

**MINUTES  
CITY COUNCIL MEETING  
March 3, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, March 3, 2009, 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, Jon Haase, Dale Alexander, Doug Sturm and Ken Chamberlain; City Attorney Amy Wiebelhaus; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on February 19, 2009, 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 meetings of February 6, and 17, 2009, 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:** ADMINISTRATIVE PROFESSIONAL, SU, 76.00; ALARM PROS, SE, 79.13; ALLTEL, SE, 88.57; AMERICAN BROADBAND, SE, 30.00; AMERITAS, RE, 2284.46; ARNIE'S FORD-MERCURY, SE, 338.18; AS COMMUNICATIONS, SE, 448.00; AWWA, FE, 295.00; BANK FIRST, FE, 195.00; BLACK HILLS ENERGY, SE, 1546.93; BOMGAARS, SU, 1063.85; CITY OF WAYNE, RE, 38.52; CITY OF WAYNE, RE, 4113.23; CITY OF WAYNE, PY, 62371.67; CITY OF WAYNE, RE, 404.90; CREDIT BUREAU SERVICES, SE, 154.65; DANKO EMERGENCY EQUIPMENT, SU, 323.44; ECHO GROUP, SU, 1467.25;

EGAN SUPPLY, SU, 26.88; ELECTRICAL ENGINEERING, SU, 69.61; FARMERS AND MERCHANTS, RE, 400000.00; FIVE STAR ENTERPRISES, SU, 6.50; FORT DEARBORN, SE, 110.08; G-NEIL, SU, 549.90; GEORGE PHELPS, RE, 500.00; GLEN'S AUTO BODY, SE, 289.80; GRAYBAR ELECTRIC, SU, 455.99; HTM SALES, SU, 5191.68; ICMA, RE, 5532.79; IRS, TX, 21123.28; JASON KARSKY, RE, 500.00; JEO CONSULTING GROUP, SE, 239.00; KRIZ-DAVIS, SU, 999.29; LOREN PARK, RE, 500.00; LOUP POWER DISTRICT, FE, 75.00; MAJOR SAFETY SERVICE, SU, 2650.54; MELISSA RABBASS, RE, 500.00; MICHAEL TODD, SU, 919.40; MIDWEST LAND, RE, 60.00; MIDWEST OFFICE AUTOMATION, SE, 82.78; MOTION INDUSTRIES, SU, 1394.58; NATIONAL McGRUFF HOUSE, SU, 177.00; NE DEPT OF REVENUE, TX, 2911.88; NE DEPT OF ROADS, SE, 2520.00; NE PUBLIC HEALTH, SU, 160.00; NEBRASKA ENVIRONMENTAL, FE, 100.00; NNPPD, SE, 2275.05; OVERHEAD DOOR, SU, 110.15; QUILL, SU, 216.60; QWEST, SE, 419.15; SIRCHIE FINGER PRINT LAB, SU, 103.68; SORENSON FORENSICS, FE, 420.00; STATE NATIONAL BANK, RE, 3487.96; STATE NATIONAL BANK, RE, 600000.00; STATE NATIONAL BANK, RE, 375.51; TODD HOEMAN, RE, 144.99; US BANK, SU, 4351.55; VIAERO, SE, 212.52; WAKEFIELD REPUBLICAN, SU, 23.00; WAYNE AREA CHAMBER, RE, 140.00; WAYNE AREA ECONOMIC DEVEL, RE, 23008.00; WAYNE STATE COLLEGE, RE, 800.00; WESTERN IOWA TECH, FE, 70.00; ALLTEL, SE, 398.75; ARNIE'S FORD-MERCURY, SU, 19.98; BANK FIRST, RE, 100.00; BLACK HILLS ENERGY, SE, 143.15; CARROT-TOP INDUSTRIES, SU, 206.92; CITY OF WAYNE, RE, 75.00; COPY WRITE, SE, 208.43; DE LAGE LANDEN FINANCIAL, SE, 411.00; ECHO GROUP, SU, 527.35; ELECTRICAL ENGINEERING, SU, 51.34; FLOOR MAINTENANCE, SU, 307.30; FREDRICKSON OIL, SU, 1963.50; GILL HAULING, SE, 1673.40; H.K. SCHOLZ COMPANY, SE, 1670.00; HEIKES AUTOMOTIVE SERVICE, SE, 153.86; HOLIDAY INN "MIDTOWN", SE, 205.05; JEO CONSULTING GROUP, SE, 12631.25; KELLY SUPPLY COMPANY, SU, 132.94; KRIZ-DAVIS, SE, 300.00; LEAGUE OF NEBRASKA MUN, FE, 2331.00; LOGAN VALLEY TEENS, FE, 270.00; LP GILL, FE, 5008.80; MARRIOTT HOTELS, SE, 1596.00; NPPD, SE, 5622.86; PLUNKETT'S PEST CONTROL, SE, 40.00; POSTMASTER, SU, 640.46; QUALITY FOOD CENTER, SU, 13.91; QWEST, SE, 223.11; STATE NATIONAL BANK, RE, 3403.56; UNITED STATES PLASTIC, SU, 160.54; VIC'S ENGINE SERVICE, SU, 31.20; WAYNE AREA ECONOMIC DEVEL, RE, 6633.33; WAYNE AREA ECONOMIC DEVEL, RE, 10000.00; WAYNE COUNTY COURT, RE, 496.50; WAYNE VETERINARY CLINIC, SE, 496.00; WEB SOLUTIONS OMAHA, SE, 275.00

