

(Amended: June 18, 2012)

**AGENDA  
CITY COUNCIL MEETING  
June 19, 2012**

**5:30 Call to Order**

**1. Approval of Minutes – June 5, 2012**

**2. Approval of Claims**

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

Anyone desiring to speak on an agenda item is invited to do so, and should limit themselves to three minutes. After being recognized by the Chair, proceed to the rostrum and state your name and address for the record.

The City 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.

**3. Action on Application for Special Designated Liquor Permit of The White Dog Pub – July 13<sup>th</sup> – Beer Garden on Highway 15 between the 100 and 200 Blocks of Main Street for the Wayne Chicken Show (Henoween)**

**4. Action on Application for Special Designated Liquor Permit of The White Dog Pub – July 14<sup>th</sup> – Beer Garden in Parking Lot of “The Final Touch” for the Wayne Chicken Show**

**5. Action on Application for Special Designated Liquor Permit of The Max Again – July 13<sup>th</sup> - Beer Garden on Highway15 between the 100 and 200 Blocks of Main Street for the Wayne Chicken Show (Henoween)**

**6. Action on Request of Leadership Wayne Class to Use City Owned Land for a Dog Park — Jessi Hansen, Representative**

**Background:** This project was brought forth from the Leadership Wayne Group. The location is the area in the trees southwest of the softball fields and would be fenced.

**7. Update on Shelter/Pavilion Project at the Softball Complex and Action Approving the Expansion of the Shelter/Pavilion**

**Background:** This project has already been presented to the Council and approved, but has increased in size. I requested they brief you on the changes before starting construction and make sure you are still okay with the project.

8. [Ordinance 2012-12: Extending the Hours of Sale of Alcoholic Liquor on Friday, July 13, 2012, and Saturday, July 14, 2012, for the Wayne Chicken Days Celebration \(Third and Final Reading\)](#)
9. [Ordinance 2012-15: Annexing Property — NorthStar Services – 1202 East 14<sup>th</sup> Street \(Second Reading\)](#)
10. [Ordinance 2012-16: Amending Section 90-10 Definitions, by adding Dwelling Boarding and Amending the definition of Family \(Second Reading\)](#)

**Background:** This and the following proposed zoning code amendments were forwarded to the Mayor and Council by the Planning Commission after a series of public hearings and was on the June 5<sup>th</sup> Council agenda. Current city code simply limits the number of unrelated occupants in a residence to four by the definition of “family” therein. Consideration of this amendment began when the Planning Commission received a request from the property owner at 803 Nebraska Street to add a new definition called “Boarding Dwelling” that will allow up to 6 unrelated occupants in a residence as a “Conditional Use” if:

- 1) The lot has at least 1,500 sq. ft. in the R-1 zone, 1,200 sq. ft. in the R-2 and R-3 zones, or 1,000 sq. ft. in the R-4 zone for each occupant; and
- 2) There is enough room on the yard and city terrace for one parking space per occupant.

By current city code, the parking area on a residential corner lot is allowed up to 50% of the combined front yard and city terrace on the addressed front of the house, plus all of the side front yard and side terrace of the corner lot, plus any back yard area and the interior side yard that has alley access. All parking spaces on any city terrace must be paved. All parking in the front yard must be gravel or paved and not grass or dirt. All parking on the side front yard must be gravel or paved and not grass or dirt. This amendment doesn’t change these. The parking area on an interior (non-corner) residential lot is allowed to cover up to 50% of the combined front yard and terrace and must be paved on the terrace and gravel or paving in the front yard, but not grass or dirt. Cars can park anywhere on the side yards or back yard of the house with no requirements for gravel or paving. This amendment doesn’t change these.

“Conditional Use” means that if the property meets the above conditions, then the building inspector can approve an application for “Boarding Dwelling” occupancy without requiring approval of the Planning Commission or the City Council. You may remember that in February, this same proposal was forwarded to you by the Planning Commission as a “Use by Exception”, which would require a public hearing and approval by the Planning Commission and by the City Council for each individual “Boarding Dwelling” application. The Council took no action at that time and sent it back to the Planning Commission for further review. This proposal, as forwarded from the Planning Commission, adds “Boarding Dwelling” to all residential zones (R-1, R-2, R-3 and R-4).

11. [Ordinance 2012-17: Amending Section 90-204 Permitted Conditional Uses in the R-1 Residential District by adding \(3\) Boarding Dwelling](#)

12. Ordinance 2012-18: Amending Section 90-234 Permitted Conditional Uses in the R-2 Residential District by adding (3) Boarding Dwelling
13. Ordinance 2012-19: Amending Section 90-264 Permitted Conditional Uses in the R-3 Residential District by adding (3) Boarding Dwelling
14. Ordinance 2012-20: Amending Section 90-294 Permitted Conditional Uses in the R-4 Residential District by adding (3) Boarding Dwelling (Second Reading)
15. Ordinance 2012-21: Amending Section 90-710 Parking Regulations by Adding Residential Structures (Boarding Dwelling) (Second Reading)
16. Public hearing: To Consider the Planning Commission's Recommendation in Regard to Amending Section 90-10 Definitions, by adding Private Recreation (Controlled Impact). The applicant, Kelby Herman, wishes to make this amendment.

**Background:** Current city code restricts the size of accessory structures in residential zones to 3,000 sq. ft. or 4,000 sq. ft., if approved, as a "Use by Exception" after public hearings by both the Planning Commission and City Council with notice to the neighboring properties. This proposal would add a definition for the use "Private Recreation" and allow the structure size to be up to 5,000 sq. ft., if approved, as a "Use by Exception" in all residential zones.

**Recommendation:** The recommendation of the Planning Commission is to approve the amendments as forwarded.

17. Ordinance 2012-22: Amending Section 90-10 Definitions, by adding Private Recreation (Controlled Impact)
18. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to Amending Section 90-205 Exceptions of the R-1 Residential Zoning District of the Wayne Municipal Code by adding sub-paragraph (13) Private Recreation (Controlled Impact). The applicant, Kelby Herman, wishes to make this amendment.
19. Ordinance 2012-23: Amending Section 90-205 Exceptions of the R-1 Residential Zoning District by adding Sub-Paragraph (13) Private Recreation (Controlled Impact).
20. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to Amending Section 90-235 Exceptions of the R-2 Residential Zoning District of the Wayne Municipal Code by adding sub-paragraph (9) Private Recreation (Controlled Impact). The applicant, Kelby Herman, wishes to make this amendment.

21. [Ordinance 2012-24: Amending Section 90-235 Exceptions of the R-2 Residential Zoning District by Adding Sub-Paragraph \(9\) Private Recreation \(Controlled Impact\)](#)
22. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to Amending Section 90-265 Exceptions of the R-3 Residential Zoning District of the Wayne Municipal Code by adding sub-paragraph (11) Private Recreation (Controlled Impact). The applicant, Kelby Herman, wishes to make this amendment.
23. [Ordinance 2012-25: Amending Section 90-265 Exceptions of the R-3 Residential Zoning District by Adding Sub-Paragraph \(11\) Private Recreation \(Controlled Impact\)](#)
24. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to Amending Section 90-835 Exception Use Standards of the Wayne Municipal Code by adding sub-paragraph (5) For Private Recreation (Controlled Impact). The applicant, Kelby Herman, wishes to make this amendment.
25. [Ordinance 2012-26: Amending Section 90-835 Exception Use Standards by Adding Sub-Paragraph \(5\) For Private Recreation \(Controlled Impact\)](#)
26. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to a Use by Exception Request under Section 90-265 Exceptions (11) Private Recreation (Controlled Impact) of the Wayne Municipal Code. The applicant, Kelby Herman, wishes to construct a private recreation structure. The address of the request is 1102 West 7<sup>th</sup> Street.
27. [Resolution 2012-47: Approving Use by Exception Permit Application of Kelby Herman to Construct a Private Recreation Structure at 1102 West 7<sup>th</sup> Street](#)

**Background:** The above changes to the code are requested by Herman for all residential zones. This request is specific to a building project proposed on the Herman property.

28. Action Requesting a 60-Day Extension from the Department of Economic Development for CDBG Re-Use Funds Administration Determination

**Background:** Wayne is a major user of Economic Development Block Grant Funds from the Nebraska Department of Economic Development. These Block Grant funds are allocated to each State by Congress through HUD. Since the early 1980's, ED Block Grants have been grants to communities who loan the funds to businesses for start-up and expansion. As the loans are repaid, the city keeps the funds as "program income" in a revolving loan fund and re-loans the funds to new businesses. Wayne currently has \$595,000 in outstanding loans and \$338,000 in cash. Since Wayne began using ED Block Grants, we have made \$2.3 million in loans to 55 local businesses.

**That era is coming to a fast end. HUD has begun auditing Nebraska Department of Economic Development's oversight of how local communities are handling the Block Grant re-use program income funds. Nebraska cities have 30 remaining days to either:**

- 1) Return all un-loaned revolving loan fund cash and all future loan re-payments directly back to the State; or**
- 2) Undergo a DED audit of loans made with re-use funds back to 2002 and face a 2-year penalty of ineligibility for new grants if any violations are found. This action with DED is a little surprise to Nebraska towns, especially the shortness of the response time allowed for us to react. The risk for cities is that violations are open to interpretation and simple omissions.**

**This action is similar to that of other federal agencies like the EPA and the Federal Highway Administration that are taking over some of the role of State agencies and the cash they have been managing.**

**Recommendation: Our recommendation is to request additional time to evaluate the last ten years of our records.**

- 29. [Resolution 2012-48: Approving Service/Consultant Agreement with Northeast Nebraska Economic Development District for the Monitoring and Reviewing of Program Income Loan Files for Compliance of all Federal Rules and Regulations](#)**

**Recommendation: Nancy and I will recommend that Council retain Northeast Development Economic Development District as a grant consultant to evaluate Wayne's options. We will have a recommendation for the Mayor and Council, hopefully at the July 5<sup>th</sup> Council meeting.**

- 30. [Resolution 2012-49: Authorizing the Sale of Lot 12, Benscoter Addition to the City of Wayne, Wayne County, Nebraska, to Benscoter, Inc., for the sum of \\$10,000](#)**

**Background: When Benscoter's subdivision was subdivided, three of the lots were on land owned by the City. The subdivision agreement gives the developer the first right of refusal to purchase those three lots at \$10,000 each from the City. This purchase agreement, if approved, would sell the first of those three lots to the developer.**

- 31. [Ordinance 2012-27: Directing the Sale of Lot 12, Benscoter Addition to the City of Wayne, Wayne County, Nebraska, to Benscoter, Inc., for the sum of \\$10,000](#)**

- 32. [Appointments](#)**

**[Reappointment of Dennis Lipp to the Library Board](#)  
**[Appointment of Sharon Braun to the Planning Commission](#)****

- 33. [Adjourn](#)**

APPROVED AS TO FORM AND CONTENT:

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Mayor

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City Administrator

June 5, 2012

The Wayne City Council met in regular session at City Hall on Tuesday, June 5, 2012, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Doug Sturm, Kaki Ley, Kathy Berry, and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Dale Alexander.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on May 24, 2012, 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, which was seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of May 15, 2012, 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 Chamberlain 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:** AMAZON.COM, SU, 193.15; AMERICAN BROADBAND, SE, 5075.10; AMERITAS, SE, 2973.23; APPEARA, SE, 79.18; ARNIE'S FORD-MERCURY, SE, 1126.19; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 240.00; CITY EMPLOYEE, RE, 40.24; BLACK HILLS ENERGY, SE, 641.39; BOMGAARS, SU, 125.95; CITY EMPLOYEE, SU, 31.94; CITY EMPLOYEE, RE, 136.41; BRIAN BOWERS, RE, 35000.00; BSN SPORTS, SU, 90.80; CENTURYLINK, SE, 308.89; CITY OF NORFOLK, SE, 780.48; CITY OF WAYNE, RE, 200.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, PY, 124165.22; CITY OF WAYNE, RE, 25.00; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 2164.05; CLAUSSEN, HEATHER, SE, 200.00; COMMUNITY

