

(* Amended: 12/05/11)

**AGENDA
CITY COUNCIL MEETING
December 6, 2011**

5:30 Call to Order

1. Approval of Minutes – November 15, 2011

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 2012 Renewal of Coventry Health Insurance — Gary Boehle, First National Agency

Background: Our group health plan covers all full-time employees and their families unless they opt out of our coverage. Part-time employees working 30 hours per week or more can join the plan and pay their own premium costs.

2012 will be the fifth year we've had our group health plan with Coventry. Our plan requires a \$350 deductible per employee plus an additional \$350 deductible for one or more family members if it is a family policy.

As an incentive for the employee and family to reduce the deductible to \$250 for single and \$500 for family coverage, the following must be met:

- **Employee must be a non-tobacco user; and**
- **Employee and spouse must have annual physical as provided in the plan.**

We also operate a self-insured program to cover 80% of the family medical costs up to \$10,000 after the \$500 total deductible per family has been met. City Clerk, Betty McGuire, operates the self-insured plan for the City. City employees pay 2.5% of the employee premium cost each month and 10% of the monthly premium for the family portion. Over time, the independent insurance agencies in Wayne have helped Betty, Nancy and me develop this local customized health plan.

Each year we compare our total health plan costs per employee with the group health plans sponsored by the League of Municipalities and other cities, and we have found our costs to be comparatively low.

This renewal plan with Coventry contains a 19% premium increase over last year due to some health plan costs and general industry cost increases. This plan, as

presented, will still keep our costs in the middle or below of other cities' health plan costs for 2012 according to our auditor review.

Recommendation: The recommendation of the City Clerk, Finance Director and Administrator for 2012 is to approve the Coventry plan as presented with a \$350 per employee deductible and \$700 per family deductible, and the \$100 incentive for not smoking (employee) and getting an annual physical (employee and spouse) and with the city paying 97.5% of the employee premium cost and 90% of the family premium cost. For 2013, we will go through a formal bid process for group health coverage, and our recommendation will also include an increase in the employee share of the premium cost and higher employee and family deductibles.

4. [Action on Request of the Wayne Kiwanis Group to Install a Bus Stop Shelter by Hank Overin Field](#)

Background: Kiwanis has donated one bus stop at Sunnyview Park and has purchased another to be located at 4th and Windom by Hank Overin Field. Attached is a photo of the second shelter to be located on the terrace on the south side of 4th St. and just north of the Hank Overin Field grandstand.

Recommendation: The recommendation of the City Administrator is to accept the donation of the bus stop at no cost to the City and to direct Kiwanis to place it on the city terrace north of the Hank Overin grandstand.

5. [Action on Request of David Stuthman for a Sidewalk Exemption at 721 Windom Street](#)

Background: The Stuthman's purchased residential property on the southeast corner of 8th and Windom. They cleared the property at their own cost and have built a high quality, two household town home. The property abuts a gravel alley and St. Mary's School on the east side. There is no connecting sidewalk across the alley extending to the east and probably won't ever be because of the way St. Mary's property is laid out. The Stuthmans' have constructed sidewalk across the front of the lot from 8th Street east, but have asked for a waiver from constructing the last 15 feet extending from the east driveway to the gravel alley. City code requires pedestrian sidewalk to be constructed along the entire property frontage along the street of new residential properties when they are built. Joel and I don't have authority to waive code requirements, so any relief will require Council action.

Recommendation: The recommendation of the Building Inspector is to approve the Stuthman request for relief from the City Code requirements to construct the section of sidewalk from the east driveway to the alley until such time when there is a connecting sidewalk extending to the east from the alley.

6. [Action on Annual Renewal Maintenance Agreement with the Nebraska Department of Roads](#)

Background: This is a uniform standard agreement between NDOR and all Nebraska cities that have state highways running through them. This agreement determines that the City is responsible for maintenance of 2 lane miles of highway within the city, but the State does the actual work as needed and we reimburse the State \$3,150 per year. These agreements are very favorable toward the cities.

Recommendation: The recommendation of the Street Superintendent is to approve the agreement.

7. [Action on Contractor's Application for Payment No. 1 in the Amount of \\$31,318.35 to Penro Construction for the 2011 Water and Sewer Improvements \(Western Ridge Third Addition\)](#)
8. [Action on Application for Payment No. 15 in the Amount of \\$114,388.41 to Eriksen Construction Co. for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I Project](#)
9. [Ordinance 2011-30: Extending the Hours of Sale of Alcoholic Liquor to 2:00 a.m. on Saturday, December 31st \(New Year's Eve\) – Third and Final Reading](#)
10. [Resolution 2011-91: Approving Interlocal Agreement with the City of South Sioux City for Law Enforcement Services](#)

Background: Attached is an agreement that would preauthorize the Wayne Chief of Police, City Administrator or Mayor, in the event of a problem, to secure law enforcement assistance from South Sioux City on a short-term basis. This establishes the terms of the agreement. South Sioux City has not yet approved this agreement. This agreement would need to be approved by the elected officials of both cities.

11. [Resolution 2011-92: Approving Amendment No. 1 to the EECBG Aid Agreement for the Municipal Power Plant Cooling Tower Project](#)

Background: This extension agreement is with the Nebraska Energy Office who monitors the \$250,000 grant and the construction progress of the Wayne Power Plant Cooling Tower project. This agreement approves a second and final extension of time to complete the project.

Recommendation: The recommendation of the Superintendent of Electric Production (Gene) is to approve the extension.

12. [Resolution 2011-93: Amending the City of Wayne ADA Policy](#)

Background: Attached are amendments to bring our existing policy up-to-date. These changes are required to keep our local Americans with Disabilities Act policy in compliance with Federal grant requirements.

Recommendation: The recommendation of the Finance Director is to approve the changes.

13. [Recess](#)
 - a. [Convene as Community Development Agency](#)
 - b. [Approve Minutes – August 2, 2011](#)

c. [Action on Purchase Agreement Regarding the Sale of Lot 2A, Kardell Industrial Park No. 2 Subdivision](#)

Background: The incentive package that was approved to help find local investors to start up a local compressed natural gas car and SUV assembly company in Wayne was finally successful, and a Wayne corporation is being formed as this is being discussed. The local investors want the option of building a new building and have made an offer to purchase 4 acres of Lot 2, which is directly north of Pacific Coast Feather in the Kardell Industrial Park. They need to be in production by mid-March, so time is of the essence for any new construction to be started. Some general terms of sale that have been included are a 12-month performance requirement that if they buy the lot and don't locate and operate that business on that lot, it reverts back to the CDA, and there is an option to purchase the remaining 6 acres of Lot 2 if the car company needs to expand.

14. Adjourn as Community Development Agency and Reconvene as Council

15. Ordinance 2011-32: Permitting ATV and Utility Vehicles on Public Streets with Certain Restrictions

16. Adjourn

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

[Planning Commission Meeting Minutes – October 3, 2011](#)

November 15, 2011

The Wayne City Council met in regular session at City Hall on Tuesday, November 15, 2011, 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, and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson and City Clerk Betty McGuire. Absent: Councilmembers Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on November 3, 2011, 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 Alexander, whereas the Clerk has prepared copies of the Minutes of the meeting of November 1, 2011, 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: AMERITAS, RE, 1416.02; APPEARA, SE, 77.44; BANK FIRST, SE, 150.00; BARONE SECURITY SYSTEMS, SE, 81.96; CITY EMPLOYEE, RE, 184.03; BEVERLY STURM, RE, 500.00; BOARD OF EXAMINERS, FE, 10.00; BOMGAARS, SU, 1542.97; BROWN SUPPLY, SU, 591.50; CARHART LUMBER CO, SU, 2603.33; CHARTWELLS, SE, 5504.20; CITY OF WAYNE, RE, 350.00; CITY OF WAYNE, RE, 155.20; CITY OF WAYNE, PY, 55245.84; COMMUNITY HEALTH, RE, 3.00; COPY WRITE, SU, 224.95; CREDIT BUREAU SERVICES, RE, 112.16; DAVE SWANSON, SE, 99.10; DE LAGE LANDEN FINANCIAL, SE, 394.00; DEMCO, SU, 106.71; EASYPERMIT POSTAGE, SU, 1676.20; CITY EMPLOYEE, RE, 42.34; ERIC SCHOH, RE, 249.05; FLOOR MAINTENANCE, SU, 334.85;

FREDRICKSON OIL, SU, 1477.73; GALE GROUP, SU, 75.81; GEORGE PHELPS, RE, 500.00; GILL HAULING, SE, 133.00; GRAHAM TIRE, SU, 697.74; GRAINGER, INC., SU, 66.85; GREAT PLAINS ONE-CALL, SE, 62.44; HD SUPPLY, SU, 7166.85; HOLIDAY INN ""MIDTOWN"", SE, 154.00; HOLIDAY INN OF KEARNEY, SE, 509.70; ICMA, SE, 5843.54; INGRAM BOOK COMPANY, SU, 454.76; IRS, TX, 17330.66; JASON CAROLLO, SE, 175.00; JOHN'S WELDING AND TOOL, SE, 1776.72; CITY EMPLOYEE, RE, 714.17; JOYCE TREVETT, RE, 500.00; KAREN GRANBERG, RE, 500.00; KTCH, SE, 852.00; LERNER PUBLISHING GROUP, SU, 141.90; CITY EMPLOYEE, RE, 60.00; MIDWEST LABORATORIES, SE, 1347.05; MIKE TOWNE, SE, 700.00; MUNICIPAL SUPPLY, SU, 468.60; NE AIR FILTER, SU, 529.91; NE DEPT OF REVENUE, TX, 2656.07; NE PUBLIC HEALTH, SE, 168.00; NPPD, SE, 212370.05; NORFOLK DAILY NEWS, SU, 132.50; NORTHEAST EQUIPMENT, SU, 33.02; N.E.NE AMERICAN RED CROSS, RE, 49.26; NNPPD, SE, 12180.28; O'KEEFE ELEVATOR COMPANY, SE, 875.00; OLSSON ASSOCIATES, SE, 3114.55; PAC N SAVE, SU, 500.36; PAMIDA, SU, 76.05; CITY EMPLOYEE, RE, 828.58; PEPSI-COLA, SU, 228.10; PIEPER, MILLER & DAHL, SE, 5003.00; PLUNKETT'S PEST CONTROL, SE, 93.60; POSTMASTER, SU, 54.40; PRESTO X, SE, 119.15; CITY EMPLOYEE, RE, 155.52; PROVIDENCE MEDICAL CENTER, SE, 130.00; RON'S RADIO, SE, 35.00; ROURKE PUBLISHING, SU, 95.70; SCOTT JOHNSON, RE, 500.00; SHARON M HUGHES, RE, 488.70; SPARKLING KLEAN, SE, 2125.60; STADIUM SPORTING GOODS, SU, 168.00; STAN HOUSTON EQUIPMENT CO, SU, 49.61; STATE NATIONAL BANK, SE, 49.07; CITY EMPLOYEE, RE, 80.33; UNITED WAY, RE, 10.00; US BANK, SU, 1603.66; UTILITIES SECTION, FE, 945.00; WASTE CONNECTIONS, SE, 48.10; WAYNE AUTO PARTS, SU, 1055.62; WAYNE COMMUNITY HOUSING, RE, 487.50; WAYNE COMMUNITY SCHOOLS, SE, 100.00; WAYNE COUNTY CLERK, SE, 38.50; WAYNE GREENHOUSE, SU, 34.00; WAYNE GROCERY, SU, 5.97; WAYNE HERALD, SE, 1323.91; WAYNE VETERINARY CLINIC, SE, 434.00; WESCO, SU, 13385.99; WAPA, SE, 25027.44; CITY EMPLOYEE, RE, 89.91; ZACH HEATING & COOLING, SE, 566.00; ZACH OIL, SU, 6039.59; ADVANCED CONSULTING ENGINEERING, SE, 5460.40; AMAZON.COM, SU, 433.59; AMERICAN RED CROSS, SU, 14.95; BAKER & TAYLOR BOOKS, SU, 949.08; CITY EMPLOYEE, RE, 240.55; CITY EMPLOYEE, RE, 221.47; CITY OF WAYNE, RE, 383.20; COVENTRY HEALTH, SE, 18955.13; DAKOTA BUSINESS SYSTEMS, SE, 102.50; DEMCO, SU, 80.91; GLEN'S AUTO BODY, SU, 64.15; HARDING & SHULTZ, SE, 97888.98; INTERSTATE BATTERY, SU, 101.95; JANIS MYERS, RE, 314.89; KNIFE RIVER MIDWEST, SE, 1184.49; CITY EMPLOYEE, RE, 2112.87; MARSHALL CAVENDISH, SU, 62.85; MCGRATH NORTH, SE, 1,080.00; MIDWEST MESSENGER, SU, 32.80; MIDWEST SERVICE & SALES, SU, 78.00; MIDWEST TAPE, SU, 388.88; N.E. NEB ECONOMIC DEV DIS, SE, 2402.79; QUILL, SU, 1083.02; RANDOM HOUSE, SU, 502.48; ROSE EQUIPMENT, SU, 3518.15; STADIUM SPORTING GOODS, SU, 338.00; CITY EMPLOYEE, RE, 188.66

Councilmember Sturm made a motion and Councilmember Haase 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.

