

**MINUTES
CITY COUNCIL MEETING
March 17, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, March 17, 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, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and Administrative Assistant Chanelle Belt. Absent: Councilmember Kathy Berry and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on March 5, 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 Chamberlain made a motion and seconded by Councilmember Alexander, whereas the Clerk has prepared copies of the Minutes of the meetings of March 3, 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: AMERITAS, RE, 2001.26; APPEARA, SE, 120.22; BACON & VINTON, SE, 600.00; BAKER & TAYLOR BOOKS, SU, 616.07; BANK FIRST, FE, 210.00; BARCO MUN PRODUCTS, SU, 867.86; CALIFORNIA CONTRACTORS, SU, 239.60; CARHART LUMBER COMPANY, SU, 508.78; CHAMPLIN TIRE RECYCLING, SE, 67.95; CHARTWELLS, SU, 46.00; CITY OF WAYNE, RE, 1043.33; CITY OF WAYNE, RE, 1814.47; CITY OF WAYNE, RE, 243.00; CITY OF WAYNE, PY, 54074.78; CITY OF WAYNE, RE, 2591.76; CITY OF WAYNE, SU, 43.98; CITY OF WAYNE, RE, 625000.00; CITY OF WAYNE, RE, 1040.31; CITY OF

WAYNE, RE, 99.10; CLASSY CLEANING LADIES, SE, 325.10; CONNECTING POINT, SE, 17.90; CONNEY SAFETY PRODUCTS, SU, 103.80; COPY WRITE, SU, 13.58; DAKOTA BUSINESS SYSTEMS, SE, 73.16; DAVE'S DRY CLEANING, SE, 113.00; DEMCO, SU, 50.12; DOESCHER APPLIANCE, SU, 1006.00; DOUGLAS CO COURT, RE, 1000.00; ECHO GROUP, SU, 407.44; ED M FELD EQUIPMENT, SU, 41.60; EGAN SUPPLY, SU, 574.75; ELECTRONIC RECYCLER, SE, 149.10; FLOOR MAINTENANCE, SU, 284.66; FORT DEARBORN LIFE, SE, 1571.01; FREDRICKSON OIL, RE, 46.88; GREAT PLAINS ONE-CALL, SE, 26.08; GUMDROP BOOKS, SU, 251.30; HARDING & SHULTZ, SE, 164.00; HERITAGE HOMES, RE, 150.00; HERITAGE MANUFACTURING, SE, 1200.00; ICMA, RE, 5190.62; INGRAM BOOK COMPANY, SU, 385.96; IRS, TX, 21458.52; J.F. AHERN CO., SE, 969.00; KRIZ-DAVIS, SU, 829.11; KTCH, SE, 605.00; LECC-NEBRASKA, FE, 190.00; M. LEE SMITH PUBLISHERS, SE, 367.00; MARSHALL CAVENDISH, SU, 104.31; MICHAEL TODD & CO, SU, 257.42; MICROFILM IMAGING SYSTEMS, SE, 511.10; MID AMERICAN RESEARCH, SU, 