HEALTH, RE, 6.00; CREDIT BUREAU SERVICES, RE, 762.68; CURTIS REESE, SE, 115.00; DAKOTA BUSINESS SYSTEMS, SE, 103.50; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEMCO, SU, 93.11; DUTTON-LAINSON, SU, 696.15; ECHO GROUP, SU, 608.48; EGAN SUPPLY, SU, 98.82; ELECTRIC FIXTURE, SU, 84.60; ELKHORN PAVING, SE, 142480.53; ELLIS PLUMBING, SE, 2713.79; FIRST CONCORD GROUP, SE, 3261.03; FLOOR MAINTENANCE, SU, 56.18; FORT DEARBORN LIFE, SE, 134.16; FOURTH GENERATION FAMILY, RE, 175000.00; GERHOLD CONCRETE, SU, 1808.77; GLEN'S AUTO BODY, SE, 32.44; CITY EMPLOYEE, RE, 52.18; HAWKINS, SU, 575.84; HD SUPPLY WATERWORKS, SU, 1502.52; CITY EMPLOYEE, RE, 284.06; HELENA CHEMICAL, SU, 256.00; HOUCHEN BINDERY, SU, 98.55; ICMA, SE, 10585.42; IRS, TX, 40555.61; JEO CONSULTING GROUP, SE, 10763.22; KEN PROKOP, RE, 466.57; KLEIN ELECTRIC, SE, 15820.61; KRIZ-DAVIS, SU, 2248.70; L.G. EVERIST, SU, 3497.64; LIBRARY LANDSCAPING, SE, 200.00; MCGUIRE & NORBY, SE, 2887.37; MERCY MEDICAL CLINICS, SE, 29.00; MICROFILM IMAGING SYSTEMS, SE, 497.04; MIDWEST OFFICE AUTOMATION, SU, 184.15; MSC INDUSTRIAL, SU, 97.49; N.E. NEB ECONOMIC DEV DIS, FE, 7018.40; CITY EMPLOYEE, RE, 620.72; NE DEPT OF ENVIRONMENTAL, SE, 188501.04; NE DEPT OF LABOR, SE, 92.00; NE DEPT OF REVENUE, TX, 6172.47; NE SAFETY COUNCIL, SE, 183.55; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 6391.56; NWEA, FE, 60.00; OLSSON ASSOCIATES, SE, 11144.85; OTTE CONSTRUCTION COMPANY, SE, 50.00; CITY EMPLOYEE, RE, 85.82; CITY EMPLOYEE, RE, 8.50; CITY EMPLOYEE, RE, 174.70; QUILL, SU, 164.89; ROBERTSON IMPLEMENT, SU, 90.02; SCHULZ, VERN H, RE, 20.00; SGP SERVICES, SE, 79.88; STADIUM SPORTING GOODS, SE, 574.50; STATE NATIONAL BANK, RE, 207.52; SUN RIDGE SYSTEMS, SE, 2600.00; THE PENWORTHY COMPANY, SU, 367.30; THE RADAR SHOP, SE, 348.00; TURFWERKS, SU, 87.14; TYLER TECHNOLOGIES, SE, 1959.14; UNITED WAY, RE, 10.00; US BANK, SU, 1588.10; VAKOC BUILDER'S RESOURCE, SU, 1365.62; VAN DIEST SUPPLY, SU, 2162.13; VERIZON, SE, 222.75; VIAERO, SE, 169.65; WAED, RE, 1000.00; WAYNE COMMUNITY SCHOOLS, RE, 5845.75; WESCO, SU, 4278.11; WIGMAN COMPANY, SU, 4327.73; YOUNG, BILL, SE, 205.00; ZEE MEDICAL SERVICE, SU, 71.78; ADVANCED CONSULTING, SE, 400.00; APPEARA, SE, 102.35; ARC-HEALTH & SAFETY, S,E 140.00; B & D DIAMOND PRO, SU, 2440.00; CITY OF WAYNE, RE, 90.06; BROWN SUPPLY, SU, 2810.83; CITY OF NORFOLK, SE, 183.54; CITY OF WAYNE, SU, 59.42; CITY OF WAYNE, RE, 118.89; CITY OF WAYNE, RE, 25.00; CITY OF WAYNE, RE, 933.12; CITY VFD, RE, 2308.98; COMBINED POOL AND SPA, SU, 879.80; COPY WRITE PUBLISHING, SE, 170.20; DCL AMERICA, SU, 33324.00; DINKLAGE MEDICAL, SE, 276.00; DUTTON-LAINSON, SU, 319.50; EAKES OFFICE PLUS, SE, 26.56; EASYPERMIT POSTAGE, SU, 1696.44; FREDRICKSON OIL, SU, 12.00; GERHOLD CONCRETE, SU, 99.35; GILL HAULING, SE, 155.00; GLEN'S AUTO BODY, SE, 412.00; GROSSENBURG IMPLEMENT, SE, 1050.90; HAMPTON INN KEARNEY, SE, 159.90; HEIKES AUTOMOTIVE, SE, 509.58; HOWARD JOHNSON RIVERSIDE, SE, 1548.00; JACK'S UNIFORMS, SU, 243.55; JASON CAROLLO, SE, 175.00; JEO CONSULTING GROUP, SE, 739.55; JOHN'S WELDING AND TOOL, SE, 16.80;

CITY EMPLOYEE, RE, 68.97; MATT NELSON, RE, 238.03; MIDSTATES ERECTORS, SE, 21000.00; CITY EMPLOYEE, RE, 57.44; NE CRIME COMMISSION, SU, 15.00; NE NEB INS AGENCY, SE, 1551.00; NET-TECH, SU, 640.87; NORTHWEST ELECTRIC, SU, 1468.86; PAMIDA, SU, 219.54; PIEPER & MILLER, SE, 3019.00; RANSOM, ROMAN, SE, 2000.00; SD MEYERS, SE, 2788.00; SOLBERG MANUFACTURING, SE, 7800.00; STANLEY SECURITY SOLUTION, SU, 19.06; WAED, RE, 7537.99; WAYNE COUNTY CLERK, SE, 186.00; WAYNE GREENHOUSE, SU, 849.87; WAYNE HERALD, SE, 1906.43; WAYNE STATE COLLEGE, SE, 441.67; WAYNE VETERINARY CLINIC, SE, 35.00; ZACH HEATING & COOLING, SE, 773.80; ZACH OIL, SU, 5142.33

Councilmember Sturm made a motion and Councilmember Van Delden seconded to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor 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. 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.

Marlen Chinn, Interim Police Chief, introduced new police officers Josh Jacobi, Cory Moeller, and Dylan Jensen.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, to enter into executive session to discuss potential litigation concerning an LB840 loan, and to allow Kate Jorgensen, Attorney, Attorney Miller, Administrator Johnson and City Clerk McGuire to be in attendance. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 5:35 p.m.

Mayor Chamberlain again stated that the matter to be discussed in execution session relates to potential litigation concerning an LB840 Loan.

Councilmember Van Delden made a motion, which was seconded by Councilmember Sturm, to resume open session. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 5:50 p.m.

Mayor Chamberlain declared the time was at hand for the public hearing on the Annexation Plan for the NorthStar Services property located on East 14<sup>th</sup> Street, legally described as:

A tract of land located in the Southeast Quarter of the Northeast Quarter (SE1/4NE1/4) of Section Seven (7), Township Twenty-Six North (26N), Range Four (4), East of the 6<sup>th</sup> P.M., Wayne County, Nebraska.

NorthStar Services has requested that the property upon which their main office is located be annexed. The property is served by all city services. Annexation will avoid double water and sewer rates.

City Clerk McGuire had not received any comments, either written or verbal, for or against the public hearing.

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

Councilmember Ley introduced Ordinance No. 2012-15, and moved for its approval; Councilmember Van Delden seconded the motion.

#### ORDINANCE NO. 2012-15

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Chamberlain stated the time was at hand for the public hearing regarding the application for a Retail Class I Liquor License for Wayne Hospitality Group, LLC, d/b/a "Cobblestone Hotel I-98321."

Kent Franzen, managing member of the Wayne Hospitality Group, was present to answer questions.

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

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

Councilmember Van Delden introduced Resolution No. 2012-42 and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2012-42

A RESOLUTION APPROVING APPLICATION FOR RETAIL CLASS I LIQUOR LICENSE — WAYNE HOSPITALITY GROUP, LLC, D/B/A "COBBLESTONE HOTEL I-98321."

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

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-10 Definitions, by adding "Dwelling Boarding" and amending the definition of "Family."

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on May 7, 2012, and forwarded a recommendation to approve the same subject to the following “Findings of Fact”:

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

This zoning amendment comes as a result of a request from a property owner that owns a six bedroom house on a large corner lot. She would like to be able to occupy all six of those bedrooms. The proposed new definition of “family” was proposed by RDG who revised the Comp Plan and is now in the process of revising the zoning code to match that Comp Plan. This new definition – “Dwelling Boarding” would create a new class of dwelling:

*Dwelling, boarding* means a *dwelling* occupied by no more than six individuals who do not meet the definition of family.

*Family* means one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, and meeting one of the following criteria:

- (a) Persons related by blood, marriage, or adoption.
- (b) No more than 4 unrelated individuals.
- (c) Persons residing with a family for the purpose of adoption.
- (d) Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
- (e) Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
- (f) Person(s) living with a family at the direction of a court.

Mr. Hansen’s recommendation, however, was to replace the word “dwelling” in the definition of Boarding Dwelling with “building” in order to remain consistent with the current definitions of other types of dwellings already listed in the code.

One of the conditions, whether it be a conditional use permit or use by exception permit is that parking will need to be addressed.

Councilmember Sturm opined he would like to have the property owner provide interior parking, rather than terrace parking.

Mr. Hansen responded this would be a problem for corner lots. Most of the rental units, as they have become rental units, have added terrace parking rather than interior parking. Mr. Hansen noted he was only aware of one terrace parking complaint.

Mr. Hansen then explained the difference between a conditional use and a use by exception.

Councilmember Sturm preferred the property owners having to obtain a use by exception permit, which requires public hearings by both the Planning Commission and the City Council, rather than a conditional use permit, which is approved by staff.

Mr. Hansen advised the Council that they cannot deny a use by exception permit; they can only put additional conditions on it.

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

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

Councilmember Ley introduced Ordinance 2012-16, and moved for approval thereof; Councilmember Van Delden seconded.

#### ORDINANCE NO. 2012-16

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE I, IN GENERAL, BY AMENDING SECTION 90-10 DEFINITIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who voted Nay, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-204 Permitted Conditional Uses in the R-1 Residential District by adding (3) Boarding Dwelling.

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on May 7, 2012, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

3. Staff recommendation; and
4. Consistency with the Comprehensive Plan and the current and future land use maps.

Mr. Hansen advised the Council that should they wish to have this as a "use by exception" rather than a "conditional use", the Council would need to not pass all of these amendments, and send the matter back to the Planning Commission to amend the sections of the code that pertain to use by exceptions.

Discussion took place on whether or not these changes should be for all residential zoning districts, and that more time might be needed by the Council to review the zoning map to make that determination.

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

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

Councilmember Brodersen made a motion to table action on Ordinance 2012-17, and Councilmember Haase seconded.

ORDINANCE NO. 2012-17

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-204 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and the ordinance was tabled until the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-234 Permitted Conditional Uses in the R-2 Residential District by adding (3) Boarding Dwelling.

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on May 7, 2012, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

5. Staff recommendation; and
6. Consistency with the Comprehensive Plan and the current and future land use maps.

Mr. Hansen stated this change is the same, with the exception that it pertains to the R-2 Zoning District.

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

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

Councilmember Frevert made a motion to table action on Ordinance 2012-18, and Councilmember Sturm seconded.

ORDINANCE NO. 2012-18

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-234 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and the ordinance was tabled until the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-264 Permitted Conditional Uses in the R-3 Residential District by adding (3) Boarding Dwelling.

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on May 7, 2012, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

7. Staff recommendation; and
8. Consistency with the Comprehensive Plan and the current and future land use maps.

Mr. Hansen stated this change is the same, with the exception that it pertains to the R-3 Zoning District.

