

**MINUTES  
CITY COUNCIL MEETING  
December 2, 2008**

The Wayne City Council met in regular session at City Hall on Tuesday, December 2, 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, Doug Sturm, Kaki Ley, Darrel Fuelberth, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Don Buryanek and Dale Alexander.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 20, 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 Lutt made a motion and seconded by Councilmember Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of November 18, 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:** ALIGNMENT TECHNOLOGIES INC, RE, 2857.39; ALLTEL, SE, 90.41; AMERITAS, RE, 2136.32; ARNIE'S FORD-MERCURY, SE, 200.50; AS COMMUNICATIONS, SE, 448.00; BAKER & TAYLOR BOOKS, SU, 1144.47; BANK FIRST, FE, 210.00; BLACK HILLS ENERGY, SE, 745.94; BOMGAARS, SU, 1122.23; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 15.97; CITY OF WAYNE, RE, 6589.81; CITY OF WAYNE, PY, 59587.99; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 358.87; CITY OF WAYNE, RE, 1096.26; CLASSY CLEANING LADIES, SE, 244.13; DUTTON-LAINSON, SU,

342.93; ELECTRICAL ENGINEERING, SU, 325.80; EMPLOYERS MUTUAL CASUALTY, RE, 195.54; FLOOR MAINTENANCE, SU, 111.81; FORT DEARBORN, SE, 92.88; GEMPLER'S, SU, 69.35; GERHOLD CONCRETE, SU, 76.00; GLEN'S AUTO BODY, RE, 240.00; HEWLETT-PACKARD, SU, 1463.48; HTM SALES, RE, 1536.23; HUNTEL, SE, 30.00; ICMA, RE, 5136.24; IRS, TX, 19775.61; JEO CONSULTING GROUP, SE, 4345.00; KEPSCO, SU, 27.20; M.E. SHARPE, SU, 351.75; MID-STATE ENGINEERING, SE, 335.00; MIDWEST OFFICE AUTOMATION, SE, 120.10; MILO MEYER CONSTRUCTION, SE, 460.00; NE DEPT OF REVENUE, TX, 2644.97; NE EXPRESSWAYS, SE, 581.04; NE PUBLIC HEALTH, SU, 188.00; N.E. NE AMERICAN RED CROSS, RE, 29.62; PAMIDA, SU, 251.23; PROVIDENCE MEDICAL CENTER, SE, 194.00; QUILL, SU, 89.19; QWEST, SE, 419.75; QWEST, SE, 212.56; RDG PLANNING & DESIGN, SE, 1430.00; STATE NATIONAL BANK, RE, 134.44; STATE NATIONAL BANK, RE, 468.70; TAK, INC, SE, 138.00; THE CAROM HOUSE, RE, 883.83; UNITED WAY, RE, 16.14; WAEDI, RE, 10,000.00; WAYNE COUNTY COURT, FE, 79.00; WESCO, SU, 796.09; ALLTEL, SE, 367.99; CITIZENS NATIONAL BANK, RE, 3424.16; CITY OF WAYNE, RE, 1282.77; CITY OF WAYNE, RE, 266.62; CITY OF WAYNE, RE, 50.00; COPPLE & ROCKEY, SE, 374.60; COPY WRITE PUBLISHING, SU, 235.71; CRESCENT ELECTRIC, SU, 775.74; DEREK ANDERSON, SU, 200.00; ELECTRICAL ENGINEERING, SE, 41.42; FLOOR MAINTENANCE, SU, 32.49; GILL HAULING, SE, 1986.92; GOVERNMENTAL ACCOUNTING, SU, 195.00; GREAT DANE, SU, 385.00; HAUFF MID-AMERICAN SPORTS, SU, 184.00; HEIKES AUTOMOTIVE SERVICE, SE, 47.93; JEO CONSULTING GROUP, SE, 17682.14; K & C GRAIN, SU, 734.31; BLACK HILLS ENERGY, SE, 101.87; KELLY SUPPLY COMPANY, SU, 414.40; KIRKHAM MICHAEL, SE, 25256.00; LOVE SIGNS, SE, 72.00; LP GILL, SE, 6025.24; METRO KC CHAPTER ICBO, FE, 20.00; MIDLAND COMPUTER, SE, 886.81; N.E. NEB ECONOMIC DEVEL, SE, 840.00; NE SAFETY COUNCIL, FE, 8.68; NEBRASKA ENVIRONMENTAL, SU, 758.66; NNPPD, SE, 2007.08; OVERHEAD DOOR COMPANY, RE, 124.00; PAC N SAVE, SU, 23.08; POSTMASTER, SU, 652.26; QUILL, SU, 178.14; QWEST, SE, 45.68; SQUARE D COMPANY, SE, 13663.00; STATE NATIONAL BANK, RE, 244.39; TACO'S AND MORE, SU, 9.56; US BANK, SE, 6692.87; UTILITY EQUIPMENT CO, SU, 167.00; VIAERO WIRELESS, SE, 71.90; WAEDI, SE, 6383.33; WAYNE COUNTY CLERK, SE, 18.00; WAYNE HERALD, SE, 539.00; WAYNE VETERINARY CLINIC, SE, 110.00; WESTERN OFFICE PRODUCTS, SU, 57.85; ZACH OIL COMPANY, SU, 3052.05

