

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD JUNE 3, 2013

The regular meeting of the Devils Lake City Commission was held Monday, June 3, 2013 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler, Craig Stromme, and Dale Robbins. Commissioner Rick Morse was absent.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held May 20, 2013 and of the Board of Equalization and special City Commission meetings held May 22, 2013. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

5:30 P.M. - This was the time set for the bid opening for the city owned house at 417 6th St NE. No bids were received. Discussion followed on requesting proposals for demolition of the house.

5:30 P.M. – This was the time set for a public hearing to review a conditional use permit to place an above ground fuel tank at 316 6th St SE (ND Department of Transportation). Hearing and receiving no comments, President Johnson closed the public meeting.

Commissioner Stromme moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve a conditional use permit to install a 10,000 gallon above ground fuel tank at the Department of Transportation shop at 316 6th St SE. 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 changes in zoning from central area commercial to residential low density for those properties impacted by the commercial zoning. The location of the area and the reason to change the area were discussed. 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 changing the zoning from central area commercial to residential low density for residential homes on the outskirts of the downtown area impacted by commercial zoning and submitted by Al Freidig. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Chris Schilken, Executive Director of Forward Devils Lake, appeared before the City Commission to request extending the multi-family housing program. The current dollars have been allocated so additional funds will be needed. The local share has been decreased to \$50,000 for three projects. The number of units has been increased from four to six. The money will be reimbursed to Forward Devils Lake after the original loan is repaid. A more formal application has been created, and time frames have been added for when construction has to start. Approximately forty units have been created with the last allocation of funds. The Bank of North Dakota will contribute \$100,000 for each project which is not paid back.

Commissioner Heisler moved to approve extending the multi-family housing program by adding \$150,000 through Forward Devils Lake. The motion was seconded by Commissioner Stromme. The program was changed to allow the same developer to apply for more than one project, but Forward Devils Lake reserves the right to change the guidelines. The motion carried unanimously.

Becky Person appeared before the City Commission to discuss the situation with a neighbor accumulating garbage in his yard. When the nuisance officer talks with him, he cleans it up for a while, and then it starts over again. Discussion followed on the new ordinance allowing court action. The City Attorney will send a letter as it relates to the new ordinance.

Commissioner Morse arrived at 5:45 P.M.

Jessica Gilliam appeared before the City Commission to discuss the following:

1. City employees not being very civil to the residents;
2. Anhydrous tanks – Tanks can drive through town; however, they can't be stored within city limits.
3. Roundhouse Subdivision – She inquired about how far down the soil in the area was tested for diesel. It was noted that the State did the testing. She is concerned about the water running down into her area. The environmental report and the street plans will be provided to her.

Danita Paulson appeared before the City Commission to represent her son who is out of town working. During the special pickup the Sanitation Department took everything lined up against his fence. The items took were twelve feet from the alley and had been there for years. The items took included a bumper, running boards, engine and transmission for his vehicle.

The Sanitation Supervisor stated they typically pick up items within fifteen feet of the alley. People move the piles from year to year.

Consensus of the Commission was to have her submit documentation for the items including a list of items taken, receipts for the items and quotes as to the value of the items. Upon the City receiving this information, a claim will be filed with the insurance company.

Commissioner Robbins – The Public Utilities Supervisor stated everything was fine in the Water Department.

The Public Ways Supervisor discussed mosquito control. He is asking the media to help notify the public that any standing water should be removed. The department will be larviciding as soon as it warms up.

Commissioner Morse – The Public Ways Supervisor reported Tri-State will be here next week.

The Public Utilities Supervisor said water is being discharged out of Davis Flats and the lagoon ponds.

Commissioner Heisler –The City Engineer said work on College Dr and Hwy 19 will begin as soon as the weather is good. Next Monday or Tuesday the plan is to start the slurry seal on Hwy 19. Hwy 19 will be closed for a short time, and access to College Dr will be disrupted. The project should take three days.

The City Engineer stated on Wednesday representatives from the Corps of Engineers will be here to discuss drainage issues and remaining items to be under contract.

The City Engineer presented a request from the VFW to locate a flag pole on city owned property next to the soldier statue.

Commissioner Heisler moved to allow a flag pole to be placed on city property by the VFW as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Assessor said everything was fine.

Commissioner Stromme – The Sanitation Supervisor said everything was fine. How to avoid mistakes during the special pickups was discussed.

The Police Chief said everything was fine.

President Johnson - The City Auditor stated the State Auditors were here last week, and the written report isn't expected until August.

The City Administrator reviewed a change for a city employee. Based on the market, the city's pay schedule is way below the average for the city engineer position. The City Administrator is recommending adding Grades 21 and 22 and moving the city engineer to a Grade 22 and adjusting his salary to be more competitive.

Commissioner Heisler moved to approve the classification and compensation plan review which adds Grades 21 and 22 and moves the city engineer position to a Grade 22 effective June 1, 2013. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The Fire Chief stated \$4,800 was raised for MDA. The volunteer firefighters will contribute to bring it to \$5,000.

