

**MINUTES
CITY COUNCIL MEETING
October 19, 2021**

The Wayne City Council met in regular session at City Hall on October 19, 2021, at 5:30 o'clock P.M.

Council President Jill Brodersen called the meeting to order, followed by the Pledge of Allegiance, with the following in attendance: Councilmembers Dwaine Spieker, Terri Buck, Chris Woehler, Jason Karsky and Matt Eischeid; Attorney Amy Miller; and City Clerk Betty McGuire. Absent: Mayor Cale Giese and Councilmember Nick Muir and one vacancy.

Notice of the convening meeting was given in advance thereof by publication in the Wayne Herald, Wayne, Nebraska, the designated method of giving notice, as shown by Affidavit of Publication. In addition, notice was given to the Mayor and all members of the City Council, and a copy of their acknowledgement of receipt of notice and agenda is on file with the City Clerk. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the Council convened in open session.

Council President Brodersen advised the public that a copy of the Open Meetings Act was located on the southwest wall of the Council Chambers, as well as on the City of Wayne website 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 Eischeid made a motion, which was seconded by Councilmember Buck, to approve the minutes of the meeting of October 5, 2021, and to waive the reading thereof. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS:

FISCAL YEAR 2020-2021: AMAZON, SU, 301.18; BAKER & TAYLOR BOOKS, SU, 194.00; BIG RIVERS, SE, 199365.77; BLACKSTONE PUBLISHING, SU, 2947.38; BOMGAARS, SU, 505.55;

CERTIFIED TESTING SERVICES, SE, 675.00; CONSOLIDATED MANAGEMENT, SE, 79.88; COTTONWOOD WIND PROJECT, SE, 14002.98; DAS STATE ACCTG-CENTRAL FINANCE, SE, 67.79; DAVE'S DRY CLEANING, SE, 36.00; ED M. FELD EQUIPMENT, SU, 515.00; EMPLOYERS MUTUAL CASUALTY, SE, 1797.51; INGRAM LIBRARY SERVICES, SU, 758.50; JR ROOFING, SE, 6860.00; KTCH, SE, 1400.00; MATHESON-LINWELD, SU, 34.25; MIDWEST LABORATORIES, SE, 189.00; MYERS CONSTRUCTION COMPANY, SE, 102061.01; NE DEPT OF REVENUE-CHARITABLE GAMING DIVISION, TX, 1055.00; NPPD, SE, 37327.12; NO SWETT FENCING, SE, 4165.00; NORTHEAST POWER, SE, 14116.68; O'REILLY AUTOMOTIVE STORES, SU, 13.55; OVERDRIVE, SU, 29.95; TYLER TECHNOLOGIES, SE, 2701.25; VERIZON, SE, 899.97; WAYNE COUNTY CLERK, SE, 30.00; WAYNE HERALD, SE, 465.00; WAYNE RURAL FIRE, RE, 5020.05; WAYNE VETERINARY CLINIC, SE, 105.00; WISNER WEST, SU, 276.77; ZACH HEATING & COOLING, SU, 16.50; CITY EMPLOYEE, RE, 58.69; BSN SPORTS, SU, 1149.75; DCL AMERICA, SU, 506.00; ELKINS PORTABLE RESTROOMS, SE, 325.00; METERING & TECHNOLOGY SOLUTIONS, SU, 1344.52; TOTAL GRAPHICS, SU, 972.49

