

**MINUTES
CITY COUNCIL MEETING
August 5, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, August 5, 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, Kaki Ley, and Ken Chamberlain; City Attorney Amy Wiebelhaus; and City Clerk Betty McGuire. Absent: Mayor Lois Shelton and City Administrator Lowell Johnson.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on July 24, 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 Alexander, whereas the Clerk has prepared copies of the Minutes of the meetings of July 15, and 29, 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:

VARIOUS FUNDS: ALLTEL, SE, 739.96; AMERICAN BROADBAND, SE, 30.00; AMERICAN PUBLIC POWER, FE, 805.55; AMERITAS, RE, 3914.00; AQUILA, SE, 2957.00; ARCADIAN MARKSMANSHIP, FE, 100.00; ARDENT LIGHTING GROUP, SE, 20742.55; AS COMMUNICATIONS, SE, 448.00; BANK FIRST, FE, 390.00; BARNES & NOBLE, SU, 175.59; BOMGAARS, SU, 3208.11; BROWN SUPPLY, SU, 333.86; CENTER POINT PUBLISHING, SU, 73.49; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 1000.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 33.66; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 6382.01; CITY OF

WAYNE, PY, 123850.13; CITY OF WAYNE, RE, 371.08; CITY OF WAYNE, RE, 210.37; CLAUSSEN & SONS IRRIG, RE, 101.25; CONTINENTAL FIRE SPRINKLER. SE, 210.00; COPPLE & ROCKEY, SE, 224.90; CULLIGAN, SE, 41.00; DAKOTA BUSINESS SYSTEMS, SE, 73.16; DUTTON-LAINSON, SU, 157.09; ECHO GROUP, SU, 91.65; ELECTRIC FIXTURE, SU, 1790.82; ELECTRO-TEST & MAINT, SE, 23088.20; FIRST SOURCE TITLE&ESCROW, SE, 233.00; FLOOR MAINTENANCE, SU, 299.80; GALE GROUP, SU, 28.81; GERHOLD CONCRETE, SU, 3085.80; GLEN'S AUTO BODY, SU, 357.30; HATTIG CONSTRUCTION, SE, 1524.60; HAUFF MID-AMERICAN SPORTS, SU, 260.80; HAWKINS, SU, 975.54; HOLIDAY INN OF KEARNEY, SE, 138.00; ICMA, RE, 10583.98; IRS, TX, 40669.42; JEO CONSULTING GROUP, SE, 727.50; KELLY SUPPLY, SU, 17.22; KIRKHAM MICHAEL, SE, 14343.00; KRIZ-DAVIS, SU, 1028.86; LEAGUE OF NEBRASKA, FE, 4855.00; MICROFILM IMAGING SYSTEMS, SU, 232.75; MIDLAND COMPUTER, SU, 1311.02; MIDWEST OFFICE AUTOMATION, SE, 1586.95; N.E. NEB ECONOMIC DEV DIST, SE, 1936.49; NE DEPT OF REVENUE, TX, 5358.68; NE EXPRESSWAYS, FE, 581.04; NE LIBRARY COMMISSION, SE, 2673.32; NE PUBLIC HEALTH, SU, 110.00; NPPD, SE, 265926.92; NHHS, FE, 727.83; NORFOLK DAILY NEWS, SE, 69.45; NORTHEAST EQUIPMENT, SU, 124.98; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 2288.12; OTTE CONSTRUCTION, SU, 1174.00; OVERHEAD DOOR COMPANY, SU, 122.00; PAMIDA, SU, 43.88; PITNEY BOWES, SE, 637.00; POLLARD PLUMBING, SE, 685.00; PUSH-PEDAL-PULL, SE, 400.00; QUILL, SU, 1156.40; QWEST, SE, 420.18; QWEST, SE, 193.46; SIEMENS WATER TECHNOLOGIES, RE, 434.00; STADIUM SPORTING GOODS, SU, 63.00; STATE NATIONAL BANK, RE, 2497.46; TONI HYTREK, SE, 75.00; UNITED WAY, RE, 50.00; US BANK, SU, 2215.25; VAN DIEST SUPPLY, SU, 1856.80; VIAERO, SE, 71.95; WAYNE AUTO PARTS, SU, 812.21; WAYNE BASEBALL ASSOCIATION, RE, 600.00; WAYNE COMMUNITY HOUSING, RE, 500.00; WAYNE COMMUNITY SCHOOLS, RE, 3036.00; WAYNE COUNTY COURT, FE, 300.00; WAYNE GRAIN & FEED, SE, 116.00; WAYNE INDUSTRIES, RE, 115570.00; WAYNE SOFTBALL ASSOCIATION, FE, 480.00; WESCO, SU, 2087.47; WESTERN OFFICE PRODUCTS, SU, 66.98; ZEE MEDICAL SERVICE, SU, 46.75; ZIMCO, SU, 2463.50; BIG RED PRINTING, SU, 2143.77; CENTRAL STATES GROUP, SU, 364.62; CITY OF WAYNE, RE, 225.00; CITY OF WAYNE, RE, 44.13; CITY OF WAYNE, RE, 2626.21; CITY OF WAYNE, RE, 170.55; CITY OF WAYNE, RE, 161.10; CLASSY CLEANING LADIES, SE, 236.40; CONNECTING POINT, SE, 17.90; COPY WRITE, SU, 918.01; ECHO GROUP, SU, 302.70; ELECTRIC FIXTURE, SU, 104.44; GILL HAULING, SE, 2081.80; HEIKES AUTOMOTIVE, SE, 47.93; JACK'S UNIFORMS, SE, 169.35; KRIZ-DAVIS, SU, 922.19; LAYNE CHRISTENSEN, RE, 9923.68; LP GILL, FE, 10906.28; NORFOLK DAILY NEWS, SE, 60.00; OLDS PIEPER & CONNOLLY, SE, 2317.85; OVERHEAD DOOR, SU, 38.00; PLUNKETT'S PEST CONTROL, SE, 88.00; POSTMASTER, SU, 618.82; QWEST, SE, 1318.52; SIEMENS WATER TECHNOLOGIES, SU, 42.00; STATE NATIONAL BANK, RE, 16.36; TAYLOR TECHNOLOGIES, SU, 53.93; TOM'S BODY & PAINT SHOP, SE, 4626.21; VOSS LIGHTING, SU, 117.60; WASTE CONNECTIONS, SE, 162.00; WAYNE AIRPORT, RE, 300.00; WAYNE COUNTY CLERK, FE, 31.50; WAYNE HERALD, SE, 2180.31; WAYNE VETERINARY