148.78; MIDLAND COMPUTER, SE, 7497.60; MIDLAND EQUIPMENT, SU, 206.58; MIDWEST LABORATORIES, INC, SE, 632.85; MIDWEST TAPE, SU, 14.99; MIKE TOWNE, SE, 1000.00; NATIONAL PATENT, SU, 17.45; NCVC, FE, 60.00; NE DEPT OF REVENUE, TX, 3301.79; NE EXPRESSWAYS, SE, 581.04; NPPD, SE, 182512.28; NEBRASKA ENVIRONMENTAL, SU, 145.27; NORTHEAST EQUIPMENT, SU, 469.34; NORTHEAST LIBRARY SYSTEM, FE, 15.00; N.E. NE AMERICAN RED, RE, 59.24; NNPPD, SE, 11013.42; OLDS PIEPER & CONNOLLY, SE, 3025.00; PAC N SAVE, SU, 180.31; PAMIDA, SU, 156.69; PEPSI-COLA, SU, 346.48; POSTMASTER, FE, 180.00; PRESTO X, SE, 74.95; PROVIDENCE MEDICAL CENTER, SE, 5078.50; QUALITY 1 GRAPHICS, SU, 145.00; QUILL, SU, 497.42; QWEST, SE, 1289.94; RANDOM HOUSE, SU, 535.20; RON'S RADIO, SU, 830.00; S & S WILLERS, SU, 178.26; SCHOLASTIC BOOK CLUBS, SU, 35.00; STADIUM SPORTING GOODS, SU, 2000.00; STATE NATIONAL BANK, SE, 88.06; STATE NATIONAL BANK, RE, 1070.36; STATE NATIONAL BANK, RE, 15790.00; STEFFEN, SU, 19.34; TASTE OF HOME BOOKS, SU, 29.98; THE KIPLINGER LETTER, SU, 58.00; TOM'S BODY & PAINT SHOP, SU, 254.40; TRI AIR TESTING, SE, 426.00; UNITED WAY, RE, 31.63; USIS COMMERCIAL SERVICES, SE, 103.80; UTILITIES SECTION, FE, 150.00; WAYNE AUTO PARTS, SU, 394.80; WAYNE COMMUNITY HOUSING, FE, 1000.00; WAYNE COUNTY CLERK, SE, 26.50; WAYNE COUNTY COURT, RE, 306.50; WAYNE GRAIN & FEED, SE, 72.00; WAYNE HERALD, SE, 1245.24; WAYNE STATE COLLEGE, RE, 1900.00; WESCO, SU, 1314.22; WEST PAYMENT CENTER, SU, 168.00; WEST-E-CON, SU, 97.00; WAPA, SE, 27800.74; WOODBURY COUNTY EXTENSION, FE, 35.00; ZACH OIL, SU, 2687.46; ZACH PROPANE, SU, 1238.50; ALLTEL, SE, 235.98; AMERICAN PUBLIC POWER, FE, 886.11; APPEARA, SE, 34.84; BACON & VINTON, SE, 15000.00; CARHART LUMBER COMPANY, RE, 3325.00; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 762.03; CITY OF WAYNE, RE, 222.50; CLASSY CLEANING LADIES, SE, 231.80; COVENTRY HEALTH, SE, 17932.29; CULLIGAN, SE, 41.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; DUTTON-LAINSON, SU, 557.64; ELECTRICAL ENGINEERING, SU, 68.21; EMPLOYERS MUTUAL CASUALTY, RE, 500.00; FLOOR MAINTENANCE, SU, 168.64; FREDRICKSON

