

**MINUTES
CITY COUNCIL MEETING
October 2, 2018**

The Wayne City Council met in regular session at City Hall on Tuesday, October 2, 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 Administrator Wes Blecke; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 20, 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 18, 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: AMAZON.COM, SU, 1790.80; AMERITAS, SE, 94.10; AMERITAS, SE, 72.00; AMERITAS, SE, 2316.32; AMERITAS, SE, 60.16; APPEARA, SE, 43.73; ARCADIAN MARKSMANSHIP CLUB, FE, 100.00; BARONE SECURITY SYSTEMS, SE, 137.50; BORDER STATES INDUSTRIES, INC, SU, 599.20; BOUND TO STAY BOUND BOOKS, SU, 17.01; BUGS BOWS, SU, 805.00; CARHART LUMBER CO, SU, 435.58; CENTURYLINK, SE, 419.25; CITY EMPLOYEE, RE, 175.75; CITY EMPLOYEE, RE, 82.45; CITY EMPLOYEE, RE, 221.35; CITY EMPLOYEE, RE, 249.90; CITY EMPLOYEE, RE, 32.09; CITY

EMPLOYEE, RE, 513.86; CITY EMPLOYEE, RE, 62.30; CITY EMPLOYEE, RE, 373.47; CITY EMPLOYEE, RE, 74.89; CITY OF WAYNE, RE, 2265.55; DANKO EMERGENCY EQUIPMENT, SU, 1336.00; DATASHIELD CORPORATION, SE, 5624.30; DEMCO, SU, 346.24; DGR & ASSOCIATES, SE, 612.00; DISCOUNT PLAYGROUND SUPPLY, SU, 4233.37; ECHO GROUP, SU, 224.78; ELLIOTT, MARY, RE, 100.00; FLOOR MAINTENANCE, SU, 495.31; FREDRICKSON OIL, SU, 448.00; GERHOLD CONCRETE, SU, 1316.26; GROSSENBURG IMPLEMENT, SU, 74.51; HAMMER, KEVIN, RE, 100.00; HAUFF MID-AMERICAN SPORTS, SU, 207.02; HAWKINS, SU, 1059.30; HILAND DAIRY, SE, 70.19; HOLIDAY INN OF KEARNEY, SE, 92.95; HORIZON CONSTRUCTION, RE, 300.00; HYTREK LAWN, SE, 100.00; ICMA, SE, 9625.33; IRS, TX, 2888.76; IRS, TX, 8938.92; IRS, TX, 12351.62; JACK'S UNIFORMS, SU, 790.00; KARIAN PETERSON POWERLINE CONTRACTING, SE, 54101.92; KARIAN PETERSON POWER LINE CONTRACTING, SE, 82274.13; KATHLEEN A LAUGHLIN, CHAPTER 13 TRUSTEE, RE, 243.00; KAY CONTRACTING, SE, 480.00; MARCO TECHNOLOGIES, SE, 175.82; MICHAEL TODD & CO, SU, 2123.91; MUNICIPAL SUPPLY, SU, 15961.71; NE DEPT OF REVENUE, TX, 3673.87; NORFOLK GM AUTO CENTER, SE, 3778.70; NORFOLK SPORTING GOODS, SU, 45.75; NORTHEAST NE INS AGENCY, SE, 114.00; NORTHEAST POWER, SE, 13417.72; OCC BUILDERS, RE, 250.00; O'REILLY AUTOMOTIVE STORES, SU, 8.99; ORIENTAL TRADING CO, SU, 50.91; PAULSON, DALE, RE, 500.00; PLUNKETT'S PEST CONTROL, SE, 88.58; QUALITY 1 GRAPHIC, SE, 125.00; REZURRECTED ROD & KUSTOM, RE, 250.00; ROBERTSON IMPLEMENT, SU, 28.11; SALTZMAN, MATT, RE, 100.00; SELECT APPLIANCE, SU, 499.00; SIEVERS, SHARLENE, RE, 50.00; SOOLAND BOBCAT, SE, 692.80; STAPLES, SU, 