CLINIC, SE, 260.00; WESCO, SU, 232.87; WESTERN OFFICE PRODUCTS, SU, 688.00; Y & Y LAWN SERVICE, SE, 615.00; ZACH OIL, SU, 7733.06; ZACH PROPANE, SE, 79.89; ZEE MEDICAL SERVICE, SU, 42.81

Councilmember Buryanek made a motion and seconded by Councilmember Lutt 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.

Council President Sturm declared the time was at hand for the public hearing on the City-Wide Sales Tax Usage Plan (LB840 Economic Development Plan).

Kent Franzen, representing the LB840 Committee, stated this public hearing is necessary to approve some changes in the language in the Resolution.

Attorney Wiebelhaus noted that the change in the language was adding the phrase “budgeted restricted funds.”

Treasurer Braden stated that since the Resolution refers to “capital outlay,” sales tax funds could be used for the wastewater treatment plant since it is considered capital outlay. Sixty percent of the sales tax revenues will be used for capital improvements and 40% will be used for economic development. However, 10% has to go to the Street Department, with the balance then being split 60/40. This is according to State Statute.

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

There being no further comments, Council President Sturm closed the public hearing.

Councilmember Lutt introduced Resolution 2008-69, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2008-69

A RESOLUTION TO ADOPT AN ECONOMIC DEVELOPMENT PLAN; AND TO SUBMIT THE QUESTION OF A CITY SALES TAX TO A VOTE OF THE QUALIFIED ELECTORS OF THE CITY OF WAYNE, NEBRASKA; AND TO SUBMIT THE QUESTIONS OF ESTABLISHING AN ECONOMIC DEVELOPMENT PROGRAM TO A VOTE OF THE QUALIFIED ELECTORS OF THE CITY OF WAYNE, NEBRASKA.

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

Treasurer Nancy Braden stated the following Resolution would allocate \$50,231 in property tax to the Wayne Municipal Airport Authority.

Councilmember Chamberlain introduced Resolution 2008-70, and moved for its approval; Councilmember Fuelberth seconded.

