

**MINUTES
CITY COUNCIL MEETING
June 17, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, June 17, 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, Dale Alexander, Doug Sturm, Darrel Fuelberth, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Brian Frevert and Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on June 5, 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 Fuelberth made a motion and seconded by Councilmember Sturm, whereas the Clerk has prepared copies of the Minutes of the meeting of June 3, 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: ALERT-ALL CORP, SU, 213.12; AMERITAS, RE, 2006.64; APPEARA, SE, 144.00; BAKER & TAYLOR BOOKS, SU, 748.02; BANK FIRST, FE, 195.00; BLACKBURN MANUFACTURING, SU, 84.78; BOMGAARS, SU, 469.59; CARHART LUMBER COMPANY, SU, 1434.33; CITIZENS NATIONAL BANK, RE, 3651.63; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 13912.50; CITY OF WAYNE, RE, 207.68; CITY OF WAYNE, RE, 25.00; CITY OF WAYNE, RE, 5438.53; CITY OF WAYNE, PY, 58735.62; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 90.00; CITY OF WAYNE, RE, 195.99; CITY OF WAYNE, RE, 496.26; CITY OF

WAYNE, RE, 329.91; CLAUSSEN & SONS IRRIG, RE, 184.44; CONNECTING POINT, SE, 17.90; COPPLE & ROCKEY P.C., SE, 433.00; COPY WRITE, SE, 509.83; COUNTRY NURSERY, SU, 66.00; DAKOTA BUSINESS SYSTEMS, SE, 73.16; DEMCO, SU, 133.47; DOESCHER APPLIANCE, RE, 22.10; ECHO GROUP, SU, 116.40; ED M FELD EQUIPMENT, SU, 979.95; ELLIS PLUMBING, SE, 136.50; FIRST SOURCE TITLE&ESCROW, SE, 125.00; FLOOR MAINTENANCE, SU, 656.66; FORT DEARBORN LIFE, SE, 1677.79; FREDRICKSON OIL, SU, 619.49; FREMONT NATIONAL BANK, RE, 285555.00; GREAT PLAINS ONE-CALL, SE, 114.60; GUARANTEE ROOFING, SE, 29021.00; HARDING & SHULTZ, SE, 1060.49; HAUFF MID-AMERICAN SPORTS, SU, 1979.00; HAWKINS, SU, 552.92; HIGHSMITH, SU, 72.52; HOPKINS CABLE, SE, 5209.33; HTM SALES, SU, 114.87; ICMA, RE, 5390.66; INGRAM BOOK COMPANY, SU, 990.77; IRS, TX, 19135.30; KELLY SUPPLY, SU, 562.43; KRIZ-DAVIS, SU, 4892.87; KTCH, SE, 685.00; MIDWEST LABORATORIES, SE, 152.05; MILO MEYER CONSTRUCTION, SE, 5377.50; N.E. NEB ECONOMIC DEV, FE, 6643.77; NATP, FE, 30.00; NE DEPT OF REVENUE, TX, 2542.95; NE DEPT OF ROADS, SE, 3400.00; NORTHEAST EQUIPMENT, RE, 87.57; NORTHEAST LIBRARY SYSTEM, FE, 85.00; NNPPD, SE, 10920.14; NWEA, FE, 55.00; OVERHEAD DOOR COMPANY, SU, 13.30; PEPSI-COLA, SU, 205.39; POLLARD PLUMBING, SE, 265.00; POSTMASTER, SU, 126.00; PRESTO X COMPANY, SE, 71.89; PROVIDENCE MEDICAL CENTER, SE, 5501.25; QUALITY FOOD CENTER, SU, 7.49; QUILL, SU, 13.48; QWEST, SE, 1473.73; RANDOM HOUSE, SU, 303.20; STATE NATIONAL BANK, SE, 44.45; STATE NATIONAL BANK, RE, 735.96; STRATTON & KUBE, SE, 150.00; TAYLOR TECHNOLOGIES, SU, 56.61; THE RADAR SHOP, RE, 30.00; TONI HYTREK, SE, 125.00; U.S. TOY COMPANY, SU, 30.60; US BANK, SU, 6666.54; USA BLUE BOOK, SU, 199.40; USIS COMMERCIAL SERVICES, SE, 51.90; UTILITY EQUIPMENT, SU, 275.00; WAKEFIELD BASEBALL, FE, 175.00; WAYNE COMMUNITY SCHOOLS, SE, 45.00; WAYNE COUNTY CLERK, SE, 271.52; WAYNE COUNTY COURT, RE, 491.50; WAYNE INDUSTRIES, SE, 15471.00; WAYNE ROTARY, FE, 30.00; WEB SOLUTIONS OMAHA, SU, 21.25; WAPA, SE, 20046.40; YOUNG, BILL, SU, 185.00; ZACH OIL, SU, 6618.45; ALLTEL, SE, 268.95; BROWN SUPPLY, SU, 753.10; CITY OF WAYNE, RE, 3006.72; CITY OF WAYNE, RE, 30.00; CITY OF WAYNE, RE, 102.75; CITY OF WAYNE, RE, 440.99; CITY OF WAYNE, RE, 59.00; COMBINED POOL AND SPA, SU, 18.18; COVENTRY HEALTH, SE, 19596.53; CULLIGAN, SE, 41.00; DAVE SWANSON RE, 437.63; DE LAGE LANDEN FINANCIAL, SE, 411.00; DGR & ASSOCIATES, SE, 1872.72; DIRECT SAFETY COMPANY, SU, 145.01; DITCH WITCH, SU, 86.45; ELECTRIC FIXTURE, SU, 502.86; FLOOR MAINTENANCE, SU, 321.32; HAWKINS, INC, SU, 1616.71; INDUSTRIAL CHEM LABS, SU, 193.46; KIRKHAM MICHAEL, SE, 27606.00; KRIZ-DAVIS, SU, 5245.13; LEFTY OLSON, FE, 50.00; NE PUBLIC HEALTH, SU, 483.00; NPPD, SE, 156702.13; NORFOLK WINNELSON, SU, 453.88; NORTHWEST ELECTRIC, RE, 63.02; OLSSON ASSOCIATES, SE, 6280.70; OVERHEAD DOOR, RE, 495.60; PURCHASE POWER, SU, 1000.00; ROBERTSON IMPLEMENT, SU, 728.62; SCHULZ LAND SURVEYING, SE, 3371.62; STATE NATIONAL BANK, RE, 384.76; THOMPSON PUBLISHING GROUP, SU, 318.95; TOM'S BODY & PAINT SHOP, RE, 69.00; UTILITY EQUIPMENT, SU, 100.61;

