

MINUTES OF THE BOARD OF CITY COMMISSIONERS  
HELD MARCH 4, 2013

The regular meeting of the Devils Lake City Commission was held Monday, March 4, 2013 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler, Craig Stromme, Rick Morse, and Dale Robbins. None were absent.

Commissioner Morse moved to approve the minutes of the regular City Commission meeting held February 19, 2013. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

**5:30 P.M.** – This was the time set for a public hearing to review a change in zoning from central area commercial to residential low density for Lots 1-12, Block 30, OT. The zoning change was requested due to the changes in federal regulations pertaining to the underwriting of residential loans. Hearing and receiving no comments, President Johnson closed the public meeting.

Commissioner Robbins moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve a change in zoning from central area commercial to residential low density for Lots 1-12, Block 30, OT and submitted by Allan Freidig. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

**5:30 P.M.** – This was the time set for a public hearing to review a conditional use permit for the construction of a cabin in an area zoned as highway commercial (Lot 1, Peterson's 2<sup>nd</sup> Subdivision). Hearing and receiving no comments, President Johnson closed the public meeting.

Commissioner Robbins moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve a conditional use permit to construct a cabin in a campground located in an area zoned as highway commercial (Lot 1, Peterson's 2<sup>nd</sup> Subdivision) and submitted by Roger Windjue. The motion was seconded by Commissioner Morse. Discussion followed on the elevation being above 1460 msl, and the area being located in the two-mile extra-territorial zone. The motion carried unanimously.

**5:30 P.M.** – This was the time set for a public hearing to review a change in zoning from agricultural to residential rural suburban for a parcel of land located adjacent to the north boundary of Quiet Acres Subdivision, Section 16, T153N, R64W. Hearing and receiving no comments, President Johnson closed the public meeting.

Commissioner Heisler moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve a change in zoning from agricultural to residential rural suburban for a parcel of land located adjacent to the north boundary of Quiet Acres Subdivision, Section 16, T153N, R64W and submitted by Arlen Peterson. The motion was seconded by Commissioner Morse. Discussion followed on the elevation of the area with some above and some below 1460 msl, but all of the area is protected by the embankment. The motion carried unanimously.

Dale Potter, appeared before the City Commission to discuss gun control laws. The North Dakota legislation passed bills on Feb 21st and 22<sup>nd</sup> indicating that the gun control laws after January 1, 2013 that the federal government passed will not be accepted or acknowledged by North Dakota. Any local government that facilitates the federal government with these laws will be punished. The federal bill has been opposed across the country. There has been no local movement here to show support for defending the constitution and not enforcing the federal law. Mr. Potter talked about what other states are doing in regards to the new federal law.

**Commissioner Robbins** – The Public Ways Supervisor said everything was fine at the cemetery.

The Public Utilities Supervisor stated there was a service line leak by the old Elks building.

**Commissioner Morse** – The Public Ways Supervisor reported the Street Department will be moving snow downtown tonight. In the residential areas, snow gates will be used, but they won't help much because of the amount of snow received. The bobcats are used only when streets are widened.

The Public Utilities Supervisor said everything was fine in the Sewer Department.

**Commissioner Heisler** – The City Engineer said everything was fine.

The City Assessor reviewed the agreement to purchase real estate for the Airport Reach of the embankment project. The agreement has been approved for LEERD credit.

Commissioner Heisler moved to approve the agreement to purchase real estate referred to as Outlot 44-0004, from Dakota Davis Family Limited Liability Partnership for Phase 3 – Airport Reach of the embankment project in the amount of \$4,800 as recommended by the City Assessor. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Assessor indicated Zieglers will not be moving the house from the property the City purchased due to unknown costs and the distance to move. The City Assessor requested the house be declared surplus for moving or salvage. If no bids are received, bids for demolition would then be needed.

Commissioner Heisler moved to declare surplus the house at 417 6<sup>th</sup> St NE, and authorize the call for bids to have the house moved or salvaged. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

**Commissioner Stromme** – The Police Chief said everything was fine.

The Sanitation Supervisor said everything was fine.

**President Johnson** - The City Auditor stated everything was fine.

The City Administrator stated a meeting will be held at noon tomorrow to discuss NDPERS and reclassifications.

