

**MINUTES
CITY COUNCIL MEETING
September 18, 2018**

The Wayne City Council met in regular session at City Hall on Tuesday, September 18, 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 Rod Greve, Jon Haase, Jennifer Sievers, Terri Buck, Jason Karsky, Matt Eischeid and Nick Muir; City Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire. Absent: Councilmember Cale Giese.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 6, 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.

Councilmember Haase made a motion, which was seconded by Councilmember Sievers, to approve the minutes of the meeting of September 4, 2018, and to waive the reading of said minutes. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with exception of Councilmember Giese who was absent, 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, 1875.00
ANDERSON, DERRICK, RE, 696.00; APPEARA, SE, 112.11; ARLT, NICK, SE, 95.00;
BARONE SECURITY SYSTEMS, SE, 144.00; BATTERY SOLUTIONS, SU, 109.95; BORDER

STATES INDUSTRIES, SU, 286.76; BROWN PLUMBING, SE, 500.00; BROWN SUPPLY, SU, 3028.15; CARROLL DISTRIBUTING, SU, 1558.87; CERTIFIED TESTING SERVICES, SE, 2096.50; CHEMQUEST, SE, 1787.50; CITY EMPLOYEE, RE, 44.64; CITY EMPLOYEE, RE, 260.54; CITY EMPLOYEE, RE, 217.91; CITY EMPLOYEE, RE, 61.78; CITY OF MADISON, FE, 100.00; COPY WRITE PUBLISHING, SE, 79.31; DAVE'S DRY CLEANING, SE, 51.00; DHHS, FE, 80.00; DOLLAR GENERAL, RE, 860.00; FLOOR MAINTENANCE, SU, 257.48; FREDRICKSON OIL, SU, 111.60; GROSSENBURG IMPLEMENT, SU, 287.34; HAUFF MID-AMERICAN SPORTS, SU, 225.94; HEIKES AUTOMOTIVE, SE, 1046.24; HILAND DAIRY, SU, 132.18; INTERSTATE ALL BATTERY, SU, 24.95; JODY KOCH CONSTRUCTION, RE, 1000.00; KATHOL, GREG, RE, 1110.00; LAUREL RECREATION, FE, 225.00; MADISON CO COURT, RE, 300.00; MARCO, SE, 126.36; MATHESON-LINWELD, SE, 44.02; METERING & TECHNOLOGY SOLUTIONS, SU, 5838.90; MIKEY C PRODUCTIONS, SE, 70.00; NE DEPT OF ENVIRONMENTAL QUALITY, FE, 500.00; NE HARVESTORE, SU, 34.33; NEXTERA ENERGY, SE, 10486.94; NNEDD, SE, 480.00; PAC N SAVE, SU, 198.06; PITNEY BOWES, SE, 1497.56; PROGRESSIVE PROPERTIES, RE, 250.00; PROGRESSIVE PROPERTIES, RE, 250.00; PROVIDENCE MEDICAL CENTER, SE, 90.00; PTACEK, GREG, RE, 100.00; QUALITY FOOD CENTER, SE, 113.38; ROBERT WOehler & SONS, SE, 35019.72; S & S WILLERS, SU, 1590.68; SHOPKO, SU, 221.78; SPARKLING KLEAN, SE, 2762.11; STADIUM SPORTING GOODS, SE, 60.00; STATE NEBRASKA BANK & TRUST, RE, 100975.00; STATE NEBRASKA BANK-PETTY CASH, RE, 100.00; T & S TRUCKING, SE, 443.68; THE FINAL TOUCH, SU, 38.99; TOM'S BODY & PAINT SHOP, SE, 39.00; TYLER TECHNOLOGIES, SE, 6280.03; US FOODSERVICE, SU, 1180.73; VERIZONM SE, 317.08; WASTE CONNECTIONS, SE, 120.60; WAYNE COUNTY CLERK, SE, 54.00; WAYNE HERALD, SE, 136.00; WAYNE HERALD, SE, 761.00; WAYNE VETERINARY CLINIC, SE, 308.00; WESCO, SU, 