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

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

Councilmember Frevert made a motion to table action on Ordinance 2012-19, and Councilmember Brodersen seconded.

ORDINANCE NO. 2012-19

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-264 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and the ordinance was tabled until the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-294 Permitted Conditional Uses in the R-4 Residential District by adding (3) Boarding Dwelling.

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on May 7, 2012, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

9. Staff recommendation; and
10. Consistency with the Comprehensive Plan and the current and future land use maps.

Mr. Hansen stated this change is the same, with the exception that it pertains to the R-4 Zoning District.

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

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

Councilmember Sturm introduced Ordinance 2012-20, and moved for approval thereof; Councilmember Frevert seconded.

ORDINANCE NO. 2012-20

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-294 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-710 Parking Regulations by adding Residential Structures (Boarding Dwelling).

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on May 7, 2012, and forwarded a recommendation to approve the same by adding the following:

Residential Structures (Boarding Dwelling); 1.00 space per occupant; no minimum off-street loading requirements.

subject to the following "Findings of Fact":

11. Staff recommendation; and
12. Consistency with the Comprehensive Plan and the current and future land use maps.

Mr. Hansen noted his recommendation to Council is to change the number of spaces per occupant from 1.00 to 1.25. If Council wishes, they can stipulate that the parking spaces have to be located on the property and not on the terrace.

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

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

Councilmember Sturm introduced Ordinance 2012-21, and moved for approval thereof, and changing the parking spaces per occupant from 1.00 to 1.25; Councilmember Frevert seconded.

#### ORDINANCE NO. 2012-21

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE V. BUSINESS AND COMMERCIAL DISTRICTS BY AMENDING SECTION 90-710 PARKING REGULATIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Chamberlain declared the time was at hand for the public hearing regarding the Wellhead Protection Plan.

Garry Poutre, Superintendent of Public Works, provided some history on the process that took place in developing the Wellhead Protection Plan. In the summer of 2010, Council approved applying for a grant that the NDEQ had the City to take on the task of creating a "wellhead protection plan" and updating our wellhead protection area. At that time, JEO Consulting Group was hired as the engineer on the project and helped us through that process. The City was granted funds in the amount of \$21,000 from NDEQ. The Council then approved spending \$15,000 from the Water Department Fund as a match for that grant, along with around an in-kind match of \$7,000. A committee

was then selected to develop the “wellhead protection plan.” Knowing the area that the wellhead protection area would encompass, Mr. Poutre sought to get those landowners and people that owned and managed the land inside the wellhead protection area to be representatives of the committee. Those landowners on the committee were: Doug Nelson, Don Nelson, Dave Fouss, Dave Sievers, and Ron Lundahl. The committee met several different times and public education meetings were held. In January, 2012, the Council approved the wellhead protection map/area. The Committee did a “test your well night”, where people brought samples of their well water in to be tested.

The goal of Nebraska’s Wellhead Protection Program is to protect the land and groundwater surrounding public drinking water supply wells from contamination. Since approximately 85% of Nebraskans receive their drinking water from groundwater, preventing groundwater contamination is vital.

The State of Nebraska already stipulates a setback area. Setback areas are listed in the plan. It indicates the distance that different practices have to be kept away from a public service well. Those differences are mandated. The plan does not make any of those distances any more stringent than what is already in place. In addition, there are not any more restrictions than there currently are in this wellhead protection area. The reason for putting a wellhead protection plan in place is because the plan, from NDEQ’s standpoint, shows that we have gone through all of the necessary steps to protect and insure the protection of the City’s water supply.

Mr. Poutre stated there are currently around 100 wellhead protection plans in the State of Nebraska.

It was noted that the NDEQ designates the “wellhead protection area” not the City, and this plan is recognizing the efforts the City has done so far.

Adam Rupe, JEO Project Manager, was present to answer questions.

Scott Sievers, Doug Nelson, Don Nelson, Jon Temme, Doug Temme, and Kevin Koenig had concerns about the Council passing the Wellhead Protection Plan. Some felt the passage of this plan will put a bullseye on the area and increase the traffic by the EPA/DEQ. In addition, they felt the City was now their (the EPA/DEQ) new watchdog. Another concern was “best management practices” and who sets these.

Brian Bruckner from the Lower Elkhorn NRD, who was also a member of the Committee, spoke in favor of the plan. He stated this plan is a step in the right direction and does not create undue burden upon those who earn their livelihood off of the land. He worked with the City of Norfolk, approximately four years ago, in adopting a wellhead protection plan. To this date, he has had no knowledge of the DEQ or EPA ramping up oversight within the wellhead protection area of the City of Norfolk. Wayne’s plan is very basic in structure, and in his opinion, does nothing to change the way anybody does business out on the land.

Joel Hansen, who lives out in the area that is delineated and who also serves on the Lower Elkhorn NRD Board of Directors, stated the NRD establishes state statutes to protect groundwater. That is one of the twelve responsibilities given to the NRD’s. If there becomes an issue with nitrates in the general area in the delineated area, the NRD is going to be the one who is going to correct the management area and establish the best management practices.

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 Chamberlain closed the public hearing.

Councilmember Ley made a motion to table Resolution No. 2012-43 until more information is obtained on the matter; Councilmember Berry seconded. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm introduced Ordinance 2012-12, and moved for approval of the second reading thereof; Councilmember Frevert seconded.

#### ORDINANCE NO. 2012-12

#### AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR CHICKEN SHOW ACTIVITIES.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay, and Councilmember Berry who abstained, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Mayor Chamberlain stated the following Resolution would approve the "Third Amendment to Communication Tower and Real Estate Lease Agreement" with Verizon.

Attorney Miller advised the Council that she has reviewed the agreement and approves the same.

Councilmember Sturm introduced Resolution No. 2012-44 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2012-44

A RESOLUTION APPROVING THIRD AMENDMENT TO COMMUNICATION TOWER AND REAL ESTATE LEASE AGREEMENT WITH ALLTEL COMMUNICATIONS OF NEBRASKA, INC., d/b/a VERIZON WIRELESS.

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

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, approving payment of the invoice in an amount up to \$71,000 to Verizon for the City's share of the tower reinforcement project. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the following Resolution would accept the proposal and approve the contract with Gill Hauling, Inc., for the transfer station operation. One proposal was received. The new agreement is for a 36-month period, with an option to renew for an additional two years. Gill Hauling will pay \$1,000 per month.

Councilmember Sturm introduced Resolution No. 2012-45 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2012-45

A RESOLUTION APPROVING AGREEMENT WITH GILL HAULING FOR OPERATION OF THE WAYNE TRANSFER STATION.

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

Mayor Chamberlain stated the following Resolution would adopt the City Administrator's employment contract.

Councilmember Ley introduced Resolution No. 2012-46 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2012-46

A RESOLUTION TO ADOPT EMPLOYMENT AGREEMENT.

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

Councilmember Sturm made a motion, which was seconded by Councilmember Brodersen, approving Change Order No. 1 on the Benscoter Paving Improvement Project in the amount of \$27,428.15. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Haase who voted Nay, the Mayor declared the motion carried.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, approving Certificate of Payment No. 1 to Sioux City Engineering Company in the amount of \$135,616.41 for the Benscoter Paving Improvement Project. Mayor Chamberlain 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 a temporary transfer of \$160,000 in electric reserve funds to the Wayne Community Development Agency to establish a temporary revolving loan fund for the Housing Construction Loan Incentive Program. This is the same program with a different funding source.

Councilmember Sturm introduced Resolution No. 2012-47 and moved for its approval; Councilmember Berry seconded.

RESOLUTION NO. 2012-47

A RESOLUTION APPROVING TEMPORARY TRANSFER OF \$160,000 IN ELECTRIC RESERVE FUNDS TO THE WAYNE COMMUNITY DEVELOPMENT AGENCY TO ESTABLISH A TEMPORARY REVOLVING LOAN FUND FOR THE HOUSING CONSTRUCTION LOAN INCENTIVE PROGRAM.

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

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

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Dale Alexander.

Chair Haase 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 May 1, 2012, meeting.

Member Frevert made a motion and Member Van Delden seconded approving the minutes of the May 1, 2012, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Chair Haase stated the next item on the agenda is to consider a request for a third extension (December 31, 2012) on the closing date regarding the purchase of Lot 2A, Replat of Kardell Industrial Park, a subdivision by Wayne NG Cars, LLC.

Member Chamberlain thought Council should also have discussion on the Offer to Purchase Lots 2A and 2B in the Kardell Industrial Park Subdivision submitted by Robert Woehler & Sons Construction.

Attorney Miller advised the CDA that they have a reasonable time to accept the second offer that was submitted. Therefore, if Council wanted to table the agenda item to take action on the third closing date extension request to purchase Lot 2A by Wayne NG Cars until the next meeting so that they could review the new offer that came in, they could do that. She also advised the CDA that the actual purchase agreement with Wayne NG Cars has expired. The CDA could, at the next meeting, make a determination not to accept the new offer that came in. They could also reject that offer or make a counteroffer, or go back and enter into a new agreement with the original offer.

The new offer from Robert Woehler & Sons Construction is essentially the same offer as Wayne NG Cars.

Administrator Johnson stated a lot of time has been put into the Wayne NG Cars package to make this happen in Wayne. They went out and sought investors for this project. He understood that there are options to look at, but he thought there was some obligation to let them know the CDA was going to keep moving forward on this.

Member Chamberlain didn't think they (Wayne NG Cars) would be taking the City down this road and asking for extensions if they didn't truly believe it was going to happen.

Dan Rose, representing Wayne NG Cars, stated, to date, they have spent \$16,000 on this project, \$10,000 of which was on the site preparation. They have five individual investors, and they do have the capital to make this work. Their enthusiasm was pretty high at first and some of that was based on a market they thought was open in the Caribbean. The next market they are looking at is domestic - Canada. He visited with Gene Davis who said this project will happen before the end of the year.

Administrator Johnson stated we have unwittingly put these two companies on a collision course for the same property. There is a proposal coming to the Planning Commission to put an end time on the Woehler's location for crushing concrete. If they are going to stay in business, they have three choices:

- This is the only lot left that is zoned correctly that allows them to move their plant;
- They can move out to the country which is outside our zoning; or
- We can add crushing concrete to an I-1 (Light Industrial) District.

The Planning Commission, however, can elect to change nothing or extend the date (e.g. three or five years) to allow them to continue crushing concrete.

When asked if the 10 acres could be split between the two companies, BJ Woehler, advised that when they went out and looked at the site, they determined if they were going to move the plant, they wanted all 10 acres. Right now, they have five acres.

Councilmember Berry opined she is all for new businesses coming in, but she thought they needed to be there for the businesses that are already here and been here awhile.

Mr. Woehler stated in his proposal, he asked the Council not to block, but just delay any action so that everyone can sit down and discuss the matter and see if there are any other solutions.

Member Chamberlain stated because the purchase agreement has lapsed, he thought this agenda item needed to be tabled because there is not a purchase agreement to extend.

Member Chamberlain made a motion and Member Sturm seconded to table action on the Request for a third extension (December 31, 2012) on the closing date regarding the purchase of Lot 2A, Replat of Kardell Industrial Park, a subdivision, by Wayne NG Cars, LLC.

Administrator Johnson requested the CDA to commit to finding another parcel of land then for Wayne NG Cars, LLC.

Member Chamberlain stated if the CDA, between now and the next meeting, cannot find another place for Wayne NG Cars, LLC, he would vote to extend their offer until the end of the year.

In addition, it was noted that the Council can amend any recommendation from the Planning Commission (e.g. extend deadline for crushing concrete).

Chair Haase stated the motion, and the result of roll call being four Nays (Members Sturm, Chamberlain, Ley and Haase), and four Yeas (Members Frevert, Van Delden, Berry and Brodersen), the Chair declared that the motion did not pass.

Member Chamberlain then made a motion and Member Ley seconded accepting a new purchase agreement with the same terms and approving an ending date of December 31, 2012, regarding the purchase of Lot 2A, Replat of Kardell Industrial Park, a subdivision, by Wayne NG Cars, LLC.

