

MINUTES
CITY COUNCIL MEETING
April 21, 2009

The Wayne City Council met in regular session at City Hall on Tuesday, April 21, 2009, at 5:30 o'clock P.M. Council President Doug Sturm called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Verdel Lutt, Jon Haase, Dale Alexander, Kaki Ley, Kathy Berry and Ken Chamberlain; City Attorney Mike Pieper; and City Clerk Betty McGuire. Absent: Mayor Lois Shelton and City Administrator Lowell Johnson.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on April 9, 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 Frevert made a motion and seconded by Councilmember Chamberlain, whereas the Clerk has prepared copies of the Minutes of the meeting of April 7, 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.

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

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMERITAS, RE, 2000.44; ANN KRUSE, RE, 500.00; BANK FIRST, FE, 210.00; BROWN SUPPLY, SU, 72.80; CARHART LUMBER COMPANY, SU, 1522.77; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 38.97; CITY OF WAYNE, RE, 1721.81; CITY OF WAYNE, PY, 53776.51; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 381.76; COVENTRY HEALTH, SE, 17107.58; CULLIGAN, SE, 41.00; DANKO EMERGENCY EQUIPMENT, SU, 72.45; ECHO GROUP, SU, 17.33; ELECTRICAL ENGINEERING, SU, 91.26; ELECTRO-TEST & MAINTENANCE, SU, 615.18; FLOOR MAINTENANCE, SU, 65.20; FORT

DEARBORN LIFE, SE, 1528.39; GRAYBAR ELECTRIC CO, SU, 2419.89; HAUFF MID-AMERICAN SPORTS, SU, 2577.88; ICMA, RE, 5183.67; INLAND TRUCK PARTS, SU, 120.86; IRS, TX, 17034.79; JOHN DUNNING, RE, 500.00; K & C GRAIN, SU, 1377.55; KIRKHAM MICHAEL, SE, 1683.96; KRIZ-DAVIS, SU, 5857.76; KURT DAUM, RE, 500.00; LAKEVIEW SOFTBALL, FE, 170.00; MIDWEST LABORATORIES, SE, 1655.15; MULTIMEDIA SALES & MARKET, SE, 236.55; NE DEPT OF REVENUE, TX, 2558.79; NE LAW ENFORCEMENT, SE, 150.00; NE PUBLIC HEALTH, SU, 127.00; NORTHEAST EQUIPMENT, SU, 375.32; N.E. NE AMERICAN RED CROSS, RE, 59.24; OTTE CONSTRUCTION, SE, 2760.00; PEPSI-COLA, SU, 407.81; PITNEY BOWES, SE, 637.00; PROVIDENCE MEDICAL CENTER, SE, 97.00; PURCHASE POWER, SU, 500.00; PUSH-PEDAL-PULL, SU, 137.13; RON'S RADIO, SU, 995.00; SERVI-TECH, SE, 75.25; STADIUM SPORTING GOODS, SE, 24.00; STANLEY STEAMER, SE, 175.55; STATE NATIONAL BANK, SE, 398.92; STATE NATIONAL BANK, RE, 2000000.00; TAK, INC, SE, 135.00; THE KIPLINGER LETTER, SU, 58.00; UNITED WAY, RE, 32.28; WAED, RE, 10000.00; WAYNE AUTO PARTS, SU, 563.00; WAYNE GRAIN & FEED, SE, 72.00; WAYNE STATE COLLEGE, RE, 5500.00; ALLTEL, SE, 300.15; BAKER & TAYLOR, SU, 717.62; BIG T ENTERPRISES, SU, 90.95; BLACKBURN MANUFACTURING, SU, 93.91; CITY OF WAYNE, RE, 570.54; CLASSY CLEANING LADIES, SE, 325.10; DON KOENIG, RE, 274.21; ECHO GROUP, SU, 84.90; ELECTRICAL ENGINEERING, SE, 141.02; FORT DEARBORN LIFE, SE, 120.40; HERMAN VON SEGGERN, RE, 500.00; K & C GRAIN, SU, 757.50; LIGHT & SIREN, SU, 230.40; M. K. ERVIN, SE, 1947.50; MICROFILM IMAGING SYSTEMS, SE, 1047.47; MID-CONTINENT SALES, SU, 455.18; MOTION INDUSTRIES, SU, 938.48; NPPD, SE, 186293.72; NMPP ENERGY, FE, 2004.03; OLSSON ASSOCIATES, SE, 11979.76; PARTS ENGINEERING, SU, 1384.04; PIZZA HUT, SU, 87.15; RANDOM HOUSE, SU, 184.00; SAND CREEK POST & BEAM, RE, 250.00; SCOTT BROGREN, RE, 500.00; STATE NATIONAL BANK, RE, 1492.57; STATE NATIONAL BANK, RE, 41041.25; VOSS LIGHTING, SU, 1447.00; WESTERN OFFICE PRODUCTS, SU, 352.00; WIGMAN COMPANY, SU, 624.23; Y & Y LAWN SERVICE, SU, 4564.75

Councilmember Lutt made a motion and seconded by Councilmember Frevert to approve the claims. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Lindy Sandoz, who won the contest that was held for creating an “Arbor Day Proclamation”, read her proclamation, which proclaimed April 24th as “Arbor Day”, to the Council.

Council President Sturm advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Cap Peterson of Northeast Nebraska Insurance Agency, the city's property and casualty insurance carrier, presented the City with a dividend check in the amount of \$43,149.18. This is the 11th dividend paid by the Company out of the past 15 years, and the highest that has paid out in that time frame.

Councilmember Lutt introduced Ordinance 2009-6, and moved for approval of the third and final reading thereof; Councilmember Chamberlain 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.

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

Councilmember Lutt introduced Ordinance 2009-7, and moved for approval of the third and final reading thereof; 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.

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

Councilmember Chamberlain introduced Ordinance 2009-8, and moved for approval of the third and final reading thereof; Councilmember Ley 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.

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

The following Resolution would approve an agreement with Northeast Nebraska Economic Development District to administer the Downtown Revitalization Grant (\$250,000) that was applied for and received from the Nebraska Department of Economic Development.

Councilmember Chamberlain introduced Resolution No. 2009-30 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-30

A RESOLUTION APPROVING SERVICE/CONSULTANT AGREEMENT WITH NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT FOR GENERAL ADMINISTRATION OF THE DOWNTOWN REVITALIZATION GRANT.

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

Council President Sturm stated the City has been approached by some individuals that would like to use city-owned property to grow vegetables. The areas proposed are:

- Area of alfalfa west of the Rugby field and east of the new tree farm;
- Area of grass in the old tree farm south of the summer sports complex; and
- Area south of the Community Activity Center where trees and shrubs are planted.

Kevin Jurotich, 914 Nebraska Street, brought the idea forth to Administrator Johnson. The idea is to use the city's property to create and have individual garden plots. Each "renter" would be in charge of and responsible for their plot. There is not yet a governing board or body for this. If possible, he would prefer all three areas be included in the proposal, which would allow the School to be involved with the one at the CAC.

Attorney Pieper stated the agreement that was before Council did not include the area at the CAC. If the Council so chooses to include this area, the same will have to be added in the motion. In addition, Mr. Pieper made a few changes to the agreement to clarify that it is not for commercial use. No produce or products can be sold. There is an indemnification and hold harmless clause and a default clause that if they do not comply with the provisions, the City would be able to terminate the agreement.

Traci Bruckner, Meena Dalal, Monica Snowden and Jennifer Thomas all spoke in favor of this project.

Councilmember Lutt thought there was enough private property in town that if people really wanted a garden, they could ask to rent space.

Councilmember Ley opined if they abuse this privilege, it won't be granted again.

Attorney Pieper also stated the agreement provides that any use of city water directly connected to the city water system must be delivered through a city approved

backflow preventer and will be metered and billed at the same terms for deposits and city staff time as for contractors and other direct water purchasers.

Councilmembers Sturm and Lutt did not feel water should be provided to these “renters” at no cost.

Mr. Jurotich advised the Council that this group doesn’t want the City to manage this; they just want the City to approve the use of the land so they can manage it.

Councilmember Alexander thought it would make the Council feel better if they had this governing board/body in place already.

It was noted that if there was a surplus of food, the same could be donated to the food pantry, etc.

Council President Sturm introduced Resolution No. 2009-31 and moved for its approval, subject to the following terms:

- The same being for a trial period of one year;
- To include the three proposed areas of land mentioned;
- To have the Public Works Department stake out the areas for the gardens; and
- To include the amendments made by Attorney Pieper;

Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-31

A RESOLUTION APPROVING PUBLIC PROPERTY USE AGREEMENT FOR VEGETABLE GARDENS ON CITY-OWNED PROPERTY.

Council President Sturm stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Lutt and Haase who voted Nay, the Council President declared the motion carried.

Council President Sturm stated the following ordinance comes forward for its third reading. If approved, the property known as the “Kardell Industrial Park” would be

annexed. The Planning Commission held a public hearing on this matter and forwarded a recommendation of denial to the Council to annex this area of the Kardell Industrial Park.