Lisa Nelson, Service Learning Coordinator at Wayne State College, gave a report on the community wide garage sale hosted by Wayne State College at the City auditorium. The proceeds of the sale, \$1,350, were presented to Goldenrod Hills. Their spring sale is scheduled for March 23-24, 2012.

Councilmember Berry arrived at 5:35 p.m.

Tom Sievers, Fire Chief, introduced Andy Scholl and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department Cadet Program.

Councilmember Sturm made a motion and seconded by Councilmember Alexander approving the membership application of Andy Scholl to the Wayne Volunteer Fire Department Cadet Program. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Tom Sievers, Fire Chief, introduced Trevor Eisenhauer and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department.

Councilmember Alexander made a motion and seconded by Councilmember Sturm approving the membership application of Trevor Eisenhauer to the Wayne Volunteer Fire Department. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Garry Poutre, Superintendent of Public Works & Utilities, gave a power point presentation and update on the Aquarius Wastewater Treatment Plant construction and start-up project.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding a rezoning request from I-1 Light Industrial and Manufacturing to I-2 Heavy Industrial and Manufacturing. The area to be rezoned is described as that part of the SW1/4 of Section 8, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska, and the applicant is the City of Wayne.

Administrator Johnson stated the Planning Commission reviewed the rezoning request at their public hearing on November 14, 2011, 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.

At this time, there is a prospect looking at the "Opportunity Building". The six acre lot that the opportunity building sets on is split into I-1 and I-2 zoning districts. This

proposal rezones the area east of Centennial Road north, north of Highway 35 and west of Logan Creek all to I-2.

Irene Fletcher of Wayne Area Economic Development spoke in support of the rezoning, not just for the Opportunity Building that is divided by the zoning line, but for the other properties in the area as well.

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

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

Councilmember Sturm introduced Ordinance 2011-31, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-31

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF AN AREA DESCRIBED AS THAT PART OF THE SOUTHWEST QUARTER OF SECTION EIGHT, TOWNSHIP TWENTY-SIX NORTH, RANGE FOUR, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, WHICH LIES WEST OF THE CENTERLINE OF THE SOUTH LOGAN CREEK FROM I-1 LIGHT INDUSTRIAL AND MANUFACTURING TO I-2 HEAVY INDUSTRIAL AND MANUFACTURING.

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. 2011-31. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander introduced Ordinance 2011-24, and moved for approval of the third and final reading thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-24

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-1 HIGHWAY BUSINESS DISTRICT, SECTION 90-358 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE 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 introduced Ordinance 2011-25, and moved for approval of the third and final reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-25

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-428 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE 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 introduced Ordinance 2011-26, and moved for approval of the third and final reading thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-26

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3

NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-422 PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 90-423 PERMITTED ACCESSORY USES AND STRUCTURES, AND SECTION 90-424 EXCEPTIONS, B-3 NEIGHBORHOOD COMMERCIAL DISTRICT; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Brodersen introduced Ordinance 2011-27, and moved for approval of the third and final reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-27

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-2 CENTRAL BUSINESS DISTRICT, SECTION 90-394 EXCEPTIONS; AND BY ADDING SECTION 90-402 PERMITTED CONDITIONAL USES; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Brodersen introduced Ordinance 2011-28, and moved for approval of the third and final reading thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-28

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF ALL OF WESTERN RIDGE THIRD ADDITION TO B-1 HIGHWAY BUSINESS.

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

Councilmember Alexander introduced Ordinance 2011-29, and moved for approval of the second reading thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2011-29

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE STATE COLLEGE GRADUATION ACTIVITIES.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, 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, with the exception of Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Alexander seconded to move for final approval of Ordinance No. 2011-29. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm introduced Ordinance 2011-30, and moved for approval of the second reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-30

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR NEW YEAR'S EVE.

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

Administrator Johnson stated the following Resolution approves an agreement with NDOR regarding the Windom Street, East 3rd – East 7th Street Project. Three years ago, the NDOR allocated 80% of the costs to do this project. When the department was reorganized, all of those funds went away, but they kept a tag by our name saying when funds are made available again, this project will get funding. This agreement confirms they are allocating funds for this project. The scheduled construction time for this project is 2013.

Administrator Johnson stated the E. 10th Street project will be after this one, but we probably will not receive that agreement from NDOR until later this winter. That is also a 2013 project.

Councilmember Sturm introduced Resolution No. 2011-88 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-88

A RESOLUTION APPROVING LPA PROGRAM AGREEMENT – STP FUNDS FOR THE WINDOM STREET, EAST 3RD STREET TO EAST 7TH STREET ROADWAY IMPROVEMENT PROJECT.

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

Administrator Johnson stated the following Resolution would amend Resolution 2011-76 which approved the bid and awarded the contract on the “Henry Victor Memorial Park Sign Project” to Tri-City Sign Company by adding language therein that the same is contingent upon approval by the Nebraska Game & Parks Commission. This language is necessary for them to expend the funds.

Councilmember Alexander introduced Resolution No. 2011-89 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2011-89

A RESOLUTION AMENDING RESOLUTION 2011-76 WHICH ACCEPTED THE BID OF AND AWARDED THE CONTRACT TO TRI-CITY SIGN COMPANY FOR THE "HENRY VICTOR MEMORIAL PARK SIGN PROJECT."

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

Garry Poutre, Superintendent of Public Works & Utilities, stated the work has been completed on the 2011 Lagoon Sludge Removal and Application Project. DRT Biosolids removed approximately 1,560 tons of sludge for disposal via land application. JEO, the engineer on the project, is recommending acceptance of the project and approving Application for Payment No. 1, which is the final payment, in the amount of \$150,000.

Councilmember Sturm introduced Resolution No. 2011-90 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2011-90

A RESOLUTION ACCEPTING WORK ON THE 2011 LAGOON SLUDGE REMOVAL AND APPLICATION PROJECT AND AUTHORIZING FINAL PAYMENT.

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

Irene Fletcher, Assistant Director of Wayne Area Economic Development, stated the LB840 Sales Tax Advisory Committee is recommending approval of a \$5,000 grant request by WAED for community marketing and promotion. This is a reduction from the

amount that was requested and approved last year. Community marketing includes the Wayne Works campaign, the Pride in Wayne campaign, and the continual business and industry marketing, which includes the opportunity building.

Councilmember Alexander made a motion and seconded by Councilmember Frevert approving the recommendation of the LB840 Sales Tax Advisory Committee to approve a grant in the amount of \$5,000 to Wayne Area Economic Development to be used for community marketing and promotion. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Brodersen made a motion and seconded by Councilmember Sturm setting January 27 and 28th as the dates for the 2012 Council Retreat. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place regarding a proposed ATV Ordinance. In the packet was a proposed ordinance drafted by the League of Nebraska Municipalities that would allow restricted travel on city streets by utility vehicles and ATV's. Mayor Chamberlain noted that additional requirements like local permits, helmets, and safety training can be added to the draft, but State requirements cannot be removed. The statutes say you can operate them on the highway within city limits, but you cannot operate them on a closed access highway. He needs clarification on this. Closed access highways in Wayne start at 10th Street going north and at Casey's going east, so you would not be able to operate them basically from Windom Street East on the highway or from where Wayne State College begins to the north.

Mayor Chamberlain wanted to get a consensus from Council on whether or not they wanted to move forward with drafting an ordinance for Wayne. If so, he wanted to know what types of things the Council wanted to tie to the ordinance as far as safety training, helmet requirement, registration, etc. This is applicable to 19 years and older. Golf carts are excluded, by name, in the state statute.

Todd Luedeke spoke in favor of Council passing an ordinance such as this and also adding some stipulations of their own, such as a helmet requirement, flags, permit fee, etc. If it didn't work, the ordinance could be rescinded.

Councilmembers Frevert and Sturm volunteered to be on a committee to review and make recommendations on the proposed ordinance.

Councilmember Sturm made a motion, which was seconded by Councilmember Frevert, to move forward on this ATV ordinance and to bring the same back at the next Council meeting with recommendations. 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 approving the appointment of Melanie Loggins, Matt Ley, Paul Lindner, Jill Brodersen, Marie Mohr, Jeff Morlok, Cap Petersen, and Tony Kochenash to the Downtown Building Design Committee.

Councilmember Alexander made a motion and seconded by Councilmember Haase approving the appointment of Melanie Loggins, Matt Ley, Paul Lindner, Jill Brodersen, Marie Mohr, Jeff Morlok, Cap Petersen, and Tony Kochenash to the Downtown Building Design Committee. 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 seconded by Councilmember Sturm 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 6:54 p.m.

CLAIMS LISTING DECEMBER 6, 2012

ADMINISTRATIVE PROFESSIONAL	SUBSCRIPTION	79.00
AIRCAD, INC.	CAC ENERGY RECOVERY UNIT REPAIR	1,810.50
AMERICAN BROADBAND	FIBER LINE LEASE	1,050.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	3,189.75
APPEARA	LINEN & MAT SERVICE	216.06
AS CENTRAL SERVICES	TELECOMMUNICATION CHARGES	448.00
BANK FIRST	FOP DUES	360.00
BANK FIRST	LIGHTING EFFICIENCY	880.00
BIG T ENTERPRISES, INC	BATTERY	233.83
BLACK HILLS ENERGY	GAS BILLS	791.39
CITY EMPLOYEE	VISION REIMBURSEMENT	112.40
BOMGAARS	FLY SPRAY- FD	12.98
CITY EMPLOYEE	HEALTH REIMBURSEMENT	82.54
BROWN SUPPLY CO	FIRE HYDRANT	324.86
CENTURYLINK	TELEPHONE CHARGES	309.68
CITY OF NORFOLK	INSPECTIONS	277.70
CITY OF WAYNE	BASKETBALL OFFICIAL	40.00
CITY OF WAYNE	BUILDING PERMIT REFUND	250.00
CITY OF WAYNE	DRIVEWAY DEPOSIT REFUND	500.00
CITY OF WAYNE	PAYROLL	114,168.82
CITY OF WAYNE	RAZING PERMIT BOND REFUND	1,150.00
CITY OF WAYNE	UTILITY REFUNDS	56.99
COMMUNITY HEALTH	HEALTH CHARITIES	6.00
CONTINENTAL FIRE SPRINKLER	FIRE HALL FIRE SPRINKLER INSP.	525.00
CREDIT BUREAU SERVICES	PAYROLL DEDUCTIONS	187.36
DAVE'S UNIFORM CLEANING	POLICE UNIFORM CLEANING	72.00
DE LAGE LANDEN FINANCIAL	SR CENTER COPIER LEASE	77.00
DEREK ANDERSON	DECAL-BUSINESS HOURS	135.00
DIST COURT BURT COUNTY	BOND	300.00
DRT BIOSOLIDS, INC	LAGOON SLUDGE REMOVAL	150,000.00
DUTTON-LAINSON COMPANY	LIGHT BULBS/BUSHING INSERT/RISERS	869.50
EAKES OFFICE PLUS	CAC COPIER CHARGES	38.26
ECHO GROUP INC JESCO	CONTACT KIT	406.05
ELECTRIC FIXTURE & SUPPLY	VOLT TESTER	125.09
ELLIS PLUMBING & HEATING	ELECTRIC WATER HEATER	417.00
FIRST CONCORD GROUP LLC	CAFETERIA FEES	3,834.32
FIRST NATIONAL INSURANCE	INSURANCE	272.42
FLOOR MAINTENANCE	TISSUE/DETERGENT/CLEANERS	276.11
FORT DEARBORN LIFE	LIFE & DISABILITY INSURANCE	1,444.06
FORT DEARBORN LIFE	VFD INSURANCE	106.64
GEMPLER'S INC	FIRST AID KIT/VESTS/LONG HANDLE TOOL	289.25
GERHOLD CONCRETE CO INC.	PARKING CHAULKS/CONCRETE	106.45
GILL HAULING, INC	SANITATION SERVICE	133.00
GUARANTEE OIL CO INC	BRAKE CLEANER	66.27
HACH COMPANY	PROBE	776.54
HAUFF MID-AMERICAN SPORTS	WOMENS BASKETBALLS	783.20
HD SUPPLY WATERWORKS, LTD	WATER METER	721.56
CITY EMPLOYEE	HEALTH REIMBURSEMENT	37.07
HOLIDAY INN-DOWNTOWN	LODGING-POWER GENERATION CONFERENCE	886.34
HOLIDAY LITES & TRIM	CHRISTMAS DECORATION LIGHTS	303.27
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	11,133.44
IRS	FEDERAL WITHHOLDING	35,826.57
JACK'S UNIFORMS	DRUG TEST KIT/BATTERY STICKS	135.70

