

MINUTES
CITY COUNCIL MEETING
June 16, 2009

The Wayne City Council met in regular session at City Hall on Tuesday, June 16, 2009, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Verdel Lutt, Jon Haase, Doug Sturm, Kathy Berry and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Brian Frevert, Dale Alexander and Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on June 4, 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 June 2, 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.

Councilmember Frevert arrived at the meeting at 5:31 p.m.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: ALL-AMERICAN PUBLISHING, SU, 195.00; AMERITAS, RE, 2151.19; APPEARA, SE, 124.98; BANK FIRST, FE, 210.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 3200.25; CITY OF WAYNE, PY, 60534.95; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 2224.43; CITY OF NORFOLK, SE, 881.30; CLAUSSEN & SONS IRRIG., SE, 425.82; DAKOTA BUSINESS SYSTEMS, SE,

100.00; DAVE'S DRY CLEANING, SE, 108.00; DEREK ANDERSON, SE, 130.00; EGAN SUPPLY, SU, 124.61; EISENBRAUN & ASSOC., SE, 238.15; ELECTRICAL ENGINEERING, SU, 247.73; FBI NATL ACADEMY, SE, 115.00; FBI NATL ACADEMY ASSOC, FE, 105.00; FLOOR MAINTENANCE, SU, 386.78; FREDRICKSON OIL, SU, 401.50; GERHOLD CONCRETE, SU, 210.00; GREAT PLAINS ONE-CALL, SE, 156.01; HAUFF MID-AMERICAN SPORTS, SU, 649.60; HENKE, SU, 5259.97; HIRERIGHT SOLUTIONS, SE, 51.90; ICMA, RE, 5224.83; INFRASTRUCTURE RESOURCES, SU, 34.30; INGRAM BOOK CO, SU, 828.29; IRS, TX, 18340.39; JASON CAROLLO, SE, 155.00; JEREMY VAN AMPTING, RE, 200.00; JORGENSEN CONCRETE, SE, 634.72; JOSE RAMIREZ, RE, 500.00; KRIZ-DAVIS, SU, 345.06; L.G. EVERIST, SU, 146.46; MARRIOTT HOTELS, SE, 188.00; CITY EMPLOYEE, RE, 1566.89; MIDWEST LABORATORIES, SE, 1891.00; NE DEPT OF ENVIRONMENTAL, FE, 893.42; NE DEPT OF REVENUE, TX, 2652.90; NE FOREST SERVICE, SU, 25.10; NE LAW ENFORCEMENT, SE, 90.00; NMPP ENERGY, SU, 4538.40; NORTHEAST NE AMERICAN RED CROSS, SU, 114.00; NNPPD, SE, 11013.42; O'NEILL BASEBALL, FE, 100.00; ORIENTAL TRADING CO, SU, 204.79; PRESTO X, SE, 74.95; PROVIDENCE MEDICAL CENTER, SE, 5384.25; PUBLIC AGENCY TRAINING, SE, 550.00; QWEST, SE, 1399.94; ROBERT WOEHLER & SONS, SE, 21546.75; STADIUM SPORTING GOODS, SU, 84.00; STATE NATIONAL BANK, RE, 173.37; STEVE HARRIS CONSTRUCTION, SE, 19804.99; TAYLOR CARROLL, SE, 100.00; TONI HYTREK, SE, 315.00; US BANK, SU, 5421.42; WAKEFIELD BASEBALL, FE, 100.00; WAYNE BASEBALL ASSOCIATION, FE, 900.00; WAYNE COUNTY CLERK, SE, 64.00; WAYNE GRAIN & FEED, SE, 72.00; WAYNE SOFTBALL ASSOCIATION, FE, 2048.00; WAYNE STATE COLLEGE, RE, 5100.00; WAYNE VETERINARY CLINIC, SE, 22.00; WESCO, SU, 766.27; WAPA, SE, 23338.25; ZACH OIL, SU, 3875.12; ZEE MEDICAL SERVICE, SU, 36.10; ACTION BATTERY WHOLESALER, SU, 38.10; AMERITAS, RE, 2013.58; BACON & VINTON, SE, 545.95; BAIRD, HOLM, McEACHEN, SE, 4052.50; BAKER & TAYLOR BOOKS, SU, 313.59; BANK FIRST, FE, 210.00; BROWN SUPPLY, SU, 242.67; CITY OF NORFOLK, SE, 92.35; CITY OF WAYNE, RE, 48.94; CITY OF WAYNE, RE, 2006.00; CITY OF WAYNE, RE, 2238.20; CITY OF WAYNE, PY, 56462.03; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 30.00; CITY OF WAYNE, RE, 169.40; CLASSY CLEANING LADIES, SE, 201.87; CLAUSSEN & SONS IRRIG., RE, 945.24; COVENTRY HEALTH, SE, 17107.58; DAKTRONICS, SU, 407.67; DE LAGE LANDEN FINANCIAL, SE, 77.00; ECHO GROUP, SU, 37.40; ELLIS PLUMBING, SU, 30.24; FLOOR MAINTENANCE, SU, 126.89; FORT DEARBORN LIFE, SE, 1532.25; GERHOLD CONCRETE, SU, 3098.44; HAWKINS, SU, 2075.09; HD SUPPLY WATERWORKS, SU, 350.00; ICMA, RE, 5226.51; INVENSYS SYSTEMS, SU, 178.07; IRS, TX, 19106.61; KRIZ-DAVIS, SU, 733.52; KTCH, SE, 605.00; M. K. ERVIN, SU, 3830.00; MALLOY ELECTRIC, SU, 161.25; MES-MIDAM, SU, 205.63; N.E. NEB ECONOMIC DEV DIS, FE, 6922.92; NE DEPT OF REVENUE, TX, 2760.59; NE STATE HISTORICAL, SU, 55.00; NE STATE HISTORICAL FOUND., FE, 70.00; NORTHEAST EQUIPMENT, SU, 549.10; N.E. NE AMERICAN RED CROSS, RE, 59.24; PAMIDA, SU, 71.93; PIEPER, WIEBELHAUS & DAHL, SE, 2134.18; PITNEY BOWES, SU, 637.00; PURCHASE POWER, SU, 500.00; QUALITY 1 GRAPHICS, SU, 350.00; QUALITY

