

**MINUTES
CITY COUNCIL MEETING
February 19, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, February 19, 2008, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Verdel Lutt, Don Buryanek, Doug Sturm, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Dale Alexander, Kaki Ley, and Darrel Fuelberth.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on February 7, 2008, 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 and seconded by Councilmember Frevert, whereas the Clerk has prepared copies of the Minutes of the meetings of February 5, 2008, 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 Shelton 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: ALTEC INDUSTRIES, INC., SU, 166.29; AMERICAN TEST CENTER, SU, 840.00; AMERITAS, RE, 1914.80; APPEARA, SE, 164.95; BANK FIRST, FE, 195.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 1845.23; CITY OF WAYNE, RE, 1500.00; CITY OF WAYNE, RE, 40.00; CITY OF WAYNE, PY, 50929.27; CITY OF WAYNE, RE, 428.78; CITY OF WAYNE, RE, 134.54; COMPUMASTER, FE, 149.00; DANIELSON/TECH SUPPLY, SU, 367.93; DEMCO, SU, 151.29; ELECTRIC FIXTURE, SU, 381.41; FLOOR MAINTENANCE, SU, 442.56; FOLLETTE SOFTWARE, SU, 732.12; GREAT PLAINS ONE-CALL, SE,

13.78; HARDING & SHULTZ, FE, 220.00; HUNTEL SECURITY, SE, 91.06; HYTREK LAWN SERVICE, SE, 180.00; ICMA, RE, 5196.00; INGRAM BOOK COMPANY, SU, 77.33; INCODE, SE, 765.00; IOWA STATE UNIVERSITY, FE, 218.00; IRS, TX, 16814.97; JANWAY COMPANY, SU, 162.68; JLC BOOKS, SU, 39.95; KELLY SUPPLY COMPANY, SU, 347.58; KEEP N.E. NE BEAUTIFUL, FE, 100.00; KTCH, SE, 605.00; MUNICIPAL SUPPLY, SU, 1346.11; NATIONAL SCHOOL PRODUCTS, SU, 46.93; NCMA, FE, 75.00; NE DEPT OF REVENUE, TX, 2223.86; NE RURAL WATER, FE, 150.00; NPPD, SE, 176430.84; NEBRASKALAND CONF BLDG OFF, FE, 150.00; NNPPD, SE, 10920.14; PAMIDA, SU, 16.14; PEPSI-COLA, SU, 652.86; PRESTO X, SE, 71.89; PROVIDENCE MEDICAL CENTER, SE, 4512.75; PURCHASE POWER, SU, 1000.00; QUALITY FOOD, SU, 9.64; R.C. CARPET INSTALLATION, SE, 1,246.50; RAD, INC., SU, 80.84; ROURKE PUBLISHING, SU, 113.70; STATE NATIONAL BANK, SE, 49.49; STATE NATIONAL BANK, RE, 3781.15; STATE NATIONAL BANK, RE, 464.68; TAK, INC, SE, 138.00; TOM'S BODY & PAINT SHOP, SU, 200.00; TRI AIR TESTING, SE, 414.00; UPSTART, SU, 63.55; VOSS LIGHTING, SU, 160.58; WAYNE AIRPORT, SE, 150.00; WAEDI, FE, 3000.00; WAEDI, RE, 10000.00; WAEDI, RE, 3000.00; WAYNE AUTO PARTS, SU, 338.45; WAYNE COUNTRY CLUB, FE, 3960.00; WAYNE COUNTY CLERK, FE, 83.50; WESCO, SU, 118.22; ZIMCO SUPPLY, SU, 92.50; ALLTEL, SE, 250.98; BANK FIRST, RE, 800000.00; BANK FIRST, RE, 200.00; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 12.00; CITY OF WAYNE, RE, 379.05; CITY OF WAYNE, RE, 700.00; CITY OF WAYNE, SE, 150.00; CITY OF WAYNE, RE, 75.00; CLASSY CLEANING LADIES, SE, 184.48; CORNHUSKER STATE, SU, 1707.00; CULLIGAN WATER OF NE, SE, 41.00; DAVE SWANSON, RE, 125.00; DE LAGE LANDEN FINANCIAL, SE, 411.00; GEMPLER'S, SU, 67.80; J.F. AHERN CO., SE, 315.00; MIDCOMPWEB, INC., SE, 275.00; OLSSON ASSOCIATES, SE, 10540.00; OVERHEAD DOOR COMPANY, RE, 65.25; PAMIDA, SU, 144.22; PITNEY BOWES, SE, 637.00; RASMUSSEN ELECTRIC, SU, 806.40; STADIUM SPORTING GOODS, SU, 290.00; TACO'S AND MORE, SE, 48.32;

