

**MINUTES
CITY COUNCIL MEETING
July 7, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, July 7, 2009, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jon Haase, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry and Ken Chamberlain; City Attorney Kyle Dahl; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Verdel Lutt.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on June 25, 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 Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of June 16, 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:

ADDITIONS & CORRECTIONS TO CLAIMS LIST OF JUNE 16, 2009: Add: City of Wayne Payroll – 6403.02; Delete: Wayne State College, Re, 5100.00; and Reissue check to John Dunning, Re, 500.00

VARIOUS FUNDS: ALLTEL, SE, 670.97; AMERITAS, RE, 2033.72; APPEARA, SE, 37.77; ARNIE'S FORD-MERCURY, SU, 195.49; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 210.00; BIG T ENTERPRISES, SU, 90.95; BINSWANGER GLASS, SU, 145.00; BLACK HILLS ENERGY, SE, 1387.01; BLUE DEVIL BOOSTER CLUB, FE, 80.00; BOMGAARS, SU, 21.88; BROWN SUPPLY, SU,

319.00; CITY OF WAYNE, RE, 450.00; CITY OF WAYNE, RE, 1274.00; CITY OF WAYNE, RE, 100.50; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 3252.59; CITY OF WAYNE, RE, 30600.00; CITY OF WAYNE, PY, 63086.54; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 1131.26; CITY OF WAYNE, RE, 53.00; CLAUSSEN & SONS IRRIG, SE, 12.95; COPY WRITE, SU, 239.05; CULLIGAN, SE, 42.25; DANKO EMERGENCY EQUIPMENT, SU, 140.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 239.63; E-COW BMX, SU, 200.09; ECHO GROUP, SU, 451.27; EGAN SUPPLY, SU, 148.70; ELECTRICAL ENGINEERING, SU, 93.76; ERNEST E PING, SE, 648.00; FARMERS AND MERCHANTS, RE, 500000.00; FLOOR MAINTENANCE, SU, 41.47; FORT DEARBORN LIFE, SE, 110.08; GAMBLE, BRIAN, RE, 500.00; GERHOLD CONCRETE, SU, 4270.90; GO JOE TRUCKING, SE, 400.00; GRAPHIC CONTROLS, SU, 326.38; HAWKINS, INC, SU, 920.32; HD SUPPLY WATERWORKS, SU, 5453.12; HDR ENGINEERING, SE, 11729.10; HOLIDAY INN OF KEARNEY, SE, 279.80; HUNTEL, SE, 97.50; HYDRONIC ENERGY, SU, 7350.00; ICMA, RE, 5246.53; IRS, TX, 18791.30; ITRON, SE, 165.00; JASON CAROLLO, SE, 120.00; JEO CONSULTING GROUP, SE, 6146.00; KELLY SUPPLY, SU, 432.69; KRIZ-DAVIS, SU, 1250.31; LANGEMEIER, WAYNE, SE, 275.00; LEAGUE OF NEBRASKA, FE, 1101.00; LP GILL, SE, 6302.66; MERCY MEDICAL CLINIC, SE, 62.00; MID-SUMMER CLASSIC, FE, 375.00; MIDLAND COMPUTER, SE, 4331.89; MIDWEST LABORATORIES, SE, 1774.90; MIDWEST OFFICE AUTOMATION, SE, 78.42; MIKE TOWNE, SE, 200.00; MILO MEYER CONSTRUCTION, SE, 2626.25; MSC INDUSTRIAL, SU, 217.17; MUNICIPAL SUPPLY, SU, 503.39; N.E. NEB ECONOMIC DEV DIST, SE, 45.00; NATL LEAGUE OF CITIES, FE, 1117.00; NE DEPT OF REVENUE, TX, 2697.56; NE FOREST SERVICE, SU, 559.90; NE NEB INS AGENCY, SE, 61725.00; NE PUBLIC HEALTH, SU, 111.00; NHHS, SE, 13.42; NNPPD, SE, 2432.66; NOVELTY MACHINE & SUPPLY, SU, 622.06; OLSSON ASSOCIATES, SE, 4435.62; PEERLESS WIPING CLOTH, SU, 270.00; PIERCE TELEPHONE, SU, 447.72; POSTMASTER, SU, 630.12; QUALITY 1 GRAPHICS, SU, 500.00; QUILL, SU, 271.63; QWEST, SE, 428.12; QWEST, SE, 199.00; ROBERTSON IMPLEMENT, SU, 23.09; SAINT FRANCIS MEDICAL, FE, 20.00; SKARSHAUG TESTING LAB, SU, 715.47; STADIUM SPORTING GOODS, SU, 108.00; STATE NATIONAL BANK, RE, 500000.00; STATE NATIONAL BANK, RE, 1514.40; TAYLOR TECHNOLOGIES, SU, 90.46; THE CAROM HOUSE, SE, 467.50; THE DIAMOND CENTER, SE, 9.85; TURFWERKS, SU, 63.96; TYLER TECHNOLOGIES, SE, 1692.00; US BANK, SU, 2588.34; VIAERO, SE, 71.92; VOSS LIGHTING, SU, 1512.59; WATERLINK, SU, 1053.42; WAED, RE, 10000.00; WAYNE HERALD, SU, 112.00; WAYNE JAYCEES, FE, 1500.00; WAYNE STATE COLLEGE, RE, 600.00; WAYNE STATE COLLEGE, SE, 86.70; WESCO, SU, 1532.14; WHITE DOG LAWN SERVICE, SE, 105.00; ZEE MEDICAL SERVICE, SU, 35.36; ALLAN WALTON, SE, 18.30; APPEARA, SE, 228.71; BARONE SECURITY SYSTEMS, SE, 1044.00; CITY OF NORFOLK, SE, 1175.80; CITY OF WAYNE, RE, 720.84; CLASSY CLEANING LADIES, SE, 234.71; COPPLE & ROCKEY P.C., SE, 256.50; DUTTON-LAINSON, SU, 239.63; EISENBRAUN & ASSOC., SE, 983.75; GERHOLD CONCRETE, SU, 556.75; GILL HAULING, SE, 2557.10; GREAT PLAINS ONE-CALL, SE, 117.74; HAWKINS, SU,