689.08; WAPA, SE, 19486.44; ZAMZOW, RILEY, SE, 95.00; AMERITAS, SE, 60.16; AMERITAS, SE, 2640.02; AMERITAS, SE, 72.00; AMERITAS, SE, 113.84; APPEARA, SE, 90.71; ARC-HEALTH & SAFETY, SE, 140.00; BAKER & TAYLOR BOOKS, SU, 821.30; BAKER & TAYLOR BOOKS, SU, 35.95; BIG STONE TRANSPORTATION & LANDSCAPE SUPPLY, SU, 3460.00; CARHART LUMBER COMPANY, SU, 740.93; CITIZENS STATE BANK, RE, 1991.94; CITIZENS STATE BANK, RE, 3199.85; CITY EMPLOYEE, RE, 150.00; CITY OF WAYNE, PY, 73803.75; COLLINS, DEVAN, RE, 100.00; CROUCH RECREATIONAL DESIGN, SE, 34000.50; DAS STATE ACCTG-CENTRAL FINANCE, SE, 60.15; DE NORA WATER TECHNOLOGIES, SE, 910.47; DEARBORN NATIONAL LIFE, SE, 2390.46; DEMCO, SU, 820.23; DITCH WITCH UNDERCON, SU, 128.58; EAKES OFFICE PLUS, SE, 132.08; EASYPERMIT POSTAGE, SU, 1837.73; ECHO GROUP, SU, 234.88; ED M. FELD EQUIPMENT, SU, 889.00; FRANK, JIM, RE, 100.00; GALE/CENGAGE LEARNING, SU, 149.44; GROSSENBURG IMPLEMENT, SU, 184.13; HANSEN REPAIR, SE, 388.72; HILAND DAIRY, SU, 52.35; HOLIDAY INN EXPRESS-FREMONT, SE, 219.90; HUSS, HOUSTON, RE, 12.51; ICMA, RE, 9623.50; INGRAM LIBRARY SERVICES, SU, 842.03; INVENTORY TRADING COMPANY, SU, 382.00; IRS, TX, 2973.74; IRS, TX, 12714.88; IRS, TX, 9424.08; JACK'S UNIFORMS, SU, 790.00; KATHLEEN A LAUGHLIN, CH 13 TRUSTEE, RE, 243.00; KAUP FORAGE & TURF, SU, 680.00; KTCH, SE, 594.00; LOUIS BENSOTER, RE, 2741.75; LUTT OIL, SU, 6147.62; MID PLAINS GRAIN, RE, 6385.62; MIDWEST LABORATORIES, SE, 655.00; MZRB, RE, 2864.57; NATIONAL BUSINESS FURNITURE, SU, 5907.78; NE DEPT OF REVENUE, RX, 3860.10; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 261.00; NPPD, SE, 403818.72; NORFOLK DAILY NEWS, SE, 66.44; OVERDRIVE, SU, 1013.53; PENGUIN RANDOM HOUSE, SU, 78.75; POLLARD PUMPING, SE, 225.00; REZURRECTED ROD & KUSTOM, SE, 148.99; SEBADE HOUSING, RE, 1922.22; SOUTHEAST LIBRARY SYSTEM, FE, 160.00; STADIUM SPORTING GOODS, SU, 241.00; STAPLES, SU, 86.58; THRASHER, RE, 100.00; TYLER TECHNOLOGIES, SE, 6723.70; USA BLUE BOOK, SU, 119.58; UTILITIES SECTION, FE, 225.00; VAN DIEST SUPPLY, SU, 70.75; WAHOO HERITAGE INN, SE,

255.80; WATCHGUARD VIDEO, SU, 17527.00; WAYNE AUTO PARTS, SU, 666.84; WAYNE HERALD, SE, 1,629.65; WESCO, SU, 715.83; WEST-E-CON, SE, 14434.98; WIGMAN COMPANY, SU, 374.36; WINDOM RIDGE, RE, 1424.87

Councilmember Haase made a motion, which was seconded by Councilmember Sievers, 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 was absent, the Mayor declared the motion carried.

Mayor Brodersen declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding a request to rezone from A-1Agricultural to R-2 Residential, the area known as Southview III Addition, more specifically located in the NW1/4SE1/4 of 13-26N-R3, East of the 6th P.M., Wayne County, Nebraska, containing 1.43 acres more or less. The applicant is the City of Wayne.