The Fire Chief requested out-of-state travel for one full-time employee and one volunteer to attend command and incident training in Emmitsburg, Maryland from June 22, 2013 through July 2, 2013. Expenses will be paid by the volunteers and the training program.

Commissioner Robbins moved to approve out-of-state travel for one full-time and one volunteer to attend command and incident training in Emmitsburg, Maryland from June 22, 2013 through July 2, 2013. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The Fire Chief will be attending the Fire Chiefs meeting in Fargo on Thursday.

The City Attorney said everything was fine.

Commissioner Morse inquired if the State was going to look more at the west viaduct. The City Engineer stated they are working through engineering aspects. If a temporary bridge for the tracks is needed, it would cost \$3-\$4 million for the temporary structure. Bid opening is scheduled for December 2015 with construction in 2016. The preliminary estimate was \$20 million, but is at \$15 million right now. City commitment is expected at 10%, but the City had stated they could only commit \$200,000. Discussion followed on the life expectancy of the bridge not holding up. It should have lasted for 75 years; but it lasted about 25 years. The concrete is deteriorating, but it is regularly monitored for safety.

Commissioner Stromme moved to award the bid for the 2013 Curb, Gutter & Sidewalk to Tri-State Paving & Concrete Inc in the amount of \$136,463.00 as recommended by the City Engineer. The motion was seconded by Commissioner Heisler. Discussion followed on the dual bid award last year because the primary contractor was unsure if he could complete the work. Also discussed was the lateness of opening and awarding the bid, preliminary work completed, and the time frame the bid is good for. The motion carried unanimously.

Commissioner Robbins moved to accept the bid from Soper Construction for screened sand at \$10.80, Class 13 gravel at \$12.80 and placement of gravel at \$1.00 and to accept the bid from Close Construction for lagoon rip rap at \$32.50 as recommended by the Public Ways Supervisor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Robbins moved to approve the following consent agenda with the exception of removing per the Devils Lake Rural Fire Department the site authorizations for Devils Lake Elks Lodge – 425 Hwy 2 W and Felix's Restaurant & Lounge – 215 Hwy 2 W:

1. Game of chance permits for the month of May 2013;
2. Three gaming site authorizations submitted by the Devil Lake Rural Fire Department, Inc for July 1, 2013 through June 30, 2014 at the following locations: Great American Inn & Suites – 1116 Hwy 2 E; Nite Owl Lounge – 425 Hwy 2 W; and Pop's Package Store – Hwy 2 E;
3. Gaming site authorization submitted by Neathery Simensen Post #756 VFW of the US for July 1, 2013 through June 30, 2014 at the VFW Club – 314 3rd Ave NE;
4. Permit to sell alcoholic beverages at a special event submitted by Ye Olde Tavern for the wedding dance of Robyn and Brady Rigger to be held August 17, 2013 at the Memorial Building;
5. Permit to sell alcoholic beverages at a special event submitted by Ye Olde Tavern for the wedding dance of Jared Estenson and Dayna Flaten to be held August 31, 2013 at the Memorial Building;
6. Permit to sell alcoholic beverages at a special event submitted by Ye Olde Tavern for the wedding dance of Heather Schiele and Jared Johnson to be held September 7, 2013 at the Memorial Building;
7. Appointment of Rodger Haugen as a member of the Devils Lake Planning Commission for a five-year term expiring on June 30, 2018; and
8. Reappointment of Paula Bourcy, Kevin Davidson and Deb Follman as members of the Devils Lake Shade Tree Committee for three-year terms expiring on June 30, 2015.

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

The City Engineer reviewed the application from Otter Tail Power Company (OTP) to fill a portion of the east ditch ponding area the City has as part of the 100 year flood plain for the embankment. OTP is submitting the application on behalf of the City and the Corps of Engineers since the substation will be used to power the pump station. The City will be paying for the fill.

Commissioner Stromme moved to conditionally approve the application submitted by Otter Tail Power Company to fill a portion of the east ditch ponding area contingent upon the fill and drainage being approved by the Corps of Engineers as recommended by the City Engineer. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer reviewed the farm lease for city-owned land needed for the embankment. The farm lease addresses access to the dams and the safety of the dams. According to the purchase agreement, the former property owner is allowed

to remove fill from Parcel C and sell it as long as the fill is removed in such a fashion to keep the elevation high enough and keep the slope flat enough so it does not impact our flood protection. At this time, the former owner is interested in farming it and not removing the fill.

Commissioner Stromme moved to approve a farm lease with Neal and Roberta Ackerman for 45 tillable acres near Ackerman Acres for \$60/acre in 2013, 2014 and 2015 and for \$65/acre for 2016 and 2017 as recommended by the City Engineer. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the request from James and Louise Schiele to purchase a lot in the Roundhouse Subdivision.

