

**AGENDA
CITY COUNCIL MEETING
July 3, 2012**

5:30 Call to Order

1. [Approval of Minutes – June 19, 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 Max Again for July 14th and 15th from 11:00 a.m. to 9:00 p.m. for a Beer Garden at the Wayne Softball Complex for the Men's Softball Games that are Held in Conjunction with the Wayne Chicken Show Activities](#)

Background: Alex Koch, Recreation Services Director, and Ken Jorgensen, The Max Again, will be available at the meeting to answer any questions you may have regarding this application for special designated liquor license permit. The beer garden is in “pink” on the enclosed aerial photo.

4. [Resolution 2012-50: Approving Memorandum of Communication Tower and Real Estate Lease Agreement with Alltel Communications of Nebraska, Inc., d/b/a “Verizon Wireless”](#)

Background: This Memorandum of Lease is for the amendment to the lease agreement with Verizon that was approved on June 5th. This document, with the lease amount removed, will get recorded at the County Clerk’s Office.

Recommendation: The recommendation is to approve the same.

5. [Resolution 2012-51: Directing the City Clerk to certify Mowing Costs to the Wayne County Clerk and the Wayne County Treasurer to become a Lien on the West 75’ of the North 150’ of Lot 30, Taylor & Wachob’s Addition to Wayne, Wayne County, Nebraska, more commonly described as 509 West First Street, Wayne, Nebraska](#)

Recommendation: The recommendation of the City Clerk and City Administrator is to approve the filing of this lien for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owner.

6. Resolution 2012-52: Directing the City Clerk to certify Mowing Costs to the Wayne County Clerk and the Wayne County Treasurer to become a Lien on Lot 9, McPherran's Addition to Wayne, Wayne County, Nebraska, more commonly described as 908 Circle Drive, Wayne, Nebraska

Recommendation: The recommendation of the City Clerk and City Administrator is to approve the filing of this lien for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owner.

7. Ordinance 2012-28: Amending Wayne Municipal Code Chapter 2, Article II, Council, Division 1. Generally by Adding Section 2-51 Code of Decorum

Background: This "Code of Decorum", which was obtained from the City of Seward, has been prepared in ordinance form for your consideration.

8. Adjourn

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

June 19, 2012

The Wayne City Council met in regular session at City Hall on Tuesday, June 19, 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, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry, and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on June 7, 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 Van Delden, whereas the Clerk has prepared copies of the Minutes of the meeting of June 5, 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: AHERN CO., SE, 920.00; AMAZON.COM, SU, 207.94; AMERITAS, SE, 1956.19; APPEARA, SE, 84.84; ARC-HEALTH & SAFETY, SE, 157.00; ARNIE'S FORD-MERCURY, SE, 105.01; BAKER & TAYLOR BOOKS, SU, 874.78; BANK FIRST, SE, 240.00; CITY EMPLOYEE, RE, 68.68; BOMGAARS, SU, 729.46; CITY EMPLOYEE, RE, 203.80; CITY EMPLOYEE, RE, 150.00; CARHART LUMBER CO, SU, 912.25; CHARTWELLS, SE, 5700.65; CITY OF NORFOLK, SE, 114.64; CITY OF WAYNE, RE, 600.00; CITY OF WAYNE, RE, 200.00; CITY OF WAYNE, PY, 64572.52; CITY OF WAYNE, RE, 25.00; CITY OF WAYNE, RE, 2329.04; CLAUSSEN & SONS IRRIG., SE, 72.20; COMMUNITY HEALTH, RE, 6.00; COPY WRITE, SU, 22.01; DAKOTA BUSINESS SYSTEMS, SE, 103.50; DAVE'S DRY CLEANING, SE, 63.00; DCL AMERICA, SU, 120722.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; ECHO GROUP, SU, 49.85; ELLIS PLUMBING &

HEATING, SE, 180.00; ENERGY FEDERATION, SU, 841.76; FLOOR MAINTENANCE, SU, 202.03; FREDRICKSON OIL, SU, 5912.50; GLEN'S AUTO BODY, SE, 163.74; GREAT PLAINS ONE-CALL, SE, 106.70; H.K. SCHOLZ COMPANY, SU, 878.63; CITY EMPLOYEE, RE, 222.24; HARDING & SHULTZ, SE, 14219.35; HAWKINS, INC, SU, 1408.70; HD SUPPLY WATERWORKS, SU, 1227.43; HIRERIGHT SOLUTIONS, SE, 20.00; HOBBY LOBBY STORES, SU, 37.87; ICMA, SE, 10585.42; INGRAM BOOK COMPANY, SU, 568.93; IRS, TX, 20887.06; JACK'S UNIFORMS, SU, 55.90; CITY EMPLOYEE, RE, 134.95; KELLY SUPPLY, SU, 143.53; KRIZ-DAVIS, SU, 11210.81; KTCH, SE, 805.00; LAURA TEST, RE, 500.00; LERNER PUBLISHING GROUP, SU, 24.95; MAIN STREET AUTO CARE, SE, 90.00; MATT LEY, RE, 150.00; MIDSTATES ERECTORS, SE, 149758.00; MIDWEST LABORATORIES, SE, 1048.90; N.E. NEB ECONOMIC DEV DIS, SE, 315.00; CITY EMPLOYEE, RE, 2011.19; NE DEPT OF ENVIRONMENTAL, FE, 764.16; NE DEPT OF REVENUE, TX, 3260.63; NE PUBLIC HEALTH, SE, 1234.00; NPPD, SE, 265357.11; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 12180.28; OTTE CONSTRUCTION CO, SU, 486.50; PAC N SAVE, SU, 46.44; PAMIDA, SU, 13.57; CITY EMPLOYEE, RE, 2472.18; PEPSI-COLA, SU, 643.75; CITY EMPLOYEE, RE, 28.80; PRESTO X, SE, 82.15; R.S. STOVER, SE, 5269.86; RANDOM HOUSE, SU, 60.00; SPARKLING KLEAN, SE, 6195.50; STATE NATIONAL BANK, RE, 276415.69; TAYLOR RACELY, SE, 1175.00; UNITED WAY, RE, 10.00; UNIVERSITY OF NEBRASKA, FE, 30.00; USA BLUE BOOK, SU, 167.16; WASTE CONNECTIONS, SE, 58.00; WAYNE AUTO PARTS, SU, 794.59; WAYNE COMMUNITY DEVEL, RE, 160000.00; WAYNE GREENHOUSE, SU, 35.00; WAYNE GROCERY, SU, 205.77; WAYNE HERALD, SE, 398.50; WESCO, SU, 1624.13; WAPA, SE, 27106.83; WIGMAN, TX, 251.58; ZEE MEDICAL SERVICE, SU, 62.67; ZIMCO, SU, 141.25; ALL-AMERICAN PUBLISHING, SE, 289.00; AMERICAN RED CROSS, SE, 300.00; BLACKBURN MANUFACTURING, SU, 177.54; CENTURYLINK, SE, 308.89; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 152.34; CONNIE WEBBER, RE, 30.00; COVENTRY HEALTH, SE, 17398.84; DUTTON-LAINSON, SU, 239.05; ED M FELD EQUIPMENT, SU, 360.00; FLOOR MAINTENANCE, SU, 174.39; FORT DEARBORN LIFE, SE, 1402.33; GERHOLD CONCRETE, SU, 42.00; JASON CAROLLO, SE, 20.00; CITY EMPLOYEE, RE, 776.44; L.G. EVERIST, SU, 679.07; CITY EMPLOYEE, RE, 290.05; NE EXPRESSWAYS, SE, 883.44; NE SAFETY COUNCIL, SE, 11.53; OLSSON ASSOCIATES, SE, 5060.77; PITNEY BOWES, SU, 648.00; CITY EMPLOYEE, RE, 2001.90; REHAB SYSTEMS, SU, 12240.00; ROBERT WOehler & SONS, SE, 2090.00; SIOUX CITY ENGINEERING, SE, 135616.41; SKARSHAUG TESTING LAB, SE, 134.05; STADIUM SPORTING GOODS, SU, 186.00; CITY EMPLOYEE, RE, 309.30; VERIZON, SE, 205.91; WAYNE CHICKEN SHOW, RE, 5717.69; WAYNE COMMUNITY HOUSING, SE, 1955.00; WESCO, SU, 548.48; WTG MIDWEST, SU, 900.50

