

**MINUTES
CITY COUNCIL MEETING
July 15, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, July 15, 2008, at 5:30 o'clock P.M. Council President Doug Sturm called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Verdel Lutt, Don Buryanek, Dale Alexander, Darrel Fuelberth, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Mayor Lois Shelton and Councilmember Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on July 3, 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 Chamberlain, whereas the Clerk has prepared copies of the Minutes of the meeting of July 1, 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.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

ADDITIONS & CORRECTIONS TO CLAIMS LIST OF 7/1/08: Delete City of Wayne, Re, 150.00

VARIOUS FUNDS: AMERIPRISE FINANCIAL, RE, 496020.23; AMERITAS, RE, 1864.80; APPEARA, SE, 143.81; ARDENT LIGHTING GROUP, SE, 24403.00; BANK FIRST, RE, 250195.00; BARCO MUN PRODUCTS, SU, 203.11; BROWN SUPPLY, SU, 104.71; CARHART LUMBER, SU, 2883.80; CDBG CERTIFICATION, FE, 50.00; CITY OF WAYNE, SU, 126.02; CITY OF WAYNE, RE, 750.00; CITY OF WAYNE, RE, 1156.43; CITY OF WAYNE, PY, 61835.89; CITY OF WAYNE, RE, 185.54; CITY