JAFF LTD	LIGHTING EFFICIENCY	140.00
JEO CONSULTING GROUP	SLUDGE MANAGEMENT/WWTP/WIND ENERGY	26,732.19
JOHN'S WELDING AND TOOL	PARTS FOR SNOW BLOWER	108.60
CITY EMPLOYEE	HEALTH REIMBURSEMENT	1,304.66
KELLY MEYER	GRASS SEED	563.07
KEN KWAPNIOSKI	LIGHTING EFFICIENCY	90.00
KEPCO ENGRAVING	NAME PLATES	7.00
KNOEPFLER CHEVROLET CO	COVER	54.14
LAB SAFETY SUPPLY	GLOVES	135.62
LARRY LINDSAY	HEAT INCENTIVE	500.00
LAYNE CHRISTENSEN CO	WELL MAINTENANCE	835.00
CITY EMPLOYEE	HEALTH/VISION REIMBURSEMENT	851.93
CITY EMPLOYEE	COMPUTER PURCHASE	570.60
MCGUIRE & NORBY	ATTORNEY FEES	24,029.01
CITY EMPLOYEE	HEALTH REIMBURSEMENT	242.10
MIDWEST OFFICE AUTOMATION	LIBRARY COPIER CHARGES	169.08
MIKE BEBEE	ENERGY INCENTIVE	107.76
NE DEPT OF ENVIRONMENTAL	CLEAN WATER/DRINKING WATER SRF'S	78,695.96
NE DEPT OF REVENUE	STATE WITHHOLDING	5,450.54
NE STATE PATROL	CRIMINAL HISTORY CHECKS	45.00
NMPP ENERGY	LOAD MANAGEMENT SUPPORT PLAN	1,158.00
NORFOLK DAILY NEWS	SUBSCRIPTION RENEWAL -LIBRARY	132.50
NORTHEAST EQUIPMENT	DRYING AGENT-HANK OVERIN	819.00
N.E. NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	40.00
NORTHEAST NE PUBLIC POWER	ELECTRICITY	3,801.00
OLSSON ASSOCIATES	RICE COMPLIANCE/BENSCOTER	3,920.38
CITY EMPLOYEE	HEALTH REIMBURSEMENT	90.02
PIEPER, MILLER & DAHL	ATTORNEY FEES	5,408.00
PITNEY BOWES INC	POSTAGE METER/FOLDER LEASE	648.00
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	221.67
CITY EMPLOYEE	HEALTH REIMBURSEMENT	195.81
PUSH-PEDAL-PULL	PMA & REPAIRS	1,082.20
QUALITY 1 GRAPHICS	DECALS-CITY HALL/POLICE	105.00
QUILL CORPORATION	OFFICE SUPPLIES	835.70
RAD, INC.	BATTERIES	239.80
CITY OF WAYNE	LB840 LOAN	70,000.00
RIEKES EQUIPMENT CO	SHELVING UNIT	378.12
ROBERT SWEETLAND	ENERGY INCENTIVE	465.00
RON WHITT	ENERGY INCENTIVE	500.00
SGP SERVICES, INC.	MONITORING	79.13
STATE NATIONAL BANK	DEPOSIT SLIPS	35.04
STATE NATIONAL BANK	PETTY CASH	558.52
TERRACON CONSULTANTS INC	WWTP SOIL TESTING	2,010.25
TOM'S BODY & PAINT SHOP	DOOR REPAIR	46.80
CITY EMPLOYEE	CDL	57.50
UNITED STATES PLASTIC	BUBBLE WRAP	113.63
UNITED WAY	PAYROLL DEDUCTIONS	10.00
VERIZON WIRELESS SERVICES	CELL PHONES	196.87
VIAERO	CELL PHONES	135.71
VOSS LIGHTING	LIGHT BULBS	626.20
WAYNE AREA ECONOMIC DEVEL	NOV 11 CONTRIBUTION	6,383.33
WAYNE COUNTY COURT	BOND	300.00
WAYNE HERALD	2 LIBRARY SUBSCRIPTIONS	88.00
CITY OF WAYNE	WRLF	124,750.00

[Back to Top](#)

12/1/11

To: City of Wayne

Mayor, Council members, City Administrator, others

The Wayne Kiwanis Club recently erected and paid for a school bus stop shelter, located at the Northwest corner of Sunnyview Park here in Wayne. Since then the Club had an opportunity to purchase a second school bus stop shelter and would like to place this shelter at the second best location where the most school kids gathered waiting to be picked up by the school bus. We asked the bus company where this location might be; they indicated at the Northwest corner of Overn Baseball Field on city property. The Kiwanis Club inquired about the likely hood of placing this second stop at this location with some city officials, with a favorable response from those in attendance at the site location.

The Kiwanis Club would like approval from the city council to place this second stop at the most appropriate location. Please note the picture/details of the second school bus stop shelter within your packet of items for this meeting.

Thank you for your consideration

Wayne Kiwanis Club

Brasco

omaha craigslist > for sale / wanted > materials

[email this posting to a friend](#)

Avoid scams and fraud by dealing locally! Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping, escrow, or any promise of transaction protection/certification/guarantee. [More info](#)

please flag with care: [\[?\]](#)

[miscategorized](#)

[prohibited](#)

[spam/overpost](#)

[best of craigslist](#)

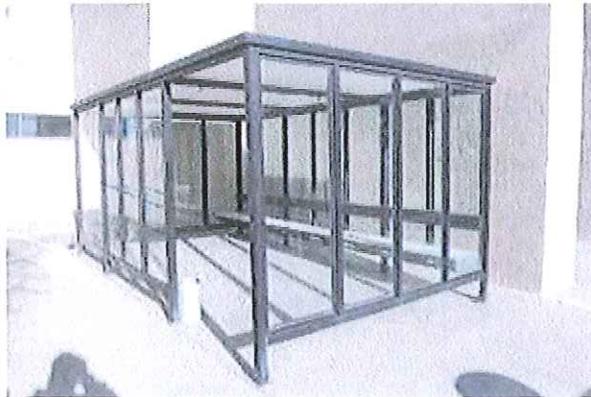
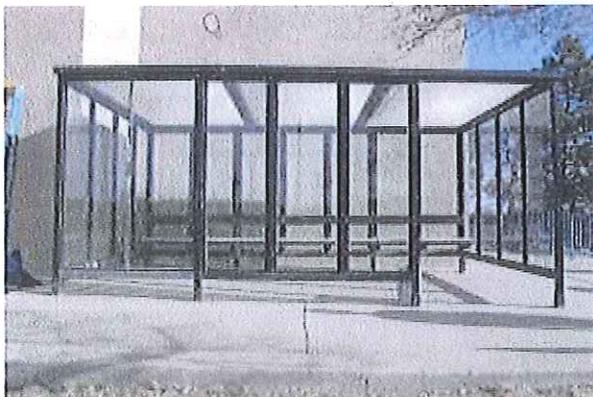
Bus Stop Shelter \$2500 O.B.O. - \$2500 (90th and Blondo)

Date: 2011-11-06, 10:30AM CST

Reply to: sale-kfcbf-2664297714@craigslist.org [\[Errors when replying to ads?\]](#)

Bus stop / smoke shelter would make a good enclosure for a patio or a smoke shelter. Shelter is approx. 16' 3 3/4" wide x 9' 5 1/2" deep [Handicap accessible] it has a bench across the 16' side of the shelter. It is bronze aluminum construction with 1/4" glass all around. The tops are a white acrylic bubble that allows light to shine through. The shelter is structurally sound, it has some scratches and dings in the finish but overall just needs to be cleaned. It is assembled with rivets (not provided). The shelter is disassembled and ready for pick up or we can talk about delivery for an added charge. Please email or call 402-740-3348.

- Location: 90th and Blondo
- it's NOT ok to contact this poster with services or other commercial interests



PostingID: 2664297714



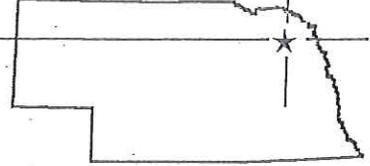
[Back to Top](#)

City of Wayne

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

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

Incorporated - February 2, 1884



REQUEST FOR FUTURE AGENDA ITEM

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

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

Name: David Stuthmann

Address: 911 Hillside Dr

Wayne

Telephone No.: 375-0389

Date of Request: 11-9-11

Description of Requested Topic: exemption for sidewalk



November 1, 2011

Mr. Lowell Johnson
City Administrator
City of Wayne
306 North Pearl
Wayne, NE 68787

Dear Lowell:

As you know, we have torn down the old house at 721 Windom and built a duplex that is nearly completed. There was no original sidewalk on the north side of the property and we would like to ask for an exemption for the sidewalk to the alley as that sidewalk would be going to nowhere (adjoining an alley). From Main Street to East 8th and Windom, there are no sidewalks on the south side of Eighth Street.

Please see attached example.

Thank you for your consideration.

Dave and Connie Stuthmann

Windom Street

← Sidewalk →

Sidewalk

Sidewalk

Driveway

Sidewalk

Driveway

Duplex Unit

8th Street

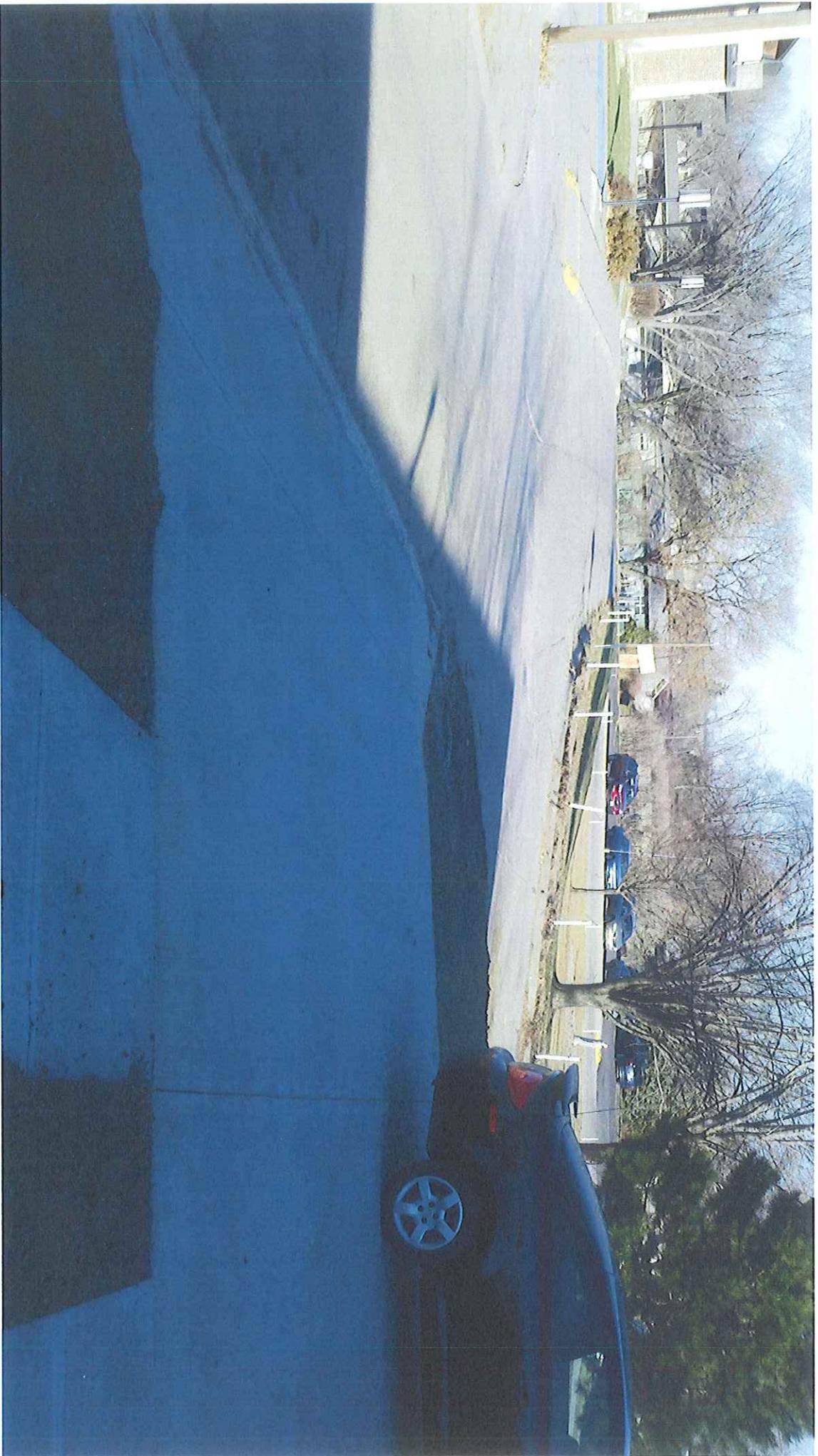


Alley

St. Mary's School Yard

Catholic Church





Maintenance Agreement Between
The Nebraska Department of Roads
And The Municipality of Wayne
Municipal Extensions in Wayne

AGREEMENT

THIS AGREEMENT, made and entered into by and between Wayne hereinafter referred to as the "City"; and the State of Nebraska, Department of Roads, acting by and through its Director-State Engineer, hereinafter referred to as the "State" and this agreement is to have an effective date of January 1, 2012 .