Councilmember Sturm made a motion and seconded by Councilmember Ley 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.

Councilmember Ley made a motion and seconded by Councilmember Fuelberth to adjourn the meeting sine die. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

This being the time for the new Mayor and new Council to organize and Doug Sturm, Kathy Berry, Brian Frevert, and Jon Haase, having qualified for Councilmembers of the 1st, 2nd, 3rd, and 4th Wards respectively, City Attorney Mike Pieper, presented the oaths of office to Doug Sturm, Kathy Berry, Brian Frevert, and Jon Haase.

Councilmember Sturm made a motion and seconded by Councilmember Frevert to reconvene the meeting. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton presented a plaque to Councilmember Fuelberth in appreciation of his valued contributions made to the City of Wayne as Councilmember from 1970-2008.

Councilmember Ley, with a second by Councilmember Lutt, nominated Doug Sturm as Council President.

Councilmember Chamberlain made a motion and seconded by Councilmember Frevert to cease nominations. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton asked Council to cast their ballots. Councilmember Sturm received the majority of votes from Council to be duly elected as Council President.

Mayor Shelton stated that action on Ordinance 2008-24 was postponed from the last meeting. This in regard to the Planning Commission's recommendation to rezone the area described as the South 13 feet of Lot 1, and all of Lots 2, 3, and 4 of the Replats of Lots 1 through 7, Block 3, Roosevelt Park Addition and the Folk Street Right-of-Way on the West side of South Nebraska Street and all of Lots 1, 2, 3, 4, 5, 6, 7, and 8, of Block 4, Roosevelt Park Addition, and extending South to the centerline of Logan Creek from B-1 Highway Commercial to R-3 Residential.

It was noted that it was discovered that a B-1 District does not provide "residential use" as an exception, and therefore, those property owners would not be able to seek a use by exception to rebuild should something happen to any of their homes in that area.

Mayor Shelton noted the receipt of the protest letter by Robert Woehler with the same being properly acknowledged by a notary public. She advised the Council and the public that no public input would be taken since the public hearing was closed on this matter.

Administrator Johnson noted that because the protest letter was filed, the ordinance will require six votes to pass the first reading.

Councilmember Chamberlain introduced Ordinance 2008-24, and moved for approval thereof; Councilmember Lutt seconded.

ORDINANCE NO. 2008-24

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF AN AREA MORE PARTICULARLY DESCRIBED AS THE SOUTH 13 FEET OF LOT 1, AND ALL OF LOTS 2, 3, AND 4 OF THE REPLATS OF LOTS 1 THROUGH 7, BLOCK 3, ROOSEVELT PARK ADDITION AND THE FOLK STREET RIGHT-OF-WAY ON THE WEST SIDE OF SOUTH NEBRASKA STREET AND ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, AND 8, OF BLOCK 4, ROOSEVELT PARK ADDITION, AND EXTENDING SOUTH TO THE CENTERLINE OF LOGAN CREEK FROM B-1 HIGHWAY COMMERCIAL TO R-3 RESIDENTIAL.

Administrator Johnson stated by passing this ordinance the City will be absorbing all of the costs associated with the rezoning.

Councilmember Sturm stated he was in favor of rezoning this area because of what has been discovered in the B-1 District. He questioned how the Council would do it from now on when other people have a problem with the zoning map. Will the City stand the cost of subsequent rezonings?

Councilmember Chamberlain stated if the change is initiated by the City, then the City should absorb the costs. The residents in this area were approached by a city official in an effort to clean up the zoning map. If somebody else would want the City to rezone something for their convenience or benefit, then they should absorb those costs.

