

MINUTES OF THE BOARD OF CITY COMMISSIONERS  
HELD OCTOBER 7, 2013

The regular meeting of the Devils Lake City Commission was held Monday, October 7, 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.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held September 16, 2013. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

President Johnson requested an addition to the agenda for the bid opening for the water main installation for Hwy 2 Frontage Road between 12<sup>th</sup> Ave SE and 14<sup>th</sup> Ave SE. The bid has been advertised to be opened tonight.

Commissioner Morse moved to amend the agenda to add the bid opening for water main installation for Hwy 2 Frontage Road between 12<sup>th</sup> Ave SE and 14<sup>th</sup> Ave SE. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

**5:30 P.M.** – This was the time set for the Confirmation of the Assessment List confirmed by the Special Assessment Commission. Hearing and receiving no comments, President Johnson closed the hearing.

Commissioner Stromme moved to confirm the assessments on the 2012 Curb, Gutter & Sidewalk, 2013 Miscellaneous Charges, 2013 Parking Authority Maintenance and Beautification District No. 02-01, Street Improvement District No. 42-12 – 7<sup>th</sup> St NE (College Dr – 14<sup>th</sup> Ave), Street Improvement District No. 43-12 – 10<sup>th</sup> Ave NE (7<sup>th</sup> St – 10<sup>th</sup> St), and Street Improvement District No. 45-12 – 3<sup>rd</sup> St NE (6<sup>th</sup> Ave – 12<sup>th</sup> Ave). 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 request for a change in zoning from residential manufactured homes to highway commercial for Lots 1 & 2, Block 2, Stromquist 4<sup>th</sup> Addition (8<sup>th</sup> Ave SE & 10<sup>th</sup> St SE). Hearing or receiving no comments, President Johnson closed the public hearing.

Commissioner Heisler moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve a change in zoning from residential manufactured homes to highway commercial for Lots 1 & 2, Block 2, Stromquist 4<sup>th</sup> Addition and requested by Decorated Wearables. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

**Commissioner Heisler** – The City Engineer requested the bid opening for the water main installation take place now so he would have time to review the bids during the meeting.

The bid opening for water main installation for Hwy 2 Frontage Road between 12<sup>th</sup> Ave SE and 14<sup>th</sup> Ave SE was held. The following bid was opened and read:

Ronald Peterson Construction, Langdon, ND Bid \$208,050

Commissioner Stromme moved to accept the bid as read and refer it to the City Engineer for further review and recommendation. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer indicated temporary gravel at Highland Park has been requested. Two building permits have been issued for this area. Pavement will not be completed until next year. Estimated cost for the temporary grave would be \$3,000 to \$4,000.

Commissioner Heisler moved to place temporary gravel at Highland Park Subdivision. The motion was seconded by Commissioner Stromme. Discussion followed on the availability of recycled gravel or if it would be suitable. The type of gravel to be used was discussed further. The gravel will get mixed in with the other materials so salvaging and reusing it is not feasible. Some gravel from the railroad crossing is behind the cemetery and will be checked to see if it is suitable for placement here. If city crews can't place the gravel, someone would be hired. The costs will be added to the project. The motion carried unanimously.

The City Engineer stated Change Order No. 2 for the Hwy 20 Frontage Road dike project needs to be acted on. The type of asphalt for the project has been changed due to a switch in the pit being used. It is a cheaper asphalt and will result in a net decrease of a little of over \$1,000.

Commissioner Heisler moved to approve Change Order No. 2 for Knife River Materials for the Hwy 20 Frontage Road project for the embankment project. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Engineer stated the contractors are working on the embankment. All the paperwork still shows the project to be completed this year except for some electrical work for the East Ditch pump station. Topsoil is currently being placed.

Also discussed was the old Black Construction building the City owns by the embankment. The cement culverts need to be used or moved since it is an eyesore. Discussion followed on bidding the culverts and the surplus items from the old pump station. The City Engineer discussed the potential for a lift station in this area.