The Fire Chief said the animal committee met last week. An ordinance should be forthcoming in April.

The City Attorney said he had conversations with the appraisers for the embankment project. He has received detailed time information. He will meet with the City Assessor to review.

The City Attorney indicated the liquor ordinance committee has been meeting. Some revisions to the ordinances will be made before bringing it back to the Commission.

The snow policy for the residential area was discussed. During the first cleaning trip, the plows will go around the vehicles. The next time, the Police Department is contacted and the vehicles are ticketed with a notice to remove within 72 hours. If the vehicle is not removed, it is towed.

Also discussed was the availability of assistance for snow removal from the curblin for individuals who qualify under the Homestead Credit Act.

The second reading of Ordinance No. 908 – Otter Tail Power Franchise was held. Discussion followed on the term being for twenty years with no franchise fee being charged. The ordinance allows for a franchise fee to be charged which the City could do at anytime by adding it to its rates and fees. The franchise allows Otter Tail Power to operate within the City.

Commissioner Robbins moved to approve the second and final reading of Ordinance No. 908 – Otter Tail Power Franchise – An ordinance which upon adoption, shall amend Ordinance No. 776, and will be codified in Chapter 13.40 of the Devils Lake Municipal Code. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve the consent agenda which included the following:

1. Game of chance permits for the month of February 2013;
2. Permit to sell alcoholic beverages at special event submitted by Proz Inc for the Pheasants Forever annual banquet to be held March 18, 2013 at the Memorial Building; and
3. Authorizing the call for bids for self contained breathing apparatus for the Fire Department with bids to be opened on Monday, March 18, 2013 at 5:30 P.M. at the City Office as recommended by the Fire Chief.

The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Attorney reviewed the access utility easement and dedication agreement for Central Midwest Hospitality Devil's Lake, LLC. The access easement allows access to the Holiday Inn Express. Their driveway is on city property, and there has not been an easement. The dedication agreement allows dedication of utilities on city property that service the Holiday Inn Express. The lender had requested a written documentation stating that the utilities are there, and the City

will continue to provide utilities to the Holiday Inn Express. Some minor grammatical and description changes will be made to the agreements.

Commissioner Stromme moved to approve the access easement for Central Midwest Hospitality Devil's Lake LLC contingent upon final review by the City Attorney. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Morse moved to approve the dedication agreement for Central Midwest Hospitality Devil's Lake LLC contingent upon final review by the City Attorney. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Chris Schilken, Executive Director of Forward Devils Lake, appeared before the City Commission to request funds for two projects.

Chris Schilken discussed the multi family housing incentive for AGP Enterprises, LLC. These funds are for the flex pace interest buy-down which was approved earlier. The property is located south of Mac's and is owned by Dennis Gleason and James Andrews. The local share is \$98,382.81, and the Bank of North Dakota share is \$182,710.94. The yearly payment option was chosen so the first installment would be \$11,156.25. The buy-down allows the project to receive a lower interest rate. The Bank of North Dakota loan is paid first over fifteen years, and then the borrowers repay the Growth Fund over five years with no interest. A second mortgage and guarantees are filed.

Commissioner Robbins moved to approve the multi family housing incentive for AGP Enterprises, LLC in the amount of \$98,382.81 with the payment of the first yearly installment of \$11,156.25 as recommended by Forward Devils Lake. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

Chris Schilken discussed funding a request for an ICON Convention and Event Center Study. The study would cost \$25,000 with Forward Devils Lake and Tourism splitting the cost. The study will provide information on what kind of convention center is needed, what it needs in it, what it looks like, how much it will cost to build, how much it will cost to operate, what other facilities may be attached to it, who operates it and any long-term liabilities the City could incur.

Commissioner Heisler moved to approve funding the ICON Convention and Event Center Study in the amount of \$12,500 as recommended by Forward Devils Lake. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Robbins moved to approve payment of the list of bills as submitted. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

President Johnson acknowledged the following reports:

1. 2012 Year End Financials; and
2. 2012 Fire Department Year End Report.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:25 P.M.

**LINDA LYBECK**  
**CITY AUDITOR**

**RICHARD S. JOHNSON**  
**PRESIDENT**