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander 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 Berry arrived at 5:35 p.m.

Discussion took place regarding the relocation of the fitness center and the operating hours of the fitness center (24-hour) at the Community Activity Center.

Jeff Zeiss, Recreation-Leisure Services Director, provided the Council with a list of items along with cost estimates that would be needed to switch the fitness room with the youth room, and allow 24-hour access into the fitness area. The recommendation of relocating the fitness room comes as a result of the high demand and limitations in the current fitness room. There was \$25,000 allocated in the budget from the CAC construction funds for this project. Mr. Zeiss was also directed to obtain costs for an additional two treadmills - \$6,987. The estimated cost for the security door and gate for the 24-hour access was \$10,648.

A representative from Push, Pedal and Pull, a firm that sells fitness equipment to the CAC, spoke regarding the pros and cons of having the facility open 24 hours a day. The lack of access to shower facilities was a detriment, in their opinion, to the 24-hour access.

Councilmember Chamberlain stated he had attended the Recreation-Leisure Services Commission meeting to address some of their concerns. One suggestion he had was to install a remote camera in the Police Department to monitor people coming into the facility, etc, after hours.

Mr. Zeiss felt that the Commission, at this point, thought the money could be better spent on the equipment to satisfy the customers. The thought was to relocate the fitness room first (as Phase I) and then make the transition to 24-hour access (as Phase II) in the future.

Tim Fertig, a personal fitness trainer, was present in support of the 24-hour access proposal.

Councilmember Chamberlain suggested having some of the part-time staff at the CAC work overnight for the first couple of months to see how many people are using the fitness room. He thought the Commission was positive and wanted to move things forward, but was staying cautious in these steps.

Councilmember Lutt made a motion to authorize the Community Activity Center to use the money needed to move the fitness room into the youth room, to delay any 24-hour access, and to not use any construction funds to purchase new equipment needed in the new fitness room.

It was noted that the idea for adding more equipment is that if the rooms are switched, there is more space for more equipment to accommodate more members.

It was also noted that the construction funds could be used for adding additional parking surface, to relocate or switch the rooms, or repairs. It must be used by the CAC.

Councilmember Frevert then seconded the motion. Mayor Shelton stated the motion, and the result of roll call being all Nays, with the exception of Councilmembers Frevert, Lutt and Haase who voted Yea, the Mayor declared the motion failed.

Councilmember Chamberlain made a motion to move forward with the proposal of the Recreation-Leisure Services Director to relocate the fitness room to the youth room, to adopt the 24-hour operation plan, and to look at other options to provide security into the building.

The 24-hour operation plan would not take effect until a way is found to securely monitor the fitness room.

After some discussion, Councilmember Chamberlain amended his motion that before the City spends the money to make the facility 24-hour access, that we staff somebody overnight at the CAC for sixty days to see what kind of response we get and if there is no response or no usage, then we can pull the plug on it.

Mr. Zeiss stated that this will add additional personnel expenses to his budget. He does not have a lot of leeway in that area at this time.

Councilmember Sturm suggested surveying the members and community (e.g. via the website, utility newsletter).

Garry Poutre, Supt. of Public Works & Utilities, suggested separating the 24-hour access plan from switching the rooms and additional equipment.

Councilmember Chamberlain then amended his motion to move the fitness room to the youth room, include the equipment identified in the \$25,000 proposal (does not include the additional two pieces of equipment-\$6,987), to not do anything with the money allocated for the 24-hour operation plan, and to allow time to discuss and look at

other options to see what kind of interest we get from the members via the website. Councilmember Berry seconded the motion.

