

**MINUTES
CITY COUNCIL MEETING
March 18, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, March 18, 2008, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Verdel Lutt, Don Buryanek, Doug Sturm, Kaki Ley, and Ken Chamberlain; City Attorney Amy Wiebelhaus; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Brian Frevert, Dale Alexander, and Darrel Fuelberth.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on March 6, 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 Ley, whereas the Clerk has prepared copies of the Minutes of the meeting of March 4, 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: AMERITAS, RE, 2004.76; APPEARA, SE, 135.87; ATCO INTERNATIONAL, SU, 103.12; BAKER & TAYLOR BOOKS, SU, 624.52; BANK FIRST, FE, 210.00; BAUM HYDRAULICS CORP., SU, 16.89; BENSCOTER PLUMBING, SE, 3037.92; BIG T ENTERPRISES, INC., SU, 423.75; CITY OF WAYNE, RE, 56.09; CITY OF WAYNE, RE, 2633.42; CITY OF WAYNE, PY, 52856.62; CITY OF WAYNE, RE, 428.78; CITY OF WAYNE, RE, 79200.00; CITY OF WAYNE, RE, 230.44; CONNECTING POINT, SE, 17.90; DAKOTA BUSINESS SYSTEMS, SE, 71.16; DAVE'S UNIFORM CLEANING, SE, 102.00; DEMCO INC.,

SU, 73.72; ED M FELD EQUIPMENT, SU, 609.00; ELECTRIC FIXTURE, SU, 178.00; ELECTRIC INNOVATIONS, SU, 192.31; FARMERS AND MERCHANTS, RE, 700000.00; FIRST NATIONAL BANK, RE, 700000.00; FLOOR MAINTENANCE, SU, 366.86; FREDRICKSON OIL, SU, 423.50; GALE GROUP, SU, 94.70; GERHOLD CONCRETE, SU, 41.10; GILL HAULING, SE, 1424.60; GREAT PLAINS ONE-CALL, SE, 13.13; HARDING & SHULTZ P.C., SE, 665.39; HAUFF MID-AMERICAN SPORTS, SU, 138.00; HTM SALES, SE, 112.50; ICC, FE, 100.00; ICMA, RE, 5481.25; INGRAM BOOK COMPANY, SU, 344.00; INCODE, INC., SE, 1050.00; IRS, TX, 17544.30; JOHN'S WELDING AND TOOL, SU, 1742.24; JONES MANUFACTURING, SU, 363.98; KIRKHAM MICHAEL, SE, 201.64; KORY LESEBERG, SE, 187.50; KTCH, SE, 605.00; LEAGUE OF NEBRASKA MUNICIPALITIES, SE, 1641.00; LECC, FE, 190.00; LIVING HERE, SU, 25.00; LUNDAHL, EARL, SE, 350.00; MIDWEST LABORATORIES, SE, 112.90; N.E. NEB ECONOMIC DEV DIS, RE, 1000.00; NE AMERICAN LEGION, FE, 100.00; NE DEPT OF REVENUE, TX, 2359.31; NE RURAL ELECTRIC ASSOC, TX, 1.30; NORTHEAST EQUIPMENT, SU, 168.24; NNPPD, SE, 10920.14; PAC N SAVE, SU, 146.18; PEPSI-COLA, SU, 760.41; PRESTO X COMPANY, SE, 71.89; PROVIDENCE MEDICAL CENTER, SE, 5091.50; PURCHASE POWER, SU, 500.00; QUALITY 1 GRAPHICS, SU, 60.00; QWEST, SE, 1248.61; RANDOM HOUSE, SU, 475.00; RASMUSSEN ELECTRIC, SU, 806.40; STADIUM SPORTING GOODS, SU, 62.50; STATE NATIONAL BANK, FE, 25.00; STATE NATIONAL BANK, FE, 43.82; STATE NATIONAL BANK-PETTY, RE, 335.41; WAYNE COUNTY CLERK, SE, 29.00; WAYNE HERALD, SE, 156.50; WESCO, SU, 333.87; ZEE MEDICAL SERVICE, SU, 160.66; ZIMCO SUPPLY, SU, 2149.50; ALLTEL, SE, 261.72; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, SU, 267.45; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 2028.33; CITY OF WAYNE, RE, 106.70; CITY OF WAYNE, RE, 27.00; CLASSY CLEANING LADIES, SE, 184.49; COVENTRY HEALTH, SE, 19590.14; DE LAGE LANDEN FINANCIAL, SE, 411.00; DUTTON-LAINSON, SU, 210.36; ELECTRIC FIXTURE, RE, 43.93; FLOOR MAINTENANCE, SU, 153.89; FORT DEARBORN LIFE, SE, 1571.63; HEWLETT-PACKARD, SU, 1479.00; J.P. COOKE COMPANY, SU, 155.45; LONN MANUFACTURING, SU, 115.04; LORMAN EDUCATION SERVICES, FE, 618.00; MOONLIGHT TOWING, SE, 85.20; NPPD, SE, 170267.91; OLSSON ASSOCIATES, SE, 3172.12; PAMIDA, SU, 361.80; PIERCE COUNTY COURT, RE, 71.00; PITNEY BOWES, SE, 637.00; QUALITY 1 GRAPHICS, SU, 300.00; RON'S RADIO, SE, 1027.50; SOLOMON CORP, SE, 240.00; STADIUM SPORTING GOODS, SU, 144.00; STATE NATIONAL BANK, RE, 1812.53; STATE NATIONAL BANK, RE, 16765.00; TONI HYTREK, SE, 20.00; USIS COMMERCIAL SERVICES, SE, 51.90; WAYNE AUTO PARTS, SU, 699.42; WAYNE COUNTY COURT, RE, 1121.50; WAYNE HERALD, SE, 638.69; WEB SOLUTIONS OMAHA, SE, 275.00; WAPA, SE, 24122.13

