

**MINUTES
CITY COUNCIL MEETING
November 5, 2019**

The Wayne City Council met in regular session at City Hall on Tuesday, November 5, 2019, at 5:30 o'clock P.M.

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

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on October 24, 2019, 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 Giese advised the public that a copy of the Open Meetings Act was located on the southwest 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.

Councilmember Sievers made a motion, which was seconded by Councilmember Woehler, to approve the minutes of the meetings of October 15 and October 29, 2019, and to waive the readings thereof. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Karsky 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: AMERICAN BROADBAND, SE, 2383.91; APPEARA, SU, 92.15; BAKER & TAYLOR BOOKS, SU, 756.03; BOMGAARS, SU, 947.38; BORDER STATES INDUSTRIES, SU, 914.59; CARHART LUMBER COMPANY, SU, 411.36; CHEMQUEST, SE,

695.00; CITY EMPLOYEE, RE, 188.04; CITY EMPLOYEE, RE, 740.30; CIVICPLUS, FE, 5557.36; CLEAN RIVER RECYCLING SOLUTIONS, SU, 354.95; COPY WRITE PUBLISHING, SE, 75.02; DAVE'S DRY CLEANING, SE, 78.00; EASYPERMIT POSTAGE, SU, 1841.61; FAITH REGIONAL PHYSICIAN SERV., SE, 30.00; GILL HAULING, SE, 261.25; GROSSENBURG IMPLEMENT, SU, 94.07; HELENA AGRI-ENTERPRISES, SU, 372.00; HILAND DAIRY, SE, 45.77; HOMETOWN LEASING, SE, 433.87; HYDRO OPTIMIZATION, SE, 1661.70; JOHN'S WELDING AND TOOL, SU, 49.76; LINDAU, JAMES, SE, 75.00; MAILFINANCE, SE, 2152.80; MARCO, SE, 126.36; MERCHANT SERVICES, SE, 2116.48; MERCHANT SERVICES, SE, 64.11; MERCHANT SERVICES, SE, 1530.90; MILLER LAW, SE, 5416.67; NE LIBRARY COM, FE, 500.00; NORFOLK SPORTING GOODS, SE, 45.75; NORTHEAST POWER, SE, 5168.00; ONE CALL CONCEPTS, SE, 68.40; ONE OFFICE SOLUTION, SU, 1440.00; O'REILLY AUTOMOTIVE STORES, SU, 41.60; PAC N SAVE, SU, 683.48; PAC N SAVE, SU, 41.80; PENGUIN RANDOM HOUSE, SU, 315.00; POLLARD PUMPING, SE, 310.00; QHA CLEANING, SE, 2580.00; QUALITY FOOD CENTER, SU, 7.60; ROBERTS, BRAD, RE, 20.00; RUTJENS CONSTRUCTION, SU, 750.00; SCHAUB, MATT, RE, 500.00; SKARSHAUG TESTING LAB, SE, 196.14; STAPLES, SU, 246.79; STATE FARM INSURANCE, SE, 563.00; TOTAL GRAPHICS, SU, 147.80; TYLER TECHNOLOGIES, SE, 200.00; US FOODSERVICE, SU, 1200.83; WAED, SE, 8222.92; WAYNE COUNTY CLERK, SE, 16.00; WAYNE COUNTY COURT, RE, 150.00; WAYNE HERALD, SE, 256.50; WAYNE HERALD, SE, 17.50; WAYNE HERALD, SE, 996.07; ACES, SE, 901.25; AKOI, AWOTI, SE, 12.00; ALARCON-FLORY,PERLA, SE, 25.00; ALERT-ALL CORP, SU, 1128.50; AMAZON.COM, SU, 627.70; AMERITAS, SE, 94.66; AMERITAS, SE, 72.00; AMERITAS, SE, 2782.58; AMERITAS, SE, 80.09; APPEARA, SE, 272.13; ARC-HEALTH & SAFETY, SU, 240.00; ARNIE'S FORD, SU, 25157.00; ARNIE'S FORD, SU, 416.57; B & B PAINTING, SE, 337.94; BAIRD HOLM, SE, 329.43; BEAVER, ADAM, SE, 