

**MINUTES  
CITY COUNCIL MEETING  
November 21, 2017**

The Wayne City Council met in regular session at City Hall on Tuesday, November 21, 2017, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Jennifer Sievers, Terri Buck, Jason Karsky, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 9, 2017, 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 Haase made a motion, which was seconded by Councilmember Sievers whereas, the Clerk has prepared copies of the Minutes of the meeting of November 7, 2017, 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:** AGUIRRE, A VERNONA, RE, 150.00; AMERITAS, SE, 84.44; AMERITAS, SE, 52.14; AMERITAS, SE, 72.00; AMERITAS, SE, 56.54; AMERITAS, SE, 2668.12; APPEARA, SE, 93.12; BAKER & TAYLOR BOOKS, SU, 463.53; BRENDA LUBBERSTEDT, RE, 150.00; BROWN SUPPLY, SU, 1769.32; BSN SPORTS, SU, 256.00; CALIFORNIA CONTRACTORS, SU, 83.88; CARPENTER, JOSIE, RE, 19.83; CARROLL DISTRIBUTING, SU, 47.00; CITY EMPLOYEE, RE, 43.20; CITY EMPLOYEE, RE, 150.00; CITY EMPLOYEE, RE, 225.56; CITY OF WAYNE, PY, 78075.17; COMMUNITY HEALTH, RE, 3.00; CUMMINS CENTRAL POWER, SE, 553.07; DAS STATE ACCTG-CENTRAL FINANCE, SE, 67.73; DAVISON, MICHELLE, RE, 132.03; DEARBORN NATIONAL LIFE, SE, 2286.80; DGR & ASSOCIATES, SE, 1286.26; EAKES OFFICE PLUS, SE, 731.10; ED M. FELD EQUIPMENT, SU, 195.00; ELLIS HOME SERVICES, SE, 70.00; FIVE STAR ENTERPRISES, SU, 10.05; FLOOR MAINTENANCE, SU, 246.16; FREDRICKSON OIL, SE, 175.75; GERHOLD CONCRETE, SE, 646.75; HANSEN, MORGAN, RE, 32.72; HAWKINS, INC, SU, 103.71; HILAND DAIRY, SE, 31.27; IAEI, FE, 120.00; ICMA, RE, 9575.68; INGRAM LIBRARY SERVICES, SU, 459.84; IRS, TX, 12688.81; IRS, TX, 25.79; IRS, TX,

10.80; IRS, TX, 46.18; IRS, TX, 13513.84; IRS, TX, 3160.44; JMB CONTRACTING, RE, 100.00; KARIAN PETERSON POWER LINE CONTRACTING, SE, 67157.09; KATHLEEN A LAUGHLIN, CHAPTER 13 TRUSTEE, RE, 243.00; KLEIN ELECTRIC, SE, 16886.66; KORN, RICHARD, RE, 780.81; KRIZ-DAVIS, SU, 257.49; KTCH, SE, 644.00; LAWSON PRODUCTS, SU, 92.04; MCLAURY ENGINEERING, SE, 17598.75; METERING & TECHNOLOGY SOLUTIONS, SU, 286.62; MICHAEL TODD & CO, SU, 1052.32; NE AIR FILTER, SU, 51.63; NE DEPT OF REVENUE, TX, 4191.78; NE DEPT OF REVENUE, TX, 6.54; NORFOLK DAILY NEWS, SE, 79.00; NNEDD, SE, 1065.00; OLSSON ASSOCIATES, SE, 4826.75; PAULSON, JORDAN, RE, 43.79; PELLA GATEWAY, SU, 21.31; PITNEY BOWES, SE, 253.85; PLUNKETT'S PEST CONTROL, SE, 31.20; PROGRESSIVE PROPERTIES, RE, 2700.36; PROGRESSIVE PROPERTIES, RE, 7508.92; PROGRESSIVE PROPERTIES, RE, 8143.29; S & S WILLERS, SU, 195.55; SHOPKO, SU, 23.58; SIRSIDYNIX, SE, 5997.47; SPARKLING KLEAN, SE, 3021.07; STAPLES ADVANTAGE, SU, 44.36; STATE NEBRASKA BANK-PETTY CASH, RE, 96.19; TOM'S BODY & PAINT SHOP, SE, 1394.65; UNITED WAY, RE, 5.00; US FOODSERVICE, SE, 797.11; UTILITY EQUIPMENT, SU, 1096.63; WAYNE STATE VOLLEYBALL FOUNDATION, FE, 700.00; WESCOM SU, 1100.77; WESTERHOLD, SARA, RE, 150.00; WESTERN RIDGE III, RE, 9026.18; WISNER WEST, SU, 61.46; AMAZON.COM, SU, 311.30; BATTERY SOLUTIONS, SU, 109.95; BOMGAARS, SU, 1145.64; C. H. GUERNSEY & COMPANY, SE, 110.00; C. H. GUERNSEY & COMPANY, SE, 10594.00; CASTANEDA, GEORGINA, SE, 20.00; CDW GOVERNMENT, SU, 749.53; CHRIS MCGUIRE, RE, 150.00; CITY EMPLOYEE, RE, 48.04; CITY OF NORFOLK, SU, 1500.00; DEMCO, SU, 330.16; ELLIS HOME SERVICES, SE, 243.52; GALE/CENGAGE LEARNING, SU, 174.13; HAMPTON INN-KEARNEY, SE, 329.85; HUBER TECHNOLOGY, SE, 3045.32; KRIZ-DAVIS, SU, 88.81; MAIN STREET AUTO CARE, SE, 2020.35; MARCO TECHNOLOGIES, SE, 169.61; MCLAURY ENGINEERING, SE, 3559.75; MCLAURY ENGINEERING, SE, -3,559.75; MCLAURY ENGINEERING, SE, 3559.75; METERING & TECHNOLOGY SOLUTIONS, SU, 861.45; NE DEPT OF ENVIRONMENTAL QUALITY, SE, 233634.39; NE DEPT OF ENVIRONMENTAL QUALITY, SE, 26041.92; NE DEPT OF LABOR, SE, 72.00; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 19.00; NPPD, SE, 283457.24; NeRPA, FE, 40.00; ROBERT WOEHLE & SONS, SE, 14260.27; STADIUM SPORTING GOODS, SU, 160.00; TOM'S BODY & PAINT SHOP, SE, 367.02; WESCO, SU, 120.38

Councilmember Haase made a motion, which was seconded by Councilmember Sievers, 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.

Mayor Chamberlain requested Council consideration to the appointment of Mary Beth Porter as City Treasurer - Finance Director. She will begin duties on December 4, 2017. Nancy Braden, the current Finance Director, will resign on December 31, 2017.

Councilmember Brodersen made a motion, which was seconded by Councilmember Sievers, approving the appointment of Mary Beth Porter as City Treasurer - Finance Director. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Gary Boehle of Elkhorn Agency, the City's group health insurance agent, reviewed the 2018 renewal rates that were received from Blue Cross Blue Shield of Nebraska. The same were increasing by 40.65%, which is based upon the high usage that the City employees had. There were five claims over the \$50,000 pooling mark and those claims are still actively in process, and there were two additional claims over \$30,000. Mr. Boehle obtained a proposal from United Healthcare, the only other group health insurance carrier in the State of Nebraska. That plan is comparable to the City's current plan, with minimal change (about a 4% increase) in the premiums. The deductibles will increase from \$6,350/\$12,700 single/family to \$6,550/\$13,100 single/family, and with the self-insuring that the City does, the additional out-of-pocket expense to the employee will be \$40/\$80 single/family.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers to terminate the City of Wayne's group health insurance coverage with Blue Cross Blue Shield of Nebraska, and enroll with United Healthcare, effective January 1, 2018. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Luke Virgil, Executive Director of Wayne Area Economic Development, presented the recommendation of the LB840 Citizens Sales Tax Advisory Committee on the application of the Wayne Area Event Center. The Wayne Area Event Center was requesting that their previously awarded LB840 loan be changed from a \$350,000 3% 10-year loan to a \$350,000 LB840 grant.

The Committee voted unanimously to recommend denying the request to change the Wayne Area Event Center's previously awarded LB840 loan to an LB840 grant.

Josie Broders was present to answer questions. The project has changed a lot over the past 13 months. The original cost was a ballpark estimate. There will now be a restaurant and they have hired a chef. The Bank has told them they are now at a loan amount that they cannot go above because of what they currently owe (debt to income ratio). The Bank has said that if this \$350,000 were to show as a grant, they would be okay with loaning them more money. They now have 53 events booked for next year. The original cost of the project was \$2.7 million; it is now at \$3.5 million.

Since this project has already started, it would not be eligible for a revolving loan through the Northeast Nebraska Economic Development District.

Mayor Chamberlain recommended to Ms. Broders that she take steps to get an economic impact study for the Council to review. He thought consideration might be given to deferring payments for five years or changing the interest rate, and he would certainly bring that topic or options back to the Council for discussion if she requested the same.

Councilmember Sievers stated she had two people contact her requesting that she approve the LB840 Citizens Sales Tax Advisory Committee's recommendation.

After discussion, Councilmember Eischeid made a motion, which was seconded by Councilmember Sievers, to approve the recommendation of the LB840 Citizens Sales Tax Advisory Committee to deny changing the Wayne Area Event Center's LB840 loan to an LB840 grant. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Haase, Buck and Karsky who voted Nay, the Mayor declared the motion carried.

Lowell Heggemeyer, Street Foreman, was present to review the three bids he received on a Bobcat 5600. The low bid was from Nebraska Harvestore of Norfolk for \$50,049.03 and

the high bid was \$53,726.61. Mr. Heggemeyer's recommendation was to accept the low bid of Nebraska Harvestore of Norfolk.

Councilmember Sievers introduced Resolution No. 2017-98 and moved for its approval; Councilmember Brodersen seconded.

#### RESOLUTION NO. 2017-98

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE PURCHASE OF A BOBCAT 5600 FOR THE PUBLIC WORKS AND PARK DEPARTMENTS FROM NEBRASKA HARVESTORE OF NORFOLK, NE, FOR \$50,049.03.