OF WAYNE, RE, 431.23; CITY OF WAYNE, RE, 311.95; CITY OF WAYNE, RE, 53.00; CONNECTING POINT, SU, 17.90; DAVE'S DRY CLEANING, SE, 97.00; DE LAGE LANDEN FINANCIAL, SE, 411.00; DEMCO, RE, 66.93; ELECTRIC FIXTURE, SU, 414.29; EMPLOYERS MUTUAL CASUALTY, RE, 158.31; FARMERS AND MERCHANTS, RE, 500000.00; FIRST NATIONAL BANK, RE, 500000.00; FORT DEARBORN LIFE, SE, 1523.13; GERHOLD CONCRETE, SU, 1949.30; GILL HAULING, SE, 2212.68; GLOVER PAINTING, SE, 8745.00; GREAT PLAINS ONE-CALL, SE, 96.78; HARDING & SHULTZ P.C., SE, 5.19; ICMA, RE, 5523.67; INGRAM BOOK COMPANY, SU, 275.93; IRS, TX, 19866.39; JOHN'S WELDING AND TOOL, SU, 162.36; LP GILL, FE, 6758.96; MIDLAND EQUIPMENT, SU, 197.12; NE DEPT OF REVENUE, TX, 2598.39; NNPPD, SE, 10920.14; PAMIDA, SU, 22.97; PEPSI-COLA, SU, 268.08; PROVIDENCE MEDICAL CENTER, SE, 5155.50; QUALITY FOOD CENTER, SU, 9.50; QUILL, SU, 518.39; QWEST, SE, 1318.00; RON'S RADIO, SU, 87.00; SCHMITT CONSTRUCTION, SE, 69399.81; STATE NATIONAL BANK, FE, 45.71; STATE NATIONAL BANK, RE, 214110.00; STATE NATIONAL BANK, RE, 859.94; STATE NATIONAL BANK, RE, 500000.00; STATE NATIONAL BANK, RE, 435.68; US BANK, SE, 4990.38; USIS COMMERCIAL SERVICES, FE, 40.00; WATERLINK, SE, 1053.42; WAYNE AREA CHAMBER, FE, 20.00; WAYNE COMMUNITY HOUSING, RE, 1837.95; WAYNE COUNTY CLERK, FE, 48.50; WAYNE FIRE DEPARTMENT, RE, 874.32; WAYNE GRAIN & FEED, SE, 187.00; WAYNE VETERINARY CLINIC, SE, 259.00; WEST PAYMENT CENTER, SU, 168.00; WAPA, SE, 23550.17; ZACH OIL, SU, 7201.96; ZACH PROPANE, SU, 3777.50; BAKER & TAYLOR BOOKS, SU, 589.65; BARONE SECURITY SYSTEMS, SE, 1044.00; BATTERYZONE, SU, 123.28; BROWN SUPPLY, SU, 230.00; CENTRAL STATES GROUP, SU, 101.55; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 163.50; CITY OF WAYNE, RE, 4300.00; CITY OF WAYNE, RE, 84.60; CLASSY CLEANING LADIES, SE, 167.60; CLAUSSEN & SONS IRRIG., RE, 88.35; COPY WRITE, SU, 9.69; COUNTRY NURSERY, SU, 120.00; COVENTRY HEALTH, SE, 19332.15; DANKO, SU, 83.04; DIAMOND VOGEL PAINTS, SU, 58.50; DIRECT SAFETY COMPANY, SU, 146.76; EISENBRAUN & ASSOC., SE, 710.50; ELECTRIC FIXTURE, SU, 349.40; EXPERTINT, SE, 370.24; FLOOR MAINTENANCE, SU, 281.65; GERHOLD CONCRETE, SU, 3476.25; H.K. SCHOLZ, SU, 990.45; HATTIG CONSTRUCTION, SE, 6000.00; HAWKEYE ADJUSTMENT SERVICE, SE, 186.75; HAWKINS, SU, 1068.65; HOLIDAY INN OF KEARNEY, SE, FINANCE CONFERENCE LODGING 564.62; JOHN'S WELDING AND TOOL, SU, 6.60; KTCH, SE, 765.00; LANGEMEIER, WAYNE, SE, 75.00; LAYNE CHRISTENSEN, SU, 963.61; LEAGUE OF NEBRASKA, FE, 1464.00; LECC/SHERIFF'S ASSOC, FE, 60.00; MIDWEST LABORATORIES, SE, 112.50; MIDWEST OFFICE AUTOMATION, SE, 100.43; MOCIC, FE, 400.00; MUNICIPAL SUPPLY, SU, 257.69; NE NEB INS AGENCY, SE, 506.00; NE SAND AND GRAVEL, SU, 1480.72; NIBM, SU, 133.00; NORTHEAST EQUIPMENT, RE, 10198.42; N.E. NE AMERICAN RED CROSS, RE, 29.62; OLSSON ASSOCIATES, SE, 8946.81; OTTE CONSTRUCTION COMPANY, SE, 70768.19; OVERHEAD DOOR COMPANY, SE, 111.25; PAC N SAVE, SU, 126.03; PLUNKETT'S PEST CONTROL, SE, 90.00; PURCHASE POWER, SU, 500.00; RANDOM HOUSE, SU, 535.20; ROBERT WOehler & SONS, SU, 268.60;

STADIUM SPORTING GOODS, SU, 5.00; STRATTON & KUBE PC, SE, 150.00; THE DIAMOND CENTER, SE, 6.66; TYLER TECHNOLOGIES, SE, 1611.00; UNITED WAY, RE, 23.05; VAN DIEST SUPPLY, SU, 61.35; VEL'S BAKERY, SU, 11.70; W.M. SMITH & ASSOCIATES, SU, 627.88; WATERLINK, SU, 270.51; WAEDI, RE, 6383.33; WAYNE HERALD, SE, 838.94; WAYNE INDUSTRIES, FE, 400.00; WAYNE ROTARY, FE, 120.00; WEB SOLUTIONS OMAHA, FE, 275.00

Councilmember Buryanek made a motion and seconded by Councilmember Alexander to approve the claims. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Council President Sturm 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.

Agenda Item Nos. 4 and 5 were postponed for the reason that the Planning Commission did not have a quorum to conduct their meeting, and therefore, could not make a recommendation to the Council.

Brent Doring, Fire Chief, was present requesting Council consideration to approving the membership application of Brandon Ziska to the Wayne Volunteer Fire Department.

