

April 20, 2020
Wellman, Iowa

The Wellman City Council met in regular session via Zoom meeting in order to help stop the spread of the COVID-19 virus at 5:30 pm. On March 19, 2020, Governor Reynolds issued a Proclamation of Disaster Emergency which included a suspension of Iowa laws that would prevent the use of electronic meetings or the limitation on the number of people present at an in-person meeting site. Therefore, only City Clerk Beth VanWinkle was present at Wellman City Hall. Mayor Ryan Miller along with the City Administrator and the following Council Members: Shannon McCain, Aaron Fleming, Angela Stutzman, Anthony Evans, & Mark Philpot were all present via Zoom. The Consent Agenda was approved upon motion by McCain, seconded by Fleming and all voted aye by roll call. The consent agenda includes the agenda, minutes from previous meeting, Approval of Casey's Liquor License, and the following:

4/20 Payroll

Megan E Harris		\$353.01
Kamren Martin		\$51.42
Ashten E VanWinkle		\$51.42
Carol A Wilkins		\$1,026.23
Troy M Wilkins		\$405.37
Teresa K Lampe		\$1,096.34
Ryan J Miller		\$276.78
Beth A VanWinkle		\$1,266.30
Betty J Johnston		\$123.92
Timothy J Garrett		\$1,747.35
Travis D Hartley		\$1,006.10
Jesse J Meade		\$1,242.96
Josh S VanWinkle		\$1,113.86
Kelly L Litwiller		\$1,797.80
Cynthia S Thrapp		\$965.35
Fed Taxes		\$3,947.38
State Taxes		\$1,322.00
IPERS		\$5,535.44
BC/BS		\$8,495.62
AFLAC		\$253.56
Ace-N-More	Tiller	\$519.99
Bob Boyse & Sons	Snow Truck Hauling	\$225.00
Brown Supply	WTP Supplies	\$412.00
Central Pump & Motor	WWTP Myers Pump Repair	\$5,890.59
Eastern IA Light & Power	Lift Station	\$133.63
Ferguson Waterworks	WTP Supplies	\$30.89
FIS Merchant Services	March Merchant Fees	\$680.63
Freeman Foods	Shop Cleaning Supplies	\$7.98
Horizons	COVID Meals	\$1,572.00
ION Environmental Solutions	Feb/Mar WTP/WWTP Labs	\$786.00
Iowa One Call	Jan-Mar One Calls	\$34.20

J&S Plumbing, Htg., & A/C	Water Meter Change	\$52.50
JB Repair	Chevy Repairs	\$542.24
John Deere Financial	Mower Battery	\$89.73
Koons Gas Measurement	Farm Gas Meter	\$3,175.83
Leightronix	WATV Info Annual Renewal	\$995.00
Municipal Gas System	Tankless Water Heater Rebate	\$75.00
Quality Window Cleaning	Sr. Dining Window Cleaning	\$18.00
iTech	Monthly Maintenance Adjustment	\$45.00
Thrapp Electric	N. Park/Parkside Lights	\$1,133.00
USABluebook	WTP Dehumidifiers	\$5,728.31
USDI	Gas Supplies	\$247.97
Visa	City Hall Credit Card	\$900.88
Total		\$55,374.58

No one spoke in public forum.

Litwiller received a message from Tinnes who indicated that we received 34 calls last month with nothing out of the ordinary.

A public hearing to receive comments for adoption of the proposed “Code of Ordinance of the City of Wellman, Iowa” was opened by Fleming, seconded by Stutzman and upon roll call the vote was all ayes. There were no oral or written comments. McCain moved to close the public hearing, Philpot seconded and upon roll call the vote was unanimous ayes.

A public hearing to receive comments for amending Chapter 21 – Library Trustees was opened by Evans, seconded by Philpot and upon roll call the vote was all ayes. There were no oral or written comments. McCain moved to close the public hearing, Evans seconded and upon roll call the vote was unanimous ayes.

