

**MINUTES  
CITY COUNCIL MEETING  
December 20, 2011**

The Wayne City Council met in regular session at City Hall on Tuesday, December 20, 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, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 8, 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 Van Delden made a motion, which was seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of December 6, 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, SE, 1495.20; ANGELA M ICKLER, SE, 2346.25; APPEARA, SE, 97.56; AWWA, FE, 295.00; BAKER & TAYLOR BOOKS, SU, 929.28; BANK FIRST, FE, 180.00; BMI, FE, 278.10; CITY EMPLOYEE, RE, 233.59; CITY EMPLOYEE, RE, 586.10; CITY EMPLOYEE, RE, 184.27; CITY OF WAYNE, RE, 10.00; CITY OF WAYNE, RE, 1600.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 55569.97; CITY OF WAYNE, RE, 900.00; CITY OF WAYNE, RE, 63.86; COMMUNITY HEALTH, RE, 3.00; COPY WRITE PUBLISHING, SU, 30.07; D4, LLC, SE, 225.00; DAKOTA BUSINESS SYSTEMS, SE, 102.50; DELL

MARKETING L.P., SU, 2517.43; DEMCO, SU, 158.49; ECHO GROUP, SU, 1604.72; ELECTRIC FIXTURE, SU, 26.38; ELLIS PLUMBING & HEATING, SE, 30.00; EMPLOYERS MUTUAL CASUALTY, RE, 117.97; ERIKSEN CONSTRUCTION, SE, 114388.41; FLOOR MAINTENANCE, SU, 464.98; FORT DEARBORN LIFE, SE, 1418.04; FRIESEN CHEVROLET, SU, 188.21; GREAT PLAINS ONE-CALL, SE, 69.33; CITY EMPLOYEE, RE, 21.98; HEARTLAND PAPER CO, SU, 52.00; CITY EMPLOYEE, RE, 1309.79; HOUCHEN BINDERY LTD, SU, 114.50; ICMA, SE, 5555.68; INGRAM BOOK COMPANY, SU, 466.78; IRS, TX, 17773.91; JACK'S UNIFORM, SU, 400.00; JEFF ELLIS, RE, 500.00; KRIZ-DAVIS, SU, 1560.76; LAURA TEST, RE, 500.00; MAIN STREET AUTO CARE, SE, 180.00; MATT NELSON, RE, 500.00; CITY EMPLOYEE, RE, 97.14; MERCY MEDICAL CLINIC, SE, 29.00; MIDWEST LABORATORIES, SE, 2385.43; MIKE TOWNE, SE, 1200.00; MIRIAN AGUIRRE, SE, 150.00; NE DEPT OF REVENUE, TX, 2742.12; NPPD, SE, 209352.98; NIFA, FE, 100.00; OLSSON ASSOCIATES, SE, 2396.93; ORIENTAL TRADING CO, SU, 93.49; PAMIDA, SU, 30.55; CITY EMPLOYEE, RE, 149.18; PENRO CONSTRUCTION, SE, 108702.42; PEPSI-COLA, SU, 742.70; POSTMASTER, SU, 62.29; CITY EMPLOYEE, RE, 347.70; PROVIDENCE MEDICAL CENTER, SE, 110.00; QUILL, SU, 382.72; RANDOM HOUSE, SU, 134.25; RASMUSSEN ELECTRIC, SE, 185.85; CITY EMPLOYEE, RE, 176.13; RONALD GENTRUP, RE, 62.62; SANDI WACHTER, RE, 500.00; SPARKLING KLEAN, SE, 1637.06; SPEEDWAY AUTO PARTS, SU, 125.00; STADIUM SPORTING GOODS, SU, 1175.25; STANLEY SECURITY SOLUTION, SU, 82.84; STATE NATIONAL BANK, SE, 56.35; STATE NATIONAL BANK, RE, 109.17; STEFFEN, SU, 229.37; CITY EMPLOYEE, RE, 1181.75; TERRY MUNSON, RE, 500.00; CITY EMPLOYEE, RE, 506.65; U.S. TOY COMPANY, SU, 52.11; WAYNE COMMUNITY SCHOOLS, SE, 100.00; WAYNE HERALD, SE, 571.00; CITY EMPLOYEE, RE, 696.19; WESCO, SU, 97.98; WAPA, SE, 31977.31; ZEE MEDICAL SERVICE, SU, 63.58; CITY EMPLOYEE, RE, 1200.00; BROWN SUPPLY, SU, 306.18; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 336.33; COVENTRY HEALTH, SE, 22558.27; CRISTAL K MCDONALD, SE, 5265.60; D4, LLC, SE, 5551.25; DE LAGE LANDEN FINANCIAL, SE, 394.00; DELL MARKETING, SU, 5131.93; DUTTON-LAINSON, SU, 164.55; ENVIROTECH SERVICES, SU, 5159.64; ELLIS PLUMBING & HEATING, SE, 105.50; JEO CONSULTING GROUP, SE, 19457.20; KRIZ-DAVIS, SU, 29025.51; MATT FRIEND TRUCKING, SU, 62.00; NE NEBRASKA PUBLIC HEALTH, FE, 100.00; NEDA, FE, 200.00; OLSSON ASSOCIATES, SE, 10291.88; PITNEY BOWES, SU, 749.99; QUALITY 1 GRAPHICS, SU, 50.00; R.S. STOVER, SE, 959.15; ROY GRAMLICH, RE, 363.19; CITY EMPLOYEE, RE, 599.99; TYLER TECHNOLOGIES, SE, 1050.14; VERIZON, SE, 138.61; VOSS LIGHTING, SU, 1119.00; WAED, SU, 1200.00; WAYNE AUTO PARTS, SU, 810.25; WAYNE COMMUNITY SCHOOLS, RE, 6055.75

Councilmember Alexander made a motion and Councilmember Sturm 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.

Darrel Miller and Dan Rose, representing the Wayne Rotary Club, were present requesting Council consideration to allowing them to place five park benches along Phase I and Phase II of the city walking trail. The Rotary Club would purchase the benches and concrete for the pads, utilizing a Rotary District Simplified Grant available through the Rotary Foundation and Rotary District 5650 NE/IA. They were also requesting assistance from the City to locate and install the concrete pads and benches. The grant application is for \$2,000. The award will take place this spring, and the grant money will be available next fall to purchase and install the benches.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the request of the Wayne Rotary Club to place five park benches along Phase I and Phase II of the City walking trail and to provide them with assistance to locate and install the pads and benches. 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 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 Amy Miller; 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 December 6, 2011, meeting.

Member Ley made a motion and seconded by Member Sturm approving the minutes of the December 6, 2011, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to consider and adopt CDA Resolution 2011-4 recommending approval of a Second Amended Redevelopment Plan/Contract for Northeast Nebraska Investors, LLC.

This action will amend the effective date to start collecting real estate taxes for the tax increment financing on the new Cobblestone Hotel Project from January 1, 2011, to January 1, 2012. It was noted that the project has started.

Member Sturm introduced CDA Resolution No. 2011-4 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2011-4

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WAYNE, NEBRASKA, RECOMMENDING APPROVAL OF SECOND AMENDED REDEVELOPMENT PLAN/CONTRACT FOR NORTHEAST NEBRASKA INVESTORS, LLC.

Member Chamberlain seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Alexander, Chamberlain, Sturm, Ley, Berry, and Brodersen. The following Members voted against the motion: None; the following member was absent: None; and the following members abstained due to a conflict of interest: None. The Chair declared the motion carried.

Wes Blecke, Director of WAED, stated a company, Williams Form Engineering Corporation, is interested in purchasing Lot 1 of Kardell Industrial Park No. 2 Subdivision, which is the property with the “Opportunity Building” on it. In 2007, Wayne Industries applied for a grant in the amount of \$255,000 from the State of Nebraska. \$5,000 of that amount went to the administrative entity, Northeast Nebraska Economic Development District. Of the \$250,000 they were able to use for the physical construction of the building, \$100,000 of that must go back to the State of Nebraska after a qualifying business purchases or leases the building. The other \$150,000 will be given to the City of Wayne, and the City of Wayne will determine whether the same will be used to help incent the business or whether it will be put back into the revolving loan fund. Williams Form will need to employ 10 full-time equivalent jobs for at least 12 months, pay at least \$9.00 per hour, and provide 51% of those jobs to low-to-moderate income individuals.

Ron Townsend, President of Williams Form Engineering Corporation, and Bill Downing, Regional Manager, were present to answer questions. Williams Form Engineering manufactures large anchoring devices for the construction industry. They purchase a lot of their products from Nucor Steel. They are a family-owned company and employ about 230 people throughout the United States. They have 10 manufacturing

plants and a corporate office in Michigan. They will retain a general contractor in Nebraska to head up their project. Once they are ready to turn on the machines, they will have approximately \$1.5 million invested in the project. They hope to have 40-50 people working at this location in 1-3 years.

Member Sturm made a motion and seconded by Member Chamberlain granting Lot 1 of Kardell Industrial Park No. 2 Subdivision, Wayne County, Nebraska, to Wayne Area Economic Development/Wayne Industries. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mr. Blecke explained how the \$225,000 purchase price was arrived at for the “Opportunity Building” and the land. The list price on the building is currently \$463,000. He deducted the land price of \$78,000 (\$12,000 per acre for 6.5 acres), and also the \$150,000 grant from the State of Nebraska, which the Council will take action on later on the agenda, which reduces the amount down to \$235,000. They then used \$10,000 of their marketing funds as an incentive for the business, which brings the amount down to the \$225,000 purchase price.

He advised the Council that initially Williams Form Engineering wanted to lease the building; however, he wanted to sell the building.

He stated that because \$100,000 must be paid back to the State of Nebraska, and because WAED must pay back a \$125,000 loan to State National Bank/First National Bank/F&M Bank, he could not waiver on the \$225,000 purchase price.

Mr. Blecke stated that the CDA/City also owns 1.49 acres just to the east of that property, and Williams Form Engineering has indicated they are very interested in getting a first right of refusal on that parcel for future expansion.

Member Chamberlain made a motion and seconded by Member Frevert approving the Purchase Agreement with Williams Form Engineering Corporation to purchase the “Opportunity Building” and land for \$225,000 which will be used to expand an existing metal working business to Wayne. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mr. Blecke stated that the CDA must release the Deed of Trust on the property. Wayne Industries owns the property, but the CDA has a Deed of Trust on it.

Member Ley made a motion and seconded by Member Berry releasing any liens on Lot 1 of Kardell Industrial Park No. 2 Subdivision, Wayne County, Nebraska. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Frevert made a motion and seconded by Member Alexander 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.

Mayor Chamberlain declared the time was at hand for the public hearing to obtain public comment prior to the consideration of a Resolution approving the Second Amended Redevelopment Plan, including a redevelopment contract, for an area of the City previously declared blighted and substandard and in need of redevelopment pursuant to the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the “Act”). The Mayor opened the public hearing and invited all interested persons to be heard.

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

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

Councilmember Sturm introduced Resolution No. 2011-93 and moved for its approval; Councilmember Ley seconded.

#### RESOLUTION NO. 2011-93

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA, APPROVING SECOND AMENDED REDEVELOPMENT PLAN/CONTRACT; AND RELATED MATTERS.

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 Haase approving the request of Wayne Industries, on behalf of Williams Form Engineering Corporation, to grant \$150,000 of the \$250,000 CDBG Funds originally used for the construction of the “Opportunity Building” to the company for the purchase of the building. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mr. Blecke advised the Council he has not seen the Memorandum of Understanding, but is assuming that it will include that Williams Form Engineering Corporation will have 10 full-time equivalent employees for at least 12 months, they will be paying at least \$9.00 per hour, and that at least 51% of those jobs will be offered to low-to-moderate income individuals.

Administrator Johnson stated the Memorandum of Understanding is just transferring the same terms that the City agreed to when we received the grant onto Williams Form Engineering Corporation.

Mr. Townsend advised the Council that they are fully aware of the provisions and are ready to sign the Memorandum of Understanding.

