

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD AUGUST 19, 2013

The regular meeting of the Devils Lake City Commission was held Monday, August 19, 2013 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler, Craig Stromme, and Rick Morse. Commissioner Dale Robbins was absent.

Pledge of allegiance was recited.

Commissioner Morse moved to approve the minutes of the regular City Commission meeting held August 5, 2013 and of the special City Commission meetings held August 8, 2013 and August 15, 2013. 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 request for a change in zoning from agricultural to residential rural suburban for a 4 acre parcel located adjacent to County Rd 1. Hearing and receiving no comments, President Johnson closed the public hearing.

Commissioner Stromme 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 4 acre parcel of land located south of County Rd 1. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

John and Nancy Kuntz appeared before the City Commission to request the release of an easement to place a home on an existing easement on property they recently purchased. The Engineering Department had told them there could be complications in the future if they were allowed to place the home there without the City's permission. The Kuntzs would like a small portion of the easement released for several reasons – their house would line up with the houses across the street; costs would be less for the driveway; and trees wouldn't have to be removed. The building site was approved by two of KLJ's advisors who were hired to assist the Kuntzs with the relocation after the airport purchased their property. However, the easement was never addressed.

The City Assessor stated this easement was part of the original alignment and was purchased in 1997. The embankment was built on it, but after 1997 it was realigned. The Corps of Engineers instructed the City to hold onto the easements for a back up. The City Assessor stated the issue is that the easements were not easy to get, and some had to be obtained through court action. Some easements by Highway 19 were released, and the City ended up needing the easements again, and buying them back at a much higher price. The City is still working on the project, still working on easements, and is still in court on property with people in this area. The Kuntzs were aware of the easement when they purchased the property. One suggestion is the City could keep the easement, let them build on it with a hold harmless agreement, and if the land is ever needed they would have to move the structures at their own expense.

The City Engineer indicated a policy for releasing easements should be established, and the price of easements determined. Discussion followed on if the value of the easement is the price that was paid for it. The City Engineer's opinion is that the likelihood of this easement being needed for flood protection is minute. The intention was to have the emergency action plan developed and the operation maintenance manuals for the embankment completed prior to releasing easements.

It was noted that the previous property owner requested the Corps of Engineers to release the easement, and the request was denied.

The City Assessor reviewed the different easements that have been required for different parts of the embankment. He explained the difference between ponding acres and footprint acres. The City was required to pay 95% of current value so the question is do you pay 95% of what was paid or 95% of current value for the release of an easement.

Nancy Kurtz stated they would just like a little part of the easement where the house sits released. They are not looking to have the entire easement released on the property.

John Kurtz inquired about what good the easement would be to anyone else, would the City sell the easement to anyone other than the property owner, and on how the price of other easements has been determined when released.

The City Assessor stated the City is not involved with the relocation. It is the airport. The City is involved in regards to zoning and other building issues because they purchased land in the extra-territorial zone. The easement would be an issue no matter who had purchased the property.

The City Engineer stated the Corps of Engineers allowed the utilities and access for the property. If there was an agreement that legally identified the land where the house would sit then maybe the City could have the attorneys work up an agreement until the easements can be released. An issue would be determining the cost to release the easement.

Nancy Kuntz reviewed the process they went through with the KLJ advisors to locate property for the relocation.

Discussion followed on working on an agreement until the City is in a position to release all those easements that will not be needed for flood protection.

The City Attorney indicated allowing this may affect pending court cases especially the value placed on the easement.

Discussion continued on the placement of the structure having changed from when they purchased the land. None of the structures were originally on the easement. The water, sewer and driveway will need to continue on to the other structure that will be relocated there. The City Assessor cannot issue a building permit to build on an easement. An easement prohibits placement of structures. The biggest issue is it could affect the cases the City has pending in court.

President Johnson called for a motion for the release of the easement at the request of John and Nancy Kuntz. The question called for three times, died for the lack of a motion.

Travis Zahn, ND BCI, appeared before the City Commission to discuss the funding for the formation of the Lake Region Narcotics Task Force. Funding was cut from the grant program for which funds were applied for to fund this position; however, the applicant will not know for sure until the end of September if the grant will be received. Some of the other counties have approved funding for the salary and operating costs. Discussed followed on the memorandum of understanding (MOU) that was needed to apply for the grant. The MOU breaks down who is paying for what. Also discussed were implementing policies for the task force and the parent agency. The City of Devils Lake would be the employer of the task force officer. The salary and benefits budget would be around \$60,000 with \$30,000 budgeted for startup equipment and fuel costs. The operation costs would be funded with a grant that requires 35% match (\$2100 from each agency).

Discussion followed on mutual aid agreements, working under the BCI umbrella; and on injuries going back to the employer. Deputies in the counties work under MOUs, but there is no jurisdiction over enrolled members. The task force would operate under an annual MOU with a clause for giving notice to terminate.

