

**MINUTES
CITY COUNCIL MEETING
June 7, 2022**

The Wayne City Council met in regular session at City Hall on June 7, 2022, 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 southwest wall of Council Chambers, 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 Eischeid made a motion, which was seconded by Councilmember Brodersen, to approve the minutes of the meetings of May 17, 2022, and May 31, 2022, and to waive the readings 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: ACES, SE, 1021.15; AMAZON, SU, 898.53; AMERITAS, SE, 72.00; AMERITAS, SE, 94.18; AMERITAS, SE, 35.00; AMERITAS, SE, 161.94; AMERITAS, SE, 3073.16; APPEARA, SE, 180.56; ARC-HEALTH & SAFETY, SE, 172.00; ASPEN EQUIPMENT, SU, 808.05; ASPM LANDSCAPES, SU, 11202.50; BARELMAN, JASON, RE, 30.00; BARTON SOLVENTS, SU, 690.83; BLACK HILLS ENERGY, SE, 623.15; BLUE CROSS BLUE SHIELD, SE, 49499.69; BLUE VALLEY

PUBLIC SAFETY, SE, 135.00; BOARDERS INN & SUITES, SE, 1666.00; BOK FINANCIAL, RE, 224222.50; BOK FINANCIAL, RE, 222367.50; BOMGAARS, SU, 1728.11; BORDER STATES INDUSTRIES, SU, 120.98; BORDER STATES INDUSTRIES, SU, 365.81; BRINER, WAYNE, RE, 150.00; BROUSE, CALEB, RE, 50.00; BROWN SUPPLY, SU, 785.00; CARHART LUMBER COMPANY, SU, 63.28; CARROLL DISTRIBUTING, SU, 66.38; CENTURLINK, SE, 424.07; CHEMQUEST, SE, 695.00; CHRISTIAN CHINCHILLA, RE, 150.00; CITY EMPLOYEE, RE, 241.97; CITY EMPLOYEE, RE, 410.76; CITY EMPLOYEE, RE, 324.87; CITY EMPLOYEE, RE, 180.72; CITY EMPLOYEE, RE, 529.00; CITY OF PONCA, RE, 14885.14; CITY OF WAYNE, PY, 117266.80; CITY OF WAYNE, RE, 13394.12; CITY OF WEST POINT, RE, 21603.83; CITY OF WISNER, RE, 2251.38; COBBLESTONE HOTEL-WAYNE, SE, 96.00; COLONIAL RESEARCH, SU, 557.60; CORE & MAIN, SU, 430.00; COUNTRY NURSERY, SU, 120.00; CP STRATEGIES, RE, 250.00; DARLAND CONSTRUCTION, RE, 1000.00; DAS STATE ACCTG-CENTRAL FINANCE, SE, 448.00; DEARBORN LIFE INSURANCE COMPANY, SE, 96.32; DGR & ASSOCIATES, SE, 200.00; ED M. FELD EQUIPMENT, SU, 1220.97; ELLIS HOME SERVICES, SE, 227.78; FIREMAN, RE, 415.99; FIRST CONCORD GROUP, SE, 3947.74; FLOOR MAINTENANCE, SU, 514.01; GENO'S STEAKHOUSE, SE, 1800.00; GERHOLD CONCRETE, SU, 1499.97; GERHOLD CONCRETE, SU, 2125.89; GROSSENBURG IMPLEMENT, SU, 269.16; HAASE, MINDY, RE, 100.00; HASEMANN, CARTER, RE, 150.00; HAWKINS, SU, 2358.45; HILAND DAIRY, SE, 233.34; HILL, MONTANA, RE, 150.00; HOMETOWN LEASING, SE, 436.02; HYDRO OPTIMIZATION, SE, 150.00; ICMA, SE, 102.72; ICMA, SE, 35.42; ICMA, SE, 154.18; ICMA, SE, 8606.80; ICMA, SE, 1561.62; ICMA, SE, 168.72; ICMA, SE, 392.29; ICMA, SE, 119.12; ICMA, SE, 