

**REGULAR MEETING:**

The La Cygne City Council met on Wednesday, September 16, 2020 at the La Cygne Community Building. Council Members present were: James Thies; Thomas Capp; Danny Curtis; and Jerome Mitzner. Absent: Logan Smith.

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; City Intern Katie Russell; Crystal Rodman, Mike Rodman, Mike Hilton, Emil Wilson, Frankie Elder, Erica Elder and Linn County News Tony Furse.

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

Pledge of Allegiance – Mayor Debra Wilson

**MAYOR COMMENTS:**

Covid-19 cases are now at 70 confirmed. Please take note of the increase in Covid-19 cases and act with this in mind.

There are less than 15 days remaining to complete your Census. Completing the Census is a constitutional obligation and it makes a big difference for our community when it comes to federal and state funding. Every person is worth \$13,500 yearly in resources back to our community over the next 10 years. Please help us help you and our whole community and make sure you are counted and your census is turned in for everyone in your household.

We have a lot of business to conduct tonight and a full agenda.

**CONSENT AGENDA:**

**❖ Motion to approve Consent Agenda:**

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

Minutes of September 2, 2020 City Council Meeting;  
August 2020 Treasurer's Report;  
August 2020 Budget Report;  
Check Register: September 3-16, 2020;

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

**DISCUSSION FROM THE FLOOR:**

**PROCLAMATION**

Proclamation – Mayor Wilson read and signed a Proclamation pertaining to Constitution week, September 17-23, 2020.

**MICHAEL HILTON – 317 WALNUT STREET REZONING**

Mike Hilton presented to the Council a few items pertaining to his application submitted to the Planning and Zoning Commission regarding rezoning 317 Walnut Street from C-3 to R-1. Mike indicated he was never notified the building was being rezoned to C-3 and since people have lived in

**DISCUSSION FROM THE FLOOR CONT:**

the building prior to him owning it he thought it had always been zoned R-1. Regarding the parking for 317 Walnut, Mike suggested the tenants could park either in the parking lot for his business or he could take some trees out of the little park which abuts the property and allow them to park there or he could clear an area on his property which abuts to 317 Walnut to be used for parking. Mike also mentioned a property located to the North of the library per the owner is dual zoned. Mike reminded the Council he has invested over \$20,000 on his property by improving the sidewalk and the lot to help protect people/children walking through town.

**CRYSTAL RODMAN – CONCRETE BARRIERS NEAR 104 S. 4<sup>TH</sup> STREET**

Crystal Rodman stated she turned right (South) on to 4<sup>th</sup> street off of Market Street and proceeded to turn right in to Frankie's Liquor located at 104 S. 4<sup>th</sup> Street. Crystal stated she could not see the barricades when turning in to Frankie's Liquor and she hit the last concrete block in the row of barricades. Her new car was damaged and she reported the claim to her insurance company. Her insurance company indicated she was at-fault since she hit a non-moving object. Crystal will have to pay her deductible but she feels she shouldn't have to pay it since the barricades were not marked with flags or cones. She asked how she could proceed with asking the city to take care of the deductible. City Attorney, Burton Harding, advised Crystal the issue is for insurance and legal to handle and he nor the Council could respond to her questions due to client-attorney privilege. City Attorney Harding will reach out to the insurance company and follow up with a letter to Crystal Rodman.

**SPECIAL PROJECTS:**

**SEWER IMPROVEMENT PROJECT**

- i. Copy of agreement with BG Consultants and notice to proceed were sent to the City Attorney for files.
- ii. Temporary financing bids for the amount of \$436,000 for the preliminary design/final design/bid negotiation/completion were received from Labette Bank and First Option Bank. CC Wade with the assistance of Kevin Cowan (Bond Counsel) Gilmore & Bell will review the bids received and CC Wade will present a report at the October 7, 2020 meeting.

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

- i. Notice of award was sent to Kenny Blair with CFS (Cook, Flatt & Strobel) Engineer for construction engineering (Inspection) service during the project.
- ii. Mike Bowser (KDOT) was updated on selection of Inspector. We will now wait on KDOT for working days which we should have sometime around January in order for CFS to complete paperwork.

**REPORTS OF CITY OFFICERS:**

**CITY ATTORNEY –BURTON HARDING**

City Attorney Harding has been reviewing the agreement for the Sewer Rehabilitation project which he received from CC Wade. City Attorney Harding asked for an executive session for legal for 15 minutes.