The reasons for the work being done north of Hwy 2 and west of the airport were discussed.

The City Assessor reported that the listing agreement with the realtor for lots in the Berry Smith Subdivision had expired at the end of September. This agreement did not contain a clause stating the lots had to be developed within a certain time period. The City Assessor would like to add the development clause to the new listing agreement.

Commissioner Heisler moved to add a development clause to the listing agreement for the lots in the Berry Smith Subdivision and to renew the agreement with the realtor. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

**Commissioner Stromme** - The Sanitation Supervisor said the fall special pick up started last week.

The Police Chief stated the list of bicycles needs to be declared surplus so they can be sold at the City surplus sale.

Commissioner Stromme moved to declare the list of bicycles from abandoned property as surplus and offer them for sale at the City surplus sale. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The Police Chief stated the opening created when Officer Rixen resigned has been filled with the person starting October 16<sup>th</sup>.

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

The Public Ways Supervisor stated the opening from April has been filled, and the new employee will start October 16<sup>th</sup>.

**Commissioner Morse** – The Public Ways Supervisor stated they have been doing a lot of patching. They will start mixing salt and sand this week.

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

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

The Fire Chief stated fire prevention week began today. The Fire Department will be having an open house on Wednesday from 5:00 P.M. to 7:30 P.M.

The new fire truck has been ordered with an expected delivery date of April 15, 2014.

The City Attorney said everything was fine.

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

1. Game of chance permits for the month of September 2013;
2. Declaring evidence room items from the Police Department as surplus and offering them for sale;
3. Declaring 1998 Ford Pickup, 1993 Chevy Pickup, V-Plow, One-way Plow, Swenson hydraulic sander, old computers, keyboards, monitors and a Wayne Pressure Washer from the Public Ways Department as surplus and offering them for sale;

4. Declaring 2009 Ford Taurus SEL, 4-door sedan, blue from the Police Department as surplus and offering it for sale; and
5. Declaring the Toshiba 280CP Printer from the Engineering Department as surplus and offering it for sale.

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

The first reading of Ordinance No. 917 – Sale of Fireworks was held. The City Attorney stated the dates of December 26<sup>th</sup> through January 1<sup>st</sup> for the sale of fireworks is from the State statute. The City Attorney suggested including a deadline date of November 1<sup>st</sup> for submitting an application and on the premises being inspected. Discussion followed on complaints received regarding firecrackers. The ordinance could exclude the sale of firecrackers. Discussion continued on the number of calls received for fireworks being discharged after hours, on trying the ordinance under a sunset clause which would need to be renewed annually and limiting the number of days for fireworks from December 29<sup>th</sup> to January 1<sup>st</sup>.

Commissioner Stromme moved to approve the change in the in-state lodging reimbursement rate to 90% of GSA (\$74.70 for most counties) as of October 1, 2013 in accordance with the State. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Heisler moved to approve funding for the fourth 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 Stromme. On roll call all Commissioners voted aye, and the motion carried.

The City Engineer reviewed the memorandum of understanding with ND Department of Transportation for ND Hwy 19 and ND Hwy 20. This agreement is for the viaduct on the west side. The City's responsibility is around \$1 million based on the bridge not meeting its expected life. Instead of 10% city share, the bridge portion is reduced to 6.5% since the expected life of the bridge was not met. The City would budget one-third of the project in the years of 2014, 2015 and 2016. Discussion followed on the original estimate being \$20 million with the City's share around \$2 million; who owns the bridge - NDDOT; and on Burlington Northern Santa Fe (BNSF) having responsibility for cost sharing in the project since they are profiting from the railroad. Discussion continued on working with BNSF on not having to build the shoofly carrying two tracks and to build only one track to use during construction. Consensus was to start with BNSF and then proceed to the Congressional members if talks with BNSF are unsuccessful. The shoofly is estimated to cost \$4 million. Also, discussed was if the project could be pushed back five years. The bridge is safe; however, there is evidence the concrete has ASR and is deteriorating. The exterior looks fine because a surfacing had been applied to the concrete. The agreement is based on percentages so if there is a reduction in cost, the City's share would decrease.

