

**MINUTES  
CITY COUNCIL MEETING  
October 7, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, October 7, 2008, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Verdel Lutt, Don Buryanek, Doug Sturm, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Dale Alexander Darrel Fuelberth.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 28, 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 September 16, 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:** FISCAL YEAR 2007/2008: ADVERTISING CONCEPTS, SE, 9001.23; ALL AMERICAN PUBLISHING, SE, 215.00; ALLTEL, SE, 732.32; ALTEC INDUSTRIES, SU, 28.25; AMERITAS, RE, 1989.13; APPEARA, SE, 151.69; AQUILA, SE, 211.42; ARNIE'S FORD-MERCURY, SE, 1037.43; AS COMMUNICATIONS, SE, 448.00; BANK FIRST, FE, 210.00; BENSCOTER PLUMBING, SE, 11248.00; BLACKBURN MANUFACTURING, SU, 87.74; BOMGAARS, SU, 1410.08; CITY OF NORFOLK, FE, 1500.00; CITY OF WAYNE, RE, 3500.00; CITY OF WAYNE, RE, 207.45; CITY OF WAYNE, RE, 1329.11; CITY

OF WAYNE, RE, 2000.00; CITY OF WAYNE, RE, 2621.88; CITY OF WAYNE, RE, 6336.92; CITY OF WAYNE, PY, 53512.83; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 84.00; CITY OF WAYNE, RE, 337.90; CITY OF WAYNE, RE, 596.01; CITY OF WAYNE, RE, 736.58; CITY OF WAYNE, RE, 6680.03; CLASSY CLEANING LADIES, SE, 247.75; CLAUSSEN & SONS, SE, 55.00; CLAUSSEN & SONS IRRIG., RE, 3552.15; CONCEPT SEATING, SE, 728.00; CREDIT BUREAU SERVICES, SE, 51.96; CTD, INC., SU, 283.83; CUSTOMIZED FIREFIGHTER, FE, 1500.00; DAKTRONICS, SU, 409.19; DANKO EMERGENCY EQUIPMENT, SU, 139.85; DAVE'S DRY CLEANING, SE, 126.00; DEMCO, SU, 53.03; DGR & ASSOCIATES, SE, 521.00; DIRECT SAFETY COMPANY, SU, 208.06; DUTTON-LAINSON, SU, 3482.98; ECHO GROUP, SU, 77.81; ED M FELD EQUIPMENT, SU, 4459.50; EISENBRAUN & ASSOC., SE, 5071.29; ELECTRIC FIXTURE & SUPPLY, SU, 3984.99; FIVE STAR ENTERPRISES, SU, 7.50; FLOOR MAINTENANCE, SU, 1133.57; FORT DEARBORN LIFE, SE, 1672.32; FRED PRYOR SEMINARS, FE, 396.00; GERHOLD CONCRETE, SU, 7068.46; GREAT PLAINS ONE-CALL, SE, 87.69; GUARANTEE OIL CO, SU, 431.95; H.K. SCHOLZ COMPANY, SU, 555.00; HAUFF MID-AMERICAN SPORTS, SU, 186.54; HD SUPPLY WATERWORKS, SU, 135.10; HEIKES AUTOMOTIVE SERVICE, SE, 117.16; HEWLETT-PACKARD, SU, 2461.96; HOLLAND USA, SU, 211.24; HORNADY MANUFACTURING, SU, 1267.60; HYDRAULIC EQUIPMENT, SE, 186.56; ICMA, RE, 5233.99; INDUSTRIAL TOOL, SU, 12.21; INNOVATIVE PROTECTIVES, SU, 30.00; INTERNATIONAL CODE, FE, 50.00; IRS, TX, 18066.22; ITRON, RE, 1179.55; JACK'S UNIFORMS, SU, 4504.99; JEO CONSULTING GROUP, SE, 2130.00; JEO CONSULTING GROUP, SE, 3210.00; JOHN'S WELDING AND TOOL, SU, 29.20; KIRKHAM MICHAEL, SE, 12054.00; KIWANIS CLUB, FE, 130.00; KRIZ-DAVIS COMPANY, SU, 12694.80; KTCH, SE, 605.00; LANGEMEIER, WAYNE, SE, 120.00; LAUREL RECREATION, FE, 260.00; LAW ENFORCEMENT, FE, 101.90; LEAGUE OF NEBRASKA, FE, 2205.00; LYNN PEAVEY, SU, 156.00; M. K. ERVIN, SE, 7687.50; MADISON COUNTY COURT, RE, 150.00; MALLOY ELECTRIC, SU, 628.88; MARRIOTT HOTELS, SE, 218.00; MATT PARROTT AND SONS, SU, 663.57; MERCY MEDICAL CLINICS, SE, 81.00; MES-MIDAM, SU, 7500.32; MIDWEST LABORATORIES, SE, 112.85; MIDWEST OFFICE AUTOMATION, SU, 192.20; MSC INDUSTRIAL, SU, 16.15; NE DEPT OF REVENUE, TX, 2450.35; NE EXPRESSWAYS, SE, 581.04; NE LAW ENFORCEMENT, SE, 15.00; NE LIBRARY COMMISSION, SE, 61.00; NE PUBLIC HEALTH, SE, 192.00; NPPD, SE, 287443.51; NORTHEAST EQUIPMENT, RE, 381.88; N.E. NE AMERICAN RED CROSS, SE, 609.00; N.E. NE AMERICAN RED CROSS, RE, 49.50; NNPPD, SE, 12852.03; NORTHWEST ELECTRIC, SU, 32.75; NOVELL, SE, 795.63; NSA/POAN, FE, 270.00; OLSSON ASSOCIATES, SE, 7622.34; ORIENTAL TRADING CO, SU, 105.88; OVERHEAD DOOR COMPANY, SU, 77.00; PAMIDA, SU, 134.11; PEERLESS WIPING CLOTH, SU, 270.00; PEPSI-COLA, SU, 162.93; PIERCE TELEPHONE CO, SU, 447.72; PITNEY BOWES, SE, 637.00; PLUNKETT'S PEST CONTROL, SE, 90.00; POAN, FE, 10.00; POLICE CHIEFS ASSOCIATION, FE, 50.00; POSTMASTER, SU, 629.63; PRESTO X, SE, 112.89; QUALIFICATION TARGETS, SU, 345.92; QUALITY 1 GRAPHICS, SU, 335.00; QUILL, SU, 1810.97; QWEST, SE, 419.75; QWEST, SE, 215.00; RDG PLANNING &