Chair Haase stated the motion, and the result of roll call being all yeas, the Chair declared the motion carried.

Administrator Johnson stated we have received the first application for the housing construction incentive program which was approved in April and provides short-term zero percent interest construction loans of \$20,000 per single-family structure for homes built and sold to households with annual incomes of 150% of the Wayne County median income or less. This request from Kelby Herman is for \$40,000 for two market rate homes, which are being built as town homes on two individual lots in Western Ridge.

Member Chamberlain made a motion and Member Ley seconded approving the Housing Construction Incentive Application (\$40,000) of Kelby Herman for Lots 1 and 2, Western Ridge II Subdivision. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Sturm made a motion and Member Frevert seconded to reject the offer to purchase Lots 2A and 2B in the Kardell Industrial Park Subdivision by Robert Woehler & Sons Construction, with the stipulation that if there is such a time that Wayne NG Cars, LLC, does not purchase the property, that Robert Woehler & Sons Construction be given the first option to purchase said property. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Frevert made a motion and Member Chamberlain seconded to adjourn as the Community Development Agency and reconvene as Council. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mayor Chamberlain requested Council consideration to the following appointment: Randy Lutt to the Wayne Housing Authority Board (fill the vacancy of John Melena).

Councilmember Frevert made a motion and seconded by Councilmember Brodersen approving the appointment of Randy Lutt to the Wayne Housing Authority Board. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain requested Council consideration to the following reappointment: Darrell Miller to the Sales Tax Advisory Committee.

Councilmember Frevert made a motion and seconded by Councilmember Ley approving the reappointment of Darrel Miller to the Sales Tax Advisory Committee. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Frevert made a motion, which was seconded by Councilmember Haase, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 9:17 p.m.

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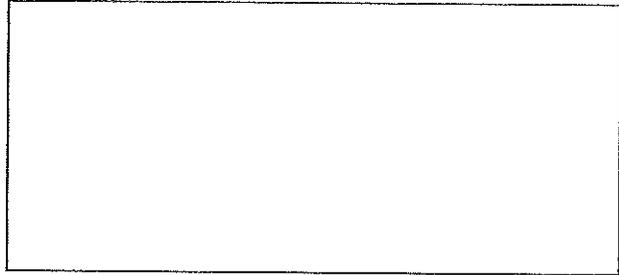
## CLAIMS LISTING JUNE 19, 2012

AHERN CO.	REPAIR BACKFLOW PREVENTER	920.00
AMAZON.COM, LLC	BOOKS	207.94
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	1,956.19
APPEARA	MAT SERVICE	84.84
ARC-HEALTH & SAFETY	LIFEGARD REVIEW/CPR	157.00
ARNIE'S FORD-MERCURY INC	SR CENTER VEHICLE INSPECTION	105.01
BAKER & TAYLOR BOOKS	BOOKS	874.78
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	240.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	68.68
BOMGAARS	PAINT/BITS/SOIL/FITTINGS/PUMP ETC	729.46
CITY EMPLOYEE	HEALTH REIMBURSEMENT	203.80
CITY EMPLOYEE	SAFETY SHOES	150.00
CARHART LUMBER COMPANY	PAINT/BRUSHES/SAW/BLADES/SCREWS ETC	912.25
CHARTWELLS	SENIOR CENTER MEALS	5,700.65
CITY OF NORFOLK	INSPECTIONS	114.64
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	600.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUNDS	200.00
CITY OF WAYNE	PAYROLL	64,572.52
CITY OF WAYNE	SWIM TEAM REFUND	25.00
CITY OF WAYNE	UTILITY REFUNDS	2,329.04
CLAUSSEN & SONS IRRIG.	FIRE HALL IRRIGATION REPAIR	72.20
COMMUNITY HEALTH	HEALTH CHARITIES	6.00
COPY WRITE PUBLISHING	COPY PAPER	22.01
DAKOTA BUSINESS SYSTEMS	LIBRARY COPIER EQUIPMENT LEASE	103.50
DAVE'S DRY CLEANING	POLICE UNIFORM CLEANING	63.00
DCL AMERICA INC.	CATALYTIC SILENCERS	120,722.00
DE LAGE LANDEN FINANCIAL	COPIER LEASE	394.00
ECHO GROUP INC JESCO	YELLOW WIRE NUTS	49.85
ELLIS PLUMBING & HEATING	SEWER CAM	180.00
ENERGY FEDERATION, INC.	LED LIGHTS	841.76
FLOOR MAINTENANCE	PLATES/CLEANERS/SQUEEGEES	202.03
FREDRICKSON OIL CO	OIL	5,912.50
GLEN'S AUTO BODY	DOOR HANDLE REPAIR	163.74
GREAT PLAINS ONE-CALL	DIGGERS HOTLINE	106.70
H.K. SCHOLZ COMPANY	POWER SUPPLIES FOR RELAYS	878.63
CITY EMPLOYEE	HEALTH REIMBURSEMENT	222.24
HARDING & SHULTZ P.C. L.L	ATTORNEY FEES	14,219.35
HAWKINS, INC	POOL CHEMICALS	1,408.70
HD SUPPLY WATERWORKS, LTD	TURBO METER	1,227.43
HIRERIGHT SOLUTIONS INC	COLLECTION FEE	20.00
HOBBY LOBBY STORES, INC	AFTERSCHOOL PROGRAM MATERIALS	37.87
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	10,585.42
INGRAM BOOK COMPANY	BOOKS	568.93
IRS	FEDERAL WITHHOLDING	20,887.06
JACK'S UNIFORMS	POLICE UNIFORM PANTS	55.90

CITY EMPLOYEE	HEALTH REIMBURSEMENT	134.95
KELLY SUPPLY COMPANY	LIQUID FILLED GAUGES/PLUGS/CAPS	143.53
KRIZ-DAVIS COMPANY	FUSES/WIRE/SWITCHES/CONNECTORS	11,210.81
KTCH AM/FM RADIO	RADIO ADS	805.00
LAURA TEST	ENERGY INCENTIVE	500.00
LERNER PUBLISHING GROUP	BOOK	24.95
MAIN STREET AUTO CARE	TOWING	90.00
MATT LEY	TREE INCENTIVE	150.00
MIDSTATES ERECTORS INC	COOLING TOWER IMPROVEMENTS	149,758.00
MIDWEST LABORATORIES, INC	BOD TESTING	1,048.90
MONGAN PAINTING CO INC	SAND BLASTING SUMP TANK-COOLING TOWER	9,951.36
N.E. NEB ECONOMIC DEV DIS	COOLING TOWER	315.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	2,011.19
NE DEPT OF ENVIRONMENTAL	2011 AIR EMISSION FEE	764.16
NE DEPT OF REVENUE	STATE WITHHOLDING	3,260.63
NE PUBLIC HEALTH	COLIFORM TESTING	1,234.00
NEBR PUBLIC POWER DIST	ELECTRICITY	265,357.11
N.E. NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	59.24
NORTHEAST NE PUBLIC POWER	WHEELING CHARGES	12,180.28
OTTE CONSTRUCTION COMPANY	WALKING TRACK REPAIR KIT	486.50
PAC N SAVE	CHAMBER COFFEE SUPPLIES	46.44
PAMIDA STORE # 165	SUMMER READING SUPPLIES	13.57
CITY EMPLOYEE	HEALTH REIMBURSEMENT	2,472.18
PEPSI-COLA	CAC POP	643.75
CITY EMPLOYEE	HEALTH REIMBURSEMENT	28.80
PRESTO X COMPANY	PEST CONTROL	82.15
R.S. STOVER	COOLING TOWER	5,269.86
RANDOM HOUSE	CD'S	60.00
SPARKLING KLEAN	JANITORIAL SERVICES/SCRUBBER	6,195.50
STATE NATIONAL BANK	EL REVENUE 2009 & 2012 BONDS	276,415.69
TAYLOR RACELY	CAC CARPET CLEANING	1,175.00
UNITED WAY	PAYROLL DEDUCTIONS	10.00
UNIVERSITY OF NEBRASKA	REGISTRATION-STORMWATER MGT	30.00
USA BLUE BOOK	CABLE	167.16
WASTE CONNECTIONS	SANITATION SERVICE-SB COMPLEX	58.00
WAYNE AUTO PARTS	BRAKE PADS/DRUM/ROTOR/FILTER/BATTERY	794.59
WAYNE COMMUNITY DEVEL	RESIDENTIAL CONSTRUCTION LOAN	160,000.00
WAYNE GREENHOUSE	GREEN PLANT	35.00
WAYNE GROCERY LLC	SENIOR EVENING MEAL	205.77
WAYNE HERALD	CAC ADS	398.50
WESCO DISTRIBUTION INC	VEST/BOX PAD	1,624.13
WESTERN AREA POWER ADMIN	ELECTRICITY	27,106.83
WIGMAN COMPANY	SALES TAX ON WATER HEATER	251.58
ZEE MEDICAL SERVICE CO	FIRST AID SUPPLIES	62.67
ZIMCO	FERTILIZER	141.25

**APPLICATION FOR SPECIAL DESIGNATED LICENSE**

NEBRASKA LIQUOR CONTROL COMMISSION  
301 CENTENNIAL MALL SOUTH  
PO BOX 95046  
LINCOLN, NE 68509-5046  
PHONE: (402) 471-2571  
FAX: (402) 471-2814  
Website: www.lcc.ne.gov/



RETAIL LICENSE HOLDERS

NON PROFIT APPLICANTS  Non Profit Status (check one that best applies)  
Municipal  Political  Fine Arts  Fraternal  Religious  Charitable  Public Service

**COMPLETE ALL QUESTIONS**

1. Type of alcohol to be served and/or consumed: Beer  Wine  Distilled Spirits

2. Liquor license number and class (i.e. C-55441)  CK 70085  
(If you're a nonprofit organization leave blank)

3. Licensee name (last, first,), corporate name or limited liability company (LLC) name  
(As it reads on your liquor license)  
NAME: White Dog Pub inc.  
ADDRESS: 102 N. Main Street  
CITY Wayne ZIP 68787

4. Location where event will be held; name, address, city, county, zip code  
BUILDING NAME Highway 15 between the 100 and 200 blocks of Wayne (1<sup>st</sup> & 2<sup>nd</sup> Street)  
ADDRESS: Highway 15 between 100-200 blocks of Wayne (1<sup>st</sup> & 2<sup>nd</sup> Street) CITY Wayne  
ZIP 68787 COUNTY and COUNTY # Wayne #27

- a. Is this location within the city/village limits? YES  NO
- b. Is this location within the 150' of church, school, hospital or home for aged/indigent or for veterans their wives? YES  NO
- c. Is this location within 300' of any university or college campus? YES  NO

5. Date(s) and Time(s) of event (no more than six (6) consecutive days on one application)

Date <u>July 13<sup>th</sup></u> Hours _____ From <u>3 P.M.</u> To <u>1 A.M.</u>	Date _____ Hours _____ From _____ To _____				
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a. Alternate date: \_\_\_\_\_

b. Alternate location: \_\_\_\_\_  
(Alternate date or location must be specified in local approval)

6. Indicate type of activity to be carried on during event:  
Dance  Reception  Fund Raiser  Beer Garden  Sampling/Tasting  Other \_\_\_\_\_

7. Description of area to be licensed  
Inside building, dimensions of area to be covered IN FEET \_\_\_\_\_ x \_\_\_\_\_  
Outdoor area dimensions of area to be covered IN FEET 120' x 50'  
(not square feet or acres)

**INCLUDE SKETCH IF OUTDOOR AREA**

If outdoor area, how will premises be enclosed?

