

**MINUTES
CITY COUNCIL MEETING
May 19, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, May 19, 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, Doug Sturm, Kaki Ley, Kathy Berry and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Jon Haase and Councilmember Dale Alexander.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on May 7, 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 Sturm made a motion and seconded by Councilmember Chamberlain, whereas the Clerk has prepared copies of the Minutes of the meeting of May 5, 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, 2005.06; APPEARA, SE, 162.53; BACON & VINTON, SE, 760.00; BAKER & TAYLOR BOOKS, SU, 1257.51; BANK FIRST, FE, 210.00; BARONE SECURITY SYSTEMS, SE, 680.00; BLACKBURN MANUFACTURING, SU, 166.46; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 523.95; CITY OF WAYNE, PY, 52613.80; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 75.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 4135.10; CITY OF WAYNE, RE, 60.00; CITY OF NORFOLK, SE, 358.35; CLAUSSEN & SONS IRRIG., RE, 209.70; COPY WRITE,

SU, 18.34; CRIMINAL JUSTICE, FE, 100.00; CULLIGAN, SE, 41.00; DAKOTA BUSINESS SYSTEMS, SE, 73.16; DEMCO, SU, 283.13; ED M FELD EQUIPMENT, SU, 250.00; EGAN SUPPLY, SU, 54.74; EISCHEID ARTIFICIAL RAIN, SE, 130.00; EISENBRAUN & ASSOC., SE, 375.50; ELECTRICAL ENGINEERING, SU, 83.39; EXHAUST PROS, SE, 39.54; FIRST SOURCE TITLE & ESCROW, SE, 75.00; FLOOR MAINTENANCE, SU, 1102.29; GERHOLD CONCRETE, SU, 196.00; GREAT PLAINS ONE-CALL, SE, 105.04; HAUFF MID-AMERICAN SPORTS, SU, 371.94; HTM SALES, SU, 4308.85; ICMA, RE, 5220.41; IMLA, FE, 480.00; INGRAM BOOK COMPANY, SU, 42.85; IRS, TX, 16519.81; JASON CAROLLO, SE, 60.00; JOHN'S WELDING AND TOOL, SE, 67.50; KEPSCO ENGRAVING, SU, 6.20; KRIZ-DAVIS, SU, 2609.25; KTCH, SE, 655.00; MES-MIDAM, SE, 82.45; MICROFILM IMAGING SYSTEMS, SE, 1047.09; MID AMERICAN RESEARCH, SU, 113.19; MIDWEST LABORATORIES, SE, 2673.30; NE DEPT OF REVENUE, TX, 2471.56; NE LAW ENFORCEMENT, FE, 225.00; NEBRASKA ENVIRONMENTAL, SU, 683.50; NORFOLK VFW YOUTH BASEBALL, FE, 50.00; NORFOLK WINNELSON, SU, 120.94; NNPPD, SE, 11013.42; NeFSMA, FE, 10.00; PAMIDA, SU, 55.06; PENRO, SE, 116255.06; PEPSI-COLA, SU, 350.59; PRESTO X, SE, 74.95; PROVIDENCE MEDICAL CENTER, SE, 5533.50; PURCHASE POWER, SU, 1000.00; PUSH-PEDAL-PULL, SU, 1399.54; QUALITY FOOD, SU, 59.90; QWEST, SE, 118.85; REHAB SYSTEMS, SE, 15350.00; STADIUM SPORTING GOODS, SU, 1052.25; STATE NATIONAL BANK, RE, 1007.65; TOM'S BODY & PAINT SHOP, SE, 20.00; TYLER TECHNOLOGIES, SE, 675.00; VAKOC BUILDER'S RESOURCE, SU, 94.53; VAN DIEST SUPPLY, SU, 3166.90; WAED, RE, 6383.33; WAYNE COUNTY COURT, RE, 150.00; WAYNE GRAIN & FEED, SE, 96.00; WAYNE VETERINARY CLINIC, SE, 230.50; WBDA, RE, 1000.00; WEB SOLUTIONS OMAHA, SE, 21.25; WESCO, SU, 5952.29; WEST POINT GIRLS SOFTBALL, FE, 150.00; WAPA, SE, 26653.85; WESTERN OFFICE, SU, 502.95; ZACH PROPANE, SE, 1021.00; ZEE MEDICAL SERVICE, SU, 56.49; ALARM PROS, SE, 79.13; ALLTEL, SE, 250.66; CITY OF NORFOLK, SE, 334.05; CITY OF WAYNE, RE, 6744.41; COVENTRY HEALTH, SE, 17107.58; ECHO GROUP, SU, 324.67; ELECTRICAL ENGINEERING, SU, 296.54; EMPLOYERS MUTUAL CASUALTY, RE, 118.08; FLOOR MAINTENANCE, SU, 122.48; GEMPLER'S, SU, 146.60; GORDY'S TOWING, SE, 59.00; HAWKINS, INC, SU, 52.17; ICMA, FE, 588.80; JANWAY COMPANY, SU, 193.32; KRIZ-DAVIS, SU, 1879.73; LONG PAINTING & SANDBLAST, SE, 6864.29; MIDWEST OFFICE AUTOMATION, FE, 26.30; DHHS, FE, 200.00; N.E. NEB ECONOMIC DEV DIS, SE, 4291.85; NPPD, SE, 132163.85; OFFICE SYSTEMS, RE, 127.50; OLSSON ASSOCIATES, SE, 4679.58; PIEPER, WIEBELHAUS & DAHL, SE, 1836.00; PITNEY BOWES, SU, 637.00; RANDOM HOUSE, SU, 176.00; STADIUM SPORTING GOODS, SU, 510.00; STATE NATIONAL BANK, RE, 2722.26; SUPER 8 MOTEL, SE, 780.00; THE RADAR SHOP, SE, 156.00; UTILITIES SECTION, FE, 1617.50; VAN DIEST SUPPLY, SU, 838.50; VOSS LIGHTING, SU, 186.44; WAYNE AUTO PARTS, SU, 1527.43