FISCAL YEAR 2021-2022: AMERICAN BROADBAND, SE, 1413.91; AMERITAS, SE, 94.55; AMERITAS, SE, 72.00; AMERITAS, SE, 2875.04; AMERITAS, SE, 174.53; APPEARA, SE, 190.65; BC VOLLEYBALL, FE, 375.00; BINSWANGER GLASS, SE, 139.50; BORDER STATES INDUSTRIES, SU, 283.66; BROWN SUPPLY, SU, 118.00; CITY EMPLOYEE, RE, 257.25; CITY EMPLOYEE, RE, 296.40; CITY EMPLOYEE, RE, 3044.20; CITY OF WAYNE, PY, 83012.14; CITY OF WAYNE, RE, 892.09; CITY OF WAYNE, RE, 296.40; CONSOLIDATED MANAGEMENT, SE, 97.36; DEARBORN LIFE INSURANCE COMPANY, SE, 2600.61; DENDINGER, LUANN, RE, 250.00; DISPLAY SALES, SU, 620.00; DSF WAYNE SHORT STOP, RE, 500.00; FIRE CATT, SE, 4056.00; FLOOR MAINTENANCE, SU, 805.56; FLORES, BENJAMIN, RE, 500.00; GERHOLD CONCRETE, SU, 652.56; GROSSENBURG IMPLEMENT, SU, 24.16; CITY EMPLOYEE, RE, -3044.20; CITY EMPLOYEE, RE, 3044.20; HILAND DAIRY, SE, 88.66; HUNKE, JENNIFER, RE, 100.00; IA EI, FE, 120.00; ICMA, RE, 7929.74; ICMA, RE, 1619.90; ICMA, RE, 112.52; ICMA, RE, 145.28; ICMA, RE, 124.70; ICMA, RE, 55.00; ICMA, RE, 375.83; ICMA, RE, 34.38; ICMA, RE, 366.40; ICMA, RE, 159.20; INTERSTATE BATTERY SYSTEM, SU, 126.95; IRS, TX, 14297.82; IRS, TX, 3343.84; IRS, TX, 10600.60; LAUREL RECREATION, FE, 600.00; MIDWEST ALARM SERVICES, SU, 69.66; MORTLAND, AMANDA, RE, 100.00; NATIONAL PEN, SU, 280.90; NDEE-FISCAL SERVICES, FE, 300.00; NE DEPT OF REVENUE, TX, 4583.39; NE SAFETY COUNCIL, FE, 350.00; NOECKER, SOPHIE, SE, 40.00; O'REILLY AUTOMOTIVE STORES, SU, 524.40; OVERDRIVE, SU, 457.81; SKARSHAUG TESTING LAB, SE, 227.25; STATE NEBRASKA BANK & TRUST, RE, 4813.75; THE RETROFIT COMPANIES, SU, 7136.40; TYLER TECHNOLOGIES, SE, 200.00; US FOODS, SU, 1012.69; VERIZON, SE, 549.04; W.T. COX SUBSCRIPTIONS, SU, 1177.00; WAYNE HERALD, SE, 48.00; WAYNE KIWANIS, FE, 141.00; WAYNE LIBRARY FOUNDATION, RE, 500.00; WIGMAN COMPANY, SU, 2186.18; BEBEE, TIMOTHY J. & LESLIE A., RE, 3076.61; BORDER STATES INDUSTRIES, SU, 227.80; BSN SPORTS, SU, 1317.75; BSN SPORTS, SU, -1,317.75; BSN SPORTS, SU, 168.00; CITIZENS STATE BANK, RE, 4927.43; CITY EMPLOYEE, RE, 2560.18; CITY EMPLOYEE, RE, 74.25; COLONIAL RESEARCH, SU, 298.57; CONSOLIDATED MANAGEMENT, SE, 76.19; DEMCO, SU, 907.35; FAITH TO LOVE PUBLISHING, SU, 75.00; FIREMAN'S ASSOCIATION, RE, 5000.00; FOURTH GENERATION FAMILY LIMITED, RE, 13224.00; GERHOLD CONCRETE, SU, 844.32; GRAINLAND ESTATES, RE, 2930.98; HANNA:KEELAN ASSOCIATES, SE, 4000.00; HAWKINS, SU, 2184.37; HILAND DAIRY, SE, 118.65; HORIZON CONSTRUCTION, RE, 500.00; JORGENSEN, KEN, RE, 2154.43; KARSKY, JASON, RE, 50.00; MZRB, RE, 3107.98; NE LIBRARY COMMISSION, FE, 800.00; OLSSON ASSOCIATES, SE, 4600.00; O'REILLY AUTOMOTIVE STORES, SU, 5.37; PER MAR SECURITY SERVICES, SE, 122.50; PETERSON, CARTER, RE, 1398.46; PROKOP, KEN, RE, 500.00; REEG, BETTY S. Revocable Trust, RE, 2796.91; THRASHER, RE, 600.00; TOMPKINS, RODNEY R. Irrevocable Trust, RE, 2796.91; WAYNE COUNTY COURT, RE, 150.00; WAYNE KORTH, RE, 500.00; WINDOM RIDGE, RE, 1185.75