197.80; HOBBY LOBBY, SU, 102.16; INDUSTRIAL TOOL, SU, 199.95; JERRY DORCEY, SE, 250.00; KELLY SUPPLY, SU, 29.62; KTCH, SE, 525.00; MUNICIPAL SUPPLY, SU, 2396.10; PEPSI-COLA, SU, 200.80; PHYSIO-CONTROL, SU, 302.19; PLUNKETT'S PEST CONTROL, SE, 90.00; PRESTO X, SE, 74.95; PROVIDENCE MEDICAL CENTER, SE, 5948.75; PUSH-PEDAL-PULL, SU, 15559.41; QUALITY 1 GRAPHICS, SU, 200.00; QUILL, SU, 29.04; QWEST, SE, 1210.47; SIOUXLAND TURF PRODUCTS, SU, 2062.50; STADIUM SPORTING GOODS, SU, 24.00; STATE NATIONAL BANK, RE, 729.84; USA BLUE BOOK, SU, 249.49; WAYNE HERALD, SE, 1863.61; WAYNE VETERINARY CLINIC, SE, 190.00; WEST-E-CON, SE, 312.00; ZACH OIL, SU, 4574.51

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.

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the Preliminary Plat for Bencoter Addition.

Administrator Johnson stated the Planning Commission reviewed the preliminary plat for Bencoter Addition and forwarded a recommendation of approval subject to the Bencoters acquiring the subject real estate from the Personal Representative of the Thompson Estate, and the City of Wayne joining in on both the Preliminary and Final Plats, and subject to the following "Findings of Fact":

1. It is consistent with the Comprehensive Plan;

2. The plan has been carefully thought out; and
3. It will help the orderly growth of the City of Wayne.

Louis and Javanah Bencoter, owners of the property, were present to answer questions.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

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

Councilmember Chamberlain introduced Resolution 2009-48, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2009-48

A RESOLUTION CONDITIONALLY APPROVING THE PRELIMINARY PLAT FOR BENSCOTER ADDITION.

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

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Wayne Municipal Code Sec. 90-710 Parking Regulations, specifically Subparagraph (c) Parking or Driveway Surfaces – Interior of the Lot; and by adding Subparagraph (f) Design Standards for Parking Lots.

Administrator Johnson advised the Council that the Planning Commission held a public hearing on this matter, and after discussion, forwarded the following recommendation:

To strike the words "non-permanent" from the first sentence of the fourth paragraph under the heading "Drainage" in Sec. 90-710 (f) of the proposed amendment.