Councilmember Sturm made a motion and Councilmember Ley 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.

An Application for a Special Designated Liquor License Permit was received from The White Dog Pub for a beer garden which will be located on Highway 15 between the 100 and 200 blocks of Main Street on Friday, July 13, 2012, which is in conjunction with the Chicken Show Activities. Bill Melena, representing The White Dog Pub, was present to answer questions.

Councilmember Sturm made a motion, which was seconded by Councilmember Frevert approving the request of The White Dog Pub for a Special Designated Liquor License Permit for a beer garden which will be located on Highway 15 between the 100 and 200 blocks of Main Street on Friday, July 13, 2012, which is in conjunction with the Chicken Show Activities. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

An Application for a Special Designated Liquor License Permit was received from The White Dog Pub for a beer garden which will be located in the parking lot of Final Touch on Saturday, July 14, 2012, which is in conjunction with the Chicken Show

Activities. Bill Melena, representing The White Dog Pub, was present to answer questions.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley approving the request of The White Dog Pub for a Special Designated Liquor License Permit for a beer garden which will be located in the parking lot of the Final Touch on Saturday, July 14, 2012, which is in conjunction with the Chicken Show Activities. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

An Application for a Special Designated Liquor License Permit was received from The Max Again for a beer garden which will be located on Highway 15 between the 100 and 200 blocks of Main Street on Friday, July 13, 2012, which is in conjunction with the Chicken Show Activities. Ken Jorgensen, representing The Max Again, was present to answer questions.

Councilmember Sturm made a motion, which was seconded by Councilmember Frevert approving the request of The Max Again for a Special Designated Liquor License Permit for a beer garden which will be located on Highway 15 between the 100 and 200 blocks of Main Street on Friday, July 13, 2012, in conjunction with the Chicken Show Activities. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Jessi Hansen and Cara Woehler, representing the Leadership Wayne Class, were present to request Council consideration to allowing them to use city-owned property located by the Softball Complex for a dog park. Fundraisers will be held to help finance

the purchasing of fence and disposal stations for the park. There will be an area for large dogs, as well as an area for small dogs. Rules will be posted.

Staff will contact the City's insurance company regarding liability for this dog park.

Councilmember Ley made a motion, which was seconded by Councilmember Sturm approving the request of the Leadership Wayne Class to use city-owned land located by the Softball Complex for a dog park. 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 Ley made a motion, which was seconded by Councilmember Alexander to table action on Agenda No. 7 until Alex Koch, the Recreation Services Director, was available. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Frevert introduced Ordinance 2012-12, and moved for approval of the third and final reading thereof; Councilmember Alexander 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.

Councilmember Sturm introduced Ordinance No. 2012-15, and moved for approval of the second reading thereof; Councilmember Ley 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.

Councilmember Sturm made a motion and Councilmember Alexander seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. 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 and Councilmember Alexander seconded to move for final approval of Ordinance No. 2012-15. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

In regard to Ordinance No. 2012-16, which is on the agenda for its second reading this evening, Administrator Johnson advised the Council that what is being recommended by the Planning Commission is not on a case-by-case basis.

Joel Hansen, Zoning Administrator, stated this ordinance only addresses the definition of family. The remaining ordinances, as proposed by the Planning Commission, are for conditional approval by the zoning administrator if all conditions are met. If the Council wants to approve these matters on a case-by-case basis, this language would have to be thrown out and the matter sent back to the Planning Commission so they can address those sections of the code that relate to use by exceptions. Case law has shown that you cannot deny those permits, but only put additional conditions on the use.

Additional costs are associated with use by exception permits (e.g. public hearing notices, title searches, and mailing notices to persons living within 300' of the property, etc.).

Councilmember Sturm spoke against changing these ordinances. He was on the Council when the ordinance, which allowed four unrelated persons to live in a house, was adopted, and he thought it should not be amended.

Councilmember Frevert stated the rental properties that are available to the college students are slim to none at this time. He thought this might have been what triggered the request.

Councilmember Brodersen appreciated the background on this. The City Council, in the past, put a lot of time and effort into the zoning codes and she thought the Council would be reckless to change those now.

Mr. Hansen stated if the definition is amended, as recommended, the Council can select which zoning districts they would allow the boarding dwellings in.

Councilmember Frevert introduced Ordinance 2012-16, and moved for approval of the second reading thereof.

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.

Said motion died for lack of a second.

Because Ordinance No. 2012-16 died for lack of second, no action was taken on Agenda Item Nos. 11, 12, 13, 14, and 15.

Alex Koch, Recreation Services Director, updated the Council on the shelter/pavilion project at the Softball Complex. Mr. Koch stated that Sand Creek Post &

Beam would like to build an 18'x35' structure; the original structure was going to be a 15'x20'. Gerhold Concrete and the Softball Association were going to donate all of the concrete, but because of the proposed change, they were asking if the City would split the cost of the same. Mr. Koch stated funds are available in his budget to use for this expense. It's estimated that the City's share would be around \$500. Sand Creek is still donating all of the materials for the structure.

There was some concern, because of the size of this structure, if it would block the view of the concession building if it was placed on the north side as proposed. A suggestion was to remove the metal shelter on the south side of the concession building and place this new structure there instead. Mr. Koch was of the opinion that Sand Creek did not care which side of the concession stand the shelter was located.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander to approve the expansion of the shelter/pavilion at the Softball Complex and to allow the Recreation Services Director and the committee decide on the best location for it. 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 "Private Recreation (Controlled Impact)". The Applicant, Kelby Herman, wishes to make this amendment.

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on June 11, 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.