WITNESSETH:

WHEREAS, Nebraska Revised Statutes, relating to highways, set out the responsibilities of the State, counties and incorporated municipalities in the establishment of uniform standards of design, construction, operation and maintenance of said highways, and

WHEREAS, the State and the City wish to enter into an agreement relative to the maintenance of said highways, and

WHEREAS, Neb. Rev. Stat. § 39-1339, § 39-1344, § 39-1372, § 39-2105, § 60-6,120 and § 60-6,121, set out in detail the maintenance responsibilities of the State and the City; said responsibilities shall be incorporated herein by this reference. Therefore, the parties hereto understand that the maintenance responsibilities of the City and State under the above referenced laws are as set forth by Exhibit "A" attached hereto.

NOW THEREFORE, in consideration of these facts the parties hereto agree as follows:

SECTION 1a: The State agrees to perform the maintenance on the above mentioned highways consisting of surface maintenance of those portions of municipal extensions of all rural highways within municipalities of the Metropolitan, Primary and First Class, the design of which exceeds the design of the rural highways leading into the municipality. The State shall maintain the entire traveled portion, not including parking lanes thereon, of the municipal extension and the City shall reimburse the State as set out in Section 8a of this agreement for maintaining that portion of said municipal extension that has been designated by statute as the City's responsibility.

Maintenance Agreement Between
The Nebraska Department of Roads
And The Municipality of Wayne
Municipal Extensions in Wayne

SECTION 1b: The State agrees to perform the maintenance on the above mentioned highways consisting of surface maintenance of those portions of municipal extensions of all rural highways within municipalities of the Second Class and Villages, the design of which exceeds the design of the rural highways leading into the municipality. The State shall maintain the entire traveled portion, including parking lanes thereon, of the municipal extension and the City shall reimburse the State as set out in Section 8a of this agreement for maintaining that portion of said municipal extension that has been designated by statute as the City's responsibility.

SECTION 1c. The City agrees to perform the maintenance on the above mentioned highways consisting of surface maintenance of those municipal extensions of all rural highways, and the State shall reimburse the City as set out in Section 8b of this agreement for the maintenance of that portion of said municipal extension that has been designated by statute as the State's responsibility. No allowance will be made for turning lanes or for lanes used on a part-time basis as parking lanes, or other auxiliary lanes within municipalities of the Metropolitan, Primary and First Class. No allowance will be made for turning lanes or other auxiliary lanes except parking lanes within municipalities of the Second Class and Villages.

SECTION 1d. Special provisions in which the State shall perform partial maintenance and the City shall perform partial maintenance on the same municipal extension(s) shall be set out by addendum, in detail in Exhibit "B", referred to in Section 5 of this agreement. Said addendum to include specific responsibilities of the State and the City and dollar amounts allowed for performance of said work by the State and by the City.

SECTION 2. Maintenance that may be required by "Acts of God" is not covered by this agreement but shall be performed under special agreement in each specific case.

SECTION 3. Repair or reconstruction projects beyond the scope of normal surface maintenance, which are let to contract through the State's contract letting procedure, are considered to be beyond the scope of this Agreement. Normal surface maintenance shall include, but is not limited to the following maintenance activities: Crack Seal, Joint Seal, Fog Seal, Seal Coats, Spot patching, Pothole repair, Sweeping, Surface Milling, Concrete patching, miscellaneous full-depth concrete replacement, or Preventive maintenance. In order to facilitate

Maintenance Agreement Between
The Nebraska Department of Roads
And The Municipality of Wayne
Municipal Extensions in Wayne

repair or reconstruction of projects which are beyond the scope of normal surface maintenance, the City shall submit, on an annual basis, a long-range plan (5 years) for such projects to the State. In the event the State and/or the City should desire to do such work, the parties hereto may enter into a separate agreement for the appropriate cost sharing.

SECTION 4. It is further understood that normal surface maintenance and maintenance of appurtenances by the City shall include the identifying, locating, and marking with flags of all buried municipally owned and state owned utility facilities that occupy Nebraska Department of Roads right-of-way. The above mentioned utility facilities are those that service highways referenced in this agreement and properties adjacent to the above referenced highways and will be identified, located, and marked with flags upon the request of the State or the One Call Notification Center. Identification of buried utility facilities shall follow the provisions of the One Call Notification System Act, §76-2301 through § 76-2330. (NE Rev. Stat.)

SECTION 5. Only those municipal extensions of rural highways shown on the attached list marked as Exhibit "C" and hereby made a part of this agreement shall be covered by this agreement; however, additions and deletions may be made to Exhibit "C" by mutual written agreement of the parties hereto.

SECTION 6. The above mentioned highways shall be inspected periodically, at least quarterly, by the Department's District Engineer or the District Operations and Maintenance Manager, or their authorized representatives, and by the City's Director of Public Works or his authorized representative to review the adequacy of the maintenance work which has been performed.

SECTION 7. Materials used by the City in the performance work hereunder shall be selected by mutual agreement of the parties hereto.

SECTION 8a. If Section 1a or 1b of this agreement is incorporated herein, the City will pay to the State the sum of \$ per Exhibit "B" per lane mile. The above cost figures shall include all labor, equipment, tools, materials and supplies used or furnished by the State in the performance of the work on the above mentioned highways. Fractional miles or fractional months, if any, will be used in computing the amount payable in this agreement.

Maintenance Agreement Between
The Nebraska Department of Roads
And The Municipality of Wayne
Municipal Extensions in Wayne

SECTION 8b. If Section 1c of this agreement is incorporated herein, the State will pay the City the sum of \$ per Exhibit "B" per lane mile. The above cost figure price per lane mile shall include all labor, equipment, tools, materials and supplies used or furnished by the City in the performance of such work. Fractional miles or fractional months, if any, will be used in computing the amount payable in this agreement.

SECTION 8c. If Section 1d of this agreement is incorporated herein, the costs of partial maintenance by the State and by the City computed by fractional mile or fractional month and as set out in detail in the addendum, Exhibit "B", shall be offset to determine the amount, if any, to which one party or the other may be entitled after said offset.

SECTION 8d. Payment under this agreement will be made on an annual basis after December 31, as soon as possible after submission by the State to the City or the City to the State, as the case may be, of a Certificate approved by the District Engineer of the State, providing all work has been done during the period for which payment is made in full conformity with the agreement.

SECTION 9. Upon the failure of the City to perform any of the work named herein under the terms of this agreement, the Director or District Engineer of the State may, with concurrence of the City's Director of Public Works, do and perform such work or cause it to be done and performed and may retain from any monies then due to the City or thereafter becoming due, any such amount as is required for the completion of such work, provided, however, that this paragraph shall not be construed to relinquish any rights of action which may accrue in behalf of either party as against the other for any breach of agreement.

SECTION 10. It is further understood that all persons working on such highways are employees of the State, City or of contracted third parties. All contracts and agreements made by the City with third parties for the performance of any work to be done under this agreement shall be subject to the terms of this agreement and shall comply with all State laws and requirements relating to construction and maintenance contracts.

Maintenance Agreement Between
The Nebraska Department of Roads
And The Municipality of Wayne
Municipal Extensions in Wayne

SECTION 11. The City agrees to keep existing and new right-of-way free of encroachments, except those authorized by permit from the City and approved by the State and Federal Highway Administration (FHWA).

SECTION 12. The City agrees to abide by the provisions of the Nebraska Fair Employment Practices Act, as provided by Neb. Rev. Stat. § 48-1101 through § 48-1126.

SECTION 13. The parties do further agree, anything to the contrary herein notwithstanding, that the Director-State Engineer of the State of Nebraska, either in his individual or official capacity, shall not be responsible or liable in any manner to the City or to any other person or persons whatsoever for any claim, demand, action or causes of action of any kind or character arising out of or by reason of the execution of this agreement or the negligent performance and completion of the work and improvements provided for herein by the City or its agents or arising out of any contract let by the City for the performance of any of the work provided herein.

SECTION 14. The City indemnifies, saves and holds harmless the State and all of its departments, agents, and employees of and from any and all claims, demands, actions or causes of action of whatsoever nature or character arising out of or by reasons of the execution or performance of the work provided for herein by the City or its agents and further agrees to defend at its own sole cost and expense any action or proceeding commenced for the purposes of asserting any claim of whatsoever character arising hereunder as a result of work performed by the City or its agents.

SECTION 15. This agreement shall not be construed as a relinquishment by the State of any powers or control it may have over the herein before described highways.

Maintenance Agreement Between
The Nebraska Department of Roads
And The Municipality of Wayne
Municipal Extensions in Wayne

SECTION 16. This agreement shall terminate December 31, 2012 , except that it may be renewed for one year at a time and each January 1 thereafter for up to four additional years by written concurrence of both parties hereto. After five years a new agreement must be executed. The lane mile payment provided in Section 8 hereof may be renegotiated to the satisfaction of both parties at any renewal date.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the City this _____ day of _____, 2011

ATTEST: **CITY OF Wayne**

City Clerk

Mayor

EXECUTED by the State this _____ day of _____, 2011

**STATE OF NEBRASKA
DEPARTMENT OF ROADS**

District Engineer

MAINTENANCE OPERATION AND RESPONSIBILITY
Municipal extensions and connecting links
(Streets Designated Part of the State Highway System excluding Freeways)

Maintenance Responsibility

Neb. Rev. Stat. § 39-2105

Maintenance Operation

Neb. Rev. Stat. § 39-1339

	<u>Metropolitan Cities</u> (Omaha)	<u>Primary Cities</u> (Lincoln)	1 st Class Cities	2 nd Class Cities & Villages
Surface maintenance of the traveled way equivalent to the design of the rural highway leading into municipality.	Department	Dept.	Dept.	Dept.
Surface maintenance of the roadway exceeding the design of the rural highway leading into the municipality including shoulders and auxiliary lanes.	City	City	City	City
Surface maintenance on parking lanes.	City	City	City	Dept.
Maintenance of roadway appurtenances (including, but not limited to, sidewalks, storm sewers, guardrails, handrails, steps, curb or grate inlets, driveways, fire plugs, or retaining walls)	City	City	City	City or Village
Mowing of the right-of-way, right-of-way maintenance and snow removal.	City	City	City	City or Village
Bridges from abutment to abutment, except appurtenances.	Department	Dept.	Dept.	Dept.

Maintenance Responsibility

Neb. Rev. Stat. § 60-6, 120 & § 60-6, 121

Maintenance Operation

Neb. Rev. Stat. § 39-1339

	Metropolitan Cities (Omaha)	Primary Cities (Lincoln)	1 st Class Cities > 40,000	1 st Class Cities < 40,000	2 nd Class Cities
Pavement markings limited to lane lines, centerline, No passing lines, and edgelines on all connecting links except state maintained freeways	City	City	City	Dept.	Dept.
Miscellaneous pavement marking, including angle and parallel parking lanes, pedestrian crosswalks, school crossings, etc.	City	City	City	City	City
Maintenance and associated power costs of traffic signals and roadway lighting as referred to in original project agreement.					
Procurement, installation and maintenance of guide and route marker signs	City	City	City	Dept.	Dept.
Procurement, installation and maintenance of regulatory and warning signs.	City	City	City	Dept.	Dept.

EXHIBIT "B"
City of Wayne

Pursuant to Sections 1a, 1b, 1c, 1d, 8a, 8b, 8c, and 8d of the Agreement and to Exhibit "C" made a part of this Agreement through reference, the City agrees to pay to the State the sum of \$1,575.00 per lane mile for performing the surface maintenance on those lanes listed on the attached copy of Exhibit "C."

From Exhibit "C" it is determined that the City's responsibility for surface maintenance within the City Limits is 2.0 lane miles.

2.0 lane miles X \$1,575.00 per lane mile = \$3,150.00 due the State for surface maintenance.

