

March 4, 2024
Wellman, Iowa

The Wellman City Council met in regular session in the Wellman City Hall Council Chambers at 5:30 pm. Mayor Ryan Miller presided with City Administrator, City Clerk and the following Council Members: Angela Stutzman, Aaron Fleming, Nathan Klostermann, Fern Bontrager & Shannon McCain. The Consent Agenda was approved by Bontrager, amending the minutes from the last meeting: Resolution No. 24-09, upon roll call the vote was 4 ayes; Bontrager nay, consent agenda seconded by McCain and all voted ayes. The consent agenda includes the agenda, minutes from previous meeting and the following:

3/4 Payroll

Carrie R Geno		\$1,234.69
Laurelin E Geno		\$143.42
Megan E Harris		\$517.90
Beth A VanWinkle		\$1,794.04
Betty J Johnston		\$82.22
Timothy J Garrett		\$2,396.19
Travis D Hartley		\$1,600.07
Rex A Peck		\$1,395.90
Josh S VanWinkle		\$1,411.29
Debra S Hill		\$734.06
Landon Humble		\$485.80
Brock A Lowenberg		\$29.09
Shirley Y Brown		\$241.27
Anita J Kanagy		\$801.58
Kelly L Litwiller		\$2,274.85
Cynthia S Thrapp		\$1,902.75
Fed Taxes		\$4,969.18
Fountain People	Splashpad Equipment Deposit	\$23,376.38
Beth VanWinkle-City Clerk	February Petty Cash	\$86.27
Cindy Thrapp	February Cell Reimbursement	\$70.00
Cox Sanitation & Recycling	February Large Stickers/Recycling	\$4,795.50
Josh VanWinkle	February Cell Reimbursement	\$70.00
Kelly Litwiller	February Cell Reimbursement	\$70.00
William D Nickell	March Yard Waste	\$175.00
Paws & More	February City Contribution/Customer Donations	\$609.40
Rex Peck	February Cell Reimbursement	\$70.00
Treasurer State of Iowa	February Gas Use Tax	\$447.55
Shirley Brown	Goodwin Center Food Reimbursement	\$140.27
Standard Pest Control	March Pest Control	\$110.00
Timothy Garrett	February Cell Reimbursement	\$70.00
Travis Hartley	February Cell Reimbursement	\$70.00
Treasurer State of Iowa	February Sales/Water Excise Taxes	\$5,566.93
Todd Troyer	February Building Permits	\$35.00

Beth VanWinkle	February Cell Reimbursement	\$70.00
Wellman Emporium Assoc.	Goodwin Center March Condo Fee	\$136.54
Alliant Energy	City Utilities	\$9,547.09
APGA SIF	Shrimp/Dimp Online Access	\$19.00
Badger Meter	Fixed Network	\$212.39
Baker & Taylor Books	Library Books	\$749.21
Carrie R Geno	Library Supplies Reimbursement	\$48.80
CID	Skate Supplies	\$243.00
City of Wellman	Utilities	\$2,808.97
Eldon C Stutzman	Water Supplies	\$384.40
Fikes Renovations	WTP Stir Fan Installation	\$1,493.74
Garden & Associates	Water System Improvements	\$4,613.00
Hardman Painting	Parkside Locker Room Painting	\$1,560.00
Hawkins	WTP Chemicals	\$235.60
Heath Consultants	Gas Odorator Service Call	\$480.80
Hi-Line	Shop Supplies	\$141.48
JCG Land Services	9th Ave. Bridge Project	\$1,539.67
Jetco	WTP Service Call-Flow Totals	\$495.00
JFH Welding & Fabrication	Downtown Mini Grant/Gas Barricades/Water Shutoffs	\$11,344.00
KCTC	Monthly Fees	\$258.99
Lynch Dallas	Attorney Fees	\$1,211.50
Mahaska Bottling Co.	Skate Pop for Resale	\$144.96
Megan E Harris	Library Supplies Reimbursement	\$8.55
Municipal Gas System	Furnace Rebate	\$250.00
Wellman Co-op Telephone	City Telephones	\$1,252.15
	Total	\$97,025.44

No one spoke in public forum.

Amber with Paws and More gave council an update on the new building project and where they are on the fundraising for the project.

A public hearing to amend provisions of Section 92.09 (Customer Deposits) and Section 110.11(2) (“Deposit”) of the Code of Ordinances of the City of Wellman, Iowa was opened by Bontrager, seconded by Fleming and upon roll call the vote was unanimous ayes. There were no oral or written comments. Fleming made a motion to close the public hearing, Stutzman seconded and all voted ayes.

A public hearing to amend provisions pertaining to Liquor Licenses and Cigarette and Tobacco permits & Fiscal Management (Legislation Changes) was opened by Stutzman, seconded by McCain and upon roll call the vote was unanimous ayes. There were no oral or written comments. Klostermann made a motion to close the public hearing, Fleming seconded and all voted ayes.

