

**MINUTES  
CITY COUNCIL MEETING  
September 1, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, September 1, 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, Doug Sturm, Kathy Berry and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Dale Alexander and Kaki Ley.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August 20, 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.

The next item on the agenda was the mayoral appointment of a First Ward candidate. Attorney Pieper advised the Council that an individual appointed by the Council will fill the remaining term of Verdel Lutt (approximately 14 months). That individual would then have to file for reelection in January or February as an incumbent. Anybody else can file at that time for the position. The Mayor is required to bring forth a name. If a majority of the Council votes in favor of that person, the individual fills the seat of Mr. Lutt. According to Sec. 2-121 of the Wayne Municipal Code, a vote of half the members elected to Council shall be required to pass any motion. It appears that four votes is going to be required in order to successfully pass the motion.

Mayor Shelton requested Council consideration to the following mayoral appointment: Brian Belt to fill the unexpired term of Councilmember Verdel Lutt – First Ward.

Brian Belt was present to introduce himself and answer questions. Mr. Belt is the spouse of Chanelle Belt, Administrative Assistant for the City. He also serves as a member of the Wayne Volunteer Fire Department.

Because there were two Councilmembers absent, Councilmember Sturm made a motion to table the appointment until the September 15<sup>th</sup> Council meeting; Councilmember Frevert seconded the motion. Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Berry and Chamberlain who voted Nay, the Mayor declared the motion failed.

Councilmember Chamberlain made a motion and seconded by Councilmember Berry approving the mayoral appointment of Brian Belt to fill the unexpired term of Councilmember Verdel Lutt – First Ward. Mayor Shelton stated the motion, and the result of roll call being all Nays, with the exception of Councilmembers Chamberlain and Haase who voted Yea, and Councilmember Sturm who abstained, the Mayor declared the motion failed.

Councilmember Sturm made a motion and seconded by Councilmember Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of August 18, 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, 2027.33; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 195.00; BARCO MUN PRODUCTS, SU, 317.07; BENSCOTER PLUMBING, RE, 450.00; BLACK HILLS ENERGY, SE, 231.22; BOMGAARS, SU, 850.01; BROWN SUPPLY, SU, 53.90; CHAD DORCEY, RE, 500.00; CITY OF NORFOLK, SE, 187.35; CITY OF WAYNE, RE, 216.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 3455.11; CITY OF WAYNE, RE, 207.52; CITY OF WAYNE, PY, 63117.85; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 519.59; CLASSY CLEANING LADIES, SE, 30.42; D.L. RICCI CORP, SE, 14171.05; DAKOTA BUSINESS SYSTEMS, SE, 100.00; E-COW BMX, SU, 23.54; ECHO GROUP, SU, 310.37; ELECTRIC FIXTURE, SU, 559.99; ELECTRICAL ENGINEERING, SU, 502.30; FLOOR MAINTENANCE, SU, 261.48; FORT DEARBORN LIFE, SE, 106.64; GARY APPEL, RE, 250.00; GERHOLD CONCRETE, SU, 1237.90; HAUFF MID-AMERICAN SPORTS, SU, 270.99; HD SUPPLY WATERWORKS, SU, 1024.68; HDR ENGINEERING, SE, 3167.19; HEWLETT-PACKARD, SU, 1243.75; HTM SALES, SU, 7041.00; HYDRO CONDUIT CORPORATION, SU, 1000.00; ICMA, RE, 5508.24; INDUSTRIAL CHEM LABS, SU, 909.21; IPMA, SU, 640.00; IRS, TX, 18808.52; ISLAND SPRINKLER SUPPLY, SU, 52.60; ITRON, SE, 3418.00; JACK'S UNIFORMS, SU, 830.80; JACOB'S ROOM, SU, 95.13; JEO CONSULTING GROUP, SE, 24347.25; JOHN'S WELDING AND TOOL, SU, 49.92; JOHNSON HARDWARE, SU, 128.44; KNIFE RIVER MIDWEST, SU, 664.56; KRIZ-DAVIS, SU, 783.67; M. K. ERVIN, SE, 7812.50; MARRA, KEN, RE, 500.00; MEDALLION CONSTRUCTION, RE, 1000.00; MICHAEL TODD & CO, SU, 814.05; MICROFILM IMAGING SYSTEMS, SE, 444.98; N.E. NEB ECONOMIC DEV DIS, SE, 888.08; NE DEPT OF REVENUE, TX, 2702.78; NE NEB INS AGENCY, SE, 700.00; NE PUBLIC HEALTH, SU, 175.00; NNPPD, SE, 2299.76; OMEGA ENGINEERING, SU, 421.21; OTTE CONSTRUCTION, SE, 770.00; PAUL VELDKAMP, RE, 500.00; POLLARDWATER.COM, SU, 470.62; PRESTO X COMPANY, SE, 35.00; QUILL, SU, 333.89; QWEST, SE, 425.79; QWEST, SE, 169.39; RAD, INC., SU, 205.81; ROBERT WOEHLE & SONS, SE, 7250.00; SIOUX CITY JOURNAL, SU, 156.00; SKARSHAUG TESTING LAB, SE, 265.21; STADIUM SPORTING GOODS, SU, 37.50; STATE NATIONAL BANK, RE, 20005.00; STATE NATIONAL BANK, RE, 446.95; STATE NATIONAL BANK, RE, 12057.50; THOMPSON PUBLISHING GROUP, SU, 368.95; TOM'S BODY & PAINT SHOP, SE, 48.00; ULINE, SU, 402.85; UNITED RENTALS, SU, 540.00; UNITED STATES PLASTIC, SU, 223.25; VIAERO, SE, 75.22; VOSS LIGHTING, SU, 880.20; WALDO JOHNSON, RE, 30.00; WAYNE COMMUNITY HOUSING, RE, 3022.00; WAYNE KORTH, RE, 500.00; WAYNE STATE COLLEGE, RE, 1200.00; WESCO, SU, 396.61; ALL-AMERICAN PUBLISHING, SU, 215.00; ALLTEL, SE, 564.88; BLACK HILLS ENERGY, SE, 84.81; CARHART LUMBER, SU, 438.40; CARLTON INDUSTRIES, SU, 278.29; CITY OF WAYNE, RE, 639.86; CITY OF WAYNE, RE, 351.61; CITY OF WAYNE, RE, 75.00; CITY OF WAYNE, RE, 773.19; CONNEY SAFETY PRODUCTS, SU, 177.00; DAVE SWANSON, SE, 1093.08; ECHO GROUP, SU, 93.98; ED M FELD EQUIPMENT, SU, 694.50; EMPLOYERS MUTUAL, SE, 208.79; FLOOR MAINTENANCE, SU, 159.41; GALE GROUP, SU, 34.45; HD SUPPLY