OIL, SE, 925.20; G-NEIL, SU, 50.38; GRAYBAR ELECTRIC, SU, 914.51; HAYNES CORPORATION, SU, 131.76; HOLIDAY INN OF KEARNEY, SE, 233.05; JACK'S UNIFORMS, SU, 72.92; LARRY SOKOL, RE, 500.00; M. K. ERVIN, SE, 4005.00; MERCY MEDICAL CLINIC, SE, 48.00; MID-STATE ENGINEERING, SE, 9219.50; MSC INDUSTRIAL, SU, 275.55; NE DEPT OF ROADS, SE, 500.00; NEBRASKA ENVIRONMENTAL, SU, 83.26; PITNEY BOWES, SE, 637.00; PURCHASE POWER, SU, 500.00; QUALITY HOTEL, SE, 169.90; ROBERT CARHART, RE, 500.00; STATE NATIONAL BANK, RE, 1943.16; VOGAL TRAFFIC SERVICES, SU, 221.91; WAYNE COUNTY TREASURER, TX, 282.24; WAYNE STATE COLLEGE, RE, 7950.00

Councilmember Chamberlain 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.

Councilmember Berry arrived at 5:33 p.m.

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.

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Sec. 74-103(h) Preliminary Plat Information.

The Planning Commission held a public hearing and recommended that the following language be added to Sec. 74-103 (h) of the Wayne Municipal Code:

- (19) If the proposed subdivision area will not be serviced by city utilities, a copy of Form SD On-Site Wastewater permit application required by the Nebraska Department of Environmental Quality (NDEQ) will need to accompany the preliminary plat submittals.**

The Planning Commission's recommendation was based upon the "Finding of Fact" that the same is consistent with the Nebraska Department of Environmental Quality Standards, the current and future land use maps, and the Comprehensive Plan.

Administrator Johnson stated the City received notice from NDEQ that there is a new state requirement that developers of rural subdivisions must notify NDEQ of their intent to subdivide the same into lots. In addition, if the developers are not planning to connect to a municipal sewer system, there is a fee of \$450 per lot for approval to put in septic systems. This is to ensure that NDEQ receives notice that the subdivision is going on and that the soil is a good receiving source for a septic system so that it does not cause problems for neighboring properties. The City is not required to enforce this, just to provide the notice to NDEQ. This is being added to our "Preliminary Plat Check List" of activities required.

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

There being no further comments, Mayor Shelton closed the public hearing.

Councilmember Lutt introduced Ordinance 2009-6, and moved for approval thereof; Councilmember Frevert seconded.

ORDINANCE NO. 2009-6

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 74, ARTICLE III PLAT REVIEW AND SUBMITTAL REQUIREMENTS, SEC. 74-103(h) (19) PRELIMINARY PLAT INFORMATION; 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 Ordinance will amend Chapter 14, Article II Dogs, Sec. 14-71 through 14-77. In regard to Sec. 14-72 Dog Declared Vicious, Police Chief Webster, Mayor Shelton and he have discussed the following language therein:

“If the dog is to be humanely destroyed, the owner of the dog shall document to the police department the arrangement for direct transfer of the dog, at the owner’s expense, by the impounding agency to the euthanizing veterinarian of the owner’s choice and without any possession by the owner or any agent or representative of the owner. The owner of the dog will then produce to the police department a statement from the veterinarian certifying the action taken, or humanely destroyed by the animal shelter at the owner's expense.”

Staff is suggesting that this language be stricken for the reason that there is no compelling reason to allow people to take their dogs to some other state or some other place just to have it put to sleep. The veterinarian in Wayne, in his opinion, is very gentle with animals during the euthanization process.

Councilmember Sturm disagreed with the proposed recommendation to strike the above language.

Attorney Pieper advised the Council that we want to make sure that the determination for the destruction is carried out.

Councilmember Sturm introduced Ordinance 2009-7, and moved for approval thereof (as written); Councilmember Chamberlain seconded.

ORDINANCE NO. 2009-7

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 14, ARTICLE II, DOGS, DIVISION 2 VICIOUS DOGS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

It was noted that the dog owners would still have the same appeal process that they had before, but we would be using the Police Department's best judgment as to where the dog is taken to be euthanized.

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. The second reading will take place at the next meeting.

Administrator Johnson stated the following ordinance would amend Wayne Municipal Code, Sec. 2-443 Planning Commission Purposes and Duties to bring this into compliance with State Statutes which includes a recommendation from the Planning Commission before annexing land into the city limits.

Councilmember Chamberlain introduced Ordinance 2009-8, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2009-8

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 2, ARTICLE IV BOARDS AND COMMISSIONS, DIV. 6 PLANNING COMMISSION, SEC. 2-443 PURPOSES AND DUTIES; 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 agenda item is a housekeeping matter to submit the next year's Senior Center budget to the Northeast Nebraska Area Agency on Aging for cost-share funding for the Senior Center operation.

Penny Vollbracht, Senior Center Coordinator, was present to answer questions and explain the budget forms presented. She advised the Council that the Senior Center Board voted to approve the cost of congregate meals (under 60 years of age) be increased from \$5.25 to \$6.00 and the cost of home-delivered meals be increased from \$5.50 to \$6.25 effective July 1, 2009. The Area Agency on Aging highly recommends bringing the ineligible costs closer to the actual gross costs of the meals. If we do not do this, then the City would have to subsidize the program more.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving the Senior Center budget for the Northeast Nebraska Area Agency on Aging. 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 following Resolution is an annual action that the Council takes to apply for funds for the handi-van.

