using. But in this circumstance, he thinks it's very appropriate because you want the bank involved to show commitment on their part as well. The funds would be tied up for the length of the loan.

Councilmember Frevert made a motion and seconded by Councilmember Brodersen approving the recommendation of the LB 840 Sales Tax Advisory Committee to approve a loan guarantee of up to \$150,000 to Wayne Area Economic Development on behalf of a company yet to be named to bring a compressed natural gas vehicle assembly plant to Wayne. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson presented the Council with a revised job description for a Recreation Services Director position. This would be a full-time position, and staff will be getting ready to advertise for the same.

Mayor Chamberlain stated he and staff have had some discussions regarding this position and what the needs must be. The applicants that previously applied for the part-time Community Activity Center Director position will be contacted and given the opportunity to put their name in for this position.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the job description for the Recreation Services Director position. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated seven bids were received for the street improvement project on Pheasant Run Road. The engineer on the project, Advanced Consulting Engineering Services, has reviewed the bids and is recommending awarding the same to the low bidder, Elkhorn Paving Construction, Norfolk, Nebraska, in the amount of \$149,979.51. The engineer's estimate was \$165,000. The project will probably start next spring.

Joel Hansen, Zoning Administrator, noted there is an alternate bid that could increase the cost depending upon how much retaining wall we have to build.

Councilmember Brodersen introduced Resolution No. 2011-83 and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2011-83

#### A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON STREET IMPROVEMENT DISTRICT NO. 2011-1 (PHEASANT RUN ROAD).

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 approving the reappointment of Lee Brogie to the Planning Commission.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the reappointment of Lee Brogie to the Planning Commission. 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 approving the appointment of Breck Giese to the Planning Commission. He will replace Kelby Herman.

Councilmember Frevert made a motion and seconded by Councilmember Alexander approving the appointment of Breck Giese to the Planning Commission. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sturm who voted Nay, the Mayor declared the motion carried.

Councilmember Frevert 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 6:44 p.m.