65.00; ICMA, SE, 132.14; ICMA, SE, 387.46; IRS, TX, 1488.00; IRS, TX, 139.50; IRS, TX, 12487.40; IRS, TX, 17548.92; IRS, TX, 32.62; IRS, TX, 4104.22; IRS, TX, 12.88; IRS, TX, 348.00; IRS, TX, 0.38; JEO CONSULTING GROUP, SE, 7916.56; JOHNSON, SHANNON, RE, 175.00; JOHNSON'S PLUMBING & HEATING, SU, 751.00; KAUP FORAGE & TURF, SU, 1425.00; KOUATIL, ZAYNAB, SE, 20.00; KUTCHA, ANDY, RE, -30.00; KUTCHA, MARY, RE, 30.00; L.G. EVERIST, SU, 1590.36; LINCOLN WINWATER WORKS, SU, 349.13; LOPEZ, JUANA, RE, 205.00; LUNA'S MEXICAN FOOD, RE, 205.00; MARCO, SE, 175.92; MARCO TECHNOLOGIES, SE, 180.50; MEISENBACH, SCOTT, RE, 500.00; MEYER, SU, 600.00; MEYER, SU, 2400.00; MIDWEST TURF & IRRIGATION, SU, 77074.00; MILLER LAW, SE, 5416.67; MODEL ELECTRIC, SE, 63.00; MRSNY, JASON, RE, 100.00; MUNICIPAL SERVICE, SU, 467.76; MUNICIPAL SUPPLY, SU, 332.22; NE DEPT OF ENVIRONMENTAL QUALITY, SE, 201146.96; NE DEPT OF ENVIRONMENTAL QUALITY, FE, 1099.50; NE DEPT OF ENVIRONMENTAL QUALITY, SE, 87606.47; NE DEPT OF REVENUE, TX, 26.66; NE DEPT OF REVENUE, TX, 21.87; NE DEPT OF REVENUE, TX, 5362.70; NE HARVESTORE, SU, 35.37; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 216.00; NELSEN, KYLE, RE, 100.00; NERC, SE, 930.77; NORTHEAST POWER, SE, 5490.00; NORTHEAST POWER, SE, 18678.78; ODEYS, SU, 1018.00; OLSSON ASSOCIATES, SE, 10066.18; ONE CALL CONCEPTS, SE, 149.80; O'REILLY AUTOMOTIVE STORES, SU, 263.65; OVERHEAD DOOR, SU, 1571.00; PONCA RURAL FIRE BOARD, RE, 3563.22; POSTMASTER, SU, 936.66; QHA CLEANING, SE, 1585.04; REDDEN, GARY, RE, 200.00; REINKE, NOAH, RE, 150.00; RUZICKA, JACKIE, RE, 241.50; SCHMITZ, CINDY, SE, 45.00; SCHMITZ, CINDY, SE, 45.00; SCHMITZ, CINDY, SE, 45.00; SCHMITZ, TOM, RE, 10.99; SCHULZ, TRUDY, RE, 175.00; SEILER INSTRUMENT & MFG, SU, 920.00; STATE NEBRASKA BANK & TRUST, RE, 86288.75; STATE NEBRASKA BANK, RE, 103.56; SWARTZENDRUBER, NICOLE, RE, 233.64; T & S TRUCKING, SE, 559.00; TELE-PAK, SU, -1,275.00; THORP, TODD, RE, 50.00; TYLER TECHNOLOGIES, SE, 1559.82; VAN DIEST SUPPLY, SU, 705.00; VANHORN, NICK, RE, 150.00; VIAERO, SE, 65.52; VILLAGE OF WINSIDE, RE, 4762.77; WAED, RE, 2000.00; WAED, SE, 8592.41; WAYNE COUNTY CLERK, SE, 268.00; WAYNE COUNTY COURT, RE, -230.00; WAYNE COUNTY COURT, RE, 230.00; WAYNE RURAL FIRE, RE, 2441.44; WESCO, SU, 425.33; WISNER WEST, SU, 135.04; ZACH, MARK, RE, 100.00; ZARA, COOPER, RE, 150.00; ZEE MEDICAL SERVICE, SU, 90.36; AMERITAS, SE, 161.94; AMERITAS, SE, 35.00; AMERITAS, SE, 94.18; AMERITAS, SE, 72.00; AMERITAS, SE, 3044.84; APPEARA, SE, 52.16; BATTERY SOLUTIONS, SU, 306.00; BSN SPORTS, SU, 42.00; CARPENTER

