

**MINUTES
CITY COUNCIL MEETING
January 5, 2021**

The Wayne City Council met in regular session in the Community Room of the Wayne Community Activity Center on January 5, 2021, 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, Nick Muir, Yasuko Taoka, Jason Karsky, Matt Eischeid, and Jill Brodersen; Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire. Absent: Councilmember Chris Woehler.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 24, 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 Brodersen made a motion, which was seconded by Councilmember Eischeid, to approve the minutes of the meeting of December 15, 2020, and to waive the reading thereof. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler 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: ACES, SE, 956.14; ALARCON-FLORY,PERLA, SE, 25.00; AMERITAS, SE, 180.75; AMERITAS, SE, 2059.28; AMERITAS, SE, 72.00; AMERITAS, SE, 29.87; ANDERSON, MAX, SU, 34.25; APPEARA, SE, 102.02; ARC-HEALTH & SAFETY, FE, 60.00; AWWA, FE, 328.00; BLACK HILLS ENERGY, SE, 1503.63; BOMGAARS, SU, 1662.15; BROWN SUPPLY, SU, 230.42; CARHART LUMBER CO, SU, 927.97; CENTURYLINK, SE, 425.57; CITY EMPLOYEE, RE, 317.20; CITY

EMPLOYEE, RE, 165.20; CITY EMPLOYEE, RE, 77.14; CITY EMPLOYEE, RE, 21.83; CITY EMPLOYEE, RE, 187.20; CITY EMPLOYEE, RE, 10.14; CITY EMPLOYEE, RE, 126.72; CITY OF WAYNE, PY, 77764.63; CITY OF WAYNE, RE, 593.09; CORE & MAIN LP, SU, 5342.80; DAS STATE ACCTG-CENTRAL FINANCE, SE, 448.00; DAVIS, JENNIFER, RE, 50.00; EAKES OFFICE PLUS, SE, 1988.88; ECHO GROUP, SU, 404.76; FIRST CONCORD GROUP, SE, 2697.80; FLOOR MAINTENANCE, SU, 256.66; GENO'S STEAKHOUSE, SE, 1659.57; GERHOLD CONCRETE, SU, 115.72; GROSSENBURG IMPLEMENT, SU, 113.57; HAWKINS, SU, 572.50; HILAND DAIRY, SU, 174.06; HTM SALES, SU, 2339.58; HYPERION, SE, 81.00; ICMA, SE, 9354.24; ICMA, SE, 9655.30; INTERNATIONAL PUBLIC MANAGEMENT, SU, 104.00; IRS, TX, 10.76; IRS, TX, 13217.46; IRS, TX, 9972.45; IRS, TX, 3091.12; IRS, TX, 86.80; IRS, TX, 20.30; JACK'S UNIFORMS, SU, 352.80; JASON SEARS FLOORING, SU, 19.24; JEO CONSULTING GROUP, SE, 2748.44; JOHN'S WELDING AND TOOL, SU, 98.84; KASEYA US, SE, 154.86; MARCO, SE, 175.92; MICHAEL TODD & CO, SU, 256.41; MIDWEST ALARM SERVICES, SE, 978.43; MIDWEST TURF & IRRIGATION, SU, 55272.00; MUNICIPAL SUPPLY, SU, 771.26; NE AIR FILTER, SU, 338.49; NE DEPT OF REVENUE, TX, 3.86; NE DEPT OF REVENUE, TX, 4191.66; NE LAW ENFORCEMENT, FE, 135.00; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 138.00; NNEDD, SE, 630.00; NORTHEAST POWER, SE, 18917.44; ROBERT WOehler & SONS, SE, 58637.50; SIOUX SALES COMPANY, SU, 119.95; STADIUM SPORTING GOODS, SU, 300.00; STAPLES, SU, 54.99; TYLER TECHNOLOGIES, SE, 2414.76; UNIVERSITY OF NORTHERN IOWA, FE, 695.00; USA BLUE BOOK, SU, 163.75; VIAERO, SE, 66.06; WAYNE COUNTY COURT, RE, 150.00; WESCO, SU, 588.50; WIGMAN COMPANY, SU, 38.46; AMERICAN BROADBAND, SE, 2443.88; AMERITAS, SE, 218.38; AMERITAS, SE, 2452.06; AMERITAS, SE, 72.00; AMERITAS, SE, 40.54; APX, FE, 1044.72; ASCAP, FE, 367.00; CITY EMPLOYEE, RE, 943.46; CITY EMPLOYEE, RE, 277.94; CITY EMPLOYEE, RE, 1343.18; CITY EMPLOYEE, RE, 27.69; CITY OF WAYNE, PY, 82501.67; CITY OF WAYNE, RE, 450.00; CITY OF WAYNE, RE, 277.94; COLONIAL RESEARCH, SU, 108.14; DEARBORN LIFE INSURANCE COMPANY, SE, 86.50; EASYPERMIT POSTAGE, SU, 865.21; GLOBAL PAYMENTS INTEGRATED, FE, 40.75; HILAND DAIRY, SU, 257.15; IRS, TX, 14238.76; IRS, TX, 11173.25; IRS, TX, 3330.08; JEO CONSULTING GROUP, SE, 1410.00; MERCHANT SERVICES, FE, 2686.58; MERCHANT SERVICE, FE, 144.64; MERCHANT SERVICES, FE, 1695.09; MILLER LAW, SE, 5416.67; NE DEPT OF REVENUE, TX, 4683.26; NNEDD, SE, 120.00; NORTHEAST POWER, SE, 6699.00; PAC N SAVE, SU, 787.87; POSTMASTER, FE, 150.00; QHA CLEANING, SE, 1375.00; TRI-STATE COMMUNICATIONS, SU, 6601.46; WAED, SE, 8592.41; WORLDPAY INTERGRATES PAYMENTS, FE, 157.92