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Revised FY12

RESPONSIBILITY FOR SURFACE MAINTENANCE
OF MUNICIPAL EXTENSIONS

NEB. REV. STAT. 39-1339
and NEB. REV. STAT. 39-2101

DESCRIPTION	HWY. NO.	REF. POST		LENGTH IN MILES	NUMBER DRIVING LANES	LANE MILES TOTAL	RESPONSIBILITY	
		FROM	TO				STATE	CITY
S. City Limits to N. City Limits	15	163.84	166.00	2.16	2	4.32	4.32	0.00
W. City Limits to E. City Limits	35	28.68	30.68	2.00	3	6.00	4.00	2.00
Total Lane Miles				4.16		10.32	8.32	2.00

Project: Water and Sanitary Sewer Improvements - City of Wayne, Nebraska
 Project #: 637-002
 Date: November 29, 2011

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNITS	October	November	December	Total	UNIT PRICE	TOTAL DOLLARS	DIFF FROM ESTIMATE
1	8" C-800 WATER MAIN	1688	L.F.				0	\$15.70	\$0.00	1688
2	8" C-800 WATER MAIN	21	L.F.				0	\$12.00	\$0.00	21
3	8" TEE, MJ	1	EACH				0	\$288.00	\$0.00	1
4	8"x6" TEE, MJ	4	EACH				0	\$263.00	\$0.00	4
5	8" GATE VALVE W/ RDWY BOX	4	EACH				0	\$960.00	\$0.00	4
6	8" GATE VALVE W/ RDWY BOX	4	EACH				0	\$660.00	\$0.00	4
7	8" PLUG, MJ	2	EACH				0	\$112.00	\$0.00	2
8	8" FIRE HYDRANT	4	EACH				0	\$2,055.00	\$0.00	4
9	CONNECT TO EXISTING WATER MAIN	1	Each				0	\$900.00	\$0.00	1
10	TRACER WIRE	1719	L.F.				0	\$0.28	\$0.00	1719
11	8" PVC SDR35 SANITARY SEWER MAIN	1502	L.F.	1502			1502	\$22.00	\$33,044.00	0
12	CONCRETE MANHOLE	57	V.F.	55.92			55.92	\$202.50	\$11,323.80	1.08
13	BORE HIGHWAY UNDERCROSSING (80 L.F.)	1	Lump Sum	1			1	\$13,285.00	\$13,285.00	0
14	SEEDING	1.5	Acres				0	\$1,600.00	\$0.00	1.5
15	TRAFFIC CONTROL	1	Lump Sum	0.75			0.75	\$800.00	\$600.00	0.25
16	EROSION CONTROL	1	Lump Sum	1			1	\$2,500.00	\$2,500.00	0
17	INSTALL 4" PVC CONDUIT AND CAUTION TAPE	650	L.F.				0	\$1.50	\$0.00	650
TOTAL									\$60,752.80	

QUANTITY STORED	STORED MATERIALS		VALUE OF STORED MATERIALS
	QUANTITY OF MATERIALS REMAINING	MATERIAL COST	
1700	1700	\$7.04	\$11,988.00
40	40	\$4.06	\$162.40
1	1	\$173.30	\$173.30
4	4	\$150.90	\$603.60
4	4	\$794.00	\$3,176.00
4	4	\$596.00	\$2,384.00
2	2	\$41.10	\$82.20
4	4	\$1,680.00	\$6,720.00
0	0		\$0.00
2000	2000	\$0.10	\$200.00
1502	0		\$0.00
55.92	0		\$0.00
1	0		\$0.00
1.5	1.5		\$0.00
0.75	0		\$0.00
1	0		\$0.00
650	650		\$0.00
total stored to date			\$25,229.50

Original Contract Price	\$108,702.42
Net Change by Change Order	\$0.00
Current Contract Price	\$108,702.42
Total Completed and Stored to Date	\$85,982.30
Retainage (10%)	\$6,075.28
Amount Eligible for Payment	\$2,522.95
Less Previous Payments	\$8,598.23
Amount Due This Application	\$77,384.07
Balance to Finish	\$0.00
	\$11,318.35

APPLICATION FOR PAYMENT NO. 15

To: City of Wayne, Nebraska
From: Eriksen Construction Company, Inc.
Contract For: 2009 - 2010 Wastewater Treatment Facility Improvements, Phase I
ENGINEER's Project No. 090621 (617S7)
For Work accomplished through the date of: 11/30/2011

1. Original Contract Price:	<u>\$5,098,770.00</u>
2. Net change by Change Orders and Written Amendments (+ or -):	<u>\$ 63,924.49</u>
3. Current Contract Price (1 plus 2):	<u>\$ 5,162,694.49</u>
4. Total completed and stored to date:	<u>\$5,116,456.49</u>
5. Percent of Project Completed <u>99%</u>	
6. Retainage (per agreement):	
<u>10% of 50%</u> of completed Work and Stored Materials: <u>\$254,938.50</u>	
(10% of the first 50% of work completed & stored)	
Total Retainage:	<u>\$ 254,938.50</u>
7. Total completed and stored to date less retainage (4 minus 6):	<u>\$ 4,861,517.99</u>
8. Less previous Application for Payments:	<u>\$ 4,747,129.58</u>
9. DUE THIS APPLICATION (7 MINUS 8):	<u>\$ 114,388.41</u>

Accompanying Documentation:

CONTRACTOR'S Certification:

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied on account to discharge CONTRACTOR's legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered 1 through 14 inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective.

Dated: 12/1/11 _____
By:  _____
ERIKSEN CONSTRUCTION COMPANY, INC.

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated: 11/2/11 _____
By:  _____
JEO CONSULTING GROUP, INC.

APPLICATION APPROVED BY:

By: _____
Title: _____ Date: _____

ATTEST:

By: _____ Title: _____

Application and Certificate for Payment, containing Contractor's signed certification is attached. In tabulations below, amounts are stated to the nearest Dollar.

Application Number: 15
Application Date: 11/30/2011
Period From: 9/25/2011
Period To: 11/30/2011
Eng. Project No.: 617S7

Use Column 1 on Contracts where variable retainage for line items may apply.

Retainage: 10%

A No.	B Description of Work	C Scheduled Value	D Work Completed			G Total Completed and Stored to Date D+E+F	H % G/C	I Retainage C-G
			Previous Applications	Work In Place	Stored Materials			
1	Bonds and Insurance	75,000.00	75,000.00	-	0.00	75000.00	100%	-
2	Mobilization	68,680.00	68,680.00	-	0.00	68680.00	100%	-
3	Site Clearing	85,360.00	85,360.00	-	0.00	85360.00	100%	-
4	Grading	25,660.00	12,500.00	10,600.00	0.00	23100.00	90%	2,560.00
5	Excavation	50,724.00	50,724.00	-	0.00	50724.00	100%	-
6	Aquarius Tank Rock Base & Sub	39,780.00	39,780.00	-	0.00	39780.00	100%	-
7	Fill	9,780.00	9,780.00	-	0.00	9780.00	100%	-
8	Backfill	80,126.00	80,126.00	-	0.00	80126.00	100%	-
9	Surcharge	19,375.00	19,375.00	-	0.00	19375.00	100%	-
10	Staging Area	34,607.00	34,607.00	-	0.00	34607.00	100%	-
11	Demolition	2,120.00	-	2,120.00	0.00	2120.00	100%	-
12	Rock Around Lift Station	2,163.00	-	2,163.00	0.00	2163.00	100%	-
13	Erosion Control	15,000.00	14,250.00	750.00	0.00	15000.00	100%	-
14	Fence	40,783.00	21,000.00	-	0.00	21000.00	51%	19,783.00
15	Seeding	5,000.00	-	-	0.00	0.00	0%	5,000.00
16	Pavement	32,000.00	2,500.00	26,300.00	0.00	28800.00	90%	3,200.00
17	Concrete	294,000.00	294,000.00	-	0.00	294000.00	100%	-
18	Rebar	196,100.00	196,100.00	-	0.00	196100.00	100%	-
19	Hollow Core	2,500.00	2,500.00	-	0.00	2500.00	100%	-
20	Masonry	151,450.00	151,450.00	-	0.00	151450.00	100%	-
21	Misc. Metals	65,000.00	58,800.00	6,200.00	0.00	65000.00	100%	-
22	Handrails/Stairs/Grating	21,000.00	18,900.00	2,100.00	0.00	21000.00	100%	-
23	Final Clarifier Demo	4,400.00	-	4,400.00	0.00	4400.00	100%	-
24	Flat Covers	250,000.00	250,000.00	-	0.00	250000.00	100%	-
25	Carpentry	28,500.00	28,500.00	-	0.00	28500.00	100%	-
26	Trusses	10,500.00	10,500.00	-	0.00	10500.00	100%	-
27	Water Repellants	3,500.00	3,500.00	-	0.00	3500.00	100%	-
28	Insulation	1,000.00	1,000.00	-	0.00	1000.00	100%	-
29	Gutters	3,000.00	3,000.00	-	0.00	3000.00	100%	-
30	Joint Sealants	8,000.00	7,000.00	1,000.00	0.00	8000.00	100%	-
31	Doors & Hardware	7,800.00	7,800.00	-	0.00	7800.00	100%	-
32	Overhead Doors	12,000.00	12,000.00	-	0.00	12000.00	100%	-
33	Drywall	1,000.00	1,000.00	-	0.00	1000.00	100%	-
34	Painting	45,000.00	27,000.00	18,000.00	0.00	45000.00	100%	-
35	Toilet Accessories	4,700.00	4,500.00	200.00	0.00	4700.00	100%	-
36	Grit and Screw Classifier System	200,000.00	200,000.00	-	0.00	200000.00	100%	-
37	Submersible Lift Station Pumps	33,000.00	33,000.00	-	0.00	33000.00	100%	-
38	Rotary Lobe Pumps	4,800.00	4,800.00	-	0.00	4800.00	100%	-
39	Scraper Clarifiers	165,000.00	136,040.00	28,960.00	0.00	165000.00	100%	-
40	Verticle Fine Screen	98,000.00	98,000.00	-	0.00	98000.00	100%	-
41	Interaly Fed Drum Screen & Comp	142,500.00	142,500.00	-	0.00	142500.00	100%	-
42	Gates	14,000.00	14,000.00	-	0.00	14000.00	100%	-
43	Aquarius MSABP	1,326,600.00	1,326,600.00	-	0.00	1326600.00	100%	-
44	Positive Displacement Blower	64,050.00	64,050.00	-	0.00	64050.00	100%	-
45	Casework/Counter Top	11,865.00	11,865.00	-	0.00	11865.00	100%	-
46	Hoist/Trolley/Crane	13,650.00	13,650.00	-	0.00	13650.00	100%	-
47	Valves	117,600.00	117,600.00	-	0.00	117600.00	100%	-

Application and Certificate for Payment, containing Contractor's signed certification is attached. In tabulations below, amounts are stated to the nearest Dollar.

Application Number: 15
Application Date: 11/30/2011
Period From: 9/25/2011
Period To: 11/30/2011
Eng. Project No.: 617S7

Use Column 1 on Contracts where variable retainage for line items may apply.

Retainage: 10%

A No.	B Description of Work	C Scheduled Value	D Work Completed			G Total Completed and Stored to Date D+E+F	H % G/C	I C-G	I Retainage
			Previous Applications	Work In Place	Stored Materials				
48	Yard Piping	238,975.00	237,975.00	1,000.00	0.00	238975.00	100%	-	-
49	Manholes	174,900.00	174,900.00	-	0.00	174900.00	100%	-	-
50	Process Piping	98,322.00	95,740.25	2,581.75	0.00	98322.00	100%	(0.00)	-
51	Mechanical	86,000.00	85,000.00	1,000.00	0.00	86000.00	100%	-	-
52	Electrical	613,900.00	598,205.00	-	0.00	598205.00	97%	15,695.00	-
53		0.00	-	-	0.00	0.00	0%	-	-
		5,098,770.00	4,945,157.25	107,374.75	0.00	5052532.00	99%	46,238.00	254,938.50
CHANGE ORDERS									
CO1	Change Order No. 1	3,810.83	3,810.83	-	0.00	3810.83	100%	-	-
CO2	Change Order No. 2	4,226.63	3,500.00	726.63	0.00	4226.63	100%	-	-
CO3	Change Order No. 3	55,887.03	54,400.00	1,487.03	0.00	55887.03	100%	-	-
		5,162,694.49	5,006,868.08	109,588.41	0.00	5116456.49	99%	46,238.00	254,938.50

ORDINANCE NO. 2011-30

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR NEW YEAR'S EVE.

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

That the hours of sale of alcoholic liquor shall be extended to 2:00 o'clock a.m., only, on Saturday, December 31, 2011, in conjunction with New Year's Eve.

PASSED AND APPROVED this 6th day of December, 2011.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2011-91

A RESOLUTION APPROVING INTERLOCAL AGREEMENT WITH THE CITY OF SOUTH SIOUX CITY, NEBRASKA, FOR LAW ENFORCEMENT SERVICES.

WHEREAS, the City of Wayne, Nebraska, is desirous to enter into an Interlocal Agreement with the City of South Sioux City, Nebraska, for law enforcement services; and

WHEREAS, the City of South Sioux City, Nebraska, is agreeable to entering into an Interlocal Agreement with the City of Wayne to provide said services as provided therein.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Interlocal Agreement with the City of South Sioux City, Nebraska, a copy of which is attached hereto, be approved as written, and the City Administrator and/or Mayor is authorized and directed to execute said Interlocal Agreement on behalf of the City.

