

**MINUTES
CITY COUNCIL MEETING
November 17, 2020**

The Wayne City Council met in regular session in the Community Room of the Wayne Community Activity Center on November 17, 2020, at 5:30 o'clock P.M.

Mayor Cale Giese called the meeting to order with the following in attendance: Councilmembers Dwaine Spieker, Terri Buck, Jon Haase, Jennifer Sievers, Chris Woehler, Jason Karsky, Matt Eischeid, and Jill Brodersen; 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 November 5, 2020, 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 Community Room of the Wayne Community Activity Center, as well as on the City of Wayne website at cityofwayne.org/8/Government, 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 Spieker made a motion, which was seconded by Councilmember Buck, to approve the minutes of the meeting of November 3, 2020, and to waive the reading thereof. Mayor Giese 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: ACE HARDWARE & HOME, SU, 239.38; ALL HOURS TOWING, SE, 240.76; AMERITAS, SE, 154.17; AMERITAS, SE, 2388.40; AMERITAS, SE, 72.00; AMERITAS, SE, 90.14; APPEARA, SE, 94.29; ARC-HEALTH & SAFETY, SE, 242.00; BAKER & TAYLOR BOOKS, SU, 926.52; BAKER & TAYLOR BOOKS, SU, 38.36; BEHNKIE, NATE, SE, 70.00; BERNAL, HERWIN, RE, 500.00; BIG RIVERS ELECTRIC CORPORATION, SE, 180228.19; BORDER STATES INDUSTRIES, SU, 25.62; BRENTLINGER, CASEY, SE, 30.00; BSN SPORTS, SU, 303.14; BUSSE, HALLEY, SE, 24.00; CARLSON WEST PVONDRA ARCHITECTS, SE, 5500.00; CENTURY LUMBER, SU, 370.63;

CERTIFIED TESTING SERVICES, SE, 234.00; CITIZENS STATE BANK, RE, 1480.08; CITY EMPLOYEE, RE, 131.00; CITY EMPLOYEE, RE, 430.27; CITY EMPLOYEE, RE, 237.60; CITY OF WAYNE, RE, 430.27; CITY OF WAYNE, PY, 79419.07; CITY OF WAYNE, RE, 174.00; COPY WRITE PUBLISHING, SE, 123.30; COTTONWOOD WIND PROJECT, SE, 16522.08; DE NORA WATER TECHNOLOGIES, SU, 3138.73; DEARBORN LIFE INSURANCE COMPANY, SE, 2489.21; DOESCHER REPAIR, SE, 144.00; DUGAN BUSINESS FORMS, SU, 626.70; EASYPERMIT POSTAGE, SU, 1816.19; ED M. FELD EQUIPMENT, SU, 129.41; ELECTRONIC ENGINEERING, SE, 795.83; FAITH REGIONAL PHYSICIAN SERV, SE, 30.00; FLOOR MAINTENANCE, SU, 253.41; FLOORING SOLUTIONS, SE, 2668.15; FREDRICKSON OIL, SU, 39.00; GERHOLD CONCRETE, SU, 104.92; GILL HAULING, SE, 261.25; GLOBAL PAYMENTS INTEGRATED, SE, 275.00; GROSSENBURG IMPLEMENT, SU, 23.40; GUARANTEED LANDSCAPING & SPRINKLERS, SU, 487.50; HILAND DAIRY, SE, 265.32; ICMA, SE, 8010.19; INGRAM LIBRARY SERVICES, SU, 746.21; IOWA PUMP WORKS, SU, 65.31; IRS, TX, 9986.86; IRS, TX, 13378.18; IRS, TX, 3128.68; KELLY SUPPLY COMPANY, SU, 292.15; KNEIFL, BROOKS, SE, 24.00; KNEIFL, JACOB, SE, 24.00; LOVEJOY, BRIAN, SE, 70.00; LUTT OIL, SU, 6018.85; MAROTZ, MORGAN, SE, 24.00; MATHESON-LINWELD, SU, 35.06; MERCHANT SERVICES, SE, 1626.59; MERCHANT SERVICES, SE, 2431.57; MERCHANT SERVICES, SE, 53.65; MIDWEST ALARM SERVICES, SE, 686.94; MIDWEST LABORATORIES, SE, 182.00; NE DEPT OF REVENUE, TX, 4215.53; NPPD, SE, 27324.55; NFPA, FE, 175.00; NORFOLK DAILY NEWS, SE, 169.80; NORTHEAST POWER, SE, 6735.00; OCC BUILDERS, RE, 1000.00; ONE CALL CONCEPTS, SE, 81.95; PAC N SAVE, SU, 1041.66; PAC N SAVE, SU, 12.51; PEDRO, ANTONIO MATEO, RE, 500.00; PLUNKETT'S PEST CONTROL, SE, 32.45; PROGRESSIVE PROPERTIES, RE, 2768.97; PROGRESSIVE PROPERTIES, RE, 8871.78; PROGRESSIVE PROPERTIES, RE, 7689.38; QHA CLEANING, SE, 1,375.00; QUADIENT FINANCE USA, SU, 1000.00; QUALITY 1 GRAPHIC, SU, 107.00; RIDLING, JOE, SE, 12.00; ROTARY CLUB OF WAYNE, FE, 160.00; SERVICE TECH OF CENTRAL IOWA, SU, 678.04; SIOUX CONTRACTORS, SE, 13430.00; SKARSHAUG TESTING LAB, SE, 498.49; SOBOTKA, CALEB, SE, 24.00; STAPLES, SU, 351.51; STATE NEBRASKA BANK & TRUST, SE, 61.28; STATE NEBRASKA BANK-PETTY CASH, RE, 91.63; TOTAL GRAPHICS, SU, 96.05; US BANK, SU, 3150.80; US FOODSERVICE, SU, 1625.34; VERIZON, SE, 416.68; WAED, SE, 5000.00; WAYNE AUTO PARTS, SU, 553.48; WAYNE COUNTY CLERK, SE, 10.00; WAYNE HERALD, SE, 48.00; WAYNE HERALD, SE, 1445.04; WAYNE HERALD, SE, 80.50; WAYNE VETERINARY CLINIC, SE, 238.00; WELLS, LARRY, SE, 70.00; WESCO, SU, 1826.49; WAPA, SE, 15280.50; WESTERN RIDGE III, RE, 8720.70; WILSON, ZANE, SE, 30.00; WISNER WEST, SU, 31.95; WORLDPAY INTERGRATES PAYMENTS, SE, 256.70; ZACH HEATING & COOLING, SE, 1280.00; BARTOS, JENNIFER, RE, 10.00; BIG STONE TRANSPORTATION & LANDSCAPE SUPPLY, SU, 1560.00; BOK FINANCIAL, RE, 3913.75; BOK FINANCIAL, RE, 15811.25; BORDER STATES INDUSTRIES, SU, 202.87; CITY OF WAYNE, RE, 66.56; ECHO GROUP, SU, 170.50; ED M. FELD EQUIPMENT, SU, 1294.00; GERHOLD CONCRETE, SU, 50.22; JEO CONSULTING GROUP, SE, 4047.00; KEPKO ENGRAVING, SU, 47.60; KLEIN ELECTRIC, SE, 473.00; MAIN STREET GARAGE, SE, 50.00; MARCO TECHNOLOGIES, SE, 191.17; MERIT MECHANICAL, SE, 944.50; NE DEPT OF ENVIRONMENTAL QUALITY, FE, 32009.24; NE DEPT OF ENVIRONMENTAL QUALITY, FE, 228894.81; NORFOLK DAILY NEWS, SE, 40.00; NNEDD, SE, 165.00; ONE OFFICE SOLUTION, SU, 216.95; PEPSI COLA OF SIOUXLAND, SU, 616.80; POLLARD PUMPING, SE, 250.00; SKARSHAUG TESTING LAB, SU, 1.00; SOOLAND BOBCAT, SU, 1016.81; STAPLES, SU, 95.31; TOM'S BODY & PAINT SHOP, SE, 282.02; WAYNE COUNTY COURT, RE, 150.00