The Planning Commission held a public hearing on September 10, 2018, regarding this rezoning request, and have recommended approval thereof, with the "Finding of Fact" being staff's recommendation.

Joel Hansen, Street and Planning Director, stated that the zoning did not match in this area, and this action will clean that up and make the entire parcel Residential.

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 Sievers introduced Ordinance No. 2018-26 and moved for its approval; Councilmember Haase seconded.

ORDINANCE NO. 2018-26

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF PROPERTY OR AREA KNOWN AS SOUTHVIEW III ADDITION LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP TWENTY-SIX NORTH, RANGE THREE, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, FROM A-1 AGRICULTURAL DISTRICT TO R-2 RESIDENTIAL DISTRICT.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Giese who was absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Brodersen declared the time was at hand for the public hearing on the acquisition of real estate from Douglas Pierson and Tracy Pierson, Husband and Wife. The legal description is to wit:

A tract of land located in the NW1/4SE1/4 of 13-26N-R3 East of the 6th P.M., Wayne County Nebraska, more particularly described as follows: Beginning at the Northwest Corner of Southview II Addition to the City of Wayne, Nebraska; thence S 02°19'08" E on the West line of said Southview II Addition, 510.95 feet; thence S 30°43'41" E on said West line, 174.34 feet; thence N 59°19'40" E on the South line of said Southview II Addition, 355.56 feet to a point on the East line of the Northwest 1/4 of the Southeast 1/4 of Section 13, T26N, R3E of the 6th P.M., Wayne County, Nebraska; thence S 01°56'44" E on said East line, 233.11 feet; thence N 85°50'29" W, 333.20 feet; thence N 30°43'41" W and parallel to the West line of said Southview II Addition, 196.02 feet; thence N 02°19'08" W and parallel to the West line of said Southview II Addition, 518.58 feet to a point on the South Right-of-Way line of Grainland Road; thence N 87°44'58" E on said South line, 30.00 feet to the Point of Beginning, containing 1.43 acres more or less,

The purchase price is \$25,000.00. Doug Pierson was present to answer questions.

Administrator Blecke stated this is the parcel that has been replatted and annexed and is now in the process of being rezoned. This is part of the drainage ditch that the City would like access to. This purchase will also give us about a half acre of land to possibly sell at some point.

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 Giese arrived at 5:40 p.m.

Councilmember Sievers introduced Resolution 2018-52, and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2018-52

A RESOLUTION APPROVING THE ACQUISITION OF REAL ESTATE LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, FROM DOUGLAS PIERSON AND TRACY PIERSON, HUSBAND AND WIFE, FOR THE SUM OF \$25,000.00.

Administrator Blecke noted that in the packet was a purchase agreement. He advised the Council, that while no action was needed on the purchase agreement, he wanted to make the following changes to Section 10 - Miscellaneous:

- A. All dirt removed from the subject property as a result of the Buyer grading the property and installing a drainage ditch shall remain the property of Seller. Seller will designate on the adjacent property where to haul and dispose of dirt.
- B. Buyer will provide Seller access to Seller's property and will not leave Seller landlocked.

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

City Clerk McGuire stated that the Wayne Country & Golf Club is now at a point with their building addition that they can submit an application for addition to their liquor licensed premises. The request is for the addition of the existing clubhouse approximately 44'x48,' making the new description read: Two-story clubhouse approximately 92'x96,' including the entire golf course approximately 165 acres.

Councilmember Muir made a motion, which was seconded by Councilmember Eischeid, approving the application of the Wayne Country & Golf Club for addition to their liquor licensed premises – the request is for the addition of existing clubhouse approximately 44'x48,' making the new description read: Two-story clubhouse approximately 92'x96,' including the entire golf course approximately 165 acres. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Rusty Parker, representing the Wayne Country & Golf Club, was present to review Change Order Nos. 2, 3, and 4.

- Change Order No. 2, which was to lower the new basement floor height to match existing, and change the north wall design to a 9' poured concrete wall in lieu of wood framed with exterior/interior finishes, had no change in cost;
- Change Order No. 3, which was to provide a redesign of the men's 109 and women's 110 restrooms to allow for a new additional single stall unisex restroom 112, had no change in cost; and
- Change Order No. 4, which was to change the deck and railing materials from treated wood to a composite deck and aluminum railing, had an increase of \$17,375.00.

