

**MINUTES
CITY COUNCIL MEETING
October 6, 2009**

The Wayne City Council met in regular session at City Hall on Tuesday, October 6, 2009, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 24, 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 Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of September 15, 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 9-15-09: DELETE COPY
WRITE PUBLISHING, SU, 672.95

VARIOUS FUNDS: ALLTEL, SE, 636.21; ALMQUIST, MALTZAHN, SE, 200.00; AMERICAN INST SMALL BUS., SU, 161.90; AMERITAS, SE, 2123.86; APPEARA, SE, 174.20; AS CENTRAL SERVICES, SE, 448.00; BACON & VINTON, SE, 7500.00; BANK FIRST, SE, 195.00; BLACK HILLS ENERGY, SE, 161.09; BLACK HILLS ENERGY, SE, 2267.00; BOMGAARS, SU, 1182.41; CARLTON INDUSTRIES, SU, 53.11; CITY OF NEWMAN GROVE, SU, 3784.00; CITY OF NORFOLK, SE, 111.35;

CITY OF WAYNE, RE, 1250.00; CITY OF WAYNE, RE, 3.22; CITY OF WAYNE, RE, 514.50; CITY OF WAYNE, RE, 746.00; CITY OF WAYNE, RE, 1896.97; CITY OF WAYNE, RE, 36000.00; CITY OF WAYNE, PY, 55827.50; CITY OF WAYNE, RE, 185.54; CITY OF WAYNE, RE, 118.14; CITY OF WAYNE, RE, 392.24; CITY OF WAYNE, RE, 640.80; COPY WRITE PUBLISHING, SU, 672.95; COUNTRY NURSERY, SU, 20.00; COVENTRY HEALTH, SE, 16282.87; CRAFTS, INC, SE, 156.85; CREDIT BUREAU SERVICES, SE, 10.87; DAKOTA BUSINESS SYSTEMS, SE, 100.00; DE LAGE LANDEN FINANCIAL, SE, 471.00; DIGITAL ALLY, SU, 107.50; DON KOENIG, RE, 341.54; DUAINÉ JACOBSEN, RE, 700.00; ECHO GROUP, SU, 185.22; ED M FELD EQUIPMENT, SU, 14.25; ELECTRIC FIXTURE & SUPPLY, SU, 123.70; ELLIS PLUMBING, SE, 217.96; EMERGENCY MEDICAL PRODUCT, SU, 2780.36; ENERGY FEDERATION, SU, 1317.50; FLOOR MAINTENANCE, SU, 937.53; FORT DEARBORN LIFE, SE, 1623.40; FRANK MRSNY, RE, 500.00; FREDRICKSON OIL, SU, 411.36; GARDEN PERENNIALS, SU, 154.50; GERHOLD CONCRETE, SU, 2501.43; GREEN SOURCE, SU, 19.95; GRICELDA CASILLAS, RE, 500.00; GUILDCRAFT, SU, 65.58; HEIKES AUTOMOTIVE SERVICE, SE, 95.86; HENKE MANUFACTURING CORP, SU, 186.83; HORNADY MANUFACTURING, SU, 447.00; ICMA, SE, 5505.47; INTERSTATE ALL BATTERY, SU, 239.34; IRS, TX, 17703.06; JACK'S UNIFORMS, SU, 279.99; JEO CONSULTING GROUP, SE, 27404.00; K & C GRAIN, SU, 786.50; KAREL AUTO, SU, 603.59; KELLY SUPPLY, SU, 110.82; KEPSCO, SU, 14.35; KORY LESEBERG, SE, 540.00; KRIZ-DAVIS, SU, 1137.42; LAUREL SUMMER RECREATION, FE, 325.00; LEAGUE OF NEBRASKA, FE, 380.00; MERCY MEDICAL CLINIC, SE, 26.00; MICHAEL NAEVE, RE, 500.00; MID-CONTINENT SALES, SU, 811.22; MID-STATE ENGINEERING, SE, 370.00; MIDWEST TAPE, SU, 84.98; NE CHAPTER OF IAEI, FE, 145.00; NE DEPT OF REVENUE, TX, 2715.14; NE EXPRESSWAYS, SE, 581.04; NE POWER REVIEW BOARD, SE, 479.18; NE PUBLIC HEALTH, SE, 900.00; NE SECTION AWWA, FE, 45.00; NE STATE HISTORICAL, SU, 55.00; NPPD, SE, 276575.95; NPPD, SE, 507.20; NORTHEAST EQUIPMENT, SE, 63.21; N.E. NE AMERICAN RED CROSS, RE, 29.62; NNPPD, SE, 1862.71; OLSSON ASSOCIATES, SE, 13762.43; ORIENTAL TRADING CO, SU, 81.95; OTTE CONSTRUCTION, RE, 1300.00; PIEPER, MILLER & DAHL, SE, 1441.00; PITNEY BOWES, SE, 637.00; POLLARD PLUMBING, SU, 150.00; POSTMASTER, SU, 659.71; PRESTO X, SE, 31.95; PUSH-PEDAL-PULL, SE, 104.77; QUALITY 1 GRAPHICS, SU, 120.00; QUALITY INN & SUITES, SE, 160.02; QUILL, SU, 370.74; QWEST, SE, 427.25; QWEST, SE, 178.89; RAD, INC., SU, 151.58; REPCO MARKETING, SU, 35.00; ROBERT WOehler & SONS, SE, 3759.45; ROBERTSON IMPLEMENT, SU, 70.65; RON'S RADIO, SU, 1172.90; SIEMENS WATER TECHNOLOGIES, SU, 2836.00; SIOUX CITY JOURNAL, SU, 312.00; SIOUX CITY WINTRONIC CO, SU, 57.89; SKARSHAUG TESTING LAB, SE, 91.33; STADIUM SPORTING GOODS, SU, 534.00; STATE NATIONAL BANK, RE, 1171.51; STATE NATIONAL BANK, RE, 653.54; STEVE HARRIS CONSTRUCTION, SE, 40864.50; THE FINAL TOUCH, SU, 5549.06; TRIVIEW COMMUNICATION, SE, 50.00; ULTRAMAX AMMUNITION, SU, 540.00; UNITED WAY, RE, 13.49; US BANK, SE, 4351.12; VIAERO, SE, 72.21; VOSS LIGHTING, SU, 226.00; WATSON LABEL PRODUCTS, SU, 218.95; WAYNE COUNTY VETS