Commissioner Heisler moved to approve the sale of Lot 2, Block 11, Roundhouse Subdivision to James and Louise Schiele for \$2,000 plus the outstanding special assessment principal balance of \$1,603.76 as recommended by the City Assessor. The motion was seconded by Commissioner Morse. The lot size and location of the lot were discussed. The motion carried unanimously.

The City Assessor reviewed the request from Terry and Teresa Linde to purchase lots in the Roundhouse Subdivision.

Commissioner Robbins moved to approve the sale of Lot 7 and the W 20 feet of Lot 8, Block 7, Roundhouse Subdivision for \$3,500 plus the outstanding special assessment principal balance of \$2,126.74 to Terry and Teresa Linde as recommended by the City Assessor. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Assessor reviewed the request from Sheldon Vincent to purchase lots in the Roundhouse Subdivision.

Commissioner Morse moved to approve the sale of the E 40 feet of Lot 10 and all of Lot 11, Block 7, Roundhouse Subdivision for \$3,500 plus the outstanding special assessment principal balance of \$2,135.21 to Sheldon Vincent as recommended by the City Assessor. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Engineer reviewed the permit with ND Department of Transportation for installing a pipe through Highway 19 for the embankment project. The project will be completed through the Corps of Engineers' contract.

Commissioner Heisler moved to approve the permit with ND Department of Transportation for installing a pipe through Highway 19 to convey seepage from behind the levee as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Morse moved to approve the resolution creating Street Improvement District No 47-13 (16th St SE) and ordering the preparation of a preliminary report as recommended by the City Engineer. The motion was seconded by Commissioner Stromme. The location of the district was discussed. The request is from the adjoining property owners to tie the area together. The motion carried unanimously.

The City Auditor stated the signatures on the excusweep accounts need to be updated.

Commissioner Morse left the meeting at 6:48 P.M.

Commissioner Heisler moved to approve updating the signatures on repurchase account 8625988 and repurchase account 8626315 to the City Administrator and City Auditor as recommended by the City Auditor. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

John Dahlen appeared before the City Commission to request financing for his development project. He proposes to add on to Highland Park. There would be twelve multi-family lots and 9 single family lots. The project would include looping water and sewer back and partial pavement of Lincoln Ave. Some of the lots have been spoken for. Participation from the City for previous tax increment financing (TIF) projects was 25%. He is requesting 15% city participation and extension of the TIF district.

The City Administrator reviewed the TIF calculations assuming a project cost of \$650,000. Tax values for four duplexes and three houses were estimated. Some houses are yet to be determined. The developer is also working with someone to build six rental units.

Commissioner Morse returned to the meeting at 6:52 P.M.

Property values were estimated over the life of the bond, and three scenarios were developed based on possible city participation. The bond payment shown shows a negative cash flow in the beginning, but the project does cash flow over the term of the bond. The TIF bond payments could be setup to start lower and increase over the life of the bond. Discussion followed on the difference between special assessment and TIF districts. TIF districts could be short of funds if the development doesn't happen or if development is delayed. Discussion continued on the estimate for the improvements being based on the last project unit prices.

John Dahlen stated if the city does not participate in the project at 15%, he will not be going forward with the project. He is not going to have the plat redrawn until he has a commitment from the city.

Also discussed was how the short fall is made up – normally the shortage is special assessed back to the property.

Jay Klemetsrud stated he would like to participate with John Dahlen in the project since there is a large housing shortage in Devils Lake.

As a concession for the project, John Dahlen has agreed to plan the rest of Lincoln Ave which would add seven more lots. Water and sewer would be completed this summer. Paving would be completed only where lots were developed. This would leave 400 feet of Lincoln Ave unpaved, but the lots would have water and sewer.

A revised preliminary plat needs to be done, and then a final plat would be presented to the Planning Commission for approval. Public hearings are part of the final plat approval.

Other items discussed included the following:

1. Other development projects in the works and how they will be funded.
2. What other cities do for TIF projects. Cities are not using TIF districts for residential areas anymore, and he doesn't know of anyone who has ever cost shared in TIF district improvements.
3. How the improvement for 22nd Street was funded. It was 60% TIF, 15% assessed, and 25% city share.
4. Cost of snow removal and other city costs which average \$4,000/year;
5. Drainage and wetland boundaries in that area;
6. How the negative cash flow for the bond payment would be handled. The bond repayment schedule could be adjusted to have a smaller payment at the beginning. If the payments are still short then the shortage would be special assessed to the property owners; and
7. Creating a development agreement to address developing and financing issues.

Commissioner Stromme moved to extend the TIF district with 15% City share contingent upon a development agreement being signed and approval of the final plat for Highland Park 1st Addition. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

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

Everett Rance inquired about the city owned house. He had looked at the house, but did not have time to get a bid together. He is still interested in moving the house. Consensus of the City Commission was to give him until the next meeting, June 17th to submit a bid for the house.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 7:45 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT