

**MINUTES
CITY COUNCIL MEETING
August 21, 2018**

The Wayne City Council met in regular session at City Hall on Tuesday, August 21, 2018, at 5:30 o'clock P.M.

Mayor Jill Brodersen called the meeting to order, followed by the Pledge of Allegiance, with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Jennifer Sievers, Terri Buck, Jason Karsky, Matt Eischeid and Nick Muir; City Attorney Amy Miller; City and Administrator Wes Blecke; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August 9, 2018, 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.

Mayor Brodersen 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, she advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Mayor Brodersen recognized City Clerk McGuire for being awarded the "Master Municipal Clerk" designation from the International Institute of Municipal Clerk's. There are only 25 recipients of this award in the State of Nebraska.

Mayor Brodersen proclaimed August 24, 2018, as "#Be Kind Day."

Joel Hansen, representing the Lower Elkhorn Natural Resource District, presented the City with a check in the amount of \$25,000 for the Bank Stabilization Project.

Councilmember Haase made a motion, which was seconded by Councilmember Buck, to approve the minutes of the meeting of August 7, 2018, and to waive the reading of said

minutes. Mayor Brodersen 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: ADVANCED CONSULTING ENGINEERING SERVICES, SE, 2771.68; AMERICAN LIBRARY ASSOC, FE, 142.00; APPEARA, SE, 101.84; AUTO ANATOMY ALTERNATIVES, RE, 180.00; BAKER & TAYLOR BOOKS, SU, 556.23; BELINA, BROOKE, RE, 100.00; BENSCOTER CONSTRUCTION, RE, 250.00; BENSCOTER INC, RE, 250.00; BORDER STATES INDUSTRIES, SU, 4413.13; BROUHARD, ELAINA, RE, 50.81; BSN SPORTS, SU, 123.90; CARROLL DISTRIBUTING, SU, 437.11; CDW GOVERNMENT, SU, 2538.00; CERTIFIED TESTING SERVICES, SE, 592.50; CITY EMPLOYEE, RE, 333.89; CITY EMPLOYEE, RE, 63.62; CITY EMPLOYEE, RE, 120.00; CITY EMPLOYEE, RE, 150.00; CITY OF WAYNE, PY, 81092.34; CONCORD COMPONENTS, RE, 100.00; COPY WRITE PUBLISHING, SE, 135.95; CORE & MAIN LP, SU, 2376.59; CUMMINS CENTRAL POWER, SU, 242.14; DANKO EMERGENCY EQUIPMENT, SU, 739.60; DAS STATE ACCTG-CENTRAL FINANCE, SE, 60.15; DAVE'S DRY CLEANING, SE, 78.00; DIVIS, MATTHEW, RE, 10.35; DRISKELL, DEXTER, RE, 117.10; DUTTON-LAINSON COMPANY, SU, 119.32; ECHO GROUP, SU, 174.81; ELECTRIC PUMP, SU, 2728.95; ENGINEERED CONTROLS, SE, 2170.00; FLOOR MAINTENANCE, SU, 251.17; GALE/CENGAGE LEARNING, SU, 50.68; GERHOLD CONCRETE, SU, 2580.46; GROSSENBURG IMPLEMENT, SU, 326.83; HASEMANN, SCOTT, RE, 150.00; HELENA AGRI-ENTERPRISES, SU, 97.00; HILAND DAIRY, SE, 56.90; HOCHSTEIN, NICK, RE, 100.00; HTM SALES, SE, 9200.54; ICMA, SE, 9611.43; INGRAM LIBRARY SERVICES, SU, 594.69; INTERSTATE BATTERY SYSTEM, SU, 227.90; ISIMANG, MIRANDA, RE, 54.10; JOHN'S WELDING AND