In addition, they forwarded the following “Findings of Fact”:

1. Standing water can present a health hazard; and
2. The amendment provides aesthetic standards for aggregate parking for the benefit of the public; and
3. To forward a recommendation of approval to the City Council of the amendment of Sec. 90-710 Parking Regulations.

After discussion, Councilmember Sturm made a motion and seconded by Councilmember Ley to table action on Ordinance 2009-17 until the next meeting so they could further review the matter. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission’s recommendation regarding the Replat of Kardell Industrial Park No. 2 Subdivision.

Administrator Johnson stated that the Replat reconfigures Lot 2, which is on the east side of Industrial Road, to include the excess right-of-way that is not needed after Industrial Road was moved west for improved realignment. The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the “Finding of Fact” being that it is consistent with the Comprehensive Plan.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

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

Councilmember Sturm introduced Resolution 2009-49, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-49

A RESOLUTION APPROVING THE REPLAT OF KARDELL INDUSTRIAL PARK NO. 2 SUBDIVISION.

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

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the revised Final Plat for Western Ridge II Subdivision.

Administrator Johnson stated that the revised Final Plat adds the front, side and rear yard setback lines to the plat map for the Planned Unit Development. In addition, it clears up an issue with the buyers that are building the ten rent-to-own houses. They were not comfortable with having a 20' front setback without having it on the plat. The Planning Commission also held a public hearing on this matter and recommended approval thereof.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

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

Councilmember Ley introduced Resolution 2009-50, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2009-50

A RESOLUTION APPROVING THE REVISED FINAL PLAT OF WESTERN RIDGE II SUBDIVISION.

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

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the Second Replat of Tompkins Industrial Tract #1 Subdivision.

Administrator Johnson stated that the Replat reconfigures the lots to accommodate the sale of property to Milo Meyer Construction Co. It also finalizes the relocation of Industrial Road to the west. The Planning Commission held a public hearing on this matter and recommended approval thereof, subject to the "Findings of Fact" being it is consistent with the Comprehensive Plan and the current and future land use maps.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

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

Councilmember Sturm introduced Resolution 2009-51, and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2009-51

A RESOLUTION APPROVING THE SECOND REPLAT OF TOMPKINS INDUSTRIAL TRACT #1 SUBDIVISION.

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

Mayor Shelton declared the time was at hand for the public hearing on the Engineering Report for the Construction of a Water Booster Station Project as required by the NDEQ and other funding agencies.

Administrator Johnson advised the Council that the engineer on this project is Olsson Associates. The purpose for these hearings is that these are projects the City is

submitting applications for “American Recovery and Reinvestment Act” economic stimulus funds. A public hearing is required for comment from the public about the purpose of the project. This project is essentially completed. It is a booster station to help increase water pressure to Northeast Nebraska Public Power District. The location of this project is by the west water tower. The pressure capacity we are operating it at is 70+ lbs. The project cost was \$202,684, and because of the long-term loan, with a 25% forgivable portion, it will not have any affect on our water rates.

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

Mayor Shelton declared the time was at hand for the public hearing on the Engineering Report for the Construction of a Water Main Extension Project (Muhs Acres) as required by the NDEQ and other funding agencies.

Administrator Johnson stated this is a water main extension to Muhs Acres. The environmental review on this project has been waived. The estimated cost of this project is \$225,000. With the 20-year funding, 25% forgivable loan, and assessments to the properties, this, too, will not have any affect on our water rates. We will also receive the stimulus money to help pay for the first quarter mile of line that the City will take responsibility for in this project.

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

Mayor Shelton declared the time was at hand for the public hearing on the Engineering Report for the Construction of a Municipal Water Well, AMR Metering System, and Water Main Extensions as required by the NDEQ and other funding agencies.

Roger Protzman of JEO Consulting Group, the City's engineer on the project, advised the Council that because a water well will be located on a piece of property not owned by the City, along with some other issues, an environmental assessment is needed to qualify for the stimulus funds. JEO sent out inquiries to state and federal agencies requesting their input. They received comments from two of those agencies – the Army Corps of Engineers and the Department of Interior US Fish and Wildlife. Their concerns have been addressed, and they are awaiting a comment back from the Department of Interior US Fish and Wildlife. The Army Corps of Engineers has given them the go ahead. The State of Nebraska will issue a "Finding of No-Significant Impact." This will be published in the paper for 30 days, and once that is published, then construction of the project can start. They have finished the plans and specs and will submit them to the Health Department this week for the water well. The additional water mains will be surveyed this week.