Administrator Johnson referenced a map that was in the packet which shows zoning lines that are not enforceable.

Councilmember Sturm was of the opinion that this whole process was initiated incorrectly. He believes that the area needs to be rezoned, but it should have been

brought to the attention of the people who live there that this is what needs to be done to correct it. He did not believe that this needed to be initiated by the City.

Councilmember Chamberlain, in response to questions regarding the Woehler rezoning matter, stated that the reason this did not come up is that their use conforms to B-1. It fits in the type of business that they have. These houses do not conform to B-1 which is why Mr. Ellyson initiated the zoning change.

Mayor Shelton stated this is not the first time the City has initiated zoning changes.

Councilmember Lutt opined that this matter has been brought before Council to rezone this area, whether it was by City staff or by the property owners, and Council has to vote whether we want to or not, and whether or not we do this in the future on other properties, whether we initiate it or whether the property owners initiate it and who pays for it is beyond this point here. This is whether we rezone this property tonight or not. We can talk about future rezoning and who is going to pay for those at a later time.

Councilmember Ley stated since staff went out and initiated this rezoning, we are in a position now that we have to make a decision one way or the other on this.

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 direct the City Clerk to certify unpaid razing costs to become a lien on the property described as 418 West First Street.

Councilmember Lutt introduced Resolution 2008-102, and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2008-102

A RESOLUTION DIRECTING CITY CLERK TO CERTIFY RAZING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON THE EAST 48 FEET OF THE WEST 100 FEET OF LOTS 4, 5, AND 6, BLOCK 24, ORIGINAL TOWN TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 418 WEST FIRST STREET, WAYNE, NEBRASKA.

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

Councilmember Ley 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 Chamberlain called the meeting of the Community Development Agency to order. Those in attendance: Members Brian Frevert, Verdel Lutt, Jon Haase, Lois Shelton, Doug Sturm, Kaki Ley, and Kathy Berry; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Dale Alexander.

Chair Chamberlain 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 November 18, 2008, meeting.

Member Lutt made a motion and seconded by Member Frevert approving the minutes of the November 18, 2008, meeting. Chair Chamberlain 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 proposed Agreement with Qwest. Qwest will install land line phone service in the Western Ridge Subdivision at no cost to the CDA.

Member Shelton made a motion and seconded by Member Frevert approving the Agreement with Qwest to install land line phone service in the Western Ridge Subdivision. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

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

Discussion then took place regarding the sale of the Tower Lot on Main Street as an alternative to approving a new sewer easement. Administrator Johnson stated at the October 21<sup>st</sup> Council meeting, the Council approved a 10-foot private sewer easement along the north side of the City-owned property where the old water tower was located on the east side of Main Street between 8<sup>th</sup> and 9<sup>th</sup> Streets. When the contractor began digging the trench in the easement for the sewer line, he was blocked by two of the large buried concrete tower bases in the easement that we were not aware of. The contractor went outside the easement and re-routed the sewer trench and line diagonally across the City-owned lot and connected it to a manhole in the alley. We can either prepare a new easement agreement or sell the lot. If the Council decides to sell the lot, it should be offered to the public. There is also a water main on the south side of this lot, so there is not much buildable area on this lot.

Councilmember Lutt stated if someone is interested in purchasing the lot, he would suggest offering it for sale to the public and see what we receive.

Garry Poutre, Supt. of Public Works and Utilities, advised the Council that the sewer line is a private line as is the electric line that has been placed already. If we sell the property, then those easements would need to remain in place. There is also a siren on the property and that is something that will have to be moved.

Attorney Pieper preferred that the City sell the property subject to the easements and not giving the Bodlaks right of first refusal. Since it is not a buildable lot, the Bodlaks would probably be one of the more interested parties in light of the fact that they have utilities running across it. The other alternative is having the Bodlaks come forth with an offer. He would prefer that as opposed to a right of first refusal. They could make an offer to purchase city owned property, and the City could accept that offer subject to the remonstrance period. This has been done on several occasions. If there are enough objections to the offer, then the City would not be able to sell it.

Councilmember Lutt made a motion and seconded by Councilmember Chamberlain to entertain offers to purchase on the old water tower property. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Nancy Braden, City Treasurer, gave a report and update on the City's Grant Activity. Ms. Braden reviewed the history of the grants, the active and pending grants, and the Wayne Revolving Loan Fund activity.

