

**MINUTES
CITY COUNCIL MEETING
September 15, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, September 15, 2009, at 5:30 o'clock P.M. Council President Doug Sturm called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jon Haase, Kaki Ley, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Mayor Lois Shelton and Councilmembers Dale Alexander and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August September 3, 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 Ley, whereas the Clerk has prepared copies of the Minutes of the meeting of September 1, 2009, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved.

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

The following claims were presented to Council for their approval:

VARIOUS FUNDS: ALARM PROS, SE, 79.13; AMERITAS, SE, 2096.76; APPEARA, SE, 134.71; BACON & VINTON, SE, 3500.00; BAKER & TAYLOR BOOKS, SU, 378.00; BANK FIRST, RE, 115275.99; BARONE SECURITY SYSTEMS, SE, 180.00; BIBLIOGRAPHICAL CENTER, SU, 97.79; CITY OF NORFOLK, SE, 57.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 1250.00; CITY OF WAYNE, RE, 17.00; CITY OF WAYNE, RE, 2263.70; CITY OF WAYNE, RE, 71.57; CITY OF WAYNE, RE, 30000.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 55075.53; CITY OF

WAYNE, RE, 185.54; CITY OF WAYNE, RE, 140.00; CITY OF WAYNE, RE, 326.01; COPY WRITE, SE, 672.95; DEMCO, SU, 350.87; DUTTON-LAINSON, SU, 228.76; ED M FELD EQUIPMENT, SU, 50.00; FARMERS AND MERCHANTS, RE, 500000.00; FLOOR MAINTENANCE, SU, 158.13; FREDRICKSON OIL, SU, 734.36; GEMPLER'S, SU, 42.00; GERHOLD CONCRETE, SU, 658.00; GILL HAULING, SE, 2561.70; GREAT PLAINS ONE-CALL, SE, 78.82; HEIKES AUTOMOTIVE SERVICE, SE, 47.93; HEWLETT-PACKARD, SU, 858.00; HYTREK LAWN SERVICE, SE, 135.00; ICMA, RE, 5515.53; IRS, TX, 17501.96; JIM BROER, RE, 50.00; KELLY MEYER, SU, 727.50; KRIZ-DAVIS, SU, 186.85; LP GILL, SE, 6314.62; MABEL SOMMERFELD, RE, 50.00; MARSHALL CAVENDISH, SU, 117.52; MIDWEST LABORATORIES, SE, 1071.40; MIDWEST TAPE, SU, 121.96; NE DEPT OF REVENUE, TX, 2621.06; NE HARVESTORE, SU, 293.06; NE MOSQUITO, FE, 35.00; NORTHEAST LIBRARY SYSTEM, FE, 10.00; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 10698.54; NSVFA, FE, 525.00; PAC N SAVE, SE, 277.69; PAMIDA, SU, 421.99; PEERLESS WIPING CLOTH, SU, 313.78; PEPSI-COLA, SU, 149.59; PLUNKETT'S PEST CONTROL, SE, 178.00; PRESTO X COMPANY, SE, 43.00; PROVIDENCE MEDICAL CENTER, SE, 103.00; PROVIDENCE MEDICAL CENTER, SE, 5134.25; QUALITY FOOD CENTER, SU, 168.84; QUILL, SU, 55.98; QWEST, SE, 1214.99; RANDOM HOUSE, SU, 160.00; S & S WILLERS, SU, 298.28; SHAWN STORY, SE, 75.00; STADIUM SPORTING GOODS, SU, 1436.00; STAN HOUSTON EQUIPMENT, SU, 231.43; STATE NATIONAL BANK, SE, 47.18; STATE NATIONAL BANK, RE, 363.38; STATE NATIONAL BANK, RE, 65815.00; UNITED WAY, RE, 26.98; UPSTART, SU, 30.45; VOSS LIGHTING, SU, 242.15; WAED, SE, 6383.33; WAYNE COUNTY CLERK, SE, 322.25; WAYNE HERALD, SE, 1157.78; WAYNE VETERINARY CLINIC, SE, 46.00; WEB SOLUTIONS OMAHA, SE, 275.00; WESCO, SU, 1045.30; WAPA, SE, 27941.28; ZACH OIL, SU, 3474.68; ZACH PROPANE, SU, 30.00; BIG T ENTERPRISES, SU, 78.95; BROWN SUPPLY, SU, 247.29; BRUNING WRECKER SERVICE, SE, 132.50; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 100.58; CITY OF WAYNE, RE, 1725.12; CITY OF WAYNE, RE, 53.00; CULLIGAN, SE, 42.25; DAVE ZACH, RE, 700.00; DAVE'S DRY CLEANING, SE, 129.00; ED M FELD EQUIPMENT, SU, 64.00; EDM PUBLISHERS, SU, 98.78; ELECTRIC FIXTURE, SU, 235.10; FLOOR MAINTENANCE, SU, 174.27; GERHOLD CONCRETE, SU, 672.00; GOV'T FINANCE OFFICERS, FE, 170.00; HEIKES AUTOMOTIVE SERVICE, SE, 69.23; HIRERIGHT SOLUTIONS, SE, 20.00; KRIZ-DAVIS, SU, 962.94; KTCH, SE, 605.00; MADISON COUNTY COURT, RE, 244.00; MES-MIDAM, SU, 87.56; MIDWEST TAPE, SU, 39.99; NHHS, SE, 750.00; N.E. NE AMERICAN RED CROSS, SE, 513.00; PIEPER, MILLER & DAHL, SE, 2845.00; PRESTO X COMPANY, SE, 31.95; PROTECTIVE PRODUCTS, SU, 3183.60; PROVIDENCE MEDICAL CENTER, SE, 103.00; PURCHASE POWER, SU, 1000.00; QUILL, SU, 660.59; RANDY ROGERS, RE, 500.00; STATE NATIONAL BANK, RE, 445.23; WAYNE STATE COLLEGE, RE, 50.00