PASSED AND APPROVED this 6th day of December, 2011.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

INTERLOCAL AGREEMENT

BETWEEN THE CITY OF WAYNE, NEBRASKA, AND THE CITY OF SOUTH SIOUX CITY, NEBRASKA

THIS AGREEMENT entered into on this _____ day of _____, 2011, by and between the CITY OF WAYNE, NEBRASKA, ("Wayne"), a political subdivision, and the CITY OF SOUTH SIOUX CITY, NEBRASKA, ("South"), a municipal corporation.

WHEREAS, the City of Wayne wishes to obtain dedicated Law Enforcement Services; and

WHEREAS, the City of South Sioux City is responsible for municipal law enforcement within the city limits of South Sioux City, generally; and

WHEREAS, the City of Wayne wishes to contract with the City of South Sioux City for the services of law enforcement officers provided by South Sioux City Police Chief and supported by the full resources of the South Sioux City Police Department and directed by the South Sioux City Chief of Police or his designee in Wayne, and

WHEREAS, such contracts are authorized by the Interlocal Cooperation Act, Nebraska Revised Statutes § § 13-801 to 13-827; and

WHEREAS, the City of South Sioux City is willing to contract for the rendition of such services on the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

Upon verbal or written request by the Wayne Mayor or City Administrator or the Wayne Chief of Police, the City of South Sioux City, agrees to provide law enforcement services within the corporate limits of the City of Wayne to the extent and in the manner hereinafter set forth:

1) The South Sioux City Chief of Police shall assign certified officers for duty in the City of Wayne. Such deputies shall cover calls as needed under the direction of the South Sioux City Police Chief or his designee in Wayne within the corporate limits of the City of Wayne, except when an emergency requires the South Sioux City officer's presence in South Sioux City.

2) All matters relating to the duties, standards of service, discipline of officers, rendition of performance, training, and other such matters incident to the performance of this Agreement and the personnel employed in the performance of this Agreement shall be under the control of the South Sioux City Chief of Police or his

designee in Wayne. In exercising this control, the South Sioux City Chief of Police shall give due consideration to the City's reasonable requests that are properly brought to his attention. In order to adequately serve the City of Wayne's needs, the South Sioux City officers shall, at the beginning of each shift or as early as possible each day, report directly to the City of Wayne office to pick up any verbal or written complaints or requests for special assignments in the City.

3) The South Sioux City officers shall wear their South Sioux City uniforms, leather and provide their own weapons, and perform their duties under this Agreement in accordance with a schedule provided to the South Sioux City Chief of Police and City Administrator by the Wayne Chief of Police, Mayor or City Administrator.

4) In order to adequately serve the City of Wayne's needs, the South Sioux City officer shall keep a log of physical patrol hours and other services performed while on duty as the officer assigned in Wayne. Said log shall be filed at the Wayne Police Department office and be made available for review during normal business hours (Monday through Friday between the hours of 8:00 AM and 4:30 PM) upon request.

5) The South Sioux City officers shall be members of the South Sioux City Police Department, trained by the South Sioux City Department, and under the direct and exclusive control of the South Sioux City Police Chief or his designee in Wayne and the South Sioux City Chief or his designee in Wayne shall be solely responsible for their actions.

6) The services to be rendered under this Agreement shall include, but are not limited to, routine residential patrol, traffic enforcement, enforcement of City ordinances, security of businesses, enforcement of the laws of the State of Nebraska, and other services in the areas of public safety and law enforcement as are provided by the Nebraska municipal police department. The services shall also include issuance of citations for building code violations, parking violations, and other municipal code violations. It is understood and agreed that all prosecutions arising from Municipal Ordinance violations shall be the sole responsibility of the City of Wayne.

7) The City of Wayne and its agencies shall assume responsibility for supplying all supervision, materials, communications, vehicles and equipment necessary for the performance of law enforcement services in the City.

8) The South Sioux City officers' compensation and provision for bonds, fringe benefits, insurance, and Worker's Compensation shall be the City of South Sioux City's sole responsibility. The City of South Sioux City shall also pay all overhead costs, including training expenses, record-keeping expenses, and all other administrative costs.

9) The City of Wayne shall not assume any liability for (a) the direct payment of any salaries, wages, or other compensation for the deputies' services, including payments for injury or sickness; or (b) the deputies' actions taken in their positions as

deputies acting on behalf of the City of Wayne, unless such sickness, injury, or other claim is caused by the intentional or negligent act of the City of Wayne.

10) Any provisions to the contrary notwithstanding, the Cities hereby agree:

- a) The City of South Sioux City shall be responsible for any overtime pay to which the officers shall become entitled as a result of conducting investigations or appearing in court in connection with violations of state statutes; and
- b) The City of South Sioux City shall be responsible for any overtime pay to which the officers shall become entitled as a result of commuting to and from Wayne and performing their regular duties in the City of Wayne.

11) Notwithstanding the other terms and conditions of this Agreement to the contrary, the City of South Sioux City, shall provide liability insurance to indemnify itself in the event that it becomes liable for payment of a judgment based on its officers' acts in enforcing Municipal Ordinances as provided in Nebraska Revised Statutes § § 13-1801 and 13-1802.

12) The City of Wayne shall pay the City of South Sioux City for law enforcement services including travel to and from Wayne at the rate of \$75 per hour. Payment shall be due and payable on the 15th day of each calendar month.

13) The monetary amount the City of Wayne shall pay the City of South Sioux City for law enforcement services provided under this Agreement may be adjusted annually based on the actual increased or decreased cost for the City of South Sioux City to provide law enforcement services to the City of Wayne. The City of South Sioux City shall keep books and records showing its cost to provide law enforcement services to the City of Wayne. Such books and records shall be open to inspection by the City of South Sioux City Monday through Friday between the hours of 8:00 AM and 4:30 PM to enable the City to confirm the correctness of any increase in annual payments permissible under this paragraph

14) The initial term of this Agreement is December 1, 2011, to November 30, 2012. This Agreement shall automatically continue in full force and effect for each year thereafter for a minimum of four (4) years, unless terminated by either party.

15) This Agreement may be terminated by either party giving the other party not less than thirty (30) days notice in writing of its intention to terminate the Agreement. In the event this Agreement is terminated by either party, any equipment, materials, and supplies provided by the City of South Sioux City for law enforcement in the City of Wayne shall be retained by the City of South Sioux City. Any supplies that the City of Wayne furnishes for purposes of this Agreement shall be retained by the City of Wayne.

16) Any previous Agreements between the parties, and any amendments to this Agreement, are terminated at such time as this Agreement becomes effective.

EXECUTED this _____ day of _____, 2011 by the City of Wayne, Nebraska.

THE CITY WAYNE, NEBRASKA, a Municipal Corporation,

BY: _____
MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM this _____ day of _____, 2011.

CITY ATTORNEY

EXECUTED this _____ day of _____, 2011 by the City of South Sioux City, Nebraska.

THE CITY OF SOUTH SIOUX CITY,
NEBRASKA, a Municipal Corporation,

BY: _____
MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM this _____ day of _____, 2011.

CITY ATTORNEY

RESOLUTION NO. 2011-92

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE EECBG AID AGREEMENT (ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM) FOR THE MUNICIPAL POWER PLANT COOLING TOWER PROJECT.

WHEREAS, the project period stated in the original Aid Agreement was July 1, 2010, through December 31, 2011; and

WHEREAS, the City of Wayne, on October 4, 2011, approved the extension of the \$250,000 Energy Efficiency and Conservation Block Grant Program Project period end date from December 31, 2011, to June 30, 2012; and

WHEREAS, the Nebraska Energy Office is issuing an Amendment to the EECBG Aid Agreement, a copy of which is attached to this Resolution, outlining certain criteria that must be met to extend the contract end date to August 1, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that they hereby approve Amendment No. 1 to the EECBG Aid Agreement, a copy of which is attached hereto, and that the Mayor is authorized and directed to execute said Amendment on behalf of the City.

PASSED AND APPROVED this 6th day of December, 2011.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

Amendment to EECBG Aid Agreement

Energy Efficiency and Conservation Block Grant Program

<i>EECBG Recipient:</i> City of Wayne	<i>Date of Amendment:</i> November 30, 2011
<i>Project Description:</i> Municipal Power Plant Cooling Tower	<i>EECBG Award Number:</i> 09/10-E 076 <i>Amendment Request Number:</i> 1
<i>EECBG Contact Person:</i> Nancy Braden <i>Phone:</i> 402-375-1733 <i>Email:</i> nancy@cityofwayne.org	<i>Please Complete and Submit this Request for Amendment to:</i> Nebraska Energy Office Attn: EECBG Program PO Box 95085 Lincoln, NE 68509-5085

(Double Click on Check Box, Select "Checked")

<input checked="" type="checkbox"/> Amendment to Aid Agreement
<p>The Nebraska Energy Office (NEO) issues this Amendment to the EECBG Aid Agreement to the City of Wayne (the City) for the Municipal Power Plant Cooling Tower Project. Grant funds awarded to the project are \$250,000.00 and the City has committed a cost share of \$383,596.00 (60.54% match). The project period stated in the Aid Agreement is July 1, 2010, through December 31, 2011.</p> <ol style="list-style-type: none"> 1. On May 23, 2011, the City submitted to NEO the Request for Funds #1, together with supporting documentation of incurred costs, requesting payment of \$20,039.43. The Nebraska Energy Office issued payment of \$20,039.43 to the City in June 2011. 2. On October 13, 2011, the City submitted an Extension Request to extend the project to June 30, 2012. 3. On November 9, 2011, NEO made an inspection of the site and determined the project could be completed by May 15, 2011, provided the concrete footings were completed by December 15, 2011. 4. Per the attached letter dated November 14, 2011, Olsson Associates on behalf of the City stated the project should be completed by August 1, 2012, based on an April 1, 2012, start date by Midstates Erectors, Inc. 5. On November 17, 2011, the City submitted to NEO the Request for Funds #2, together with supporting documentation of incurred costs, requesting payment of \$151,374.83. 6. Upon affirmation by NEO's on-site inspection that will be conducted on or around December 15, 2011 (date not yet confirmed), that the concrete footings have been completed, the City will be permitted to continue under the terms of the Aid Agreement toward the August 1, 2012, completion date as outlined below. If the concrete footings have not been completed by December 15, 2011, and unless the City identifies another eligible project which can be completed on or before August 1, 2012, then the Aid Agreement is terminated and the City will be required to reimburse NEO \$20,039.43 in grant funds paid out to date. If another project is identified, NEO must approve an amendment to the Scope of Work and under no circumstances will the project period be allowed beyond August 1, 2012. 7. Given the concrete footings have been completed by December 15, 2011, and upon affirmation on or before August 1, 2012, by the City that the project is finished and completed, and upon NEO's verification that the project has met the minimum standards of the program and has complied with all applicable rules and regulations as stated in the Aid Agreement, NEO will issue payment of grant funds to the City in the amount of \$151,374.83. 8. Provided the City has affirmed to NEO on or before August 1, 2012, that the project is completed, the City may submit additional Requests for Funds for NEO's consideration of payment of the remaining grant funds. 9. If the project is not finished and completed on or before August 1, 2012, the City will reimburse \$20,039.43 to NEO for failure to complete the work within the additional allotted time frame.

(Double Click on Check Box, Select "Checked")

<input type="checkbox"/> Amendment to Budget <i>(Budget information is not needed if only the Scope is being amended)</i>			
ORIGINAL BUDGET APPROVED IN THE AID AGREEMENT.			
<i>If Prior Amendments, Use Current Amended Budget:</i>			
Expense Category	Energy Office (Recovery Act)	Recipient Match	Total Project
Personnel – Salary	\$	\$	\$
Personnel – Fringe Benefits			
Travel			
Equipment (>\$5,000) – Total			
Supplies			
Contractual			
Construction (not allowed)	N/A		
Other Direct Costs			
Project Total	\$	\$	\$

Reason for Proposed Change in Budget:

New Milestone Timeline Attached – Required only if activity timelines previously reported to the NEO will change.

PROPOSED BUDGET:			
Expense Category	Energy Office (Recovery Act)	Recipient Match	Total Project
Personnel – Salary	\$	\$	\$
Personnel – Fringe Benefits			
Travel			
Equipment (>\$5,000) – Total			
Supplies			
Contractual			
Construction (not allowed)	N/A		
Other Direct Costs			
Project Total	\$	\$	\$

EECBG Recipient Certification

I hereby certify that the local governing body of the City of Wayne, Nebraska, agrees with the terms and conditions of this Amendment to the EECBG Aid Agreement.