Mayor Shelton asked for two volunteers to replace outgoing Councilmembers Buryanek and Fuelberth on the Technology Committee and outgoing Councilmember Buryanek on the WAEDI Board.

Councilmember Lutt made a motion and seconded by Councilmember Frevert approving the appointment of Councilmembers Ley and Sturm to the Technology Committee. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving the appointment of Councilmember Frevert to the WAEDI Board. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Dave Simonsen, Executive Director of WAEDI, reviewed the Local Option Sales Tax Plan for Economic Development previously approved by the Council.

Mayor Shelton made a public announcement that she is taking names for people who wish to serve on the Citizens Advisory Review Committee for the Economic Development Program.

Administrator Johnson reviewed the local option sales tax plan for the City's capital projects (10-year budget – revenues and expenditures). This will provide some direction on the capital purchases that will need to take place in the next few years. Council will have the task of determining how they will want to use that portion of the sales tax on capital purchases.

Nancy Braden, City Treasurer, advised the Council that we presently take in over \$40,000 per month from the current 1% sales tax. Of that, there is about \$50,000 a year

that will have to go directly to the Street Department. The breakdown of the LB840 Sales Tax is a 60 (capital projects)/40 (economic development) split of the remainder of the 1% sales tax collected. We are on schedule to pay off the bonds for the CAC in June of 2009. We will start collecting the LB840 sales tax in July, 2009; however, we will not receive those until September.

Administrator Johnson stated one bid was received to repair the City Auditorium foundation walls around three stairways, and that was from Benscoter Plumbing. His recommendation was to reject the total bid package at this time because he thought the same was too high. However, he recommended having Benscoter repair the north wall at this time (\$986.43), and then bidding the remainder of the project at a later date. No action was taken on the matter.

Discussion took place regarding the potential incentives for the “Opportunity Building” prospect.

Dave Simonsen, Executive Director of WAEDI, stated there is a potential distribution manufacturing company that may be interested in locating in Wayne. It will have 160 employees, and they are looking for an existing building with 80,000 sq. ft. (60,000 sq. ft. for manufacturing and 20,000 sq. ft. for distribution). They are looking for offers they cannot refuse (low operating costs, low interest loans, incentive grants, donated buildings, donated land, etc.). He was requesting Council direction on what types of incentives might be offered so he could begin to prepare a proposal. The land that the spec building is on is expandable. If the additional property that the city purchased would be included, you could get up to an 80,000 sq. ft. building on that piece of property. That would be a major expansion of the 20,000 sq. ft. building now on the

property. With the LB840 plan, the building could be sold to the company or the land could be given to the company. The City could be paid back by funds from the sales tax initiative. The Revolving Loan Fund is another incentive. Another incentive would be the \$150,000 non-repayable loan/grant that was given to Wayne by DED for the spec building. If that money is not used, it goes back into the Wayne Revolving Loan Fund. If it is used, it is used. This company will be a relatively high electricity user. They will use nominal gas. They will also pay a relatively good rate of pay. Any incentive we do as a community, he would not nor would he recommend us doing the same without getting something in writing from them that if we do this for you, you will guarantee us you will do x, y and z.

Councilmember Sturm requested Mr. Simonsen to bring back a proposal to Council since this is his area of expertise. At that time, then the Council can discuss the incentives, loan programs, etc.

At this time, Mr. Simonsen would recommend the land donation first and then the Wayne Revolving Loan Fund being offered as incentives. When the committee is set up, then parameters can be established for what to offer different sized businesses. If a basic beginning point could be established of what to offer, it would be very helpful to him in his position.

Mayor Shelton stated the land is probably the least costly incentive we can give them.

It was noted that the land was purchased for \$7,500 per acre. The purchase price of the land is not the value of the land however. He would put in his proposal that the

value of the land is \$20,000 per acre after the street improvements are made, etc. An indirect incentive is the street improvements that will be made by the City.

Discussion took place regarding a date for the Council Retreat. The Council Retreat was scheduled for February 6<sup>th</sup> and 7<sup>th</sup>, 2009, in the Council Chambers.

There were no reports on meetings attended.

No one was appointed to the Zoning Steering Committee.

Mayor Shelton requested Council consideration to appointing Councilmember Haase to the Audit Committee.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the appointment of Councilmember Haase to the Audit Committee. 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 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 7:14 p.m.