Fence : type of fence; snow fence  chain link  cattle panel  other \_\_\_\_\_

Tent

Other : explain There will be 2 fences with 6 feet in between

8. How many attendees do you expect at event? 200

9. If over 150 attendees. Indicate the steps that will be taken to prevent underage persons from obtaining alcohol beverages. (Attach separate sheet if needed)  
Security will be present. I.D.s will be checked, Wrist hands will be used

10. Will premises to be covered by license comply with all Nebraska sanitation laws? YES  NO

a. Are there separate toilets for both men and women? YES  NO

11. Where will you be purchasing your alcohol? Wholesaler  Retailer  Both  BYO

12. Will there be any games of chance operating during the event? YES  NO

If so, describe activity \_\_\_\_\_

**NOTE:** Only games of chance approved by the Department of Revenue, Charitable Gaming Division are permitted. All other forms of gambling are prohibited by State Law: There are no exceptions for Non Profit Organizations or any events raising funds for a charity. This is only an application for a Special Designated License under the Liquor Control Act and is not a gambling permit application.

13. Any other information or requests for exemptions: \_\_\_\_\_

14. Name and telephone number/cell phone number of immediate supervisor. This person will be at the location of the event when it occurs, able to answer any questions from Commission and/or law enforcement before and during the event, and who will be responsible for ensuring that any applicable laws, ordinances, rules and regulations are adhered to.

Print name of Event Supervisor William J. Melena

Signature of Event Supervisor William J. Melena

Phone of Event Supervisor: Before (402) 375-9958 During (402) 375-8544

Consent of Authorized Representative/Applicant

15. I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

sign here William J. Melena President-White Dog Pub 6/11/12  
Authorized Representative/Applicant Title Date

William J. Melena  
Print Name

This individual must be listed on the application as an officer or stockholder unless a letter has been filed appointing an individual as the catering manager allowing them to sign all SDL applications.

The law requires that no special designated license provided for by this section shall be issued by the Commission without the approval of the local governing body. For the purposes of this section, the local governing body shall be the city or village within which the particular place for which the special designated license is requested is located, or if such place is not within the corporate limits of a city or village, then the local governing body shall be the county within which the place for which the special designated license is requested is located.

Building  
(Hair Offsets)

Building  
(The Max)

Building  
(Carhart Lumber)

Sidewalk

Fence

Fence

Fence

Fence

120 feet

← North

entrance

BAR

Stage  
50 feet

Exit

Fence

Fence

Fence

Fence

Sidewalk

Building  
(R-Work)

Building  
(Abbecher ins.)

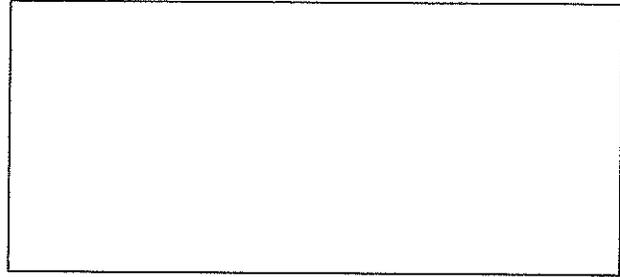
Building  
(Dissident Furniture)

Building  
(White Oak Pub)

Building  
(...)

**APPLICATION FOR SPECIAL DESIGNATED LICENSE**

NEBRASKA LIQUOR CONTROL COMMISSION  
301 CENTENNIAL MALL SOUTH  
PO BOX 95046  
LINCOLN, NE 68509-5046  
PHONE: (402) 471-2571  
FAX: (402) 471-2814  
Website: www.lcc.ne.gov/



RETAIL LICENSE HOLDERS

NON PROFIT APPLICANTS  Non Profit Status (check one that best applies)

Municipal  Political  Fine Arts  Fraternal  Religious  Charitable  Public Service

**COMPLETE ALL QUESTIONS**

1. Type of alcohol to be served and/or consumed: Beer  Wine  Distilled Spirits

2. Liquor license number and class (i.e. C-55441)  (If you're a nonprofit organization leave blank) CK 70085

3. Licensee name (last, first,), corporate name or limited liability company (LLC) name (As it reads on your liquor license)

NAME: White Dog Pub inc

ADDRESS: 102 N. Main Wayne, NE

CITY Wayne, NE ZIP 68787

4. Location where event will be held; name, address, city, county, zip code

BUILDING NAME Parking Lot of "The Final Touch"

ADDRESS: 110 S. Logan Street CITY Wayne

ZIP 68787 COUNTY and COUNTY # Wayne - # 27

- a. Is this location within the city/village limits? YES  NO
- b. Is this location within the 150' of church, school, hospital or home for aged/indigent or for veterans their wives? YES  NO
- c. Is this location within 300' of any university or college campus? YES  NO

5. Date(s) and Time(s) of event (no more than six (6) consecutive days on one application)

Date <u>July 14</u> Hours _____ From <u>3 P.M.</u> To <u>1 A.M.</u>	Date _____ Hours _____ From _____ To _____				
--	---	---	---	---	---

a. Alternate date: \_\_\_\_\_

b. Alternate location: \_\_\_\_\_  
(Alternate date or location must be specified in local approval)

6. Indicate type of activity to be carried on during event:  
Dance  Reception  Fund Raiser  Beer Garden  Sampling/Tasting  Other \_\_\_\_\_

7. Description of area to be licensed  
Inside building, dimensions of area to be covered IN FEET \_\_\_\_\_ x \_\_\_\_\_  
Outdoor area dimensions of area to be covered IN FEET 80 x 120  
(not square feet or acres)

**INCLUDE SKETCH IF OUTDOOR AREA**

If outdoor area, how will premises be enclosed?  
Fence : type of fence; snow fence  chain link  cattle panel  other \_\_\_\_\_  
Tent   
Other  explain There will 2 fences with 6 feet in between them

8. How many attendees do you expect at event? 250

9. If over 150 attendees. Indicate the steps that will be taken to prevent underage persons from obtaining alcohol beverages. (Attach separate sheet if needed)  
I.D.s Will be checked, Security will be present  
Wrist bands Will be used.

10. Will premises to be covered by license comply with all Nebraska sanitation laws? YES  NO   
a. Are there separate toilets for both men and women? YES  NO

11. Where will you be purchasing your alcohol? Wholesaler  Retailer  Both  BYO

12. Will there be any games of chance operating during the event? YES  NO   
If so, describe activity \_\_\_\_\_

**NOTE:** Only games of chance approved by the Department of Revenue, Charitable Gaming Division are permitted. All other forms of gambling are prohibited by State Law: There are no exceptions for Non Profit Organizations or any events raising funds for a charity. This is only an application for a Special Designated License under the Liquor Control Act and is not a gambling permit application.

13. Any other information or requests for exemptions: \_\_\_\_\_

14. Name and telephone number/cell phone number of immediate supervisor. This person will be at the location of the event when it occurs, able to answer any questions from Commission and/or law enforcement before and during the event, and who will be responsible for ensuring that any applicable laws, ordinances, rules and regulations are adhered to.

Print name of Event Supervisor William J. Melena

Signature of Event Supervisor William J Melena

Phone of Event Supervisor: Before (402) 375-9958 During (402) 375-8544

Consent of Authorized Representative/Applicant

15. I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

sign here William J Melena President - White Dog Pub 6/11/12  
Authorized Representative/Applicant Title Date

William J. Melena  
Print Name

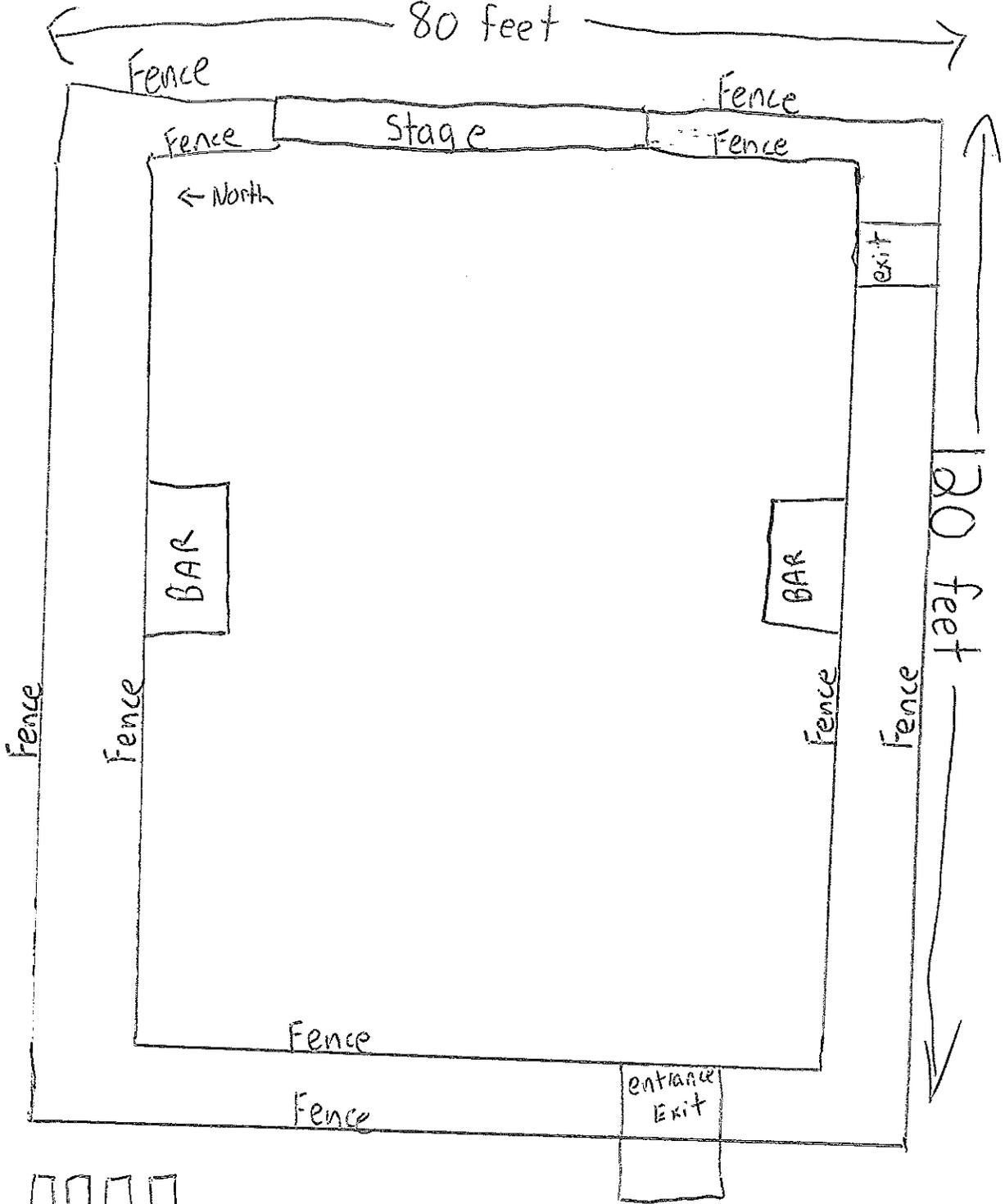
This individual must be listed on the application as an officer or stockholder unless a letter has been filed appointing an individual as the catering manager allowing them to sign all SDL applications.

---

The law requires that no special designated license provided for by this section shall be issued by the Commission without the approval of the local governing body. For the purposes of this section, the local governing body shall be the city or village within which the particular place for which the special designated license is requested is located, or if such place is not within the corporate limits of a city or village, then the local governing body shall be the county within which the place for which the special designated license is requested is located.

Sketch

110 S. Logan Street  
The Final Touch



□ □ □ □  
Port-a-pottys

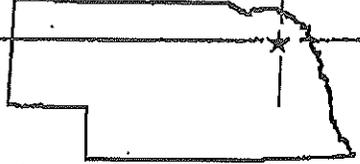
[Back to Top](#)

# City of Wayne

306 Pearl • P.O. Box 8  
Wayne, Nebraska 68787

(402) 375-1733  
Fax (402) 375-1619

Incorporated - February 2, 1884



## REQUEST FOR FUTURE AGENDA ITEM

If you have a specific topic that you would like the City Council to discuss at a future meeting, please list your name, address, telephone number, and the specific topic. If you have additional documentation which would be beneficial to the topic, please attach to this form. The item will be reviewed and possibly scheduled for a future meeting, or forwarded to City staff for appropriate action.