Councilmember Sturm introduced Resolution No. 2009-24 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-24

A RESOLUTION AUTHORIZING CITY ADMINISTRATOR TO APPLY FOR NEBRASKA PUBLIC TRANSPORTATION ACT FUNDS.

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

Administrator Johnson advised the Council that we have received Change Order No. 1 from JEO regarding the Ultraviolet Disinfection System. The same is a deduct in the amount of \$9,629.24. Recommendation is to approve the same.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving Change Order No. 1 (deduct of \$9,629.24) for the Ultraviolet Disinfection System. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson advised the Council that we have received Pay Application No. 1 for the Ultraviolet Disinfection System in the amount of \$32,710.50 due to Penro Construction. Recommendation of the engineer on the project is to approve the same.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving Pay Application No. 1 (\$32,710.50) for the Ultraviolet Disinfection System. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton recognized County Commissioner Dean Burbach who was in attendance at the meeting.

Councilmember Ley 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, Kaki Ley, and Kathy Berry; City Attorney Mike

Pieper; City Administrator Lowell Johnson; and Administrative Assistant Chanelle Belt.

Absent: City Clerk Betty McGuire.

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 March 3, 2009, meeting.

Member Sturm made a motion and seconded by Member Ley approving the minutes of the March 4, 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 the following CDA claims:

- Wayne County Treasurer (property taxes on Western Ridge) - \$703.90
- Wayne County Treasurer (property taxes on Kardell Industrial) - \$280.82

Member Sturm made a motion and seconded by Member Frevert approving the following CDA claims:

- Wayne County Treasurer (property taxes on Western Ridge) - \$703.90
- Wayne County Treasurer (property taxes on Kardell Industrial) - \$280.82

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 Ley 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.

There were no reports on meetings attended.

Mayor Shelton requested Council consideration to the following appointment: Karen Van Delden to the Wayne Housing Authority Board.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving the appointment of Karen Van Delden to the Wayne Housing Authority Board. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Nancy Braden, Finance Director, reviewed and explained the projected 10-year capital improvement project budget spreadsheet. The same was only for Council review at this time.

Discussion took place regarding the City's involvement in the proposal to the Nebraska Department of Health and Human Services for locating a regional office building in Wayne.

Administrator Johnson advised the Council that the Department of Health & Human Services has decided to consolidate many of their offices in the State. There has been a fair amount of fussing from smaller communities that want a shot at some of the state office buildings and don't want to be systematically ruled out. They have given this process to the Nebraska Department of Economic Development to bid it out as an economic development project. They are now taking proposals from any community in Nebraska that wants to prepare a bid for a 50 or 100 job building. WAED and City staff have been looking for available buildings. Norfolk has some existing buildings that they are going to offer. Wayne does not have anything that size, either for 50 or for 100 people. We may take a shot at it. However, without some form of subsidy, no

community is going to get these jobs bought. If Wayne is going to do this, Council will need to commit to some amount of money from the LB840 funds to contribute to this to make this work for ten years. While this is an interesting new approach by the State, he did not think staff would come back to Council asking for thousands of dollars a year to buy these jobs. The State is essentially offering jobs for sale. It will be a call center, and communities that have a recently vacated building will have the advantage. The specifications of what they want are very specific. The proposal has to come from Wayne Area Economic Development. A local contractor has been looking at this project, but has not committed to it yet.

The consensus of Council was to stop the process.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving the donation of the 1987 Fire Department Suburban to the Northeast Nebraska Red Cross.

Administrator Johnson made reference to an agreement that would state in return for the services they provide in our emergency planning and other municipal operations, the City will give this vehicle to the Red Cross for them to use. Attorney Connolly, however, stated that if they are already providing the services, we can't agree to give them the vehicle for what they are already doing. He was asking Council to approve this, and then he will figure out if it is legal and how to do it.

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

Brian Kesting, Technology Support Specialist, updated the Council on the new city e-mail system.

Councilmember Ley 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 6:30 p.m.