

**MINUTES
CITY COUNCIL MEETING
December 6, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, December 6, 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, Kaki Ley, and Jill Brodersen; City Attorney Mike Pieper; City Administrator Lowell Johnson and City Clerk Betty McGuire. Absent: Councilmember Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 24, 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 Alexander, whereas the Clerk has prepared copies of the Minutes of the meeting of November 15, 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: ADMINISTRATIVE PROFESSIONAL, SU, 79.00; AIRCAD, INC., SE, 1810.50; AMERICAN BROADBAND, SE, 1050.00; AMERITAS, SE, 3189.75; APPEARA, SE, 216.06; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 360.00; BANK FIRST, RE, 880.00; BIG T ENTERPRISES, SU, 233.83; BLACK HILLS ENERGY, SE, 791.39; CITY EMPLOYEE, RE, 112.40; BOMGAARS, SU, 12.98; CITY EMPLOYEE, RE, 82.54; BROWN SUPPLY, SU, 324.86; CENTURYLINK, SE, 309.68; CITY OF NORFOLK, SE, 277.70; CITY OF WAYNE, SE, 40.00; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 500.00; CITY OF

WAYNE, PY, 114168.82; CITY OF WAYNE, RE, 1150.00; CITY OF WAYNE, RE, 56.99; COMMUNITY HEALTH, RE, 6.00; CONTINENTAL FIRE SPRINKLER, SE, 525.00; CREDIT BUREAU SERVICES, RE, 187.36; DAVE'S UNIFORM CLEANING, SE, 72.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEREK ANDERSON, SE, 135.00; DIST COURT BURT COUNTY, RE, 300.00; DRT BIOSOLIDS, SE, 150000.00; DUTTON-LAINSON, SU, 869.50; EAKES OFFICE PLUS, SE, 38.26; ECHO GROUP, SU, 406.05; ELECTRIC FIXTURE & SUPPLY, SU, 125.09; ELLIS PLUMBING & HEATING, SE, 417.00; FIRST CONCORD GROUP, SE, 3834.32; FIRST NATIONAL INSURANCE, SE, 272.42; FLOOR MAINTENANCE, SU, 276.11; FORT DEARBORN LIFE, SE, 1444.06; FORT DEARBORN LIFE, SE, 106.64; GEMPLER'S, SU, 289.25; GERHOLD CONCRETE, SU, 106.45; GILL HAULING, SE, 133.00; GUARANTEE OIL, SU, 66.27; HACH COMPANY, SU, 776.54; HAUFF MID-AMERICAN SPORTS, SU, 783.20; HD SUPPLY WATERWORKS, SU, 721.56; CITY EMPLOYEE, RE, 37.07; HOLIDAY INN-DOWNTOWN, SE, 886.34; HOLIDAY LITES & TRIM, SU, 303.27; ICMA, SE, 11133.44; IRS, TX, 35826.57; JACK'S UNIFORMS, SU, 135.70; JAFF LTD, RE, 140.00; JEO CONSULTING GROUP, SE, 26732.19; JOHN'S WELDING AND TOOL, SU, 108.60; CITY EMPLOYEE, RE, 1304.66; KELLY MEYER, SU, 563.07; KEN KWAPNIOSKI, RE, 90.00; KEPSCO, SU, 7.00; KNOEPFLER CHEVROLET, SU, 54.14; LAB SAFETY SUPPLY, SU, 135.62; LARRY LINDSAY, RE, 500.00; LAYNE CHRISTENSEN, SE, 835.00; CITY EMPLOYEE, RE, 851.93; CITY EMPLOYEE, RE, 570.60; MCGUIRE & NORBY, SE, 24029.01; CITY EMPLOYEE, RE, 242.10; MIDWEST OFFICE AUTOMATION, SE, 169.08; MIKE BEBEE, RE, 107.76; NE DEPT OF ENVIRONMENTAL, SE, 78695.96; NE DEPT OF REVENUE, TX, 5450.54; NE STATE PATROL, SE, 45.00; NMPP ENERGY, SE, 1158.00; NORFOLK DAILY NEWS, SU, 132.50; NORTHEAST EQUIPMENT, SU, 819.00; N.E. NE AMERICAN RED CROSS, RE, 40.00; NNPPD, SE, 3801.00; OLSSON ASSOCIATES, SE, 3920.38; CITY EMPLOYEE, RE, 90.02; PIEPER, MILLER & DAHL, SE, 5408.00; PITNEY BOWES, SU, 648.00; CITY EMPLOYEE, RE, 221.67; CITY EMPLOYEE, RE, 195.81; PUSH-PEDAL-PULL, SE, 1082.20; QUALITY 1 GRAPHICS, SU, 105.00; QUILL, SU, 835.70; RAD, INC., SU, 239.80; CITY OF WAYNE, RE, 70000.00; RIEKES EQUIPMENT, SU, 378.12; ROBERT SWEETLAND, RE, 465.00; RON WHITT, RE, 500.00; SGP SERVICES, SE, 79.13; STATE NATIONAL BANK, SU, 35.04; STATE NATIONAL BANK, RE, 558.52; TERRACON CONSULTANTS, SE, 2010.25; TOM'S BODY & PAINT SHOP, SE, 46.80; CITY EMPLOYEE, RE, 57.50; UNITED STATES PLASTIC, SU, 113.63; UNITED WAY, RE, 10.00; VERIZON, SE, 196.87; VIAERO, SE, 135.71; VOSS LIGHTING, SU, 626.20; WAED, RE, 6383.33; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SU, 88.00; CITY OF WAYNE, RE, 124750.00; AMERICAN BROADBAND, SE, 1223.40; APPEARA, SE, 50.35; BLACK HILLS ENERGY, SE, 28.91; BOMGAARS, SU, 1366.86; BROWN SUPPLY, SU, 802.81; CARHART LUMBER COMPANY, SU, 557.28; CHARTWELLS, SE, 6080.80; CITY OF WAYNE, RE, 456.24; COPY WRITE, SU, 256.75; DAVE'S UNIFORM CLEANING, SE, 75.00; EASYPERMIT POSTAGE, SU, 1681.63; FREDRICKSON OIL, SU, 224.07; GOVERNMENTAL ACCOUNTING, SU, 215.00; HARDING & SHULTZ, SE, 33199.03; HEIKES AUTOMOTIVE SERVICE, SE, 69.23; JAMES OSSIAN, RE, 500.00; KELLY SUPPLY CO, SU, 574.45; KLEIN ELECTRIC, SE,

2357.50; KRIZ-DAVIS, SU, 408.96; KTCH, SE, 1175.00; LCL TRUCK EQUIPMENT, SU, 94.20; MATT SORENSON, RE, 246.74; MATTHEW BENDER & CO, SU, 299.34; MCGRATH NORTH, SE, 351.00; MIDLAND EQUIPMENT, SU, 287.96; NE PUBLIC HEALTH, SE, 186.80; NORFOLK TRUCK CENTER, SU, 21.40; NORTHEAST EQUIPMENT, SU, 144.74; NNPPD, SE, 12180.28; OGDEN INK, SU, 62.99; PAC N SAVE, SU, 77.27; PAMIDA, SU, 299.11; CITY EMPLOYEE, RE, 79.02; PRESTO X, SE, 82.15; ROLLIE ROTHER, RE, 500.00; S & S WILLERS, SU, 631.21; STATE NATIONAL BANK, RE, 13962.50; STATE NATIONAL BANK, SU, 75.00; US BANK, SU, 2616.33; USDA, APHIS WS, SE, 1200.00; WASTE CONNECTIONS, SE, 49.50; WAED, RE, 6383.33; WAED, RE, 5000.00; WAYNE COUNTY CLERK, SE, 10.50; WAYNE HERALD, SE, 1388.72; WAYNE LIBRARY FOUNDATION, RE, 582.00; WAYNE VETERINARY CLINIC, SE, 140.00; WESCO, SU, 13949.20; ZACH OIL, SU, 4606.14

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.

Councilmember Berry arrived at 5:35 p.m.

Mayor Chamberlain rearranged the agenda and went to item no. 10 – Resolution 2011-91 – Approving Interlocal Agreement with the City of South Sioux City for Law Enforcement Services. He wanted to dispel the rumors that this is an attempt to orchestrate a mass firing within the Wayne Police Department, and that this is an attempt to prepare for a mass walk off of current Wayne Police Department employees. In the past few months, one officer and two dispatchers have resigned. We are now at 3

dispatchers and 6 police officers. He wanted to thank all of the members of the Wayne Police Department for their efforts and dedication in keeping the City's police coverage what it has been during that time. He believed, however, the City has been on borrowed time and he was not comfortable with the position that we've put the employees in when one injury or illness could result in someone working a Friday or Saturday evening alone. He stated overtime was an option, but he did not like the idea of employees working 7 days in a row to help cover shifts on their would-be days off. He noted that part-time employee help is and will be an option the City has utilized. Part-time employees can, at times, be somewhat unreliable, understandably, due to their other commitments. The proposed interlocal agreement is an effort to maintain the level of police force that we need to operate safely.

Mayor Chamberlain requested Council consideration to tabling action on this Resolution because it's been brought to his attention that there are some concerns with the meaning or purpose of this agreement with employees of the Wayne Police Department. This will then give the Police Department employees the opportunity to express their concerns to Sergeant Chinn.

Brian Swanson, police officer and President of the FOP, and Jessica Bolles, police officer spoke regarding this interlocal agreement. They had concerns regarding communication within the department, and in addition wanted the police officers to be given a chance to work overtime before hiring outside officers.

Mayor Chamberlain responded that Sergeant Chinn has been in charge of the department since February, and he would hope that whatever concerns the officers or dispatchers had, they would have followed the chain of command and taken those to

Sergeant Chinn. In regard to replacing Officer Klinetobe's position, Mayor Chamberlain thought it inappropriate at this time to burden the Civil Service Commission with this in light of the fact that the hearings concerning Webster and Shear were still taking place.

Wendy Consoli, Officer Consoli's spouse, also spoke. She stated that if overtime was an option and offered, her husband would be more than willing to work extra hours and his family would support him in doing that.

Councilmember Sturm made a motion to table action on Resolution 2011-91 – Approving Interlocal Agreement with the City of South Sioux City for Law Enforcement Services, and Councilmember Haase seconded the motion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Gary Boehle of First National Agency was present to review the City's 2012 health and accident renewal plan with Coventry. The premium increase this year will be 19.5%. Over the past five renewal periods, the City has averaged an 8.2% rate increase, which is fairly respectable. Most of the comparable cities in the League of Municipalities array have fully funded health plans. Wayne's is a self-insured plan. The approximate annual premium for a fully funded plan would run about \$500,000 annually. Last year, Wayne's premium, plus the reimbursements, was approximately \$327,000. This year, the premium was a little bit higher, but year-to-date reimbursements that the City has paid out are down. The plan design saves the city money. Over these past five years, the City has probably averaged an annual savings of about \$150,000. Some of the reasons for the high increase this year are:

- President Obama's preventative care guidelines encompass a lot more things than it has before;

- Coverage for dependents to age 26;
- Major mental and nervous illnesses are covered the same as any other illness (unlimited coverage);
- Pre-existing conditions are now waived for children under age 19;
- The group's demographics; and
- There were several high dollar claims.

The self-funding that the City does is a way to manage the costs. In the array, the average premium for single was \$550, and family was around \$1,300 per month. Wayne's will be \$280 single and \$726 family per month. Only around 7% of a group meets the maximum \$10,000 out of pocket, which is where the savings comes into play.

Councilmember Alexander made a motion and seconded by Councilmember Ley approving Coventry Health Care of Nebraska, Inc., as the City's group health care provider for 2012. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Dr. Ken Liska and George Phelps, representing the Wayne Kiwanis Club, were present requesting Council consideration to allowing them to build and help maintain another school bus stop shelter for children on the terrace on the north side of Hank Overin Field. Last year, Kiwanis built a shelter on the north side of Sunnyview Park. They have come across a used commercial shelter from Omaha (9'x16'). Between 50 and 70 students are picked up at this location daily.

They will be applying for a grant in the amount of \$6-7,000 to help cover the cost of this project. A "Kiwanis" sign will be placed on the shelter.

Councilmember Ley made a motion and seconded by Councilmember Alexander approving the request of the Wayne Kiwanis Club to build and help maintain a school bus stop shelter for children in the vicinity of Hank Overin Field. Mayor Chamberlain

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

David Stuthman was present requesting Council consideration to granting him a waiver to install sidewalk on property he owns on Windom Street.

Mr. Stuthman has cleared and built a duplex on the southeast corner of 8th and Windom Street. The property abuts a gravel alley and St. Mary's school on the east side. There is no connecting sidewalk across the alley extending to the east. The Stuthman's have constructed sidewalk across the front of the lot from 8th Street east, but are asking for a waiver from constructing sidewalk the last 15 feet extending from the east driveway to the alley. There is no sidewalk on the south side of the street; however, there is sidewalk along the north side.

Councilmember Sturm concurred with the request; however he suggested approving the waiver until a request is made to put in sidewalk.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving the request of David Stuthman for a sidewalk exemption at 721 Windom Street until such time as a request is made for sidewalk to be installed. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Street Superintendent, advised the Council that the City has received the Annual Renewal Maintenance Agreement from the Nebraska Department of Roads. This is a standard form agreement.

Councilmember Ley made a motion and seconded by Councilmember Sturm approving the Annual Renewal Maintenance Agreement (2012) with the Nebraska

Department of Roads. 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 a pay request has been received from Penro Construction for the 2011 Water and Sewer Improvements (Western Ridge Third Addition) in the amount of \$77,384.07. The engineer on the project has approved the same.

Mr. Poutre then updated the Council on the status of the project.

Councilmember Alexander made a motion and seconded by Councilmember Haase approving Application for Payment No. 1 for the 2011 Water and Sewer Improvements (Western Ridge Third Addition) in the amount of \$77,384.07 for Penro Construction. 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 a pay request has been received from Eriksen Construction Company for the Wastewater Treatment Plant Project in the amount of \$114,388.41. The engineer on the project has approved the same.

Mr. Poutre then updated the Council on the status of the project.

Councilmember Brodersen made a motion and seconded by Councilmember Alexander approving Application for Payment No. 15 for the Wastewater Treatment Plant Project in the amount of \$114,388.41 for Eriksen Construction Company. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm introduced Ordinance 2011-30, and moved for approval of the third and final reading thereof; Councilmember Haase 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 Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Gene Hansen, Electric Production Superintendent, stated the following Resolution would approve Amendment No. 1 to the EECBG Aid Agreement for the Municipal Power Plant Cooling Tower Project. This extension agreement is with the Nebraska Energy Office who monitors the \$250,000 grant and the construction progress of the project. This agreement approves a second and final extension of time to complete the project – August 1, 2012. The footings have to be poured by December 15th.

Councilmember Sturm introduced Resolution No. 2011-92 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-92

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE EECBG AID AGREEMENT (ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM) FOR THE MUNICIPAL 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.

Joel Hansen, Street Superintendent, requested Council consideration to tabling action on Resolution 2011-93 until a future meeting. Staff has been working on a more

comprehensive ADA over the past year. The Department of Roads is asking for additional information from us, and he would like to make sure that what is brought to Council is going to be suitable for the Department of Roads. What is before you is only a small part of what is being required by NDOR.

Councilmember Sturm made a motion and seconded by Councilmember Alexander to table action on Resolution 2011-93 until a future meeting. 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 Ley to recess as Council and convene as the Community Development Agency. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Dale Alexander, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Chair Haase 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.

The next item on the CDA agenda was to approve the minutes of the August 2, 2011, meeting.

Member Chamberlain made a motion and seconded by Member Sturm approving the minutes of the August 2, 2011, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Lou Benscoter, representing Wayne NG Cars, LLC, was present regarding their offer to purchase Lot 2A of the Kardell Industrial Park No. 2 Subdivision. They are proposing to purchase 4 acres at \$7,500 per acre for a total purchase price of \$30,000. The 5,000 sq. ft. building must be ready to go by March 15, 2012.

Administrator Johnson distributed a copy of the proposed purchase agreement to the Council. He stated that the property will be sold with a performance lien on it, so if they don't construct the building and start operating the business within one year of the closing date, the property will revert back to the CDA. The buyers will pay hook-up fees for both water and sewer, which will be treated similar to assessments.

Discussion took place regarding the "right of first refusal" on Lot 2B and what the length of time should be for the same.

Member Chamberlain made a motion and seconded by Member Berry approving the Purchase Agreement regarding the sale of Lot 2A of the Kardell Industrial Park No. 2 Subdivision to Wayne NG Cars, LLC, for the sum of \$30,000 with a "right of first refusal" period of five years. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Ley made a motion and seconded by Member Chamberlain to adjourn as the Community Development Agency and reconvene as Council. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson presented a draft ordinance which would permit ATV's and utility vehicles on public streets with certain restrictions. The additional restrictions or requirements that were added to the statutory language were as follows:

- (a) The vehicle is licensed with the City of Wayne and displays a city approved rear license plate with numbers and/or letters 4 inches high;
- (b) Any operator operating an ATV or Utility Vehicle must stop immediately when signaled to do so by a law enforcement officer;
- (c) The operator has completed a safety program approved by the City of Wayne; and
- (d) The operator is wearing a protective helmet that meets the motorcycle helmet standards of the State of Nebraska

Discussion took place on whether or not to add an age limit. In addition, the Council needed to establish a licensing fee.

It was noted that Laurel has this ordinance in place, as well as Osmond and Sidney.

Administrator Johnson stated he would find out what the costs are associated with producing a license so that Council will have some idea of what to set the fee at, and also determine if an age limit was in the original statutes. In addition, it was not clear as to what constituted a “closed access highway.” Administrator Johnson would contact the League of Nebraska Municipalities regarding the State Statute.

Councilmember Sturm said he has had several people talk to him that were in favor of this ordinance. He has not had anyone talk to him that was opposed to it. Councilmember Brodersen had one person contacted her who was opposed to it, and Councilmember Haase said two people talked to him that were opposed to it.

Councilmember Sturm made a motion to table action on Ordinance 2011-32 which would permit ATV’s and utility vehicles on public streets until the next meeting, and Councilmember Haase seconded the motion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Haase made a motion and seconded by Councilmember Alexander 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 6:52 p.m.