The Hermans want to build a 5,000 sq. ft. building on their property. Per city code, they are limited to erect a building that is 7% of the lot size, or a maximum of 3,000 sq. ft. They could also apply for a use by exception permit; however, that limits them to a 4,000 sq. ft. building. They want to put indoor recreation in the building (e.g. basketball court, batting cages, etc.).

The proposed definition change is as follows:

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.

Mr. Hansen noted that the Planning Commission has suggested that they go back and look at the language for accessory structures and remove the cap and just keep it as 7% of the lot area. If that language would be approved, it would negate the need for the language that is being proposed tonight; however, the Hermans would like to build now, and they have asked that he keep moving this language along for consideration.

Mr. Hansen advised the Council that the Hermans' property is in an R-3 Zoning District.

Joelle Herman was present to answer questions.

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

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

Councilmember Frevert introduced Ordinance 2012-22, and moved for approval thereof; Councilmember Sturm seconded.

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.

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 and Councilmember Frevert seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. 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 and Councilmember Sturm seconded to move for final approval of Ordinance No. 2012-22. 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 90-205 Exceptions of the R-1 Residential District by adding subparagraph (13) Private Recreation (Controlled Impact).

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on June 11, 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.

Mr. Hansen stated this takes the definition just approved and allows it as a use by exception in an R-1 District.

Councilmember Sturm stated he did not think this was something that needed to be approved for all zoning districts.

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

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

Ordinance 2012-23 failed for lack of an introduction.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-235 Exceptions of the R-2 Residential Zoning District by adding subparagraph (9) Private Recreation (Controlled Impact).

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on June 11, 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.

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 for or against this public hearing.

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

Ordinance 2012-23 died for lack of an introduction.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-265 Exceptions of the R-3 Residential District by adding subparagraph (11) Private Recreation (Controlled Impact).

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on June 11, 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.

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 for or against this public hearing.

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

Councilmember Alexander introduced Ordinance 2012-25, and moved for approval thereof; Councilmember Sturm seconded.

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.

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

Councilmember Alexander made a motion and Councilmember Sturm seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander made a motion and Councilmember Haase seconded to move for final approval of Ordinance No. 2012-25. 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 90-835 Exception Use Standards of the Wayne Municipal Code by adding subparagraph (5) For Private Recreation (Controlled Impact).

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the information at their public hearing on June 11, 2012, and forwarded a recommendation to approve the following:

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.

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.

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

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

Councilmember Ley introduced Ordinance 2012-26, and moved for approval thereof; Councilmember Alexander seconded.

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.

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 and Councilmember Alexander seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. 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 and Councilmember Ley seconded to move for final approval of Ordinance No. 2012-26. 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 regarding a Use by Exception Request under Sec. 90-265 Exceptions (11) Private Recreation (Controlled Impact) of the Wayne Municipal Code. The applicant, Kelby Herman, wishes to construct a private recreation structure on his property at 1102 West 7th Street.

Joel Hansen, Zoning Administrator, stated that the Planning Commission held a public hearing on this matter on June 11, 2012, and recommended approval thereof, subject to the following "Findings of Fact":

1. Staff's recommendation; and
2. Consistency with the comprehensive plan and the current and future land use maps.

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

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

Councilmember Ley introduced Resolution 2012-47, and moved for its approval; Councilmember Brodersen seconded.

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 7TH STREET, LEGALLY DESCRIBED AS LOT 1, WESTERN RIDGE FIRST ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

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

Nancy Braden, Finance Director, explained to Council the reason for staff requesting wanting to request a 60-day extension from the Department of Economic Development for CDBG re-use funds administration determination. The City has been notified by DED that if we have any type of violation in our block grant administration, they will take the funds back. We currently have \$594,000 in outstanding loans and \$338,610 in cash. If we would have something that does not comply with HUD guidelines on any loan that has been issued in the last ten years, they can penalize us by

not allowing us to apply for any grants for the next two years, and they can take all of the funds back, including any proceeds we get back on those loans.

Our options are:

- To return all un-loaned revolving loan fund cash and all future loan repayments directly back to the State; or
- Undergo a DED audit of loan funds made with re-use funds back to 2002 and face a 2-year penalty of ineligibility for new grants if any violations are found.

If we are not granted this extension, we will have to make a determination by July 4th as to what we will do with the funds.

Staff will be investigating whether or not the loans currently outstanding can be forgiven. In addition, staff is requesting that Council approve the following Resolution which will authorize Northeast Nebraska Economic Development District to review the CDBG grant files for compliance with the guidelines. The funds to pay NNEDD will come out of the re-use funds and not the general fund.

The City started out with \$575,000. What must be returned to DED is any cash we have and any loans that we have that have to be repaid.

If we relinquish the funds back to DED, they will not audit the loans. They will only audit and monitor the loans if we decide to keep the funds.

There are two loans of \$100,000 each that have been approved by Council, but have not been completed at this time. NNEDD has those loan files and they may fund them through the programs that they have.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, authorizing staff to request a 60-day extension from the Department of Economic Development for CDBG re-use funds administration determination. Mayor Chamberlain

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

Councilmember Sturm introduced Resolution No. 2012-48 and moved for its approval; Councilmember Alexander seconded.

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.

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 and Ordinance pertain to the sale of Lot 12, Benscoter Addition to Benscoter, Inc.

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.

Councilmember Brodersen introduced Resolution No. 2012-49 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2012-49

A RESOLUTION AUTHORIZING THE SALE OF CERTAIN PROPERTY TO BENSCOTER, INC., A NEBRASKA CORPORATION.

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

Councilmember Brodersen introduced Ordinance 2012-27, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2012-27

AN ORDINANCE DIRECTING THE SALE OF LOT 12, BENSCOTER ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, TO BENSCOTER, INC., A NEBRASKA CORPORATION.

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 and Councilmember Alexander seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. 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 and Councilmember Haase seconded to move for final approval of Ordinance No. 2012-27. 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: Dennis Lipp to the Library Board.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander approving the reappointment of Dennis Lipp to the Library 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 appointment: Sharon Braun to the Planning Commission.

Councilmember Haase made a motion, which was seconded by Councilmember Alexander approving the appointment of Sharon Braun to the Planning Commission. 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, 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 6:58 p.m.

