

**MINUTES
CITY COUNCIL MEETING
December 21, 2021**

The Wayne City Council met in regular session at the Wayne Senior Center on December 21, 2021, 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 Brendon Pick, Terri Buck, Nick Muir, Dallas Dorey, 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 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.

Mayor Giese advised the public that a copy of the Open Meetings Act was located on the west wall of the Senior Center, as well as on the City of Wayne website 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 7, 2021, 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, 590.86; AMERITAS, SE, 105.57; AMERITAS, SE, 72.00; AMERITAS, SE, 2831.94; AMERITAS, SE, 161.93; APPEARA, SE, 104.41; ARKFELD LOCK & SECURITY, SU, 154.08; BAKER & TAYLOR BOOKS, SU, 1132.88; BIG RIVERS ELECTRIC

CORPORATION, SE, 106319.25; BIG STONE TRANSPORTATION & LANDSCAPE SUPPLY, SU, 2532.06; BMI, FE, 331.20; BOARD OF EXAMINERS – COUNTY, FE, 75.00; BORDER STATES INDUSTRIES, SU, 957.12; BSN SPORTS, SU, 10007.93; CARHART LUMBER COMPANY, SU, 270.57; CITY EMPLOYEE, RE, 2077.06; CITY EMPLOYEE, RE, 95.60; CITY EMPLOYEE, RE, 2723.17; CITY EMPLOYEE, RE, 1042.98; CITY EMPLOYEE, RE, 95.60; CITY EMPLOYEE, RE, 100.16; CITY EMPLOYEE, RE, 3885.42; CITY OF WAYNE, PY, 85667.79; CITY OF WAYNE, RE, 1395.87; CITY OF WAYNE, RE, 1042.98; CONSOLIDATED MANAGEMENT, SE, 160.51; CORE & MAIN, SU, 1386.00; COTTONWOOD WIND PROJECT, SE, 16048.68; DAHL, RYAN, RE, 175.76; DAS STATE ACCTG-CENTRAL FINANCE, SE, 67.79; DAVE'S DRY CLEANING, SE, 63.00; DEMCO, SU, 153.96; EAKES OFFICE PLUS, SE, 219.89; ECHO GROUP, SU, 167.91; ED M. FELD EQUIPMENT, SU, 62.00; ELECTRICAL ENGINEERING & EQUIPMENT, SU, 285.76; ELLIS HOME SERVICES, SE, 80.90; EXHAUST PROS TOTAL CAR CARE, SE, 69.55; FAITH REGIONAL PHYSICIAN SERV, SE, 30.00; FEILMEIER, DAVE, RE, 500.00; FLOOR MAINTENANCE, SU, 289.93; GALE/CENGAGE LEARNING, SU, 100.06; GERHOLD CONCRETE, SU, 2833.58; GROSSENBURG IMPLEMENT, SU, 367.29; HAWKINS, SU, 454.54; HERITAGE HOMES, RE, 200.00; HILAND DAIRY, SE, 158.45; HOMETOWN LEASING, SE, 436.02; ICMA, SE, 124.70; ICMA, SE, 55.00; ICMA, SE, 1432.70; ICMA, SE, 145.28; ICMA, SE, 8264.29; ICMA, SE, 366.40; ICMA, SE, 34.38; ICMA, SE, 159.20; ICMA, SE, 375.83; ICMA, SE, 