**REPORTS OF CITY OFFICERS CONT:**

**CITY ATTORNEY –BURTON HARDING**

**EXECUTIVE SESSION:**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 15-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 7:30pm. Motion seconded by Council Member Mitzner voted on, passed 4-0. 7:15pm**

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

**OPEN SESSION RESUMED AT 7:30pm**

**CHIEF OF POLICE/CODES OFFICER**

Chief Fenoughty advised the Council the part-time officer Officer Haley is actively on duty.

**32 Traffic Stops Conducted**

**Citations issued since last meeting**

Speed in School Zone	10	Suspended DL	1
Expired DL	1	No DL	1
Expired Tag	4	Speed	1
Insurance	1		
Transport Open Container	1		

**Calls for Service / Reports – 09/01/20 thru 09/14/20**

Animal Complaint – 6	Civil Matter – 8
Mental Subject – 1	Citizen Assist CFS / contact - 10
Check Welfare – 1	Suspicious Activity – 1
911 Open Line – 1	

**Codes Enforcement**

The following letters have been sent:

Grass Letters – 1
Nuisance Letters – 1
Follow Ups – 3

**Animal Control**

2020/2021 there have been 211 dogs tagged

**VIN Inspections-** 2 completed

**New Business**

-Request for Kurtis West to attend Officer De-escalation techniques in McPherson, KS on Sept. 29, 2020 at a cost of \$35. Chief Fenoughty would like to request also (1) night hotel reservation to allow Corporal West to drive out the night before.

❖ **Motion**

**Council Member Mitzner motioned to send Corporal West to McPherson to attend Officer de-escalation techniques for \$35 and for the city to endure all cost to include one night at a hotel. Motion seconded by Council Member Capp voted on, passed 4-0.**

**REPORTS OF CITY OFFICERS CONT:**

**CHIEF OF POLICE / CODES OFFICER**

-Executive Session request for non-elected personnel review application for 4 minutes.

**EXECUTIVE SESSION:**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 4-minutes for non-elected personnel matter for review applications and will return to the Council table at 7:37pm. Motion seconded by Council Member Mitzner voted on, passed 4-0. 7:33pm**

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

**OPEN SESSION RESUMED AT 7:30pm**

**Accrued Overtime for Department:** Accrued overtime for last pay period = 20 hours (10 comp time-10 for pay)

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

Report from 9-3-2020 to 9-16-2020

**Committee Discussions**

**Water and Gas:**

- Mr. Hixon's gas line has been dug up and capped at 2<sup>nd</sup> and Grand Street.
- USDI performed leak repairs behind city hall and at the water plant.
- Sediment pond issues

**Sewer:**

- The emergency sewer line repair under the railroad has been completed. Council Member Mitzner asked if all went OK. PWS Nasalroad indicated all went smooth once the bore decision was made.
- Manholes have been identified in preparation of the sewer project.

**Cemetery:**

- Mowing and weed eating is caught up.

**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 9/3/2020 – 9/16/2020

- Met with the Hospital Board to review questions regarding Acquisition. Reached out to Jason Hoskinson, BG Consultants for answers. Emailed answers to Hospital Board.
- Corresponded with attorney's regarding Linn Valley Lakes Water Purchase Agreement.
- Updated Quicken to a new version – reviewing chart of accounts.
- City Clerk Laptop has been repaired and returned.
- Researched Planning & Zoning regulations regarding parking areas.
- Received Ex-Mark Bids.

**REPORTS OF CITY OFFICERS CONT:**

**CITY CLERK – JODI WADE**

- Received Real estate Surplus Bids
- Received CDBG-CV Grant Applications.
- Researched information pertaining to Water Treatment Plant Settling Ponds.
- Researched maps and video for manhole locations from CCTV in preparation for inspection.
- Prepared files for research information and correspondence pertaining to (5) properties for Condemnation consideration.
- Reviewed bids received from Labette Bank and First Option bank for temporary financing for pre-design and final design for the Sewer project.
- Attended Chamber of Commerce meeting.
- Contacted Josh with Dreamscape Innovations regarding the City Christmas decorations.
- Contacted KPERS regarding working after retirement procedures.
- Contacted Andrew with USDI regarding Drug testing policy for Gas Utility.
- Worked on draft ordinances for utilities.