FOOD CENTER, SU, 8.57; QUILL, SU, 61.70; RANDOM HOUSE, SU, 575.60; SIEMENS WATER TECHNOLOGIES, SU, 1280.00; SKARSHAUG TESTING LAB, SE, 98.13; SQUARE D COMPANY, SE, 2150.00; STATE NATIONAL BANK, SE, 46.06; STATE NATIONAL BANK, RE, 945.93; STATE NATIONAL BANK, RE, 12190.83; TACO'S AND MORE, SE, 63.18; THE RADIO WORKS, SU, 21.69; UNITED WAY, RE, 30.98; WAYNE AUTO PARTS, SU, 133.19; WAYNE COUNTY TREASURER, TX, 662.67; WAYNE HERALD, SE, 1273.52; WAYNE RURAL FIRE, SU, 7000.00; WAYNE STATE COLLEGE, RE, 800.00; WESTERN ROOFING, SE, 352.00; WOOD PLUMBING & HEATING, SU, 750.00

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain 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 Chamberlain 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, Lois Shelton, Doug Sturm and Kathy Berry; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Dale Alexander and 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 June , 2009, meeting.

Member Shelton made a motion and seconded by Member Sturm approving the minutes of the June 2, 2009, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson stated the developers, Louis and Javana Benscoter, have a purchase agreement on the Scottie Thompson property. They plan to subdivide it for residential and commercial development. They are requesting tax increment financing assistance to help cover the cost of demolition and cleanup of the existing farmstead, and to pay for a portion of the water, sewer, and street infrastructure to create residential lots to build townhomes on. The Planning Commission reviewed and has recommended approval of the TIF Agreement with the “Findings of Fact” being it is consistent with the Comprehensive Plan and the current and future land use maps.