MEMORIAL, RE, 650.00; WAYNE KIWANIS, FE, 260.00; WESCO, SU, 378.84; WILLIAM KUGLER, RE, 500.00; WINGATE INN, SE, 280.00; BAKER & TAYLOR, SU, 748.36; BOMGAARS, SU, 2037.10; CARHART LUMBER, SU, 923.15; CHAMPLIN TIRE RECYCLING, SE, 137.83; CHARTWELLS, RE, 5757.85; CITIZENS NATIONAL BANK, RE, 3262.86; CITY OF WAYNE, RE, 178.21; CIVICPLUS, SE, 10785.00; COPY WRITE, SE, 274.64; DIAMOND VOGEL PAINTS, SU, 204.15; DUTTON-LAINSON, SU, 251.31; FOX INTERNATIONAL, SU, 161.60; GILL HAULING, SE, 2344.90; GREAT PLAINS ONE-CALL, SE, 99.81; HEIKES AUTOMOTIVE, SE, 47.93; INGRAM BOOK COMPANY, SU, 415.46; JASON CAROLLO, SE, 210.00; JOHN'S WELDING AND TOOL, SU, 301.76; KAPP'S FIRE EXTINGUISHER, SE, 775.00; KENT'S PHOTO LAB, SU, 28.35; KIRKHAM MICHAEL, SE, 6580.00; KTCH, SE, 525.00; LAW ENFORCEMENT SERVICES, SU, 405.00; LP GILL, SE, 6116.74; MIDWEST TAPE, SU, 86.97; MILO MEYER CONSTRUCTION, SE, 2950.75; NE LIBRARY COMMISSION, SE, 56.98; NFPA, SU, 215.70; NORTH AMERICAN RESCUE, SU, 398.56; NORTHEAST EQUIPMENT, SU, 25.96; PAC N SAVE, SU, 16.74; PAMIDA, SU, 194.46; PEPSI-COLA, SU, 506.18; ROBERTSON IMPLEMENT, SU, 508.42; RON'S RADIO, SU, 114.00; S & S WILLERS, SU, 1072.59; STADIUM SPORTING GOODS, SU, 125.00; US BANK, SE, 1423.03; WAYNE AUTO PARTS, SU, 1046.87; WAYNE COUNTY CLERK, FE, 127.50; WAYNE HERALD, SE, 2147.02; WAYNE MANUFACTURING, SU, 7451.88; WAYNE STATE COLLEGE, SU, 99.90; WAYNE VETERINARY CLINIC, SE, 202.00; WESCO, SU, 117.32; ZACH OIL, SU, 3663.32;