Councilmember Buryanek 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.

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.

Phil Lorenzen, D.A. Davidson, gave a report on the Muh's Acres Public Utility Water Service District Proposal. Mr. Lorenzen provided some background information. The residents in Muh's Acres have inadequate volumes of pressure due to the system being too small – line size. The residents wish to upgrade the system and services to get more volume and pressure. The area is located outside of the City limits, which actually limits the statutory alternatives for construction and financing. Two key elements that come into play with the layout of the district are engineering and planning. There is a necessity and design for current needs in the area, but there needs to be serious consideration given to future needs in the area as well and beyond the area of Muh's Acres. City growth patterns sometimes evolve naturally and sometimes they can be designed. There are factors that will contribute to or detract from development. Certainly, the availability of utility services, including water, is one of those factors that can either assist or detract from development in an area.

Obviously, construction and engineering costs come into play, and there will be additional costs as we move through time. There are costs of providing a commodity such as a water system (wells, treatment, storage, etc.), and it is fair for all users of the

system to share in that. Ongoing maintenance and repairs have to be encouraged as you go through time. Some cost considerations might give some weight and merit to the oversizing of mains and lines for future usage and growth in the area.

An important thing to consider is the method of recovery of the costs of the improvements. There are several that can be used. The most typical would be the use of special assessments and user fees. However, hook-up fees can be also looked at over the course of time.

The City has three or four different statutory powers in terms of creating districts because the area is located outside of the city limits and because it is “already being served by water services.” His recommendation would be to create a “Water Main District” by ordinance per Sec. 18-401 thru 18-407 of the Neb. Rev. Statutes. There is a requirement that notice be given to property owners in a proposed district. Once the property owners have been served notice, there is a 30-day remonstrance period for receiving written objections. That remonstrance is merely an objection based on the front footage of the property ownership.

There are two things that the City has to consider:

- The creation of the district itself; and
- How you will get reimbursed for the costs of that district.

The Statute is specific in terms of front footage objections. Assuming the district is created and you come to an understanding with how the costs will be funded and reimbursed, you would then have an engineer contract for improvements. After going through the bidding process, you would proceed with the final engineering contract and construct the improvements.

At that point and time, the City would be advised to adopt a reimbursement resolution to preserve the city's ability to recover any expenditures with future note or bond issuances in order to borrow funds. Between the Tax Codes and Nebraska Statutes, there are a lot of hoops you have to go through in the process. If a City were to expend money and advance its own funds for the project costs and not have in place a reimbursement resolution, then under the Federal Tax Code, they would be enjoined from recovering the costs through borrowed funds on a tax exempt basis.

There is interim financing and permanent financing that is involved in funding the project. There is no borrowing ability within the Statutes above referred to, so funding would need to come from one of two sources – either the City can do internal bonding in the utility system through the necessary reserves, or the City can issue short-term combined utility revenue bond anticipation notes. A note is just a short-term instrument that is issued in anticipation of either collecting the fees to pay it off from cash or rolling it eventually into bonds on a more permanent basis. In the case of the City of Wayne, the electric system is a free standing utility operation. The water and sewer were combined a number of years ago through borrowing, so it would not be a water utility revenue bond anticipation note, but it would be a pledge of both the water and the sewer system revenues.

Once the project is done, then the interim financing can be rolled into permanent, long-term financing, and you can either use a continuation of internal borrowing or the City could go ahead and roll or spin those notes into longer time combined utility revenue bonds. As interest rates drop, there is an opportunity for a lot of refinancing right now. Cities, right now, are in a position where they can borrow at very attractive levels.

One of the key elements that has been a topic of discussion with him and city staff is the allocation of the improvement costs. The Statute provides that once the district is created, all of the costs can all be assessed back against property owners. You need to look at how you attribute and assess the costs to the property owners and whether or not some of the costs are attributable to the City utility system. It would be his view in most utility systems when you construct a project, you look 10, 20, 30 and 40 years into the future and give wise consideration of over sizing the lines for future use. There may need to be some facilities made for looping the systems, so you can serve water from both directions in the event of fire, etc. There may be some other upgrades of primary benefit to the utility system as well as to the folks in the Muh's Acre area.

There is a number of ways you can go through the assessment. That is one of the primary topics tonight. The front footage basis is the most common technique to use when you allocate special assessment costs. This situation is not a one size fits all approach in his view, because they have some uncommon attributes between the different properties out there. The first would be that the front footage allocation may simply fail to consider lot size and other factors relative to the manner in which the lots are developed. There may be rather wide swings in consumption. Another alternative would be on a per lot basis. There may be some need to consider double lots. It's maybe not fair to do it on a per lot basis if you have two lots and only one residence. Another alternative that can be used to recover the primary construction costs as much as possible immediately is on a per user basis. You can then recover part of the costs over time from user fees. You can do connection districts that would provide for recovery of the costs at

the time of the hook-up. He would not advise the City to consider this because the City is at risk for cost recovery.

The number of assessment payments is something that would be important to discuss. The Statutes allow up to 20 years for water and sewer. He would recommend 10 years. The two key elements you have to look at when you consider the time frame is what the cost is to the property owner and the economic use of the system's life. In this particular case, water lines last a long time.

When you look at the costs, you need to look to the long-term view which is that improvements such as enhanced water systems not only give you better water volume and pressure, but should enhance the property values and the marketability of properties. There could be additional lot splits once you have a better volume of water. Lots could be enhanced in terms of marketability.

The interest rate on unpaid specials should be based on the City's probable borrowing costs. If the City were in the market today for a 15-year bond issue, the borrowing cost would probably be 4% or less. For administrative costs and so forth, he usually has a multiplier of 1.5% or 2%. If the City's borrowing cost was around 4%, then his recommendation to the City would be to charge an interest rate of around 5.5% or 6%. There would be a provision for prepayment of the special assessments. There would be no penalty for prepayment. The one key element that protects the City and puts the burden on the user is that the assessment, once levied, becomes a lien on the property.

Chris Connolly, representing the Muh's Acres Home Owner's Association, asked whether or not it is possible to create the district only on the north side of the road. The property owners on the south side of the road would not be included. Mr. Lorenzen

believed that was possible, but the final determination needed to be that of bond counsel. However, the conversations he has had with bond counsel indicate that that would not be a problem.

Mr. Connolly stated secondly, Mr. Lorenzen defined one of the possibilities as a user basis. He had sent a letter to the City requesting the assessments be on a per “household” basis. This is an important project for the residents of Muh’s Acres. We are not only looking for an upgrade in the water system because we have inadequate pressure, but fire protection is also a major concern since there is only one fire hydrant out there to cover the entire neighborhood. In addition, they are requesting the City consider assuming the cost of the segment of line from the pump house to the first house out there (Skokans). They have talked about the property between the Skokans and the Andersons. He does not know where those property owners stand. There may be some interest there in joining in the project, but the distance from the pump house to the Skokans is about 1,300 feet. From that point forward should be covered by properties, with the possible exception of the two properties between the Skokans and the Andersons. The Skokans are part of our group.

Mr. Connolly was not sure if the district needed to include the pump house to Skokans, because if it did, then it makes a difference as to whether the south side of the road is included. If we can start the district at Skokan’s, then that makes all the difference in the world, but that would mean then that the City is willing to build that line from the pump house to the east side of Skokans. That segment would not be part of the district itself. The Association is more concerned whether or not there might be objections to the creation of the district. If we can keep the district within our

neighborhood, that is what they are looking for. We are anticipating that everyone would pay an equal share – that the assessment would be divided on a per household basis, not on a linear foot basis. Those of us with smaller lots are, in fact, helping those with bigger lots.