Administrator Johnson also advised the CDA/Council that even though this has never been done by them before, they have the authority and ability to approve or allocate only a portion of the taxes or benefit of the TIF if they would want to do that.

Louis and Javana Benscoter were present to answer questions.

Member Shelton introduced CDA Resolution No. 2009-4 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2009-4

A RESOLUTION RECOMMENDING APPROVAL OF A REDEVELOPMENT PLAN AMENDMENT OF THE CITY OF WAYNE, NEBRASKA, INCLUDING A REDEVELOPMENT CONTRACT, APPROVING A REDEVELOPMENT PROJECT OF THE CITY OF WAYNE, NEBRASKA; APPROVING A COST BENEFIT ANALYSIS FOR SUCH PROJECT; AND APPROVAL OF RELATED ACTIONS.

Member Sturm seconded the motion.

Administrator Johnson stated the City will be responsible for paying for the street intersections and the electrical (lights). The developers will pay for the water, sewer, streets, and site preparation.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Lutt, Haase, Shelton, Sturm, Berry and Chamberlain. The following Members were absent: Alexander and Ley.

The passage of CDA Resolution No. 2009-4 having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2009-4 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2009-4, and the Clerk attested to its passage by affixing her signature thereto. A true and complete copy of CDA Resolution No. 2009-4 is attached hereto as Exhibit C.

Member Sturm made a motion and seconded by Member Frevert 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.

Mayor Shelton declared the time was at hand for the public hearing to obtain public comment prior to the consideration of a Resolution approving a redevelopment plan, including a redevelopment contract, 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 Mayor opened the public hearing and invited all interested persons to be heard.

Louis and Javana Bencoter were present to answer questions. Mr. Bencoter advised the Council their plan is to start building this year.

Dave Simonson, Executive Director of Wayne Area Economic Development, spoke in support of the tax increment financing request.

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

Councilmember Sturm introduced Resolution No. 2009-46 and moved for its approval; Councilmember Lutt seconded.

RESOLUTION NO. 2009-46

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

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 approve the amendment to the Agreement with JEO Consulting Group to undertake additional engineering, surveying and drafting services to design new water mains in the following locations:

- ❖ Grainland Road – 1200 feet from Sherman Street to Pearl Street;
- ❖ East 6th Street to Tomar Drive;
- ❖ 7th Street to Nathan Drive; and
- ❖ On Fairgrounds from 3rd Avenue to Grainland Road.

Roger Protzman, representing JEO Consulting Group, was present to answer questions and noted that this additional work is being requested because of the stimulus funding being received by the City for water system improvements. The cost to provide the additional services will be \$33,500. JEO will also assist in helping the City comply with the stimulus bill requirements.

Councilmember Sturm introduced Resolution No. 2009-47 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-47

A RESOLUTION APPROVING AMENDMENT TO AGREEMENT FOR ADDITIONAL PROFESSIONAL ENGINEERING CONSULTING SERVICES BETWEEN THE CITY OF WAYNE AND JEO CONSULTING GROUP FOR THE 2009 WELL HOUSE AND MUNICIPAL WELL 2005-1 PROJECTS.

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

Roger Protzman, representing JEO Consulting Group, updated the Council on the Wastewater Committee discussions. He gave a brief summary of the selection process to date and some of the issues being considered. The Committee will meet this Thursday to come up with a recommendation for the Council. JEO was asked to reevaluate rehabbing the existing facility and to evaluate two new wastewater treatment technologies that are not currently being used in the United States in a municipal full-scale application. Pilot plants were brought in, and we have been conducting routine testing, at least twice a week, on each one checking the performance of the systems. One system has not performed to date or once complied with the City's existing permits. The other pilot system has basically been successful. JEO sent staff to Israel, along with a member of the City's staff, to review some systems and operations there. They came back with

some very positive comments and were impressed as to how those systems were operating. That system was doing exactly what they said they were doing — operating and producing little or no sludge. It has now come down to comparing that option vs. rehabbing the existing plant. They will have additional information available at the meeting on Thursday.