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

Casey Junck, Water/Wastewater Superintendent, gave a report on what is taking place in his department.

Mayor Giese declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending the Future Land Use Map of the Comprehensive Plan for the City of Wayne.

Joel Hansen, Street & Planning Director, stated the Planning Commission met on December 7, 2020, to review the “Future Land Use Map of the Comprehensive Plan.” The Planning Commission has begun the process of reviewing annually the “Future Land Use Map” and has brought forth the following revisions, which will place the zoning request to follow in compliance with the new “Future Land Use Map” should the change be approved. The revision would be in the area south of East 3rd Street between Logan and Windom Streets, which currently shows the area as Multifamily Residential being changed to Mixed Use Residential/Commercial.

The Planning Commission recommended approval of the Future Land Use Map with the “Finding of Fact” being staff’s recommendation.

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 Giese closed the public hearing.

Councilmember Eischeid introduced Ordinance No. 2021-1, and moved for approval thereof; Councilmember Spieker seconded.

ORDINANCE NO. 2021-1

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE CITY OF WAYNE.

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

Councilmember Eischeid 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, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried.

Councilmember Spieker made a motion, which was seconded by Councilmember Eischeid, to move for final approval of Ordinance No. 2021-1. Mayor Giese stated the motion, and the result of roll

call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried.

Mayor Giese declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to a request to rezone property from R-3 (Residential) to B-3 (Neighborhood Commercial). The applicant, Diana Zach, is seeking the request to rezone 212 Windom Street, 313 E. 3rd Street and 321 E. 3rd Street, from R-3 to B-3.

This property is at the corner of 3rd and Windom Streets. The applicant would like to tear down the quonset and put up a new storage facility. The use is already established, but because of how the applicant wants to change the overhead doors, she needs to change some of the setbacks on the property lines, which is the reason for the zoning change.

Joel Hansen, Street and Planning Director, advised the Council that the Planning Commission held a public hearing on December 7, 2020, regarding this rezoning request, and have recommended approval thereof, with the "Findings of Fact" being:

- Consistency with the Comprehensive Plan and the current land use map; and
- Staff's recommendation.

Dave Zach was present to answer questions.

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 Giese closed the public hearing.

Councilmember Spieker introduced Ordinance No. 2021-2 and moved for its approval; Councilmember Brodersen seconded.

ORDINANCE NO. 2021-2

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF PROPERTY OR AREA KNOWN AS 212 WINDOM STREET, 313 E. 3RD STREET, AND 321 E. 3RD STREET, CITY OF WAYNE, FROM R-3 (RESIDENTIAL) TO B-3 (NEIGHBORHOOD COMMERCIAL DISTRICT).

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

Councilmember Spieker made a motion, which was seconded by Councilmember Eischeid, 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, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried.

Councilmember Spieker made a motion, which was seconded by Councilmember Eischeid, to move for final approval of Ordinance No. 2021-2. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried.

Mayor Giese declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the "Preliminary Plat for the Beckman Farm Subdivision." The applicant for the request is Mann Acres, LLC. The area of the subdivision is more particularly described as: A tract of land located in the North 1/2 of the Northeast 1/4 of Section 1, T26N, R3E of the 6th P.M., Wayne County, Nebraska.