*Event insurance is required for anyone wishing to use city right-of-way (e.g. block off streets for block parties, block off sidewalks and/or alleys).*

Name: Jessi Hansen

Address: 1023 West 3<sup>rd</sup> Ave.

Wayne, NE 68787

Telephone No.: 402-360-1253 (cell) 402-375-2240 (home)

Date of Request: Tuesday, June 19<sup>th</sup> 2012

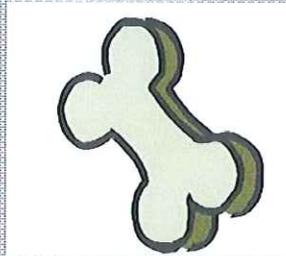
Description of Requested Topic: My Leadership Wayne group would like to request permission to use the land the City of Wayne owns # South of the Softball complex to develop a dog park. We intend to fund raise to purchase fence and waste bag dispensers. We understand it's city owned property and have every intention of making things the most feasible for everyone involved. Thank You for your time!





# Wayne Bark Park Proposal

Submitted by:  
Wayne Leadership Group  
(2011/2012)



# Goals for the Wayne Bark Park

- To establish a fenced in, off-leash dog park where well-behaved canines can exercise in a clean, safe environment without endangering wildlife, annoying people, or being destructive to private or public properties.
- To develop an easily maintainable space, open to all dog lovers and friends who are willing to uphold the park's rules and restrictions.
- To view this park as a community project, in partnership with the Wayne community and local dog owners, designed to satisfy this needs of dog owners, and non dog owners alike.



**And the location IS.....**

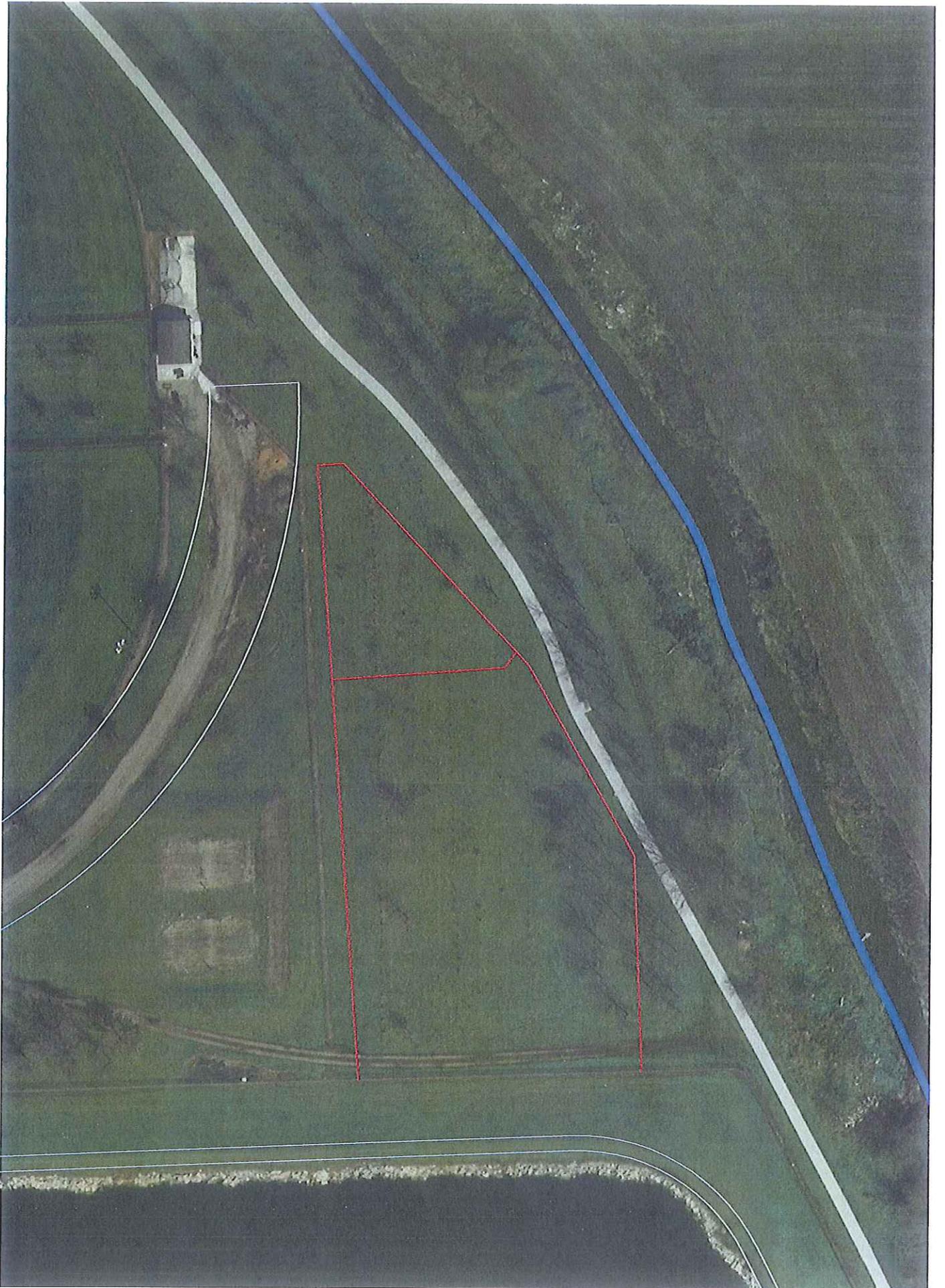
**o** Located just  
Southwest of the Ball  
Park (Old Lagoon  
area)





*Insert site plan here*

*o* See attachment



# Bark Park Specifications

- o Park would require approximately one acre to be fully fenced in
- o Two separate areas within Main Enclosure:
  1. Large Dog Area: .8 acres
  2. Small Dog Area: .2 acres
- o Entrances:
  1. One Main Entrance
  2. One entrance to small dog area
  3. One entrance to large dog area
  4. One large back entrance – used by City to get mower through to cut the grass.

# Site Preparation and Equipment

- o Projected Dollar Amount to be raised by Leadership Wayne group: \$15,000
- o Initial required plan and costs:
  1. Fencing – 6 ft tall and 4 gates
  2. Price quotes from: Wacker Home Improvement, Norfolk, NE
- o Dog Bag Receptacles: (would need 4)
  - 1. Prices range from \$250 - \$280 for receptacles
  - 2. Yearly purchase of bags: \$100 - \$150
  - 3. Fundraisers and Sponsorships to pay for yearly cost
- o Wood Chips:
  1. Donations and Fundraising will be the primary source
- o Signage:
  1. Donations and Fundraising will be the primary source



# Funding for the Wayne Bark Park

- o The Wayne Leadership group has taken the responsibility of fundraising for this project:
  - o They plan to start with applying for Grant assistance through Petco.
  - o Other sources of funding would be donations and fundraising events.
  - o They also hope to sell sponsorship opportunities to local businesses and then display those businesses with proper signage in the park.
  - o Another source of income would be to hold special events associated with the dog park.
    - o Canine Education Classes
    - o Kids Dog Show
    - o Dog Talent Show
    - o Rent out the park to certain breed groups for educational activities and play groups.



# LIABILITY & RESPONSIBILITY

- NE Law states liability and responsibility for dog injuries are on the dog owner.
- Wayne is required to have proper signage:
  - Rules of the Park and Hours of operation

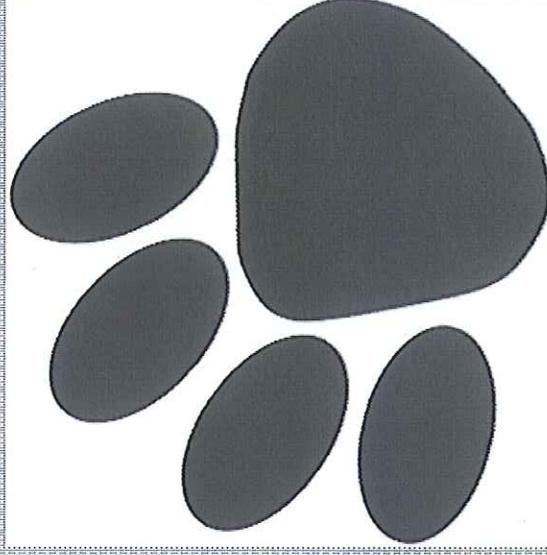


# Dog Park Rules

- The town of Wayne is not responsible and shall have no liability for the acts or omissions of individuals or their animals that utilize the dog park. You are liable for any injury or damage caused by your animal. Owners and canines enter at their own risk.
- Dogs must have valid license, be current on their shots, and wear a collar with identification.
- Children running or chasing after dogs is prohibited. Children within the dog park need to be under close adult supervision at all times.
- Carry a leash at all times. Leash your dog when entering and exiting the dog park and IMMEDIATELY upon any sign of aggression.
- Keep your dog within view and under voice control. Never leave your dog unattended.
- Clean up after your dog anywhere within the park and outside the off-lease area. Dispose of waste properly, utilizing appropriate waste receptacle.
- Immediately fill in any holes your dog digs.
- Prohibited animals: aggressive dogs, dogs in heat, dogs younger than four months, and sick dogs.
- Limit three (3) dogs per person per visit.
- Smoking is not permitted within the dog park
- No bicycles within the dog park
- No food or drink (except for training treats) allowed within the dog park.

# Method of Operation

- o This park would operate on the same schedule as all parks under the direction of the City of Wayne. A posted sign stating hours, rules and emergency numbers will be displayed and easily visible when arriving at the park.
- o *The City of Wayne reserves the right to close the facility at any time in order to ensure safety and properly maintain and or inspect any issues that may arise at the park.*



# Maintenance Requirements

- Waste retrieval would be the responsibility of patrons of the park. The City of Wayne will empty the trash receptacles as needed.
- The general daily maintenance of this park will be the dog owners themselves to be held accountable for picking up after their dogs.
- A yearly clean-up will take place with the Wayne Leadership Group to assist with wood chip replacement and general beautification, or upgrades to this park.

# What we have accomplished and what is next....

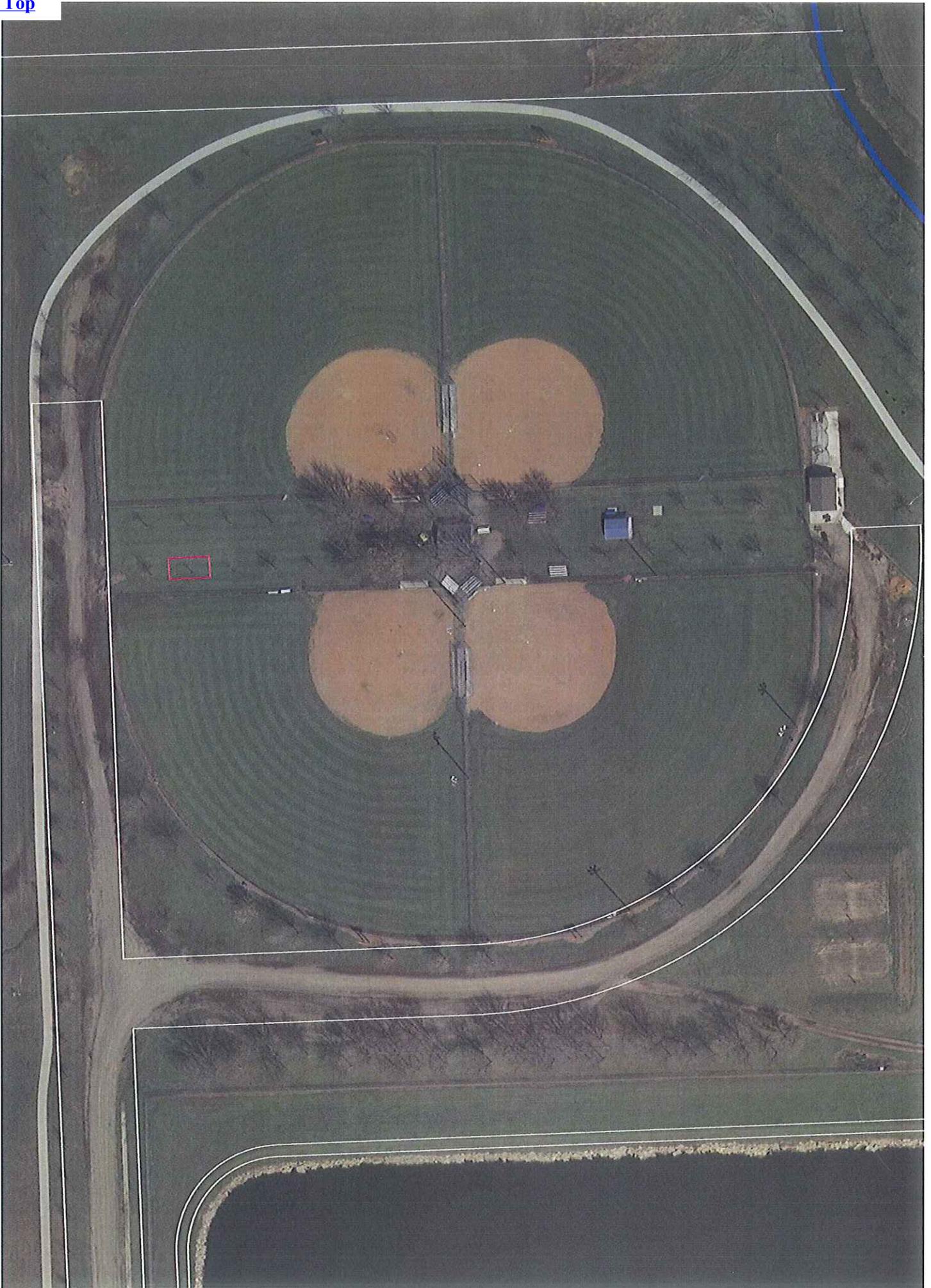
- ✓ Site Plans and Site Approval
  - With the help of employees of City of Wayne
- Fundraise and Seek donations!
- Educate and Inform Wayne Community!
- Begin Construction!