Councilmember Alexander arrived at the meeting at 5:57 p.m.

Administrator Johnson requested Council consideration to order five “time of use” meters that will be placed in volunteer customer’s homes to measure and calculate energy usage based on the on-and-off peak usage. Our current rates are the same day and night and offer no savings incentive to customers to help us control our costs. There are times during the day that electricity is more expensive than other times of the day. We have asked our electric rate consultant to calculate our summer electric costs during the day and during the night to set a retail electric rate that we could use for this demonstration project. These five volunteer customers will be able to see inside their home with the remote reader the kilowatts being used per 30 seconds when certain appliances are running. It will also show the electric rate at that time of day. You will be able to see what it costs you to run the clothes dryer, etc. If we would go one step farther, we could actually start billing our customers that way and giving them the option of ignoring the whole thing and pay whatever the cost is at that time, or timing their baking, clothes drying, etc., so that it is done during the off-peak times of day (10:00 p.m. to 10:00 a.m.).

In addition, NPPD is assisting Nebraska cities in applying for federal stimulus funding to establish “Smart Grid” system components to participate in new cost reduction

delivery strategies and stabilize electric rates. This trial can help us determine what new options can benefit our retail customers. This will also help in developing a base of information this summer for an application for federal stimulus funding to augment the \$600,000 in reserves for electric meter upgrades.

Gene Hansen, Electric Production Superintendent, stated that time-of-use metering means that it is up to you (the customer) when you want to use your power. Altering our human patterns a little bit and/or being more cognizant of the lighting you have on will save you money. It is the customer's prerogative of what they want to use, when they want to use it, and how much they want to pay for it.

Consensus of Council was for staff to order five residential time-of-use meters and to make application for federal stimulus funding to help with the electric meter upgrade project.

Administrator Johnson stated the following Ordinance would amend Wayne Municipal Code to coincide with State Statutes. This is a result of the actions taken by the Nebraska Legislature — removing the ability of a municipality to prevent concealed weapons in a community.

Councilmember Sturm introduced Ordinance 2009-13, and moved for approval thereof; Councilmember Frevert seconded.

ORDINANCE NO. 2009-13

AN ORDINANCE AMENDING THE WAYNE MUNICIPAL CODE BY AMENDING SECTION 58-132 RELATING TO CONCEALED WEAPONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING 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 three Ordinances would vacate the internal city streets on the Wayne State College campus to the abutting property owners.

Councilmember Sturm introduced Ordinance 2009-14, and moved for approval thereof; Councilmember Chamberlain seconded.

ORDINANCE NO. 2009-14

AN ORDINANCE APPROVING VACATION OF AN ALLEY LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, DESCRIBED AS THE NORTH-SOUTH ALLEY BETWEEN WINDOM STREET, EXTENDED NORTH, AND WALNUT STREET LYING BETWEEN THE SOUTH LINE OF E. 12TH STREET AND THE NORTH LINE OF E. 14TH STREET.

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.

Councilmember Chamberlain introduced Ordinance 2009-15, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2009-15

AN ORDINANCE APPROVING VACATION OF A PORTION OF EAST 12TH STREET LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, DESCRIBED AS E. 12TH STREET LYING BETWEEN THE WEST LINE OF THE NORTH-SOUTH ALLEY BETWEEN WINDOM STREET, EXTENDED NORTH, AND WALNUT STREET AND THE WEST LINE OF WALNUT STREET.

Mayor Shelton reminded Council that one of their goals was to improve relations with the College.

Councilmember Sturm stated he was against repairing E. 12th Street and then giving it to the College, but as he has found out, if it wasn't for the college, the City would not be receiving the \$500,000 for the wastewater treatment plant.

It was noted that the cost to repair the street was estimated to be \$22,000.

