

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD JULY 1, 2013

The regular meeting of the Devils Lake City Commission was held Monday, July 1, 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 Stromme moved to approve the minutes of the regular City Commission meeting held June 17, 2013 and of the special City Commission meeting held June 25, 2013. 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 the final plat for Eagle Bend Estates 13th Subdivision. 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 the final plat for Eagle Bend Estates 13th Subdivision. 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 the final plat for Highland Park 1st Addition (Lincoln Ave N). Wade Schwan requested the zoning be reviewed. Since he purchased and developed the Stone Ridge property, John Dahlen has replatted Highland. He has concerns about the size of the one lot which based on size could be zoned for three structures. He is concerned about the traffic on Granite St which goes through Stone Ridge. He would like to see this lot limited to one structure. The Planning Commission discussed putting a restriction on the deed for this lot. The development agreement could contain the language, and the agreement should be recorded so there is public notice. Discussion followed on restricting one structure per lot and/or one level. Hearing and receiving no other comments, President Johnson closed the public meeting.

Commissioner Robbins moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve the final plat for Highland Park 1st Addition contingent upon approval of the development agreement for Highland Park 1st Addition. The motion was seconded by Commissioner Morse. It was questioned if the development agreement could mitigate the plat. The development agreement addresses the possibility of splitting a lot and which lots are for multi-family. The City Assessor explained how the number of units is determined for the size of a lot and what medium and high density zoning allow. Other restrictions would need to be addressed in the deed or agreement. John Dahlen discussed his conversation with the buyer. He told the one partner that the deed would be restricted to a single story structures. John Dahlen is not prepared to restrict the number of units. The motion carried unanimously.

5:30 P.M. – This was the time set for a public hearing to review the final plat for K&K Estates Subdivision (15th St SE). The City Engineer has talked with the developer and he would recommend tabling the development agreement. The plat could be approved contingent upon the development agreement being finalized and approved. 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 the final plat for K&K Estates Subdivision contingent upon approval of the development agreement for K&K Estates. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

5:30 P.M. – This was the time set for a public hearing to review a conditional use permit to construct a crematory at the Industrial Park. Hearing and receiving no other 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 construct a crematory at the Industrial Park and submitted by EAE Enterprises LLC. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Stromme – The Sanitation Supervisor said everything was fine.

The Police Chief said everything was fine.

Commissioner Heisler – The City Engineer stated the engineers for the west viaduct will be in attendance at the July 15th meeting to present information on the project.

The City Engineer said the storm sewer work on the east viaduct is complete. Most of the curb and gutter is complete. The project is waiting on castings for the underground cleanouts. Then asphalt will be placed on the roadway to smooth it out. The area will have to be closed one more time to finish the work.

The City Assessor said an ingress and egress easement is being requested by Otter Tail Power for the new substation. An access road is needed.

The City Attorney recommended the agreement contain language for Otter Tail Power to build and maintain the road with the City having no responsibility.

Commissioner Heisler moved to approve the ingress and egress easement with Otter Tail Power Company contingent upon the agreement stipulating Otter Tail Power Company is to build and maintain the road with the City having no responsibility. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Assessor reviewed the request from Sandra Shively to purchase lots in the Roundhouse Subdivision to move a house in.

Commissioner Robbins moved to approve the sale of Lot 11 and 20' of Lot 12, Block 10, Roundhouse Subdivision to Sandra Shively for \$3,500 plus the outstanding special assessment principal balance of \$1,665.31 as recommended by the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the status of the land acquisition for the embankment project. Phase I started in October 2009 which changed the embankment from eight miles to twelve miles. There have been 70 property owners and 135 parcels. Condemnations have been filed for five properties. Three more properties are still being worked on, but the City has right of entries for these properties. The properties have been appraised and negotiated. Letters will be sent to make final offers; otherwise, the City will proceed with condemnation. A few agreements for exchange of properties are needed.

Commissioner Morse – The Public Ways Supervisor reported the downtown painting will be done tomorrow. A contractor will be coming into Devils Lake to do 50,000 painting feet.

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

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

The Public Ways Supervisor said the aerial spraying will take place tomorrow night.

President Johnson - The City Auditor stated everything was fine.

The City Administrator said everything was fine.

The Fire Chief requested out-of-state travel for four firemen to spec the new truck in Brandon, SD.

Commissioner Robbins moved to approve out-of-state travel for two Fire Department employees and two volunteers to Brandon, SD on July 22 and 23 to spec the new truck. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Attorney said everything was fine.

The development agreement for Highland Park 1st Addition was reviewed. Discussion followed on the number of units possible for the lot and on restricting the number of levels, but the developer is not interested in restricting the number of structures for the lot. The City Assessor reviewed how the setbacks would restrict the number of the units.

Commissioner Robbins moved to approve the development agreement with John and Kimberly Dahlen for Highland Park 1st Addition with the addition of a provision to limit all the multi-family lots to one level structures. The motion was seconded by Commissioner Stromme. Discussion followed on the agreement to pave the entire road, the 16% for administration/legal/engineering and the 15% city cost share. The City Engineer stated the language in paragraph 17 should be changed to Dahlen's request the City to pave the street. Paragraph 14 for building permits was reviewed. The motion carried unanimously.