WAYNE AUTO PARTS, SU, 186.41; WAYNE HERALD, SE, 1227.74; WAYNE INDUSTRIES, RE, 29460.00; WESCO, SU, 71.89

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.

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.

J.L. Schmidt of Nebraska Lied Main Street presented a “National Main Street Community” plaque to the City of Wayne for being recognized as a “2008 National Main Street Community.”

The presentation of the MADD Award to Police Officer Jessica Bolles was postponed until the next Council meeting.

Steve Shear, Project Coordinator of Project Extra Mile, gave a presentation on “Flavored Alcoholic Beverages” and requested Council consideration to passing a Resolution which would urge the Nebraska Liquor Commission to adhere to State Law by reclassifying “alcopops” as distilled spirits. Alcopops are marketed primarily towards young people. The cost of underage drinking in the State of Nebraska is approximately \$75,000,000. Classifying alcopops as beer has resulted in four deaths and over 2,700 injuries. Nebraska State Law currently defines any beverage that obtains alcohol from

distillation as “distilled spirits.” Distilled spirits are taxed at a rate twelve times higher than that of beer. In 2006, after a two or three year controversy over the issue, the Liquor Control Commission, in direct contrast to existing State Law, decided to reclassify alcopops as beer in the State of Nebraska. That allowed greater access by the youth to alcopops because the same are sold in more retail outlets. In addition, it cost the state over \$2,000,000 in lost revenue. Sometime after the Commission made their ruling, Project Extra Mile, in cooperation with a mother in the Omaha area, filed a lawsuit asking the Liquor Control Commission to reconsider their decision because they felt that they did not follow proper ruling procedures. The Judge who heard the lawsuit agreed with Project Extra Mile’s position and ordered the Liquor Control Commission to reconsider their ruling which they are in the process of doing, which is the reason for this request.

Cassie Greisen of Project Extra Mile and Domenic Consoli, representing the Wayne Police Department, were also present in support of this request.