CLAIMS FISCAL YEAR 2009-2010; CENAGE LEARNING GALE, SU, 2399.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 1000.00; CITY OF WAYNE, RE, 1832.08; CITY OF WAYNE, RE, 230.06; CITY OF WAYNE, RE, 51.00; ENGINEERED CONTROLS, SE, 450.00; FORT DEARBORN LIFE, SE, 1557.99; GILL HAULING, SE, 133.00; INTERSTATE ALL BATTERY, SU, 125.93; MARINA INN, SE, 176.96; MICROFILM IMAGING, SU, 46.85; NE DEPT OF ENVIRONMENTAL, FE, 30.00; NE NEB INSURANCE AGENCY, SE, 62222.00; PRESTO-X, SE, 43.00; QWEST, SE, 43.40; STADIUM SPORTS, SU, 759.00; STANLEY STEAMER, SE, 1340.97; STATE NATIONAL BANK, RE, 1173.78; WATERLINK, SE, 1053.42; WAYNE COUNTY COURT, RE, 150.00; WEB SOLUTIONS, SE, 275.00; WESCO, SU, 207.68;

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.

Chad Altwine, Director of Facility Services at Wayne State College, gave a report to the Council on the energy and efficiency savings programs that have been undertaken at Wayne State College. They have partnered with employees with the City and with NPPD to obtain funding for lights at little or no cost to the College. Through this effort, they have converted a lot of their lighting fixtures to energy efficient lighting fixtures, which has generated a savings of approximately \$40,000. In addition, they have reduced their cooling load at the college during the peak demand which has generated a savings of about \$15,000. Another conservation effort going on right now is their chillers. They have been turning those back during peak demand times during the summer so they don't pay the peak charges, which in turn helps both the City and NPPD. That has saved the College about \$24,000.

Councilmember Berry arrived at 5:34 p.m.

Mayor Shelton stated the time was at hand for the public hearing regarding the application for a Retail Class D Liquor License for BaHa, Inc., d/b/a "The Rain Tree." The new owners are Troy and Michelle Harder and Joseph and Kari Baldwin.

Michelle Harder and Kari Baldwin, new co-owners of The Rain Tree, were present to answer questions.

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

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

Councilmember Sturm introduced Resolution No. 2009-90 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-90

A RESOLUTION APPROVING APPLICATION FOR RETAIL CLASS D LIQUOR LICENSE — BAHA, INC., D/B/A “THE RAIN TREE.”

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 review the Wayne Revolving Loan Fund (WRLF) application of Interactive Impact, Inc., (Stephanie Liska and Tim Fertig) for \$100,000 for the start-up of an interactive web service that will be utilized by high school athletic and extracurricular programs throughout the country.

Nancy Braden, Finance Director, explained and reviewed the Wayne Revolving Loan Fund Application process, the loans outstanding, etc. The revolving loan fund provides gap financing.

Mayor Shelton stated that both Stephanie Liska and Tim Fertig had conflicts this evening and that the public hearing should be continued until the next meeting when they can both be in attendance.