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

Jon Mooberry, Engineer with JEO Consulting Group, Inc., stated this revised Certificate of Extended Warranty Period for Corrective Action on the “2019 Nebraska Street Improvements Project” will provide for an extended warranty period through July 8, 2022, for the items identified therein. The previous Certificate approved by Council was for a full year. This is essentially reducing the 12-month extended warranty period to 9 months. In his opinion, that will still allow them time to go through the freeze/thaw cycle and then take a look at the random cracking to make a final determination on any corrective action needed. Mr. Mooberry also added additional notes under No. 1 of the Certificate. He noted that the City reserves the right to negotiate a monetary settlement instead of replacement of the panels. There are two panels at this time that have more than one random crack in them.

Attorney Miller stated this was negotiated with the contractor who spoke with her and Administrator Blecke. Mr. Mooberry stated he was comfortable with the negotiated timeframe.

Councilmember Eischeid made a motion, which was seconded by Councilmember Buck, approving the revised Certificate of Extended Warranty Period for Corrective Action on the “2019 Nebraska Street Improvements Project.” Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent and Councilmember Woehler who abstained, the Council President declared the motion carried.

Jon Mooberry, Engineer with JEO Consulting Group, Inc., presented Change Order No. 1 for Myers Construction, Inc., for the “Pine Heights Road & Utility Improvements Project – CDBG No. 19-PW-017.” This request is for an extension of the substantial and final completion dates to November 5, 2021, and November 19, 2021, respectively.

A request has been made by Myers Construction to extend the substantial and final completion dates. While the original start date was April 4, 2021, they were unable to start on the project until July

26, 2021, as a result of Covid-19 and related labor shortage issues. During the course of the project, they also ran into unexpected problems that caused additional delays, as well as a few adverse weather delays.

Mr. Mooberry noted that they are still within the original calendar days allotted for the project. It is his recommendation for the Council to consider approval of the request. There was some concern with the grant funding being affected by the completion date extension, and they were advised that the extension request was warranted and should not be an issue. Jan Merrill with the Northeast Nebraska Economic Development District is preparing the necessary documents and working with City staff to have the extension request ready for Council action at the next meeting. The funding would not be compromised by the extension request. Myers Construction has been a good contractor to work with. With almost every project Mr. Mooberry has been involved with, it is very seldom that the contractor starts on the date that is reflected in the bid documents.

Councilmember Woehler voiced concerns with this contractor not starting on time.

Administrator Blecke stated from staff's perspective, the project has gone very well, and this contractor has been very good to work with. When this contractor had issues in the field, they did not stop the project and have the engineer come on sight. They worked with staff and figured it out.

It was noted that several projects in the past have received extensions. It was also noted that if the extension is not granted, liquidated damages could be assessed.

Attorney Miller cautioned the Council on assessing liquidated damages on this project, in light of the reasons for the extension.

Mr. Mooberry, when asked, stated the paving part of the project is probably 80% complete.

After further discussion, Councilmember Eischeid made a motion, which was seconded by Councilmember Karsky approving Change Order No. 1 for Myers Construction, Inc., for the "Pine Heights Road & Utility Improvements Project – CDBG No. 19-PW-017" extending the substantial and final completion dates to November 5, 2021, and November 19, 2021, respectively.

Joel Hansen, Street and Planning Director, stated he had been up to the Pine Heights project today, and thought the paving part of the project was closer to being 95% complete.

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

Administrator Blecke stated three proposals were received regarding engineering design services for the “Chicago Street and Storm Sewer and Paving Project.” Staff has reviewed the same and is recommending that the project be given to Olsson for \$32,600 for engineering design services. The other two proposals received were from ACES - \$36,000 and JEO Consulting Group - \$51,070.

