

**REGULAR MEETING:**

The La Cygne City Council met on Wednesday, September 2, 2020 at the La Cygne Community Building. Council Members present were: James Thies; Thomas Capp; Logan Smith; Danny Curtis; and Jerome Mitzner.

Others in attendance included, but not limited to: City Clerk (CC) Jodi Wade; City Attorney Burton Harding; Police Chief Tina Fenoughty; Public Works Superintendent (PWS) Dan Nasalroad; City Treasurer (CT) Connie Gore; and Linn County News Tony Furse.

**CALL REGULAR MEETING TO ORDER (7:00 P.M.)**

Pledge of Allegiance – Mayor Debra Wilson

**MAYOR COMMENTS:**

Mayor Wilson gave an update on the COVID-19 cases for Linn County totaling 59 cases and 0 deaths. She advised patrons to continue following the recommendations. It is tedious and everyone is getting tired of dealing with COVID.

Mayor Wilson thanked the City personnel for stepping up during the pandemic by finding ways to operate within guidelines pleasantly and made our city hall an example of stability in uncertain times.

Mayor Wilson received compliments regarding the condition of the La Cygne Community Park. Mayor Wilson thanked everyone who has worked hard to make the park look nice.

**CONSENT AGENDA:**

**❖ Motion to approve Consent Agenda:**

**Council Member Capp motioned to accept the Consent Agenda as presented.**

Minutes of August 19, 2020 City Council Meeting;  
Minutes of August 27, 2020 Special Council Meeting;  
Check Register: August 15 - 19, 2020;  
Check Register: August 20 – September 1, 2020;

**Motion seconded by Council Member Thies, voted on, passed 5-0.**

**DISCUSSION FROM THE FLOOR:**

Renee Slinkard – Proclamation (Constitution week) tabled until September 16, 2020 meeting.

**SPECIAL PROJECTS:**

**SEWER IMPROVEMENT PROJECT**

CC Wade reached out to various financial institutes regarding temporary financing. Paul Owings, BG Consultants, reached out to PWS Nasalroad about a survey crew coming to La Cygne to locate manholes and inspecting them over the next 2 weeks in preparation for the sewer project.

**SPECIAL PROJECTS CONT:**

**SEWER IMPROVEMENT PROJECT**

CC Wade had reached out to BG Consultants regarding preliminary design meetings being held in the evening and was informed it would be possible to meet in the evening if necessary.

**STREET PROJECT – KDOT CCLIP PROJECT AT KS HWY 152 AND INDUSTRIAL ROAD**

Acquisition packets were issued to property owners near the project site regarding right-of-way and temporary easements.

Construction engineering inspection service proposals were reviewed by the Council. Council member Capp inquired if CC Wade had checked references on both companies, CC Wade had performed all reference checks.

**EXECUTIVE SESSION:**

❖ **Motion**

**Council Member Mitzner motioned to go in to executive session for 10-minutes for consultation with an attorney for the city which would be deemed privileged in an attorney-client relationship and will return to the Council table at 7:10pm. Motion seconded by Council Member Thies voted on, passed 5-0. 7:00pm**

Others in attendance included, but not limited to: City Attorney Harding and City Clerk Wade

**Open Session Resumed at 7:10pm**

❖ **Motion**

**Council Member Mitzner motioned to select Cook, Flatt & Strobel Engineers, P.A. to perform construction engineering services on the KDOT CCLIP project. Motion seconded by Council Member Capp, voted on, passed 5-0.**

**EMERGENCY SEWER LINE REPAIR – DOUBLE EAGLE EXCAVATING/ RON WEERS CONSTRUCTION, INC**

Double Eagle excavating had not submitted costs for the work performed to date. City Attorney Harding presented a draft contract for Ron Weers Construction, Inc to Mayor Wilson and CC Wade for review. Council members reviewed the motions made at the Special council meeting held on August 27, 2020 which continued the contract with Double Eagle until the new contract is in place and to enter into an agreement with Ron Weers construction pending a signed contract.