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain to approve the claims. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Attorney Pieper stated in regard to the next agenda item, it is his understanding that the City has not heard back from the City's insurance carrier. He would ask the Council to consider tabling this matter until the next meeting or until we receive some feedback from the insurance carrier.

Councilmember Lutt made a motion and seconded by Councilmember Buryanek to table the claim of Jason Karsky on a code enforcement issue in the amount of \$985.00 until the next meeting or until the insurance company has responded to the same.

In response to Councilmember Sturm's question, Attorney Pieper stated the Council can make a decision this evening, but it would be nice to have some feedback from the insurance carrier prior to Council reaching a conclusion.

Councilmember Sturm asked whether or not the decision of Council to pay the claim or not hinges upon the insurance company's input. Attorney Pieper responded no.

Councilmember Buryanek stated that the insurance company could, however, agree to pay the claim.

Councilmember Sturm was just wondering if this was an action for the Council to decide if they feel it is a claim against the City or not.

Jason Karsky was present and advised the Council that the insurance company has received the claim because he has been contacted by EMC. He did not mind waiting a couple of weeks for a decision.

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

Mayor Shelton 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, she advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury

to the reputation of an individual and if such individual has not requested a public hearing.

Mayor Shelton declared the time was at hand for the public hearing on the application for a Class C Liquor License of M.M. Meyer, LLC, d/b/a “Mikey’s Place.”

City Clerk McGuire advised the Council that Mike and Michelle Meyer have purchased the former “Bar M” and are making application for a Class C Liquor License.

Mike and Michelle Meyer were present to answer questions.

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

No written or oral comments had been received by the City Clerk’s Office concerning the proposed liquor license application.

Councilmember Sturm introduced Resolution 2008-10, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2008-10

A RESOLUTION APPROVING APPLICATION FOR CLASS C LIQUOR LICENSE – M.M. MEYER, LLC, D/B/A “MIKEY’S PLACE.”

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

Dave Simonsen, Executive Director of Wayne Area Economic Development, Inc., was present and gave a report on the CDBG Main Street Initiative program. As a certified economic development community (20,000 or less population), Wayne is eligible to apply for a grant for downtown revitalization. The initial grant is for a planning grant of \$30,000. Mr. Simonsen was not asking the City for any match for the planning grant (\$7,500). WAEDI is hoping to raise that money through the community and other avenues. Once the planning grant is done, then we would have the opportunity

to apply for a \$250,000 grant to implement the plan as designed during the planning process. For both the planning portion - Phase I and the implementation portion – Phase 2, the match is only a quarter. Part of this match can also be in-kind. Some of the activities that can be done with the grant are sidewalk repair, façade renovation and street renovation. The district that we are looking at for this grant application is a block and a half on each side of Main Street from 7th and Main Street down to Logan Creek. City Hall, as well as the auditorium, library and one-half of the courthouse are in the district.

A blight study needs to be done on the downtown district, which will cost \$4,000. That has to be done prior to making the grant application, so it cannot be used for any match of any of the grants. The \$4,000 needed for the blight study is part of another agenda item.

Administrator Johnson stated the CDBG Main Street Initiative Program has been going on for about a month and a half now. It is a brand new program and a trial program. Wayne is now eligible for some grant funds to actually help with the building fronts and sidewalks. This kind of help has never been available before. One of the requirements is that somebody has to do a study of the area to determine that it is necessary. That is about a \$25-30,000 cost by someone. WAEDI is going to pick up the match for that. That is the agenda item Mr. Simonsen is on right now.

Councilmember Sturm asked where the 25% building owner match would come from. Mr. Simonsen responded that some of what they have discussed is part of that money will come from the building owners. If façade renovation was one of the activities – if they had \$10,000 worth of façade renovation, they would only have to put up \$2,500 to get \$10,000. He will be coming back to the City at a later date hopefully,

pending the WAEDI board approval on Thursday, for a revolving loan request that will also affect this project. If sidewalks are part of the grant, then he will be contacting the City, as well as the business owners, because half of the cost of the sidewalks will be the City's responsibility. If there would be \$10,000 in sidewalk repairs, \$2,500 of that would have to be match, so \$1,250 would be the City's share, and \$1,250 would be the business owners' share.

A survey has been sent out to all of the business owners in the Main Street area to find out what their opinions are on this project.

Councilmember Lutt asked since Wayne has been a member of Main Street for at least 10 years and the fact that we are a certified city, shouldn't we already have a plan so we don't have to spend \$7,500. This is a plan to pay for another plan.

Mr. Simonsen agreed – unfortunately, as a requirement to apply for the large grant, you have to first be accepted for the small grant.

Councilmember Lutt opined “somebody is putting it to you every time you turn around.” If you want the money, you pay us big time for doing another study that should have already been done.

Mr. Simonsen stated the beneficiary will be the entity that puts the plan together, because you will have to pay somebody to develop this plan. Just like the Council paid a firm to do the comprehensive plan. We will have to pay a firm to do this plan. In the second phase, Wayne will be the beneficiary because we will receive \$250,000 to do things in the community.

Mayor Shelton stated the only reasoning she can come up with for this whole process is to try and weed out people who are asking for grant monies like this \$200,000

and don't really have a plan, and the money just gets frittered away. They would rather put out \$30,000 to pay somebody to make sure that you know what you are going to do with the \$200,000.

Councilmember Lutt stated every individual business owner should have their own plan of what they want to do. Why should they have to apply for a grant? If you run an individual business and you are successful with it, you should design your own plan and do it however you want.

Mayor Shelton opined it would be nice, however, to have some help with getting the sidewalks redone downtown. Councilmember Lutt responded that if you own a business downtown, you are responsible for the sidewalks out front.

Mr. Simonsen, who was representing the Northeast Nebraska Economic Development District, stated the following Resolution would approve the contract for the blight study - \$4,000.00. This has a direct correlation with the grant. It is part of the requirement, and one of the steps in the process is doing a blight study of the downtown district. Because of the number of buildings that are in that area, the cost is going to be \$4,000. This has nothing to do with any matches to the grant. It is something we have to do before we can even apply for the grant. He is asking that the City pay this \$4,000 to do the blight study and have the District go ahead and get that accomplished so they can apply for these funds.

Mayor Shelton noted the contract or agreement was in the packet along with the Resolution.

Recommendation was to pay for this out of the economic development fund from the electric budget.

Councilmember Sturm questioned and had concerns about paying the \$4,000 for this study. He remembered when they went from 1.67% to 1.82% on the electric bills, that Dr. Wiseman said this would give some cushion in a few years to provide WAEDI employees increases in salaries. When we continue to take money out of that fund for things like this, then he did not know where they were going to have money for salary increases unless they thought it was going to come from memberships. How are we going to sustain the WAEDI program? It sounds to him like they are having a hard time generating any extra revenue because they keep coming to the City. Mr. Simonsen just said he would probably be back for some more money for something else. Right now, it feels to him like we are robbing from Peter to pay Paul, and he doesn't know how long we're going to be able to do.