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

Council President Sturm advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Greg VanderWeil was requesting Council consideration to allowing them to close off the east end of 10th Street from Providence Road to the First Bank Card Center for an electric vehicle rally on September 19, 2009, from 7:00 a.m. until 4:00 p.m. OPPD and NPPD have provided the required \$1,000,000 liability insurance coverage and naming the City as an additional insured.

Councilmember Ley made a motion and seconded by Councilmember Haase approving the request of Greg VanderWeil to close off the east end of 10th Street from Providence Road to the First Bank Card Center for an electric vehicle rally on September 19, 2009. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

Councilmember Alexander arrived at 5:34 p.m.

Councilmember Chamberlain introduced Ordinance 2009-20, and moved for approval of the third and final reading thereof; Councilmember Frevert 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.

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

Administrator Johnson stated the following Resolution would approve the Engineering Agreement with Kirkham Michael for the “Windom Street from 3rd to 7th Streets Paving and Storm Sewer Project.” This project is in the City’s 1 & 6 Year Street Improvement Plan. We have submitted applications for 80% cost-share on tear out and replacement of the storm drain system and the paving. The City’s share would be 20%. The engineer’s estimate for the cost of construction is \$500,802. The engineering fee in this agreement is on a time and materials basis not to exceed \$94,000 (about 24% of the construction costs).

Councilmember Chamberlain introduced Resolution 2009-85, and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2009-85

A RESOLUTION APPROVING STP ENGINEERING AGREEMENT FOR PROFESSIONAL ENGINEERING DESIGN SERVICES BETWEEN THE CITY OF WAYNE AND KIRKHAM MICHAEL FOR THE WINDOM STREET FROM 3RD TO 7TH STREETS PAVING AND STORM SEWER PROJECT.

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

Garry Poutre, Supt. of Public Works and Utilities, stated the following Resolution would approve the plans and specifications for four small water main loops in the City to connect dead end water mains in the community. This will improve the water flow and

eliminate cases where there can be stagnant water at the end of a line. The four places are as follows:

1. At the southeast corner of the fairgrounds and the east gate of the fairgrounds;
2. The driveway on the west side of Pac N Save which will then go south on Pac N Save's property until it gets to the south property line and then head east to Nathan Drive;
3. One that will tie together the mains at the corner of Sherman Street and Grainland Road; and
4. A dead end main next to the Heartland Physical Therapy Building on 6th Street which will go east to McDonald's property and then go south to tie into a 12" main.

Federal stimulus funding is available for this project. The estimated project cost is \$150,000. This would also be a 25% forgivable loan at 3% interest. A contract is already in place with JEO Consulting Group for engineering fees of \$37,000.

Councilmember Berry arrived at 5:39 p.m.