RESOLUTION NO. 2008-70

A RESOLUTION AUTHORIZING THE ALLOCATION OF PROPERTY TAXES TO THE WAYNE AIRPORT AUTHORITY.

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

City Clerk McGuire stated three bids had been received on the razing/demolition project for 509 Nebraska Street. The bids were reviewed and recommendation was to accept the low bid of Benscoter Plumber & Construction.

If the property owner presents a plan to remodel the structure and bring it up to code, then an extension may be granted.

Councilmember Buryanek introduced Resolution 2008-71; Councilmember Chamberlain seconded.

RESOLUTION NO. 2008-71

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON RAZING THE STRUCTURE LOCATED 509 NEBRASKA STREET.

Councilmember Frevert questioned the bidding documents as presented and how the best price was figured on yard vs. ton. Has this been calculated? City Clerk McGuire responded that Bencoter Plumbing & Construction was the only bidder that met the bid specs according to the published bid document and provided the low bid on the per dumpster cost.

Councilmember Lutt questioned the difference in the amounts of the bids to cap the sewer.

After discussion, it was the consensus of Council to leave an extension of the razing date up to the Building Inspector.

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

The following Resolution would approve an amendment to the contract with Olsson Associates to prepare a plan and submit it to the Army Corps of Engineer's for a permit to divert the storm water east to Logan Creek on the old railroad right-of-way. The cost for said amendment is \$3,000.

Councilmember Buryanek introduced Resolution 2008-72, and moved for its approval; Councilmember Fuelberth seconded.

RESOLUTION NO. 2008-72

A RESOLUTION APPROVING AMENDMENT TO CONTRACT FOR ENGINEERING SERVICES WITH OLSSON ASSOCIATES ON THE KARDELL INDUSTRIAL PARK – CORPS OF ENGINEER’S PERMIT.

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

Nancy Braden, City Treasurer, stated the original amount of the Down Payment Assistance Loan was \$17,313; however, because Wayne Community Development Corporation has obtained additional financing, the amount being requested has been reduced to \$13,396.

Councilmember Buryanek made a motion and seconded by Councilmember Chamberlain approving Down Payment Assistance Loan No. 2006-13 in the amount of \$13,396. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Discussion took place on the assignment of real estate purchases by the Community Development Agency from Felix Industries to the City of Wayne.

Attorney Wiebelhaus stated the City would be purchasing the property from Felix Industries instead of the Community Development Agency. The CDA will have to approve the assignment and then the Council will have to hold a public hearing. Recommendation is to set the public hearing for August 19th at 5:30 p.m.

Ms. Braden stated that when Attorney Pieper reviewed the Redevelopment Plan for that area, it did not include the property being purchased from Felix Industries, so the CDA can not purchase that land.

In response to Councilmember Lutt’s question, Ms. Braden stated the WRLF can be used for public infrastructure and they are tied to the spec building. She visited with a

representative of DED who said that since it does relate to the spec building, we can tie it to that and add one more job creation to the spec building as a requirement. We can use WRLF money for land acquisition and public infrastructure – that is one of our allowed uses of the revolving loan fund money.

Councilmember Lutt stated the Council previously discussed the requirements of receiving Wayne Revolving Loan Funds (e.g. providing a certain number of jobs, life insurance policy, etc.). Ms. Braden stated the City will receive the money back from the sale of the land that is left on the Felix Industries' property (the north side of the existing building). When that is sold, that is when we will receive monies back.

Councilmember Lutt wanted to make sure the City was meeting all of the guidelines like we require others to meet, and that the City is getting their money back. Ms. Braden stated we will not be getting the money back because it will be used for the costs associated with the acquisition of the land. What we get in return for it is the land. It is not a loan. We can use this for infrastructure – it is a reuse.

Councilmember Buryanek stated the infrastructure requirements are somewhat different than the business loan requirements. There being no further discussion, Council President Sturm continued to the next agenda item.

Discussion took place regarding the Parking Ordinance. Council President Sturm stated he has had quite a few phone calls on this matter. He asked that it be placed on the agenda because he was wondering if other Councilmembers had received a lot of phone calls like he has. The public has been misinformed and does not understand what needs to be done. The question he was putting before the Council was whether or not they liked the ordinance as written or if they wanted to make any changes to it.

The enforcement date is October 1, 2008. Councilmember Buryanek had concerns about amending the ordinance at this time because of the number of people that have already paved their terraces to comply with the ordinance.