471.41; THE RADAR SHOP, SE, 258.00; THOMPSON LOCK & KEY SERVICE, SE, 60.00; THRASHER, RE, 100.00; TINT SPECIALTIES, RE, 100.00; TYLER TECHNOLOGIES, SE, 5880.30; WAYNE COMMUNITY SCHOOLS, SE, 40.00; WISNER WEST, SU, 322.69; ZIMCO SUPPLY, SU, 780.00; APPEARA, SE, 54.00; APWA, FE, 360.00; ARC-HEALTH & SAFETY, SU, 28.00; BATTERY SOLUTIONS, SU, 109.95; BLACK HILLS ENERGY, SE, 270.84; BOMGAARS, SU, 215.42; BROWN, SANDY, RE, 74.98; CARROLL DISTRIBUTING, SU, 221.08; CITY EMPLOYEE, RE, 69.95; CITY OF WAYNE, PY, 72270.43; CORE & MAIN, SU, 6511.69; DANKO EMERGENCY EQUIPMENT, SU, 30.00; DAS STATE ACCTG-CENTRAL FINANCE, SE, 448.00; DEMCO, SU, 88.54; DHHS, FE, 115.00; DOLLAR GENERAL, RE, 270.00; DORING, BRENT, RE, 200.00; DUTTON-LAINSON, SU, 176.56; ED M. FELD EQUIPMENTM, SU, 830.00; ENVIRONMENTAL ANALYSIS SOUTH, SE, 470.00; FASTENAL, SU, 9.02; FIRST CONCORD GROUP, SE, 2688.86; FLOOR MAINTENANCE, SU, 101.85; FREDRICKSON OIL, SU, 590.70; GERHOLD CONCRETE, SU, 342.50; GILL HAULING, SE, 2940.51; GROSSENBURG IMPLEMENT, SU, 245.64; HELENA AGRI-ENTERPRISES, SU, 80.00; INDUSTRIAL CHEM LABS & SERVICES, SU, 163.52; JANWAY COMPANY, SU, 505.88; JOHNSON CONTROLS, SU, 480.00; LAWSON PRODUCTS, SU, 23.77; LAYNE CHRISTENSEN, SE, 2636.28; N.E. NE AREA ON AGING, SE, 238.00; NEBRASKA CHILDREN'S HOME, RE, 200.00; NORTHEAST POWER, SE, 5968.00; OVERHEAD DOOR, SE, 229.75; PLUNKETT'S PEST CONTROL, SE, 93.60; SIEVERS, SHARLENE, RE, 200.00; SKARSHAUG TESTING LAB, SE, 292.34; STADIUM SPORTING GOODS, SE, 270.75; STATE NEBRASKA BANK-PETTY CASH, RE, 347.71; STATE NEBRASKA BANK-PETTY CASH, RE, 97.24; STATE TREASURER OF NE, RE, 818.43; TEMME, NATE, RE, 200.00; THOMPSON LOCK & KEY SERVICE, SE, 60.00; VANHORN, NICK, RE, 200.00; VIAERO, SE, 116.30; WAYNE COMMUNITY SCHOOLS, RE, 2292.25; WAPA, SE, 14676.09; ZEE MEDICAL SERVICE, SU, 56.39

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DEARBORN NATIONAL LIFE, SE, 110.08; GILL HAULING, SE, 237.50; HILAND DAIRY, SE, 93.96; HOMETOWN LEASING, SE, 409.53; LEACH, BAILEY, RE, 7.00; MILLER LAW, SE, 5259.73; NE CODE OFFICIAL ASSOCIATION, FE, 300.00; NE NOTARY ASSOC, SE,

288.74; NORTHEAST NE INS AGENCY, SE, 77535.00; PROGRESSIVE PROPERTIES, RE, 250.00; PROGRESSIVE PROPERTIES, RE, 250.00; PROVIDENCE MEDICAL CENTER, SE, 57120.00; TYLER TECHNOLOGIES, SE, 2629.41; UNITED HEALTHCARE, SE, 38522.04; WAED, SE, 7871.00; WAYNE KIWANIS, FE, 141.00; WAYNE STATE COLLEGE, SE, 250000.00

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, the Mayor declared the motion carried.