Mr. Parker stated there would be no cost to the City for these change orders. He also updated the Council on their finances. They currently have \$401,156.75 in the account. They have 97 pledges, of which 37 have paid 100% to date.

Councilmember Giese made a motion, which was seconded by Councilmember Eischeid, approving Change Order Nos. 2, 3, and 4 for the Wayne Country & Golf Club for an increase of \$17,375.00. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

OCC Builders, LLC, presented Pay Application No. 5 in the amount of \$41,060.00 on the "Wayne Country & Golf Club Clubhouse Improvement Project."

Councilmember Eischeid made a motion, which was seconded by Councilmember Muir, approving Pay Application No. 5 for \$41,060.00 to OCC Builders, LLC, for the "Wayne Country & Golf Club Clubhouse Improvement Project." Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sievers introduced Ordinance No. 2018-23, and moved for approval of the third and final reading thereof; Councilmember Greve 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.

Councilmember Giese stated after discussing this matter with others, he has changed his opinion. He does not want to see 8' fences anywhere in Wayne. If Council approves this for

certain situations, it will get tougher to deny it based on certain circumstances as we go forward. Mayor Brodersen agreed.

Attorney Miller stated if the public welfare provision is left in the ordinance, then what one person believes is public welfare may be completely contrary to what the Council believes is public welfare. If you approve matters on a case-by-case basis, you then open up a Pandora's Box. Another concern is whether this would run with the property or with the person. In Mr. Rutenbeck's case, if he moves, he is going to have the same issue at the next place he lives. She noted again that if you take the public welfare out and people have to come before Council, Council needs to keep in mind that if they grant it for one, they have to grant it for everyone.

Councilmember Karsky stated he struggles with this because it deals with children, and what other option does Mr. Rutenbeck have other than to move out into the country.

Councilmember Eischeid stated the only way he would be okay with this is if it abutted agricultural land. He does not want to see 8' fences in the middle of town even if it is next to a business.

After some discussion, Attorney Miller advised Council that the Ordinance could read:

"Fences separating residential land uses shall not exceed six feet in height, unless said property and all adjoining properties abut an agricultural zoning district. No fence shall exceed eight feet in height."

Councilmember Sievers then wanted to amend her motion to include the wording suggested by Attorney Miller.

Attorney Miller recommended that the language be put in writing so Council could see and read it before approving it.

Mr. Rutenbeck then asked if something concerning ADA could be added.

Since there was no second to Councilmember Sievers' motion, said motion died for lack of a second.

Attorney Miller stated she would research and put together language regarding disabilities or handicapped provisions and bring the same back for Council consideration.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to table action on the third and final reading of Ordinance No. 2018-23. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Eischeid who voted Nay, the Mayor declared the motion carried.

Discussion continued on Ordinance No. 2018-24 regarding “park closing hours.” The changes were noted in red.

Councilmember Giese stated the problems we are seeing are taking place at the Summer Sports Complex. He agreed there was no reason for anyone to be inside the Summer Sports Complex after dark, or the Baseball Complex. Other than that, he believes parks are the public’s property, and if it is the Council’s duty to protect that public property, then we need a reason as to why we need to close them. If we do not want people on public property after 11:00 p.m., then all public property needed to be included in the ordinance.

Mayor Brodersen stated our parks are public places and people should be allowed to use them. We have had problems with the Summer Sports Complex. She did not think the Council should keep people out of the parks. Councilmember Haase agreed.

Councilmember Karsky stated he visited with as many people as he could find around Bressler Park, and there was not one that was not in support of the 11:00 p.m. closing time.

Councilmember Eischeid stated he does not like the idea of closing public areas because there are people that are there after 11:00 p.m. that are just there because they want to visit with a friend. That is what he does not want to stop happening if there is no illegal activity going on. He knows there are more problems in certain areas than others. What frustrates him is that no one from the public comes to the meetings to voice their opinion. He is torn, because he is in the same boat as Chief Chinn. They are in the business to protect the people of Wayne and protect the property that our tax dollars go to, to ensure that everything is in good working condition. People that use the park at 3:00 a.m. are probably not there to watch the stars, so it is times like

that that he wants an ordinance for law enforcement. You hate to take public space away from someone who is there for a good reason.