135.00; BEHNKIE, NATE, SE, -80.00; BEHNKIE, NATE, SE, 80.00; BLACK HILLS ENERGY, SE, 275.22; BLACKBURN MANUFACTURING, SU, 382.08; CARRAHER, ELLIOT, SE, 105.00; CDW GOVERNMENT, SU, 3593.93; CENTURYLINK, SE, 422.09; CITY EMPLOYEE, RE, 740.80; CITY OF WAYNE, PY, 77448.58; CITY OF WAYNE, RE, 1097.23; CONCEPT SEATING, SE, 50.00; CORE & MAIN, SE, 1478.01; CREATIVE DISPLAYS, SU, 103.17; CREDIT MANAGEMENT SERVICES, RE, 181.95; DANKO EMERGENCY EQUIPMENT, SE, 1484.01; DAS STATE ACCTG-CENTRAL FINANCE, SE, 448.00; DAVE'S DRY CLEANING, SE, 75.00; DEARBORN LIFE INSURANCE COMPANY, SE, 113.52; DISPLAY SALES, SU, 477.00; DUGAN BUSINESS FORMS, SU, 1468.75; DUTTON-LAINSON CO, SU, 11545.84; ECHO GROUP, SU, 304.33; ELLIS HOME SERVICES, SE, 139.35; FAIR MANUFACTURING, SU, 700.00; FAUSS, DAVE, SE, 80.00; FIREMAN'S ASSOCIATION, RE, 5000.00; FIRST CONCORD GROUP, SE, 2841.76; FLOOR MAINTENANCE, SU, 229.14; GERHOLD CONCRETE, SU, 5546.57; GROSSENBURG IMPLEMENT, SU, 260.62; HAUFF MID-AMERICAN SPORTS, SU, 229.26; HILAND DAIRY, SE, 208.56; HOLTORF, JACOB, SE, 150.00; ICMA, SE, 7994.45; IRS, TX, 9406.86; IRS, TX, 21.08; IRS, TX, 90.10; IRS, TX, 1.46; IRS, TX, 6.24; IRS, TX, 3017.74; IRS, TX, 12903.42; ISLAND SPRINKLER SUPPLY, SU, 77.71; JACK'S UNIFORMS, SE, 2.50; JEO CONSULTING GROUP, SE, 911.60; JEO CONSULTING GROUP, SE, 21396.25; JONES, LEONARD, RE, 500.00; KEAGLE, JEFF, SE, 80.00; KNOX, EVELYN, SE, 12.00; MAIN STREET GARAGE, SE, 100.00; MAIN STREET GARAGE, SE, 58.95; MAROTZ, MORGAN, SE, 84.00; MIDWEST TAPE, SU, 24.99; NE DEPT OF REVENUE, TX, 3963.05; NE DEPT OF REVENUE, TX, 1.38; NE DEPT OF TRANSPORTATION, SE, 120413.59; NE HARVESTORE, SU, 1095.25; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 349.00; NE SAFETY COUNCIL, FE, 350.00; NICHOLS, GLEN, RE, 100.00; NISSEN, TEGAN, SE, 12.00; NNEDD, SE, 824.88; NORTHEAST POWER, SE, 2485.40; NOVA FITNESS EQUIPMENT, SU, 139.31; POLLARD PUMPING, SE, 250.00; RETHWISCH, RICHARD, SE, 80.00; RON'S RADIO, SU, 307.20; SCHUTTE, BYRN, SE,

108.00; SKARSHAUG TESTING LAB, SE, 195.96; STADIUM SPORTING GOODS, SE, 78.00; STAPLES, SU, 587.53; STATE NEBRASKA BANK & TRUST, RE, 6326.25; STATE NEBRASKA BANK & TRUST, FE, 25.00; TITAN MACHINERY, SU, 41.40; UNITED HEALTHCARE, SE, 44804.16; US BANK, SU, 5717.59; VIAERO, SE, 68.36; WAYNE COUNTY COURT, RE, 300.00; WESCO, SU, 977.98; WISNER WEST, SU, 113.70; WRIEDT, RONALD, FE, 367.00

FISCAL YEAR 2018-2019: CITY OF NORFOLK, RE, 1500.00; I&A CONSTRUCTION, SE, 10860.52

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

Mayor Giese declared the time was at hand for the public hearing on the Application for Community Development Block Grant Funds on behalf of Retail Reclaimers, LLC, in the amount of \$145,000 to purchase furniture, fixtures, equipment and inventory to start a hardware/home store to be located at 614 Dearborn Street. The total project costs are estimated to be \$1,891,000.

Jeff Christensen, representing Northeast Nebraska Economic Development District, was present to answer questions.

Retail Reclaimers, LLC, has made application for a business loan from the City's revolving loan fund, which was established using Community Development Block Grant Funds. Retail Reclaimers is requesting a CDBG RLF loan in the amount of \$145,000 to purchase furniture, fixtures, equipment and inventory to start a hardware/home store to be located at 615 Dearborn Street. Total project costs are estimated to be \$1,891,000. It is anticipated that funding to purchase the furniture, fixtures, equipment and inventory will include \$400,000 of bank financing, \$145,000 Wayne CDBG funds, \$200,000 Wayne LB840 Funds, \$200,000 Northeast Economic Development, Inc., funds, \$411,000 ACE Hardware loan, \$200,000 MUCS loan, and \$334,000 business equity. Approximately 10 jobs that primarily benefit low-to-

moderate income persons will be created as a result of this project, and no persons will be relocated as a result thereof.

The recommendation of the Northeast Nebraska Economic Development District (NENEDD) staff and the Northeast Loan Committee is to approve a \$145,000 Wayne CDBG Loan amortized over 10 years at 4.50% interest, which is pursuant to the program's guidelines.

Mr. Christensen advised the Council, however, that the members of the LLC are requesting a 0% interest loan amortized over a period of 15 years. He indicated that it is not unusual to approve something different from what is in the guidelines. In addition, Retail Reclaimers paid a 1% loan-processing fee, and they are requesting that be refunded. He noted that this will probably be the last loan the City of Wayne will make using these funds. The remainder of the funds will, in all likelihood, be sent back to the State of Nebraska.

Wayne's CDBG Funds will be sub-granted to Northeast Economic Development, Inc. (NED, Inc.). NED, Inc., will then loan the funds to Retail Reclaimers, LLC. Payments will be made to NED, Inc. Those monies will be put back into a fund that is regional and not just for Wayne. This is the process approved by the Nebraska Department of Economic Development (DED) to de-federalize CDBG funds in our local communities.

Steve LeGrand, Mike McManigal, and BJ Woehler were present to answer questions. They requested Council consideration to approving the loan at 0% interest for 15 years and to refund the loan-processing fee.

Luke Virgil, Director of Wayne Area Economic Development, requested that Council honor Retail Reclaimers' request because this is approaching the end of the life of the localized fund.

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

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

Councilmember Sievers introduced Resolution No. 2019-61 and moved for its approval with the following terms: to approve a \$145,000 Wayne CDBG Loan amortized over 15 years at

0% interest, with the first payment being due one year from the date of the store opening, and to refund and/or waive the loan processing fee; Councilmember Buck seconded.

RESOLUTION NO. 2019-61

A RESOLUTION APPROVING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) LOAN IN THE AMOUNT OF \$145,000 TO RETAIL RECLAIMERS, LLC, AND SUB-GRANTING CDBG FUNDS TO NEBRASKA ECONOMIC DEVELOPMENT, INC.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Karsky who was absent, and Councilmember Woehler who abstained, the Mayor declared the motion carried.

The following Resolution would approve the “Marketing Agreement” with Utility Service Partners, Inc. This is a program to help address the public policy issue of aging infrastructure. If this agreement were approved, they would partner with the City to make this optional program available to the cities’ customers. They provide homeowners with protection on their external water lines, external sewer lines, as well as their in-home plumbing. USP would do the marketing, billing, claims management, and customer service. They offer homeowners the opportunity to purchase a warranty on water service lines, sanitary sewer service lines or in-home plumbing. They market by way of direct mail and run three campaigns in the calendar year.

Administrator Blecke stated he has been in contact with one community member that is not in favor of this program. In addition, he visited with a couple of insurance agents who were both fine with the program.