Meetings/Trainings Attended virtually:

- League of Municipality Weekly Conference Call
- CDBG Community Facility Grant Workshop

Overtime Hours for City Hall for the last pay period: 8.75 hours (Connie)

20 Hours (Jodi) 6.75 OT 13.25 went to Comp

**COUNCIL COMMITTEE REPORTS:**

**WATER & GAS -**

- (In Committee review) Draft Ordinance for Gas Utility.

**STREET –**

- (In Committee review) RFP for Stormwater Master Planning. Council Member Mitzner advised the Mayor about postponing moving forward with the RFP until the Fall of 2021 due to the upcoming Sewer and CCLIP projects already on hand for the Council.
- (In Committee review) 104 S. 4<sup>th</sup> Street (Frankie's Liquor Parking access/driveway): No discussion at this time.

**SEWER-**

Ordinance No. \_\_ Amending Chapter XIV, Article 2, by amending section 14-230(b) and 14-230(c), of the Code of the City of La Cygne, Kansas relating to sewer utility rates. No discussion from the Council.

❖ **Motion**

**Council Member Capp motioned to approve Ordinance No. 1473 amending Chapter XIV, Article 2, by amending section 14-230(b) and 14-230(c) of the Code of the City of La Cygne, KS relating to sewer utility rates. Motion seconded by Council Member Mitzner voted on, passed 4-0.**

**PARK-**

Comments were made on a job well done by Jim Johnson. PWS Nasalroad advised the Council of a water repair performed by Public Works in the park. It is temporarily repaired and the issue will need to be addressed at a future meeting.

**COUNCIL COMMITTEE REPORTS CONT:**

**CEMETERY –**

- (In Committee review) Chapter XI. Public property, Article 1. Cemetery regulations. Tabled until next meeting.

**PUBLIC SAFETY –NONE**

**COMMUNITY BUILDING-NONE**

**EMPLOYEE RELATIONS & TRAINING –**

(In Committee Review) postponed until Spring 2021 -Ethics/Public Service Training.

**SPECIAL COMMITTEE REPORTS:**

**EMERGENCY MANAGEMENT -NONE**

**SWANFEST COMMITTEE -NONE**

**LA CYGNE COMMUNITY PARK BOARD – (1) VACANT SEAT**

**PLANNING & ZONING COMMISSION (PZC) –**

The 9/10/2020 unapproved minutes and summary of the Public hearings were reviewed by the Council. Mayor Wilson reminded the Council when reviewing recommendations from the Planning & Zoning commission, the Council has the following three options: (1) approve without change, (2) override recommendation by 2/3 majority vote, or (3) return to Planning & Zoning with statement specifying the basis for the Governing Body's failure to approve or disapprove. The Council reviewed the following recommendation from the PZC:

**317 WALNUT STREET APPLICATION FOR REZONING FROM C-3 TO R-1:** A Public hearing was held on September 10, 2020. The Planning & Zoning has submitted to the City Council a recommendation to deny the application for rezoning from a C-3 to an R-1. The Council reviewed the history of the lot over the years. City Treasurer Gore pointed out the property has been zoned commercial since 1992 when zoning first occurred for La Cygne. IF a patron used it as a residence it would have automatically become non-conforming. When a non-conforming is discontinued or abandoned for a period of 12 consecutive months it shall comply with the regulations of the zoning district in which such land is located. The issue is the building sets on the footprint of the lot. There is no parking, setbacks or yards. Discussion was held regarding line 13 in Table 9-1 of Article 9 Commercial Zoned Districts which allows a dwelling unit located on ground floor of commercial structure, such must not exceed 50% of structure's floor area. City Attorney Harding mentioned adjusting the wording in line 13 to possibly permit residing in a commercial structure by obtaining a Conditional Use permit. Further discussion was held pertaining to other commercial buildings used for residence on the main street area (Broadway) in La Cygne. Council Member Capp expressed support of the building being used for residential which benefits the city to have an active utility service. Council Member Curtis expressed the frustration of a building being cleaned-up (fixed up) not being able to be utilized due to rules. Council Member Mitzner stated if we have rules in place, we need to be following those rules.