Joel Hansen, Street and Planning Director, stated the Planning Commission held a public hearing on December 7, 2020, and approved the same with the "Findings of Fact" being:

- Consistency with the Comprehensive Plan and future land use map; and
- Staff's recommendation.

The owner wishes to sell the acreage, which is smaller than what the current zoning will allow.

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 Giese closed the public hearing.

Councilmember Brodersen introduced Resolution 2021-1, and moved for its approval; Councilmember Eischeid seconded.

RESOLUTION NO. 2021-1

A RESOLUTION APPROVING THE PRELIMINARY PLAT FOR THE "BECKMAN FARM SUBDIVISION," WAYNE COUNTY, NEBRASKA.

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

Mayor Giese declared the time was at hand for the public hearing on the land acquisition from the Wayne Community Redevelopment Authority. This is the property located on Fairgrounds Avenue.

The legal descriptions is as follows:

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., City of Wayne, Wayne County, Nebraska.

The purchase price is \$24,300

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 Giese closed the public hearing.

Councilmember Eischeid introduced Resolution 2021-2, and moved for its approval; Councilmember Karsky seconded.

RESOLUTION NO. 2021-2

A RESOLUTION APPROVING THE ACQUISITION 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., CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, FOR THE AMOUNT OF \$24,300.00.

Councilmember Muir explained why he would be casting a Nay vote on this matter. He was a member of the Wayne Community Redevelopment Authority when action on approving the sale to the City took place. His opinion was that this property should have been sold to the business who had made the original offer, and he wants to stay consistent with that vote.

The plan for the property is to try to negotiate with the adjoining property owners to work out some type of land swap, etc., to expand the street department's building.

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

Administrator Blecke stated that ALLO Communications, LLC, is continuing to prepare to build-out technology infrastructure to the entire Wayne community in 2021. They are requesting the ability to work city-wide to enhance the efficiencies of the build-out. ALLO has submitted detailed plans to staff. Staff felt an additional agreement with them made sense to make sure the over-build went as smoothly as possible. The permit fee for this will be \$1,800.00 (the same fee as in Lincoln – \$600 per pon). This is for the entire community; it is not block by block. Within six months, they are proposing to have the project completed. He has visited with a couple of other communities in which ALLO is working, and they have not had any issues with them.

Mayor Giese stated that if another company would want to do this, we now have a template or protocol for them to do this as well. He wants to be fair to anyone else that wants to do this.

It was noted that this is less expensive than going through the traditional right-of-way permit process. Mr. Hansen, in response to Mayor Giese’s question, stated he thought the permit process is necessary since they are working in the City’s right-of-way.

Mayor Giese stated that the nature of this request is fundamentally different than what we have been dealing with in the past because of the size of the project and the details the City was being provided for the size, where typically we are engaged in smaller projects that are smaller in scope that would require city staff to take time to make sure that that plan works.

Dwight Wininger and Al Schroeder, representing ALLO Communications, LLC, were present to answer questions. This will help expedite the completion of the network in Wayne. In addition, they noted construction methods have changed throughout the years.

Councilmember Eischeid introduced Resolution 2021-3, and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2021-3

A RESOLUTION APPROVING INITIAL COMMUNITY-WIDE TECHNOLOGY OVER-BUILD AGREEMENT BETWEEN THE CITY OF WAYNE AND ALLO COMMUNICATIONS, LLC.

Danny Rockhill, representing BNT, stated they started their project a year ago and have been doing it block by block, and they would like to discuss the matter outside this meeting.

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

Joel Hansen, Street and Planning Director, stated that with some new houses being built in the Vintage Hills 3rd Addition, staff realized the parking ordinances were never updated to limit parking to one side of the street in that neighborhood. This includes East 21st Street, which is a major arterial street, with large trucks using it to access the industrial area on the east side of town. Staff's recommendation is to prohibit any parking on East 21st Street. The proposed changes include no parking on the following streets:

- The north side of the centerline of Vintage Hill Drive from the east line of Claycomb Road east to a point 117 feet east of the east line of Claycomb Road
- The south side of the centerline of East 21st Street from the east line of Main Street east to the city limits
- The north side of the centerline of East 21st Street from the east line of Main Street east to the city limits
- The south side of the centerline of Adam Drive from the east line of Claycomb Road east to the west line of Vintage Hill Drive
- The east side of the centerline of Jordan Drive from the north line of Adam Drive north to a point 155 feet north of the north line of Adam Drive

Councilmember Eischeid introduced Ordinance No. 2021-3, and moved for approval thereof; Councilmember Buck seconded.