A public hearing to receive comments for amending Chapter 45 & 47 – Alcohol in Parks was opened by Stutzman, seconded by Fleming and upon roll call the vote was all ayes. There were no oral or written comments. McCain moved to close the public hearing, Philpot seconded and upon roll call the vote was unanimous ayes.

First reading of Ordinance No. 254 – Codification adoption of “Code of Ordinance of the City of Wellman, Iowa” is as follows:

ORDINANCE NO. 254

AN ORDINANCE ADOPTING THE “CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA”

BE IT ORDAINED by the City Council of the City of Wellman, Iowa, that:

SECTION 1. Pursuant to published notice of following public hearing on the 20th day of April, 2020, so required by sections 362.3 and 380.8, Code of Iowa, there is hereby adopted by the City of Wellman, Iowa, the “CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA.”

SECTION 2. All the provisions of the “CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA,” shall be in force and effect on and after the effective date of this ordinance.

SECTION 3. All ordinances or parts thereof in force on the effective date of this ordinance are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

SECTION 4. The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolutions promising or guaranteeing the payment of money by the City or authorizing the issuance of any bonds of said City or any evidence of said City's indebtedness or any contract or obligation assumed by said City; nor shall said repeal affect the administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of "THE CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA"; nor shall it affect the following ordinances specifically saved from repeal:

URBAN RENEWEAL AREAS

ORDINANCE NO.	ADOPTED	NAME OF AREA
127	April 18, 1994	Wellman Urban Renewal Area
128	November 21, 1994	1994 Addition to the Wellman Urban Renewal Area
139	September 13, 1999	1999 Addition to the Wellman Urban Renewal Area
190	May 21, 2007	2007 Addition to the Wellman Urban Renewal Area

STREET AND ALLEY VACATIONS

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
40	October 1, 1934	52	July 2, 1956
40	May 4, 1936	67	February 7, 1966
46	May 7, 1945	69	July 5, 1966
48	September 18, 1950	221	July 2, 2012
50	June 21, 1954	227	September 3, 2013

ZONING MAP

ORDINANCE NO.	ADOPTED	DESCRIPTION
179	February 6, 2006	Rezoning various areas
180	February 6, 2006	Adopting new Official Zoning Map
188	January 15, 2007	Rezoning
204	May 5, 2008	Rezoning
224	November 5, 2012	Rezoning
242	May 15, 2012	Rezoning

nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council or any other person or corporation; nor shall it affect any ordinance naming, establishing, relocating or vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance amending the official zoning map, establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance.

Section 5. The following ordinances, passed subsequent to the preparation of this code but prior to adoption of this code, are hereby adopted and made a part of this code. These ordinances none. Said ordinances shall be codified and incorporated in published copies of this code as supplements thereto following adoption of this ordinance.

SECTION 6. An official copy of the "CODE OF ORDINANCE OF THE CITY OF WELLMAN, IOWA," adopted by this ordinance, including a certificate of the City Clerk as to its adoption and the effective date, is on file in the office of the City Clerk, and shall be kept available for public inspection.

SECTION 7. The City Clerk shall furnish a copy of the "CODE OF ORDINANCE OF THE CITY OF WELLMAN, IOWA," to the Judicial Magistrates serving the City of Wellman.

SECTION 8. The ordinance shall be in full force and effect from and after the publication of this ordinance, as required by law.

Philpot made a motion to approve Ordinance No. 254 and waive the second and third reading, McCain seconded and upon roll call the vote was unanimous ayes.

First Reading of Ordinance No. 255 is as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA PERTAINING TO THE LIBRARY BOARD OF TRUSTEES

Be it enacted by the City Council of the City of Wellman, Iowa that Chapter 21, LIBRARY BOARD OF TRUSTEES, is hereby amended as follows:

SECTION 1. PURPOSE. The purpose of this Ordinance is to amend certain provisions of Sections 21.02 of the Code of Ordinances of the City of Wellman, Iowa.