TOOL, SU, 12.96; KATHLEEN A LAUGHLIN, CHAPTER 13 TRUSTEE, RE, 243.00; KROENKE, KATIE, RE, 17.75; KTCH, SE, 838.00; MARCEAU, CAROL, RE, 221.65; MIDWEST LABORATORIES, SE, 171.00; NE DEPT OF TRANSPORTATION, SE, 25104.51; NEBRASKA ENVIRONMENTAL PRODUCTS, SU, 506.14; NEBRASKA JOURNAL LEADER, SE, 29.95; NPPD, SE, 392813.10; NEBRASKA STATEWIDE ARBORETUM, FE, 100.00; NEXTERA ENERGY, SE, 9366.65; NORFOLK AREA HOME REALTY, FE, 1000.00; NORFOLK DAILY NEWS, SE, 40.00; OCC BUILDERS LLC, SE, 71095.00; OCLC, INC, FE, 500.00; PIERSON, TREVOR, RE, 116.52; PIERSON, TREVOR, RE, 120.90; POLLARD PUMPING, SE, 225.00; PORTER, BRANDON, RE, 212.35; QUALITY FOOD CENTER, SU, 92.90; S & S WILLERS, SU, 306.25; SHOPKO, SU, 60.96; SLONCO CONSTRUCTION, RE, 100.00; SPARKLING KLEAN, SE, 3270.67; STADIUM SPORTING GOODS, SE, 24.00; STADIUM SPORTING GOODS, SU, 42.00; TYLER TECHNOLOGIES, SE, 562.50; VAN DIEST SUPPLY, SU, 37.50; VERIZON, SE, 317.08; VILLA, ELIZABETH, RE, 126.94; WASTE CONNECTIONS, SE, 751.74; WAYNE AUTO PARTS, SU, 526.01; WAYNE HERALD, SE, 1290.15; WAYNE HOSPITALITY, RE, 20069.96; ZEHR, TYLER, RE, 20.04; AMAZON.COM, SU, 804.74; AMERITAS, SE, 86.15; AMERITAS, SE, 72.00; AMERITAS, SE, 2249.78; AMERITAS, SE, 60.16; BENSCOTER INC, RE, 250.00; BESSMER, JILL, RE, 150.00; BSN SPORTS, SU, 99.99; BUGS BOWS, SU, 1156.00; BUZI MBO NTA, BENIE, RE, 144.53; DEARBORN NATIONAL LIFE, SE, 110.08; DIAMOND VOGEL PAINTS, SU, 202.25; DITCH WITCH UNDERCON, SU, 135.78; EAKES OFFICE PLUS, SE, 1521.44; ED M. FELD EQUIPMENT, SU, 121.00; FASTENAL, SU, 2.79; FIRST SOURCE TITLE & ESCROW, SE, 600.00; GODFATHERS PIZZA, SU, 73.53; HOEMAN, TODD, RE, 501.00; HHS REGULATION & LICENSURE, SE, 115.00; INTERSTATE ALL BATTERY, SU, 178.69; IRS, TX, 9568.15; IRS, TX, 3214.10; IRS, TX, 13742.46; LIQUID ENGINEERING CORPORATION, SE, 2950.00; MARCO, SE, 175.82; NE CHAPTER IAEI, FE, 300.00; NE DEPT OF REVENUE, TX, 3881.92; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 1091.00; NE SAFETY COUNCIL, FE, 310.00;

OLSUFKA, JADE, RE, 15.55; OMAHA WORLD-HERALD, SU, 332.80; REHAB SYSTEMS, SE, 42,201.95; RODRIGUEZ, NANCY, SE, 17.50; SEBADE HOUSING, RE, 250.00; TEBBE, ANTHONY, RE, 42.47; UNITED HEALTHCARE, SE, 36006.61; VAN DIEST SUPPLY, SU, 420.00; WAYNE COMMUNITY HOUSING, RE, 237500.00; WAYNE COMMUNITY SCHOOL, RE, 5375.75

Councilmember Haase made a motion, which was seconded by Councilmember Greve, to approve the claims. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Giese who abstained, the Mayor declared the motion carried.

Sandy Brown, representing the Wayne Green Team, was present to request Council consideration to allowing them to close the westbound traffic on 3rd Street in between Pearl and Lincoln Streets and change it to two lanes of eastbound traffic only for the Electronic Recycling Event to be held on Saturday, September 15, 2018, from 8:00 a.m. to 10:30 a.m.