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

Mayor Shelton declared the time was at hand for the public hearing to review the Wayne Revolving Loan Fund (WRLF) application of David Smith, d/b/a Mines Jewelers.

Administrator Johnson stated that the application is for \$20,000. The funds will be used to increase inventory, purchase equipment, provide operating capital and hire and train employees for the Mines Jewelers' business at 204 Main Street. The loan is set up on a 20 year amortization schedule, but it will be a 7-year note with a balloon payment at the end of the 7th year. The interest rate charged by the City will be 4%, which is one-half of what the local lender is charging.

Wayne Industries has also reviewed, discussed, and recommended approval of the WRLF application.

David Smith was present to answer questions.

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

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

Councilmember Sturm introduced Resolution No. 2009-52 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-52

A RESOLUTION CONFIRMING THE APPLICATION FOR AND APPROVING THE USE OF NOT TO EXCEED \$20,000 FROM THE WAYNE REVOLVING LOAN FUND.

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

Councilmember Chamberlain introduced Ordinance 2009-13, and moved for approval of the second reading thereof; Councilmember Alexander 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 third and final reading will take place at the next meeting.

Councilmember Chamberlain introduced Ordinance 2009-14, and moved for approval of the second reading thereof; Councilmember Sturm 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 third and final reading will take place at the next meeting.

Councilmember Sturm introduced Ordinance 2009-15, and moved for approval of the second reading thereof; Councilmember Ley 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 stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Councilmember Ley introduced Ordinance 2009-16, and moved for approval of the second reading thereof; Councilmember Alexander 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.

Councilmember Sturm made a motion and Councilmember Alexander 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 Alexander seconded to move for final approval of Ordinance No. 2009-16. 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 accept the 2008 WWTF UV Disinfection System Project and authorize final payment to the contractor.

Councilmember Alexander introduced Resolution No. 2009-53 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2009-53

A RESOLUTION ACCEPTING WORK ON THE 2008 WASTEWATER TREATMENT FACILITY, UV DISINFECTION SYSTEM PROJECT AND AUTHORIZING FINAL PAYMENT THERETO.

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 three Resolutions would direct the City Clerk to file liens against those properties described thereon for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owners.

Councilmember Chamberlain introduced Resolution No. 2009-54 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-54

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON THE SOUTH ½ OF LOT 5, AND ALL OF LOT 6, BLOCK 1, CRAWFORD & BROWN'S ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 503 PEARL STREET, WAYNE, NEBRASKA.

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. 2009-55 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-55

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON THE EAST 48' OF THE WEST 100' OF LOTS 4, 5, AND 6, BLOCK 24, ORIGINAL TOWN TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 418 WEST FIRST STREET, WAYNE, NEBRASKA.

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. 2009-56 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2009-56

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON LOT 3, WESTWOOD ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 513 FAIRACRES ROAD, WAYNE, NEBRASKA.

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

Administrator Johnson stated the Purchase Agreement with Vakoc Construction Co. will complete a trade of property for an easement that will allow a portion of vacated Spangler Drive to provide a south access to Sunnyview Addition, in exchange for an additional 3-foot wide easement for a segment of the trail that is encroaching upon the Vakoc property.

Councilmember Chamberlain made a motion and Councilmember Ley seconded to approve the Purchase Agreement with Vakoc Construction Co., a Nebraska Corporation. 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. 2009-57 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-57

A RESOLUTION AUTHORIZING THE SALE OF CERTAIN PROPERTY TO VAKOC CONSTRUCTION CO., 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 2009-18, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2009-18

AN ORDINANCE DIRECTING THE SALE OF CERTAIN PROPERTY TO VAKOC CONSTRUCTION CO., 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 made a motion and Councilmember Sturm 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 Sturm seconded to move for final approval of Ordinance No. 2009-18. 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 the payoff of the Community Activity Center construction bonds will leave a remaining balance of approximately \$299,000. At the meeting of June 16th, Council authorized allocating \$140,000 of this towards the paving cost of Industrial Road. The remainder of that \$299,000, or \$159,000, can be allocated to the capital projects account of the Community Activity Center.

Councilmember Ley made a motion and seconded by Councilmember Alexander allocate the remaining sales tax funds to the Community Activity Center.

Councilmember Sturm wanted to clarify that these funds were only for the Community Activity Center, and not any part of the Recreation budget.