Mayor Shelton declared the time was at hand for the public hearing on the Engineering Report for the Construction of a New Multi-stage Activated Biologic Process Wastewater Plant as required for State Revolving Loan Funding from the Nebraska Department of Environmental Quality and other funding agencies.

Roger Protzman of JEO Consulting Group, the City's engineer on the project, advised the Council that the purpose of the public hearing is to allow the public to have a voice in the environmental impact of the proposed improvements to the wastewater treatment plant facility. In summary, he advised the public that the City is pursuing a grant application to the EPA, as well as possibly a loan through the State. Both of these financial funding sources would be considered federal funds, and therefore, we have to go through the environmental assessment process. In doing so, JEO has solicited comments from the various Federal Agencies regarding their possible concerns and impact of this proposed project. The Department of Interior looked at both the proposed water well project and the wastewater project JEO is working on. Their comment essentially was to prove to them that these projects will not be a net depletion to the Platte River because of the endangered species. JEO went through a depletion analysis and was able to show that there was not a net depletion effect on the Platte River, and the Department of Interior issued a statement releasing their consultation on the project. The Army Corps of Engineers also had a comment about whether there would be any impact on wetlands or discharge into any waters of the United States. JEO went into a little further explanation, and subsequently, the Army Corps of Engineers issued a letter back to JEO and the City of Wayne saying they understood the project in a little greater detail now and that lagoons are not classified as water bodies of the United States, and therefore, are not impacting things that they have regulatory control over. The Nebraska Game and Parks had a similar comment that mirrored the comments from the Department of Interior and by resolving the comments made by the Department of Interior, the

Nebraska Game and Parks was satisfied. None of the other agencies expressed any concern and required JEO to take any further action beyond what they have already done.

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

Mayor Shelton stated that Della Pries, Executive Director of Wayne Community Housing Development Corporation, could not be present this evening and asked that her report or agenda item also be continued until the next meeting.

Administrator Johnson stated the following four Resolutions will designate Joel Hansen, Building Inspector/City Planner/Certified Street Supt. as the Responsible Charge employee to oversee the handling and appropriate use of the federal funds for the projects named in each of the resolutions. The City must designate a city employee to be the “RC” for each project to meet the federal requirement and to be eligible to receive Highway Funds for street projects.

Councilmember Sturm introduced Resolution 2009-92, and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2009-92

A RESOLUTION DESIGNATING RC FOR THE EAST 10TH STREET,
MAIN STREET TO WINDOM STREET PROJECT.

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

Councilmember Chamberlain introduced Resolution 2009-93, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-93

A RESOLUTION DESIGNATING RC FOR THE WINDOM STREET
FROM EAST THIRD STREET TO EAST SEVENTH STREET
PROJECT.

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

Councilmember Sturm introduced Resolution 2009-94, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-94

A RESOLUTION DESIGNATING RC FOR THE PHASE II TRAIL PROJECT.

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

Councilmember Chamberlain introduced Resolution 2009-95, and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2009-95

A RESOLUTION DESIGNATING RC FOR THE TRAIL UNDERPASS PROJECT.

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, stated that six bids were received on the “2009 Water Distribution Improvement Project.” They have reviewed the bids and recommend the same be awarded to the low bidder - Rutjens Construction, Tilden, Nebraska, in the amount of \$133,609.04, which is below the engineer’s estimate of \$145,000. This project is being funded by the stimulus funds the City will be receiving. Mr. Protzman recommended that the motion to approve the same be contingent upon Rutjens Construction providing documentation of their effort to comply with DBE requirements and contingent upon the State’s final approval of all of the

contract documents.

Councilmember Chamberlain introduced Resolution 2009-96, and moved for its approval, with the same be contingent upon Rutjens Construction providing documentation of their effort to comply with DBE requirements and contingent upon the State's final approval of all of the contract documents; Councilmember Frevert seconded.

RESOLUTION NO. 2009-96

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE
"2009 WATER DISTRIBUTION IMPROVEMENT PROJECT."

Mr. Protzman advised the Council that with the stimulus funds, this would be a 25% grant and 75% loan repayable over a 20-year time period.