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

Julie Rother, Director of the Northeast Nebraska Department of Health, gave an update on COVID-19.

Mayor Giese stated the time was at hand for the public hearing regarding the application for a Retail Class D Liquor License on behalf of DSF Wayne Short Stop, LLC, d/b/a “Short Stop” located at 1034 Main Street.

Dan and Shelly Fehring were present to answer questions. They are purchasing the former Mr. G’s Quick Stop.

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

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

Councilmember Spieker introduced Resolution No. 2020-54 and moved for its approval; Councilmember Eischeid seconded.

RESOLUTION NO. 2020-54

A RESOLUTION APPROVING THE APPLICATION FOR A RETAIL CLASS D LIQUOR LICENSE — DSF WAYNE SHORT STOP, LLC, D/B/A “SHORT STOP.”

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

Mayor Giese stated the following Ordinance and Resolution pertain to entering into a Franchise Agreement with ALLO Communications, LLC, to provide internet, cable and phone service to the citizens of Wayne.

Dwight Winninger and Al Schroeder, representing ALLO Communications, LLC, were present to answer any questions.

The proposed Franchise Agreement will be for 15 years, with a 15-year extension. This is a non-exclusive franchise agreement, and therefore if the City would ever get to a point where they feel ALLO is not providing the service as expected, the City can ask another cable company to provide service in Wayne. The City will also enter into a “Pole Use Agreement” with ALLO to use the City’s utility poles to make

attachments of their fiber transmission lines. The amount of \$11.00 per pole will be increased to \$12.00 per pole in December 2023 through the end of November, 2027.

Councilmember Sievers introduced Ordinance 2020-20, and moved for its approval; Councilmember Spieker seconded.

ORDINANCE NO. 2020-20

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO ALLO COMMUNICATIONS LLC, A NEBRASKA LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS TO OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF WAYNE, NEBRASKA, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE PROVIDING FOR CITY REGULATION AND USE OF THE CABLE TELEVISION SYSTEM, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

Councilmember Sievers made a motion, which was seconded by Councilmember Spieker to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Spieker to move for final approval of Ordinance No. 2020-20. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sievers introduced Resolution No. 2020-58 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2020-58

A RESOLUTION APPROVING POLE USE AGREEMENT BETWEEN THE CITY OF WAYNE AND ALLO COMMUNICATIONS LLC.