Councilmember Karsky stated he still thought that police discretion plays a huge role in this. Full enforcement of the law is a myth, and the police can use their discretion in regard to certain situations. He is assuming the officers would use their fair judgment like they do every day in what they pursue and do not pursue.

It was noted that not having closing hours does not stop the police officers from driving into the Summer Sports Complex or driving by or walking into the parks.

Councilmember Eischeid stated officer discretion, in a court of law, is an issue. The example being you have an officer on the stand answering that he/she does not write a ticket to everybody that they see in the park after 12:00 midnight and then having to answer why not, because there is an ordinance/law on the books saying that no one can be in the park at that time. It is challenging for the officer because if you are going to enforce the law, you are going to have to be consistent. Judges do not like inconsistency.

Councilmember Giese stated he thought the Council could potentially open themselves up to discrimination complaints.

Mayor Brodersen stated the police were called 27 times in the past two years; 15 of those calls pertained to the Summer Sports Complex. She felt the Council should address those issues with this ordinance.

Joel Hansen, Street & Planning Director, stated from a Parks' Department perspective, their concern is vandalism.

After further discussion, Councilmember Giese introduced Ordinance No. 2018-24 and moved for approval of the second reading thereof, and amending the same to exclude all of the parks, with the exception of the Summer Sports Complex/Dog Park/Rugby Field and the Baseball Complex/Hank Overin Field; Councilmember Haase 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; SECTION 91.086 PARKS – OVERNIGHT CAMPING DEFINED; SECTION 91.087 PARKS – FIRES; ~~SECTION 91.088 PARKS – ANIMALS;~~ SECTION 91.088 ~~9~~ PARKS – CAMPING, TIME LIMIT; SECTION 91.089 ~~90~~ PARKS – VIOLATION, PENALTY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Brodersen liked the idea of addressing only those parks we have issues with now and coming back at a later time to address other parks, if there are issues with those.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Greve, Sievers, Karsky and Eischeid who voted Nay, the Mayor declared a tie vote. Because of the tie vote, Mayor Brodersen then cast her vote, which was in the affirmative, and declared the second reading of Ordinance No. 2018-24 approved, as amended. The third and final reading will take place at the next meeting.

The following Resolution would approve rules and regulations for campgrounds.

After discussion, it was the consensus to bring the rules and regulations back as an ordinance. Resolution No. 2018-53 then died for lack of a motion.

The following Resolution would approve an agreement with the Village of Concord for building inspection services.

Councilmember Sievers introduced Resolution No. 2018-54 and moved for its approval, Councilmember Eischeid seconded.

RESOLUTION NO. 2018-54

A RESOLUTION APPROVING INTERLOCAL AGREEMENT WITH THE VILLAGE OF CONCORD, NEBRASKA, FOR BUILDING INSPECTION SERVICES (2018).

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

The following Resolution would accept the work on the “West Inner and East Inner Conversion Electric Distribution Project” and authorize final payment to the contractor for \$54,101.92 to Karian Peterson Powerline Contracting, LLC, on said project.

The project is complete. The original contract price was \$690,290.43. There were contract decreases of \$153,479.67, bringing the final project cost to \$536,810.75.

Councilmember Giese introduced Resolution No. 2018-55 and moved for its approval, Councilmember Sievers seconded.

RESOLUTION NO. 2018-55

A RESOLUTION ACCEPTING THE WORK ON THE “WEST INNER AND EAST INNER CONVERSION ELECTRIC DISTRIBUTION PROJECT” AND AUTHORIZING FINAL PAYMENT IN THE AMOUNT OF \$54,101.92 TO KARIAN PETERSON POWERLINE CONTRACTING, LLC.

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

Administrator Blecke updated Council on the lagoon sludge removal project. No bids were received on the project. He will be contacting a company, as recommended by JEO Consulting Group, that markets manure to see if they would be interested. It is encouraging because they will also clean up concrete as well, so there are some other things they could do in Wayne. We have started shredding the floor of the lagoon to knock the weeds down. If we have the same weed issue next year, we will spray early.

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 7:09 p.m.