Signature of Chief Elected Official

Date

Typed Name and Title of Chief Elected Official

Nebraska Energy Office Use Only:	Date of Amendment:	
	Amendment Approved or Denied:	
	EECBG Coordinator Approval:	
	Division Chief Approval:	
	NEO Director Approval:	

RESOLUTION NO. 2011-93

**A RESOLUTION AMENDING THE CITY OF WAYNE ADA
TRANSITION PLAN TO INCLUDE AN ADA GRIEVANCE
PROCEDURE.**

WHEREAS, it is necessary to amend the Transition Plan previously adopted by the City of Wayne on October 9, 1984, by way of Resolution No. 84-54 and then amended again on February 19, 2008, by way of Resolution No. 2008-11 to add an ADA Grievance Procedure.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of Wayne, Nebraska, that the amended ADA Transition Plan being filed with the City of Wayne on this date, which now includes an ADA Grievance Procedure, and is attached hereto and incorporated herein by reference, is hereby approved.

PASSED AND APPROVED this 6th day of December, 2011.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

ADA Grievance Procedure

1. A complaint shall be filed in writing and given to the City of Wayne ADA Coordinator. The letter will need to have the name and address of the person filing the complaint, along with a brief description of the alleged violation.
2. The violation needs to be reported within in 20 days of the complaint when one becomes aware of said violation. (Processing of allegations of discrimination occurring before this written grievance procedure was in place shall be considered on a case by case basis.)
3. If deemed appropriate the ADA Coordinator will conduct an investigation following the complaint. The ADA will conduct an informal but exhaustive investigation
4. Within 15 calendar days after receipt of the complaint, the ADA Coordinator or the City of Wayne designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, The City of Wayne Planner or the City of Wayne designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City of Wayne and offer options for substantive resolution of the complaint.
5. If the response by The ADA Coordinator or the City of Wayne designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Administrator or the City of Wayne designee.
6. Within 15 calendar days after receipt of the appeal, the City Administrator or City of Wayne designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Administrator or the City of Wayne designee will respond in writing, and where appropriate, in a format accessible to the complaint, with a final resolution of the complaint.
7. All written complaints received by the ADA Coordinator or City of Wayne designee, appeals to the City Administrator or City of Wayne designee, and responses from these two offices will be retained by the City of Wayne for at least three years.

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the City of Wayne will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: The City of Wayne does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: The City of Wayne will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in The City of Wayne programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: The City of Wayne will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in The City of Wayne offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of The City of Wayne, should contact the office of *[name and contact information for ADA Coordinator]* as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require The City of Wayne to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of The City of Wayne is not accessible to persons with disabilities should be directed to ***Lowell Johnson City of Wayne Administrator***

The City of Wayne will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

**MINUTES OF COMMUNITY DEVELOPMENT AGENCY
AUGUST 2, 2011**

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

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

Chair Haase advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

The next item on the CDA agenda was to approve the minutes of the June 7, 2011, meeting.

Member Chamberlain made a motion and seconded by Member Alexander approving the minutes of the June 7, 2011, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Chair Haase stated the following Resolution would approve the Redevelopment Plan/Contract for Bomgaars, Inc.

Administrator Johnson advised the Council there have been a few changes to the draft Redevelopment Plan/Contract that was approved by the Planning Commission and what was in the council packet. Those changes are as follows:

- The Redeveloper's name needs to be changed from "Bomgaars, Inc.", to "Fourth Generation Family Limited Partnership."
- The amount of the bond needs to be increased from \$200,000 to \$220,000; and
- It needs to be stated that we are going to use \$26,000 of LB840 Sales Tax Funds to pay for cost to bore the sewer line under Highway 35.

Bomgaars has advised that they will pay for Glen Nichols' assessment. In addition, the Meyers and Picks have about a \$6,000 allocation for future hook-up fees that mirror the other half of the road in this project for the sewer that was developed.

Member Chamberlain introduced CDA Resolution No. 2011-3 titled as follows and moved its passage and approval by the Agency with the recommended changes stated above:

CDA RESOLUTION NO. 2011-3

A RESOLUTION RECOMMENDING APPROVAL OF A REDEVELOPMENT PLAN AMENDMENT FOR THE FOURTH GENERATION FAMILY LIMITED PARTNERSHIP PROJECT IN THE CITY OF WAYNE, NEBRASKA; AND APPROVAL OF RELATED ACTIONS.

Member Frevert seconded the motion. On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Haase, Alexander, Chamberlain, Berry and Brodersen. The following Members were absent or did not vote: Sturm and Ley.

The passage of CDA Resolution No. 2011-3, having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2011-3 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2011-3, and the Clerk attested to its passage by affixing her signature thereto.

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

**Wayne Planning Commission Meeting Minutes
Monday, October 3, 2011**

Chair Pat Melena called the regular meeting of the Wayne Planning Commission to order at 7:00 P.M., on Monday, **October 3, July 18, 2011**, in the Council Chambers of the Municipal Building. Roll call was taken with the following members present: Bill Kranz, Jeff Carstens, Jill Sweetland, Mark Sorensen, Lee Brogie, Jessie Piper, Chair Pat Melena, and Inspector/Planner Joel Hansen. Absent: Derek Hill.

Motion was made by Commissioner Sweetland and seconded by Commissioner Kranz to approve the minutes as presented for July 18, 2011. Chair Melena stated the motion and second. All were in favor; motion carried unanimously.

Chair Melena read the Open Meetings Act and advised that anyone desiring to speak should limit themselves to three minutes and wait until being recognized by the Chair.

Chair Melena stated the time was at hand to open the first public hearing Special Conditions and Conditions for Granting Exceptions, Section 90-355(4) Drive-Through Coffee Shop, applicant being Diane Pick.

Melodee Younts, was present to address the Commission. Mrs. Younts stated that her and her daughter Molly are planning to purchase the former McNatt's building for a coffee house and are also seeking a drive-through coffee shop, which is the reason for their request before the Commission.

Molly Younts was present to address the Commission as well. Ms. Younts stated that she has a long-term lease, with an option to purchase the lot at 7th and Dearborn from Diane Pick. Ms. Younts distributed to the Commission a permission notice from Randy and Diane Pick to represent them at the hearing. Ms. Younts further noted that they will be taking control of the lot starting October 15, 2011 and Sand Creek Post and Beam will be building the drive-through structure for them. Ms. Younts distributed a photo of what the structure will look like. It will have two windows on the back. The drive-through coffee shop will be open early in the morning for commuters and they also plan to offer sack lunches. Ms. Younts also distributed another drawing showing the three car lengths to the second window, which is the window they plan to use most of the time.

Chair Melena asked if anyone had questions for Ms. Younts.

Commissioner Sorensen asked if there would be walk-up service as well.

Ms. Younts stated there will be walk-up service. During the summer they hope to set up some picnic tables outside for customers to sit. They also plan to develop it further in the future by adding a pavilion and maybe do some farmer's market type activities.

Commissioner Carstens asked if they could describe the traffic flow and direction through the area.

Ms. Younts stated that most of the traffic will be on Seventh Street so they plan on turning in on Seventh Street and exiting on Dearborn Street. It will be one-way traffic flow, with people ordering at the first window and picking up at the second window.

Commissioner Kranz questioned where the pavilion would be located.

Ms. Younts stated that they have several areas where it could be located. It is not planned right now but in the future.

Commissioner Sorensen questioned if they are going to have walk-up traffic where do they plan to have parking.

Ms. Younts stated they plan to have parking spaces in the front of the building. They will be adding some more concrete to clean it up and make it look nice. They will be adding a new sign; so it will be cleaned up significantly but yes they will have some parking.

Commissioner Sorensen asked if the parking was going to be out in front of the building, would it be in the northeast corner.

Ms. Younts stated that they will have areas in front of the building. They plan to have the drive-through to the back side of the building so all foot traffic is out front.

Chair Melena asked for any further questions of the Commission or the public.

There being no further questions, Chair Melena closed the public hearing and opened discussion amongst the Commission members.

Inspector Hansen informed the Commission that a copy of the request is also in their packet next to the map. Inspector Hansen advised the Commission that the use permit will only be on Lots 1 and 17, which are the center two lots of the four

shown on the map. For the code that is on the back side of the map, is that it must be able to stack or queue space three vehicles.

Commissioner Kranz questioned how this would work if they have to cross a lot that is not part of the request.

Inspector Hansen stated they will exit out to the alley to the south and then onto Dearborn Street. They also plan to add some more concrete in this area. The lot to the east is a different owner.

Commissioner Sorensen questioned if they would be making a hard right turn.

Inspector Hansen stated that he worked with them as something for the Commission to view the three vehicle queue space. Basically he measured from the corner of the building to the lot line to show how close it could be. The red dashes on the drawing depict vehicles measured at 20 feet in length.

Commissioner Sorensen opined that it looks as if the corner of the building is going to be right on the lot line.

Inspector Hansen stated that was correct. There is a zero yard setback for B-1 zoning so they can go directly to the lot line. This may be something that they will work with when they go to set the building to make sure the angles work for turning. No matter what the Commissioner decides tonight, once the building is set they still have to set it so that three cars can fit before they get to the service window.

Commissioner Sweetland questioned what specifically they were approving.

Inspector Hansen stated the Commission would be approving the use for a coffee house drive-through on just the two center lots then they would need to meet the conditions when the building was set down that it would set such to allow for three cars before they reach the service window.

Inspector Hansen further stated that the use goes with the property not the property owner or lessee. So if in twenty years the property owner changes or the tenants changes, the use still goes with the property and it is still a coffee house drive-through.

Commissioner Brogie questioned if there are other areas in town where the alley is used as access to a business.

Inspector Hansen stated the old First National Bank drive-through on 7th and Main, and State National Bank drive-through. Inspector Hansen stated the alleys are for public use.

Commissioner Kranz questioned there seems to be a lot of left-hand turns and that is a pretty congested area. It seems that the city should be looking at doing something here.

Inspector Hansen stated that was addressed when the state did the highway by putting in a left-hand turn lane for the congestion and also the intersection was aligned with Pine Heights Road. Several people have brought up the idea of a stop light but that is up to the state and they will not issue or place one of those without the proper traffic count and there are just not enough vehicles on the street to warrant a stop light on the highway.

Commissioner Kranz asked about the ones on Main Street.

Inspector Hansen stated those were grandfathered in before those traffic counts were devised by the State. They wanted to get rid of both of those on 2nd and 3rd Street until the community objected.

Chair Melena asked for further discussion. There being none, Chair Melena asked for a motion.

Motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to approve and forward a recommendation of approval to the City Council for the special condition and condition for granting exceptions, specifically Section 90-355(4) Drive-Through Coffee Shop, with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Piper – aye; Commissioner Kranz – aye; Commissioner Brogie – aye; and Chair Melena – aye. All were in favor; Chair Melena declared the motion carried unanimously.

Chair Melena stated the next item on the agenda was the public hearing amending Section 90-358(1) front yard – minimum yard requirements B-1 Highway Business District, applicant being City of Wayne.

Inspector Hansen informed the Commission of what federal-aid secondary streets are. They refer to streets that are not the highways but are eligible for federal funding. They include Dearborn, Pearl and Logan both south of Seventh Street, West 3rd, East 4th, Providence Road, and East 10th Street. There is a grid that is suppose to get through the city. Because these are federal-aid secondary designated streets, for example if looking at the setbacks on Dearborn Street, he would draw the line down the center of the street and then he would have to adjust over in the B-1 district 100 feet and in this case that puts the line to a point where the lots are unusable, if they were all one property owner. The other issue is that previous inspectors did not realize the designation of those federal-aid secondary streets, so the new building in Sunnyview Place on Providence Road is actually built halfway into the setback. By eliminating this language will put the front setback on all B-1 districts for every street in Wayne regardless of being federal-aid or not as long as it is not the highway, of 25 feet from the property line, which is what was used for the building on Providence Road. This language will make more lots more useable in Wayne and will also become compliant with what has been done in the past.

Commissioner Sweetland opined 25 feet versus 35 feet.

Inspector Hansen stated it is 25 feet versus 100 feet from the center line.

Commissioner Sweetland questioned what the 35 feet was for.

Inspector Hansen stated that it is 35 feet from the highway whichever is greater. Basically it makes every street that the city would call a local street, such as Pearl or Windom or Lincoln or 9th Street, they would all be treated the same, even though they are eligible for different funding. Previous inspectors were treating them all the same as well, even though at the time they were designated differently. By getting rid of that particular designation, it cleans up some of the rulings that were made in the past and makes them equal.

Commissioner Sorensen questioned if this would prohibit them from any federal funding.

Inspector Hansen stated that it would not.

Commissioner Kranz questioned why the second mention of federal-aid secondary was not deleted as well.

Inspector Hansen stated that it was missed and should be omitted as well.

There being no further discussion, Chair Melena asked for a motion.