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.

Councilmember Chamberlain introduced Ordinance 2009-16, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2009-16

AN ORDINANCE APPROVING VACATION OF A PORTION OF A STREET LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, DESCRIBED AS E. 14TH STREET LYING BETWEEN THE WEST LINE OF THE NORTH-SOUTH ALLEY BETWEEN WINDOM STREET, EXTENDED NORTH, AND WALNUT STREET AND THE WEST LINE OF WALNUT STREET.

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 a change order has been requested from the contractor on the booster pump station project. The amount of the change order (\$1,541.97) represents the sales tax required for the pipe and fitting materials to connect the new booster pump station to the Western Ridge water mains. The bid specs, as prepared by the project engineer, did not include a line for sales tax, so no bidders included the same in their bid.

Councilmember Chamberlain made a motion and Councilmember Haase seconded to approve Change Order No. 1 for the Wayne Booster Pump Station Project in the amount of \$1,541.97. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place on funding options for the street paving project in the Kardell Industrial Park Subdivision. At the May 19th meeting, the Council approved \$190,000 to pave the remainder of Industrial Drive. Administrator Johnson presented four proposals to fund the same since the area is not annexed:

- a) Issue bonds and repay over 15 years from the LB840 sales tax revenues (\$180,000 sales tax receipts per year);
- b) Issue bonds and repay over 15 years from the sales tax capital projects revenues (\$240,000 sales tax receipts per year);
- c) Use \$140,000 of the \$299,000 in sales tax reserves that were partially generated by continuing the CAC sales tax after the November election to be continuous to the July start date for the voter renewed 1% sales tax; or
- d) Issue bonds that would be repaid by including a small real estate tax for 20 years in our levy.

Councilmember Sturm stated he would only vote to do this if some of the sales tax was left for the CAC. It's the understanding of a lot of people that what was left over from the sales tax money, the CAC would use it for future needed items.

It was noted that if \$140,000 of the \$299,000 was used to pave this street, that would leave about \$159,000 for the CAC.

Nancy Braden, Finance Director, advised the Council there is an additional \$140,000 that is still left from the original fundraising for the CAC. This would then leave approximately \$300,000 for the CAC.

Councilmember Alexander agreed with Councilmember Sturm.

After discussion, Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving Option C – to use \$140,000 of the \$299,000 in sales tax reserves that were partially generated by continuing the CAC sales tax after the November election to be continuous to the July start date for the voter renewed 1% sales tax to pay for the remainder of the paving in Kardell Industrial Park. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson gave an update on the Council Goals.

Attorney Pieper updated the Council on the James Bilello vs. City of Wayne lawsuit.

Administrator Johnson stated that Wayne currently allocates \$25,000 per year for electric efficiency incentives for our electric customers to install power saving projects that help reduce our summer peak load. Beginning July 1, 2009, the Nebraska Department of Revenue will match our energy efficiency incentives dollar for dollar up to \$130,000 for income eligible families if we elect to participate in the new statewide Low Energy Conservation Act Program. The eligible income level for a four-person household is \$33,075 per year.

Councilmember Chamberlain made a motion and Councilmember Sturm seconded to allow the City of Wayne to participate in the Nebraska Low Energy Conservation Act Program. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Lance Webster, Police Chief, reported on the Rural Executive Management Institute Pilot Leadership Summit Conference he attended in Reno, Nevada.

Gene Hansen, Electric Production Superintendent, reported on the Joint NPPD/Wholesale Customer meeting he attended.

Councilmember Sturm made a motion and seconded by Councilmember Alexander to enter into executive session for the annual review of the City Administrator and to protect the reputation of the Administrator. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 6:45 p.m.

Mayor Shelton again stated that the matter to be discussed in execution session relates to the annual review of the City Administrator.

Councilmember Alexander made a motion and seconded by Councilmember Chamberlain to resume open session. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 7:02 p.m.

Councilmember Frevert 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 7:03 p.m.