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CLAIMS LISTING JULY 3, 2012

AMBRE RUZICKA	PAMIDA SUPPLIES-BLEACH/TOWELS	24.11
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	1,698.90
APPEARA	LINEN AND MAT SERVICE	151.58
ARNIE'S FORD-MERCURY INC	SR CENTER VAN REPAIR	1,494.14
AS CENTRAL SERVICES	TELECOMMUNICATION CHARGES	448.00
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	120.00
BLACK HILLS ENERGY	GAS BILLS	1,151.19
BOMGAARS	TOWELS AND CLEANERS-FD	29.14
CARROT-TOP INDUSTRIES	FLAGS	730.07
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	600.00
CITY OF WAYNE	PAYROLL	65,786.81
CITY OF WAYNE	US CELLULAR UTILITY CORRECTION	229.48
CLAUSSEN & SONS IRRIG.	SB COMPLEX	113.77
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
CONNECTING POINT	ANTI VIRUS LICENSES	1,533.75
DANKO EMERGENCY EQUIPMENT	HOSE	5,175.00
DCL AMERICA INC.	UNIT 7/8 SILENCERS	123,290.70
DE LAGE LANDEN FINANCIAL	COPIER LEASE	77.00
ECHO GROUP INC JESCO	FUSES/TEST LEAD KIT	99.88
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	42.34
ELECTRIC FIXTURE & SUPPLY	BALLAST/CONDUIT	121.79
ELLIS PLUMBING & HEATING	CAC COOLING REPAIR/CAMERA SEWER MAIN	300.00
FIRST CONCORD GROUP LLC	CAFETERIA FEES	4,503.27
FITZGERALD, VETTER	SETTLEMENT	61,685.00
FLOOR MAINTENANCE	TOWELS/NAPKINS/PLATES/DETERGENT	197.04
FORT DEARBORN LIFE	VFD INSURANCE	103.20
GEMPLER'S INC	HOSE SHUT OFF VALVE/DRUM DOLLY/SHIRTS	317.30
GERHOLD CONCRETE CO INC.	GRAVEL/CONCRETE	959.05
GIS WORKSHOP	ANNUAL GIS ONLINE/PHONE SUPPORT	4,000.00
GUARANTEE OIL CO INC	BRAKE CLEANER	59.56
H.K. SCHOLZ COMPANY	COOLING TOWER	107,590.00
CITY EMPLOYEE	CLOTHING/VISION REIMBURSEMENT	131.92
HAWKINS, INC	POOL CHEMICALS	1,315.63
HD SUPPLY WATERWORKS, LTD	METER	923.17
CITY EMPLOYEE	HEALTH REIMBURSEMENT	47.66
HELENA CHEMICAL CO.	FERTILIZER	335.00
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,292.71
IRS	FEDERAL WITHHOLDING	20,751.10
JAMES PAIGE	COOLING INCENTIVE	30.00
KRIZ-DAVIS COMPANY	EPR CABLE	11,620.94
L.G. EVERIST	ROCK	2,016.20
LANGEMEIER, WAYNE	MOWING	175.00
LEAGUE OF NEBRASKA	FINANCE CONFERENCE REGISTRATION/MEALS	1,107.00
MCGUIRE & NORBY	ATTORNEY FEES	2,226.60
MIDLAND EQUIPMENT INC	BEARINGS/CASTER/AXLE	590.22

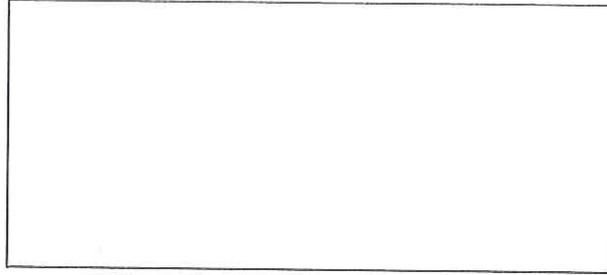
MONGAN PAINTING CO INC	SAND BLASTING SUMP TANK (CORRECTION)	3,596.51
NE DEPT OF REVENUE	STATE WITHHOLDING	3,210.30
NE LIBRARY COMMISSION	ONE NE LIBRARY PROJECT	1,250.00
NE NEB INS AGENCY INC	INSURANCE	58,224.50
NORFOLK IMPLEMENT	THROTTLE	38.97
NORTHEAST NE PUBLIC POWER	ELECTRICITY	3,067.00
PITNEY BOWES INC	INK CARTRIDGE	101.99
QUILL CORPORATION	OFFICE SUPPLIES	74.65
SIOUXLAND TURF PRODUCTS	FERTILIZER	1,880.00
T & S TRUCKING	TRANSPORT FEES (RICE/OUTFALL/ALLEY)	1,484.01
TERRACON CONSULTANTS INC	WWTP SOIL TESTING	356.50
UNITED RENTALS	TRAFFIC CONES	990.00
USA BLUE BOOK	CUTTER SET	49.09
VIAERO	CELL PHONES	169.95
WATER ENVIRONMENT	MEMBERSHIPS - BRADY/ECHTENKAMP/JUNCK	60.00
WESCO DISTRIBUTION INC	SPLICE CLEANER	108.63
WINNING FINISH	SHAMPOO INTERIOR -HANDIVAN	314.18

DELETE FROM CLAIMS LISTING JUNE 19, 2012

ED M FELD-FOAM \$360.00

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) EK 76898

3. Licensee name (last, first,), corporate name or limited liability company (LLC) name
(As it reads on your liquor license)
NAME: Torgensen Ken The Max Again
ADDRESS: 109 main street
CITY Wayne Ne. ZIP 68787

4. Location where event will be held; name, address, city, county, zip code
BUILDING NAME Softball Complex
ADDRESS: 921 Dearborn 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 14th</u> Hours From <u>11:00 AM</u> To <u>9:00 pm</u>	Date <u>July 15th</u> Hours From <u>11:00 AM</u> To <u>9:00 pm</u>	Date _____ Hours From _____ To _____			
--	--	---	---	---	---

a. Alternate date: None

b. Alternate location: None
(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 20 x 25
Outdoor area dimensions of area to be covered IN FEET _____ x _____
(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 BM

8. How many attendees do you expect at event? None

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)
Wrist bands and check at Ids at entrance

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.

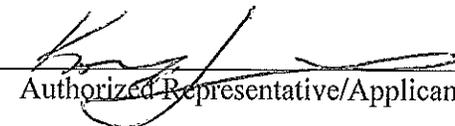
Print name of Event Supervisor Ken Jorgensen

Signature of Event Supervisor 

Phone of Event Supervisor: Before (402) 375-9817 During (402) 375-9817

Consent of Authorized Representative/Applicant

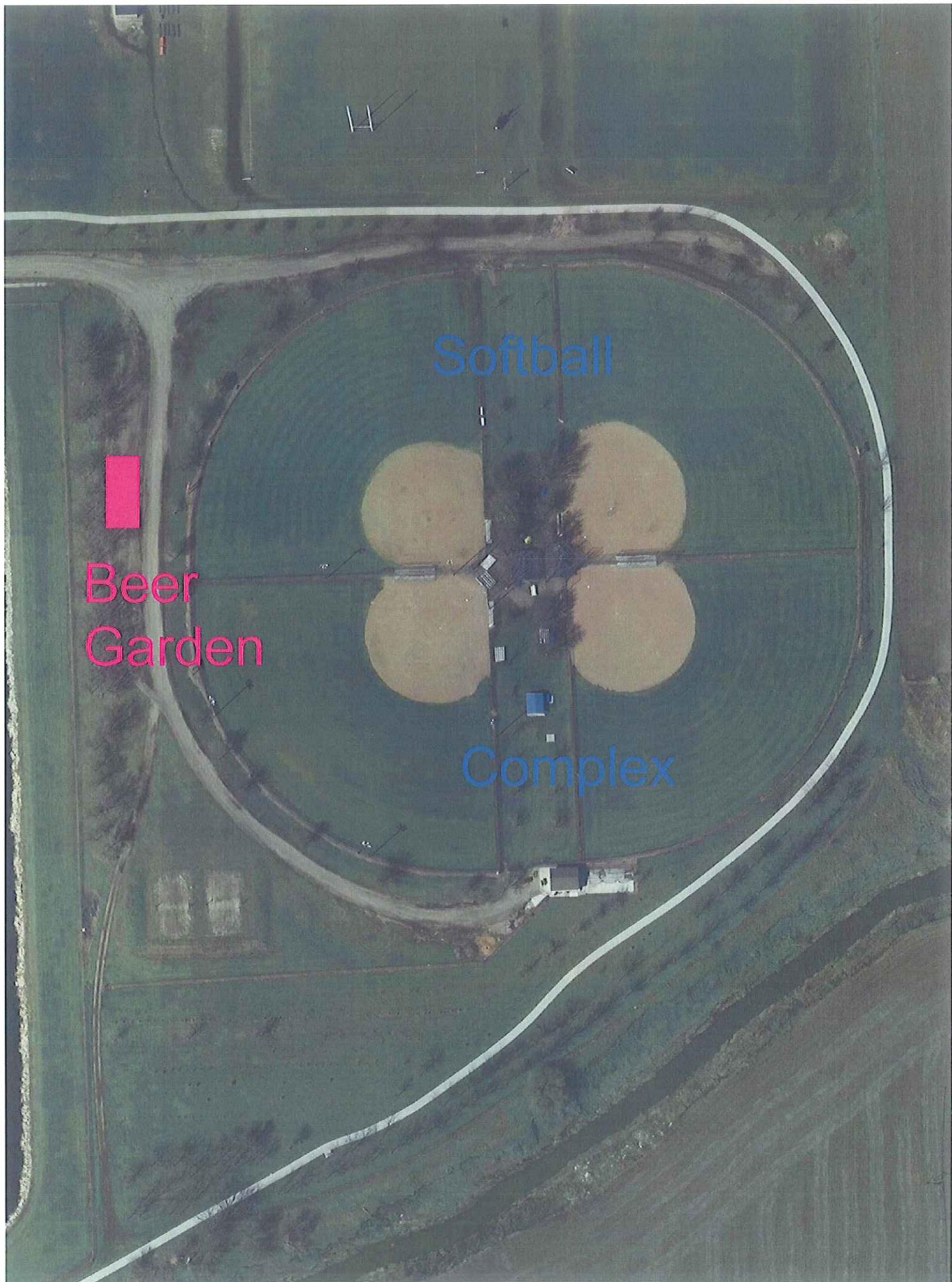
15. I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. 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  OWNER 06-27-12
Authorized Representative/Applicant Title Date

Ken Jorgensen
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.



Softball

Beer
Garden

Complex

RESOLUTION NO. 2012-50

A RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WAYNE ("CITY") AND ALLTEL COMMUNICATIONS OF NEBRASKA, INC., D/B/A VERIZON WIRELESS ("ALLTEL").

WHEREAS, the City and Alliant Cellular, Inc., Alltel's predecessor in interest, entered into a Communication Tower and Real estate Lease Agreement dated March 1, 1999, as amended by the October 2, 2003 First Amendment to Lease Agreement, as further amended by the December 14, 2004 Second Amendment to Lease Agreement, pursuant to which the City leases to Alltel space on the City's communications tower and a portion of the property located at 306 Pearl Street, Wayne, Wayne County, Nebraska 68787; and

WHEREAS, the City and Alltel wish to file a Memorandum of Understanding in the County Clerk's Office of Wayne County, Nebraska, to provide record notice to third parties of Alltel's leasehold interest in the premises.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Memorandum of Understanding between the City and Alltel is hereby approved, and the City Administrator and/or Mayor is authorized and directed to execute said Memorandum of Understanding on behalf of the City.

PASSED AND APPROVED this 3rd day of July, 2012.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

This Instrument Was Prepared By:
Anne Marie Kempf, Esq.
Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219

MEMORANDUM OF COMMUNICATION
TOWER AND REAL ESTATE LEASE AGREEMENT

This Memorandum of Communication Tower and Real Estate Lease Agreement (“**Memorandum**”) is made and entered into this _____ day of _____ 2012, by and between the **City of Wayne, Nebraska** (“**Lessor**”) and **Alltel Communications of Nebraska, Inc. d/b/a Verizon Wireless** (“**Lessee**”). The Lessor and Lessee are at times collectively referred to hereinafter as the “**Parties**,” or individually as the “**Party**”.

WHEREAS, Lessor and Aliant Cellular Inc., Lessee’s predecessor in interest, entered into a Communication Tower and Real Estate Lease Agreement dated March 1, 1999, as amended by the October 2, 2003 First Amendment to Lease Agreement, as further amended by the December 14, 2004 Second Amendment to Lease Agreement (collectively, the “**Lease**”), pursuant to which Lessor leases to Lessee space on Lessor’s communications tower and a portion of the property located at 306 Pearl Street, Wayne, Wayne County, Nebraska 68787

WHEREAS, the entirety of the Lessor’s property is described in **Exhibit A**, attached hereto, and is referred to herein as the “**Premises**”;

WHEREAS, Lessor and Lessee wish to file this Memorandum of record in the Recorder’s Office of Wayne County, Nebraska to provide record notice to third parties of Lessee’s leasehold interest in the Premises;

NOW, THEREFORE, for and in consideration of the covenants and promises of the Parties set forth herein and in the Lease, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are expressly acknowledged by the Parties, Lessor and

Lessee agree and acknowledge for themselves and their respective successors and assigns, as follows:

1. Upon, subject to and in consideration of the terms and conditions set forth in the Lease, Lessor leases a portion of the Premises to Lessee.

2. The initial term of the Lease commenced on March 1, 1999 and Lessee has the option to extend the term of the Lease for five (5) additional automatic renewal terms through and including February 28, 2029 upon the terms and conditions set forth in the Lease.

3. Lessee has the right of first refusal to obtain a communications easement over the Premises during the initial term and all renewal terms of the Lease.

4. This Memorandum contains only selected provisions of the Lease and reference is made to the full text of the Lease for the full terms and conditions. This Memorandum shall not, in any way, amend or supersede the terms and conditions of the Lease.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum effective as of the day and year first above written.

LESSOR:

City of Wayne, Nebraska

By: _____
Name: _____
Title: _____

LESSEE:

**Alltel Communications of Nebraska, Inc.
d/b/a Verizon Wireless**

By: _____
Beth Ann Drohan
Area Vice President Network

STATE OF NEBRASKA)
COUNTY OF WAYNE)

Before me, a notary public for the state and county aforesaid, personally appeared Ken Chamberlain, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged himself to be the Mayor of the City of Wayne, Nebraska, the within named bargainor, and that being duly authorized, he executed the foregoing instrument on behalf of the City of Wayne, for the purposes therein contained.