Motion was made by Commissioner Kranz and seconded by Commissioner Sorensen to approve and forward a recommendation of approval to the City Council for the amendment of Section 90-358(1) Front Yard – Minimum Yard Requirements B-1 Highway Business District, with one additional deletion of "...federal aid-secondary..." from the section, with the findings of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Kranz – aye; Commissioner Piper – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. All were in favor; motion carried unanimously.

Chair Melena stated the next item on the agenda was the public hearing amending Section 90-428(a) Front Yard – Minimum Yard Requirements B-3 Neighborhood Commercial District, applicant being City of Wayne.

Chair Melena asked for any new discussion. Chair Melena asked Inspector Hansen if this was similar to the public hearing they just had.

Inspector Hansen stated it was exactly the same just a different zoning district and the Commission may also need to change the language in the first paragraph to also remove the second reference to federal-aid secondary.

Chair Melena asked for any further discussion.

There being no further discussion, motion was made by Commissioner Brogie and seconded by Commissioner Kranz to approve and forward a recommendation of approval to the City Council for the amendment of Section 90-428(a) Front Yard – Minimum Yard Requirements B-3 Neighborhood Commercial District, with one additional deletion of "...federal aid-secondary..." from the section, with the findings of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Piper – aye; Commissioner Kranz – aye; Commissioner Brogie – aye; and Chair Melena – aye. All were in favor; motion carried unanimously.

Chair Melena stated the next public hearing was to amend Section 90-422 Permitted Principal Uses and Structures and Section 90-423(2) Permitted

Accessory Uses and Structures & Section 90-424(13 and 14) Exceptions B-3 Neighborhood Commercial District, with the applicant being City of Wayne.

Inspector Hansen stated this arises from some of the discussions by the Zoning Steering Committee and some members from the public as well. After some discussions with City Administrator Johnson, it was decided that this is something which needs to keep moving along and not get bogged down. The city is seeking to add single-family and two-family as a permitted use in the B-3. As previous discussion was this needs to be a mixed-use district and remove it from the list of use by exceptions and place it as a permitted use.

Inspector Hansen further noted the other issue under Section 90-423(2) Accessory Uses, if you have a one-family dwelling over or to the rear of the permitted use, such dwelling was for the primary use of the person owning or operating the commercial development. Inspector Hansen noted for the Commission that he has had someone inquire about this. The property owner stated the building has four different uses in it right now and they want to know about making the fourth use be a rental unit for single-family dwelling and that seems to fit reasonably well as part of the use that should not necessarily require them to live there but they could rent it to someone else. This would just open up the B-3 district and allow more uses.

Chair Melena then opened and closed the public hearing due to no public participation and opened discussion amongst the Commission members.

Commissioner Kranz asked if those who already fall under Section 90-423 are they already grandfathered in or how are they having other people live above them.

Inspector Hansen noted that he is not aware of anyone in a B-3 district that has a commercial business with someone living above or behind them. It is language that was in the zoning code and maybe it has made it so restrictive that is the reason no one does it because they do not want to be the ones living there; they would prefer to rent out the space for somebody else to live there.

Commissioner Kranz questioned if B-3 was Main Street.

Inspector Hansen stated B-2 is Main Street.

Chair Melena questioned the difference between B-2 and B-3.

Inspector Hansen stated B-3 is along Seventh Street to the east of town, also a section of B-3 up along the south side of campus and a little to the west. These are the only areas of town where B-3 is located.

Commissioner Sorensen questioned what exactly will this open up?

Inspector Hansen stated that someone could have a single-family or two-family home in that mixed use neighborhood. For example, Dave Stuthmann came before the Commission and got a use by exception last year so he could build the townhouse on 8th and Windom Street. He had to get a use by exception. Now if the zoning language had been changed, Dave could of just went and built the townhouse; he would not of needed the use by exception. This will help encourage re-development in this kind of area. This issue also came up when the Commission previously discussed re-building homes in a B-3 district if it was destroyed. This will definitely take it out of question because they (single and two-family) would be allowed in a B-3.

Commissioner Sorensen questioned if the area around Geno's and Accounting Plus was zoned B-3.

Inspector Hansen stated that it was zoned B-3 the area around the Post Office is also included.

Inspector Hansen stated that the Comprehensive Plan discusses more mixed uses and this would be a way to provide that use, with low level commercial and residential.

Commissioner Piper questioned if there would be adequate parking for residential and commercial.

Inspector Hansen stated the parking requirements are still in effect.

Chair Melena questioned for clarification that what this amendment does is allow people to proceed without applying for a use by exception.

Inspector Hansen stated that was correct; it eliminates the red tape.

Commissioner Carstens questioned if there had been a history of requests for use by exceptions in the B-3.

Inspector Hansen stated the most recent one being Dave Stuthmann. There have been other discussions in the past.

There being no further discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Brogie to approve and forward a recommendation of approval to the City Council for the amendment of Section 90-422 Permitted Principal Uses and Structures and Section 90-423(2) Permitted Accessory Uses and Structures and Section 90-424(13 and 14) Exceptions, all in the B-3 Neighborhood Commercial District, with the finding of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Kranz – aye; Commissioner Piper – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. All were in favor; motion carried unanimously.

Chair Melena stated that next item on the agenda is the public hearing amending Section 90-394 Exceptions and Adding Section 90-402 Permitted Conditional Uses in the B-2 Central Business District, applicant being City of Wayne.

Chair Melena opened and then closed the public hearing due to a lack of public in attendance. Chair Melena then opened discussion amongst the Commission.

Inspector Hansen noted for the Commission that within the last year or so he has had about three different parties look at downtown businesses wanting to buy empty buildings and start a business and they are looking at needing the upstairs as a means to cash flow that development. The buildings are old enough and some are deteriorating and need significant work and if you cannot use upstairs space it is just empty storage; it does not cash flow. They are looking at ways to fill those with tenants. Right now it is allowed but only as a use by exception. And again in an attempt to try and eliminate some of the cost of the extra fees and time to come and get those, the city is proposing to move it from a use by exception and make it a conditional use. The owner would still need to comply with the conditions of a use by exception; however, it would allow the Inspector to verify that the owner is meeting the conditions and then grant the use without them having to come to the Planning Commission and City Council. They would still have the requirement of two off-street parking spaces for each unit and they would still reserve the first thirty (30) feet of the ground level from the front lot line for commercial use to keep that commercial atmosphere downtown. They would still need to meet State Fire Marshal requirements to make sure life safety issues upstairs in residential were met, such as fire separation between the first and second floor.

Commissioner Brogie questioned if it needs to be multi-family; what if there was only one single-family.

Inspector Hansen noted that if you only had one apartment, you may consider it single-family. Some of the buildings are definitely big enough to have more than one apartment in them; therefore the reason to do multi-family.

Commissioner Brogie further opined are they ever going to get over the fact that providing residential does not mean providing parking.

Inspector Hansen stated that the issue is there is no overnight parking downtown. There are some streets that do not have the midnight to five parking restriction and actually downtown is 3:30 AM to 5:30 AM or 3:00 AM to 5:30 AM, or something similar. If there is no place for them to park, obviously even if the city did not have the overnight parking or a snow emergency and they did not have those stalls, those tenants would not have a place to park necessarily. It almost eliminates the use if you don't; who would you rent to if you did not provide them any parking. If just seems kind of second nature to put it in there and make it clear for everybody that it is an expectation.

Commissioner Sorensen noted that there is some off-street parking behind Dollar General, whether it is all leased or not.

Inspector Hansen noted that is what those property owners need to do if they do not have parking on their own property, is find parking for their tenants.

Commissioner Sweetland opined that it is only going to hurt the owner of the property to not have parking; if the tenants don't care then why not take it out.

Commissioner Brogie opined that it should be up to the owner to determine whether or not they want to provide parking.

Inspector Hansen noted that there is another section of the code regarding parking that he did not address that says if you do that you have to have stalls within something like 450 feet of your apartment anyway.

Commissioner Sorensen opined that they are on an entirely different subject of parking; really they are not even addressing the parking just trying to clean up some language. This is the first step.

Inspector Hansen opined that this is to try and streamline the process for individuals.

Commissioner Sweetland questioned if the apartments downtown were use by exceptions.

Inspector Hansen stated that was correct; unless they were being utilized as such in September of 1993 when the code was last changed then they are automatically grandfathered in.

Commissioner Kranz questioned if the parking needs to be on the property.

Inspector Hansen stated no, it needs to be within approximately 450 to 600 feet of the front door of the apartment.

Commissioner Sorensen noted that many building owners downtown lease the parking.

Inspector Hansen noted that the code states for residential structures multi-family, one and a half parking spaces are required per dwelling unit. Even if they got rid of two, they would still need one and a half by the parking code, which you can't have half a car, so you would need two anyway. So for a two dwelling unit you would get three parking spaces instead of two.

Commissioner Brogie questioned if it would be easy to remove the multi-family uses and just leave it as one apartment it would qualify.

Inspector Hansen noted that you would probably need to go back into the definitions and change them, so there would be a definition that reads residential means, single-family, two-family, and multi-family.

Commissioner Brogie questioned if they could just add single-family or multi-family.

Inspector Hansen noted that you also have two-family listed as a use by exception and that could also be moved into the permitted conditional uses. It would say the same thing as the multi-family with just single-family and two-family added.

Chair Melena asked for further discussion, there being none, motion was made by Commissioner Brogie and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council to amend Section 90-394 Exceptions by deleting subparagraph 5 Multifamily residential uses, subparagraph 8 Single-family dwelling, and subparagraph 10 Two-family dwelling and adding Section 90-402 Permitted Conditional Uses, along with changes being to add Single-family dwelling and Two-family dwelling and forward a recommendation of approval to the City Council with the findings of fact being it is staff's recommendation and the consistency with the Comprehensive Plan and

the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Piper – aye; Commissioner Kranz – aye; Commissioner Brogie – aye; and Chair Melena – aye. Chair Melena stated all were in favor; motion carried unanimously.

Chair Melena stated the last item on the agenda is a public hearing for a rezoning request to amend all of Western Ridge Third Addition to B-1 Highway Business District, with the applicant being City of Wayne.

Inspector Hansen stated that this one is strictly a housekeeping issue. The intent is not to change the zoning on anyone. What happened was when the subdividers came and told the city they wanted to create this subdivision, they drew the north line of that addition based on what they thought was the zoning line. When the city got to researching this, the rezoning which was done in 2006 it was based on a map and that line was not legally definable. So this is just to clean things up and to make everyone aware that all of Western Ridge Third Addition is zoned B-1 and to make it so it is legally definable. At the time it was done, Western Ridge Second Addition was not yet platted so it was just a line out in the middle of a field. A metes and bounds survey should have been done prior but was not completed.

Inspector Hansen opined that there may be other issues coming up in the future if the area to the north is ever subdivided as well. Western Ridge Second Addition will not have any issues as that was a Planned Unit Development.

Inspector Hansen opined that he believes the plat for Western Ridge Third Addition may need to be re-done as well as the surveyor made some errors. This was discovered when Inspector Hansen went to draw the plat on his CAD system and the County as well, and the plat did not fit with the dimensions they were given. They did not have any way of knowing that beforehand; they just trust it is correct.

Chair Melena opined that the Commission puts their name on these things believing that they are accurate and correct and this is probably not going to be a big deal because they are not moving anything but the time will come when they have an audience because their zoning line was five feet or fifty feet off of where they thought it was. His only hope was that they can limit the occurrence of these things going forward.

Commissioner Sorensen questioned what the problem was; was it problems with the surveyor in town getting things done accurately.

Inspector Hansen stated it was just a city process at the time that was not probably done correctly. Inspector Hansen stated that he has learned a lot just by going to the Planning and Zoning meetings and having Dave Ptak give seminars on things that pertain to zoning. It was just city policy back then that was not proper.

Commissioner Carstens questioned the potential of having the plat re-drawn, will that undue what the Commission is doing at their meeting tonight?

Inspector Hansen stated that it would not undo anything they are doing at the meeting. That is why the city wants the line to match the subdivision. So if something changes it will match whatever gets changed on the plat. This ties it to the plat.

Commissioner Kranz mentioned the Commission has been trying to clean-up a lot of other things around the city, where the city has similar situations where the boundaries are not tied to anything legal. Are the Commission / City going to start doing this or is it going to just wait until something comes up.

Inspector Hansen stated that as the City finds them the City will bring them to the Commission. He further stated that he was not aware of any others at the time. Now that the City knows of this they will make them bear the cost when they come to sub-divide.

Chair Melena asked for any further discussion; there being none, motion was made by Commissioner Brogie and seconded by Commissioner Sorensen to approve and forward a recommendation of approval to the City Council to rezone all of Western Ridge Third Addition to B-1 Highway Business District, with the findings of fact being it is staff's recommendation and consistency with the Comprehensive Plan and current and future land use map. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Kranz – aye; Commissioner Piper – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. Chair Melena stated all were in favor; motion carried unanimously.

There being no further business, motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to adjourn the meeting. All were in favor; motion carried unanimously; meeting was adjourned.