Please feel free to visit the  
Wayne Dog Owners Group  
(W.D.O.G.) facebook page:

*coming soon*



**ORDINANCE NO. 2012-12**

**AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE CHICKEN SHOW ACTIVITIES.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

That the hours of sale of alcoholic liquor shall be extended to 2:00 o'clock a.m., only, on the business days of Friday, July 13, 2012, and Saturday, July 14, 2012, in conjunction with the Wayne Chicken Show Activities.

PASSED AND APPROVED this 19<sup>th</sup> day of June, 2012.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-15**

**AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The City of Wayne does hereby find and declare that the following described real estate:

A tract of land located in the Southeast Quarter of the Northeast Quarter (SE1/4NE1/4) of Section Seven (7), Township Twenty-Six North (26N), Range Four (4), East of the 6<sup>th</sup> P.M., Wayne County, Nebraska, more particularly described as follows:

Beginning at the Southeast corner of Lot Three (3), Block Three (3), Vintage Hill 1<sup>st</sup> Addition to the City of Wayne, Wayne County, Nebraska, point being on the North line of 14<sup>th</sup> Street; thence North along the East line of said Lot Three (3), 280.00 feet; thence East and parallel to the North line of said 14<sup>th</sup> Street, 280.00 feet; thence South and parallel to the East line of said Lot Three (3), 280.00 feet to the point on the North line of said 14<sup>th</sup> Street; thence West on said North line, 280.00 feet to the point of beginning, containing 1.80 acres, more or less.

is immediately adjoining and contiguous to the corporate limits of the City of Wayne, Nebraska.

Section 2. The above described real estate is annexed to the City of Wayne, Nebraska, and is declared to be within the corporate limits of the City of Wayne, Nebraska, pursuant to Section 19-916 (R.R.S. 1943).

Section 3. The corporate limits of the City of Wayne, Nebraska, are hereby extended to include said real estate.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 19<sup>th</sup> day of June, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-16**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE I, IN GENERAL, BY AMENDING SECTION 90-10 DEFINITIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 7, 2012, and recommended amending Section 90-10 Definitions of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article I, Section 90-10 of the Wayne Municipal Code is amended as follows:

Sec. 90-10. Definitions.

**Dwelling, boarding** means a building occupied by no more than six (6) individuals who do not meet the definition of family.

**Family** means one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, and meeting one of the following criteria:

- a) Persons related by blood, marriage, or adoption.
- b) No more than four (4) unrelated individuals
- c) Persons residing with a family for the purpose of adoption.
- d) Not more than eight (8) persons under 19 years of age residing in a foster house licensed or approved by the State of Nebraska.
- e) Not more than eight (8) persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
- f) Person(s) living with a family at the direction of a court.

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-17**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-204 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 7, 2012, and recommended amending Section 90-204 Permitted Conditional Uses (R-1 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-204 of the Wayne Municipal Code is amended as follows:

Sec. 90-204. Permitted Conditional Uses.

3. For a boarding dwelling:
  - a. Parking as required in Section 90-710.
  - b. The maximum number of occupants shall not exceed one (1) person per 1,500 square feet of area

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-18**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-234 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 7, 2012, and recommended amending Section 90-234 Permitted Conditional Uses (R-2 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-234 of the Wayne Municipal Code is amended as follows:

Sec. 90-234. Permitted Conditional Uses.

3. For a boarding dwelling:
  - a. Parking as required in Section 90-710.
  - b. The maximum number of occupants shall not exceed one (1) person per 1,200 square feet of area

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-19**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-264 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 7, 2012, and recommended amending Section 90-264 Permitted Conditional Uses (R-3 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-264 of the Wayne Municipal Code is amended as follows:

Sec. 90-264. Permitted Conditional Uses.

3. For a boarding dwelling:
  - a. Parking as required in Section 90-710.
  - b. The maximum number of occupants shall not exceed one (1) person per 1,200 square feet of area

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-20**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV, RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-294 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 7, 2012, and recommended amending Section 90-294 Permitted Conditional Uses (R-4 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-294 of the Wayne Municipal Code is amended as follows:

Sec. 90-294. Permitted Conditional Uses.

3. For a boarding dwelling:
  - a. Parking as required in Section 90-710.
  - b. The maximum number of occupants shall not exceed one (1) person per 1,000 square feet of area

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2012-21**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE V. BUSINESS AND COMMERCIAL DISTRICTS BY AMENDING SECTION 90-710 PARKING REGULATIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 7, 2012, and recommended amending Section 90-710 Parking Regulations (Business and Commercial Districts) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article V, Section 90-710 of the Wayne Municipal Code is amended as follows:

Sec. 90-710. Parking Regulations.

<u>Structures and Uses</u>	<u>Minimum Off-Street Parking Regulations</u>	<u>Minimum off-Street Loading Requirements</u>
Residential Structures (Boarding Dwelling)	1.25 space per occupant	None required

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**City of Wayne  
Interoffice Memorandum**

**Date:** June 13, 2012  
**To:** Mayor Chamberlain  
Wayne City Council  
**From:** Joel Hansen, Staff Liaison to Planning Commission  
**Re:** Recommendation from June 11, 2012 Meeting

At their meeting held on June 11, 2012, the Wayne Planning Commission held several public hearings; the results of those public hearings are as follows:

**Public Hearing: Amending Section 90-10 Definitions**

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Brogie and seconded by Commissioner Carstens to approve and forward a recommendation of approval to the City Council to amend Section 90-10 Definitions, by adding the following:

*Private Recreation Building (Controlled Impact)* means private ownership of a non-commercial building primarily engaged in the provision or sponsorship of sports and recreation for participants or spectators. Controlled impact private recreation uses take place entirely within enclosed buildings and have limited effects related to lighting, hours of use, or noise. Typical uses include basketball courts, batting cages, playing fields, and archery ranges.

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Sorenson – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; Commissioner Sweetland – aye, and Chair Melena - aye. Chair Melena declared the motion carried unanimously.

**Public Hearing: Amending Section 90-205 Exceptions in the R-1 Residential District by adding (13) Private Recreation (Controlled Impact):**

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Giese and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council to amend Section 90-205 Exceptions in the R-1 Residential District, by adding the following use:

13. Private Recreation Building (Controlled Impact)

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Sorenson – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; Commissioner Sweetland – aye and Chair Melena - aye. Chair Melena declared the motion carried unanimously.

**Public Hearing: Amending Section 90-235 Exceptions in the R-2 Residential District by adding (9) Private Recreation (Controlled Impact):**

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Sorenson to approve and forward a recommendation of approval to the City Council to amend Section 90-235 Exceptions in the R-2 Residential District, by adding the following uses:

9. Private Recreation Building (Controlled Impact)

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Sorenson – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; Commissioner Sweetland – aye, and Chair Melena - aye. Chair Melena declared the motion carried unanimously.

**Public Hearing: Amending Section 90-265 Exceptions in the R-3 Residential District by adding (11) Private Recreation (Controlled Impact)**

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Brogie to approve and forward a recommendation of approval to the City Council to amend Section 90-265 Exceptions in the R-3 Residential District, by adding the following:

11. Private Recreation Building (Controlled Impact)

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Sorenson – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner

Piper – aye; Commissioner Kranz – aye; and Commissioner Sweetland – aye. Chair Melena declared the motion carried unanimously.

**Public Hearing: Amending Section 90-835 Exception Use Standards**

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Brogie and seconded by Commissioner Sorenson to approve and forward a recommendation of approval to the City Council to amend Section 90-835 Exception Use Standards, by adding the following:

3. For Private Recreation Building (Controlled Impact)
  - a. The minimum size of the premises shall be 1 acre
  - b. The building shall not exceed 7% of the area of the premises
  - c. If the building is accessory to the principal use of the property, it must meet the same setbacks as the principal use
  - d. Collectively the areas occupied by all existing and proposed structures do not exceed 50 percent of the entire lot area

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Sorenson – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; Commissioner Sweetland – aye and Chair Melena - aye. Chair Melena declared the motion carried unanimously.

**Public Hearing: Use by Exception Request Section 90-265 Exceptions (11) Private Recreation (Controlled Impact)**

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to approve and forward a recommendation of approval to the City Council for the Use by Exception request of Kelby and Joelle Herman under Section 90-265 (11) Exceptions of the Wayne Municipal Code, with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Sorenson – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; Commissioner Sweetland – aye and Chair Melena - aye. Chair Melena declared the motion carried unanimously.

ORDINANCE NO. 2012-22

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE I, IN GENERAL, BY AMENDING SECTION 90-10 DEFINITIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on June 11, 2012, and recommended amending Section 90-10 Definitions of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article I, Section 90-10 of the Wayne Municipal Code is amended as follows:

Sec. 90-10. Definitions.

***Private Recreation Building (Controlled Impact)* means private ownership of a non-commercial building primarily engaged in the provision or sponsorship of sports and recreation for participants or spectators. Controlled impact private recreation uses take place entirely within enclosed buildings and have limited effects related to lighting, hours of use, or noise. Typical uses include basketball courts, batting cages, playing fields, and archery ranges.**

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2012-23

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV, RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-205 EXCEPTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on June 11, 2012, and recommended amending Section 90-205 Exceptions (R-1 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-205 of the Wayne Municipal Code is amended as follows:

Sec. 90-205. Exceptions.

**13. Private Recreation Building (Controlled Impact)**

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2012-24

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-235 EXCEPTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on June 11, 2012, and recommended amending Section 90-235 Exceptions (R-2 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-235 of the Wayne Municipal Code is amended as follows:

Sec. 90-235. Exceptions.

**9. Private Recreation Building (Controlled Impact)**

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2012-25

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IV. RESIDENTIAL DISTRICTS BY AMENDING SECTION 90-265 EXCEPTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on June 11, 2012, and recommended amending Section 90-265 Exceptions (R-3 Residential District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IV, Section 90-265 of the Wayne Municipal Code is amended as follows:

Sec. 90-265. Exceptions.

**11. Private Recreation Building (Controlled Impact)**

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2012-26

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE XI. EXCEPTIONS AND CONDITIONAL USES BY AMENDING SECTION 90-835 EXCEPTION USE STANDARDS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on June 11, 2012, and recommended amending Section 90-835 Exception Use Standards of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article XI, Section 90-835 of the Wayne Municipal Code is amended as follows:

Sec. 90-835. Exception Use Standards.