We have had meetings and those in attendance are in favor of the project. The Linster and Young properties are not part of our neighborhood, so the Association could not speak for them under any circumstances.

Mr. Lorenzen stated that the Statute, his counsel tells him, is predicated on objections being filed on the basis of front footage. Under case law and so forth, our attorneys tell us that the Council would probably be ill advised to make a predetermination as to how this is going to be assessed back against the property owners. You are probably going to have to have a bit of a leap of faith collectively on the part of the City and you property owners that the consensus view would be that the assessment would probably be allocated on the basis of what you want on a per user situation. However, you have to take a leap of faith when we go through the legal process for the creation and trust that we are going to come back and accommodate you in terms of how that is structured. There is going to be a conflict between the wording and what the actual circumstances are, but he doesn't believe that the Council, by motion, ordinance, or resolution, could go on record contrary to the Statutes. But he thinks that is resolvable.

Mr. Lorenzen stated the City would have the right to further recovery should anybody else hook onto those lines later on. Connection or hook-up fees could be charged to recover costs down the road. There is no graceful way to allow the property owners to recover those costs.

Administrator Johnson stated he has talked to Olsson Associates and has asked them to bring to the April 1st meeting their progress on the design of the project and an estimated cost update. The last direction that Council gave staff last fall was to propose some kind of district. The financing part of this has been complicated because it is outside of the City limits and everyone already has water. If there is a consensus on the Council's part and there is agreement by Bond Counsel that we can put the district on the north side only, then that is the district proposal staff will bring to you on April 1st from Olsson's. If the Council is amenable to pay the costs from the pump house to the Skokans, then we can tell Olsson's that is where the district starts.

Mayor Shelton thought that would be the only fair thing to do – for the City to pick up the costs from the well to the Skokans because these people have been paying double rates for all of these years on a water line that the City did not put in, and did not bear the costs to start to out with. Other places that have water service outside of the City limits that we put in, when there are problems, those people are going to expect that we are going to replace it. We are replacing a line that we didn't have to bear the cost of to start out with. Those residents have been paying double rates all of this time and she did not see any reason why the Council would object to this.

Mr. Lorenzen stated that in order to help facilitate the project, he and his Bond Counsel will prepare the necessary documents to approve plans and specifications and the draft form of an ordinance for the creation of the district.

Councilmember Frevert arrived at 6:10 p.m.

Charles Shapiro of the University of Nebraska – Lincoln, discussed a Well Head Protection Plan for the City Wells. He and Bill Kranz, Irrigation Specialist at the

Northeast Station, do a lot of work together on fertilizing and irrigating to reduce nitrate leaching. Administrator Johnson gave him a list of questions, some of which he could not answer, and others which he will focus on.

The first question was in regard to a buffer area around the City wells. If we are talking about the ground water, we are talking about non-point source pollution and would be all of the land all over the aquifer above the well. A buffer around the well point itself, in his opinion, would be to guard against point pollution, so there are perhaps some rules on there, but that is really not germane to this discussion.

As a soil fertility person, he spends most of his time in the top four or five foot of the root zone. They work in research and extension to make sure that they use the nitrogen and fertilizers that are applied so there is not too much left over to move below it. His expertise is not really on how that moves once it gets below the root zone, so their work is mostly focused on keeping the nitrogen in the root zone for the plan.

In terms of the movement of the nutrients or contaminants, if they are water soluble and the water moves through the profile, then those chemicals are going to move through the profile. If they bind to the soil or produce chemicals that are insoluble, they probably are not going to move. Nitrogen is the chemical that they worry about the most. If you just think of it as moving with the water, that is the major concept. In terms of manure application movement through the soil, the big unknown with manure is that we don't know when the nitrogen is released from that manure. When it is in manure form, most of the organic part is bound up in undigested materials and is not soluble. But over time, the microbes in the soil will break that down. However, the issue we have with manure is that we just don't know when that breakdown will be. We would like it to be

broken down when the crop needs it, but if that happens in September and the crop is pretty much done and we get a rain, we will lose it.

In the research that has been done in Clay Center, they were losing 60-70 pounds per acre per year. The root zone drainage is 9-11 inches. That is probably a lot more drainage (the amount of water that moves below the root zone). He was running some models here for crop growth and looked at just the period between 1982 and 1992 and what that model would predict for the amount of drainage up in Concord which would be similar to here and the range of drainage during the growing season was from about 0 to 8 inches depending upon when the rain fall comes. The profile has to be full and then you have to have more water. So, in a dry year like in 1989, there was no drainage because we had a drought and there was nothing moving.