Randy Hellbusch with the Nebraska Rural Water Association (NRWA), undertook a water and sewer rate analysis for the City. He uses a two-year average for expenses and revenue. He noted that the water fund transfers \$150,000 to the sewer fund. If it were not for that, the water rates would be sufficient. He also noted that the proposed rates include the assumption of a new transmission line and well.

Administrator Blecke also advised the Council that the sewer fund also receives \$75,000 from sales tax revenues. Therefore, the sewer fund is being subsidized \$225,000.

From his analysis, the following is what he recommended for water rate increases:

1. In 2019, the residential service charge would increase from \$16 to \$20, with the price per thousand gallons going from \$1.60 to \$1.75;
2. In 2020, the residential service charge would go from \$20 to \$21.50, with the price per thousand gallons going from \$1.75 to \$1.85; and
3. In 2021, the residential service charge would go from \$21.50 to \$23, with the price per thousand gallons going from \$1.85 to \$1.95.

The average water rates for cities of 2,000 to 5,000 in population is \$20.07 per month service charge, plus \$2.12 per thousand gallons.

NRWA tries to make sure the commodity charge is enough to cover labor, parts, electricity, and chemicals, with any debt service or costs being covered by the monthly service charge.

Mr. Hellbusch then reviewed the proposed sewer rates. He researched rates for systems with recent sewer improvements, and the average monthly service charge is \$27.45 - Wayne's is \$8; but the average cost per thousand gallons is \$3.61 and Wayne's is \$6.35.

From his analysis, the following is what he recommended for sewer rate increases:

1. In 2019, the residential service charge would increase from \$8 to \$10 per month, with the price per thousand gallons going from \$6.35 to \$7.62;
2. In 2020, the residential service charge would go from \$10 to \$12 per month, with the price per thousand gallons remaining at \$7.62; and
3. In 2021, the residential service charge would go from \$12 to \$14 per month, with the price per thousand gallons again remaining the same at \$7.62.

Residents, with sewer, would see about a \$5.00 increase per month the first year, and then \$7 and \$9 per month the following two years. Water would increase about \$10 to \$11 over the three-year period. It was noted that water rates were last raised in October 2015; sewer in April 2016.

Council consensus was to increase both the water and sewer rates as recommended by the Nebraska Rural Water Association, with the rates being effective January 1st of each year, and then being reviewed annually. Staff would prepare the necessary resolutions for future Council consideration/action.

Councilmember Sievers introduced Ordinance No. 2018-26 and moved for approval of the second reading thereof; 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, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Attorney Miller stated that the following language was reworded in Subsection D)(1) of Ordinance 2018-23, as requested at the last meeting:

D) (1) Fences separating residential land uses shall not exceed six feet in height; **however, the City Council may, by granting a waiver, authorize the construction of a fence higher than six feet, but not exceeding eight feet in height, if the Council finds the public welfare is preserved, if the applicant provides proof of a documented disability, with verification that an**

enclosure exceeding six feet in height is necessary for the protection of the individual. Under no circumstances shall the fence exceed eight feet in height.