WATERWORKS, SU, 698.23; INGRAM BOOK COMPANY, SU, 416.69; JASON CAROLLO, SE, 120.00; JEO CONSULTING GROUP, SE, 7363.50; JOHN REES, RE, 500.00; KELLY SUPPLY, SU, 58.15; KEPSCO, SE, 6.20; MERCY MEDICAL CLINIC, SE, 26.00; MIDWEST TAPE, SU, 192.94; NE DEPT OF ENVIRONMENTAL, FE, 500.00; NE MUNICIPAL CLERKS ASSOC FE, 35.00; NSA/POAN CONFERENCE, FE, 270.00; POSTMASTER, SU, 653.67; QUALITY 1 GRAPHICS, SU, 30.00; QUILL, SU, 11.69; RON CARNES, RE, 1000.00; SIEMENS WATER TECHNOLOGIES, SU, 9265.00; STADIUM SPORTING GOODS, SU, 84.00; STATE NATIONAL BANK, RE, 393.76; TOM ADAMSON, SU, 8.00; TYLER TECHNOLOGIES, SE, 11741.00; UPSTART, SU, 9.00; US BANK, SE, 2252.11; WAED, RE, 10000.00; WAYNE COUNTY COURT, RE, 150.00; WAYNE GRAIN & FEED, SE, 92.00; WAYNE STATE COLLEGE, RE, 740.00

Councilmember Sturm made a motion and seconded by Councilmember Frevert 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 on the proposed FY2009-2010 budget.

The total of the FY2009-2010 budget is \$42,600,887. The property tax proposal for the General Fund operation is \$628,525, which compares to the 2009 tax asking of \$628,525. Pursuant to State Law, the maximum levy for a municipality is \$0.45 per \$100 of property valuation. When combined with the debt service asking, the combined amount for the proposed budget year is \$718,525 or .408985 per \$100 of property

valuation. The valuation in the community, as reported by the County Assessor for 2009, is \$175,685,113.