ORDINANCE NO. 2021-3

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE TITLE VII TRAFFIC CODE, CHAPTER 78 PARKING, SECTION 78-126 PROHIBITED PARKING; NORTHEAST QUADRANT OF THE CITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Back in April 2020, Council approved delaying payments on the LB 840 loans, as well as City-held assessments, for businesses. Council had asked at that time that this decision be reviewed in about 6 months. After discussing the matter with Wayne Area Economic Development (WAED), the local business community would appreciate additional time with their LB 840 loan commitments. One proposal is to allow businesses a certain timeframe to generate stable revenue before the loans are due again. This could be sometime in 2022.

Luke Virgil, Executive Director for WAED, updated the Council on his communication with the businesses that have received LB 840 loans. He stated there were 21 businesses. They were asked if they would be in favor of having more flexibility to make their payments or work out a different amortization schedule. Ten of the businesses said yes and nine said no.

Mr. Virgil did not know what the time frame should be. A suggestion was 30 months from when the pandemic started, which was in March, 2020, or September, 2022. That would give people the entire year of 2021 to start recovering revenues and most of 2022 to build up that cash so they can start making payments again. The recommendation would be that if the business has to use the entire grace period, that the amortization schedule and promissory note be rewritten so that the entire loan is being kicked down the road three years.

Beth Porter, Finance Director, stated right now, there is approximately \$258,000 in the LB840 fund. The debt for this fiscal year has been paid.

The ability to make a new LB 840 loan is there even if we give a grace period on the repayments.

Mayor Giese noted the first priority is to keep the businesses open; the second priority is to collect the full amount to keep that a revolving fund.

It was noted that this basically would be a 30-month loan extension; interest would not accrue; and the business owner would have to request to have it paused and reworked. Otherwise, you are staying on your old time/payment schedule.

Councilmember Spieker asked if Council should make a motion authorizing city staff to negotiate individually with each business for a deferred repayment of their LB 840 loan on or after September 1, 2022. After discussion, it was noted that they need to notify city staff before February 28, 2021.

Councilmember Spieker was trying to write out his motion so it covers everything that was talked about. Attorney Miller stated the motion could be as simple as saying “to re-evaluate the LB 840 discussion and authorize city staff, upon request, to allow businesses to extend their payment(s) pursuant to negotiations with each business owner.”

Councilmember Spieker made a motion, which was seconded by Councilmember Brodersen, to re-evaluate the LB 840 discussion and authorize city staff, upon request, to allow businesses to extend their payment(s) pursuant to negotiations with each business owner. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried.

Council reviewed and discussed Chapters 1-6 of the City of Wayne Employee Personnel Manual. Mayor Giese recommended revisions to Section 2.1 Policy, barring any legal restrictions.

The City of Wayne is an equal opportunity employer. Discrimination against any ~~person in recruitment, selection, appointment, classification, compensation, duty assignment, work schedule, working condition, leave authorization, training, promotion, discipline, retention, or any other aspect of personnel management because of political or religious opinions or affiliations, or because of race, color, national origin, marital status, veteran status, or other~~ non-merit based factor is prohibited. Discrimination on ~~any the~~ basis ~~of age, sex, or physical requirements~~ is prohibited except where specific age, sex, or physical requirements constitute statutory or other bona fide occupational qualifications necessary for proper and efficient administration.

Councilmember Eischeid made a motion, which was seconded by Councilmember Spieker, to enter into executive session to protect the public interest to be updated on the Federal Lawsuit matter regarding the Police Department, and to allow City Administrator Blecke, City Clerk McGuire, City Attorney Miller, and Police Chief Chinn to be in attendance. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried, and executive session began at 7:28 p.m.

Mayor Giese, again, stated the matter to be discussed in execution session relates to being updated on the Federal Lawsuit matter regarding the Police Department.

Councilmember Spieker made a motion, which was seconded by Councilmember Brodersen, to resume open session. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried, and open session resumed at 7:48 p.m.

Councilmember Spieker made a motion, which was seconded by Councilmember Brodersen, to enter into executive session to prevent the needless injury to the reputation of an individual who has not requested a public hearing to discuss a personnel matter (the performance review/evaluation of City Attorney Amy Miller), and to allow City Administrator Blecke and City Clerk McGuire to be in attendance. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried, and executive session began at 7:49 p.m.

Mayor Giese again stated the matter to be discussed in execution session relates to the performance review/evaluation of City Attorney Amy Miller.

Councilmember Spieker made a motion, which was seconded by Councilmember Brodersen, to resume open session. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who was absent, the Mayor declared the motion carried, and open session resumed at 8:08 p.m.

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 8:08 p.m.