Councilmember Eischeid made a motion, which was seconded by Councilmember Buck, approving the request of the Wayne Green Team to close the westbound traffic on 3rd Street in between Pearl and Lincoln Streets and change it to two lanes of eastbound traffic only for the Electronic Recycling Event to be held on Saturday, September 15, 2018, from 8:00 a.m. to 10:30 a.m. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried

Todd Luedeke, representing Tuffern Blue Estates, was present to ask that his Subdivision Agreement be amended to take out the language in Section I, subparagraph B, which reads as follows: ***Private wells for potable water are prohibited everywhere within the boundaries of the Tuffern Blue Estates Subdivision.***

The Luedeke's, back in 2016, had planned to connect to the City water system and use septic systems on their five residential lots. That connection to the City's water system has not taken place. With the next agenda item, the McCorkindales want to obtain a well permit to put in a 15 gpm well on their property or lot in that subdivision. They cannot do that until this Subdivision Agreement has been amended to strike that language.

Administrator Blecke stated he had been to the County Commissioner's meeting since the original Subdivision Agreement had been approved by them. They approved the same contingent upon whatever the City Council decides.

Councilmember Eischeid introduced Resolution 2018-46, and moved for its approval; Councilmember Karsky seconded.

RESOLUTION NO. 2018-46

A RESOLUTION APPROVING AMENDED TUFFERN BLUE ESTATES SUBDIVISION AGREEMENT.

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

Mark and Gail McCorkindale were present regarding their Well Permit Application. While their permit stated they wanted a 15 gpm well, they wanted to amend the same to a 50 gpm well.

Attorney Miller stated that engineering impact studies have been eliminated on wells of 50 gpm or less.

Councilmember Eischeid made a motion, which was seconded by Councilmember Giese, approving the Well Permit Application of Gail and Mark McCorkindale – Paradox LLC for a well of up to 50 gpm. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Brodersen declared the time was at hand for the public hearing on the application for the Community Development Block Grant — Phase II Year 2 Funds.

Jan Merrill with the Northeast Nebraska Economic Development District was present to answer questions.

The City of Wayne is requesting \$475,000 of CDBG Comprehensive Development (CD) Phase II Year 2 funds, of which \$430,000 will be used for street and storm sewer improvements to Nebraska Street between 2nd and 7th Street; \$35,000 will be used for general

administration; and \$10,000 will be used for construction management. The required matching funds of \$215,000 will be provided by the City of Wayne and will come from the street and storm sewer project on Nebraska Street, as well as \$199,940 in additional leverage needed to complete the improvements. The estimated cost of the street project is \$844,940, for a total project cost of \$889,940.

All activities will be conducted within the LMI target area. All CDBG funds will benefit low-to-moderate income persons in the community. No persons will be displaced as a result of this project.

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

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

Councilmember Giese introduced Resolution No. 2018-43 and moved for its approval; Councilmember Haase seconded the motion.

RESOLUTION NO. 2018-43

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

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

Administrator Blecke stated at its 2018 retreat, Council asked City staff to look into funding resources for making improvements or upgrades to the old swimming pool park. A town hall type meeting was held at the end of July to gather input on what they would like to see done. A couple of specific improvements that were to be considered was funding for a splash pad and renovations to the existing pool bathhouse. The Land and Conservation Fund was found to be a viable grant option. It has provided this grant opportunity since 1964. The maximum to apply for is \$350,000, but the City would have to find the cash to match whatever is applied for. He was not sure that the City was ready to move forward on this grant application at this point. The same is due by September 7th.

After further discussion, it was the consensus of Council that they were not ready to make an application for this grant. Staff was directed to start the process of demolishing the old pool. No action was taken on the matter.

Resolution 2018-44 – Land and Water Conservation Fund Application FY2018-A Resolution on Development for Outdoor Recreation died for lack of a motion.