Sheriff Nelson stated they have been trying to get a task force for years, but the state has never had the money for start-up.

Jessica Ramey Gilliam appeared before the City Commission to question why a registered sex offender was allowed to have a taxi driver's license.

Chief Schroeder indicated the person is no longer required to register as a sex offender, and a hearing was held before the City Commission when he applied.

Commissioner Heisler – The City Engineer reviewed the following:

1. Landfill - Work is continuing. The Department of Health was here last Thursday, and granted permission to start using the landfill.
2. Elkhorn – Curb was placed. Asphalt will be placed in the next couple of weeks.
3. Embankment – Work continues. The east ditch pumps need to be tested.

The City Assessor said he was in Bismarck last week for the State Board of Equalization.

Commissioner Stromme - The Sanitation Supervisor reported there was a fire at the landfill on Friday. The department has started using the new land fill.

The Police Chief stated everything was fine.

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

President Johnson – The Public Utilities Supervisor stated everything was fine in the Water Department.

The City Auditor stated everything was fine.

The City Administrator reviewed the following:

1. Bowing hunting in Lakewood was denied.
2. The former Eagle's building is being remodeled for a Hope Center, food shelf, and Jeff Wahl asked the City to forgive the roll off bills of \$1,362.40.
Commissioner Stromme moved to approve forgiving the roll off bill of \$1,362.40 for the Hope Center located in the former Eagle's building. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.
3. Lake Region Heritage Center requested having free, monthly garbage service. This request was denied.
4. Meeting with Greater Ramsey Water District is scheduled for Tuesday at 9:00 A.M.
5. Having a budget meeting to discuss the task force position and to meet with human resource consultant regarding a recognition program. Discussion followed on adding the task force position in the 2014 budget. Commissioner Morse moved to approve funding for task force upon review and approval of the budget for the position by the City Administrator. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The Fire Chief stated the "battle of badges blood drive" will be held on Wednesday and Thursday.

The Fire Chief reported confined space technical rescue and door breaching equipment was placed at the training tower. Grant funds were received for this equipment.

The City Attorney said everything was fine.

Commissioner Morse 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.

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

Authorizing the City Auditor to cancel Check No 103575 dated July 2, 2013 in the amount of \$70.00 payable to Cowboy's Towing Service of Devils Lake (General Fund-Police Department-Miscellaneous Expense) and Check No 103761 dated August 6, 2013 in the amount of \$150.00 payable to Bobcat of Grand Forks (Sewer Fund-Storm Sewer-Equipment Maintenance). The first check was lost and will be reissued. The second check was for an incorrect amount and will be reissued for the correct amount.

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

Commissioner Stromme moved to approve the 2013 Budget Amendment 03-13 – Library. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Commissioner Heisler moved to approve the change in the meal reimbursement rates to \$7.00 for breakfast, \$10.50 for lunch and \$17.50 for supper in accordance with the State. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Engineer reviewed the change order for Mayo Construction Company for Highway 19. This slurry seal project included inlaid tape, and it is recommended the slurry seal go through one winter before the tape is laid.

Commissioner Stromme moved to approve Change Order No.1 for Mayo Construction Company for Highway 19 – slurry seal to wait until next year to complete the patterned pavement marking groove and to add pavement marking paint for 2013 slurry seal for a net increase in the amount of \$1,781.63 and an increase of 289 calendar days as recommended by the City Engineer. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Engineer reviewed the change order for Mayo Construction Company for Highway 20.

Commissioner Stromme moved to approve Change Order No.1 for Mayo Construction Company for Highway 20 – slurry seal to wait until next year to complete the patterned pavement marking groove and to add pavement marking paint for 2013 slurry seal for a net increase in the amount of \$13,079.90 and an increase of 289 calendar days as recommended by the City Engineer. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Engineer reviewed the flood protection and right of way agreement for access points of county/township roads over the embankment. With the west loop agreement, the City ends up encroaching on township right-of-ways. They are limited for the roadway to go up and over the embankment. This agreement notifies townships, gives the City permission, and identifies the City's responsibilities.

Commissioner Stromme moved to approve the flood protection and right of way agreement with Creel Township for access points of county/township roads with regards to the embankment. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Attorney reviewed the letter requested by Otter Tail Power Company for the extension of services with City limits. This request would provide service to the property owned by Wade Schwan, and Wade has requested to be served by Otter Tail Power.

Commissioner Stromme moved to approve the letter to Otter Tail Power Company for the extension of services within City limits as recommended by the City Attorney. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

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 reports:

1. Municipal Court monthly report; and
2. Police Department monthly report.

Chief Schroeder indicated the employee in training graduates on Friday, and he plans to attend the ceremony.

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**