Councilmember Sievers introduced Resolution No. 2019-62 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2019-62

A RESOLUTION APPROVING MARKETING AGREEMENT BETWEEN THE CITY OF WAYNE AND UTILITY SERVICE PARTNERS PRIVATE LABEL, INC., D/B/A SERVICE LINE WARRANTIES OF AMERICA.

Councilmember Eischeid stated he did not like putting the City's name on something that is out of town, especially when it can be done in town, which is why he will vote nay on the matter.

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

Roger Protzman, representing JEO Consulting Group, Inc., advised the Council that eight bids were received on the "2019 Water Transmission Main Project." The bids ranged from \$2,121,577.91 to \$3,649,626.77. Mr. Protzman found multiple discrepancies in the tabulation of the bids. The low bidder's bid increased by \$500 and the higher bidder initially omitted his sales tax in his total, which resulted in a \$109,000 increase.

JEO calculated the total for the ductile iron pipe option, but this option would utilize PVC for directional borings under the creeks. The cost increase to install ductile iron pipe was \$708,317.19. The cost to add 3 pipe cleaning or pigging stations would be \$45,300.00.

The low bidder was Rutjens Construction of Tilden, Nebraska, with a bid of \$2,121,577.91. JEO's cost estimate was \$3,030,800.

Rutjens Construction is a reputable company that has completed multiple projects for JEO clients. They work to complete projects on time and according to the bid documents. Mr. Protzman advised the Council that their motion for approval should indicate that the same is contingent upon the review and approval by the State of Nebraska Drinking Water State Revolving Fund staff and should be documented in the minutes.

Liquidated damages of \$1,500 per day will be placed in the contract.

Councilmember Brodersen introduced Resolution No. 2019-63 and moved for its approval, and shall include the addition of the three pigging stations, and shall be contingent upon the contract documents being reviewed and approved by the State of Nebraska Drinking Water State Revolving Fund staff; Councilmember Buck seconded.

RESOLUTION NO. 2019-63

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “2019 WATER TRANSMISSION MAIN PROJECT” TO RUTJENS CONSTRUCTION, TILDEN, NEBRASKA, FOR \$2,166,877.91.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Karsky who was absent, the Mayor declared the motion carried.

The following Resolution would approve the Scope of Services and Task Order No. 190287.02 with JEO Consulting Group, Inc., for the “Senior Center Addition Walk-In Cooler Project.” The estimated cost for the engineer and architect on this project is \$10,236.75 to \$11,496.75 after the 5% discount cost savings. Through this process, it was found that there were some things that were overlooked in the preliminary process.

Councilmember Eischeid introduced Resolution 2019-64, and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2019-64

A RESOLUTION APPROVING SCOPE OF SERVICES AND TASK ORDER NO. 190287.02 WITH JEO CONSULTING GROUP, INC., FOR THE “SENIOR CENTER ADDITION WALK-IN COOLER PROJECT” FOR AN AMOUNT OF UP TO \$11,496.75.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who abstained and Councilmember Karsky who was absent, the Mayor declared the motion carried.

Administrator Blecke stated that the following Resolution and Ordinance pertain to the sale of the small parcel of real estate the City owns at the corner of 10th and Main Streets. Staff advertised this property as being for sale. Two proposals were received:

- Wayne State College Foundation - \$1,500
- Ed and Lee Brogie - \$501.00

Based on the bids, staff recommendation is to accept the Wayne State Foundation bid of \$1,500.

Ed and Lee Brogie were present to answer questions and to request Council to reconsider accepting their bid, even though it was \$1,000 lower than the Wayne State College Foundation bid. This property lies directly north of their property and their sewer line runs under the property that is for sale.

Attorney Miller advised the Council that if they decide to accept the bid of the Wayne State College Foundation, that they should first counter and offer to accept their bid after the City grants the Brogie's a perpetual easement on that property while the City owns it. That then runs with the land no matter who owns it. This would alleviate the concerns regarding the sewer line.

Mayor Giese stated the property, in his opinion, fits better with Wayne's future use to have that be one piece of property (with the Brogie property).