SECTION 2. SECTION AMENDED. Section 21.02 of the Code of Ordinances is amended and superseded in its entirety as follows:

"21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of ~~six (6)~~ five (5) resident members and ~~one (1)~~ two (2) nonresident members. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident members ~~is~~ are to be appointed by the Mayor with the approval of the County Board of Supervisors."

SECTION 3. REPEALER. All other sections of this Ordinance in conflict with these provisions shall be repealed.

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

SECTION 5. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Philpot moved to approve first reading of Ordinance No. 255 – Amending Chapter 21 and to waive the second and third reading, Fleming seconded and upon roll call the vote was unanimous ayes.

First reading of Ordinance No. 256 is as follows:

AN ORDINANCE AMENDING CHAPTER 45 (ALCOHOL CONSUMPTION AND INTOXICATION) AND CHAPTER 47 (PARK REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WELLMAN, IOWA

WHEREAS, the City Council has determined it is necessary to amend Chapter 45 (Alcohol Consumption and Intoxication) and Chapter 47 (Park Regulations) of the Code of Ordinances of the City of Wellman, Iowa (the "City") to amend the requirements and regulations applicable to alcohol consumption in public parks so as to allow for such consumption under narrow and very limited circumstances and at limited times to be designated by the City in connection with a City-sponsored or City-approved event hosted in a City park.

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

SECTION 1. PURPOSE. The City Council has determined that it is appropriate to amend the City Code so as to allow for consumption of alcohol in public parks pursuant to City-issued permits for limited periods of time during specified events and under the supervision of local law enforcement personnel.

The City has made this determination after weighing the interests at stake and has concluded that the public safety and general welfare will not be harmed by adoption of the following City Code provisions.

SECTION 2. SECTIONS ADDED & AMENDED. Certain sections and/or subsections of Chapter 45 (Alcohol Consumption and Intoxication) and Chapter 47 (Park Regulations), are added or amended as follows, with underlined text denoting language newly added provisions or language and strikethrough text denoting language to be removed:

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.
 - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
 - D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except licensed or leased premises covered by a liquor control license and valid City-issued permit as described in and required by Chapter 47 of this Code of Ordinances. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.
3. A person shall not simulate intoxication in a public place.
4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.04 ALLOWED AREAS OF CONSUMPTION.

No licensee shall allow or permit patrons’ consumption of beer, wine, spirits or other alcoholic beverages in any area outside of the interior of a licensed premises or outside of a licensed outdoor service area unless the licensee has applied for and been granted a permit pursuant to Chapter 47 of this Code of Ordinances.

CHAPTER 47
PARK REGULATIONS

47.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities, including the consumption of alcohol in public parks pursuant to the rules, regulations and permitting requirements set forth in this chapter.

(Code of Iowa, Sec. 364.12)

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park after 11:00 p.m. daily, unless a City-authorized event held in a City Park extends beyond 11:00 p.m. pursuant to any permits issued by the City. However, under no circumstances shall an event authorized by the City pursuant to a permit issued under this chapter or other provision of this Code of Ordinances extend beyond 12:00 a.m. Picnic and restroom facilities of Wellman City Park are closed from October 15 through April 15 each year.

47.07 PROHIBITION OF ALCOHOLIC BEVERAGES DURING CERTAIN HOURS. The possession, use and consumption of alcoholic beverages, including beer and wine, is hereby prohibited in all city parks and on all city-owned property in the city between the hours of 10:00 p.m. and 12:00 p.m., except on licensed and leased premises as set forth in § 47.09 of this chapter.

47.08 BEER CONTAINER SIZE RESTRICTION; SALE PROHIBITED. No person shall possess beer in containers larger than thirty-two (32) ounces in any park or on any park property. The sale of beer in any park or on any park property is prohibited unless a permit is first granted by the City pursuant to the requirements of this Chapter.

47.09 EXCEPTION FOR LICENSED AND LEASED PREMISES.

1. The prohibition of the possession, use and consumption of alcoholic beverages, including beer and wine, does not apply to park premises or any other city property leased by the city to others where the lessee of the premises has in full force and effect a license or permit from the state for the sale of alcoholic beverages, including beer and wine, and the use and consumption is confined to the licensed and leased premises. Further, to qualify for this exception, the individual or entity must also have in full force and effect a valid permit issued by the City pursuant to § 47.10 of this chapter.