If we look at an example of a sandier soil where the water would move through there a lot more quickly than in a silt loam or silty clay loam, you might get a very rapid movement because the soil may only hold an inch of water per foot and it percolates through there very quickly. This would be the case in the Central Platte, where they are very shallow and they over irrigate and that is why they have a problem there. They just recycle the water. That is not the case up here. Some other sandy areas farther west, it's the same kind of thing. We have finer textured soils and it would take longer to get down through there to the ground water. If you moved it three foot per year and you had a hundred feet, that is 33 years.

The question then is if you do have a certain amount of nitrogen moving through, how long does it take to really contaminate the aquifer. That depends on the depth of the

aquifer. So, we can't really tell you it is going to take so many years, but we can do some calculations on how many pounds per year would cause the aquifer to move.

Mr. Shapiro stated the reason he brings this up is that it's one thing to say that there is 50 pounds of that moving per year, but what is the impact to the water quality. That depends on the depth and the aquifer thickness.

Generally, his understanding is that the nitrogen would tend to be a little bit higher right at the top of the surface. It does take time for the water to diffuse the nitrates through the aquifer, so it might actually have a lower concentration farther down. When the pump starts to pull in water, it will mix in and so what comes out of the well may be not from the top of the aquifer or at the bottom, but it's kind of a mixture of the two depending on if there is a differential or not.

Sometimes when we have people talking or asking questions, they do ask how fast the aquifer will move, and if there is a contamination two miles up, when is it going to get to the well? He can't calculate this, but people can calculate from the aquifer up there what the movement time would be and how far out (5, 10, 20 years) that it would have an impact.

If this ground is going to be irrigated, it is very critical that the irrigation management be right on top of things. If it is going to be rain fed, then you are just going to reduce probably the potential of the drainage number by five or six inches.

In regard to recommended levels of crop fertilization, this is his strong suit, and his recommendation is that they do not apply more than what the University of Nebraska recommends. He reviewed some numbers to prove his case. How much nitrogen do you

think a bushel of corn uses? The answer is .8 pounds. What they want to do is balance out what is put on the ground with what is removed.

In 1965, farmers were applying 1.6 pounds of nitrogen per bushel. The corn crop removes about .7. So, it is tremendously inefficient, but if you look at 2005, we are under a pound, and this is a statewide average. Producers have been doing a really good job of improving their efficiency, but you can see where we had problems back in the 60's and 70's.

The basis for their recommendations is that when you apply nitrogen, you increase your yields to a certain point, but after that, you don't increase the yields very much, if at all. Some people would say you keep filling up a little bit, but if you put on too much you can actually hurt the crop. In terms of the water quality and the soil quality, as we keep increasing nitrogen down in the bottom, our residual nitrate which is the nitrogen that we pick up in the fall after the crops, keeps increasing and that is what we want to avoid. That is what the whole goal is in their recommendation -- to minimize that residual nitrate. We are never going to have zero residual nitrates. We are never going to be able to grow corn and have nothing left over at the end of the season. So you have to expect something there.

At a meeting he was at, he has asked farmers to tell him how much nitrate they thought that their colleagues at Central Platte put down and 100% of the farmers said they thought their colleagues in the Central Platte put down 25 pounds more nitrate than what is recommended. This is farmers judging their colleagues.

Now, the data they have collected in the Central Platte, the farmers are putting down more than 25 pounds more than the recommendations. Their feeling is that when

they ask farmers to apply the University's recommendation it is a hard sell, and they recognize that. Not every farmer likes to do that, but it will have benefit both for the environment and also for their profit. His big point is that they would like to follow the University recommendation which in this case is closer to .8.

When nitrogen is fairly inexpensive, it doesn't really cost the farmers anything to over apply nitrogen, and farmers are out to make money. That is their business. He does not have a problem with that, but this is a rational reason why they are doing what they have been doing. It's because when the nitrogen isn't that expensive, they can error on the high side. They lose money if they under apply, so the challenge that we all have either in education or environmental control is to help them get to point B where they are still making a fairly good amount of money and they don't need that extra nitrogen.

While it is more than just applying the right amount, in his opinion, the right amount is the first important decision. He doesn't have any problem with saying they should be using the University recommendation and that would be his recommendation to the Council to consider that as the starting point.

Their recommendation comes from years of research. They have a good data base over a long period of time that supports their recommendation. It is based on what is in the soil, and it is also based on organic matter in the soil that gets released over time. You don't pick that up with a soil test, but they calculate it based on the soil organic matter.