**5. For Private Recreation Building (Controlled Impact)**

- a. The minimum size of the premises shall be 1 acre;**
- b. The building shall not exceed 7% of the area of the premises;**
- c. If the building is accessory to the principal use of the property, it must meet the same setbacks as the principal use; and**
- d. Collectively, the areas occupied by all existing and proposed structures do not exceed 50% of the entire lot area.**

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**RESOLUTION NO. 2012-47**

**A RESOLUTION APPROVING THE APPLICATION OF KELBY AND JOELLE HERMAN FOR A ZONING USE BY EXCEPTION PERMIT TO ALLOW FOR A PRIVATE RECREATION STRUCTURE ON THEIR PROPERTY AT 1102 WEST 7<sup>TH</sup> STREET, LEGALLY DESCRIBED AS LOT 1, WESTERN RIDGE FIRST ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.**

WHEREAS, the Planning Commission has considered an application for a zoning use by exception permit submitted by Kelby and Joelle Herman to allow for a private recreation structure at 1102 West 7<sup>th</sup> Street, legally described as Lot 1, Western Ridge First Addition to the City of Wayne, Wayne County, Nebraska; and

WHEREAS, the Planning Commission, subsequent to a public hearing held June 11, 2012, recommended approval of the use by exception permit request under Section 90-265 (11) Exceptions of the Wayne Municipal Code to allow them to have a private recreation structure on Lot 1, Western Ridge First Addition to the City of Wayne, Wayne County, Nebraska, subject to the following "Findings of Fact":

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps; and

WHEREAS, the City Council considered the aforesaid application to allow for a private recreation structure in an R-2 Zoning District (1102 West 7<sup>th</sup> Street) subsequent to a public hearing held on June 19, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Council accepts the recommendation of the Planning Commission and approves the application, subject to the above-stated "Findings of Fact."

PASSED AND APPROVED this 19<sup>th</sup> day of June, 2012.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



N 89°36'23" E 326.49'

N 02°07'08" W 183.30'

S 89°35'41" W 326.55'

N 02°08'09" W 565.12'

**RESOLUTION NO. 2012-48**

**A RESOLUTION APPROVING SERVICE/CONSULTANT AGREEMENT WITH NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT FOR THE MONITORING AND REVIEWING OF PROGRAM INCOME LOAN FILES FOR COMPLIANCE OF FEDERAL RULES AND REGULATIONS.**

WHEREAS, the City of Wayne is desirous to enter into a Service/Consultant Agreement with Northeast Nebraska Economic Development District to monitor and review program income loan files for compliance of all Federal rules and regulations.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the agreement between Northeast Nebraska Economic Development District and the City of Wayne be approved as written, and the City Administrator and/or Mayor is authorized and directed to execute said contract on behalf of the City.

PASSED AND APPROVED this 19<sup>th</sup> day of June, 2012.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

# **NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT SERVICE/CONSULTANT AGREEMENT**

THIS AGREEMENT made and entered into by and between the City of Wayne, Nebraska, hereinafter referred to as the City and the Northeast Nebraska Economic Development District, hereinafter referred to as the Consultant.

WITNESSES THAT:

WHEREAS, the City and the Consultant are desirous of entering into a contract to formalize their relationship, and

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended through 1981, the State of Nebraska Department of Economic Development (DED) is authorized by the federal Department of Housing and Urban Development (HUD) to provide Community Development Block Grant Program funds (hereinafter referred to as CDBG funds) to units of local government selected to undertake and carry out certain programs and projects under the Nebraska State Community Development Block Grant Program in compliance with all applicable local, state and federal laws, regulations and policies, and

WHEREAS, the City has CDBG funds as a result of previous CDBG project(s) for the purposes set forth herein, and

WHEREAS, the Scope of Work included in this contract is authorized as part of the City's approved CDBG program, and

WHEREAS, it would be beneficial to the City to utilize the Consultant as an independent entity to accomplish the Scope of Work set forth herein and such endeavor would tend to best accomplish the objectives of the local CDBG program.

NOW, THEREFORE, in consideration of the mutual promises, covenants and provisions contained herein and the mutual benefits to be derived therefrom, the parties hereto agree as follows:

**1. Services to be Provided by the Parties**

- a. The Consultant shall complete in a satisfactory and proper manner as determined by the City the work activities described in the Scope of Work (Attachment #1 to the contract).
- b. The City will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services as set forth in Section 3 below.

**2. Time of Performance**

The effective date of this contract shall be the date the parties sign and complete execution of the contract. The termination date of the contract shall be upon the end of the required monitor period as determined later by the Consultant.

**3. Consideration**

The City shall reimburse the Consultant for all allowable expenses agreed upon by the parties to complete the Scope of Work. Reimbursement under this contract shall be based on monthly billings, supported by appropriate documentation of cost actually incurred at a rate of \$60.00 per hour plus mileage at the current IRS rate. It is expressly understood that claims for reimbursement shall not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of this agreement.

It is also understood that this contract is funded in whole or in part with CDBG funds through the State of Nebraska Community Development Block Grant Program as administered by DED and is subject to those

regulations and restrictions normally associated with federally funded programs and any other requirements that the state may prescribe.

**4. Records**

The Consultant agrees to maintain such records and follow such procedures as may be required under OMB Circular A102 and any such procedures that the City and DED may prescribe. In general such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultant for a period of three years after the final payment to the City, unless a longer period is required to resolve audit findings or litigation. In such cases, the City shall request a longer period for record retention.

The City, and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultant involving transactions to this local program and contract.

**5. Relationship**

The relationship of the Consultant to the City shall be that of an independent Consultant rendering professional services. The Consultant shall have no authority to execute contracts or to make commitments on behalf of the City and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the City and the Consultant.

**6. Suspension, Termination and Close Out**

If the Consultant fails to comply with the terms and conditions of this contract the City may pursue such remedies as are legally available including, but not limited to the suspension or termination of this contract in the manner specified herein:

**a. Suspension.** If the Consultant fails to comply with the terms and conditions of this contract, or whenever the Consultant is unable to substantiate full compliance with the provisions of this contract, the City may suspend the contract pending corrective actions or investigate effective not less than 7 days following written notification to the Consultant or its authorized representative. The suspension will remain in full force and effect until the Consultant has taken corrective action to the satisfaction of the City and is able to substantiate its full compliance with these terms and conditions of this contract. No obligations incurred by the Consultant or its authorized representatives during the period of suspension will be allowable under the contract except;

1). Reasonable, proper and otherwise allowable costs which the Consultant could not avoid during the period of suspension.

2). If upon investigation, the Consultant is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed.

3). In the event all or any portion of work prepared or partially prepared by the Consultant be suspended, abandoned, or otherwise terminated the City shall pay the Consultant for work performed to the satisfaction of the City, in accordance with the percentage of the work completed.

**b. Termination for Cause.** If the Consultant fails to comply with the terms and conditions of this contract and any of the following conditions exist:

1). The lack of compliance with the provisions of this contract are of such scope and nature that the City deems continuation of the contract to be substantially detrimental to the interests of the City.

2). The consultant has failed to take satisfactory action as directed by the City or its authorized representative within the time specified by same.

3). The consultant has failed within the time specified by the City or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract; then, the City may terminate this contract in whole or in part, and thereupon shall notify the Consultant of the termination, the reasons therefore, and the effective date provided such effective date shall not be prior to notification of the Consultant. After this effective date, no charges incurred under any terminated portions are allowable.

**c. Termination for Other Grounds.** This contract may also be terminated in whole or in part:

1). By the City, with the consent of the Consultant, or by the Consultant with the consent of the City, in which case the two parties shall devise by mutual agreement, the conditions of termination in part, that portion to be terminated.

2). If the funds allocated by the City via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services.

3). In the event the City fails to pay the Consultant promptly or within 60 days after invoices are rendered, the City agrees that the Consultant shall have the right to consider said default a breach of this agreement and the duties of the Consultant under this agreement terminated. In such an event, the City shall then promptly pay the Consultant for all services performed and all allowable expenses incurred.

4). The City may terminate this contract at any time giving at least 10 days notice in writing to the Consultant. If the contract is terminated for convenience of the City as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

## **7. Changes, Amendments, Modifications**

The City may, from time to time, require changes or modifications in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation therefore, which are mutually agreed upon by the City and the Consultant shall be incorporated in written amendments to this contract.

## **8. Personnel**

The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees or have any contractual relationship to the City.

All services required hereunder will be performed by the Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

None of the work or services covered by this contract shall be subcontracted without prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

## **9. Assignability**

The Consultant shall not assign any interest on this contract, and shall not transfer any interest on this contract (whether by assignment or notation), without prior written consent of the City thereto; provided,

however, that claims for money by the Consultant from the City under this contract may be assigned to a bank, trust company, or other financial institutions without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

**10. Reports and Information**

The Consultant, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

**11. Findings Confidential**

All of the reports, information, data, etc., prepared or assembled by the Consultant under this contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without prior written approval of the City.

**12. Copyright**

No reports, maps, or other documents produced in whole or in part under this contract shall be subject of an application for copyright by or on behalf of the Consultant.

**13. Compliance with Local Laws**

The Consultant shall comply with all applicable laws, ordinances and codes of the state and local governments and the Consultant shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract and from failure to comply with any condition or term of this contract.

**14. Executive Order 11246\* (APPLICABLE TO CONSTRUCTION CONTRACTORS ONLY)**

**15. Title VI of the Civil Rights Act of 1964**

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**16. Section 109 of the Housing and Community Development Act of 1974**

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

**17. Section 3 Compliance in the Provision of Training, Employment and Business Opportunities**

a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

b. The parties to this contract will comply with the provision of said Section 3. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these provisions.

c. The Consultant will send to each labor organization or representative or workers with which he/she has collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative or his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or receipt of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its consultants and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

**18. Age Discrimination Act of 1975, As Amended (42 U.S.C. 6161, et.seq.)**

The law provides that no person will be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

**19. Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794)**

The law provides that no otherwise qualified individual will, solely by reason of his other handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.

**20. Executive Order 11246, As Amended**

This Order applies to all federally assisted construction contracts and subcontracts. The Grantee and subcontractors, if any, will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Grantee and subcontractors, if any, will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin.

**21. Conflict of Interest**

No officer, employee or agent of the Grantee who will participate in the selection, the award, or the administration of this grant may obtain a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. It is further required that this stipulation be included in all subcontracts to this contract. Upon written request, exception may be granted upon a case by case basis when it is determined that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. These exceptions are granted by DED.

**22. Audits and Inspections**

The City, DED, the State Auditor and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG project and this contract, by whatever legal and reasonable means are deemed expedient by the City, DED, the State Auditor and HUD.

**23. Hold Harmless**

The Consultant agrees to indemnify and hold harmless the City, its appointed and elective officers and employees, from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the City, its elected or appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Consultant's and its agents' negligent performance of work associated with this agreement. The Consultant shall not be liable for property and bodily injury as may result from the negligence of any construction contractor or construction subcontractor.

This agreement contains all terms and conditions agreed to by the City and the Consultant. The attachments to this agreement are identified as follows:

Attachment #1, Scope of Work, consisting of one page.

WITNESS WHEREOF, the City and the Consultant have executed this contract agreement as of the date and year last written below.

**CITY OF WAYNE, NEBRASKA**

BY \_\_\_\_\_

TITLE Mayor \_\_\_\_\_

DATE \_\_\_\_\_

**NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT**

BY \_\_\_\_\_

TITLE Executive Director \_\_\_\_\_

DATE \_\_\_\_\_

**ATTACHMENT 1**  
**SCOPE OF WORK**

THE CONTRACTOR WILL AS FOLLOWS:

- Monitor and review program income loan files for compliance of all federal rules and regulations including, but not limited to Environmental Review, Davis Bacon Wages and low to moderate income job creation and/or retention requirements.
- Davis Bacon monitoring on the Miss Molly's Coffee Company reuse loan located at 203 Main Street, Wayne, NE.