Councilmember Lutt stated that even if they do reclassify alcopops as distilled spirits, most retailers will pay the extra cost to have a Class D License so they can sell it anyway.

Mayor Shelton stated the higher tax rate would raise the price of the alcopops. Ms. Greisen stated the tax on distilled spirits is \$2.75 per gallon vs. beer which is at \$.31 per gallon.

Councilmember Sturm introduced Resolution 2008-54, and moved for its approval; Councilmember Fuelberth seconded.

RESOLUTION NO. 2008-54

A RESOLUTION SUPPORTING THE EFFORT TO REVERSE THE DECISION MADE BY THE NEBRASKA LIQUOR COMMISSION ON JULY 31, 2006, WHICH RECLASSIFIED ALCOPOPS AS BEER.

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

Kent Franzen, representing the LB840 Committee, updated the Council on the proposed sales tax initiative efforts. Other members of the LB840 Committee present were Darrel Miller, Duane Blomenkamp and Craig Tiedtke. The public hearing on the LB840 Economic Development Plan is scheduled for July 1st. The recommendation to the Council is to continue the 1% sales tax and to try to do it seamlessly so when the current sales tax sunsets, this tax will continue if the same is passed by the citizens of Wayne. The reason for selecting 1% is that 1) it gives the City some leeway if something should occur that additional sales tax money would be needed, the other half cent is still available, and 2) it continues a taxation rate that the public is accustomed to. The time frame for this tax is proposed to be 15 years. LB904 will take roughly \$50,000 if the 1% sales tax passes. Out of the remaining funds, they are recommending a 60-40 split. Sixty percent would be linked to capital improvement items, such as fire trucks, a swimming pool, walking trail, and activity center. They propose to let the Council decide on what those items would be. The forty percent would be linked to LB840. There will be measurement and oversight over the LB840 plan. All of the indications they have had so far is that the people who have looked at the plan are supportive of it.

Administrator Johnson stated the following Resolution would release and abandon the easement in the Administrative Lot Split of Tompkins Industrial Tract No. 1 Subdivision.

Councilmember Sturm introduced Resolution 2008-55, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2008-55

A RESOLUTION AUTHORIZING THE RELEASE AND ABANDONMENT OF AN EASEMENT LOCATED IN LOTS 1A AND 1B OF THE ADMINISTRATIVE LOT SPLIT OF TOMPKINS INDUSTRIAL TRACT NO. 1 SUBDIVISION.

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

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the preliminary and final plat for the Re-Plat of the Administrative Lot Split of Lot 1 of Tompkins Addition.

City Clerk McGuire did not receive any comments for or against this public hearing.

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

Councilmember Buryanek introduced Resolution 2008-56, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2008-56

A RESOLUTION APPROVING PRELIMINARY AND FINAL PLAT FOR THE REPLAT OF THE ADMINISTRATIVE LOT SPLIT OF LOT 1 OF TOMPKINS ADDITION, WAYNE COUNTY, NEBRASKA.

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 confirm the appointment of Olsson Associates as engineers on the Phase 2 Trail Project and approve the cost estimate and plans and specifications for said project.

Councilmember Sturm introduced Resolution 2008-57, and moved for its approval; Councilmember Buryanek seconded.

RESOLUTION NO. 2008-57

A RESOLUTION CONFIRMING THE APPOINTMENT OF SPECIAL ENGINEER AND APPROVING COST ESTIMATE AND PLANS AND SPECIFICATIONS ON WAYNE TRAIL – PHASE 2 PROJECT.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Lutt who voted Nay, the Mayor declared the motion carried.

Nancy Braden, City Treasurer, stated the following Resolution would extend the contract end date on the housing grant to September 30, 2008, and also allow the budget to be amended so that funds can be moved between activities to cover administrative and management costs (e.g. advertising).

Councilmember Sturm introduced Resolution 2008-58, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2008-58

A RESOLUTION AUTHORIZING EXTENSION OF CONTRACT END DATE FOR NAHTF GRANT #05-TFHP-535 AND APPROVING BUDGET AMENDMENT.

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

Administrator Johnson reviewed the change order on the fire truck which is an increase of \$1,292.

Councilmember Buryanek made a motion and seconded by Councilmember Alexander approving the change order request of Smeal Fire Apparatus for the fire truck. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Agenda Item No. 15 regarding proposed amendments to the City Code regarding weed notices and snow removal was postponed until the next meeting.