Councilmember Buryanek did not remember anybody saying anything about generating a slush fund of any sort. He thought they had it figured out so that it would just about pay out. He doesn't look at it as robbing from Peter to pay Paul. It's kind of what that fund is there for – economic development. If this is going to be part of a study that helps with that, he would be in favor of it.

Councilmember Sturm stated we did create a slush fund when we added more money than what it actually cost at that time to run the program. If we needed about 1.67% to run WAEDI at the time and we increased it, that is exactly what we created – a slush fund to cover things.

Councilmember Buryanek stated he remembered the Council setting it as a guesstimate of where it was going to be – that we had no real idea. We were hoping it would generate enough, but we really didn't know.

Mayor Shelton stated she believes that money has been used for several things. It has helped with their travel. Some of it is committed for the spec building and some of it is has been used for the health insurance gap. Councilmember Buryanek stated that is why he was asking if there was even any reserve there. Mayor Shelton responded there is. Administrator Johnson stated the balance was \$36,000, but we are carrying \$18,000 through this year again for the health insurance risk until they get it in their budget. There is \$10,000 for the marketing of the spec building, which totals \$28,000, so that leaves us an \$8,000 balance.

Councilmember Buryanek introduced Resolution No. 2008-14 and moved for its approval. The said motion died for lack of a second.

Councilmember Sturm introduced Ordinance 2008-2 and moved for approval of the third and final reading thereof, as amended (changing the handicapped parking space at the intersection of 2nd and Main Street from the southwest corner of 2nd Street to the northwest corner of 2nd Street); Councilmember Frevert seconded.

ORDINANCE NO. 2008-2

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE III, SECTION 78-96 LOCATION RESERVED FOR HANDICAPPED PARKING OF THE WAYNE MUNICIPAL CODE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Councilmember Lutt introduced Ordinance 2008-4 and moved for approval of the second reading thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2008-4

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78, ARTICLE VI., SNOW ~~EMERGENCY~~ PLOW ALERT BY AMENDING SECTION 78-282 PARKING ON CITY STREETS.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The third and final reading will take place at the next Council meeting.

Administrator Johnson stated the following Resolution would amend the ADA Transition Plan which was put together as part of our plan to make our facilities more accessible, to meet the requirements of the community development block program and now to also make it part of the requirements of federal funding for streets. The last time we did this was in 2003, and this is an update of the plan with some estimated times of completion in there. In addition, the appeal procedure/process was changed in case someone doesn't like what we are doing.

Councilmember Sturm introduced Resolution 2008-11, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2008-11

A RESOLUTION APPROVING AMENDED CITY OF WAYNE ADA TRANSITION PLAN.

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

Administrator Johnson stated that the following Resolution would change the ADA Administrator from the City Administrator position to that of the Chief Inspector/Planner.

Councilmember Buryanek introduced Resolution 2008-12, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2008-12

A RESOLUTION APPOINTING THE CHIEF INSPECTOR/PLANNER TO ACT FOR THE CITY TO COMPLY WITH THE NONDISCRIMINATION PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA).

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

Administrator Johnson stated one bid was received on the power plant roofing project. Recommendation is to reject the bid. The plan is to rebid the project and extend the completion date (October, 2008).

Councilmember Sturm introduced Resolution 2008-13, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2008-13

A RESOLUTION REJECTING BID RECEIVED ON THE POWER PLANT ROOFING PROJECT.