Councilmember Eischeid opined that since no one from the college was present, the Council does not know what their plans would be for the property. He does not agree with going with the lower bid.

Councilmember Spieker opined he would like to know what the College plans to do with it, before he votes on the matter.

Councilmember Woehler introduced Resolution 2019-65, and moved for its approval; Councilmember Sievers seconded.

RESOLUTION NO. 2019-65

A RESOLUTION AUTHORIZING THE SALE OF THE SOUTH 25' OF LOT 5, AND THE NORTH 5' OF LOT 4, BLOCK 1, SPAHR'S ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, TO ED AND LEE BROGIE, HUSBAND AND WIFE, FOR \$501.00.

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

Councilmember Woehler introduced Ordinance No. 2019-16, and moved for approval thereof; Councilmember Sievers seconded.

ORDINANCE NO. 2019-16

AN ORDINANCE DIRECTING THE SALE OF THE SOUTH 25' OF LOT 5, AND THE NORTH 5' OF LOT 4, BLOCK 1, SPAHR'S ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, TO ED AND LEE BROGIE, HUSBAND AND WIFE, FOR \$501.00.

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

Administrator Blecke stated the following Resolution will amend the schedule of fees as discussed at the mini-retreat and recommended by City staff.

After discussion, a recommendation was to change the fee for using the Sports Complex from \$200 per game to \$150 per game.

Councilmember Brodersen introduced Resolution 2019-66, and moved for its approval as amended (changing the Sports Complex fee to \$150 per game); Councilmember Eischeid seconded.

RESOLUTION NO. 2019-66

A RESOLUTION AMENDING SCHEDULE OF FEES AND CHARGES.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Karsky who was absent, the Mayor declared the motion carried.

Administrator Blecke stated the City has been discussing annexing a parcel of real estate located in the southeast quadrant of the City (Lage property). The Planning Commission met and have recommended approval of the same. The following Resolution will set the public hearing date for the annexation on November 19, 2019, at or about 5:30 p.m.

Councilmember Sievers introduced Resolution 2019-68, and moved for its approval;
Councilmember Buck seconded.

RESOLUTION NO. 2019-68

A RESOLUTION ACCEPTING A PLAN TO EXTEND CITY SERVICES AND SETTING A PUBLIC HEARING ON THE PROPOSED ANNEXATION AREA TO THE CITY OF WAYNE FOR NOVEMBER 19, 2019, AT OR ABOUT 5:30 P.M.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Karsky who was absent, the Mayor declared the motion carried.

The following Resolution, along with the Year-End Certification Form, must be approved, signed and returned to the Department of Transportation by December 31, 2019. This is another new requirement for determining the City's calendar year 2019 incentive funds.

Councilmember Spieker introduced Resolution 2019-67, and moved for its approval;
Councilmember Buck seconded.

RESOLUTION NO. 2019-67

A RESOLUTION AUTHORIZING THE SIGNING OF THE YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT FORM – 2019.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Karsky who was absent, the Mayor declared the motion carried.

Administrator Blecke stated the City was approached by a developer to find a way to move a couple of mobile homes from one area across the street to another area. There are strict restrictions on moving buildings into and within the City that were adopted in 2002. One of the restrictions is based on the age of a mobile home instead of its condition. Staff feels the condition is more important than the age. Staff has proposed a few changes to this process that they feel is more flexible, but still ensures the public safety. Administrator Blecke then reviewed the proposed changes.

BJ Woehler had concerns with what was being proposed. He recommended getting rid of all of it. He felt this was trying to put a band-aid on something that was done that made no sense several years ago.

Administrator Blecke stated the purpose of this was trying to work with a developer to allow mobile homes to be moved more easily in the city.

Councilmember Eischeid introduced Ordinance 2019-17, and moved for its approval; Councilmember Brodersen seconded.

ORDINANCE NO. 2019-17

AN ORDINANCE TO AMEND TITLE XV LAND USAGE, CHAPTER 150 BUILDING REGULATIONS; CONSTRUCTION, SECTION 150.03 MOVING BUILDINGS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND TO PROVIDE THAT SAID ORDINANCE BE PUBLISHED IN PAMPHLET FORM.

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

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 7:05 p.m.