DESIGN, SE, 325.00; RITA MCLEAN, RE, 38.48; RON'S RADIO, SU, 868.36; SCHMITT CONSTRUCTION, SE, 56033.04; SIOUXLAND TURF PRODUCTS, SU, 4340.00; SKARSHAUG TESTING LAB, SE, 903.35; STADIUM SPORTING GOODS, SU, 722.55; STATE NATIONAL BANK, RE, 1083.46; STATE NATIONAL BANK, RE, 448.17; SUN RIDGE SYSTEMS, FE, 295.00; ULTRAMAX, SU, 1296.40; UNITED WAY, RE, 46.10; US BANK, SE, 1733.92; USIS COMMERCIAL SERVICES, FE, 51.90; VAKOC BUILDER'S RESOURCE, SU, 131.79; VOSS LIGHTING, SU, 653.00; WACKER HOME IMPROVEMENT, SU, 69.82; WAEDI, SE, 6383.33; WAYNE AUTO PARTS, SU, 465.52; WAYNE COMMUNITY HOUSING, RE, 11340.53; WAYNE COMMUNITY SCHOOLS, RE, 2547.75; WAYNE COUNTY CLERK, SE, 17.75; WAYNE COUNTY COURT, RE, 300.00; WAYNE GRAIN & FEED, SE, 118.00; WAYNE HERALD, SE, 2099.66; WAYNE STATE COLLEGE, FE, 11.16; WAYNE VETERINARY CLINIC, SE, 280.00; WEB SOLUTIONS OMAHA, SE, 275.00; WESCO, SU, 5774.76; Y & Y LAWN SERVICE, SU, 2340.00; ZARC INTERNATIONAL, SU, 464.70; ALLESCO, SU, 267.99; APPEARA, SE, 206.00; BAKER & TAYLOR BOOKS, SU, 368.77; BARCO MUN PRODUCTS, SU, 715.72; BIG T ENTERPRISES, SU, 254.85; BOMGAARS, SU, 1222.77; CITY OF WAYNE, RE, 19.16; CARHART LUMBER COMPANY, SU, 1386.54; COPY WRITE, SU, 499.75; DANKO EMERGENCY EQUIPMENT, SU, 2264.80; DAVE'S DRY CLEANING, SE, 120.00; DITCH WITCH OF OMAHA, SU, 6314.39; ED M FELD EQUIPMENT, SU, 497.15; FREDRICKSON OIL, SU, 3147.61; GALE GROUP, SU, 31.77; GEMPLER'S, SU, 200.40; GERHOLD CONCRETE, SU, 900.40; GILL HAULING, SE, 2059.20; GODFATHER PIZZA, SU, 40.00; HAUFF MID-AMERICAN SPORTS, SU, 555.00; HEWLETT-PACKARD, SU, 697.00; INGRAM BOOK COMPANY, SU, 459.44; JANWAY COMPANY, SU, 375.15; KELLY SUPPLY, SU, 96.51; KTCH, SE, 525.00; LP GILL, SE, 6692.40; MIDLAND COMPUTER, SU, 134.19; NORTHEAST EQUIPMENT, SU, 153.86; NNPPD, SE, 10341.87; NOVELTY MACHINE, SU, 304.22; OLDS PIEPER & CONNOLLY, SE, 2436.07; OMAHA TRUCK CENTER, SU, 47.59; PAC N SAVE, SU, 54.53; PEPSI-COLA, SU, 249.58; PLUNKETT'S PEST CONTROL, SE, 88.00; PROVIDENCE MEDICAL CENTER, SE, 5289.50; QUALITY FOOD CENTER, SU, 4.47; QWEST, SE, 1261.99; RANDOM HOUSE, SU, 646.40; S & S WILLERS, SU, 1245.17; SQUARE D COMPANY, SE, 4089.00; US BANK, SE, 3223.72; WAYNE AUTO PARTS, SU, 325.53; WAYNE COUNTY CLERK, SE, 13.25; WAYNE GRAIN & FEED, SE, 120.00; WAYNE HERALD, SE, 3289.71; WOOD PLUMBING & HEATING, SU, 153.77; ZACH OIL, SU, 5883.33; ZACH PROPANE, SU, 1374.00