PAPER COMPANY, SU, 672.00; CITY OF WAYNE, PY, 97869.40; CITY OF WAYNE, RE, 1358.48; COPY WRITE PUBLISHING, SE, 739.48; DUTTON-LAINSON COMPANY, SU, 977.00; ED M. FELD EQUIPMENT, SU, 1337.26; GERHOLD CONCRETE, SU, 2999.94; GLOBAL PAYMENTS INTEGRATED, SE, 782.14; GODFATHERS PIZZA, SU, 121.91; GROSSENBURG IMPLEMENT, SU, 102.33; HILAND DAIRY, SE, 101.46; HOEPPNER, CHAD, RE, 500.00; ICMA, SE, 35.42; ICMA, SE, 175.78; ICMA, SE, 1443.86; ICMA, SE, 154.18; ICMA, SE, 8859.27; ICMA, SE, 387.46; ICMA, SE, 65.00; ICMA, SE, 134.21; ICMA, SE, 119.12; ICMA, SE, 102.72; ICMA, SE, 339.92; IRS, TX, 3832.42; IRS, TX, 1.72; IRS, TX, 5.36; IRS, TX, 11738.69; IRS, TX, 16386.66; IRS, TX, 22.88; LUTT OIL, SU, 10446.70; MERCHANT SERVICES, SE, 3577.44; MERCHANT SERVICES, SE, 1405.16; MERCHANT SERVICES, SE, 108.10; MIDWEST LABORATORIES, SE, 254.00; NATP, FE, 95.00; NE DEPT OF REVENUE, TX, 5131.43; NE DEPT OF REVENUE, TX, 1.58; NPPD, SE, 7767.76; NPPD, SE, 31.00; NORTHEAST TIRE SERVICE, SE, 117.00; PLUNKETT'S PEST CONTROL, SE, 104.15; QUADIENT LEASING USA, SE, 655.38; QUALITY FOOD CENTER, SU, 37.25; STATE NEBRASKA BANK & TRUST, SE, 63.20; TOTAL GRAPHICS, SU, 314.40; WAYNE AUTO PARTS, SU, 488.95; WAYNE HERALD, SE, 95.00; WEBORG, JESSICA, RE, 10.00; WAPA, SE, 16384.26; WHITE FARMHOUSE REALTY, RE, 500.00

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

Josh Moening and Mitch Hyde, representing Bluestem Energy Solutions, were present and gave a presentation on solar energy. Bluestem owns, operates, and develops renewable energy systems throughout the state. They have been in discussions with City Staff over the past several months talking about the possibility of Wayne adding a solar facility to its energy generation mix. Marysz Rames, President of Wayne State College, was present in support of Bluestem Energy Solutions and is working with them on a proposal for the College.

Joe Gubbels was present requesting Council consideration to compensating him for fence material and dirt work that occurred at the time when the City was preparing for the construction of the Phase II Trail project.

Administrator Blecke updated the Council on what had happened on Mr. Gubbels' property. He stated when city crews were cutting trees, etc., in the future trail easement, the City damaged Mr. Gubbels' fence from a dropping branch. At the time, the City estimated a couple hundred dollars of materials and staff time to fix the fence. Mr. Gubbels indicated he was planning to put in a new fence, so City staff agreed not to fix the fence at that time. Instead, staff offered to pay him the cost (\$200) that it would have

cost the City to make the fix. Mr. Gubbels is now requesting more than the initial offer since he would like to put in a new fence in lieu of repairing the old one.

Mr. Gubbels stated the trail is located on three sides of his property which impacts his privacy. The trail on the west side of his property is a lot closer to his house than anticipated (4' from his property line). He is asking the City for 25% of the fence and materials (not to exceed \$1,500) and some light dirt work.

Councilmember Eischeid noted he would be more receptive to the request if Mr. Gubbels was replacing with the same fence. He did not think the City should be paying \$1,500 for a completely different style fence because that is what Mr. Gubbels wants, rather than the \$200 for replacing or repairing what was there. He was concerned about setting a precedent for others that are along the trail to come forward for reimbursement of a fence they put in for privacy purposes.

Mr. Gubbels stated, when asked, that there have not been any issues on the trail.

Councilmember Brodersen did not think taxpayer money should be spent for something that goes on private property.

Councilmember Dorey stated he would consider or entertain reimbursement on the part where there is not enough room to plant anything (bushes/shrubs) for privacy for Mr. Gubbels. Measurements would have to be taken to determine if there is enough room for bushes/shrubs to be planted.

Councilmember Karsky noted that if anyone else comes forward, we can identify that that is specifically the reason why we would be reimbursing 25% — because the alternative that is in place will not work.

Mayor Giese stated if that is what Council desires, he would recommend that this matter be tabled until staff can get official measurements so Council can justify this in the future and justify the expense.