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm 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.

Brent Doring, Fire Chief, was present to announce that the Department appointed Tom Sievers as the new Fire Chief, and was requesting Council to approve the appointment.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the appointment of Tom Sievers as Fire Chief. 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 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 were: Members Brian Frevert, Verdel Lutt, Lois Shelton, Doug Sturm, Kaki Ley, and Kathy Berry; City Attorney Mike Pieper; City Administrator

Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Jon Haase and 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 April 21, 2009, meeting.

Member Ley made a motion and seconded by Member Sturm approving the minutes of the April 21, 2009, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Shelton introduced CDA Resolution No. 2009-3 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2009-3

A RESOLUTION RECOMMENDING APPROVAL OF A REDEVELOPMENT PLAN AMENDMENT FOR THE WESTERN RIDGE SINGLE-FAMILY RESIDENTIAL PLANNED UNIT DEVELOPMENT PROJECT IN THE CITY OF WAYNE, NEBRASKA; AND APPROVAL OF RELATED ACTIONS.

Member Sturm seconded the motion. On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Lutt, Shelton, Sturm, Ley, Berry and Chamberlain. The following Members were absent or did not vote: Haase and Alexander.

The passage of CDA Resolution No. 2009-3 having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2009-3 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2009-3, and the Clerk attested to its passage by affixing her signature thereto. A true and complete copy of CDA Resolution No. 2009-3 is attached hereto as Exhibit C.

Member Sturm 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.

The Mayor stated that it was now past 5:30 p.m., at which time a public hearing was to be held to obtain public comment prior to the consideration of a resolution approving a redevelopment plan amendment, for an area of the City previously declared blighted and substandard and in need of redevelopment pursuant to the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the “**Act**”). The Clerk reported that notice of the public hearing had been published in the *Wayne Herald* on April 30, 2009, and May 30, 2009, as indicated on **Exhibit C** attached hereto. The Clerk further reported that notice of the public hearing had been mailed by United States Certified Mail, return receipt requested, sufficient postage affixed, to all parties required by Section 18-2115 of the Act, as indicated on **Exhibit D** attached hereto. The Mayor opened the public hearing and invited all interested persons to be heard.

The following appeared in person or by agent or attorney and were heard: None.

All persons desiring to be heard having been heard, the Mayor closed the public hearing.

Councilmember Ley then introduced Resolution No. 2009-38 and moved its passage and approval:

RESOLUTION NO. 2009-38

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA APPROVING A REDEVELOPMENT PLAN AMENDMENT; AND RELATED MATTERS

Councilmember Chamberlain seconded the motion. On roll call vote, the following Council Members voted in favor of the motion: Frevert, Lutt, Sturm, Ley, Berry and Chamberlain. The following Councilmembers were absent or did not vote: Haase and Alexander.

The passage of Resolution No. 2009-38 having been agreed upon by a majority of the Council, the Mayor declared Resolution No. 2009-38 passed and, in the presence of the Council, signed and approved Resolution No. 2009-38. The Clerk attested to the passage of Resolution No. 2009-38 by signing the same and affixing the seal of the City to Resolution No. 2009-38. A true and complete copy of Resolution No. 2009-38 is attached hereto as **Exhibit E**.