A public hearing to amend the Code of Ordinances of the City of Wellman to establish regulations with respect to beekeeping was opened by Fleming, seconded by Stutzman and upon roll call the vote was unanimous ayes. There were no oral or written comments. Klostermann made a motion to close the public hearing, Fleming seconded and all voted ayes.

First reading of Ordinance No. 275 Amending Beekeeping changes is as follows:

ORDINANCE NO. 275

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF WELLMAN TO ESTABLISH REGULATIONS WITH RESPECT TO BEEKEEPING

WHEREAS the City Council of the City of Wellman, Iowa (“City”) has determined it is necessary or desirable to allow and to regulate beekeeping within City limits.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF WELLMAN, IOWA, as follows:

SECTION I. CITY CODE §170.21(14). City Code §170.21(14) is hereby added as follows:

14. Beekeeping. Beekeeping within City limits shall be permitted in all zoning districts subject to the following restrictions:

- A. Beekeeping shall be permitted only on a lot owned by the beekeeper. A tenant shall not be permitted to keep and maintain bees on a rented lot.
- B. Colonies shall be kept in well-maintained beehives with removable frames.
- C. A source of water shall be readily available to the bees upon the lot where the beehives are located at all times.

2. Number of Beehives. The number of beehives permitted on any single lot shall be as follows:

<u>Lot Size</u>	<u>Maximum # of Hives</u>
< 1 acre	2
1-5 acres	5
> 5 acres	10

Owners with existing beehives numbering in excess of these limitations upon the effective date of this ordinance shall not be subject to the same as long as the owner maintains the existing beehives in a manner otherwise consistent with the provisions of this section.

3. Location of Beehives. The following regulations apply to the location of beehives on a lot:

- A. Beehives shall not be located in the front or side yard of a lot.
- B. If a beehive is situated within twenty-five (25) feet of a property line (as measures from the nearest point on the beehive to the property line), the owner shall establish and maintain a flyaway barrier parallel to such property line(s). Flyaway barriers shall be a minimum of six (6) feet in height and consist of a fence, dense vegetation, solid wall of a building, or combination thereof, and shall extend a minimum of twelve (12) feet beyond the beehive in all directions, such that all bees are forced to fly at an elevation of at least six (6) feet above ground in the vicinity of the property line.

4. Beekeeping Management. Owners with beehives shall incorporate best management practices, including the following:

- A. Registering the location of beehives annually with the Iowa Department of Agriculture & Land Stewardship’s Sensitive Crops Directory; and
- B. Practicing proper management and manipulation of colonies to remedy swarming and/or aggressive colonies.

SECTION II. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION III. SEVERABILITY. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Fleming made a motion to approve First reading of Ordinance No. 275, Klostermann seconded and upon roll call the vote was 4 ayes; Bontrager nay.

First reading of Ordinance No. 276 Amending Liquor & Cigarette Legislation Changes is as follows:

ORDINANCE NO. 276

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA, BY AMENDING PROVISIONS PERTAINING TO LIQUOR LICENSES AND CIGARETTE AND TOBACCO PERMITS

Be It Enacted by the City Council of the City of Wellman, Iowa:

SECTION 1. SECTION MODIFIED. Section 46.04 of the Code of Ordinances of the City of Wellman, Iowa, is repealed and the following adopted in lieu thereof:

46.04 MINORS IN TAVERNS. It is unlawful for any person under legal age to enter, remain in or frequent a business establishment holding a retail alcohol license unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This section does not apply to holders of a Class “B” retail alcohol license or an establishment employee when employed in compliance with State law.

SECTION 2. SECTION MODIFIED. Section 120.04 of the Code of Ordinances of the City of Wellman, Iowa, is repealed and the following adopted in lieu thereof:

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

(Code of Iowa, Sec. 123.32[2])

SECTION 3. SECTION MODIFIED. Section 120.05 of the Code of Ordinances of the City of Wellman, Iowa, is repealed and the following adopted in lieu thereof:

120.05 PROHIBITED SALES AND ACTS. A person holding a retail alcohol license and the person’s agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage. *(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week. *(Code of Iowa, Sec. 123.49[2b])*

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center. *(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2[1])

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2[17])

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and time period prescribed by the Director, that the employer is employing a person under this subsection.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business. *(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license. *(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license. *(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents

or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2k])

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class "B" retail alcohol license or an establishment employee when employed in compliance with State law.

McCain made a motion to approve First reading of Ordinance No. 276, Fleming seconded and upon roll call the vote was unanimous ayes.