Attorney Miller stated from a legal standpoint, Council will want a reason to justify putting a fence in for Mr. Gubbels. She has walked that trail and has seen all of the new fences back there. The concern is that all of those people will submit a claim for a new fence. She advised staff to measure the area on the north side of the trail and the west side to make sure that bushes/shrubs will not fit there.

After discussion, Councilmember Brodersen made a motion, which was seconded by Councilmember Karsky, to table the request of Joe Gubbels until city staff can get measurements to verify hedges would fit and how long the fence is on the west side. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Eischeid who voted Nay, the Mayor declared the motion carried.

Angie Liston, on behalf of the Wayne Baseball Association, made a request for Council consideration to close Windom Street north of 3rd Street and south of 4th Street during the home baseball games/tournaments at Hank Overin Field. Intersections would remain open, and barricades will be staggered for local traffic to get through. Safety for kids running for foul balls was a concern.

The City would provide barricades, and the Association would be responsible for putting them up and taking them down. If this would continue next season and beyond, they would make a request to their board to purchase barricades themselves.

Councilmember Pick noted it has been this way for a long time (kids running for foul balls).

After discussion, Councilmember Brodersen made a motion, which was seconded by Councilmember Eischeid, approving the request of the Wayne Baseball Association to close Windom Street north of 3rd Street and south of 4th Street during the baseball games at Hank Overin Field, and that they can use City barricades this year, but they should get their own barricades for next year. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Pick who voted Nay, the Mayor declared the motion carried.

Jennifer Sievers, Wayne First Impressionist and Jeff Liechtie, field Service Manager with Allo Communications, were present to update the Council on their project in Wayne and to request Council consideration to allowing them to use the old Riley's parking lot for their open house to be held on Tuesday, June 21st, from 10:00 a.m. to 3:00 p.m.

Councilmember Brodersen made a motion, which was seconded by Councilmember Karsky, approving the request of Allo Communications to use the old Riley's parking lot for their open house to

be held on Tuesday, June 21st, from 10:00 a.m. to 3:00 p.m. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Giese declared the time was at hand for the public hearing on the Findings of the Election Commission on the Remonstrance Petition.

Attorney Miller reviewed what had taken place regarding the Remonstrance Petition filed with the County Clerk. By law, the County Clerk has 40 days to review the petition for validity and to verify the signatures on the petition. When verifying signatures, the County Clerk checks to make sure the signers are registered voters within the city limits of Wayne, that the address on the voter registration card matches the address the signor listed on the petition, and that the signature on the petition matches that of the signer's voter registration card. The County Clerk started with verifying signatures and not with verifying the validity of the petition itself. In order for the remonstrance to be successful in preventing the sale of the property for one year, the circulators had to obtain at least 625 signatures from registered voters in the City of Wayne who voted in the last election. The petition submitted to the County Clerk contained 638 signatures. Of those 638 signatures, 27 signers were determined not to be registered voters, or were not registered at the address listed on the petition, or the signature on the petition was an obvious forgery. Therefore, only 611 signers were registered voters at the address listed on the petition. 611 is not enough to prevent the sale of the property. She noted that the Council needs to accept the Election Commissioner's findings or reject her findings. Nebraska State Statute 16-202 does state that the determination of the Election Commissioner or Council Clerk may be rebutted by any credible evidence which the City Council finds sufficient.

BJ Woehler and Lee Brogie spoke against the findings of the Election Commissioner and asked Council to table the matter until they could present their proof/evidence that the Election Commissioner erred in some of her findings.

Attorney Miller stated Mr. Woehler's position is that Section 32 of the Nebraska Revised Statute does not apply because it deals with elections. Section 16-202 is what applies specifically to remonstrance petitions. The remonstrance statute states the signature and address must match at the time the petition is

actually turned it. Section 32, which is the election portion, does say that if you are voting and your address has not been changed, you can vote in the precinct where you currently reside. However, if we are going to go by Section 32, the entire petition would be thrown out because of the way it was set up - it was not validated. We are just looking at Section 16, which is what the Election Commissioner looked at when she was validating signatures. The Election Commissioner did not get to Section 32, which deals with the validity of the actual petition and the format itself.

Mayor Giese stated the evidence should have been presented at this public hearing. In addition, he told Mr. Woehler and Ms. Brogie that the best course of action if they want the Council to work with local entities to solve the problem is to get something to present to them. Council cannot delay under the assumption that something will happen in the future. You have to come before the Council with something on paper.

Chele Meisenbach spoke in favor of the findings of the Election Commissioner.

