

**MINUTES  
CITY COUNCIL MEETING  
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; CENTURLINK, 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 WOEHLE & 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 7<sup>th</sup> 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 7<sup>TH</sup> 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 4<sup>th</sup> 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, Bencoter Addition to Bencoter, Inc.

When Bencoter'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.