

**MINUTES
CITY COUNCIL MEETING
November 15, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, November 15, 2011, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson and City Clerk Betty McGuire. Absent: Councilmembers Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 3, 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 Alexander, whereas the Clerk has prepared copies of the Minutes of the meeting of November 1, 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, RE, 1416.02; APPEARA, SE, 77.44; BANK FIRST, SE, 150.00; BARONE SECURITY SYSTEMS, SE, 81.96; CITY EMPLOYEE, RE, 184.03; BEVERLY STURM, RE, 500.00; BOARD OF EXAMINERS, FE, 10.00; BOMGAARS, SU, 1542.97; BROWN SUPPLY, SU, 591.50; CARHART LUMBER CO, SU, 2603.33; CHARTWELLS, SE, 5504.20; CITY OF WAYNE, RE, 350.00; CITY OF WAYNE, RE, 155.20; CITY OF WAYNE, PY, 55245.84; COMMUNITY HEALTH, RE, 3.00; COPY WRITE, SU, 224.95; CREDIT BUREAU SERVICES, RE, 112.16; DAVE SWANSON, SE, 99.10; DE LAGE LANDEN FINANCIAL, SE, 394.00;

DEMCO, SU, 106.71; EASYPERMIT POSTAGE, SU, 1676.20; CITY EMPLOYEE, RE, 42.34; ERIC SCHOH, RE, 249.05; FLOOR MAINTENANCE, SU, 334.85; FREDRICKSON OIL, SU, 1477.73; GALE GROUP, SU, 75.81; GEORGE PHELPS, RE, 500.00; GILL HAULING, SE, 133.00; GRAHAM TIRE, SU, 697.74; GRAINGER, INC., SU, 66.85; GREAT PLAINS ONE-CALL, SE, 62.44; HD SUPPLY, SU, 7166.85; HOLIDAY INN ""MIDTOWN"", SE, 154.00; HOLIDAY INN OF KEARNEY, SE, 509.70; ICMA, SE, 5843.54; INGRAM BOOK COMPANY, SU, 454.76; IRS, TX, 17330.66; JASON CAROLLO, SE, 175.00; JOHN'S WELDING AND TOOL, SE, 1776.72; CITY EMPLOYEE, RE, 714.17; JOYCE TREVETT, RE, 500.00; KAREN GRANBERG, RE, 500.00; KTCH, SE, 852.00; LERNER PUBLISHING GROUP, SU, 141.90; CITY EMPLOYEE, RE, 60.00; MIDWEST LABORATORIES, SE, 1347.05; MIKE TOWNE, SE, 700.00; MUNICIPAL SUPPLY, SU, 468.60; NE AIR FILTER, SU, 529.91; NE DEPT OF REVENUE, TX, 2656.07; NE PUBLIC HEALTH, SE, 168.00; NPPD, SE, 212370.05; NORFOLK DAILY NEWS, SU, 132.50; NORTHEAST EQUIPMENT, SU, 33.02; N.E.NE AMERICAN RED CROSS, RE, 49.26; NNPPD, SE, 12180.28; O'KEEFE ELEVATOR COMPANY, SE, 875.00; OLSSON ASSOCIATES, SE, 3114.55; PAC N SAVE, SU, 500.36; PAMIDA, SU, 76.05; CITY EMPLOYEE, RE, 828.58; PEPSI-COLA, SU, 228.10; PIEPER, MILLER & DAHL, SE, 5003.00; PLUNKETT'S PEST CONTROL, SE, 93.60; POSTMASTER, SU, 54.40; PRESTO X, SE, 119.15; CITY EMPLOYEE, RE, 155.52; PROVIDENCE MEDICAL CENTER, SE, 130.00; RON'S RADIO, SE, 35.00; ROURKE PUBLISHING, SU, 95.70; SCOTT JOHNSON, RE, 500.00; SHARON M HUGHES, RE, 488.70; SPARKLING KLEAN, SE, 2125.60; STADIUM SPORTING GOODS, SU, 168.00; STAN HOUSTON EQUIPMENT CO, SU, 49.61; STATE NATIONAL BANK, SE, 49.07; CITY EMPLOYEE, RE, 80.33; UNITED WAY, RE, 10.00; US BANK, SU, 1603.66; UTILITIES SECTION, FE, 945.00; WASTE CONNECTIONS, SE, 48.10; WAYNE AUTO PARTS, SU, 1055.62; WAYNE COMMUNITY HOUSING, RE, 487.50; WAYNE COMMUNITY SCHOOLS, SE, 100.00; WAYNE COUNTY CLERK, SE, 38.50; WAYNE GREENHOUSE, SU, 34.00; WAYNE GROCERY, SU, 5.97; WAYNE HERALD, SE, 1323.91; WAYNE VETERINARY CLINIC, SE, 434.00; WESCO, SU, 13385.99; WAPA, SE, 25027.44; CITY EMPLOYEE, RE, 89.91; ZACH HEATING & COOLING, SE, 566.00; ZACH OIL, SU, 6039.59; ADVANCED CONSULTING ENGINEERING, SE, 5460.40; AMAZON.COM, SU, 433.59; AMERICAN RED CROSS, SU, 14.95; BAKER & TAYLOR BOOKS, SU, 949.08; CITY EMPLOYEE, RE, 240.55; CITY EMPLOYEE, RE, 221.47; CITY OF WAYNE, RE, 383.20; COVENTRY HEALTH, SE, 18955.13; DAKOTA BUSINESS SYSTEMS, SE, 102.50; DEMCO, SU, 80.91; GLEN'S AUTO BODY, SU, 64.15; HARDING & SHULTZ, SE, 97888.98; INTERSTATE BATTERY, SU, 101.95; JANIS MYERS, RE, 314.89; KNIFE RIVER MIDWEST, SE, 1184.49; CITY EMPLOYEE, RE, 2112.87; MARSHALL CAVENDISH, SU, 62.85; MCGRATH NORTH, SE, 1,080.00; MIDWEST MESSENGER, SU, 32.80; MIDWEST SERVICE & SALES, SU, 78.00; MIDWEST TAPE, SU, 388.88; N.E. NEB ECONOMIC DEV DIS, SE, 2402.79; QUILL, SU, 1083.02; RANDOM HOUSE, SU, 502.48; ROSE EQUIPMENT, SU, 3518.15; STADIUM SPORTING GOODS, SU, 338.00; CITY EMPLOYEE, RE, 188.66