**FISCAL YEAR 08-09:** AMERICAN BROADBAND, SE, 30.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 5000.00; CITY OF WAYNE, RE, 990.63; CITY OF WAYNE, RE, 800.00; CLASSY CLEANING LADIES, SE, 380.45; CONNECTING POINT, SE, 17.90; DAKOTA BUSINESS SYSTEMS, SE, 73.16; GILL HAULING, SE, 133.00; GOV'T FINANCE OFFICERS, FE, 165.00; HD SUPPLY WATERWORKS, SU, 1548.98; HOLIDAY INN-DOWNTOWN, SE, 140.00; MIDWEST LABORATORIES, SE, 655.15; NE NEB INS AGENCY, SE, 59716.00; NORFOLK DAILY NEWS, SE, 38.57; TOP HEALTH, SU, 117.80; WAEDI, 6383.33; WAYNE COMMUNITY HOUSING, RE, 900.00; ZEE MEDICAL SERVICE, SU, 53.89

Councilmember Chamberlain made a motion and seconded by Councilmember Buryanek 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.

Irene Fletcher, representing the Main Street Clothing Company, returned unused funds in the amount of \$3,692.49 of the total \$5,000 grant that was given to them from the Wayne Revolving Loan Fund to be used to cover some of the start-up costs to develop a community-owned clothing store for the Wayne Area. She thanked the Mayor and Council for their commitment and support in this venture.

Administrator Johnson, in response to Councilmember Ley's inquiry, stated that the money was placed back into the Wayne Revolving Loan Fund Account.

Councilmember Buryanek introduced Ordinance 2008-13, and moved for approval of the third and final reading thereof; Councilmember Sturm seconded.

#### ORDINANCE NO. 2008-13

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF AN AREA MORE PARTICULARLY DESCRIBED AS THAT PART OF VACATED DEARBORN STREET AND RIGHT-OF-WAY FROM B-3 (NEIGHBORHOOD COMMERCIAL DISTRICT) TO B-1 (HIGHWAY COMMERCIAL DISTRICT).