Ms. Wiebelhaus advised the Council that if changes are going to be made to this ordinance, the same has to go before the Planning Commission for consideration.

Councilmember Lutt stated as long as he has been on the Council, they have had parking issues every year. There will never be a perfect ordinance. We have gone this far, it's August, the deadline is October 1st, and if we change it, it has to go back to the Planning Commission. His recommendation was to leave it as is.

Virgil Loewe addressed the Council. He lives at 1032 Pearl Street. He has had gravel/crushed rock parking ever since his house was built in the 1950's. The rock is now probably 3' deep. If he chooses to abandon that parking area, how much work has to be done on that? His other question was whether or not the city was going to improve its snow removal in the alleys. Access to his garage is in the alley. The reason he does not use that right now, mainly in the winter time, is because the snow removal has been less than adequate.

Council President Sturm stated as long as he was not parking in that area, he wouldn't have to do anything to that space. The space only has to be improved if you decide to park there. Snow removal might be something the Council will need to address. There is a snow removal policy/plan as to what streets get cleared first, etc.

After discussion, the Council consensus was to leave the ordinance as written.

Councilmember Alexander made a motion and seconded by Councilmember Chamberlain 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, Kaki Ley, Darrel Fuelberth, and Ken Chamberlain; City Attorney Amy Wiebelhaus; and City Clerk Betty McGuire. Absent: Member Lois Shelton and City Administrator Lowell Johnson

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 15, and 29, 2008, meetings.

Member Sturm made a motion and seconded by Member Alexander approving the minutes of the July 15, and 29, 2008, meetings. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to approve a Purchase Agreement with Rob Woodling's Foundation Development, LLC, for \$14,000 per lot to build ten rent-to-own homes in Western Ridge in 2009.

Member Frevert made a motion and seconded by Member Ley approving the Purchase Agreement to sell ten lots in Western Ridge II to Rob Woodling's Foundation Development, LLC, for \$14,000 per lot to build ten rent-to-own homes in 2009. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to approve the terms of the sale of the lots in Western Ridge.

Member Chamberlain made a motion and Member Fuelberth seconded approving the terms of the sale of the lots in Western Ridge. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

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

Dave Simonsen, Executive Director of WAEDI, was present to discuss a potential manufacturing company prospect.

Councilmember Alexander made a motion and seconded by Councilmember Lutt to enter into executive session to discuss the matter involving a potential manufacturing company prospect, and to allow Betty McGuire, City Clerk, Nancy Braden, City Treasurer, Dave Simonsen, Executive Director of WAEDI, Kent Franzen, Gary Boehle, and Amy Wiebelhaus, Attorney, to be in attendance. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried, and executive session began at 6:17 p.m.

Council President Sturm again stated that the matter to be discussed in executive session relates to the potential manufacturing prospect who wants to remain confidential.

Councilmember Buryanek made a motion and seconded by Councilmember Alexander to resume open session. Council President Sturm stated the motion, and the

result of roll call being all Yeas, the Council President declared the motion carried, and open session resumed at 6:35 p.m.

Discussion took place regarding a potential apartment project and request for TIF funding by Lou Bencoter. Mr. Bencoter advised the Council that he is now the owner of the property at 814 Windom Street. He is requesting Council consensus to providing Tax Increment Financing to construct a 10-plex market rate apartment complex on this property before incurring \$5,000 in attorney's fees. The estimated TIF assistance for this project is \$140-150,000. Two years ago when Mr. Bencoter came forward with this project requesting TIF assistance, Council consensus was favorable. Mr. Bencoter stated he has owned the property for one month.

Council consensus was that they were still in favor of Mr. Bencoter requesting Tax Increment Financing for this project.

Nancy Braden, City Treasurer, distributed the budget books to the Council. She reviewed a spreadsheet entitled "Current and Projected Debt" with the Council. This identifies the projects and projected debt associated with each project through the year 2032. Our total projected debt service does not increase over what we have been paying in the past years. This year, the City's total debt service was \$1,026,883, and in 2008-09, it is proposed to be \$781,349. When the treatment plant is built (approx. \$6,000,000) the debt service will go back up to \$1,146,795, which is about where we are at right now. Therefore, we are not increasing our debt load from where we are right now.

Council set the budget work session for Tuesday, August 12th, at 5:30 p.m. in Council Chambers.

There were no appointments or reports on meetings attended.

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 6:55 p.m.