112.52; INTERSTATE BATTERY SYSTEM, SU, 247.90; IRS, TX, 3433.06; IRS, TX, 10693.79; IRS, TX, 14679.14; JEO CONSULTING GROUP, SE, 12142.86; KTCH, SE, 840.00; LUTT OIL, SU, 5480.79; MAIN STREET GARAGE, SE, 174.27; MATHESON-LINWELD, SU, 381.21; MCLAIN, CHARLES, SE, 100.00; MIDWEST TAPE, SU, 47.99; MILLER, STEVE, RE, 500.00; NDEE-FISCAL SERVICES, FE, 230.00; NE DEPT OF REVENUE, TX, 4746.63; NORFOLK DAILY NEWS, SE, 385.00; NNEDD, SE, 2720.78; ODEYS, SU, 1501.96; OLSSON ASSOCIATES, SE, 6100.00; O'REILLY AUTOMOTIVE STORES, SU, 42.97; OVERDRIVE, SU, 781.42; QUALITY FOOD CENTER, SU, 30.12; RONHOVDE, ANNE, RE, 500.00; S & S WILLERS, SU, 319.09; SEBADE CONSTRUCTION, RE, 1000.00; SEMERAD, MICHAEL, SE, 1085.00; SERVICE TECH OF CENTRAL IOWA, SU, 3949.32; STAPLES, SU, 420.08; THOMPSON, LUCAS, RE, 500.00; TIETMEYER, WILL, RE, 500.00; TOM'S BODY & PAINT SHOP, SE, 560.00; US BANK, SU, 8506.87; US FOODSERVICE, SU, 1014.13; UTILITY EQUIPMENT, SU, 383.20; VERIZON, SE, 535.67; WAHLTEK, SU, 18752.00; WATSON LABEL PRODUCTS, SU, 404.82; WAED, SE, 5000.00; WAYNE AUTO PARTS, SU, 82.29; WAYNE COUNTY TREASURER, RE, 3043.83; WESTERN RIDGE III, RE, 6320.93; AMAZON, SU, 548.55; APPEARA, SE, 59.57; BATTERY SOLUTIONS, SU, 204.00; BLUE CROSS BLUE SHIELD, SE, 47268.63; BOMGAARS, SU, 41.43; BORDER STATES INDUSTRIES, SU, 226.30; BSN SPORTS, SU, 951.20; CITY EMPLOYEE, RE, 267.60; CITY EMPLOYEE, RE, 1318.44; CITY OF WAYNE, RE, 159.63; CONSOLIDATED MANAGEMENT, SE, 3.94; COPELAND DEVELOPMENT, RE, 1000.00; DEMCO, SU, 343.40; DUTTON-LAINSON COMPANY, SU, 1862.20; FLOOR MAINTENANCE, SU, 97.05; HILAND DAIRY, SE, 28.82; INGRAM LIBRARY SERVICES, SU, 1119.32; KTCH, SE, 150.00; MAJESTIC THEATER, FE, 154.00; MARCO TECHNOLOGIES, SE, 200.61; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 1205.00; NEBRASKA JOURNAL LEADER, SE, 71.83; NEBRASKA STATEWIDE ARBORETUM, FE, 100.00; NOVA FITNESS EQUIPMENT, SU, 159.96; ODEYS, SU, 103.97; OLSSON ASSOCIATES, SE, 1750.00; O'REILLY AUTOMOTIVE STORES, SU, 16.59; O'REILLY AUTOMOTIVE STORES, SU, 27.99; OVERDRIVE, SU, 5867.92; QUADIEN LEASING, SE, 2691.00; STAPLES, SU, 188.01; STATE NEBRASKA BANK-PETTY CASH, RE, 108.94; THE HOME DEPOT PRO, SU, 24.69; WAYNE HERALD, SE, 285.00; WAYNE HERALD, SE, 785.50; WAYNE HERALD, SE, 646.73; WESCO, SU, 439.50; WESCO, SU, 14604.43