❖ **Motion**

**Council Member Mitzner motioned to abide by the Planning & Zoning recommendation to deny the rezoning of 317 Walnut from C-3 to R-1. Motion seconded by Council Member Thies, voted on, 2-2, Mayor Wilson tie break vote 2-3. Motion failed.**

**SPECIAL COMMITTEE REPORTS CONT:**

**PLANNING & ZONING COMMISSION (PZC) –**

**317 WALNUT STREET APPLICATION FOR REZONING FROM C-3 TO R-1 CONTINUED:**

❖ **Motion**

Council Member Capp motioned send application for 317 Walnut Street back to Planning & Zoning with a statement to recommend amending line 13- Dwellings in Table 9-1 under Section 9.3 of Article 9 in the Zoning Regulations to allow a person to apply for a conditional use permit to reside in a commercial zoned building. Motion seconded by Council Member Curtis, voted on, passed 4-0.

**ORDINANCE NO ADDING TO 27-301 ARTICLE 27 SECTION 27-3 AND REMOVING 27-501(B) ARTICLE 27 SECTION 27-5 PROHIBITED SIGNS:**

❖ **Motion**

Council Member Capp motioned to approve Ordinance No. 1474 adding 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. Motion seconded by Council Member Curtis, voted on, passed 4-0.

**UNFINISHED BUSINESS:**

**106 S COMMERCIAL STREET (OLD WATER TOWER LOT)**

Sealed bids were received from MFA Oil and Beachner Grain, Inc. Mayor Wilson opened the bids and read them out loud.

- Beachner Grain submitted a bid in the amount of \$5,000.
- MFA Oil submitted a bid in the amount of \$3002.00

❖ **Motion**

Council Member Mitzner motioned to accept the bid from Beachner Grain, Inc in the amount of \$5,000 for the city property located at 106 S Commercial street. Motion seconded by Council Member Curtis, voted on, passed 2-1(Capp-Nay)(Abstain-Thies).

**ARTICLE 22 OFF STREET PARKING REGULATIONS, SECTION 22-3 LAYOUT AND DESIGN REQUIREMENTS:**

CC Wade explained the issue regarding the motion originally made by the Planning & Zoning Commission and the Ordinance which was approved. Since the Council is currently reviewing Article 22 Off street parking regulations, CC Wade suggested cleaning up Section 22-303. Discussion was held for the Street committee to review apron dimensions at access points, setback distance and material for aprons.

**SURPLUS OF EQUIPMENT – 2014 EXMARK PIONEER S-SERIES 52” DECK MOWER:**

Mayor Wilson opened the bids received and read them out loud:

- George Huffman submitted a bid in the amount of \$20.00
- John Hernandez submitted a bid in the amount of \$251.00

**UNFINISHED BUSINESS CONT:**

**SURPLUS OF EQUIPMENT – 2014 EXMARK PIONEER S-SERIES 52" DECK MOWER:**

❖ **Motion**

**Council Member Capp motioned to award the La Cygne Community Food Pantry \$627.69 from the CDBG-CV Grant. Motion seconded by Council Member Thies, voted on, passed 4-0.**

**CDBG-CV GRANT APPLICATIONS RECEIVED FROM FRIENDS OF THE LIBRARY AND LA CYGNE COMMUNITY FOOD PANTRY.**

Mayor Wilson reviewed the applications received as follows:

- Friends of the Library requested \$14,100.
- La Cygne Community Food Pantry requested \$627.69

❖ **Motion**

**Council Member Capp motioned to award Friends of the Library \$14,100 from the CDBG-CV Grant. Motion seconded by Council Member Mitzner, voted on, passed 3-0. (Abstain: Curtis)**

❖ **Motion**

**Council Member Capp motioned to award the La Cygne Community Food Pantry \$627.69 from the CDBG-CV Grant. Motion seconded by Council Member Thies, voted on, passed 4-0.**

Council Member Capp advised CC Wade to send a letter advising both organizations of some funding still remaining from the grant and the potential of a future request opportunity for additional funding if necessary.

**NEW BUSINESS:**

**WATER TREATMENT PLANT SETTLING POND REPAIRS**

PWS Nasalroad reviewed a timeline of events regarding the settling ponds since 2018. The PWS crew has located 2 valves (1) from the River to the Plant and (1) from the River to the pond, which neither will currently turn (currently soaking in mineral oil). PWS Nasalroad would like to recommend an additional settling pond be built on the property to the north of the current backwash ponds. This would allow the opportunity in the future to rotate use of the ponds to allow for cleaning out the sludge. Also linking the ponds would allow the ability to store more water in case the city was unable to pull from the river. PWS would like to reach out to KRWA and to a consulting engineer company to have a survey done and estimated costs for constructing an additional pond. CC Wade did some research on grants possibilities through CDBG.