Councilmember Sturm had concerns regarding funding and what the budget impact would be per year for 20 years.

Nancy Braden, Finance Director, stated that the Water Department, at this time, is debt-free. Where we are at right now, we can pay off the bonds on this. We have not reduced our rates. We have raised rates to cover our costs, and now there is money that is being put aside for future projects.

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 amend the Auditorium Rental Policy by adding the following language:

"Auditorium Clean-up: The renter is allowed to clean the auditorium (facility) the day after the event if another party has not rented the facility that day. It will be the responsibility of the Renter to contact the Police Department to verify that the facility has not been rented the day after their event to determine clean-up time. If the facility has been rented the following day, then the renter will be required to clean the facility after their event."

Councilmember Sturm introduced Resolution 2009-97, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-97

A RESOLUTION AMENDING AUDITORIUM RENTAL POLICY.

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

Administrator Johnson requested Council consideration to authorize him to bid on the property at 418 West First Street at the Sheriff's auction on October 20th to protect the City's lien interest therein.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm authorizing staff to bid on 418 West First Street at the Sheriff's Auction on October 20th to protect the City's lien interest as needed. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm made a motion and seconded by Councilmember Alexander 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, Jim Van Delden, Jon Haase, Dale Alexander, Lois Shelton, Doug Sturm and Kathy Berry; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member 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 September 15, 2009, meeting.

Member Alexander made a motion and seconded by Member Frevert approving the minutes of the September 15, 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 Change Order No. 5 – Western Ridge II Addition which is an increase of \$8,800.

Administrator Johnson noted that this is for sections of pipe that were added to connect the booster pump station through Western Ridge.

Member Shelton made a motion and seconded by Member Sturm approving Change Order No. 5 – Western Ridge II Addition in the amount of \$8,800. 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 Contractor's Progress Estimate No. 7 (Final) for Western Ridge II Addition in the amount of \$32,253.92.

Member Shelton made a motion and seconded by Member Sturm approving Contractor's Progress Estimate No. 7 (Final) for Western Ridge II Addition in the amount of \$32,253.92. 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 the Certificate of Substantial Completion on the Western Ridge Infrastructure Project.

Administrator Johnson advised the Council that the Engineer has presented the Certificate of Substantial Completion for the Western Ridge Infrastructure Project and recommends approval of the same.

Member Shelton made a motion and seconded by Member Sturm approving the Certificate of Substantial Completion on the Western Ridge Infrastructure Project. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Sturm made a motion and seconded by Member Alexander 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.

Nancy Braden, Finance Director, stated that at a recent conference she attended, she became aware that there is about \$2 million dollars that could potentially be allocated to Wayne. However, the County has to send a letter of intent by October 15th to look into these projects and see if we want to issue the bonds. The County, at their board meeting today, passed a motion to apply for these funds. They do not have any projects within the County ready at this time. Ms. Braden stated the Recovery Zone Economic Development Bonds could be used for the hotel. Staff has conferred with Phil Lorenzen and he recommended preserving the right to look at this and see if the hotel is a potential project that could work. If these funds are turned back or are not committed, they will go back to

the state into a big pool. After January 1, 2010, the State will open them back up to applications for all communities.

Councilmember Chamberlain introduced Resolution 2009-98, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-98

A RESOLUTION OF INTENT OF THE CITY OF WAYNE, NEBRASKA, TO ISSUE RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS UNDER AUTHORITY OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, BY THE CITY OF WAYNE, NEBRASKA.

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

Mayor Shelton stated the following Resolution pertains to funds for the new wastewater treatment plant.

Councilmember Chamberlain introduced Resolution 2009-99, and moved for its approval; Councilmember Frevert seconded.

RESOLUTION NO. 2009-99

A RESOLUTION OF INTENT OF THE CITY OF WAYNE, NEBRASKA, TO ISSUE RECOVERY ZONE FACILITY BONDS UNDER AUTHORITY OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, BY THE CITY OF WAYNE, NEBRASKA.

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

Councilmember Sturm made a motion and seconded by Councilmember 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 6:15 p.m.