

**MINUTES
CITY COUNCIL MEETING
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 14th 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 6th 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 Bencoter 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 Bencoter 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.