Councilmember Buryanek made a motion and seconded by Councilmember Alexander approving the membership application of Brandon Ziska to the Wayne Volunteer Fire Department. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council president declared the motion carried.

An application was received from Renee Jacobsen, d/b/a Snakey Jake's Italian Pizza & Sub, requesting an addition to her liquor licensed premises.

City Clerk McGuire stated information had been given to Police Chief Webster who did not have any objection to approving this request.

Councilmember Buryanek made a motion and seconded by Councilmember Frevert approving the application for addition to premise/reconstruction for License Class A – Renee Jacobsen, d/b/a Snakey Jake's Italian Pizza & Subs. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council president declared the motion carried.

Administrator Johnson stated the agreement between the City of Wayne and the Village of Carroll for water and wastewater services needs to be extended until the end of October. They are in the process of getting a person certified in wastewater.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving the extension of the Service Agreement between the City of Wayne and the Village of Carroll for Water/Wastewater Services until October 31, 2008. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council president declared the motion carried.

Administrator Johnson stated the proposed agreement with the Softball Association regarding the purchase of a power field drag is similar to the agreement we entered into with the Wayne Country Club, with the exception that this will have a shorter pay back period.

Councilmember Buryanek made a motion and seconded by Councilmember Chamberlain approving the Loan Agreement with the Softball Association for the

purchase of a power field drag. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council president declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Frevert approving the name of “LaPorte Street” in the Western Ridge II Addition. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson gave a report on the status of the Agreement with JEO Consulting Group on the Downtown Revitalization Agreement. We were able to get the amount reduced from \$39,000 to \$36,860 because of the GPS/GIS information we have in-house.

Administrator Johnson stated the following Resolution would approve an agreement with the NDOR for the West 1st Street, Main to Pearl Streets Roadway Improvements. This will set aside the remainder of the STP funds in our account for either this project or other projects.

Councilmember Buryanek introduced Resolution 2008-66, and moved for its approval; Councilmember Fuelberth seconded.

RESOLUTION NO. 2008-66

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ROADS RELATING TO THE WEST FIRST STREET, MAIN TO PEARL STREETS ROADWAY IMPROVEMENTS.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson stated the following Resolution would approve a five-year agreement with Wayne State College for use of the rugby field. The previous five-year agreement expired July 1, 2008.

Councilmember Frevert introduced Resolution 2008-67, and moved for its approval; Councilmember Buryanek seconded.

RESOLUTION NO. 2008-67

A RESOLUTION APPROVING INTERLOCAL AGREEMENT WITH WAYNE STATE COLLEGE FOR THE USE OF CITY-OWNED PROPERTY LOCATED NORTH OF THE CITY SLUDGE LAGOON AND THE CITY SOFTBALL FIELD COMPLEX, A/K/A RUGBY FIELD.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Attorney Pieper stated that Resolution 2008-68 will not be acted upon this evening. He is adding additional language to the sales tax issue which would increase the spending lid. The adoption of the Economic Development Plan Resolution requires proposed ballot language, and because we are adding that additional language, he was asking that the Council set a new public hearing on the Plan prior to the Council adopting the Resolution.

Councilmember Buryanek made a motion and seconded by Councilmember Chamberlain to postpone action on Resolution 2008-68 and to set a public hearing on the Economic Development Plan for August 5th at or about 5:30 p.m. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Buryanek made a motion and seconded by Councilmember Fuelberth to recess as Council and reconvene as the Community Development Agency.

Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Chair Don Buryanek called the meeting of the Community Development Agency to order. Those in attendance: Members Brian Frevert, 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 Lois Shelton 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 July 1, 2008, meeting.

Member Alexander made a motion and seconded by Member Sturm approving the minutes of the July 1, 2008, meeting. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson distributed a drawing which showed that portion of the street that is proposed to be paved for an additional 7 lots north of Phase I. The reason for the additional paving is that there are two interested developers in the rent-to-own homes. Each would like to purchase 10 lots; however, we will only sell 10 lots to one of the two developers. They prefer not having all of their homes all together in one group. Our policy has been to blend the affordable homes with the market rate homes. Lots 18-27 are the 10 lots that the Crown Home developers are looking at for the rent-to-own homes. They have asked if we would pave the street a little farther to the north so they

can build a couple of those homes there and arrange for some market rate homes blended in the cul-de-sac. The cost to install this additional paving will be \$33,730.50 and will be paid for by TIF.

Chair Buryanek noted that Lots 1-17 (Phase I) are part of the grant and must have 9 LMI homes, with the rest being market rate homes. These Crown homes count as LMI homes, but you can't mix the rent-to-own homes with the LMI homes on the grant side.

Member Frevert made a motion and seconded by Member Chamberlain approving the change order to add 7 more lots north of Phase I and the change order for paving the remainder of the street (but not the cul de sac) in Phase III. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Action on Western Ridge II Lot Buyer Checklist of conditions of Sale of Lots and/or Homes was tabled until another meeting.

Chair Buryanek stated we have two Crown Home developers that are interested in purchasing 10 lots. We need to develop a way to select one of those two developers. Recommendation is to appoint a sub-committee to review the proposals and make a selection.

Member Sturm made a motion and Member Chamberlain seconded to appoint a sub-committee consisting of Doug Sturm, Don Buryanek, Ken Chamberlain, Nancy Braden, Della Pries, and George Ellyson to review the Crown Home proposals, select one of the two developers for the project, and negotiate a Purchase Agreement to be approved by the Community Development Agency. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Attorney Pieper noted that the sub-committee can negotiate a Purchase Agreement, but he would prefer the same be approved by the CDA even if there needed to be a special meeting held to do the same.

Administrator Johnson stated he would prefer to defer action on the approval of the retention dam; however, there is an opportunity to lay the pipe up to the dam at the current unit price. The CDA purchased Outlot B to put a detention dam in to control the water rushing in out of the cornfields. When Kirkham Michael designed this, they omitted that dam and just made it an open waterway. They are putting in a 30" pipe to get under the street. We asked them about putting the detention dam back in. They advised us that they would have to amend the plan to NDOR, and they would charge us for designing the dam. All we are doing is improving the drainage and not harming it in any way, so his recommendation is to not do anything with the dam until the grading is done and Kirkham Michael is out of there and NDOR has approved their permit. However, while they are putting in that 30" pipe, we need to extend it up above, which would be an additional \$7,500. We can hire somebody local to put the dam in without having to do an engineering design, because it is a simple, straight-forward 3 to 1 slope, 12' top dam. TIF would also pay for this expense.

Member Fuelberth made a motion and seconded by Member Chamberlain approving \$7,500 to pay for laying the pipe going to the small retention dam. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson stated that Amendment No. 3 (Kirkham Michael) consists of the construction oversight for the water, sewer and paving projects. The other

agreement that needs approval is with Mid-States Engineering for the work and costs associated with construction quality control testing (compaction). Recommendation is to approve both of these agreements.

Member Fuelberth made a motion and seconded by Member Frevert approving Amendment No. 3 – Construction Phase Services – Infrastructure Contract with Kirkham Michael Associates. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Fuelberth made a motion and seconded by Member Sturm approving the Proposal of Work and Costs from Mid-State Engineering & Testing for Construction Quality Control Testing for the Western Ridge Infrastructure Contract. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Fuelberth made a motion and seconded by Member Alexander 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.

Discussion took place on the hours that the transfer station is open. It is open Monday and Friday from 9:00 a.m. to 1:30 p.m. and on Saturdays from 8:00 a.m. to noon. Some suggestions were to be open during an evening or extend the hours on Saturday. The hours were just changed last year. Consensus was to discuss this matter further during budget work sessions. At that time, the free dump program will also be discussed. The free dump program costs about \$25-28,000 per year. If we are going to

use the transfer station as a revenue generator to pay for the old landfill, we probably will have to terminate the free dump program unless we raise the rates again.