47.10 ALCOHOL SALES IN CITY PARKS IN CONJUNCTION WITH CITY-SPONSORED OR CITY-HOSTED EVENTS.

1. Approval by Resolution at City Discretion. Any individual or entity may be approved to sell alcohol in a City Park in conjunction with a City-approved or City-sponsored event being held in said Park. Such approval shall be by granted at the discretion of the City and the approved individual or entity shall be so approved by resolution of the City Council.
2. Requirements for Approval. To be approved pursuant to this section, an individual or entity must hold all appropriate licenses issued by the State of Iowa Alcoholic Beverages Division (“ABD”) and must provide, at minimum, the following:
 - A. proof of all appropriate licensure from the Iowa ABD;
 - B. proof of the transfer of such license to the covered premises applicable to the City-sponsored or City-hosted event;
 - C. a copy of the Iowa ABD “Class II Letter of Exemption” for allowing persons under 21 in licensed premises with a required monitoring plan; and

- D. proof of insurance coverage applicable to the license held by the licensee and to the premises on which sales are to be made during the City-sponsored or City-hosted event.

47.11 ALCOHOL CONSUMPTION IN CITY PARKS DURING CITY-SPONSORED OR CITY-AUTHORIZED EVENTS. Where the City operates or hosts an approved event in a City park, the City may authorize the consumption of alcohol in the City park or specific areas of the City park during specifically designated hours during the event. Patrons of such events may bring their own alcoholic beverage for consumption during such events. Nothing in this section shall be construed so as to limit the ability and authority of law enforcement personnel to enforce laws related to underage alcohol consumption, public intoxication or any other criminal statute or City Code provision. Any person who attends an event where personally-provided alcohol is permitted and who consumes alcohol on City property during such event, does so at their own risk and shall hold the City harmless from any liability stemming from their consumption of alcohol or from the consumption of alcohol by others attending the event.

47.99 PENALTY. Any person in violation of this chapter shall have committed a municipal infraction, and upon conviction, shall be subject to the penalties set forth in Chapter 3 of this Code of Ordinances. A municipal infraction action initiated by the City under this section shall be in addition to any criminal or administrative actions or penalties provided for by Iowa law.

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.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective after its passage and publication as required by law.

McCain made a motion to approve first reading of Ordinance No. 256 – Amending Chapter 45 & 47 – Alcohol in the Parks and to waive the second and third reading, seconded by Philpot and upon roll call the vote was unanimous ayes.

Resolution No. 20-17 A Resolution to adopt Truck Route was introduced and caused to be read. Evans moved to approve Resolution No. 20-17, seconded by Stutzman and upon roll call the vote was unanimous ayes.

Discussion was had on Tree Replacement Project. Litwiller explained the project that Rotary is working on for replacing trees along 8th Ave and in the parks. She drove along 8th Ave. and looked at the properties and questions whether the owners will be able to replant in their own yards. She questioned whether Council would like to see if there can be some changes in the Code to allow residents to replant in the ROW but would make them responsible for the trees. Litwiller will get with the attorney to see if these changes can be done and bring back to the table.

Discussion and action on large water use 600 4th Street – Baptist Church was had. Litwiller explained that last month there must've been a toilet that was left running for almost a week in the church. She was approached by the church to see if council could do anything about their bill. Philpot made a motion to not adjust bill, but to allow church to be set up on a payment agreement if needed, Evans seconded and upon roll call the vote was all ayes.

With no further business Philpot moved to adjournment at 6:16pm, McCain seconded and all vote aye. The next Council Meeting will be held Monday, May 4, 2020 at 5:30pm via Zoom Meeting. **To join the meeting, Log on information: Meeting ID: 93812672663, Password: 844746.**

Minutes transcribed by the City Clerk subject to Council Approval.