❖ **Motion**

**Council Member Capp motioned to approve for the Mayor to sign the new contract with Ron Weers Construction, Inc in the amount of \$35,000 to bore a new encasement under the railroad tracks upon review. Motion seconded by Council Member Thies voted on, passed 5-0.**

**REPORTS OF CITY OFFICERS:**

**CITY ATTORNEY –BURTON HARDING**

City Attorney Harding reviewed the memorandum issued by President Trump regarding the deferral of Social security taxes starting September 1, 2020 through December 31, 2020. Starting January 1, 2021 through April 30, 2021, the Employer is responsible for collecting the deferred tax and paying them back in to the IRS. City Attorney Harding informed the city they were not required to

**REPORTS OF CITY OFFICERS CONT:**

**CITY ATTORNEY –BURTON HARDING**

do this deferral and legal entities have been reviewing the memorandum regarding whom makes the decision on behalf of the employer. City Attorney Harding explained the liability for the City to pay the taxes back in even if an employee leaves the company. Discussion was held.

❖ **Motion**

**Council Member Curtis motioned to continue withholding social security taxes and depositing the taxes to the IRS. Motion seconded by Council Member Mitzner voted on, passed 5-0.**

**CHIEF OF POLICE / CODES OFFICER - CORPORAL WEST REVIEWED CHIEF FENOUGHTY'S REPORT.**

**Traffic Stops Conducted**

**Citations issued since last meeting**

Speed in School Zone	2	Revoked DL	0
Expired Tag	1	Speed	0

**Calls for Service / Reports – 08/19/20 thru 09/01/20**

Animal Complaint – 3	Domestic Disturbance - 2
Citizen Assist CFS / contact - 6	
Check Welfare – 2	Suspicious Activity – 2
Juvenile Investigation – 1	Ambulance - 1

**Codes Enforcement**

The following letters have been sent:  
Follow Ups – 3  
Notice to Appear Issued for Nuisance - 1

**Animal Control**

2020/2021 there have been 211 dogs tagged

**VIN Inspections- 2 completed**

**New Business**

Council Member Capp inquired about the area behind Mc Elreath Storage being used as a dumping site for debris. Council Member Curtis advised Chief Fenoughty to review prior records pertaining to the site which had been approved at some point in time a few years back.

**EXECUTIVE SESSION:**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 5-minutes for non-elected personnel matter for an individual employee's performance and will return to the Council table at 7:46pm. Motion seconded by Council Member Mitzner voted on, passed 5-0. 7:41pm**

Others in attendance included, but not limited to: City Attorney Harding

**OPEN SESSION RESUMED AT 7:46pm**

**REPORTS OF CITY OFFICERS CONT:**

**CHIEF OF POLICE / CODES OFFICER - CORPORAL WEST REVIEWED CHIEF FENOUGHTY'S REPORT**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 5-minutes for non-elected personnel matter for an individual employee's performance and will return to the Council table at 7:52pm. Motion seconded by Council Member Mitzner voted on, passed 5-0. 7:47pm**

Others in attendance included, but not limited to: City Attorney Harding

**OPEN SESSION RESUMED AT 7:52pm**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 10-minutes for non-elected personnel matter for an individual employee's performance and will return to the Council table at 8:02pm. Motion seconded by Council Member Mitzner voted on, passed 5-0. 7:52pm**

Others in attendance included, but not limited to: City Attorney Harding

**OPEN SESSION RESUMED AT 8:02pm**

**Unfinished Business –**

Council Member Capp inquired about the status on cleaning up the Alley's. Chief Fenoughty and PWS Nasalroad had determined items would need to be removed if they were not readily/easily movable or if there were too many items piled up. PWS Nasalroad asked City Attorney Harding about miscellaneous items coming off of a property in to the street right-of-way and if the City could move the items back on to the owners' property. City Attorney Harding stated the City has control of the right of way and can remove items cluttering it. Discussion was held regarding a section of road at 3<sup>rd</sup> and Chestnut.

**PUBLIC WORKS DEPARTMENT – PUBLIC WORKS SUPERINTENDENT (PWS) DAN NASALROAD**

Report from 8-17-2020 to 9-01-2020

**Committee Discussions**

**Water and Gas:**

- Mr. Hixon has notified Public works he has made the switch to propane and USDI will be digging up and capping the line on 9-03-2020.
- USDI will be making a gas leak repair behind city hall on 9-03-2020.