Commissioner Robbins moved to approve the memorandum of understanding with ND Department of Transportation for ND Highway 19 (3<sup>rd</sup> Ave NW to Junction ND 20) and ND Highway 20 – College Dr (3<sup>rd</sup> St to 6<sup>th</sup> St) as recommended by the City Engineer. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Engineer indicated pavement is down and seeding will begin this week in Elkhorn.

Commissioner Heisler moved to approve payment of Estimate No. 2 to Strata Corporation for work completed in Elkhorn Subdivision Street Improvement 46-12 under Street Improvement 44-12 in the amount of \$216,640.52 as recommended by the City Engineer. The motion was seconded by Commissioner Stromme. Commissioner Morse left the meeting at 6:24 P.M. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Stromme moved to approve payment of Estimate No.4 to Tri-State Paving for 2013 Curb, Gutter & Sidewalk in the amount of \$19,050.32 as recommended by the City Engineer. The motion was seconded by Commissioner Robbins. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Robbins moved to approve payment of Estimate No.6 to Berger Enterprises for landfill expansion in the amount of \$14,900.19 as recommended by the City Engineer. The motion was seconded by Commissioner Stromme. The City Engineer indicated there is some retainage for some minor items. The final pay estimate is expected at the next City Commission meeting. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Stromme moved to approve the resolution determining insufficient protests were filed in Street Improvement District No 51-11 (Agassiz Subdivision) as recommended by the City Engineer. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Commissioner Heisler moved to approve the resolution approving plans and specifications and directing advertisement for bids for Street Improvement District No 51-11 (Agassiz Subdivision) as recommended by the City Engineer. The motion was seconded by Commissioner Stromme. The City Engineer stated the project was completed by change order. The motion carried unanimously.

Commissioner Morse returned to the meeting at 6:27 P.M.

Commissioner Robbins moved to approve the resolution determining insufficient protests were filed in Street Improvement District No 48-13 (Highland Park Estates 2nd) as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Engineer stated the water and sewer for Highland Park is being completed by change order. The sewer is installed, and the water main is hooked up and should be fully functional in a couple of weeks. The roadway will be designed this winter with bid opening next spring.

Commissioner Stromme moved to approve the resolution approving plans and specifications and directing advertisement for bids for Street Improvement District No 48-13 (Highland Park Estates 2nd) as recommended by the City Engineer. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Morse moved to approve payment of the list of bills as submitted. The motion was seconded by Commissioner Robbins. The check to The Ranch was for a historic preservation convention, and the checks to the different sporting groups are for picking garbage on Highway 2 ditches. On roll call all Commissioners voted aye, and the motion carried.

The City Engineer stated the bid from Ronald Peterson Construction had an error and the bid price should be \$208,200. The City Engineer recommended awarding the bid for the water main installation for Hwy 2 Frontage Road between 12<sup>th</sup> Ave SE and 14<sup>th</sup> Ave SE to Ronald Peterson Construction of Langdon, ND in the amount of \$208,200 since the project needs to be completed soon. The waterline needs to be operational and functional. The bid amount is within the project budget; however, it is over the engineer's estimate.

Commissioner Stromme moved to award the bid for the water main installation for Hwy 2 Frontage Road between 12<sup>th</sup> Ave SE and 14<sup>th</sup> Ave SE to Ronald Peterson Construction in the amount for \$208,200 as recommended by the City Engineer. The motion was seconded by Commissioner Heisler. The City Engineer stated the contractor would start ordering the materials tomorrow and initiate construction next week. Some exploration for existing waterlines will need to be done. The motion carried unanimously.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:35 P.M.

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

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