Administrator Johnson stated that Allan and Karen Bodlak have presented an offer to purchase Lot 3, Block 4, John Lake's Addition (old water tower property) for \$1,500. We have reserved easements for a water main and service line that goes through that property.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley accepting the offer to purchase Lot 3, Block 4, John Lake's Addition that was received from Allan and Karen Bodlak for the sum of \$1,500. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm introduced Resolution No. 2009-39 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2009-39

A RESOLUTION AUTHORIZING THE SALE OF LOT THREE (3), BLOCK FOUR (4), JOHN LAKE'S ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA ("OLD WATER TOWER PROPERTY") TO ALLAN R. BODLAK AND KAREN K. BODLAK, HUSBAND AND WIFE.

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

Councilmember Chamberlain introduced Ordinance 2009-9, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2009-9

AN ORDINANCE DIRECTING THE SALE OF LOT THREE (3), BLOCK FOUR (4), JOHN LAKE'S ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA ("OLD WATER TOWER PROPERTY"), TO ALLAN R. BODLAK AND KAREN K. BODLAK, HUSBAND AND WIFE.

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 Councilmember Ley seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. 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 Councilmember Ley seconded to move for final approval of Ordinance No. 2009-9. 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 failed. The second reading will take place at the next meeting.

Administrator Johnson presented the Council with a proposed Purchase Agreement between the City and Milo Meyer Construction, Inc., to purchase the South

2.24 acres of Lot 1 of the Replat of the Administrative Lot Split of Tompkins Industrial Tract for the sum of \$24,000. Milo Meyer Construction wants to purchase all of the existing Lot 1 to expand their business when they relocate it to Lot 3. Lot 1, however, is being held in reserve in case it is needed by a potential future buyer of the Opportunity Building. In addition, they have also asked to not be assessed for future paving or storm sewer costs on Industrial Drive.

Councilmember Sturm agreed with letting Meyer Milo Construction have all of Lot 1. He was of the opinion that if the lot was needed in the future for a potential buyer of the Opportunity Building, that Milo Meyer Construction would work with the City.

Dave Simonsen, Director of Wayne Area Economic Development, expressed the need to retain this lot for future marketing of the spec building. They have a couple of projects that could potentially come through. However, he will have to let DED know that the property has decreased, and more than likely, Wayne will not be in the running for at least one of these potential projects.

Councilmember Chamberlain made a motion and seconded by Councilmember Berry accepting the offer of Milo Meyer Construction, Inc., to purchase the South 2.254 acres of Lot 1 of the Replat of the Administrative Lot Split of Tompkins Industrial Tract #1 Subdivision for the sum of \$24,000.

Councilmember Chamberlain amended his motion which was to accept the offer of Milo Meyer Construction, Inc., to purchase the South 2.254 acres of Lot 1 of the Replat of the Administrative Lot Split of Tompkins Industrial Tract #1 Subdivision for the sum of \$24,000, excluding the right of first refusal on the remaining portion of Lot 1. The motion died for lack of a second.

Councilmember Lutt made a motion to sell the South 2.254 acres of Lot 1 of the Replat of the Administrative Lot Split of Tompkins Industrial Tract #1 Subdivision to Milo Meyer Construction, Inc., for the sum of \$16,700, excluding the right of first refusal on the remaining portion of Lot 1 (striking paragraph 13 in the Purchase Agreement). Councilmember Chamberlain seconded the motion.

Councilmember Lutt stated he used \$7,500 per acre which was the per acre price used by the City when we sold some property to Great Dane.

Councilmember Chamberlain opined that excluding the right of first refusal on the remainder of Lot 1 is the right thing to do because we already have that property somewhat committed for the spec building.

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

Attorney Pieper stated the offer has been approved, but there have been two changes. One involves the purchase price and one involves the elimination of a condition of the sale. If Steve Meyer, who is the President of the company and present, is agreeable to the conditions, then Council should move forward with the following Resolution and Ordinance. If he is not agreeable to what the Council has just approved, he did not see any rationale in moving forward with the sale.

Steve Meyer, President of Milo Meyer Construction, Inc., was agreeable with the conditions, but advised the Council that in the future, he would still be interested in the property if it is not sold with the spec building.

Councilmember Chamberlain introduced Resolution No. 2009-40 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-40

A RESOLUTION AUTHORIZING THE SALE OF THE SOUTH 2.254 ACRES OF LOT 1 OF THE REPLAT OF THE ADMINISTRATIVE LOT SPLIT OF TOMPKINS INDUSTRIAL TRACT #1 SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 26 NORTH, RANGE 4, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, TO MILO MEYER CONSTRUCTION, INC., A NEBRASKA CORPORATION.