Mayor Brodersen stated the time was at hand for the public hearing to consider the Planning Commission’s recommendation in regard to amending the Wayne Municipal Code, Title XV Land Usage, Section 152.131 Fences and Screens. The applicants, Micky and Katie Rutenbeck, are seeking the request to amend the language to allow the Board of Adjustment the ability to grant a variance to residential fence height.

Joel Hansen, Zoning Administrator, stated the applicants want to be given the ability to go before the Board of Adjustment to obtain a variance to build a fence taller than 6’, which is what is allowed by code at this time. They previously had a 6’ chain link fence. They want to build an 8’ privacy fence. City Staff made no recommendation on this matter.

Councilmembers had some concern about having 8’ fences installed throughout the community.

The Planning Commission reviewed this matter at their public hearing on August 6, 2018, and forwarded a recommendation to approve the same subject to the following “Finding of Fact:”

- According to the Planning Commission’s discussion.

Section 152.131 is proposed to be amended as follows:

Except as otherwise specifically provided in this chapter and in other codes and regulations, the following regulations shall apply to the construction of fences and screening.

(A) No non-agricultural fence shall be constructed without a permit and no fence or screen may be constructed which will constitute a traffic hazard.

(B) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

(C) Any fence which is designed or constructed with one side being a finished side, or more visually appealing than the other side, shall be built with that side facing the neighboring properties and street. If supporting structures are only visible from one side of the fence, that side must face the interior of the property.

(D) (1) Fences separating residential land uses shall not exceed six feet in height; **however, the Board of Adjustment may, by granting a variance, authorize the construction of a fence higher than six feet, but not exceeding eight feet in height, if the Board of Adjustment finds the public welfare is preserved.**

(2) Fences separating residential and non-residential land uses or between two non-residential land uses shall not exceed eight feet in height.

(E) No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than eight feet; however, the Board of Adjustment may, by granting a variance, authorize the construction of a fence higher than eight feet if the Board of Adjustment finds the public welfare is preserved.

(F) Where fences, screens or obstructions are constructed to prohibit view, from one side of the fence, screen, or obstruction to the other side, no such screen or fence shall be located in the front yard, when a sidewalk exists on the adjacent terrace. No such screen or fence shall be located within 20 feet of the back of the curb of the adjacent street. The placement of a future sidewalk in the adjacent terrace shall require such screen or fence to be removed from the front yard.

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 Brodersen closed the public hearing.

Councilmember Muir introduced Ordinance No. 2018-23, and moved for approval thereof; Councilmember Sievers seconded.

ORDINANCE NO. 2018-23

AN ORDINANCE AMENDING TITLE XV LAND USAGE, CHAPTER 152 ZONING, SPECIFICALLY SECTION 152.131 FENCES AND SCREENS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Greve, Karsky and Eischeid who voted Nay, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Eischeid introduced Ordinance No. 2018-21, and moved for approval of the third and final reading thereof; Councilmember Greve seconded.

ORDINANCE NO. 2018-21

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE SOUTHWEST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE – SOUTHVIEW III ADDITION.

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

Councilmember Giese introduced Ordinance No. 2018-22, and moved for approval of the third and final reading thereof; Councilmember Eischeid seconded.

ORDINANCE NO. 2018-22

AN ORDINANCE APPROVING TRANSMISSION SUBSTATION SERVICE AGREEMENT BETWEEN THE CITY OF WAYNE, NEBRASKA, AND NEBRASKA PUBLIC POWER DISTRICT.

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

Marlen Chinn, Police Chief, spoke to Council on the subject of establishing hours that certain parks are open within the City. Back in 2013, the Council passed an ordinance, which established hours on three of the public parks (Summer Sports Complex, Rugby Fields, and the old swimming pool park). During that process, the ordinance, while approved, was not made a part of the Code Book. Staff is bringing the same back for your consideration as to whether or not all or some of the parks should be added in before making it a section in the Code Book. The parks not included in the proposed ordinance are the ones with camping spots in them.

Attorney Miller opined that the way the ordinance is right now is still enforceable.