Councilmember Eischeid opined that he wanted to make sure that placing the fiber underground would be a priority or an urgency.

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

Jon Mooberry, representing JEO Consulting Group, Inc., stated the City received three bids on the “Pine Heights Road and Utility Improvements Project – CDBG No. 19-PW-017.” The engineer’s opinion of probable cost for the entire project was estimated at \$709,000, not including the industry standard 5% contingency. He noted that when bids were opened and read aloud, A&R Construction submitted a bid total of \$717,683.23 for all groups. However, an error was found in A&R’s total bid in their review of unit prices and summation for each group bid. The error resulted in a final total bid from A&R Construction of \$734,883.23. Due to this error, the low bidder for the project was Myers Construction with a total bid price of \$726,079.74. Mr. Mooberry has reviewed the low bid and contacted references provided to gather information. The unit prices submitted are acceptable with typical average unit prices for this scope of work. Based on his past experience and in speaking with references provided, Myers Construction is a quality contractor and is recommended to Council for consideration and award of the project.

Councilmember Woehler had concerns regarding the low bidder (e.g. references; no history with full width slip paving; and incorrect sales tax amount on the bid). In addition, he wanted to know if the contractor was a Type 1 or Type 2 contractor.

Attorney Miller advised the Council they are required to take the lowest responsible bid, and the Engineer has made his recommendation. Unless the Council can declare that Myers Construction is an irresponsible bidder, the Council is required to go with the lowest bid.

Mr. Mooberry stated he could follow-up with Myers Construction on the concerns of Council and also get additional information on references, etc., and that postponing action on this matter until the December 1st Council meeting will not be an issue.

After discussion, Councilmember Sievers made a motion, which was seconded by Councilmember Spieker, to table action on Resolution 2020-55 until the next meeting. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Karsky and Eischeid who voted Nay, the Mayor declared the motion carried.

Mr. Mooberry then presented Amendment No. 1 to the original contract for the Nebraska Street Improvements Project. JEO is requesting approval of additional fees due to field time required by their resident project representative during construction that was not anticipated or scoped in their original engineering agreement established prior to starting of design on the project. Although the total construction timeframe was extended approximately 11 weeks, from 16 weeks to 27 weeks, the additional fee of \$4,744 equates to approximately 2 weeks of additional field inspection time based on 18 hours per week of part-time inspection.

After discussion, Councilmember Spieker introduced Resolution 2020-56, and moved for its approval; Councilmember Eischeid seconded.

RESOLUTION NO. 2020-56

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE OWNER-ENGINEER AGREEMENT WITH JEO CONSULTING GROUP, INC., FOR ADDITIONAL SERVICES ON THE “2019 NEBRASKA STREET IMPROVEMENTS PROJECT – CDBG NO. 16-CD-208” FOR \$2,372.00 **(ONE-HALF OF ORIGINAL AMOUNT REQUESTED - \$4,744).**

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Karsky who voted Nay, 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, 2020. This is an annual requirement for determining the City’s calendar year 2020 incentive funds.

Councilmember Sievers introduced Resolution 2020-57, and moved for its approval; Councilmember Buck seconded.

RESOLUTION NO. 2020-57

A RESOLUTION AUTHORIZING THE SIGNING OF THE YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT FORM – 2020.

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

Mayor Giese requested Council consideration to the appointment of BJ Woehler and Sheryl Lindau to the Problem Resolution Team.

Councilmember Spieker made a motion, which was seconded by Councilmember Brodersen approving the appointment of Sheryl Lindau and BJ Woehler to the Problem Resolution Team. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place in regard to making an offer on Tax Lot 22 in the Northwest Quarter of the Southwest Quarter of Section 18, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska (111 Fairgrounds Avenue).

Administrator Blecke stated that this is the property better known as the former Pick property that the Community Redevelopment Authority (CRA) owns. The CRA has \$24,300 in this property, and they set that as the sale price on the property. The CRA put this property up for sale and received two offers. One offer fell through and another offer was acted upon at the CRA meeting this evening, but the motion failed. In the meantime, the City has expressed an interest in the property, mainly as a negotiation tool with the other bidder (BJ Woehler).

The bid that was acted upon at the CRA meeting started at \$12,500, but then went up to \$15,000 (Robert Woehler & Sons Construction). The vote was 3-2 in favor of selling the property to Robert Woehler & Sons Construction, but Attorney Miller noted that when you are doing a motion for the sale of land, you need 4 affirmative votes (majority - 7 members in CRA).

After discussion, Councilmember Spieker made a motion, which was seconded by Councilmember Eischeid, to make an offer to the Community Redevelopment Authority in the amount of \$24,300 for the purchase of Tax Lot 22 in the Northwest Quarter of the Southwest Quarter of Section 18, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska (111 Fairgrounds Avenue). Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Sievers, Haase, and Woehler who voted Nay, the Mayor declared the motion carried.

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 7:23 p.m.