**Street:**

- Street repairs for this year have been completed.
- Trimming limbs away from the streets has been completed.
- Will be starting to work on street signs, repair and replace.
- Mayor Wilson inquired about the Industrial Sign on the East side of La Cygne on Hwy 152. Council Member Mitzner indicated the Council had already approved to have PWS Nasalroad order a new sign and to reach out to the businesses in the Industrial park to see if they wanted to replace or purchase a smaller sign to go on the existing frame.

**REPORTS OF CITY OFFICERS CONT:**

**PUBLIC WORKS DEPARTMENT – PUBLIC WORKS SUPERINTENDENT (PWS) DAN NASALROAD**

**Sewer:**

- Sprayed lagoon fence line and banks for the final time this year.
- Railroad sewer project was started but put on hold until Sept. 8, 2020.
- Started locating all sewer manholes for upcoming sewer project.

**Cemetery:**

- Mowing and weed eating is caught up.

Council Member Capp asked about the city's cold patch supply and mentioned a pothole on 1<sup>st</sup> street on the way to the community park. PWS Nasalroad is out of cold patch and reached out to the County to see if they had any available which they did not. PWS Nasalroad has been researching a "bagged" cold patch product that could be utilized.

Mayor Wilson expressed concern regarding the tractor which is being used to mow the banks of the sewer lagoon. The banks have a steep slope and safety is a priority for all employees. PWS Nasalroad will research tractors.

Council Member Mitzner mentioned brush on the roadway down where the sewer emergency repair is being performed. PWS Nasalroad stated Harsco has been doing some cleaning/clearing in that area.

**PURCHASE ORDER REQUEST FROM PWS NASALROAD FOR A SNOW PLOW**

PWS Nasalroad reviewed the status of the current snow plow (e.g. sway bar is broke and bent). Discussion had been held during the June 9, 2020 budget workshop regarding the purchase of a new snow plow which was listed on the 2020 Capital improvement planning schedule. PWS Nasalroad has been researching plows to fit the new dump truck and is presenting a Boss 10' heavy duty snow plow from American Equipment Company out of Kansas City, KS in the amount of \$8,287 which includes installation.

❖ **Motion**

**Council Member Mitzner motioned to purchase the Boss 10' heavy duty snow plow from American Equipment Company in the amount of \$8,287. Motion seconded by Council Member Capp voted on, passed 5-0.**

**FIRE DEPARTMENT – FIRE CHIEF DAN NASALROAD –**

Annual truck pump testing has been completed. Some of the repairs have been completed after the inspections. Not sure when training will resume.

**CITY CLERK – JODI WADE**

Report from 8/19/2020 – 9/2/2020

- Read Sewer Rehabilitation Contract agreement with GB Consultants.
- Corresponded with attorney's regarding Linn Valley Lakes Water Purchase Agreement.
- Updated Quicken to a new version – reviewing chart of accounts.
- Prepared advertisement for Surplus Real Estate property.
- Reviewed current budget status.

**REPORTS OF CITY OFFICERS CONT:**

**CITY CLERK – JODI WADE**

- City Clerk Laptop power button malfunctioned, sent in for warranty repair. Working from a different station in the meantime.
- Researched for blueprints for La Harper Heights.
- Completed filing paperwork for 8<sup>th</sup> street dedication.
- Prepared Acquisition packets and hand delivered to all property owners.
- Researched Planning & Zoning regulations regarding parking areas.
- Researched Planning & Zoning regulations/codes regarding minimum house size requirements.
- Prepared and delivered CDBG-CV grant application packets.
- Talked to Paul Owings, BG Consultants, regarding scheduling and preparations for sewer project. PWS Nasalroad & crew will assist BG inspectors in locating all the manholes around the city.

Meetings/Trainings Attended virtually:

- League of Municipality Weekly Conference Call

Overtime Hours for City Hall for the last pay period: 9.5 hours

**COUNCIL COMMITTEE REPORTS:**

**WATER & GAS -**

- (In Committee review) Draft Ordinance for Gas Utility. Vacant riser- meter installation fee has been added to the draft.
- (In Committee review) Vacant Pit or Riser - Meter installation fee. CC Wade is working on the draft Ordinance and Resolution. Will be presented at the September 16, 2020 meeting.
- Gas audit has been completed. USDI submitted responses to the Notice of probable noncompliance identified during the KCC inspection conducted on April 21, 2020. PWS Nasalroad stated things should go smoother next year.

**STREET -**

- (In Committee review) RFP for Stormwater Master Planning.
- (In Committee review) 104 S. 4<sup>th</sup> Street (Frankie's Liquor Parking access/driveway): continued review of the regulations/codes pertaining to the entrance/parking lot/street repair. City Attorney Harding indicated Frankie Elder had a survey done of her property located at 104 s. 4<sup>th</sup> St. and found out from Linn County mapping the right of way is 70' wide at that location. City Attorney Harding indicated the pot holes are located in the city right of way which is under the control of the City. Mayor Wilson indicated she had prepared a power point presentation she would like to present to the Council and to the C-2 business owners who have access to their businesses off of City streets at a special meeting. The Council needs to discuss and determine the setback of access points from the connecting links of the city streets with the state highway. PWS Nasalroad asked if the City is responsible for the right-of-way. City Attorney Harding explained the duty to make sure the right of way is safe. Mayor Wilson asked what the City could do to prevent people from driving through the area in order to make it safe. Council Member Mitzner asked PWS Nasalroad about placing jersey (concrete) blocks to block the area with the potholes. PWS Nasalroad will check with KDOT on the distance the blocks would need to be located from KS Hwy 152 on our street.

**COUNCIL COMMITTEE REPORTS CONT:**

**STREET CONT –**

❖ **Motion**

**Council Member Thies motioned approval for PWS Nasalroad to purchase up to four concrete blocks to be placed at 104 S. 4<sup>th</sup> Street near the pothole area. Motion seconded by Council Member Mitzner voted on, passed 4-1 (Nay-Curtis).**

**SEWER-NONE**

**PARK-NONE**

**CEMETERY –**

- (In Committee review) Chapter XI. Public property, Article 1. Cemetery regulations.
- Sale of surplus equipment: Ex-Mark mower. No bids were received by August 28, 2020. Discussion was held on whether to continue to advertise. CC Wade will reach out to local auction services to see if the mower could be placed in an auction similar to using Purple Wave Auction services.

**PUBLIC SAFETY –NONE**

**COMMUNITY BUILDING-NONE**

**EMPLOYEE RELATIONS & TRAINING -**

- (In Committee Review) Spring 2021 Ethics/Public Service Training.
- Deferral of employment (Social security taxes) update from the League of Municipality was covered under City Attorney reports.

**SPECIAL COMMITTEE REPORTS:**

**EMERGENCY MANAGEMENT -NONE**

**SWANFEST COMMITTEE -NONE**

**PLANNING & ZONING –** Mayor Wilson had received a letter of interest from Brendan O'Reilly for the position on the Planning & Zoning commission.

❖ **Motion**

**Council Member Mitzner motioned to appoint Brendan O'Reilly to the Planning & Zoning Commission. Motion seconded by Council Member Capp voted on, passed 5-0.**

**LA CYGNE COMMUNITY PARK BOARD-**(1) Vacant seats still remains.

**UNFINISHED BUSINESS:**

**106 S COMMERCIAL STREET (OLD WATER TOWER LOT)** Advertisement for surplus of real estate property have been placed around town, on Facebook and in the newspaper. Sealed bids are due by September 11, 2020.

**NEW BUSINESS:**

**ORDINANCE NO. AN ORDINANCE ADDING TO 27-301 ARTICLE 27 SECTION 27-3 GENERAL STANDARDS AND REMOVING 27-501B ARTICLE 27 SECTION 27-5 PROHIBITED SIGNS OF THE LA CYGNE ZONING REGULATIONS.**

City Attorney Harding had some questions regarding the wording in the ordinance. The ordinance was tabled until the September 16, 2020 meeting.