Some agronomists don't give all the same kind of credits. That is probably the biggest thing that differentiates the University recommendation from other agronomists is

that they take each soil sample, they calculate organic release, and they take into account previous crops, irrigation, etc.

At the Northeast Station, he has some studies that have been going on for over 20 years. These are little plots that have not had any nitrogen for 20 years. He was getting 95 bushels per acre on plots that have not had any nitrogen for 20 years. You can control the nitrogen rate they are using to farm that. He wanted the Council to have a sense that the University's recommendation is based on numbers that they didn't pull out of the air.

Mr. Shapiro recommended doing annual monitoring of nitrogen in the soil at the 8-12", 12-24" and 24-36" levels. There may be some cases where you would pick up nitrogen at the 24-36" or 24-48" and not have it at the top, and a farmer can make a case that because the nitrogen is deep, he needs a little bit more nitrogen in early. Knowing exactly where the nitrogen is gets you some benefit.

In response to Councilmember Buryanek's question, Mr. Shapiro stated that for a crop production situation, they would recommend taking four deep samples in 20 acres. Depending upon the lay of the land, you don't have to make them into rectangles, but if there is a low ground and it's only 15 acres, you would sample that separately. If you had a side hill that was 35, you may want to sample that separately, but the Cadillac is about 20 acres.

The big point is that the nitrogen needs to go on based on when the crop is growing, and if you front load it with too much nitrogen and then there is a storm, you are going to get some drainage and end movement. In the case where you are trying to protect the environment, they would recommend a couple of applications of a slow

release nitrogen so you don't have a big pile of nitrogen in early May that is sitting there waiting to be used in July.

Bill Kranz reviewed additional graphs. He noted that in Creighton, they actually experienced a more severe problem with their well than we have here in the City of Wayne in that they now have a reverse osmosis water treatment plant, which cost about \$1 million dollars to a town of that size. The water coming out of their water system, when they first started this work about 4 years ago, was about 8.7 parts per million. That number was going up yearly, but the water quality in the aquifer itself wasn't going up at the same rate. Water treatment is one that requires a fairly substantial amount of investment to keep operating. The City of Creighton is again facing a dilemma as to what to do. A year ago, they put in a new set of filters in that water treatment plant. The plant was built in the mid 90's. It had not been there for 20 years when they first put it in and they have replaced the filters. It's a costly thing.

Mr. Shapiro stated the professor who worked with them on this would be willing to come up and visit with staff if they would like.

Mayor Shelton asked if they were doing anything out farther than 20 years -- as far as looking at where this water is coming from, time of travel, etc. Mr. Shapiro stated the level of uncertainty goes up the farther you go out.

Mayor Shelton asked once the nitrogen starts to get farther down in the ground, below where the crops are going to use it, is there any way we can slow down its progression through the layers? Mr. Shapiro stated if you can think of it as whenever any water escapes from below the root zone, that is what is pushing it and moving it down, and if you have a wet period of 40" of rain four years in a row, we are going to get a big

flush. You could, from an agronomic point of view, grow something like a deep rooted crop that would get you a little bit of uptake. Once it escapes, it is pretty much a water issue in terms of not over irrigating, and that is why he really emphasizes not over irrigating.

Mayor Shelton stated so once it gets down 30 or 40', we really have no control over it.

Mr. Shapiro stated he has been testing the slow released fertilizers, and he has put them on places where he thought the farmers tended to irrigate a lot on course soils. Over the last two or three years, he has gotten no improvement from using the slow release because the farmers, because of the high price of diesel, have cut back on their irrigation. His gut feeling is that there is less over irrigation in the last two years than twenty years ago.

There being no further questions for Mr. Shapiro, Mayor Shelton thanked him for coming to the meeting and giving this presentation.

Brian Gibson, representing the Wayne County Jaycees, was present requesting Council consideration to increasing the amount of the annual donation given for the 4th of July fireworks from \$1,000 to \$2,500. In addition, he was requesting Council consideration to donating \$5,000 for the 125th celebration to be held in 2009. Their goal is to shoot a \$15-20,000 display in 2009. After that, they would like to shoot a \$10,000 display thereafter. They are having a harder and harder time getting money from the businesses.

In response to Councilmember Frevert's question, Mr. Gibson stated they generate about \$400 from the "donation cans." Last year, they received around \$650

when they went door-to-door. Councilmember Frevert thought they should have the “donation cans” out for a longer period of time. They receive about 40-50% of the costs of the display from the businesses. They do have some money in a savings account which accrues some interest.