First reading of Ordinance No. 277 Amending Fiscal Management Legislation Changes is as follows:

ORDINANCE NO. 277

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA, BY AMENDING PROVISIONS PERTAINING TO FISCAL MANAGEMENT

Be It Enacted by the City Council of the City of Wellman, Iowa:

SECTION 1. SECTION MODIFIED. Section 7.05 of the Code of Ordinances of the City of Wellman, Iowa, is repealed and the following adopted in lieu thereof:

7.05 OPERATING BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Annual Statement.

(Code of Iowa, Sec. 24.2A[2])

A. On or before March 15 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 20, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer

within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-9) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices and copies of the statements mailed under this section.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice.

5. Council Review. The Council shall review the proposed budget and may make any adjustments it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption.

6. Notice of Hearing. Following, and not until the requirements, of Subsection 4 of this section, are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor. (Code of Iowa, Sec. 384.16[3])

7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library. (Code of Iowa, Sec. 384.16[2])

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next

fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing, unless an additional tax levy is approved at a City election. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

(Code of Iowa, Sec. 384.16[5])

SECTION 2. SECTION MODIFIED. Section 7.08 of the Code of Ordinances of the City of Wellman, Iowa, is repealed and the following adopted in lieu thereof:

7.08 FINANCIAL REPORTS. The finance officer shall prepare and file the following financial reports:

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose. (Code of Iowa, Sec. 384.22)

Bontrager made a motion to approve First reading of Ordinance No. 277, Klostermann seconded and upon roll call the vote was unanimous ayes.

First reading of Ordinance No. 278 Amending Section 92.09 & 110.11 (“Utility Deposits”) is as follows:

ORDINANCE NO. 278

AN ORDINANCE AMENDING SECTION 92.09 (CUSTOMER DEPOSITS) AND SECTION 110.11(2) (“DEPOSIT”) OF THE CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WELLMAN, IOWA, as follows:

SECTION 1. CITY CODE §92.09. Section 92.09 (Customer Deposits) of the Code of Ordinances of the City of Wellman, Iowa (“City Code”), is hereby amended and superseded, as follows, to update the amounts of required deposits for water service:

92.09 CUSTOMER DEPOSITS. There shall be required from every customer an initial service deposit intended to guarantee the payment of bills for service. Such deposit shall be \$100 for owner-occupied properties and \$200 for rental properties. The deposits shall be held and accrue interest monthly at a rate consistent with the current money market interest rate at the local bank. The amount of the deposit, with interest, shall be refunded to the customer’s account at the end of 12 months of

continued service with the City so long as during such 12-month period no notice of delinquency was sent to the customer. In the event a notice of delinquency is sent to the customer, the deposit shall be held until after 12 consecutive months of continued service with no delinquency. Should the customer move from the City, the deposit shall be credited to the account, and any balance remaining shall be refunded directly to the customer. The deposit requirement may be waived by the Clerk only in the case of the customer establishing a record of prompt payment with the City at another residence or property with City services. Any customer who does not have a deposit on file and who is assessed three late penalties within a 12-month period shall be required to pay a deposit in the same amount and subject to the same terms and conditions as the initial service deposit provided for in this section.

SECTION 2. CITY CODE §110.11(2). Section 110.11(2) (Deposit) of the Code of Ordinances of the City of Wellman, Iowa (“City Code”), is hereby amended and superseded, as follows, to update the amounts of required deposits for natural gas service:

2. An initial service deposit of \$200.00 for owner-occupied properties or \$300 for rental properties, or the average monthly billing for service of record at the location applied for during the previous 12-month period, shall be required. If the highest monthly billing for service of record at the location applied for during the previous 12-month period is less than the required deposit, as determined above, then the amount of the service deposit shall be the amount of the highest billing of record. Requirements for initial deposits are determined by the credit criteria provided in Subsection 1 above.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. SEVERABILITY. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Bontrager made a motion to approve First reading of Ordinance No. 278, McCain seconded and upon roll call the vote was unanimous ayes.

Resolution No. 24-12 A resolution approving the water purchase agreement between the City of Wellman and Wapello Rural Water Association, Inc. was tabled by Klostermann, seconded by Fleming and all voted ayes.

Bontrager made a motion to approve Wellman Municipal Gas System Annual Reports, Stutzman seconded and all voted ayes.

McCain made a motion to approve the Legal Service Agreement with Dorsey and Whitney regarding Bridge Project, Klostermann seconded and all voted ayes.

The council moved into a work session to discuss easements for watermain project.

The council moved into work session to discuss possible Veteran’s/Fire/EMS Memorial.

With no further business to be discussed Fleming moved to adjournment at 6:58pm, McCain seconded and all vote ayes. The next regular City Council meeting will be held Monday, March 18, 2024, at 5:30pm in the Council Chambers of the Wellman Municipal Building.

Minutes transcribed by the City Clerk are subject to Council Approval.