Joel Hansen, Street & Planning Director, recommended the following change (highlighted in blue) and Attorney Miller had no objection to this amendment:

D) (1) Fences separating residential land uses shall not exceed six feet in height; **however, the City Council may, by granting a waiver, authorize the construction of a fence higher than six feet, but not exceeding eight feet in height, if the applicant provides proof of an individual with a documented disability living on the premises, with verification that an enclosure exceeding six feet in height is necessary for the protection of the individual. Under no circumstances shall the fence exceed eight feet in height.**

Councilmember Giese introduced Ordinance No. 2018-23, and moved for approval of the third and final reading thereof as amended and recommended by City Attorney Miller and Joel Hansen, Street & Planning Director; 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 Haase and Eischeid who voted Nay, the Mayor declared the motion carried.

Councilmember Giese introduced Ordinance No. 2018-24 and moved for approval of the third and final reading thereof; 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.

Councilmember Karsky stated in the debate about the park closings and the utilization of police discretion, specifically at Bressler and Sunnyview Parks, it was noted that this could lead to trouble in the city in the form of some sort of discrimination if a person or group was questioned or cited for violating the ordinance. It was stated by Councilmember Giese - I think we could open ourselves up to discrimination complaints or something. All it takes is someone feeling like they are being picked on for their identity and all of a sudden it can end up way, way worse. This is a valid point in the discussion, yet when it came to the sports complex, rugby field and Hank Overin and violating the ordinance for individuals who were there during closing time in the a.m. and p.m. for sports-related activities, the use of police discretion is apparently not an issue, like it appears to be an issue with Bressler and Sunnyview Parks. The phrase police state was even used during this ongoing discussion to describe the direction the City would be going if all of our parks had a closing time. In regard to the sports complex, a Councilmember at the last meeting asked if a waiver could be granted so some could avoid violating the ordinance. So, have we not through this process determined that a certain type of individual or group is worthy of violating the ordinance and now police should look the other way? Is not a predetermined notion about the worthiness of one group of our citizens, apparently ball players and parents equal good people and others equal who knows what, also potentially discriminatory? The idea that somehow the use of police discretion at Bressler and Sunnyview is of concern, yet one can use it at the sports complex, rugby field, and Hank Overin, is flawed or as told is different somehow, I disagree. Discrimination takes many forms, including benefiting one person or group over another based on perceived worthiness. Both Councilmember Sievers and I have voiced concern about the parks in our wards and the inability of the police to effectively pursue questionable behavior. Just six years ago while home with a sick child, I witnessed a state patrol investigator bring to Bressler park a handcuffed inmate in an orange striped jumpsuit with a back hoe and commence to digging by the swings for evidence buried there. Things do happen at our parks. In fact, I just found out that there was a reported sexual

assault within the last 4 months at Sunnyview Park. It appears the sports complex has not faced any cases as significant as the ones just mentioned, yet we will regulate the park times there and leave our other parks open. The Police Chief indicated that nothing good happens after midnight. I would suspect this statement is based on his professional opinion and on the expertise of his officers. I trust their perception. This ordinance has taken many twists and turns from its original form. I know I am not going to probably win this battle, but I'm going to give it the old college try. It is peculiar to me that my symbolic no vote is in variance to my true feelings about the sports complex, the rugby field and Hank Overin. I agree that the sports complex, rugby field and Hank Overin should have closing hours and should be regulated, but I think all of the public parks should be treated the same. I do not doubt that all of you here support our law enforcement. They walk the path each day that is more complicated than the public can probably comprehend, and I appreciate them for that. However, when it comes to public safety, I am going to give our guys and gals in uniform the benefit of the doubt to use their discretion in a professional manner as they were trained to do. I trust them. If I vote against the ordinance today, it is symbolic of the fact that I believe that we need to treat all parks in a similar manner and give our officers the ability to pursue their mission to protect and preserve.

Councilmember Giese wanted to amend his motion and make the following changes to the proposed ordinance (the same is highlighted in red); Councilmember Haase amended his second:

The following city parks shall be open from 5:00 a.m. until 11:00 p.m. daily, with said hours of operation to be posted at the entrance to the park and/or shelter. It shall be unlawful for any person to be present in the following parks, except during such hours, or except upon the authority of the City Council, **or by the Mayor if time for a regularly scheduled Council meeting is not timely**, as granted by this ordinance:

Councilmember Eischeid agreed with Councilmember Karsky. He has spoken with Chief Chinn and there are more issues at the old swimming pool park with the addition of the new court rehab. That is why he will vote nay on this amendment.