Witness my hand and seal this 3rd day of July, 2012.

NOTARY PUBLIC

My Commission Expires:

[SEAL]

STATE OF ILLINOIS)
COUNTY OF COOK)

Before me, a Notary Public, personally appeared Beth Ann Drohan, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged herself to be the Area Vice President Network of Alltel Communications of Nebraska, Inc. d/b/a Verizon Wireless, the within named bargainor, and that being duly authorized, she executed the foregoing instrument on behalf of Alltel Communications of Nebraska, Inc. d/b/a Verizon Wireless for the purposes therein contained.

Witness my hand and seal this ____ day of _____, 2012.

NOTARY PUBLIC

My Commission Expires:

[SEAL]

Exhibit A

Description of the Premises

The East eighty-five feet (E 85 ft.) of Lot Five (5) in Block Ten (10), of Crawford & Brown's Addition to the City of Wayne, Nebraska;

and

The East eighty-five feet (E 85 ft.) of Lots Four, Five, and Six (4, 5, and 6), in Block Six (6), of the Original Town of Wayne, Nebraska.

and

the West sixty-five (65) feet of Lots Four, Five and Six (4-5-6), in Block Six (6) of the original Town of Wayne and the West sixty-five (65) feet of Lot Five (5) in Block Ten (10) of Crawford and Brown's Addition to Wayne, all in Wayne County, Nebraska.

Being the same property conveyed to the City of Wayne, Nebraska pursuant to the Warranty Deed dated May 28, 1958 and recorded in Book 38, page 423 of the Real Estate Deeds, Wayne County, Nebraska Register of Deeds' Office and Warranty Deed dated August 3, 1968 and recorded in Book 49, page 19, of the Real Estate Deeds, Wayne County, Nebraska Register of Deeds' Office.

RESOLUTION NO. 2012-51

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON THE WEST 75' OF THE NORTH 150' OF LOT 30, TAYLOR & WACHOB'S ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 509 WEST FIRST STREET, WAYNE, NEBRASKA.

WHEREAS, the City of Wayne has incurred costs associated with the mowing of the property located at 509 West First Street, Wayne, Nebraska, and legally described as the West 75' of the North 150' of Lot 30, Taylor & Wachob's Addition to Wayne, Wayne County, Nebraska; and

WHEREAS, Section 34-61 of the Wayne Municipal Code requires each owner of any lot or parcel of land in the City of Wayne to cut and remove all weeds and other rank growth of vegetation on such property as close to the ground level as possible throughout the period of May 1st to October 15th of each year; and

WHEREAS, the Superintendent of Public Works & Utilities has caused to be published in the Wayne Herald the notice required under Section 34-61 specifying that said weeds and other rank growth vegetation shall be cut during the above-referenced period; and

WHEREAS, the City's Public Works Department is authorized under said Section to notify in writing the owner of any property within the City to cut any such weeds found growing on such property by United States mail, postage prepaid, addressed to such owner at his or her last known address or served personally; and

WHEREAS, on the failure, neglect or refusal of any such owner to cut or destroy such weeds located upon such property within seven days after the mailing or personal service date of such notice, the City's Public Works Department is authorized to pay for the cutting of such weeds or to order the removal by the City; and

WHEREAS, the cost of any such cutting, destroying, or removing such weeds shall be at the expense of the owner of such property; and

WHEREAS, if the costs of cutting, destroying or removing weeds and other rank growth of vegetation and costs of removing any refuse, debris, or other obstructions, to permit such cutting are unpaid for two months, pursuant to said Section 34-61, the City Clerk shall certify to the Wayne County Clerk and the Wayne County Treasurer the amount of such expense, and such expense shall become a lien on the property upon which the removal measures were taken as a special assessment levied on the date of such measures; and

WHEREAS, the City's Public Works Department has notified the Bank of New York, the owner of 509 West First Street, Wayne, Nebraska, and legally described as the West 75' of the North 150' of Lot 30, Taylor & Wachob's Addition to Wayne, Wayne County, Nebraska, to cut, destroy, and remove any such weeds, grass or unhealthful growth located on such property by United States mail, postage prepaid, at the last known address of the Bank of New York or served personally; and

WHEREAS, upon the failure, neglect or refusal of the Bank of New York to cut, destroy, and remove such weeds from said property within seven days after the mailing or personal service date of such notice, the City Public Works Department did then undertake the removal of such weeds from said property, pursuant to Section 34-61 during the time period of May, 2012, through and including June, 2012 and

WHEREAS, the cost of such cutting, destroying or removal of such weeds in the total amount of \$90.00 has been sent to Bank of New York for payment.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Wayne City Clerk shall certify to the Wayne County Clerk and the Wayne County Treasurer the total amount of \$90.00 in expenses incurred by the Wayne Public Works Department in removing weeds and other rank growth of vegetation from the property owned by the Bank of New York and upon certification to the Wayne County Treasurer, such expense shall become a lien on the property described herein below, said property owned by the Bank of New York on which the removal measures were taken, as a special assessment levied on the date of such measures. The property is described to wit:

The West 75' of the North 150' of Lot 30, Taylor & Wachob's Addition to Wayne, Wayne County, Nebraska.

BE IT FURTHER RESOLVED that pursuant to Section 34-61 of the Wayne Municipal Code, the Wayne County Treasurer shall add such expense to, and it shall become and form a part of the taxes on such property described herein and shall bear interest at the same rate as taxes.

Passed and approved this 3rd day of July, 2012.

THE CITY OF WAYNE, NEBRASKA

BY _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2012-52

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON LOT 9, MCPHERRAN'S ADDITION TO WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 908 CIRCLE DRIVE, WAYNE, NEBRASKA.

WHEREAS, the City of Wayne has incurred costs associated with the mowing of the property located at 908 Circle Drive, Wayne, Nebraska, and legally described as Lot 9, McPherran's Addition to Wayne, Wayne County, Nebraska; and

WHEREAS, Section 34-61 of the Wayne Municipal Code requires each owner of any lot or parcel of land in the City of Wayne to cut and remove all weeds and other rank growth of vegetation on such property as close to the ground level as possible throughout the period of May 1st to October 15th of each year; and

WHEREAS, the Superintendent of Public Works & Utilities has caused to be published in the Wayne Herald the notice required under Section 34-61 specifying that said weeds and other rank growth vegetation shall be cut during the above-referenced period; and

WHEREAS, the City's Public Works Department is authorized under said Section to notify in writing the owner of any property within the City to cut any such weeds found growing on such property by United States mail, postage prepaid, addressed to such owner at his or her last known address or served personally; and

WHEREAS, on the failure, neglect or refusal of any such owner to cut or destroy such weeds located upon such property within seven days after the mailing or personal service date of such notice, the City's Public Works Department is authorized to pay for the cutting of such weeds or to order the removal by the City; and