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

Councilmember Chamberlain introduced Ordinance 2009-10, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2009-10

AN ORDINANCE DIRECTING THE SALE OF THE SOUTH 2.254 ACRES OF LOT 1 OF THE REPLAT OF THE ADMINISTRATIVE LOT SPLIT OF TOMPKINS INDUSTRIAL TRACT #1 SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 26 NORTH, RANGE 4, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, TO MILO MEYER CONSTRUCTION, INC., A NEBRASKA CORPORATION.

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 will call the bonds for the last payment on the Community Activity Center.

Councilmember Ley introduced Resolution No. 2009-41 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-41

A RESOLUTION CALLING PUBLIC SALES TAX BONDS.

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

Rod Hansen of Olsson Associates, the engineer on the Kardell Subdivision Paving, Drainage and Water Improvement Project, stated nine bids were received on this project. Recommendation is to award the same to the low bidder – Steve Harris Construction, Inc., of Homer, Nebraska, in the sum of \$276,825.40.

Councilmember Lutt introduced Resolution No. 2009-42 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-42

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE KARDELL SUBDIVISION PAVING, DRAINAGE AND WATER IMPROVEMENT PROJECT.

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

Rod Hansen of Olsson Associates advised the Council that he had spoken with the Contractor, Steve Harris Construction, to find out what the price would be to pave the remaining portion of Industrial Park Road. There would be no additional costs as far as remobilization. As part of the project you just approved, everything is being set up to be ready to pave at a future date. The only thing not included was the paving. These numbers came in lower than the estimate which is probably why it is on the agenda this evening. The additional cost based upon their paving numbers would be around \$190,000.00, which would bring the total project cost to roughly \$465,000. Mobilization on a project is typically between 5% and 10% of the project.

Mayor Shelton stated the sales tax collection for the Community Activity Center is going to run longer than what is needed to pay off the bonds. Before the time frame when the LB840 sales tax starts to accrue, we will have collected an additional \$300,000. This could be used to pay for the remainder of the paving of Industrial Park Road.

Administrator Johnson stated the sales tax for the CAC is just to pay off the bonds. Anything left will go into the General Fund and can be used for capital type improvements.

Councilmember Lutt had concerns about using this money to pay for the road when we don't know how soon that road is going to be used.

Mayor Shelton stated if the voters had not approved the extension of the sales tax, the sales tax would have been cut off when the bonds were paid, and there would not have been any extra sales tax collected for the CAC. This will still leave \$100,000 to be used at the CAC. This paving is on property owned by the Community Development Agency.

Mr. Simonsen advised the Council that shovel ready sites are the best possible sites one can have in economic development.

Councilmember Ley made a motion and seconded by Councilmember Frevert to approve paving the remainder of the street known as "Industrial Park Road" for the approximate sum of \$190,000.

It was noted that LB840 funds could also be used for this project.

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

Administrator Johnson provided Council with an update of the Federal Stimulus Funding Projects, totaling about \$987,000:

New City Well #11	\$350,000
Booster Station	\$243,000
AMR metering	\$ 20,000
Muhs Acres	\$250,000
Loop water Mains	\$124,500

The terms are as follows:

- 25% of the loan is forgivable;
- 75% of the loan is at 3% interest for 20 years; and
- Public hearings for these will take place at the July 7th City Council meeting.

A proposal will be brought to you at the next Council meeting to form the public utility district regarding the Muhs Acres water line extension project. There is only one statute in the State of Nebraska that allows the City of Wayne to finance a project outside the City limits like this for non-residents. That requires all of those lots to be assessed on the basis of front footage and no other way.

\$397,000 will be for the Phase II Trail. The terms will be 100% grant of estimated unfunded remaining construction and engineering costs. Other trail grants include \$45,000 from Nebraska Game and Parks and \$25,000 from the Lower Elkhorn NRD.

\$540,000 for Innovative Wastewater Treatment Plant Design. The terms are: type of innovation design must qualify for “demonstration project”. The City must make application to the EPA when the plant is designed and receive final funding approval. The minimum required match is \$441,818.

Administrator Johnson reviewed the timeline for the Wastewater Facilities plan and construction. The Facilities Plan will be presented to the Wastewater Committee on June 9th. On June 23rd, the Facilities Plan will be approved by the Council for submission to NDEQ. On October 30th, the plant will be designed and submitted to NDEQ. The plant will be completed by August, 2011.

The budget work session was set for August 11th at 5:30 p.m.

Mayor Shelton gave a report on the Wind Power Show she attended in Chicago.

Councilmember Ley made a motion and seconded by Councilmember Chamberlain 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 6:41 p.m.