Administrator Johnson stated the additional money, if approved, would have to come out of the admin electric fund (cash reserves).

Because of fuel costs, etc., the cost to do this year’s show will increase. To do the same show as last year will cost 10% more because of the increases.

Mayor Shelton stated for the same show that we had last year, we could donate \$1,100. However, all of the other donations would have to increase by the same amount too.

Councilmember Lutt did not know whether or not Council could approve a donation for the 125th celebration until they go through the budget.

Councilmember Lutt made a motion and seconded by Councilmember Frevert to increase the budget from \$1,000 to \$1,500 for the 2008 fireworks display.

Councilmember Sturm questioned whether or not they could act on something that was not on the agenda.

Councilmember Lutt withdrew his motion and Councilmember Frevert withdrew his second, and requested the matter be brought up on the next agenda.

Mayor Shelton stated until the Council begins the budget process, they can’t promise anything for next year.

Mr. Gibson stated they have a deadline date of April 1st as their “early payment” date. Mayor Shelton thought the same motion would be made in two weeks as was made this evening.

Discussion took place on the conditions of sale that were proposed by Administrator Johnson on the property at 502 East 6th Street. The proposed “Conditions of Sale” are:

- 1) Successful buyer must construct or locate a single-family residence on the above referenced property with an occupancy permit issued for the complete residence within 12 months of the closing date of the sale with the city.
- 2) The maximum sales price or assessed value of the home cannot exceed \$110,000 at the time the occupancy permit is issued.
- 3) The residence built on the property must be a style and size that will match the existing neighborhood homes as determined by the city building inspector.
- 4) The above referenced property will be sold to the successful buyer with a lien in the amount of \$18,342 held by the City of Wayne attached to the deed, that will be released by the city when all the aforementioned Conditions of the Sale #1, #2 and #3 are confirmed to the city clerk by the City Building Inspector to have been met.
- 5) The successful buyer will be required to pay 20% of the bid price in cash or certified check to the Wayne City Clerk at the end of the auction and the bid is accepted. The remaining 80% will be due at closing on the sale of the property.
- 6) The sale of the property is subject by state law to a remonstrance period of 30 days from the date of the closing on the sale of the property.
- 7) The cost of the title insurance and closing costs for the property will be that if the seller.
- 8) The city council reserves the right to refuse any or all bids received for the property and will take final action to accept or reject bids at the next council meeting following the auction on April 15th.

The auction will take place on Friday, April 11th, between the hours of 2:00 and 3:00 p.m.

There were concerns about Item No. 2 – *“The maximum sales price or assessed value of the home cannot exceed \$110,000 at the time the occupancy permit is issued.”*

After discussion, Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the Conditions of Sale with the exception of Item No. 2 (“The maximum sales price or assessed value of the home cannot exceed \$110,000 at the time the occupancy permit is issued.”). Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Phil Monahan, representing the Wayne Volunteer Fire Department, was present requesting Council consideration to allowing them to submit a grant application to FEMA for replacement of 40 sets of bunker gear and approve the 5% matching funds needed for the same. They were originally going to submit a grant application to replace the aerial ladder truck, however, after conferring with FEMA, they were advised that because the Rural Fire District is applying for a grant for a new truck, they cannot because you can't apply for a grant for two trucks that are stored in the same building. The total of the 40 sets of bunker gear comes out to \$92,000. The local match would be 5% or \$4,600 which would be split between the City (\$2,300) and the Rural Fire District (\$2,300). This would be allocated in next year's budget. Next year, when it comes time to apply for grants, they will apply for the aerial ladder truck (\$600,000).

They paid a one-time fee of \$200 to a grant writer, and he will keep submitting the grant every year until they (FEMA) either runs out of money or we get the money for the truck. They are anticipating the FEMA grants will be extended until 2015.

Because the request on the agenda did not refer to the 40 bunker gear sets, the matter would be brought before Council at the next meeting.

Kent Franzen, representing Wayne Industries, presented the Mayor and Council with the NPPD 2007 Economic Development Award.

Kent Franzen updated the Council on the LB840 Sales Tax effort. The consensus of the group was to try for the 1% sales tax. From the discussion at the last meeting, he thought things were tending to flow towards a sinking fund for large ticket items, such as a fire truck, etc., and for LB840 activities.

Jeff Zeiss, Recreation-Leisure Services Director, and Lauran Lofgren, Library Director, presented their annual reports.

Councilmember Sturm introduced Resolution 2008-19, and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2008-19

A RESOLUTION IDENTIFYING CITY OF WAYNE GOALS FOR THE YEARS 2008-2031.