Councilmember Sturm 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.

Lisa Nelson, Service Learning Coordinator at Wayne State College, gave a report on the community wide garage sale hosted by Wayne State College at the City auditorium. The proceeds of the sale, \$1,350, were presented to Goldenrod Hills. Their spring sale is scheduled for March 23-24, 2012.

Councilmember Berry arrived at 5:35 p.m.

Tom Sievers, Fire Chief, introduced Andy Scholl and requested Council consideration to approving his 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 Andy Scholl 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.

Tom Sievers, Fire Chief, introduced Trevor Eisenhauer and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department.

Councilmember Alexander made a motion and seconded by Councilmember Sturm approving the membership application of Trevor Eisenhauer 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.

Garry Poutre, Superintendent of Public Works & Utilities, gave a power point presentation and update on the Aquarius Wastewater Treatment Plant construction and start-up project.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding a rezoning request from I-1 Light Industrial and Manufacturing to I-2 Heavy Industrial and Manufacturing. The area to be rezoned is described as that part of the SW1/4 of Section 8, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska, and the applicant is the City of Wayne.

Administrator Johnson stated the Planning Commission reviewed the rezoning request at their public hearing on November 14, 2011, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

At this time, there is a prospect looking at the "Opportunity Building". The six acre lot that the opportunity building sets on is split into I-1 and I-2 zoning districts. This

proposal rezones the area east of Centennial Road north, north of Highway 35 and west of Logan Creek all to I-2.

Irene Fletcher of Wayne Area Economic Development spoke in support of the rezoning, not just for the Opportunity Building that is divided by the zoning line, but for the other properties in the area as well.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

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

Councilmember Sturm introduced Ordinance 2011-31, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-31

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF AN AREA DESCRIBED AS THAT PART OF THE SOUTHWEST QUARTER OF SECTION EIGHT, TOWNSHIP TWENTY-SIX NORTH, RANGE FOUR, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, WHICH LIES WEST OF THE CENTERLINE OF THE SOUTH LOGAN CREEK FROM I-1 LIGHT INDUSTRIAL AND MANUFACTURING TO I-2 HEAVY INDUSTRIAL AND MANUFACTURING.

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

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

Councilmember Sturm made a motion and Councilmember Alexander seconded to move for final approval of Ordinance No. 2011-31. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander introduced Ordinance 2011-24, and moved for approval of the third and final reading thereof; 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.

Councilmember Sturm introduced Ordinance 2011-25, and moved for approval of the third and final reading thereof; Councilmember Alexander 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.

Councilmember Alexander introduced Ordinance 2011-26, and moved for approval of the third and final reading thereof; Councilmember Sturm 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.

Councilmember Brodersen introduced Ordinance 2011-27, and moved for approval of the third and final reading thereof; Councilmember Alexander 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.

Councilmember Brodersen introduced Ordinance 2011-28, and moved for approval of the third and final reading thereof; Councilmember Sturm 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.

Councilmember Alexander introduced Ordinance 2011-29, and moved for approval of the second reading thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-29

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE STATE COLLEGE GRADUATION ACTIVITIES.