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

Councilmember Brodersen introduced Ordinance 2017-33, and moved for approval of the second reading thereof; Councilmember Greve seconded.

#### ORDINANCE NO. 2017-33

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE VII TRAFFIC CODE, SECTION 78-130 PROHIBITED PARKING; SOUTHEAST QUADRANT OF THE CITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Councilmember Brodersen introduced Ordinance 2017-34, and moved for approval of the second reading thereof; Councilmember Greve seconded.

#### ORDINANCE NO. 2017-34

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE VII TRAFFIC CODE, SECTION 78-131 RESTRICTED PARKING 12:00 MIDNIGHT TO 5:00 A.M.; SOUTHEAST QUADRANT OF THE CITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Administrator Blecke stated the following item pertains to an “Estoppel Certificate” that NextEra is requesting Council to approve. This would amend some language in the City’s original power contract to satisfy their tax equity, and will assist with NextEra securing permanent financing for their Cottonwood project.

Attorney Miller explained that an “Estoppel Certificate” is something that lenders or financiers require from companies to let them know that they do actually, in fact, have a contract. NextEra’s lender is requiring this from the City of Wayne acknowledging that there is an agreement with them. She did not see any issues with this and recommended approving the same.

Councilmember Giese made a motion, which was seconded by Councilmember Brodersen, approving the “Estoppel Certificate” between the City of Wayne and Cottonwood Wind Project, LLC. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Blecke stated the following Ordinance would approve Amendment No. 2 to the Power Purchase Agreement between the City of Wayne and Cottonwood Wind Project, LLC.

Councilmember Giese introduced Ordinance 2017-35, and moved for its approval thereof; Councilmember Eischeid seconded.

ORDINANCE NO. 2017-35

AN ORDINANCE APPROVING AMENDMENT NO. 2 TO THE POWER PURCHASE AGREEMENT BETWEEN THE CITY OF WAYNE, NEBRASKA, AND COTTONWOOD WIND PROJECT, LLC.

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

Kim McLaury of McLaury Engineering, Inc., presented Change Order No. 1 for the “Beaumont First Addition Water & Sewer Extension Project.” It represents an increase of \$10,732.00 to Penro Construction, Inc. This change order finalizes out the quantities that were installed in the field on this project.

Councilmember Eischeid made a motion, which was seconded by Councilmember Brodersen, approving Change Order No. 1 for the “Beaumont First Addition Water & Sewer Extension Project,” which represents an increase of \$10,732.00 to Penro Construction, Inc. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Kim McLaury of McLaury Engineering, Inc., presented Contractor’s Application for Payment No. 2 on the “Beaumont First Addition Water & Sewer Extension Project” for \$130,807.41 to Penro Construction, Inc.

Councilmember Eischeid made a motion, which was seconded by Councilmember Giese, approving Contractor’s Application for Payment No. 2 for \$130,807.41 to Penro Construction, Inc., for the “Beaumont First Addition Water & Sewer Extension Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Kim McLaury of McLaury Engineering, Inc., presented Contractor’s Application for Payment No. 3 on the “4<sup>th</sup> Street Paving Project” for \$185,548.48 to A & R Construction.

Councilmember Eischeid made a motion, which was seconded by Councilmember Brodersen, approving Contractor’s Application for Payment No. 3 for \$185,548.48 to A & R Construction for the “4<sup>th</sup> Street Paving Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

OCC Builders, LLC, presented Change Order No. 1 for the “Wayne Country Club Clubhouse Addition and Remodel Project,” which represents a decrease of \$50,785.

Councilmember Giese made a motion, which was seconded by Councilmember Buck, approving Change Order No. 1 for the “Wayne Country Club Clubhouse Addition and Remodel Project,” which is a decrease of \$50,785, to OCC Builders, LLC. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The following Resolution would approve a Service Agreement between Alliance for Cooperative Energy Services Power Marketing LLC (ACES) and the City of Wayne. This is to market and settle our wind power obligations. We asked for other proposals and received one. ACES has a connection to Big Rivers, so it make sense to go with this company. Attorney Miller reviewed the agreement and had several changes. ACES was agreeable to all of the changes with the exception of changing the language from “the laws of Indiana” to the “laws of Nebraska.” If anything would happen with a claim of some kind against either party, we would have to hire outside counsel, because Attorney Miller is not versed in Indiana law or licensed to practice there. It was noted that this agreement can be cancelled on an annual basis. The fee is \$875 per month. Also noted was the fact that we are selling power into the market, but will not be able to use it for an entire year. This will start December 1<sup>st</sup>.

Councilmember Sievers introduced Resolution No. 2017-99 and moved for its approval; Councilmember Haase seconded.

#### RESOLUTION NO. 2017-99

A RESOLUTION APPROVING SERVICE AGREEMENT BETWEEN ALLIANCE FOR COOPERATIVE ENERGY SERVICES POWER MARKETING, LLC, AND THE CITY OF WAYNE, NEBRASKA.

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

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, 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 6:40 p.m.