Attorney Miller again advised the Council they have two options this evening: either accept the findings of the Election Commissioner or reject the findings of the Election Commissioner and accept the remonstrance petition.

After discussion, Councilmember Brodersen made a motion, which was seconded by Councilmember Karsky, to approve and accept the findings of the Election Commissioner, specifically, the remonstrance petition did not contain the number of valid signatures required to prevent the sale of the property described as Lot 3, Southeast Addition to the City of Wayne, Wayne County, Nebraska.

Councilmember Eischeid stated he and Attorney Miller live in a black and white world when it comes to State Statutes. People have to provide evidence to win a case. Nothing has been provided to us to win this case. In addition, we use subject matter experts. If we have a case where we need an expert, we call them in. The Election Commissioner is our subject matter expert when it comes to elections. For us to go against her findings, we are basically saying we do not like the job you do or we do not trust the job that you did. We have to trust the people that are holding those positions. He feels the City has done

everything it can. If we certify an invalid petition, then we are breaking State Statute. We are not doing what that law book upholds us to do.

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

Councilmember Brodersen introduced Ordinance No. 2022-7, and moved for approval of the second reading thereof; Councilmember Buck seconded.

ORDINANCE NO. 2022-7

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF 200, 204, and 208 S. LINCOLN STREET FROM I-1 LIGHT INDUSTRIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT.

Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Roger Protzman, Engineer with JEO Consulting Group, was present via zoom regarding the bids received on the “2022 Golf Course Sewer Improvements Project.” Two bids were received for this labor only project (the City is supplying the materials). This project would extend sewer closer to the College/Hwy 15 and to the residents at 1701 N Hwy 15 (whose septic is failing, and who have been in the City limits since 1992). The lowest bid was for \$64,187.97 from Kay Contracting of Wayne, and it was below the engineer’s opinion of cost (\$75,000). The other bid was from Robert Woehler & Sons Construction, Inc., for \$95,938.00. The proposed start date noted on the bid form is July, 2022. The contractor has indicated they will accommodate the dates requested by the golf course and start after Chicken Days. Completion date is September 1, 2022. The contractor believes the work will take about two weeks.

Mr. Protzman’s recommendation was to award the contract to the low bidder, Kay Contracting in the amount of \$64,187.97

Councilmember Eischeid introduced Resolution 2022-39, and moved for its approval; Councilmember Dorey seconded.

RESOLUTION NO. 2022-39

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “2022 GOLF COURSE SEWER IMPROVEMENTS PROJECT” TO KAY CONTRACTING, INC., FOR \$64,187.97.

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

Marlen Chinn, Police Chief, reviewed the Interlocal Agreement to Share Law Enforcement Services between the City and Wayne State College (WSC). The monetary amount has increased to \$33,427 (July 1, 2022 – June 30, 2023) and will be increased by the lesser of 5% or the end of March Consumer Price Index. The term of this agreement again is 3 years.

It was noted that in Section 5, subparagraph c, WSC is requesting to have one of the City’s officers at home football games. In discussions with the College, it was not feasible to have our school resource officer come in on Saturdays for their home football games. We came to the agreement that we will just have the regular on-duty police officer that is working Saturday make their presence known and be there as much as they can during the game to assist them if there is any issue.

Councilmember Eischeid introduced Resolution No. 2022-40 and moved for its approval; Councilmember Brodersen seconded.

RESOLUTION NO. 2022-40

A RESOLUTION APPROVING INTERLOCAL AGREEMENT TO SHARE LAW ENFORCEMENT RESOURCES BETWEEN THE CITY OF WAYNE AND THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES, D/B/A WAYNE STATE COLLEGE.

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 his mayoral appointment of Brandon Mainquist to the LB840 Revolving Loan Fund Review Committee.

Councilmember Eischeid made a motion, which was seconded by Councilmember Dorey, approving the mayoral appointment of Brandon Mainquist to the LB840 Revolving Loan Fund Review

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

Councilmember Brodersen made a motion, which was seconded by Councilmember Buck, to enter into executive/closed session to conduct the City Administrator's evaluation, with the purpose being to prevent the needless injury to the reputation of the City Administrator, and to allow Attorney Miller and City Clerk McGuire to be in attendance. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 7:19 p.m.

Mayor Giese again stated the matter to be discussed in execution/closed session relates to the City Administrator's evaluation.

Councilmember Brodersen made a motion, which was seconded by Councilmember Buck, to resume open session. Mayor Giese stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 7:38 p.m.

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 7:38 p.m.