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

Councilmember Sturm introduced Ordinance 2008-16, and moved for approval of the second reading thereof; Councilmember Ley seconded.

#### ORDINANCE NO. 2008-16

AN ORDINANCE AMENDING SECTION 78-139 OF THE WAYNE MUNICIPAL CODE REGARDING PROHIBITED PARKING; UNIMPROVED AREA; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Administrator Johnson stated the following ordinance would prohibit parking on the west side of Claycomb Road from the north line of 14<sup>th</sup> Street a distance of 150' north.

Councilmember Buryanek questioned the reason for picking 150'.

Administrator Johnson stated he requested Mr. Ellyson to provide the distance from the north right-of-way line of 14<sup>th</sup> Street.

Councilmember Buryanek stated from the edge of the street on 14<sup>th</sup> Street to the Vanderweil property line is 102.32 feet. Mr. Vanderweil did not want the prohibited parking to go past his driveway.

Councilmember Sturm questioned why this ordinance was being amended. Administrator Johnson responded that the increase in traffic and the yield sign at this intersection are the reasons for the ordinance being amended.

Garry Poutre, Supt. of Public Works & Utilities, stated another reason is because of the increased parking as a result of the new WSC Technology Building.

Councilmember Buryanek made a motion and seconded by Councilmember Lutt to amend the ordinance by having the distance recalculated to go from the south side of Greg Vanderweil's property to 14<sup>th</sup> Street. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Buryanek introduced Ordinance 2008-21, and moved for its approval; Councilmember Chamberlain seconded.

#### ORDINANCE NO. 2008-21

AN ORDINANCE TO AMEND SECTION 78-126 OF CHAPTER 78, ARTICLE III, OF THE WAYNE MUNICIPAL CODE RELATING TO PARKING; PROHIBITED PARKING; NORTHEAST QUADRANT OF THE CITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Administrator Johnson stated the following Resolution would approve the agreement with Aquarius for the pilot plant for the wastewater system. The unit rental is \$2,500 per month, including travel time to and from the site for the MSABP pilot unit, with the cost of the unit, up to \$7,500, being credited to the City upon purchase of the full scale system. Roger Protzman of JEO thought this was a reasonable amount and stated that they (JEO) cannot go any farther on a recommendation without operating the pilot plant here to see how it operates in cold weather. The pilot plant will be brought to Wayne in mid-December.

LightEnvironmental also stated they would bring a pilot plant to Wayne. However, their initial agreement stated they would place a unit in Wayne for three months for free, and if it worked, we would agree to buy their system. If we did not buy their system, we would owe them \$120,000. Johnson advised them he would not take that kind of an agreement to the Council. They then sent us a new agreement, wherein they would bring a smaller system (same size as the Aquarius system) to Wayne. They do not want any money to operate it. In the end, however, if we don't buy it, then they want \$15,000 for bringing the system to Wayne, which includes wear and tear on the system and hauling it back.

Councilmember Lutt introduced Resolution 2008-88, and moved for its approval; Councilmember Buryanek seconded.

#### RESOLUTION NO. 2008-88

#### A RESOLUTION APPROVING PILOT UNIT TEST AGREEMENT WITH AQUARIUS TECHNOLOGIES, INC., FOR PLACEMENT OF AN MSABP PILOT UNIT IN WAYNE, NEBRASKA.

Administrator Johnson stated JEO has been in close contact with NDEQ. JEO is not concerned about NDEQ giving us extra time to get this worked through so we can have a good evaluation of the systems. They are interested in the results. If the Council would pass both Resolutions this evening, both pilot units would be here and running at the same time. Both companies are very confident their systems are going to work just fine. The estimated cost of the system constructed for the LightEnvironmental unit is \$7.85 per gallon. The Aquarius system is not known at this time. No one has built these systems in this country yet, so, at this stage, it could be a half million dollars difference that we would not know about if we don't do them both. JEO is also going to provide information on what it is going to take to upgrade our plant so it will last 10-15 years

longer and control the ammonia. NDEQ has advised JEO that they do not intend to alter our permit levels for any of the things we are doing now.

Administrator Johnson stated both of these companies will take the initial costs off the total purchase price if we purchase their system. These look like big numbers, but we are spending \$65,000 a year just on electricity, and both of these systems are set up to use a whole lot less than that. We could recoup the cost of both pilot plants in one year just in energy savings if they do what they say they will.