Councilmember Karsky introduced Resolution No. 2021-61 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2021-61

A RESOLUTION APPOINTING OLSSON AS THE SPECIAL ENGINEER TO BE USED ON THE “CHICAGO STREET STORM SEWER AND PAVING PROJECT” - \$32,600.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Administrator Blecke stated Black Hills Energy would like to now move into the southeast quadrant of Wayne. This is the same resolution and agreement that was approved last spring when they were in the northeast quadrant of Wayne, which was considered their first phase. The previous blanket permit was just for that first phase project.

Dan Willets, Operations Supervisor with Black Hills Energy, and Mike Vovos, were present to answer questions.

Councilmember Eischeid introduced Resolution No. 2021-62 and moved for its approval; Councilmember Buck seconded.

RESOLUTION NO. 2021-62

A RESOLUTION APPROVING COMMUNITY-WIDE BLANKET CONSTRUCTION PERMIT AGREEMENT BETWEEN THE CITY OF WAYNE AND BLACK HILLS NEBRASKA GAS, LLC D/B/A BLACK HILLS ENERGY (SOUTHEAST QUADRANT).

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Administrator Blecke stated Well No. 6 (on West 21st Street) has been shut down in emergency status. The well has had nitrate issues in the past, as well as high selenium. Well No. 7 (on the golf course) has been shut down in emergency status for about 18 months. Well No. 7 started having quality issues after Well No. 6 had been shut down for a year or so. Staff is of the opinion that not having Well No. 6 run might be causing Well No. 7 to be having some quality issues.

The Country Club has its own well that irrigates the course. However, there is a lot of use during the summer, and if it would go down, the course would be dry. The City and Country Club started talking and came up with the idea of having Well No. 6 irrigate the golf course. Staff thought if the City could get Well No. 6 pumping, use the water for irrigation, and not just pump it to waste into the ditch, this might help clear up the issues with Well No. 7. Staff started to investigate this possibility, and the State made us physically disconnect Well No. 6 from the city system. However, in an emergency, we could dig the disconnection up and reconnect within 24 hours.

Back on July 6th, the Council amended a previous agreement to provide water to the Country Club from Well No. 6. At that point, we thought our job was done. The Country Club paid for a new VFD (variable frequency drive) for the well to regulate it. However, they have since found out that the existing pump on the well cannot generate enough pressure to irrigate like they need it to. The pump can generate 60-65 psi, and they need 100 psi to irrigate properly. Replacing the pump is the only option at this point.

The Golf Course has proposed to cost-share 50/50 with the City. The City owns the front nine and the irrigation has the potential to clear up Well No. 7. Four bids were received, and the low bid was from Downey Drilling for \$35,405. Staff is recommending accepting the low bid.

Councilmember Spieker introduced Resolution No. 2021-63 and moved for its approval, with the City cost-sharing one-half of the \$35,405 with the Wayne Country Club (the Country Club will reimburse the City \$17,702.50); Councilmember Woehler seconded.

RESOLUTION NO. 2021-63

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “WELL NO. 6 PUMP REPLACEMENT PROJECT” — DOWNEY DRILLING - \$35,405.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Council President Brodersen advised the Council that Mayor Giese received the resignation of Councilmember Dwaine Spieker effective at the end of this meeting. Because the resignation is effective at the end of this meeting, Mayor Giese requested Council to accept the same and then declare a “Notice of Vacancy” in Ward 3 and authorize the City Clerk to publish notice.

Councilmember Spieker made a motion, which was seconded by Councilmember Woehler, to accept the resignation of Councilmember Dwaine Spieker effective at the end of this meeting and to declare a “Notice of Vacancy” in Ward 3 and authorize the City Clerk to publish notice.

Councilmember Spieker noted the reason he is resigning is because he is moving out of Ward 3.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who were absent, the Council President declared the motion carried.

There being no further business to come before the meeting, Council President Brodersen declared the meeting adjourned at 6:18 p.m.