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 carried.

Gene Hansen, Electric Production Superintendent, along with Bill Hilger of Midstates Erectors, Inc., reported to the Council on the cooling system upgrade to the Power Plant. NPPD provided us with an on-sight observation of the power plant to see where we were using electricity. The objective is to remove the existing radiators from the cooling system and install new cooling towers, pumps, heat exchangers, drain back tank and associated equipment. This will improve the cooling efficiency to 110 percent of capacity and update associated piping systems. This will also save costs from heating the jacket water in the radiators as is currently being done. This is an old and inefficient system. The estimated cost of the project is \$500,000. The estimated annual savings in heat costs is \$50,000. With interest and at current wholesale power costs, the payback period would be about 14 years.

Mr. Hilger noted that material costs have come down drastically since last year. Administrator Johnson would like to see the project in place by the fall of 2009. There is some equipment that has a 16 week delivery time, so time is of the essence if the City wants to have this project completed in 2009. Mr. Hilger has engineers he works with to make sure the plans, etc., are done right.

Mr. Hansen stated he would like to do this project in a way that has a minimal amount of engineering involved. If we go the old route, this is going to take a couple of

years. It is going to cost a lot more money, but if we do it the way that they want it done, we can buy our own equipment. With the help of Midstates, we can draw up some of our own plans so we know what we want to do and the materials we want to use. This will save money and a lot of time.

Mr. Hansen stated the city would be relying upon Mr. Hilger to furnish the piping, the valves, and expertise to put the piping in. He would install all of the piping, set the cooling tower, heat exchangers, and pumps. We would take it upon ourselves to contract the electrical. We have a pit already on site, which needs to be refurbished. We would piecemeal this project out rather than have one big, giant bid. We could do the buying ourselves to keep a lot of the costs down.

Administrator Johnson stated the proposal is being made tonight so that Council knows what the project is. He did not know yet if the City had to go out for bids on the project. The matter will need to be reviewed by the City Attorney's office for a recommendation. The two issues Administrator Johnson had with this is (1) is it legal, and (2) is Midstates Erectors the low price.

Councilmember Lutt made a motion and seconded by Councilmember Sturm recommending that staff authorize the initiation of the design of the project. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated four proposals were received for Easement Acquisition Consulting Services for the 10<sup>th</sup> Street Project. Staff has reviewed the same and is recommending that the contract be awarded to Freedom Marketing, Inc., for the amount of \$5,969.

Councilmember Sturm introduced Resolution 2009-21, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-21

A RESOLUTION ACCEPTING PROPOSAL FOR EASEMENT ACQUISITION SERVICES.

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 is a requirement of the Department of Roads Environmental Review to determine that the trail's impact on any public property that it touches or transverses through (Ashley Park at Third Street and Oak Drive) does not destroy the existing use of that property or significantly affect it.

Councilmember Sturm introduced Resolution 2009-22, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-22

A RESOLUTION ACCEPTING THE RESULTS OF THE EVALUATION OF THE PHASE II TRAIL IMPACT ON ASHLEY PARK AND DETERMINING ITS IMPACT ON CURRENT PUBLIC USE TO BE DE MINIMUS.

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

Garry Poutre, Supt. of Public Works & Utilities, reviewed the Retail Electric Rate Study (2009) that was undertaken by Mike Towne of Western Consulting. This study is conducted annually. Mr. Towne provided two pro formas: one showing a 5% increase and one showing no increase. The City has a "Production Cost Adjustment" which is added to the electric bills because of the variation in our purchase power costs. This is

done on a monthly basis and is similar to what is seen on a gas bill. The 5% increase will pick up the purchase power cost increases that have been presented to us by our power suppliers. It will also pick up the fixed cost increases. If we increase the electric rates by 5%, we would see a gain of approximately \$123,807. If we do not increase the electric rates, we would see a loss of about \$95,244. Because we have the “Production Cost Adjustment/Adder”, the cost increases that we see from our power suppliers (NPPD and WAPA), will be picked up through this means. What was also discussed between staff and with the auditor is that this might be the year that we do not need to raise the rates to our rate payers. In addition, if the bond trading works out the way Phil Lorenzen, the City’s fiscal agent, is hoping it will, then we could be bringing in an additional \$54,000, which would put the loss at one-half of \$94,244. The good news right now is that we are in a position where we do not have to raise rates this year.