**ORDINANCE NO. AN ORDINANCE ADDING TO 2-301 ARTICLE 2 SECTION 2-3 DEFINITIONS, OF THE LA CYGNE ZONING REGULATIONS.**

Council Member Capp questioned the allowance of mobile food vehicles in the City. City Attorney Harding reviewed the prior ordinance passed by the Council adding mobile food vehicles to the permitted use table in a residential zoned district. This ordinance is to add the definition for a mobile food vehicle.

❖ **Motion**

**Council Member Mitzner motioned to pass Ordinance No. 1471 adding to 2-301, Article 2, Section 2-3 Definitions of the La Cygne Zoning Regulations- Mobile Food Vehicle means a vehicle-mounted, vehicle-towed or vehicle-carried food service establishment or mobile kitchen that engages in the sale and preparation of food or beverages to the general public. Motion seconded by Council Member Capp voted on, passed 5-0.**

**ORDINANCE NO. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF LA CYGNE, KANSAS BY APPROVAL OF A CONDITIONAL USE PERMIT TO ESTABLISH A MOBILE FOOD VEHICLE ON PROPERTY CURRENTLY ZONED "R-1" (LOW DENSITY RESIDENTIAL).**

**Section 1. Conditional Use Permit Approved.** There is hereby approved a Conditional Use Permit to establish and operate a mobile food vehicle on property currently zoned "R-1" (low density residential), located at 00000 E Market Street west of 1002 E Market, and more fully described in Section 2 below. The Official Zoning Regulations of the City shall be amended to show this Conditional Use is consistent with this Conditional Use Permit. The Planning and Zoning Commission considered the following factors before issuing the Conditional Use Permit.

1. Whether approval of the Conditional Use would be consistent with the intent and purpose or these regulations. YES
2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood. YES
3. Whether the proposed use places an undue burden on the existing transportation or service facilities in the area affected and, if so, whether such additional transportation or service facilities can be provided. NO BURDEN
4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected. NO
5. The length of time the subject property has remained vacant or undeveloped as zoned. N/A
6. Whether the property is suitable for the proposed Conditional Use. YES
7. The recommendation of professional staff. YES
8. Whether the proposed Conditional Use would be in conformance to, and further enhance, the implementation of the City's Comprehensive Plan: YES
9. Whether the relative gain to the public health, safety, and general welfare outweighs any hardship imposed on the applicant by NOT upgrading the value of the property by approving the proposed Conditional Use. YES
10. Whether the proposed conditional use, if it complies with all conditions upon which the approval is made contingent, will not adversely affect the property in the area affected. WILL NOT
11. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the applications. NONE

Factors also considered and conditions set by the Planning and Zoning Commission are as follows:

1. Days of operation: NO LIMITATIONS
2. Hours of operation: 11:00 am – 7:00 pm
3. Business operation requires all needed forms, permits and licenses be provided to City Hall. YES



**NEW BUSINESS CONT:**

**ORDINANCE NO. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF LA CYGNE, KANSAS BY APPROVAL OF A CONDITIONAL USE PERMIT TO ESTABLISH A MOBILE FOOD VEHICLE ON PROPERTY CURRENTLY ZONED "R-1" (LOW DENSITY RESIDENTIAL).**

4. Business operation (example: signage) must comply with all City Codes and Ordinances. YES
5. Traffic Ingress/Egress: YES (no concerns)
6. Noise: YES (no concerns)
7. Lighting: YES (no concerns)
8. Parking/Parking Lot: YES (no concerns)
9. Adjacent Property: YES. Must continue the screening between the property west of 00000 E Market (1002 Market) and the residential property to the West.
10. Dining on the property allowed. NO CUSTOMER DINING
11. Maximum number of Mobile Food Vehicles permitted on the property. ONE (1)
12. Specific expiration date for the Conditional Use Permit. N/A.
13. Renewal of the Conditional Use Permit. The CUP can be renewed every two (2) years without an associated fee if the business incurs no complaints. If the business incurs complaints prior to the CUP renewal date, this CUP cannot be renewed but a new application and public hearing would be needed.
14. Should the business either temporarily or permanently pause or end operation, the Condition Use Permit will end six (6) months following the date of pause or ending.