WHEREAS, the cost of any such cutting, destroying, or removing such weeds shall be at the expense of the owner of such property; and

WHEREAS, if the costs of cutting, destroying or removing weeds and other rank growth of vegetation and costs of removing any refuse, debris, or other obstructions, to permit such cutting are unpaid for two months, pursuant to said Section 34-61, the City Clerk shall certify to the Wayne County Clerk and the Wayne County Treasurer the amount of such expense, and such expense shall become a lien on the property upon which the removal measures were taken as a special assessment levied on the date of such measures; and

WHEREAS, the City's Public Works Department has notified Richard Keenan, the owner of 908 Circle Drive, Wayne, Nebraska, and legally described as Lot 9, McPherran's Addition to Wayne, Wayne County, Nebraska, to cut, destroy, and remove any such weeds, grass or unhealthful growth located on such property by United States mail, postage prepaid, at the last known address of Richard Keenan or served personally; and

WHEREAS, upon the failure, neglect or refusal of Richard Keenan to cut, destroy, and remove such weeds from said property within seven days after the mailing or personal service date of such notice, the City Public Works Department did then undertake the removal of such weeds from said property, pursuant to Section 34-61 during the time period of May, 2012, through and including June, 2012 and

WHEREAS, the cost of such cutting, destroying or removal of such weeds in the total amount of \$180.00 has been sent to Richard Keenan for payment.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Wayne City Clerk shall certify to the Wayne County Clerk and the Wayne County Treasurer the total amount of \$180.00 in expenses incurred by the Wayne Public Works Department in removing weeds and other rank growth of vegetation from the property owned by Richard Keenan and upon certification to the Wayne County Treasurer, such expense shall become a lien on the property described herein below, said property owned by Richard Keenan on which the removal measures were taken, as a special assessment levied on the date of such measures. The property is described to wit:

Lot 9, McPherran's Addition to Wayne, Wayne County, Nebraska.

BE IT FURTHER RESOLVED that pursuant to Section 34-61 of the Wayne Municipal Code, the Wayne County Treasurer shall add such expense to, and it shall become and form a part of the taxes on such property described herein and shall bear interest at the same rate as taxes.

Passed and approved this 3rd day of July, 2012.

THE CITY OF WAYNE, NEBRASKA

BY _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-28

AN ORDINANCE AMENDING MUNICIPAL CODE CHAPTER 2, ARTICLE II, COUNCIL, DIVISION 1. GENERALLY, BY ADDING SECTION 2-51 CODE OF DECORUM; 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 , Nebraska:

Section 1. That Chapter 2, Article II., Division 1., of the Municipal Code is amended by adding Sec. 2-51 as follows:

Sec. 2-51. Code of Decorum.

It is the policy of the City of Wayne that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of conduct for all city officials and employees is adopted. The City Council may adopt, amend, and/or rescind this code. If any portion of this Code of Conduct is found to conflict with City Ordinance or State Law, the provisions of City Ordinance or State Law shall be followed.

MAYOR:

1. Presides at all the meetings of the City Council.
2. May debate any matter coming before the City Council.
3. Votes when his/her vote shall be decisive and the City Council is equally divided on any pending matter.
4. Has superintending control of all officers and affairs of the Municipality and shall take care that the State and Municipal law are complied with.
5. Has the power to approve or veto any ordinance, order, by-law, resolution, award of contract, or allowance of a claim passed by the City Council.
6. Demonstrates respect, kindness, consideration, and courtesy to others.
7. Prepares in advance of City Council meetings and becomes familiar with agenda items.
8. Will not willfully and knowingly use confidential information acquired in the course of and by reason of their official duties for personal gain.
9. Shall communicate to the City Council such information and recommend such measures as in the Mayor's opinion may tend to improve the municipality.
10. May call for a special meeting.
11. Makes judgment calls on proclamations and similar situations.
12. Recognized as spokesperson for the City. The Mayor may designate another.
13. Selects substitute for City representation when unable to attend events.
14. Recommends subcommittees and names for appointment to Committees for City Council confirmation.
15. Leads the City Council into an effective, cohesive working team.
16. Signs documents on behalf of the City.
17. Serves as official delegate of the City at events and conferences.
18. Provides advance notice to City Hall if he/she is unable to attend any called meeting.
19. Demonstrates honesty and integrity in every action and statement.

20. Inspires public confidence in Wayne City government.
21. Will treat all people fairly, based upon authority and recognized standards.

COUNCIL PRESIDENT:

1. Chairs Council meetings in the absence of the Mayor.
2. May debate any matter coming before the City Council and may move, second, debate and vote from the chair, subject only to such limitations of debate as are imposed by these rules on all members, and shall not be deprived of any rights and privileges of a Councilmember by reason of his/her acting as presiding officer.
3. Performs the duties of the Mayor if the Mayor is absent or disabled.
4. Represents City at ceremonial functions at the request of the Mayor.

COUNCILMEMBERS:

All members of the City Council have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect. The Council is the policymaker of Wayne City Government, and therefore the City Council should feel free to ask for, and receive thorough answers to reasonable questions. It is their responsibility to make good policy by understanding the form of government and the role they play in that form. The Council shall make all decisions in the City of Wayne's best interest.

Councilmembers should:

1. Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
2. Prepare in advance of City Council meetings and be familiar with agenda items.
3. Not willfully and knowingly use confidential information acquired in the course of and by reason of their official duties for personal gain, including confidentiality in executive session.
4. Represent the City at ceremonial functions at the request of the Mayor.
5. Apply knowledge and expertise to the assigned activity and to the interpersonal relationships that are part of the job in a consistent, confident, and competent manner.
6. Serve as a model of leadership and civility to the employees of the City and the citizens of the community.
7. Inspire public confidence in Wayne City government.
8. Provide advance notice to City Hall whenever possible if he/she is unable to attend any called meeting.
9. A vacancy will exist on the City Council if a Councilmember is absent from more than five (5) consecutive regular meetings unless the absences are excused by a majority vote of the remaining members. This procedure, by law, requires notice and a hearing be provided to the Councilmember.
10. Demonstrate honesty and integrity in every action and statement.

MEETING PROCEDURES:

Regular City of Wayne Council meetings are held on the first (1st) and third (3rd) Tuesdays of every month. The Mayor or four (4) Councilmembers can call for a special meeting, the object of which shall be submitted to the City Council in writing.

In chairing official meetings of the City Council, the Mayor, or Council President shall:

1. Maintain order, decorum, and the fair and equitable treatment of all speakers.
2. Keep discussion and questions focused on specific agenda items under consideration.
3. Open public hearings at the designated time(s) and inform those in attendance that each person addressing the City Council shall step up to the podium, state their name and address for the record, and unless further time is granted by the City Council, limit their remarks to three (3) minutes in length.