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

Administrator Johnson stated that an Animal Permit Application has been submitted by Kevin Jurotich to keep four or five chickens in his backyard at 914 Nebraska Street. Signed statements of support from the property owners in the neighborhood were also submitted with the application. The City Code allows for permitted animals. Everything else must be applied for by special permit. The Code does not provide for chickens or farm animals. Staff recommendation is to deny the permit.

The City Code states:

“No person shall keep or maintain any animal within the corporate limits of the City except upon obtaining a special permit from the Council. Such permit shall specify the place when any such animal may be kept. This section shall not apply to the keeping or maintaining of dogs, cats, house birds, gerbils, hamsters, guinea pigs and pet fish. Further, this section shall not apply to commercial sale barn operators, commercial meat slaughtering or packing plant operations, commercial hatcheries and animal hospitals or clinics by licensed veterinarians.”

Kevin Jurotich was present and provided Council with background information on the raising and keeping of “backyard” chickens in suburban areas. Mr. Jurotich advised the Council that if any of his neighbors had objected to this, he would not be here. These are hens he is requesting to keep in his backyard, and they are confined behind a 4’ high fence at all times. He has done everything to insure that his four hens are not a nuisance to his neighbors.

Councilmember Ley did not have a problem with approving the permit in light of the fact that none of the neighbors were opposed to this.

Mayor Shelton cautioned the Council that once they have granted a permit to one person, it is going to be very difficult not to grant a permit to another person.

Councilmember Frevert thought this would set a precedence.

Mayor Shelton also reminded Council that other permits to keep special animals have come before them and were approved – a pot bellied pig and a ball python snake.

Councilmember Alexander opined that there are other ways that can be found to raise these chickens on the edge of town or some other way that his children can get involved (e.g. 4-H). His children have done it for quite awhile.

Two property owners, Lou Wiltse and Jim VanDelden, spoke in favor of the Council approving the permit of Mr. Jurotich to be able to keep his chickens in his backyard. Ms. Wiltse stated his chickens are quiet, they don't smell, and she doesn't hear them. Mr. VanDelden stated that it was a joy to him to see some chickens two doors down and not hear them.

Councilmember Ley did not have a problem with the request since it is only four hens and it's a way to provide his family with some fresh eggs.

After a lengthy discussion, a motion was made by Councilmember Ley and seconded by Councilmember Berry to approve the Animal Permit Application submitted by Kevin Jurotich to keep four chickens in his backyard at 914 Nebraska Street.

Councilmember Sturm compared this with charging property owners for letting their grass grow too tall. Having tall grass doesn't hurt people. If we want to go back to letting chickens and everything else come into Wayne, he thought we needed to go and take that ordinance for weeds/tall grass off the books. If we are going to start letting farm animals come into our city, where will it stop.

It was noted that was brought forward because a meter reader saw the chickens, which, without a permit, is against city code

Councilmember Alexander advised the Council that he had one call in support of this and six or seven other conversations with people who thought it was a bad idea.

Councilmember Ley had one call in support of this. If he didn't have the support of the neighborhood, that would make the difference. He has taken the time to go around and get their approval.

Mayor Shelton stated she had talked to quite a few people, and they had no idea this was on the agenda tonight. When those people were asked about having chickens in the neighborhood, she did not have anyone say no.

Councilmember Sturm stated there have been other times when people have gone door to door about different issues, and there was pressure put on the neighbors for signatures.

When Mr. Jurotich was asked if he had given any thought prior to getting the chickens to see if was allowable within the code, he stated yes, but he wanted to demonstrate to his neighbors first that he was very capable of raising the chickens. Councilmember Alexander stated then it is easier to get forgiveness than permission.

Councilmember Ley amended her motion, which was seconded by Councilmember Berry to approve the Animal Permit Application submitted by Kevin Jurotich to keep four chickens in his backyard at 914 Nebraska Street with the condition that if any complaint is received from a property owner or tenant who lives within 300' of 914 Nebraska Street, that the permit would be revoked.

Mayor Shelton stated the motion, and the result of roll call being three Yeas (Councilmembers Ley, Berry and Chamberlain) and four Nays (Councilmembers Frevert, Haase, Alexander and Sturm), the Mayor declared the motion failed.

Administrator Johnson stated the following Resolution would approve participation in a grant application being prepared by NPPD on behalf of several cities for stimulus funding to upgrade the current metering and electronic control systems for their transformers and substations so they can better control the peak loads. Our part in this, if the Council decides to participate in this, would be to further upgrade our meters so we can offer people a choice in time-of-day or time-of-use pricing. We are already collecting money (\$2.00 per month per meter – electric and water) to upgrade the meters.