❖ **Motion**

**Council Member Capp motioned to request RFP (request for proposals) from consulting engineer company's for concept plans and estimated costs for an additional settling pond. Motion seconded by Council Member Mitzner, voted on, passed 4-0.**

**NEW BUSINESS CONT:**

**DRAFT ADMINISTRATIVE POLICY FOR PROFESSIONAL STANDARDS FOR BOARD MEMBERS:**

**EXECUTIVE SESSION:**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for non-elected personnel matter for an individual employee's performance and will return to the Council table at 9:27pm. Motion seconded by Council Member Curtis voted on, passed 4-0. 9:17pm**

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

**OPEN SESSION RESUMED AT 9:27pm**

Mayor Wilson reviewed the draft administrative policy for professional standards for board members and asked the Council to review it prior to the next Council meeting scheduled for October 7, 2020.

❖ **Motion**

**Council Member Capp motioned to have City Attorney Harding review the document from a legal perspective prior to review. Motion seconded by Council Member Mitzner, voted on, passed 4-0.**

**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 9:36pm. Motion seconded by Council Member Curtis voted on, passed 4-0. 9:31pm**

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

**OPEN SESSION RESUMED AT 9:36pm**

❖ **Motion**

**Council Member Curtis motioned to go in to executive session for 5-minutes for data relating to financial affairs or trade secrets and will return to the Council table at 9:41pm. Motion seconded by Council Member Capp voted on, passed 4-0. 9:36pm**

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

**EXECUTIVE SESSION CONT:**

**OPEN SESSION RESUMED AT 9:41pm**

❖ **Motion**

**Council Member Capp motioned to go in to executive session for 5-minutes for data relating to financial affairs or trade secrets and will return to the Council table at 9:48pm. Motion seconded by Council Member Curtis voted on, passed 4-0. 9:43pm**

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

**EXECUTIVE SESSION CONT:**

**OPEN SESSION RESUMED AT 9:48pm**

❖ **Motion**

**Council Member Curtis motioned to go in to executive session for 5-minutes for data relating to financial affairs or trade secrets and will return to the Council table at 9:53pm. Motion seconded by Council Member Thies voted on, passed 4-0. 9:48pm**

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

**OPEN SESSION RESUMED AT 9:53pm**

**OTHER BUSINESS:**

- Mayor Wilson asked the Gas Committee to prepare and present recommendations for the Gas utility section draft at the next Council meeting on October 7, 2020.

**DRAFT LETTER TO MOBILE HOME PARK OWNERS REGARDING RV REMOVAL:**

CC Wade reviewed the summary from the Planning & Zoning Commission pertaining to RV's in Manufactured Home Parks. The Planning and Zoning Commission made a recommendation to cease allowing RV's in the manufactured home parks as of December 31, 2020. (MHP licenses expire on this day) This allows for a 3-month notice to owners of MHP to RV's removed. Council Member Curtis expressed concern regarding one of the Manufactured Home Parks that is currently being purchased and if the new owner has been advised. A draft letter was presented to be mailed to the MHP owners.

❖ **Motion**

**Council Member Mitzner motioned to mail the letter to the Manufactured Home Park Owners immediately. Motion seconded by Council Member Capp, voted on, passed 4-0.**

**NOTES AND COMMUNICATIONS TO COUNCIL:**

- KDHE issued some recommendations and guidelines pertaining to Halloween Trick-or-Treating or Trunk-N-Treat events.
- City Attorney Harding stated comments will possibly be made on facebook or patrons might approach Council members regarding the incident with the concrete barrier brought forward tonight at the meeting. He reminded the Council to not make any comments or statements since it is a legal matter. Council members can listen to the patron's comments but can't respond.

**ADJOURNMENT:**

❖ **Motion**

**Council Member Curtis moved to adjourn the meeting. Motion seconded by Council Member Thies, voted on, passed 4-0. Time 9:58pm.**

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 16<sup>th</sup> of September 2020.