Councilmember Sturm stated the way they continue to change the level of ammonia and the different things we can put into Logan Creek, he thinks we need to be committed to bringing in one of these newer plants. Do we really want to spend the time and the money to see what upgrades they can do to this plant?

Councilmember Lutt stated JEO is already being paid to determine what it will cost to upgrade our current plant.

Councilmember Buryanek stated looking at three options helps you make the right choice.

Administrator Johnson stated that Aquarius is estimating that our actual kilowatt hour usage will be about half of what we are currently using for the same flow.

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

Administrator Johnson stated the following Resolution would approve the agreement with LightEnvironmental for the pilot plant for the wastewater system. He distributed a copy of the most recent agreement. They will bring the unit out in mid-

December and set it up. We would run it for three months. At the end of the trial period, if they meet our permit requirements and we decide not to use their system, we would owe them \$15,000. JEO was satisfied with this type of an arrangement with LightEnvironmental.

Councilmember Frevert stated he did not like the fact that these companies are charging the City to do this. He realizes they are going to have some costs. He thinks if we reject the proposals, we may be able to negotiate a better deal. He doesn't like the idea of paying for tests like this, especially when this has not been proven anywhere in the United States. They are using us as a guinea pig.

Mr. Poutre stated Aquarius has some small plants in the United States. They have also said they are building a 2-2.5 million gallon plant somewhere in Indiana, but we have not been able to come up with the name of the community.

Councilmember Lutt stated if both of these pilot plants are basically the same kind of plant and both work on the same type of principal, he did not see any benefit of bringing them both in and setting them up side by side. He thought we just needed to bring one in and see if it works in our conditions. We can always go out and take a bid from LightEnvironmental later if we knew that type of system worked.

Mayor Shelton responded that these two systems are not the same. Aquarius uses a whole series of little tanks. LightEnvironmental uses one tank that goes up and gets cleaned.

Councilmember Buryanek introduced Resolution 2008-90, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2008-90

A RESOLUTION APPROVING PILOT UNIT TEST AGREEMENT WITH BIO-SHAFT FOR PLACEMENT OF AN MSABP PILOT UNIT IN WAYNE, NEBRASKA.

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

The following Resolution would accept the bid and award the contract on the Booster Pump Station – 2008 Project to: Engineered Fluids, Inc., in Centralia, Illinois, for \$152,795.65. Only one bid was received on the project.

Councilmember Sturm introduced Resolution 2008-91, and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2008-91

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE BOOSTER PUMP STATION – 2008 PROJECT.

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

The following Resolution would set the Board of Equalization Hearing on the sidewalk assessments for the Business Improvement District for October 21, 2008, at 5:30 p.m.

Councilmember Lutt introduced Resolution 2008-92, and moved for its approval; Councilmember Buryanek seconded.

RESOLUTION NO. 2008-92

A RESOLUTION ORDERING PUBLICATION AND SETTING THE BOARD OF EQUALIZATION HEARING DATE REGARDING BUSINESS IMPROVEMENT DISTRICT NO. 2005-1.

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

Garry Poutre, Superintendent of Public Works & Utilities, stated the following Resolution would provide an easement along the north side of property owned by the City (Lot 3, Block 4, John Lake's Addition) to Allan and Karen Bodlak. The Bodlaks moved a house into the corner lot of 9<sup>th</sup> and Main Streets. Because their lot is in a landlocked corner and they need to get their sewer line to the alley, this easement would allow them to come onto the City's property and run their sewer line, along with electric, cable, etc., to the alley. Previously, this house and the one to the east of it tied into the same line, and the City does not allow that anymore.

Councilmember Lutt introduced Resolution 2008-93, and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2008-93

##### A RESOLUTION PROVIDING A PERMANENT UNDERGROUND UTILITY EASEMENT ON CITY OWNED PROPERTY.

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

Councilmember Sturm made a motion and seconded by Councilmember Ley to reduce the park fee collected on the Burmood Acres Subdivision which has been reallocated based on the value of the land only, from \$7,186 to \$2,024.

Councilmember Lutt asked if buildings that are built on vacate land become part of the value of the land.

Attorney Pieper noted that typically when the City receives these applications, it is based on prospective development as opposed to completed development. On any

property, the assessed value of the land is separated from the assessed value of the improvements.