Councilmember Lutt opined he did not like to absorb costs and liked cushion.

Councilmember Lutt made a motion to pass the rate increase on to the electric customers. The motion died for lack of a second.

Councilmember Lutt made a motion and seconded by Councilmember Frevert accepting the recommendation of staff to not increase the electric rates in 2009. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mr. Poutre advised the Council that during the recent electric rate review, he asked Mike Towne of Western Consulting to review the language of our rate resolution in the General Service Demand (GSD) section. Paragraph D. of this section describes when a demand meter is applicable. The way it has been described has left some cause for

question as to who should have a demand meter if their monthly demand fell between 25 and 100 kW. The new language makes it very clear that anyone over 50 kW in any month will be billed through the GSD class. The current and proposed language is shown below.

**Current Language:**

- D. Demand Meter: A demand meter may be installed by the City when the customer's demand is believed to exceed 25 kW. A demand meter shall be required for at least 12 months for customer's having metered demand of 100 kW or more.**

**Proposed Language:**

- D. Applicable: To any customer that has a peak demand of 50 kW in any month, but not exceeding 1,000 kW. For monitoring purposes, a demand meter may be installed by the City when the customer's demand is believed to exceed 25 kW. The customer will remain on this rate for a minimum of 12 months, once established.**

Councilmember Chamberlain introduced Resolution No. 2009-23 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-23

A RESOLUTION ESTABLISHING A SCHEDULE OF ELECTRIC RATES.

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

Administrator Johnson was requesting Council to authorize him to advertise and seek Requests for Proposals for engineering design services for the Windom Street Paving Project.

Councilmember Lutt made a motion and seconded by Councilmember Frevert authorizing staff to advertise and seek requests for proposals for engineering design services for the Windom Street Paving Project. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested two Council volunteers to serve on the Regional Jail Search/Steering Committee.

Councilmembers Frevert and Alexander volunteered to serve on this committee.

Councilmember Lutt made a motion and seconded by Councilmember Chamberlain approving the appointment of Councilmembers Frevert and Alexander to serve on the Regional Jail Search/Steering Committee. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Frevert made a motion and seconded by Councilmember Chamberlain appointing the City Administrator as Interim Zoning Administrator. 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 Frevert appointing the City Administrator as Interim ADA Administrator. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Frevert made a motion and seconded by Councilmember Alexander appointing the City Administrator as the Interim Flood Plain Administrator. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that the Farming Use Agreement with Richard Milligan has been amended to include Item No. 6 which makes the agreement transferable to the next owner of the property should Mr. Milligan sell it.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving the amendment to the “Farming Use Agreement” with Richard Milligan. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Sturm 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 were: Members Brian Frevert, Verdel Lutt, Jon Haase, Dale Alexander, Lois Shelton, Doug Sturm, and Kathy Berry; City Attorney Amy Wiebelhaus; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Kaki Ley.

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 February 17, 2009, meeting.

Member Frevert made a motion and seconded by Member Alexander approving the minutes of the February 17, 2009, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Chair Chamberlain stated the next item on the agenda was to take action on a policy for sidewalk location in the Western Ridge II Subdivision.

Mr. Poutre stated there are front lot services for all utilities in the Western Ridge Subdivision. Because of this, we need to have the sidewalk approximately one foot off of the property line. You would have the property line, then one foot of green space, then four feet of sidewalk. Then everything between the sidewalk and the curb leaves area for the other utilities. This allows nine feet from the back of the curb to the street side of the sidewalk.

Sidewalks in the cul de sacs were also discussed. This could be left to the discretion of staff, or brought back for further discussion at a future meeting. In addition, Council could waive the requirement for a sidewalk in these cul de sacs in Western Ridge.

Member Lutt made a motion and seconded by Member Shelton approving the sidewalk policy for Western Ridge that sidewalks, except those around the cul de sacs, be constructed one foot outside of the front lot line of the lots. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Shelton made a motion and seconded by Member Alexander 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.

Jeff Zeiss, Recreation-Leisure Services Director, Gene Hansen, Electric Production Superintendent and Penny Vollbracht, Senior Center Coordinator, presented their annual reports.

Council and staff reported on the Mid-Winter Conference put on by the Nebraska League of Municipalities. In addition, Mayor Shelton reported on the NPZA Conference,

Workforce Investment Act Board meeting, and Highway Commission Meeting she attended.

There were no appointments.

Councilmember Alexander made a motion and seconded by Councilmember Sturm 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 7:51 p.m.