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

Administrator Johnson stated the total cost in the property located at 502 East 6th Street is approximately \$18,000, which have been filed as a lien on the property. The property is being foreclosed upon, and there is going to be a sheriff's sale in March. This gives us the ability, but not the requirement, to buy the property back if no one else bids on it or if somebody buys it to hold for a long period of time as speculative property. There is a serious benefit to the community to get a house back on it soon. Our recommendation is that Council authorizes staff to attend the sale and make sure that it either gets sold to somebody that is going to put a house on it right away or we buy it and

then resell it with that requirement that it get a house on it right away. Anything the City bids on it gets paid back to the City through the County. It is not new money we are spending; it is cash that we put out to get back against the lien that we already have on it. It is basically a pass through. The sale is set for March 13th.

Larry Brodersen was presenting concerning this agenda item. Mr. Brodersen is interested in purchasing this property to relocate a house on it.

It was noted that before a house can be put on this lot, a use by exception permit will have to be applied for because the area is not zoned for residential property.

Councilmember Sturm made a motion and seconded by Councilmember Frevert authorizing a City employee to bid on the property located at 502 East 6th Street (foreclosure sale) to protect the City's interest. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place regarding the fact finding trip to Roselle, Illinois, to observe the operation of a prototype wastewater treatment process that produces no organic sludge. Administrator Johnson stated we have an opportunity to look at a prototype that is operating in a cold weather climate since last October. It is in a suburb of Chicago. He did not think the Council wanted to spend a lot of money on engineering firms to go and look at this. This is the Aquarius system. This is the low energy bacterial system that does not put out any organic sludge. We are going to ask them if they will bring the prototype here and run it for a few months next winter. He wants to see it operate in cold weather. There is also a prototype of the same type operating in northern Colorado. The projected cost of a system like this is about \$3 to 4 million. The other option that we need to look at in cold weather is in Latvia or Ireland. There is a prototype

in Houston, and we need to see if they would bring it up here. If we get to a point where we like one, then we will have to come up with an engineer to get it through the Department of Environmental Quality.

Councilmember Lutt, when asked if he wanted to go on this trip, responded that he wasn't so sure that we needed to go first. It's a prototype. You probably can't see much of what is going on. Sewer water goes in and clear water comes out. Can you see what happens when it goes in? So what are we going to do for three days setting there watching this thing that we can't even see the inside of. This is not like the trip to Kansas City where they could see the system work. He does not know what they could gain from this. He probably would not go.

Administrator Johnson stated if he goes, he wants to hang around long enough to talk to the staff about the system, find out if something went wrong, and what they did about it. You can't do that in one afternoon.

Councilmember Sturm made a motion and seconded by Councilmember Buryanek to approve the fact finding trip to Roselle, Illinois, to observe the operation of a prototype wastewater treatment process that produces no organic sludge.

It was noted that a teleconference could take place with this system. Councilmember Lutt again noted that he didn't know if we would really be gaining anything by going to Illinois and looking at this enclosed system.

Mayor Shelton thought they should be able to go out and back in one day.

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

Mayor Shelton requested Council consideration to appointing Sara Hank to the ADA Committee.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the appointment of Sara Hank to the ADA Committee. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to appointing the following persons to the Sales Tax Committee: Randy Bertolas, Connie Kirkpatrick, Nancy Jo Powers, Sheryl Summerfield, Sam Schroeder, Brad Wieland, Duane Blomenkamp, Traci Bruckner, Rod Garwood, Greg Kahlhoff, David Lutt, Darrell Miller, Craig Tiedtke, and Penny Volbracht.

Councilmember Buryanek made a motion and seconded by Councilmember Sturm approving the appointment of Randy Bertolas, Connie Kirkpatrick, Nancy Jo Powers, Sheryl Summerfield, Sam Schroeder, Brad Wieland, Duane Blomenkamp, Traci Bruckner, Rod Garwood, Greg Kallhoff, David Lutt, Darrell Miller, Craig Tiedtke, and Penny Volbracht to the Sales Tax Committee. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson and Mayor Shelton reported on the emergency planning session/exercise they participated in at Wisner.

Councilmember Sturm made a motion and seconded by Councilmember Frevert to adjourn the meeting. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:34 p.m.