Mayor Shelton 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 approve the application to the Nebraska Department of Roads to use STP funds for 80% of the construction costs for the 10th Street repaving and storm drainage project.

Councilmember Ley introduced Resolution No. 2008-20 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2008-20

A RESOLUTION APPROVING SUBMITTAL OF AN APPLICATION FOR ALLOCATION OF FEDERAL SURFACE TRANSPORTATION ACT FUNDS FOR THE EAST 10TH STREET, MAIN STREET TO WINDOM STREET ROADWAY IMPROVEMENT 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 following Resolution would authorize the submittal of a letter of intent to participate in the NCIP Awards Program.

Councilmember Sturm introduced Resolution 2008-21, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2008-21

A RESOLUTION AUTHORIZING LETTER OF INTENT TO PARTICIPATE IN THE 2008 NCIP AWARDS PROGRAM.

Mayor Shelton 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 authorize the City of Wayne to participate in a group called the “Nebraska Expressways for Economic Development.” A paid lobbyist has been hired and the cost for Wayne to join would be \$295.36. The future of road funding in out-state Nebraska will depend on our ability to lobby our own Department of Roads.

Councilmember Ley introduced Resolution 2008-22, and moved for its approval; Councilmember Buryanek seconded.

RESOLUTION NO. 2008-22

A RESOLUTION APPROVING MEMBERSHIP IN THE NEBRASKA EXPRESSWAYS FOR ECONOMIC DEVELOPMENT ORGANIZATION FOR 2008.

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

Administrator Johnson stated three bids were received on the Power Plant North Engine Room Roof Project. Staff recommendation is to award this bid to Guarantee Roofing of Norfolk in the amount of \$32,421.00.

Councilmember Buryanek introduced Resolution 2008-23, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2008-23

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE POWER PLANT NORTH ENGINE ROOM ROOF PROJECT.

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

Administrator Johnson stated three bids were received on the Power Plant North Garage Roof Project. The low bid from NENES in the amount of \$6,885.00 is for a spray-on type roof that provides some insulation. It has the same warranty as the membrane roof. Staff recommendation is to accept the bid of NENES in the amount of \$6,885.00. This process is a lot less labor intensive which is why there is a \$10,000 difference between the low bidder and next lowest bidder.

Councilmember Sturm introduced Resolution 2008-24, and moved for its approval; Councilmember Buryanek seconded.

RESOLUTION NO. 2008-24

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE POWER PLANT NORTH GARAGE ROOF PROJECT.

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 purchase of a car for city staff to use when traveling to meetings and conferences. There is a need to get a car that gets better gas mileage and has front wheel drive. Administrator Johnson was recommending \$10,000 for a used car.

Mayor Shelton stated in the last year, we have paid \$7,700 in mileage.

Nancy Braden, City Treasurer, stated a concern of staff is that in the past, we have not allowed the employee to use the City car if they were in Kearney to go out to supper or to the Mall. If that was allowed, she would drive a City vehicle more than her own.

Ms. Wiebelhaus stated legally it depends on if it is in the course of your business. It is reasonable to think that when you are at a conference that you are going to get lunch or you are going to go get supper. That is reasonable.

Councilmember Buryanek stated at the College, there are two rates you get charged -- if a department uses a college car, it is one rate, but if they use their personal car, they get paid back at a lower rate, because it is their choice not to use the college car. If they go out on a three or four day conference, they are allowed to take the car to go to the movie or the mall.

Police Chief Webster stated that in his department if a city car is available and one of his staff chooses to take their own vehicle, they do not get paid mileage.

No action was taken on the matter.

Administrator Johnson provided information regarding the Phase II Trail Project in the last packet. This will be bid out some time in May or June for construction in 2008. He is going to propose an alternate with a completion date in June/July of 2009.

Mayor Shelton requested Council consideration to appointing Chris Beyer, Dennis Jensen, Roger Timperly and Robert Carhart to the Sales Tax Committee.

Councilmember Buryanek made a motion and seconded by Councilmember Ley approving the appointment of Chris Beyer, Dennis Jensen, Roger Timperly and Robert Carhart 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.

Mayor Shelton requested Council consideration to appointing Dorothy Cull to the Housing Authority.

Councilmember Sturm made a motion and seconded by Councilmember Buryanek approving the appointment of Dorothy Cull to the Housing Authority. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton and City Clerk McGuire reported on the National League of Cities Conference they attended in Washington D.C.

Councilmember Buryanek made a motion and seconded by Councilmember Sturm 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 8:30 p.m.