Councilmember Ley introduced Resolution 2009-86, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-86

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, AND ESTIMATE OF COST FOR THE 2009 WATER DISTRIBUTION PROJECTS, AS PREPARED BY THE CITY'S ENGINEER, JEO CONSULTING GROUP, AND DIRECTING ADVERTISEMENT FOR BIDS.

Council President Sturm 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 final funding application to be submitted to the Nebraska Department of Roads for 70% cost-share to install a \$400,000 trail underpass west of the cemetery. There is extra stimulus money put into the Transportation Enhancement Funds for preserving past transportation

facilities and for building trail projects. The underpass would replace an at-grade crossing that will be built at the west edge of the cemetery. The City's match would come from the tax increment financing funds that were budgeted from Western Ridge. The deadline for submitting this application is September 22nd.

Administrator Johnson stated the pond in Western Ridge has not had any water come out of it because it is over excavated by two feet. When we get a heavy rain, that will be flooded temporarily, but it will run out fairly fast. The Department of Roads would not let us build the project without trapping the silt and protecting the flood control for the highway. In addition, he stated that if the TIF money is not used for the underpass, it could be used for something else in Western Ridge. He noted that this is a "Transportation Enhancement Project" and not a "Safe Routes to School Project." All references to that had to be taken out. The trail should get built next spring, and the underpass, if approved, would get built in about two years. The at-grade crossing by the cemetery will have to get decommissioned, which is already in the plans.

Councilmember Chamberlain introduced Resolution 2009-87, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-87

A RESOLUTION TO APPLY FOR ASSISTANCE FROM THE TRANSPORTATION ENHANCEMENT PROGRAM FOR THE PURPOSE OF CONSTRUCTING THE WAYNE HIGHWAY 35 UNDERPASS PROJECT.

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

Administrator Johnson stated the following Resolution would extend the summer discount period for sewer usage from three months to six months (readings from mid-April to mid-October). Sewer consumption is based upon the water consumption. Council, last year, passed a Resolution setting policy to not issue any more irrigation meters. We have a summer discount rate for those customers who do not have a separate irrigation meter. We are trying to be revenue neutral, but collect the money where the costs are generated closer to the actual sewer usage. In October, we should have the estimated cost from JEO Consulting Group for the new wastewater plant. At that time, he is recommending that we adjust the rates one more time to get ready to pay off the bonds. The sewer rate goes from \$2.90 to \$1.50 per 1000 gallons for the summer discount period. In October or November, staff will contact the Nebraska Rural Water Association to recalculate our rates.

Councilmember Ley introduced Resolution 2009-88, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-88

A RESOLUTION TO ESTABLISH SEWER SERVICE AND USE RATES.

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

Discussion took place regarding the Auditorium Rental Policy. Council President Sturm requested this be on the agenda. One of the changes to the policy he was suggesting was to allow renters to be able to clean the auditorium on Sunday after a Saturday rental if it is not rented. If it is rented out on Sunday, then clean-up has to take place Saturday evening.

Councilmember Chamberlain did not see any problem with allowing the renters to clean-up the following morning if it is not already rented out. He suggested allowing the renters to have until noon to clean up.

It was noted that the custodian does the walk-through on Monday.

Councilmember Alexander was in favor of allowing the renters to have all day on Sunday to clean up if it is not rented since the walk-through doesn't take place until Monday.

In response to BJ Woehler's question, City Clerk McGuire stated that the custodian will come in to check the auditorium and replenish supplies on Sunday morning if it is rented on both Saturday and Sunday by different renters.

Council consensus was to bring the rental policy back at the next meeting with the change being that clean-up can take place on Sunday at no charge if the auditorium is not already rented.

Administrator Johnson requested Council to delay action on Agenda item No. 11 – Action on Enforcement of Property Maintenance Code to Repair or Demolish the Property located at 120 W. 8th Street because staff has a proposal to take to the owner for consideration.

Councilmember Chamberlain made a motion and seconded by Councilmember Ley to table action on Agenda item No. 11 – Action on Enforcement of Property Maintenance Code to Repair or Demolish the Property located at 120 W. 8th Street until the next meeting. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried.

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

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

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 August 4, 2009, meeting.

Member Sturm made a motion and seconded by Member Alexander approving the minutes of the August 4, 2009, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to consider and approve Certificate of Payment No. 1 – Kardell Subdivision Paving in the amount of \$40,864.50.