Councilmember Eischeid 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.

Cap Peterson with Northeast Nebraska Insurance Agency presented and reviewed the 2022 Property and Casualty Insurance Package. Last year, the deductible was increased from \$1,000 to \$10,000 per occurrence on the property portion thereof. The total package is \$419,805; an increase of \$45,539 over last year's package (\$374,266). The increase is primarily in the workers' compensation and property portions of the policy.

Councilmember Eischeid made a motion, which was seconded by Councilmember Woehler, approving the 2022 Property & Casualty Insurance Package as presented by Northeast Nebraska Insurance Agency. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mytzy Rodriguez-Kufner, Director of Wayne Community Housing Development Corporation, was present requesting Council consideration for \$25,600 to help with their operating costs. She provided information, historical and current, regarding background, services and other duties.

She noted that the first round of funding acquisition comes from grants that begin to be advertised in January. There was a missed opportunity to request funding at the beginning of 2021 as she was new in her position and did not know the processes and protocol. Having been trained and now in her position for the last 18 months, she feels more confident that she can receive additional funding. She will continue to pursue funding sources.

It was noted this funding will come out of the Electric Fund. This could short the Community Redevelopment Authority contribution given at the end of the fiscal year.

If this request is not approved at this time, she will probably have to eliminate her part-time position.

After discussion, Councilmember Karsky made a motion, which was seconded by Councilmember Buck, approving the request of Mytzy Rodriguez-Kufner, Director of Wayne Community Housing Development Corporation, for support in the amount of \$25,600 to help with operating costs.

Councilmember Eischeid had concerns with this coming out of the Electric Fund.

Councilmember Karsky stated his hope in the end is that the City recoups this amount indirectly by not damaging the organization. While he does not like the money coming out of the Electric Fund, he is going to focus on the organization this time.

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

Jon Mooberry and Terry Mead, representing JEO Consulting Group, Inc., were present for the closeout discussion regarding the Pine Heights Road & Utility Improvements Project.

Mr. Mooberry stated in his letter to Council that he evaluates the following factors for each project in consideration of time extensions and assessment of liquidated damages.

- Contract Documents and Specifications Bid
- Contract Times, Warranted Time Extensions, and Owner/Public Impacts
- Contractor Quality of Work, Adequate Workforce Committed, and Commitment to Complete Work

Meyers' Construction displayed a strong commitment to completing the project from commencement of work, completed the project in fewer calendar days than originally required per the Contract Documents, and constructed the project with a high level of workmanship. Below is a list of support information in consideration of evaluation factors:

Project funding was not compromised. The original contract completion dates were established based on the original CDBG grant expiration date of 11/21/21. Working back from an 11/1/2021 final completion date based on 180 calendar days estimated to complete the project, a start date of 4/4/2021 was originally established in the contract bid. Given justification provided by Meyers for not being able to start 4/4/2021, meet the original completion dates, and approval of an extension to the CDBG grant expiration date currently as 5/21/2022, the project funding was not compromised.

Reduced construction timeframe and impacts to Owner/Public. The Contractor substantially completed the project in 61 fewer calendar days than originally specified in the contract documents, resulting in reduced impacts and access restrictions to adjacent property owners and the traveling public.

Proactive measures and actions were taken in attempts to meet the original completion times, such as:

- Staffed the project with additional crews to increase productivity.
- Contracted with additional subcontractors to expedite construction activities and paving operations.
- Located underground utilities ahead of construction activities and effectively worked with JEO and utility providers to resolve conflicts without significant delays or additional project costs.
- Utilized fly ash to stabilize the subgrade along 10th Street and removed saturated soils to expedite construction at no additional cost to the city.
- Provided regular notification letters to residents informing them of construction progress and coordination items.

- Coordinated with the City on and reinstalled irrigation systems at no additional cost to the City.
- Installed netless erosion control matting with seeding to minimize erosion until seeding has vegetated in the spring at no additional cost to the City.

Therefore, in consideration of the above, it was his opinion that no liquidated damages should be assessed, and a contract time extension should be granted to align with actual construction completion dates.

Perry Meyers, representing Myers Construction, Inc., was present to answer questions.

Councilmember Brodersen did not know why the City would assess liquidated damages in this case - the City has been out nothing. She thought the Council should go with the engineer's recommendation.

Councilmember Woehler spoke in favor of assessing liquidated damages. He thought if the City did not assess liquidated damages, this would open up the door for any contractor to adjust the start and completion dates in the future.

Joel Hansen, Street and Planning Director, provided history on some past projects regarding substantial completion date and final completion date extensions.

After discussion, Councilmember Brodersen made a motion, which was seconded by Councilmember Eischeid, not to assess liquidated damages against Myers Construction Co. and grant the time extension. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Woehler who voted Nay, the Mayor declared the motion carried.

The City has received the Annual Renewal Maintenance Agreement from the State of Nebraska Department of Transportation (NDOT). This is their standard form of renewal agreement, and is the same as last year. The City will pay the NDOT \$2,100.00 per lane mile or \$4,935.00 in 2022 for the surface maintenance on 2.35 lane miles of highway through Wayne.

Councilmember Brodersen made a motion, which was seconded by Councilmember Karsky, approving the Annual Renewal Maintenance Agreement (2022) with the State of Nebraska Department of Transportation. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Annually, the City is required to appoint a Street Superintendent to receive Highway Incentive Payments. This action item is to appoint Joel Hansen as the 2022 Street Superintendent.

