

**MINUTES-July 15, 2024**  
REGULAR CITY COUNCIL MEETING  
COUNCIL CHAMBERS-  
1111 AVE E, WISNER, NEBRASKA 68791

The City Council of the City of Wisner, Nebraska met in regular session in the Council Chambers at the City offices in Wisner, Nebraska, on Monday, July 15, 2024, at 7:00 P.M. according to the notice published in the Wisner News Chronicle issue of July 11, 2024, a copy of proof of publication is attached to these minutes. Notice of the meeting was posted in three public places which are the Wisner Post Office, Wisner Public Library, and the Wisner City Office. Notice of the meeting and the agenda were mailed or emailed to the mayor and all members of the City Council. A true copy of their signed acknowledgement of the receipt of the advance notice of this meeting and the agenda is filed in the office of the City Clerk/Treasurer. An agenda for the meeting was kept continuously current, and was available for public inspection at the City Offices three days before the meeting date. Agenda subjects were contained at least twenty-four hours prior to the meeting. Mayor Soden presided and the City Clerk/Treasurer recorded the proceedings of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the general public.

Mayor Soden called the meeting to order, and announced the location of the posted Open Meeting Act, pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act. Mayor Soden also announced that this meeting is being recorded.

Present on the roll call: Cathy Gobar, Barry Meyer, LJ Parker, Jay Meyer, and Mayor Soden. Staff present: Randy Woldt, City Administrator/Utility Superintendent, Stephanie James, City Clerk/ Treasurer, Matt Munderloh, City of Wisner's City Attorney, and Sammye Nyman, Care Center Administrator.

AGENDA ITEM NO. 1 – CONSENT AGENDA – AGENDA, MINUTES OF THE JULY 1, 2024 REGULAR MEETING, CARE CENTER, CITY, & CITY/RURAL FIRE BOARD JUNE 2024 FINANCIAL REPORT, SPECIAL DESIGNATED LICENSE – THUNDER BY THE RIVER – 08/15, 16, & 17/2024 – WISNER RIVER PARK – 4:00 PM TO 1:00 AM THURSDAY AND FRIDAY, AND 12:00 PM TO 1:00 AM SATURDAY – TRACTOR PULL, SPECIAL DESIGNATED LICENSE – WISNER VFW POST 5767 – 08/24/2024 – WISNER CITY AUDITORIUM – 3:00 PM TO 12:30 AM – WEDDING RECEPTION, AND WISNER FIRE & RESCUE DEPT. – APPROVAL OF MEMBERSHIP TO RESCUE – ASPEN WATERMAN. Moved by Gobar and seconded by Parker to approve the consent agenda as presented. Roll call: Ayes: Parker, Jay, Gobar. Nay: None. Absent: None. Abstain: Barry. Motion carried.

AGENDA ITEM NO. 2 – WISNER WATER TOWER PROJECT – DISCUSSION AND POSSIBLE ACTION REGARDING CHANGE ORDER #4R & #5. Matt Munderloh, City of Wisner's City Attorney was present at tonight's meeting to discuss this agenda item. Mr. Munderloh talked to the engineer from Olsson, Owen Killham, and recommends that Change Order #4R and #5 be approved. Change Order #4R decreases the contract price by \$114,540.48 and that decrease was due to some change in quantities. Mr. Woldt elaborated on the quantities of supplies. Mr. Woldt stated that instead of using the tees because the pipe being so close together the contractor used 90's to get the pipe further out. Change Order #5 reduces the total contracted amount by \$344,456.97 due to unused quantities. Mr. Woldt said that the quantities are probably a little bit of everything. With the advice of our attorney, Barry moved to approve Change Order #4R & #5

and this motion was seconded by Gobar. Roll call: Ayes: Parker, Jay, Barry, Gobar. Nay: None. Absent: None. Motion carried.

AGENDA ITEM NO. 3 – WISNER WATER TOWER PROJECT – DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF PAYMENT FOR PAY APP #7R, #8, & #9-FINAL, LESS ANY LIQUIDATED DAMAGES DUE AND OWING PURSUANT TO CONTRACT TERMS. Mr. Munderloh said that he thinks that the council can approve these, subject to the discussion we need to have about liquidated damages. Mr. Munderloh shared a handout with council that is a summary of what he thinks are the liquidated damage analysis is. Mr. Munderloh went on to explain his summary sheet. First thing we have is the contract documents. When the city initially signed this, the work was to be substantially completed on or before July 15, 2021 and completed and ready for final payment on or before August 15, 2021. Mr. Munderloh went on to explain that those contract documents also explained the amount of liquidated damages that the contractor agreed to and those are \$1,000.00 each day that the project is over the substantial completion date. Then it is \$500.00 each day between the date of substantial completion and the date of readiness for final payment.