This ordinance was originally brought forth to assist the Police Department with vandalism and other activities that were happening in the parks at night. Without having hours on the parks, police officers did not have probable cause to stop a vehicle that takes off when they enter the complexes checking them at night.

Without regulated hours posted, the Police Department cannot legally contact, stop and detain someone in the park at 3 a.m. (without other circumstances) to see if they are there for illegal activity or just staring at the stars. Numerous times, police officers have noticed someone and they walk off or drive off when they notice the police officer, and damage or other issues are found immediately afterwards to city property, but they then do not know who the people were in the park and couldn't stop them to see.

Councilmember Eischeid thought the Council needed to be consistent across the board as far as establishing open hours on all parks, with the exception of those that you can camp in.

Councilmember Giese introduced Ordinance No. 2018-24, and moved for approval thereof amending the ordinance to only reflect/include the Summer Sports Complex/Dog Park, the Baseball Complex, Old Swimming Pool Park, and Rugby Fields; Councilmember Muir seconded.

ORDINANCE NO. 2018-24

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE IX GENERAL REGULATIONS, CHAPTER 91 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, BY ADDING SECTION 91.085 PARKS – OPEN HOURS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Councilmember Eischeid stated the reason he is voting against this ordinance is because he would like all of the parks included in the ordinance.

Councilmember Muir then rescinded his second on the motion – he wanted the public to understand his thought that all of the parks would be treated consistently.

Councilmember Haase then seconded the motion. Mayor Brodersen stated the motion, and the result of roll call being all Nays, with the exception of Councilmembers Giese and Haase who voted Yea, the said motion failed.

Councilmember Muir then introduced Ordinance No. 2018-24, and moved for approval thereof, as written/proposed; Councilmember Eischeid seconded.

ORDINANCE NO. 2018-24

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE IX GENERAL REGULATIONS, CHAPTER 91 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, BY ADDING SECTION 91.085 PARKS – OPEN HOURS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Councilmember Giese explained his reasons for being against this ordinance which would include all of the parks, except the ones you can camp in.

Staff was directed to contact other municipalities to see if they have closing hours established on their city parks, if they are a college town, and whether or not those parks are drive-thru, etc.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Giese who voted Nay, the Mayor declared the motion carried.

The following Resolution would allocate \$73,065 in property tax to the Wayne Municipal Airport Authority. This is an annual request that the Airport Authority makes to the Council. Last year's allocation was \$71,400.

Councilmember Sievers introduced Resolution No. 2018-45 and moved for its approval, Councilmember Greve seconded.

RESOLUTION NO. 2018-45

A RESOLUTION AUTHORIZING THE ALLOCATION OF PROPERTY TAXES TO THE WAYNE AIRPORT AUTHORITY (\$73,065).

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

Advanced Consulting Engineering Services presented Contractor's Application for Payment No. 1 on the "2nd Street Storm Sewer Improvement Project" for \$55,593.00 to Robert Woehler & Sons Construction, Inc.

Councilmember Eischeid made a motion, which was seconded by Councilmember Muir, approving Contractor's Application for Payment No. 1 for \$55,593.00 to Robert Woehler & Sons Construction, Inc., for the "2nd Street Storm Sewer Improvement Project." Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Street and Planning Director, stated he has been approached by the villages of Carrol and Concord to assist them with building inspections. Mr. Hansen was directed to contact those Villages to bring forward an interlocal agreement for Council consideration.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to enter into executive session to discuss negotiations for the purchase of real estate located at 113 S. Main Street, Wayne, Nebraska, in order to protect the public interest and to allow, Attorney Amy Miller, City Clerk Betty McGuire, Police Chief Marlen Chinn, Finance Director Beth Porter, Electric Distribution Superintendent Tim Sutton and Building & Planning Director Joel Hansen, to also be in attendance. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 7:15 p.m.

Mayor Brodersen again stated that the matter to be discussed in execution session relates to negotiations for the purchase of real estate located at 113 S. Main Street, Wayne, Nebraska.

Councilmember Giese made a motion, which was seconded by Councilmember Buck, to resume open session. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 7:36 p.m.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 7:36 p.m.