The City purchases electricity from NPPD two times per day at two rates – one rate being between 10:00 a.m. and 10:00 p.m. weekdays, which is on-peak and another rate between 10:00 p.m. and 10:00 a.m. which is off-peak. Weekends are off-peak. Electric rates would be higher during the day time and lower at night. The purpose of that is to pass along a savings or incentive for customers to use electricity during the off-peak hours. This would affect both residential and commercial customers. We will be doing a “test” run on five customers when these meters arrive.

The stimulus grant application requires us to differentiate pricing to make it worth the money. We would have to institute new daytime and nighttime rates in order to prove the worth of the system. This would affect summer rates only (June, July, August and September). If we receive the stimulus funding, the meters have to be installed within the next 18 months. The end result is to try to reduce our highest usage on the hottest day that sets our rate for the year.

Councilmember Chamberlain introduced Resolution No. 2009-58 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2009-58

A RESOLUTION OF THE CITY OF WAYNE AUTHORIZING PARTICIPATION IN A JOINT APPLICATION FOR SGIG PROGRAM FUNDS AND TO EXPEND SUCH FUNDS FOR THE DEPLOYMENT OF A SMART GRID TECHNOLOGY

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

Administrator Johnson stated the following Resolution would authorize him to apply for stimulus funds for the purchase of a new handi-van. This would replace the 5-year old handivan and would be funded 100% by the grant.

Councilmember Sturm introduced Resolution No. 2009-59 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2009-59

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO APPLY FOR ARRA STIMULUS FUNDS FOR THE PURCHASE OF A HANDI-VAN.

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

Administrator Johnson updated the Council on the letter of intent for grant funding for the Old Wooden Depot. In the downtown revitalization plan, this is a project that was listed as one of importance. We have sent a letter of intent reserving the community's option to apply for \$518,000 in ARRA economic stimulus funds for this project, which would be matched by \$130,000 in local contributions. This would restore the inside and outside of the depot to its original state. If the City Council does not put any sales tax or other tax dollars into this project, he would not apply for it unless we

would have some kind of indication that people are willing to raise the money locally. The vehicle for accessing the \$518,000 is through the City. No one else can do it.

Lowell Johnson, speaking as a citizen, stated his personal interest in this, whether the City accesses these funds or not, is that he would like to see it restored eventually.

Mayor Shelton stated the State Historical Society is very interested in the preservation of this building because it is one of the last wooden depots in the state.

Administrator Johnson then updated the Council on the letter of intent for grant funding for the trail underpass. This project was included for funding in the Western Ridge TIF Agreement for the amount of \$150,000, if \$250,000 in matching funds could be found. We have sent a letter of intent reserving the community's option to apply for ARRA economic stimulus funds for this project, to be matched by \$150,000 by the City of Wayne. Administrator Johnson did not think there was any kind of limit on how much a city is asking for in stimulus funds. The City's match is already set aside through the TIF Agreement. The consensus of Council was to have staff prepare the documents to apply for this stimulus funding. The same will be brought back before Council for approval.

Councilmember Berry requested Council consideration to changing the time of the Council meetings from 5:30 p.m. to 7:00 p.m. After discussion, the consensus of Council was to leave the Council meeting time at 5:30 p.m.

Mayor Shelton requested Council consideration to the following appointments to the Board of Health: Reappoint Dr. Jim Lindau, Police Chief Lance Webster, Mayor Lois Shelton, Council President Doug Sturm, and Dr. Wayne Wessel.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving the reappointments of Dr. Jim Lindau, Police Chief Lance Webster, Mayor Lois Shelton, Council President Doug Sturm, and Dr. Wayne Wessel to the Board of Health. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to the following appointments to the Board of Adjustment: Reappoint Nancy Jo Powers and Pearl Hansen and new appointment Wes Blecke.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm approving the reappointments of Nancy Jo Powers and Pearl Hansen and new appointment of Wes Blecke to the Board of Adjustment. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton requested Council consideration to the following appointment to the Recreation-Leisure Services Commission: Jodi Pulfer (replaces Mike Grosz).

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving the appointment of Jodi Pulfer to the Recreation-Leisure Services Commission. 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 Alexander 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 7:34 p.m.