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

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

Councilmember Sturm made a motion and Councilmember Alexander seconded to move for final approval of Ordinance No. 2011-29. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm introduced Ordinance 2011-30, and moved for approval of the second reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-30

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR NEW YEAR'S EVE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Administrator Johnson stated the following Resolution approves an agreement with NDOR regarding the Windom Street, East 3rd – East 7th Street Project. Three years ago, the NDOR allocated 80% of the costs to do this project. When the department was reorganized, all of those funds went away, but they kept a tag by our name saying when funds are made available again, this project will get funding. This agreement confirms they are allocating funds for this project. The scheduled construction time for this project is 2013.

Administrator Johnson stated the E. 10th Street project will be after this one, but we probably will not receive that agreement from NDOR until later this winter. That is also a 2013 project.

Councilmember Sturm introduced Resolution No. 2011-88 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-88

A RESOLUTION APPROVING LPA PROGRAM AGREEMENT – STP FUNDS FOR THE WINDOM STREET, EAST 3RD STREET TO EAST 7TH STREET ROADWAY IMPROVEMENT PROJECT.

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

Administrator Johnson stated the following Resolution would amend Resolution 2011-76 which approved the bid and awarded the contract on the “Henry Victor Memorial Park Sign Project” to Tri-City Sign Company by adding language therein that the same is contingent upon approval by the Nebraska Game & Parks Commission. This language is necessary for them to expend the funds.

Councilmember Alexander introduced Resolution No. 2011-89 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2011-89

A RESOLUTION AMENDING RESOLUTION 2011-76 WHICH ACCEPTED THE BID OF AND AWARDED THE CONTRACT TO TRI-CITY SIGN COMPANY FOR 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.

Garry Poutre, Superintendent of Public Works & Utilities, stated the work has been completed on the 2011 Lagoon Sludge Removal and Application Project. DRT Biosolids removed approximately 1,560 tons of sludge for disposal via land application. JEO, the engineer on the project, is recommending acceptance of the project and approving Application for Payment No. 1, which is the final payment, in the amount of \$150,000.

Councilmember Sturm introduced Resolution No. 2011-90 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-90

A RESOLUTION ACCEPTING WORK ON THE 2011 LAGOON SLUDGE REMOVAL AND APPLICATION PROJECT AND AUTHORIZING FINAL PAYMENT.

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

Irene Fletcher, Assistant Director of Wayne Area Economic Development, stated the LB840 Sales Tax Advisory Committee is recommending approval of a \$5,000 grant request by WAED for community marketing and promotion. This is a reduction from the

amount that was requested and approved last year. Community marketing includes the Wayne Works campaign, the Pride in Wayne campaign, and the continual business and industry marketing, which includes the opportunity building.

Councilmember Alexander made a motion and seconded by Councilmember Frevert approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$5,000 to Wayne Area Economic Development to be used for community marketing and promotion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Brodersen made a motion and seconded by Councilmember Sturm setting January 27 and 28th as the dates for the 2012 Council Retreat. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place regarding a proposed ATV Ordinance. In the packet was a proposed ordinance drafted by the League of Nebraska Municipalities that would allow restricted travel on city streets by utility vehicles and ATV's. Mayor Chamberlain noted that additional requirements like local permits, helmets, and safety training can be added to the draft, but State requirements cannot be removed. The statutes say you can operate them on the highway within city limits, but you cannot operate them on a closed access highway. He needs clarification on this. Closed access highways in Wayne start at 10th Street going north and at Casey's going east, so you would not be able to operate them basically from Windom Street East on the highway or from where Wayne State College begins to the north.

Mayor Chamberlain wanted to get a consensus from Council on whether or not they wanted to move forward with drafting an ordinance for Wayne. If so, he wanted to know what types of things the Council wanted to tie to the ordinance as far as safety training, helmet requirement, registration, etc. This is applicable to 19 years and older. Golf carts are excluded, by name, in the state statute.

Todd Luedeke spoke in favor of Council passing an ordinance such as this and also adding some stipulations of their own, such as a helmet requirement, flags, permit fee, etc. If it didn't work, the ordinance could be rescinded.

Councilmembers Frevert and Sturm volunteered to be on a committee to review and make recommendations on the proposed ordinance.

Councilmember Sturm made a motion, which was seconded by Councilmember Frevert, to move forward on this ATV ordinance and to bring the same back at the next Council meeting with recommendations. 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 Melanie Loggins, Matt Ley, Paul Lindner, Jill Brodersen, Marie Mohr, Jeff Morlok, Cap Petersen, and Tony Kochenash to the Downtown Building Design Committee.

Councilmember Alexander made a motion and seconded by Councilmember Haase approving the appointment of Melanie Loggins, Matt Ley, Paul Lindner, Jill Brodersen, Marie Mohr, Jeff Morlok, Cap Petersen, and Tony Kochenash to the Downtown Building Design Committee. 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 6:54 p.m.