Virgil Kardell spoke against the annexation of this property.

Councilmember Lutt introduced Ordinance 2009-1, and moved for approval of the third and final reading thereof; Councilmember Haase seconded.

ORDINANCE NO. 2009-1

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.

Councilmember Lutt stated he does not usually go against the Planning Commission's recommendation, but he has the feeling that this ordinance might have a little bit too much politics in it involving the Planning Commission and the Council. We have to pay for the road, and we have to assess these people. Even though we did not assess Great Dane, and we haven't assessed Heritage Homes in the past, does not mean that we have to continue to not assess people for what they are going to receive. If it's too late to assess them, then let's annex them and get the taxes.

Council President Sturm stated he would be against this annexation until the Council decides to annex Heritage and Great Dane. We gave some of our biggest users of our utilities a break by not annexing them.

Council President Sturm stated the motion, and the result of roll call being all Nays, with the exception of Councilmembers Lutt and Haase who voted Yea, the Council President declared the motion failed.

Councilmember Lutt made a motion and seconded by Councilmember Alexander directing the City Attorney to start foreclosure proceedings on the property located at 418

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

Attorney Pieper advised the Council that there is still an outstanding balance due on the Felix Industries' Wayne Revolving Loan Fund loan.

Council President Sturm advised the Council that it is possible to use the Wayne Revolving Loan Fund money to pay attorney's fees to pursue the balance of the loan and he would be in favor of this.

Nancy Braden, Finance Director, stated she contacted Bank First who is the owner of the equipment that is still in the building which has been purchased by Steve Meyer. They have to foreclose on that. They are also the owner of the house located on Pearl Street. The house is owned by Felix Building Group. The deed of trust lists both Felix Industries and Felix Building Group. The balance due on the loan after the payment made to the City by the Bank is \$43,258.89, plus accrued interest.

Council President Sturm made a motion and seconded by Councilmember Chamberlain directing the City Attorney to file suit against Felix Industries and Felix Building Group for the remainder that is still due and owing on the Wayne Revolving Loan Fund, if WRLF money can be used to pay for the attorney's fees. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Nancy Braden, Finance Director, stated the City was awarded \$87,450 for an Environmental Trust Grant to stabilize the bank on the Kardell landfill site next to the airport. This action will ratify the Mayor's signature and execution of the agreement for the funding from the trust.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley ratifying the Logan Creek Bank Stabilization Environmental Trust Grant. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Chamberlain made a motion and seconded by Councilmember Berry approving the bid received from Benscoter Plumbing to excavate and install moisture barriers at the City Auditorium for \$4,000.00. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Lutt made a motion and seconded by Councilmember Frevert approving Certificate of Payment No. 1 – Wayne Booster Pump Station 2009 Project in the amount of \$28,342.10 to Robert Woehler & Sons Construction, Inc. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Chamberlain to recess as Council and convene as the Community Development Agency. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

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

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 April 7, 2009, meeting.

Member Ley made a motion and seconded by Member Sturm approving the minutes of the April 7, 2009, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

There were no claims.

Member Alexander made a motion and seconded by Member Lutt 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 took place regarding compensation for the Fire Chief.

Councilmembers Frevert and Sturm talked to several members of the department. Some of the statements made to them were that they are still a volunteer organization and that this could cause a "riff" by paying some and not others; some fire chiefs like to do it all even though there are two assistants; and there would be more problems if the Fire Chief was paid.

Councilmember Alexander was in favor of compensating something to the Fire Chief and the two Assistants.

Councilmember Lutt stated when everybody else is a volunteer and you are paying one person, it will cause a lot of riff. He would not be opposed to paying the

Chief \$2,000. They have a lot to do, but they also have to learn to delegate. The volunteer department was set up to be strictly volunteer, and until they go to the next step of a paid department, he doesn't think anybody should be paid.

After further discussion, Council President Sturm, along with Councilmembers Frevert and Haase, agreed to meet with the Rural Fire Board to discuss the matter further and bring this information back to the Council.

Councilmember Chamberlain made a motion and seconded by Councilmember Frevert to table further discussion regarding compensation for the Fire Chief until a later date. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Garry Poutre, Supt. of Public Works and Utilities, presented his annual report.

There were no reports on meetings attended, nor were there any appointments.

Councilmember Alexander made a motion and seconded by Councilmember Frevert to adjourn the meeting. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried and the meeting adjourned at 7:03 p.m.