Finance Director Nancy Braden distributed pie charts showing the property tax levies since 1983/1984, the total of operations less associated revenues for the General Fund Departments, the total property tax levy (County, City, School, NE Nebraska Community College, Lowell Elkhorn NRD, ESU#1, and Ag Society), and the 2008-09 property tax levies by taxing entity. The City's portion of that tax was about 21.86%, with the School District being the highest at 55.57%. She noted that the City has maintained, for the past three years, the same level of tax asking.

Councilmember Sturm commended city staff for being very prudent with their spending. Administrator Johnson stated the budgets the past few years have been very tight, and it has been a team effort on both the staff and the Council's part.

City Clerk McGuire had not received any communication, written or verbal, for or against this public hearing.

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

Councilmember Sturm introduced Ordinance 2009-21, and moved for its approval; Councilmember Haase seconded.

#### ORDINANCE NO. 2009-21

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR AN EFFECTIVE DATE

Vehicle purchasing was discussed. Garry Poutre, Supt. of Public Works and Utilities, recommended having a couple of Councilmembers get involved when the time comes to purchase the next City vehicle.

Councilmember Sturm suggested this be a topic for the Council Retreat also.

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, with Mayor Shelton also voting yea to meet the necessary votes required to waive the three readings, the Mayor declared the motion carried.

Councilmember Chamberlain made a motion and Councilmember Sturm seconded to move for final approval of Ordinance No. 2009-21. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

City Treasurer Braden stated that the base year started in 1998. The restricted funds are the property taxes, payments in lieu of property taxes, local option sales taxes, motor vehicle taxes, state aid, transfers of surpluses from any user fee, and any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements, but which were not spent and are not expected to be spent for capital improvements. Cities are given the opportunity to increase the base limitation of the restricted funds budget by 1%. The State Auditor is also recommending that entities pass this 1% increase.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the allowable 1% increase in base limitation of the restricted

funds budget. Mayor Shelton stated the motion, and the result of roll call being all Yeas, with Mayor Shelton also voted Yea, the Mayor declared the motion carried.

Administrator Johnson presented the following facts:

1. The property tax request for the General Fund is \$611,000; the same as the last two years.
2. The property tax request for the Debt Service Fund is \$90,000; the same as the last two years.
3. The total real estate valuation in Wayne is \$175,685,113.
4. This year's City tax levy will be \$4.55 per \$1000 of value, which is the lowest levy since the budget restrictions were established in 1998 by the State Legislature. Our levy at that time was \$5.04 per \$1,000 of value.
5. The increase in city valuation from last year is about 1.7%.
6. No reduction in full-time staffing is planned in this budget.
7. No increase is planned for water rates or transfer station dumping fees.
8. Sewer rates may be increased again when the new plant is designed and the estimated cost is better known. NDEQ requires Wayne to have the new plant built and operating by August, 2011.
9. NPPD has approved a 6% increase in wholesale power rates, and Western Area Power has announced an 11% increase in wholesale power rates beginning in January. Wayne retail rates will likely be increased to pass these purchase costs through.
10. All utilities are budgeted to break even each year.
11. \$80,052 in City real estate taxes go to the Wayne airport (\$60,000 for general operations and \$20,052 for airport debt service).
12. This budget allocates \$277,000 of the new City sales tax capital project revenues in the first year as follows: \$45,000 for the Bressler Park and Victor Park restroom renovations to make them ADA accessible; \$150,000 for street paving costs at Kardell Industrial Park; \$5,500 for ADA swimming pool wheelchair access lift; \$50,000 to cash reserves for the purchase of an aerial truck for the Fire Department; \$10,000 to go towards the project of digitizing the Wayne Herald; and \$16,500 for concrete trail option, if necessary.
13. The General Fund operating expenditures total about \$2.7 million per year to pay for the police and fire departments, streets, parks, library, senior center, community activity center and swimming pool.

Councilmember Chamberlain introduced Resolution 2009-81, and moved for its approval; Councilmember Frevert seconded.

#### RESOLUTION NO. 2009-81

#### A RESOLUTION TO ADOPT THE 2009-2010 BUDGET FOR THE CITY OF WAYNE

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 regarding the tax asking/property tax levy.

To support the proposed general operating and debt service budgets for the City and the Airport Authority, a total property tax levy of \$.454550 per hundred dollars of property value is included. The levy equates to a tax request of \$718,525. Last year's tax levy was \$.416194 per hundred dollars of valuation; this year it is \$.408985, excluding the airport.

City Clerk McGuire had not received any communication, written or verbal, for or against this public hearing.

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

The following Resolution would approve the final property tax request of \$718,525. This Resolution does not include the airport levy.