**Section 2. Property.** The legal description of the subject property is as follows:

SUB-DIVISION 33-19-24, BEG 37.5 N SE/C SEC TH W 145 N 262.8 E 145 S 262.8 TO POB IN LOT A SECTION 33 TOWNSHIP 19 RANGE 24.

**Section 3. Effective Date.** This ordinance shall take effect and be in full force after being published in the official city newspaper of the City of La Cygne, Kansas.

Council held discussion regarding the regulation of the requirements of the CUP. Chief Fenoughty was capable of regulating the items listed on the CUP but concerns pertaining to the preparation of the food would be regulated by the KS Department of Agriculture. City Attorney Harding pointed out some grammatical corrections. Council members asked for clarity if the regulations would be the same for future applications submitted for mobile food vehicles. City Treasurer Gore stated the purpose of the Conditional Use Permit is to individualize the conditions for each applicant but also expressed the importance of fairness and equality within the conditions set forth.

❖ **Motion**

**Council Member Curtis motioned to pass Ordinance No. 1472 amending the zoning map of the City of La Cygne, Kansas by approval of a Conditional Use Permit to establish a mobile food vehicle on property currently zoned "R-1" (Low density residential). Motion seconded by Council Member Capp voted on, passed 3-1 (Nay-Capp). Abstention-Council Member Thies.**

**CCMFOA VIRTUAL INSTITUTE/ACADEMY, NOVEMBER 9<sup>TH</sup>-13<sup>TH</sup>. YEAR 2 (JODI) WILL BE MON-FRI 8AM-10AM OR 1PM-3PM, COST \$385. YEAR 4 (CONNIE) WILL BE TUES-FRI 10AM-NOON OR 1PM-3PM, COST \$300.**

CC Wade preferred to wait until next year for institute due to the Capital improvement projects getting started this fall. City Treasurer Gore preferred to finish up this year.

❖ **Motion**

**Council Member Capp motioned to approve City Treasurer Connie Gore to attend CCMFOA Virtual Institute for the cost of \$300. Motion seconded by Council Member Mitzner voted on, passed 5-0.**

**EXECUTIVE SESSION:**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 5-minutes for non-elected personnel matter for an individual employee's performance and will return to the Council table at 9:28pm. Motion seconded by Council Member Mitzner voted on, passed 5-0. 9:23pm**

Others in attendance included, but not limited to: City Attorney Harding and CC Wade

**OPEN SESSION RESUMED AT 9:28pm**

❖ **Motion**

**Council Member Curtis motioned to go in to executive session for 10-minutes following a 5-minute break for non-elected personnel matter to conduct employees review and will return to the Council table at 9:43pm. Motion seconded by Council Member Capp voted on, passed 5-0. 9:28pm**

Others in attendance included, but not limited to: City Attorney Harding and CC Wade

**OPEN SESSION RESUMED AT 9:43pm**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 5-minutes for consultation with an attorney for the city which would be deemed privileged in an attorney-client relationship and will return to the Council table at 9:47pm. Motion seconded by Council Member Mitzner voted on, passed 5-0. 9:43pm**

Others in attendance included, but not limited to: City Attorney Harding and CC Wade

**OPEN SESSION RESUMED AT 9:47pm**

**OTHER BUSINESS:**

Council Member Mitzner spoke about the importance of Street numbers on the houses. The city sent out letters a few years ago letting citizens know they could get numbers from City hall to put on their houses. Mayor Wilson suggested to send out letters again and to review the possibilities of enforcement.

**NOTES AND COMMUNICATIONS TO COUNCIL:**

Marais des Cygnes River Water Assurance District No. 2 invoice for FY 2020.

**ADJOURNMENT:**

❖ **Motion**

**Council Member Curtis moved to adjourn the meeting. Motion seconded by Council Member Capp, voted on, passed 5-0. Time 9:48pm.**

I, \_\_\_\_\_ La Cygne City Clerk, do hereby declare  
(Jodi Wade) the above to be true and correct, to the best of  
my knowledge, and do hereby subscribe my name  
on this 2<sup>nd</sup> of September 2020.