Member Sturm made a motion and seconded by Member Frevert approving Certificate of Payment No. 1 – Kardell Subdivision Paving in the amount of \$40,864.50 for Steve Harris Construction. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson stated that Change Order No. 1 on the Kardell Subdivision Paving project in the amount of \$3,168 is a cluster of changes that took place when we decided to relocate the ditch to a better location. The work has already been done. Even though we eliminated the two down pipes into Logan Creek for the storm water system and one set of culvers under Summerfield Drive, this amount represents the increase cost for the dirt work. Staff changed their engineering design on the spot. None of the runoff out there will go into Logan Creek. If the ditch would not have been moved over, the change order would have been a significant decrease in cost.

BJ Woehler, representing Robert Woehler & Sons, a subcontractor under Steve Harris Construction, stated he did not see any credits for some of the storm sewer that was taken out. He thought the amount on the change order was incorrect.

Garry Poutre, Supt. of Public Works & Utilities, stated Olsson Associates designed the project right down the middle of that strip of land as they were told initially. However, to move that to the north makes a lot better use of the land, but it did make a huge bank of dirt that needed to be moved. The County, however, stated if the City would pay for the fuel, they would move the dirt, which saved a lot of money.

Member Frevert made a motion and seconded by Member Alexander to table action on Change Order No. 1 – Kardell Subdivision Paving (increase of \$3,168.00) until the next 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 following Resolution is a housekeeping action needed for the TIF Agreement for the Louis and Javanah Benscoter Project.

Member Sturm introduced CDA Resolution No. 2009-6 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2009-6

A RESOLUTION OF THE CITY OF WAYNE, NEBRASKA, ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE ACTING AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF SAID CITY; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY DEVELOPMENT LAW; AUTHORIZING THE SALE OF SAID BOND; PROVIDING FOR A GRANT; PROVIDING FOR A REDEVELOPMENT CONTRACT AND PROVIDING FOR THIS RESOLUTION TO TAKE EFFECT.

Member Frevert seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Haase, Alexander, Sturm, Ley, Berry and Chamberlain. The following Members voted against the motion: none. The Chair declared the motion carried.

Administrator Johnson stated that since a future sewer system will need to be built to access the Kardell Subdivision and to serve two of the existing companies on site, staff is proposing to install two manholes and 950' of sewer main in the area of the paving project from the Pacific Coast driveway north to the railroad right-of-way and to extend under the new street paving at both sites. This will avoid having to dig up this concrete or bore this section at a later date. Olsson has sought a bid from Woehlers, the subcontractor on site who is installing the water main, and the quote for the total is \$42,625. This amount is less than the Olsson estimate.

This subdivision has septic systems at this time. This will allow them to hook up to the City's wastewater system. In response to Councilmember Haase's question,

Johnson stated so far the Council has chosen or elected not to annex the property into city limits. Annexation proposals can always be brought forward, but at that time, the Council voted not to annex the property. All of the businesses out there have city water.

Chair Chamberlain stated some of the logic at that time was when you annex property, property taxes go up 22-23%, so it was an incentive to try to draw business out there.

Administrator Johnson stated the properties will be charged hook-up fees in lieu of creating a district. We will build the system and charge them what the assessment would have been, which would be about \$25,000 for Pacific Coast. In addition, Concord Components is having trouble with their septic system and they were told the same thing.

Member Frevert made a motion and seconded by Member Alexander to approve Change Order No. 2 – Kardell Subdivision Paving (increase of \$42,625.00). Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Alexander made a motion and seconded by Member Sturm 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.

Council President Sturm stated Mayor Shelton has asked him, on her behalf, to bring forward the name of James B. Van Delden to fill the First Ward vacancy left by the resignation of Verdel Lutt.

Mr. Van Delden was present and addressed the Council.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving the mayoral appointment of James B. Van Delden, M.D., to fill the unexpired term of Councilmember Verdel Lutt – First Ward. Council President Sturm stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, the Council President declared the motion carried.

Attorney Pieper presented the oath of office to James Van Delden.

Councilmember Van Delden made a motion and seconded by Councilmember Alexander to adjourn the meeting. Council President Sturm stated the motion, and the result of roll call being all Yeas, the Council President declared the motion carried and the meeting adjourned at 6:55 p.m.