Councilmember Giese stated that if hard data is presented showing issues with the other parks, those can be addressed at that time.

Police Chief Chinn stated that there have been four complaints over the past three weeks at the old swimming pool park. They had a disturbance call up there, which resulted in two young men, one with a baseball bat and one that came back with a shotgun, all starting from yelling and screaming with the group in the park, but it was before 11 p.m. In regard to the other three complaints, the officers were not dispatched because the kids were not doing anything illegal or wrong.

Mayor Brodersen stated this ordinance is a start for closing the two parks. If we want to add the swimming pool park at a later date, that can be done.

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 the same to be a tie vote. Because of the tie vote, Mayor Brodersen then cast her vote, which was in the affirmative, and declared the third and final reading of Ordinance No. 2018-24 approved, as amended.

The following ordinance would establish campground rules and regulations.

Councilmember Sievers introduced Ordinance No. 2018-27, and moved for approval thereof; Councilmember Buck seconded.

ORDINANCE NO. 2018-27

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

Joel Hansen, Street & Planning Director, recommended removing the language: Checkout time is 11:00 a.m. He felt it would cause confusion and would be difficult to enforce.

Councilmember Sievers reintroduced Ordinance No. 2018-27, and moved for approval thereof, and amending the same by deleting the sentence “Check-out time is 11:00 a.m.,” Councilmember Buck seconded the amendment.

ORDINANCE NO. 2018-27

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE IX GENERAL REGULATIONS, CHAPTER 91 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, BY ADDING A SECTION PARKS – CAMPGROUND RULES AND REGULATIONS; AND RENUMBERING THE FOLLOWING SECTION; 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, the Mayor declared the motion carried.

Joel Hansen, Street & Planning Director, presented Change Order No. 1 on the “2nd Street Storm Sewer Improvement Project” which is an increase of \$19,616.00 to Robert Woehler & Sons Construction Company, Inc. Said change order represents changes in quantities, as well as some things that were not caught or discovered before the project started. On the request for increase in days, weather has played a part in that request as well as a water line break and a gas line break.

Chris Woehler, representing Woehler & Sons Construction Company, Inc., was present to answer questions.

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, approving Change Order No. 1, which is an increase of \$19,616.00 to Robert Woehler & Sons Construction Company, Inc., and an increase of 10+ days 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.

Advanced Consulting Engineering Services presented Contractor's Application for Payment No. 3 on the "2nd Street Storm Sewer Improvement Project" for \$216,679.49 to Robert Woehler & Sons Construction Company, Inc.

Councilmember Sievers made a motion, which was seconded by Councilmember Buck, approving Contractor's Application for Payment No. 3 for \$216,679.49 to Robert Woehler & Sons Construction Company, 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 & Planning Director, stated he received three bids for a John Deere 4066M Compact Utility Tractor. He is recommending that the contract be awarded to the low bidder, Grossenburg Implement, for \$22,200.

Councilmember Sievers introduced Resolution 2018-56, and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2018-56

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE PURCHASE OF A JOHN DEERE 4066M COMPACT UTILITY TRACTOR.

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

DGR Engineering presented Pay Estimate No. 4 for the "Electric Meter Cutover West Inner and East Inner Conversion Electric Distribution Project" for \$39,350.49 to Klein Electric, Inc. They have found the work to date completed in accordance with the plans and specifications, and recommend approval of the same.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, approving Pay Estimate No. 4 for \$39,350.49 to Klein Electric, Inc., for the "Electric Meter Cutover West Inner and East Inner Conversion Electric Distribution Project." Mayor

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

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:48 p.m.