Councilmember Brodersen made a motion, which was seconded by Councilmember Buck appointing Joel Hansen, Class B License number S-1155, as the City Street Superintendent for calendar year 2022, January 1 thru December 31, 2022, for the purpose of the 2022 calendar year Highway Incentive payment to be issued to the City by the Nebraska Department of Transportation in February 2023. Mayor Giese stated the motion, and the result of roll call being all Yeas, 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, 2021. This is an annual requirement for determining the City's calendar year 2021 incentive funds.

Councilmember Brodersen introduced Resolution 2021-75, and moved for its approval; Councilmember Buck seconded.

RESOLUTION NO. 2021-75

A RESOLUTION AUTHORIZING THE SIGNING OF THE YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT FORM – 2021.

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

Councilmember Brodersen presented the plans, specifications and estimate of cost for the "College Hill Trail Head Project." This pertains to the old bathhouse at College Hill Park. The estimated cost is \$383,000. This project is grant funded. The City's portion is capped at \$250,000.

Councilmember Eischeid introduced Resolution 2021-76, and moved for its approval; Councilmember Buck seconded.

RESOLUTION NO. 2021-76

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR THE "COLLEGE HILL TRAIL HEAD PROJECT," AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS.

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

Tom Sievers, representing the Wayne Volunteer Fire Department, stated that two bids were received for the purchase of a new fire truck. The low bid came from Feld Fire in the amount of \$605,951 (includes tools).

For the record, it was disclosed that Fire Chief Phil Monahan is a salesperson for Feld Fire. He recused himself from the Committee and was not the salesperson on this purchase.

The estimated amount for the fire truck was \$535,000; \$450,000 has been budgeted for this new truck. It was noted that the other bid came from Danko.

City Attorney Miller advised the Council that an issue did come up in this matter where Danko did not think that Feld Fire met the bid specs. She and Administrator Blecke reviewed the bid specs, as well as the proposed bids, and there were only a few items that were considered “necessary.” Everything else said that exceptions could be granted, and if exceptions were included in the bid, then that had to be noted by the bidder with what those exceptions were. After review of the documents, Attorney Miller was comfortable with the bid being awarded to Feld Fire.

Councilmember Eischeid introduced Resolution 2021-77, and moved for its approval; Councilmember Woehler seconded.

RESOLUTION NO. 2021-77

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE PURCHASE OF A FIRE TRUCK — FELD FIRE FOR \$605,951.

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 approving the following staff appointments:

Betty McGuire as City Clerk
Beth Porter as Finance Director
Joel Hansen as Street and Planning Director
Marlen Chinn as Police Chief
Lowell Heggemeyer, Park and Recreation Director
Diane Bertrand as Senior Center Coordinator

Heather Headley as Library Director
Jeff Triggs as Electric Production Superintendent
Tim Sutton as Electric Distribution Superintendent
Casey Junk as Water/Wastewater Superintendent

Councilmember Brodersen made a motion, which was seconded by Councilmember Karsky, approving the following staff appointments:

Betty McGuire as City Clerk
Beth Porter as Finance Director
Joel Hansen as Street and Planning Director
Marlen Chinn as Police Chief
Lowell Heggemeyer, Park and Recreation Director
Diane Bertrand as Senior Center Coordinator
Heather Headley as Library Director
Jeff Triggs as Electric Production Superintendent
Tim Sutton as Electric Distribution Superintendent
Casey Junk as Water/Wastewater Superintendent

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 reappointing Terry Sievers to the Community Redevelopment Authority. This is a 5-year term and would expire December, 2026.

Councilmember Brodersen made a motion, which was seconded by Councilmember Eischeid, approving the reappointment of Terry Sievers to the Community Redevelopment Authority (term expires December, 2026). Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

A town hall meeting was had on “annexation.”

Those having concerns regarding the annexation of properties in the industrial area of Wayne (eastern part) were: Ken Marra, Adam Severson, Kevin Koenig, Mike Cavanaugh, Sara Surber, Steve Meyer and Rod Tompkins.

Marlen Chinn, Police Chief, and Joel Hansen, Street and Planning Director, spoke in favor of annexation.

After discussion, staff direction was to focus on two properties: new Dollar General Store and the donut hole in the southwest part of town (Pierson property).

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 8:16 p.m.