Councilmember Sturm introduced Resolution 2009-82, and moved for its approval; Councilmember Chamberlain seconded.

#### RESOLUTION NO. 2009-82

#### A RESOLUTION APPROVING FINAL PROPERTY TAX REQUEST FOR FY2009-2010

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

Administrator Johnson stated that 10 bids were received on the "Muhs Acres Water Main Extension – Wayne 2009 Project." Rod Hansen of Olsson Associates, the

City's engineer on the project, has reviewed the bids and is recommending the same be awarded to the low bidder on the project – Robert Woehler & Sons Construction, Inc., in the amount of \$128,442. Section A (distribution portion of the system that fronts the properties in the district) was \$92,642, and Section B (the City's portion for the construction of the transmission line from Well No. 6 to the east boundary line of the first property) was \$35,800. The date of completion is May 15, 2010. The engineer's estimate on this project was \$155,821.50.

Administrator Johnson stated that the stimulus funding is still there and the project has met the requirements with the exception of the completion date. If the project is completed by May 15<sup>th</sup>, the assessments will probably take place in late summer or early fall. There is a penalty of \$250 per day if the project is not completed by May 15<sup>th</sup>.

BJ Woehler of Robert Woehler & Sons Construction stated they plan to start the project the beginning of October.

Councilmember Chamberlain introduced Resolution 2009-83, and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2009-83

##### A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE "MUHS ACRES WATER MAIN EXTENSION, WAYNE, NE – 2009 PROJECT."

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

Mark Klassen, on behalf of the Muhs Acres Homeowners Association, thanked the Council for their efforts and commitment, both financially and labor-wise, to get this project done.

Administrator Johnson stated the following Resolution would direct the City Clerk to file a lien against the 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 owner.

Councilmember Chamberlain introduced Resolution No. 2009-84 and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-84

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 FIVE, BLOCK TEN, ADMINISTRATIVE REPLAT OF LOTS ONE THROUGH EIGHT, BLOCK TEN, COLLEGE HILL ADDITION, TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 1215 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 Ordinance 2009-20, and moved for approval of the second reading thereof; Councilmember Chamberlain seconded.

ORDINANCE NO. 2009-20

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 22, ARTICLE II. OCCUPATION TAX BY ADDING SECTION 22-38 HOTEL OCCUPATION TAX; 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 Council meeting.

Louis and Javanah Bencoter were present regarding the \$36,000 forgivable performance loan being requested from the LB 840 Sales Tax. This is another financing tool they are using to get everything completed in their subdivision.

Administrator Johnson stated the loan documents are set up so the Council can make any of these a loan with interest, a loan without interest, part-loan/part-grant, or a totally forgivable loan. There are a number of options, but so far, the LB 840 Sales Tax Committee has only brought recommendations to the Council for forgivable loans. Council has the option of changing the recommendations of the LB 840 Sales Tax Committee or turning down any of their recommendations.

It was noted that the next two loans are forgivable performance-based loans. After five years, if they meet the criteria of being in Wayne and employing people in Wayne, the loan is forgiven.

Wes Blecke, Interim Director of WAED, stated the committee has talked about setting a precedent of just bringing forward forgivable loans. The majority of the committee thinks it should be on a case-by-case basis.

Councilmember Chamberlain stated the money being requested this evening is to help in the development of ground. Developers, in recent years, have been really hard to come by, which is why the City purchased industrial property and why we are doing Western Ridge. He is in favor of this forgivable loan.

The Council, after discussion, directed the LB 840 Sales Tax Committee, through Wes Blecke, to set out or identify their reasons for justifying the type of loan each applicant receives.

Councilmember Chamberlain made a motion and seconded by Councilmember Berry approving the recommendation of the LB 840 Sales Tax Committee for a \$36,000 forgivable performance based loan to Louis and Javanah Benscoter for engineering costs and stormwater drainage structure in their subdivision. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Stephanie Liska was present regarding her \$30,000 forgivable performance based loan for a start-up business – Interactive Impact, Inc. She stated that Tim Fertig is her partner in this business. This is a service oriented business. It is not a product oriented business. If this business goes national, the way they hope to in 5-7 years, they will need at least 20 customer support type people. In addition, they are looking at 4 executive level positions in the business.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving the recommendation of the LB 840 Sales Tax Committee for a \$30,000 forgivable performance loan to Stephanie Liska, Interactive Impact, Inc., for a start-up business. 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 Frevert 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 6:56 p.m.