Commissioner Heisler moved to table the development agreement with Michael Keith Kurtz and Douglas Kurtz for K&K Estates. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The second development agreement for Agassiz Properties LLLP was reviewed. The developer wanted to have the ability to review the bids prior to them being accepted. He plans fourteen more duplexes. Water and sewer are planned for this fall with the street being completed next year. The project cash flows even with a project increase.

Commissioner Stromme moved to approve the second development agreement with Richard Lafleur for Agassiz Properties LLLP. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Attorney reviewed Ordinance No. 914-Franchise Required. The effective date of the ordinance should be changed to effective immediately. Ordinances are effective when passed; unless there are penalties then they are effective when published.

Commissioner Robbins moved to amend the effective date for Ordinance No. 914-Franchise Required from August 1, 2013 to July 2, 2013. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Administrator reviewed his analysis for the additional authorized position for the Fire Department. One position was eliminated previously to pay for the truck. Discussion followed on the amount of funds the volunteers have used to purchase equipment for the Fire Department, on if the City would be expected to provide more ARFF services in the future, on how ARFF services are paid for, on fees the airport charges for services, on the cost for the position including benefits being approximately \$50,000, on requests from other departments for additional personnel, on how to handle the inspections if the additional position is not approved, on the job duties for this position and on how the job duties for the department overall would be distributed.

Commissioner Morse moved to approve one additional authorized position for the Fire Department starting August 1, 2013. The motion was seconded by Commissioner Stromme. Discussion followed on receiving reports on the inspections and follow up issues and the shifting of hours. The most frequent calls received are for extrication. On roll call Commissioners Heisler, Stromme, Morse and President Johnson voted aye. Commissioner Robbins voted nay. The motion carried.

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

1. Game of chance permits for the month of June 2013; and
2. Authorizing the City Auditor to cancel Check No 103490 dated June 18, 2013 in the amount of \$7,261.00 payable to Forward DL Development Corporation (Economic Development – Nondepartmental- FDL Administration). The check was lost and will be reissued.

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

Commissioner Heisler moved to approve payment of Estimate No. 1 to Tri State Paving for 2013 Curb, Gutter & Sidewalk in the amount of \$9,793.90 as recommended by the City Engineer. The motion was seconded by Commissioner Stromme. On roll call all Commissioners voted aye, and the motion carried.

The City Engineer reviewed the agreement with ND Department of Transportation to enter and do work on the highway right-of-way for the Wal-Mart project. The agreement is required by DOT to allow someone to enter on the right away to do work. Multiple parties will be doing the work, but DOT wanted to assign the agreement to the City. The City will in turn pass the responsibility onto Wal-Mart.

The City Engineer stated the deed for the land transfer has been received; therefore, the annexation and zoning can be completed. He will be meeting with Comstock on erosion control for the storm water.

Commissioner Morse moved to approve the agreement with ND Department of Transportation to enter and do work on the highway right-of-way for the Wal-Mart project as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve funding for the third quarter of 2013 for the Lake Region Heritage Center in the amount of \$4,500.00 to be paid from the general fund (1000-000-55170). The motion was seconded by Commissioner Heisler. On roll call all Commissioners voted aye, and the motion carried.

The City Assessor reviewed the request from Jerry and Linda Schmidt to purchase lots in the Roundhouse Subdivision.

Commissioner Robbins moved to approve the sale of Lots 3 and 4, Block 6, Roundhouse Subdivision to Jerry and Linda Schmidt for \$4,500 plus the outstanding special assessment principal balance of \$2,344.03 as recommended by the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the request from Les Blada to purchase 15 feet of a lot adjacent to his house in the Roundhouse Subdivision for installation of a fence. His house is located at the end of the road and at the end of water and sewer for the area. A large block of concrete was located underground when he was building his house so he moved the house further west than he had wanted.

Commissioner Heisler moved to approve the sale of 15' of Lot 4, Block 7, Roundhouse Subdivision for \$500.00 plus the outstanding special assessment principal balance of \$319.63 to Les Blada as recommended by the City Assessor. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Chris Schilken, Executive Director of Forward Devils Lake appeared before the Commission to request reimbursement for the industrial park study, the first-half of the 2013 funding and mini-grants. Discussion followed on the industrial park study being approved, having the site layout and having the projected infrastructure mapped. Also discussed was the mini grant reimbursement for the downstream coordinator. The contract for the downstream coordinator runs through December 2013 and will be reevaluated then.

Commissioner Stromme moved to approve payment to Forward Devils Lake Development Corporation for the AE2S Industrial Park Study in the amount of \$28,700, for the first ½ of 2013 funding in the amount of \$17,280 and for reimbursement of the mini grant fund in the amount of \$9,125.56. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

The City Administrator reviewed the resolution for the bond issue.

Commissioner Stromme moved to approve the resolution approving the issuance of refunding improvement bonds, series 2013A. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Stromme 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 report:
2013 2nd Quarter Economic Data.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 7:00 P.M.

**LINDA LYBECK
CITY AUDITOR**

**RICHARD S. JOHNSON
PRESIDENT**