Councilmember Alexander made a motion, which was seconded by Councilmember Sturm approving the Memorandum of Understanding with Williams Form Engineering Corporation. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector, stated that the building at 203 Main Street (former McNatt Building) is in the process of being sold. The new property owners will apply for a building permit to renovate the basement. New State Fire Marshal regulations require a new rear fire escape stairway from the basement that runs parallel with the back wall of the building. The back wall of the building is just a couple of feet from the edge of the City's 16-foot wide alley. To meet the width of the new Fire Code, the new stairway will encroach into the City's alley by about 8". That encroachment will not hinder traffic, snow removal or utilities.

Councilmember Alexander made a motion, which was seconded by Councilmember Frevert granting a temporary encroachment easement into the alley for the McNatt building located at 203 Main Street, with the same being contingent upon the sale of the property. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that Wayne was the recipient of a \$16,000 grant from the Nebraska Game and Parks Commission to develop and install educational signage along the Phase 1 trail to point out interesting local environmental plant, soil and stream points along Logan Creek. The signs are being constructed, but the installation of the posts into concrete along the trail will not happen until spring. This action approves a request from the City to extend the deadline of the project completion until spring.

Councilmember Frevert made a motion, which was seconded by Councilmember Haase approving the extension of the trail signage grant. 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 Ordinance 2011-32 (ATV and Utility Vehicles) that had additional requirements and changes suggested by a State Patrol Law Enforcement Officer. The ordinance, as proposed, would not allow ATV's to run on Highways 35 or 15. In addition, it would require that the operator must be at least 19 years of age and that no passengers would be allowed on ATV's which are not designed to carry passengers. This is for Council deliberation.

Mayor Chamberlain noted that the only things the Council can make changes or additions to is the "additional requirements." The remainder of the ordinance follows State Statute and cannot be changed.

Attorney Miller recommended deleting subsection (d) of Paragraph 7 because it is not applicable to Wayne. Clarification was needed on subsection (c) of paragraph 9. It was noted, for clarification purposes, that the operator will need to complete a safety program prior to obtaining a license. In addition, she was going to reword Section 2.

Administrator Johnson stated staff will need to prepare a checklist to submit with attached documents to get a license plate, and one of those would be a signatory page on these terms. The other would be some short 15 or 20 minute training session.

Councilmember Sturm wanted to do this on a trial basis for one year.

Councilmember Alexander had concerns about being able to enforce the age limit when they are required to wear helmets. This limits the ability to tell whether or not a driver is 19 years of age.

It was noted the ordinance could be revoked at any time.

Councilmember Sturm introduced Ordinance 2011-32 and moved for approval thereof, including the additional changes as recommended by Attorney Miller; Councilmember Berry seconded.

#### ORDINANCE NO. 2011-32

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78 BY ADDING ARTICLE VII TO ALLOW THE OPERATION OF ALL TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS UNDER CERTAIN CIRCUMSTANCES; TO IMPOSE RESTRICTIONS ON THE USE OF ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES; TO ESTABLISH PENALTIES FOR VIOLATION; 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, with the exception of Councilmember Alexander who voted Nay, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Brodersen left the meeting at 6:25 p.m.

Administrator Johnson stated the following Resolution would approve an agreement with Northeast Nebraska Economic Development District to do an environmental review for the siren replacement project. The grant source for this project

is Federal funds, and because we will be moving two of the sirens to a different location and drilling holes in the ground, an environmental review is required. The cost for this review by NNEDD will not exceed the sum of \$1,500.

The FCC will be changing the band width of the radio frequency. The current sirens cannot be retrofitted to the narrow banding width. We originally budgeted \$94,000 for this project. If we want to apply for a grant which would cover some of the cost of the project, we must spend the money for an environmental review.

Councilmember Alexander introduced Resolution No. 2011-94 and moved for its approval; Councilmember Haase seconded.

#### RESOLUTION NO. 2011-94

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR SERVICES WITH THE NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT (NNEDD) TO CONDUCT AN ENVIRONMENTAL REVIEW FOR THE SIREN REPLACEMENT PROJECT.

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, which was seconded by Councilmember Haase 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 6:29 p.m.