ELECTED OFFICIALS CONDUCT IN PUBLIC MEETINGS:

1. Every Councilmember desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.
2. A member, once recognized, shall not be interrupted when speaking, unless the presiding officer is required to call the member to order or as otherwise provided in this article. If a member, while speaking, is called to order, they shall cease speaking until the question of order is determined, and if in order, the member shall be permitted to proceed.
3. A member having the floor shall yield the same for a point of order addressed to the chair, a question of personal privilege raised by any member and an inquiry for information addressed to the chair. The member may, upon request of any other member, temporarily yield the floor for a question or a statement by any member, at the conclusion of which they will again be entitled to the floor.
4. The City Council may, according to Robert's Rule, limit debate or discussion on any matter, by "calling the question" on a motion. "Calling the question" requires a second and must pass by a two-thirds vote.
5. A Councilmember may request, through the Mayor, the privilege of having a transcript of their statement on any subject under consideration of the Council entered in the minutes.

ELECTED OFFICIALS CONDUCT WITH CITY STAFF:

1. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Rude or boorish behavior towards staff is not acceptable.
2. Questions of City staff should be directed only to the City Administrator, City Attorney, City Clerk, or Department Heads. All requests for information concerning staff should be copied to the City Administrator. Requests for follow-up or directions to staff should be made only through the Mayor or City Administrator when appropriate and should be in writing so there is no confusion on the request. When in doubt about what staff contact is appropriate, Councilmembers should contact the Mayor or City Administrator for direction.
3. Materials supplied to a Councilmember in response to a request will be made available to all members of the City Council so that all have equal access to information.
4. Councilmembers should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's supervisor. Comments about staff performance should only be made to the Mayor or City Administrator through private correspondence or conversation.
5. Councilmembers should not attempt to influence City staff in their daily work or in the granting of City licenses and permits.

ELECTED OFFICIALS CONDUCT WITH CONSULTANTS/ENGINEERS AND THE PUBLIC:

1. Making individual presenters feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident. Every effort should be made to be fair and impartial in listening to testimony that is presented.
2. It is disconcerting to speakers to have Councilmembers not look at them when they are speaking. It is acceptable to look down at documents or to make notes, but continual visiting, reading or gazing around gives the appearance of disinterest.
3. All speakers should be allowed the privilege of making an appropriate presentation without interruption. If a speaker becomes flustered or defensive by questions, it is the responsibility of the Chair to stay calm, focus the speaker, and maintain the order and decorum of the meeting.
4. Questions directed to the public/consultants/engineers should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker.

ELECTED OFFICIALS CONDUCT WITH OTHER AGENCIES, BOARDS AND COMMISSIONS:

1. If an elected official appears before another governmental agency, legislative hearing or organization to give a statement on an issue, the elected official must clearly state: 1) if his/her statement reflects his/her personal opinion or if it is the official stance of the City; and 2) whether this is the majority or minority opinion of the City Council.
2. If the elected official is officially representing the City, he/she must support and advocate the official City position on an issue, and not his/her personal viewpoint.
3. Elected officials may be asked to attend a Board or Commission meeting as a liaison of the City Council. The elected official should be sensitive to the way his/her participation could be viewed as unfairly affecting the process. Any public comments by an elected official should be clearly made as individual opinion and not as representation of the feeling of the entire body unless directed to do so.
4. A primary role of Boards/Commissions is to represent the many points of view in the municipality and to provide advice to the elected officials based on a full spectrum of concerns and perspectives. Elected officials shall be fair and respectful of all citizens serving on Boards/Commissions. It is inappropriate for a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer.

ELECTED OFFICIALS CONTACT WITH THE MEDIA:

1. The best advice for dealing with the media is to never go "off the record".
2. The Mayor or his/her designee is the designated representative of the City Council to represent and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether his/her comments represent the official City position or his/her personal viewpoint.

ELECTED OFFICIALS CONDUCT IN UNOFFICIAL SETTINGS:

1. Councilmembers should make no promises on behalf of the City Council. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise City Council action, or to promise City staff will do something specific (fix a pothole, remove a library book, etc).

2. It is acceptable for Councilmembers to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Councilmembers, their opinions or actions.

REQUIREMENT OF THE PUBLIC WHEN ADDRESSING THE CITY COUNCIL AS A BODY:

1. The presiding officer of the City Council can, but is not required by state law to, provide opportunity during City Council meetings for discussion by interested persons or their authorized representatives on any City Council agenda item prior to final action thereon; provided, that a preference shall be given to any person who, at least three (3) days prior to the meeting, shall have requested opportunity for discussion by notice directed to the City Clerk.
2. Any member of the public may direct a written communication to the City Council on any matter concerning City business by directing the communication to the City Council through the Mayor, City Administrator, or City Clerk. Any such written communication that cannot be handled administratively shall be placed on the agenda at the next regularly scheduled meeting.
3. The presiding officer shall, from time to time, make such rules as he/she may deem necessary to fulfill and carry out the intent of the provisions of this section.
4. As a general rule, each person addressing the City Council shall step up to the podium, state his/her name and address for the record, and unless further time is granted, limit his/her remarks to three (3) minutes in length. All remarks shall be addressed to the City Council as a body and not to any member thereof. No person, other than the City Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the City Council, without permission of the Mayor or Presiding Officer.
5. Nothing in this section shall prohibit any citizen from contacting a Councilmember(s) regarding an issue of concern.

SANCTIONS:

1. Members of the public who do not follow proper decorum after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.
2. Councilmembers should refer to the Mayor or City Administrator any City staff who do not follow proper decorum in their dealings with Councilmembers, other City staff, or the public. Such employees may be disciplined in accordance with City Personnel regulations.
3. City Councilmembers who intentionally and repeatedly do not follow proper decorum may be reprimanded, formally censured by the Council, and/or lose seniority or committee assignments. Serious infractions of the Code of Conduct could lead to other sanctions as deemed appropriate by the City Council.
4. It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full City Council in a public meeting.
5. If a violation is outside the observed behaviors of the Mayor or City Council, the alleged violation should be reported to the Mayor who will then conduct a study on the report and take the next appropriate action.

6. These actions can be, but are not limited to: discussing and counseling the individual on violations; recommending sanction to the full City Council to consider in a public meeting; or forming a City Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for council consideration.

CHECKLIST FOR MONITORING CONDUCT:

1. Will my decision/statement/action violate the trust, rights or good will of others?
2. What are my interior motives and the spirit behind my actions?
3. If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
4. How would my conduct be evaluated by people whose integrity and character I respect?
5. Even if my conduct is not illegal or unethical, is it done at someone else's expense?
6. Is my conduct fair? Just? Morally right?
7. If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
8. Does my conduct give others reason to trust or distrust me?
9. Am I willing to take an ethical stand when it is called for?
10. Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
11. Do I exhibit the same conduct in my private life as I do in my public life?
12. Can I take legitimate pride in the way I conduct myself and the example I set?
13. Do I listen and understand the views of others?
14. Do I question and confront different points of view in a constructive manner?
15. Do I work to resolve differences and come to mutual agreement?
16. Do I support others and show respect for their ideas?
17. Will my conduct cause public embarrassment to someone else?

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. 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