Mr. Munderloh then talked about a change order that the contractor requested in July of 2022 which came after many conferences via phone and virtually through zoom between city officials, city attorney, the engineer, and the contractor agreed to Change Order #2 be approved. The date of substantial completion be changed from July 15, 2021 to October 1, 2022 and readiness for final payment be changed from August 15, 2021 to November 30, 2022. The contractor requested no additional changes in contract time. Mr. Munderloh confirmed this with the engineer a couple of times. So, this October 1<sup>st</sup> and November 30<sup>th</sup> of 2022 from Mr. Munderloh's stand point and the engineer's stand point are the dates and in fact, Owen Killham, Olssen, wrote correspondents to the contractor stating to them the dates that we think he met are the May 16, 2023 for substantial completion, not October 1, 2022 and readiness for final payment, January 10, 2024 not November 30, 2022. Mr. Munderloh then shared his calculations for the liquidated damages. The difference between October 1, 2022 and May 16, 2023 for substantial completion is 227 days, times \$1,000.00 a day is equal to \$227,000.00. Then the readiness for final payment date we can not use the dates of November 30, 2022 to January 10, 2024 because you can not double up on substantial completion readiness for final payment, so we have to start with the date that it was substantially complete which was May 16, 2023 that compared to January 10, 2024 is 239 days. 239 days times \$500.00 a day is equal to \$119,500.00. The grand total for liquidated damages is \$346,500.00. Mr. Munderloh and the engineer for the project both agree with the total amount of liquidated damages.

Mr. Munderloh said to the extent you are approving pay applications #7R, #8, and #9, if you want to, assess liquidated damages. The approval of those applications has to be subject to that amount and then Stephanie will cut a check for the difference. Mr. Munderloh thought the difference what the city would owe the contractor was around \$114,000.00. Adding up the three pay applications and subtracting the liquidated damages, the amount owed to the contractor is \$136,753.85. Mr. Munderloh said that the contractor may not agree with the liquidated damages total but Councilman Barry stated that he would like to subtract it out of the total that the city owes the contractor now. Moved by Barry to pay Gerard Tank & Steel, \$483,253.85 for the completion

of the water tower minus the liquidated damages of \$346,500.00 for being late on the completion of the project which equals to a payment of \$136,753.85 and the motion was seconded by Parker. Roll call: Ayes: Jay, Barry, Parker, Gobar. Nay: None. Absent: None. Motion carried.

AGENDA ITEM NO. 4 – WISNER CARE CENTER - DISCUSSION AND POSSIBLE ACTION REGARDING GREAT ROOM ADDITION. Councilman Barry stated that we have the possibility of adding a great room onto the north side Care Center. A grant was received that was around \$416,000.00 which \$104,000.00 was already received. The Care Center has spent about \$50,000.00 getting the design and engineer costs. This addition has to be substantially complete by the end of the year and completed by March of 2025. All bids were rejected about five weeks ago due to bid being so high. Councilman Barry contacted some local contractors and all were to busy except for one. The contractor thought he could get it done by the end of December. The contractor gave a bid that they could take. Councilman Barry found out that an advertisement for bids needs to be done again. Moved by Barry to approve of the advertising for bids and to set a bid date for August 1, 2024 and seconded by Gobar. Roll call: Ayes: Barry, Parker, Jay, Gobar. Nay: None. Absent: None. Motion carried.

AGENDA ITEM NO. 5 – DISCUSSION AND POSSIBLE ACTION REGARDING CIVIL DEFENSE SIREN ADDITION. Jeff with Blue Valley Public Safety was in attendance at tonight's meeting to answer any questions regarding the placement of a siren or a new siren. Jeff stated that they did look into moving one of the sirens to the top of the hill but about the time you do that, there is a hundred-foot elevation change from where it is at now to where Grandview is at. Sound does not go up very well. It goes down really well. So, when you are trying to fight going up a hill with tall trees, it just not going to get there. In order to get it far enough for the new addition to hear it you will lose coverage in town even with the siren on main street. Jeff explained what you have to remember with outdoor warning sirens is that people are used to hearing them and when you move it away, you will get complaints. Trees and wind are the biggest blockage of the sound of the siren. Councilman Barry asked what Jeff's recommendation would be for an additional siren. Jeff recommends to put a new siren at the corner of Eighteenth Street and Highway Fifty-One. Jeff said that if another subdivision was added, it would probably be in that area and this siren would cover that new addition. Mr. Woldt would like to wait to install the new siren around the first of the year so that the new siren and the other three sirens will be on the same maintenance schedule. Moved by Barry and seconded by Parker to approve the quote of \$32,401.30 for the addition of a new siren in the Grandview Addition. Roll call: Ayes: Barry, Parker, Jay, Gobar. Nay: None. Absent: None. Motion carried.

AGENDA ITEM NO. 6 – MONTHLY POLICE REPORT – D. SALMEN. Doug Salmen, Chief of Police made available the monthly police activities report to the mayor and council.

AGENDA ITEM NO. 7 - BUILDING PERMITS. Randy Woldt, City Administrator/Utility Superintendent, stated he has one building permits at this time.

AGENDA ITEM NO. 8 - COMMUNICATIONS, REPORTS, COMMENTS BY COUNCIL, CITY OFFICIALS AND GENERAL PUBLIC.

- A. Councilman Parker stated that with the pool now in full force and the the new houses across the street, would like the old parking stalls be removed in front of the driveways.
- B. The news paper asked for Matt Munderloh and Jeff Edgington's name for comments for the article.

AGENDA ITEM NO. 9 - MOTION TO ADJOURN TO MEET IN REGULAR SESSION ON MONDAY, AUGUST 5, 2024, AT 7:00 PM. At 7:29 PM moved by Parker and seconded by Jay that the City Council adjourn to meet in regular session on August 5, 2024 at 7:00 PM, in the Council Chambers at the City Office. Roll call: Ayes: Parker, Jay, Barry, Gobar. Nay: None. Absent: None. Motion carried.

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Mayor

Attest:

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City Clerk/Treasurer