Administrator Johnson stated that with the Lutt and Karel subdivisions, there was so much land that the value of the house was not as significant a number as in this situation. Staff recommendation is to go with the value of the underlying land which is mostly similar to what we have done in the past and then clarify that in the following ordinance.

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

Councilmember Sturm introduced Ordinance 2008-22, and moved for approval thereof; Councilmember Frevert seconded.

#### ORDINANCE NO. 2008-22

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 74, ARTICLE VIII, DEDICATION OF LAND FOR PARK, RECREATIONAL FACILITIES OR OPEN SPACES, SECTION 74-293 FEES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

It was noted that no refunds will be given on previous park fees collected, and this policy stands effective this date.

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

Discussion took place regarding the purchase of a Segway for the Police Department from the 2007-2008 Budget. Lance Webster, Police Chief, and Jessica Bolles, Police Officer, were present to answer questions. The Segway would save wear

and tear on one of the cars being used at the College. In addition, Officer Bolles thought it would provide interaction with some students that might otherwise not talk to her. These vehicles have a lot of versatility and in addition to being used at the College, it would be used during parades, the Chicken Show, etc. The Police Department has had staff discussions on how to reduce their annual cost of gasoline. The lifespan of a Segway is about 10 years. He talked to a Sargent with the Lincoln Police Department who stated the public reaction was phenomenal. This will be a useful tool for their agency. Everybody he has talked to at the College is supportive of the idea. There is a training course to go through for the Segway. This is another tool in their toolbox to be successful.

Councilmember Sturm shared his thoughts on purchasing a Segway. He did not think WSC was that big of a campus to warrant the purchase of one. He has come to the conclusion that with the City budget, there are wants and there are needs. To him, this is a real want over a real need.

Administrator Johnson stated the money for this was built into last year's budget.

No action was taken on the matter.

Councilmember Sturm made a motion and seconded by Councilmember Frevert to recess as Council and convene 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 Brian Frevert, Verdel Lutt, Lois Shelton, Doug Sturm, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator

Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Dale Alexander and Darrel Fuelberth.

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 September 16, 2008, meeting.

Member Sturm made a motion and seconded by Member Chamberlain approving the minutes of the September 16, 2008, meeting. 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 consider the CDA Claim of Cox Development for \$11,000.00 for the site work that was done before the CDA took over the Western Ridge Project.

Administrator Johnson recommended paying \$8,500 for this claim. He thought this was fair and reasonable.

Chair Buryanek stated that when Mr. Cox put this proposal together, he was counting on TIF, but from the feeling he got from either the CDA or staff, he thought it was not going to happen, which is why he backed away from the project.

Member Shelton made a motion and seconded by Member Chamberlain approving the CDA Claim of \$8,500 to Cox Development. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next agenda item was for Contractor's Progress Estimate No. 1 for Steve Harris Construction in the amount of \$65,233.64.

Member Lutt made a motion and seconded by Member Shelton approving Contractor's Progress Estimate No. 1 for Steve Harris Construction in the amount of \$65,233.64. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Sturm made a motion and seconded by Member Shelton to file a lawsuit declaring all parties in default on the GITT TIF Agreement.

Administrator Johnson stated this action is required to terminate the Tax Increment Financing Agreement that was approved for the College Park Plaza. Even though the Agreement was approved, the funds were never drawn on by the developer.

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

Administrator Johnson reviewed a Change Order that was received from Kirkham Michael on the Western Ridge Water/Sewer/Paving Project. Recommendation was to approve the Change Order, with the exception of the following items:

- Deduct of \$1,353.00 for the 47B-3500 vs. 47B-4000; and
- Add on in the amount of \$1,353.00 for the Longitudinal Joint

Member Shelton made a motion and seconded by Member Ley approving Change Order No. 1 in the amount of (\$5,005.00) and rejecting the Deduct of \$1,353.00 for the 47B-3500 vs. 47B-4000, and add on in the amount of \$1,353.00 for the Longitudinal Joint. Chair Buryanek stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Sturm made a motion and seconded by Member Ley 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.

Councilmember Ley distributed a written report on the League Conference she attended in September.

Councilmember Lutt made a motion and seconded by Councilmember Ley 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 7:05 p.m.