Garry Poutre, Supt. of Public Works and Utilities, was present to answer questions and stated that the contractors call them if they need to dump their construction materials.

Council President Sturm stated the comments he has received have been from residential customers and not commercial customers.

Council President Sturm requested Council consideration to the following appointments to the Library Board: Reappointment of Dennis Lipp and appointment of Molly Spieker.

Councilmember Fuelberth made a motion and seconded by Councilmember Buryanek approving the reappointment of Dennis Lipp and appointment of Molly Spieker to the Library Board. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Council President Sturm requested Council consideration to the following appointment to the Planning Commission: Reappointment of Pat Melena.

Councilmember Buryanek made a motion and seconded by Councilmember Alexander approving the reappointment of Pat Melena to the Planning Commission. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Council President Sturm requested Council consideration to the following appointments to the Board of Appeals: Appointment of Jeff Morlok, Jill Brodersen, and Kirk Hochstein, and Alternates – Jeff Ellis and BJ Woehler.

Councilmember Buryanek made a motion and seconded by Councilmember Fuelberth approving the appointment of Jeff Morlok, Jill Brodersen, and Kirk Hochstein, and Alternates – Jeff Ellis and BJ Woehler to the Board of Appeals. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Council President Sturm requested Council consideration to the following appointment to the Problem Resolution Team: Ken Chamberlain (replaces Verdel Lutt).

Councilmember Fuelberth made a motion and seconded by Councilmember Alexander approving the appointment of Ken Chamberlain to the Problem Resolution Team. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Administrator Johnson gave a report on the status of the Nebraska Department of Environmental quality Permit for the Wastewater Treatment Plant. He had a conference call with DEQ today. DEQ has held up the permit for the water and sewer design for Western Ridge Subdivision because of the ammonia violation in January and what we had last year in April. We sent them the materials they needed and they are reviewing those. In April of this year, we also had a non-compliance release from the sludge lagoon. We do about one release from there per year to drop the water level to make room for more. We released that in April that was out of compliance for suspended solids. When we filed the non-compliance report, that made NDEQ take another look at us. The conference call today or the meeting by phone was essentially to let us know they are not going to approve the sewer addition for Western Ridge without some action on our part to put together a schedule to build a new plant. They believe the plant is

nearing the end of its life that will adequately serve Wayne. We are probably going to have to get some plan in place within three years and have some kind of control over how many houses or how many things get added to the treatment system at this time. It doesn't change a lot of things, but it does put us on a schedule now. He asked them if they are following the new developments out of Europe and Israel for the non-sludge multi-stage activated biological plants. They are aware of them, but no one has asked them to approve one. They are open to looking at one and they are open to approving one. When asked how we would do that, they replied that we need to get an engineer we are comfortable with, go look at a couple, get that engineer to say he believes this will meet our permit requirements, and submit a plan to NDEQ. Then, if they like it, we will approve it. In order to keep this proposal for Western Ridge on track, Johnson plans on having some kind of solution put together with NDEQ, so he can bring it to Council. Johnson advised NDEQ that we are probably taking as many houses out as we are adding. He thought they would allow us to add 30 houses per year for three years. The fall back plan is a sequential batch reactor plan which Olsson is proposing will cost about \$5 million. We would still have to haul the sludge out or dry it for another \$2 million. The process we are looking at is a multi-stage activated biological process. It basically carries on the process that the bacteria is doing right now in our own plant. There is no lagoon, nor is there exposure to the air. It is all self-contained. Now, we have a task ahead of us. We will come back with some kind of proposal on August 5th. If we come up with some plan that they are okay with, they will release the addition of Western Ridge and we can proceed.

Councilmember Buryanek made a motion and seconded by Councilmember Frevert to adjourn the meeting. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried and the meeting adjourned at 6:27 p.m.