Councilmember Fuelberth made a motion and seconded by Councilmember Sturm to recess as Council and reconvene as the Community Development Agency. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Don Buryanek called the meeting of the Community Development Agency to order. Those in attendance: Members Verdel Lutt, Dale Alexander, Doug Sturm, Darrel Fuelberth, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Brian Frevert and Kaki Ley.

Chair Buryanek 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 June 3, 2008, meeting.

Member Chamberlain made a motion and seconded by Member Shelton approving the minutes of the June 3, 2008, meeting. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson stated that two bids were received on the Western Ridge II Addition Sanitary Sewer, Storm Sewer, Water and Paving Public Improvement Project. Kirkham Michael has reviewed the bids and is recommending that the same be awarded to the low bidder - Steve Harris Construction, Inc., of Homer, Nebraska, on their proposal of \$636,400.00 for the base bid. The low bid was substantially under the Engineer's estimate of approximately \$685,000 for all of the work. Administrator Johnson requested that the contract documents not be signed until we receive approval from DEQ for our design work on the sewer. Johnson explained the issue with DEQ. In the past year, we have had two ammonia test results that were slightly higher than the monthly average allowed for ammonia and discharge to Logan Creek. DEQ, through our contact, Mark Henning, stated that if we don't have two consecutive months of violations and we are not violating them by more than 33%, it is not an issue until you start having more problems than that. Based upon that, we have been assuming our plant is not in violation of our permit. Kirkham Michael forwarded the sewer and waterline plans for the Western Ridge Project to Lincoln. They received them and are refusing to approve them. Mark Henning is now gone, and we have a new compliance person. At this point, they have deemed us to be in violation of our ammonia permit, so they are refusing to approve the design for the sewer lines for Western Ridge. They left the door open to negotiate some resolution to this. We have sent all of our lab test results for ammonia to them. Once we report a notice of violation, that is in their records and you can't undo that. He

believes the issue will be resolved in a couple of weeks. His recommendation is to accept the bid but not execute the contract documents until we receive approval from DEQ for the sewer design.

Member Shelton made a motion and seconded by Member Chamberlain approving the Contract and Awarding the Bid on the Western Ridge II Subdivision Water, Sewer and Street Improvement Projects to Steve Harris Construction Inc., of Homer, Nebraska, for \$636,400.00 for the base bid, with the contract documents not being executed until approval is received from DEQ. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson presented the following lot prices for the Western Ridge II development:

Phase #1 Lots

All nine affordable home lots priced at \$5,000 each as planned
Market Rate lots grouped as follows:

Lot #8	\$5,500
Lot #11	\$5,500
Lot #13	\$5,500
Lot #6	\$6,500
Lot #14	\$6,500
Lot #16	\$6,500
Lot #2	\$9,500
Lot #4	\$9,500

Phase #2 Lots

All ten lots priced at \$12,000 per lot as a package of 10 lots to be sold to one of the two prospective Rent-to-Own developers.

Chair Buryanek stated the rent-to-own homes are in Phase II, and the grant is helping pay down the lots in Phase I, which is the reason for the Phase II lots being higher priced.

Chair Buryanek stated if this recommendation is approved, then, in his opinion, these lot prices are “set in stone.”

Member Chamberlain made a motion and seconded by Member Fuelberth approving the following lot prices for the Western Ridge II Subdivision as follow

Phase #1 Lots

All nine affordable home lots priced at \$5,000 each as planned
Market Rate lots grouped as follows:

Lot #8	\$5,500
Lot #11	\$5,500
Lot #13	\$5,500
Lot #6	\$6,500
Lot #14	\$6,500
Lot #16	\$6,500
Lot #2	\$9,500
Lot #4	\$9,500

Phase #2 Lots

All ten lots priced at \$12,000 per lot as a package of 10 lots to be sold to one of the two prospective Rent-to-Own developers.

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

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

There were no appointments.

Mayor Shelton gave a report on the Nebraska Library Commission Future Search Process conference she attended in Schuyler and on her Workforce Meeting she attended in Hastings. Administrator Johnson gave a report on his trip to Denver to look at another pilot plant for the Aquarius Wastewater System. He also stopped in Chadron to look at their wood fire boiler system on campus.

Councilmember Buryanek made a motion and seconded by Councilmember Chamberlain 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 6:43 p.m.