

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

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

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held October 21, 2013. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

**Commissioner Robbins** – The Public Utilities Supervisor stated there was a water break on Saturday at 3<sup>rd</sup> Ave and 8<sup>th</sup> St NE.

Commissioner Robbins reported that the Devils Lake Kids has new people running it. A health and safety inspection is coming up, and some maintenance items need to be taken care of. The daycare has requested assistance for the maintenance items from the City. Items needing attention include the boiler, faucets, screens, light fixtures, tiles, water fountain, heating system and front entrance. The City Assessor stated this is a city-owned building, and his department would handle the maintenance. The tiles in there are a good, commercial tile so if some of the tiles are replaced, the floor should be stripped and rewaxed. The City Assessor stated some items may need a temporary fix, with a more long term fix later. He also discussed the issue with the heater in the entrance.

Commissioner Robbins moved to approve \$5,000 from the Infrastructure Fund for the Devils Lake Kids building for maintenance of this city-owned building. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

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

**Commissioner Heisler** – The City Assessor reviewed the request from Howatt's Excavating for an extension on the clean up of the lot next to city hall. The contractor intends to move the house off of the site which will save landfill costs; however, the house mover is behind schedule. It will be December before the house can be moved. Howatt's Excavating is willing to fill-in the basement for the winter, dig it out next spring, and then compact and refill it.

Commissioner Stromme moved to approve a two-month extension for Howatt's Excavating for removal of the house and clean up of the city-owned lot next to city hall. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer reviewed the following projects:

1. Highway 2 water line – Tied in at the intersection of 12<sup>th</sup> Ave and Highway 2. Asphalt is being placed today.
2. Wal-Mart – The public utility work for the water and the sewer is essentially complete. Testing and flushing remains.
3. Service road – fabric and gravel were placed last week. Work will continue this week on 14<sup>th</sup> Ave. Curb, gutter and maybe pavement will be placed if the weather continues to hold.
4. School crossing zone on 5<sup>th</sup> Ave near 5<sup>th</sup> St S. It has been requested that this zone be removed. This crossing zone is not set up and signed properly. According to the Minnie H School only two kids live east of 5<sup>th</sup> Ave and attend Minnie H. The City Engineer stated the beacons could be changed from a timed operation to a push button operation. The beacons could be turned off now until the switch is made.

Commissioner Morse moved to turn off the beacons on 5<sup>th</sup> Ave S for the school crossing for now until the lights can be switched to a push button operation. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

5. Snowmobile trail from Hwy 20 and County Road 1 to Hwy 2. The area where the trail was before is getting congested. The snowmobile club has requested to use part of the City's land for a snowmobile trail. The trail would need to follow the embankment, on the inside of the vegetation-free zone adjacent to the fence. The City Attorney reviewed the land use agreement for the snowmobile trail. Paragraph one is not necessary. Paragraph four has a typographical error. The City Attorney is concerned that anybody can use

the trail, and it is not restricted to snowmobile club members that have insurance. The City could be sued. He stated the State should also have to preserve evidence. The City Attorney recommended including two provisions to have the State hold the City harmless, and to have the City as an additional insured on the snowmobile club's insurance. Discussion followed on the fence currently along the embankment being a three-strand, barbed wire fence. The City Engineer stated the Corps of Engineers doesn't see any issues with the land being used unless there is not enough snow cover. The snowmobile club would be responsible for any repairs to the land and for signage on the trail. It was noted that the snowmobile trails are inspected by the State to make sure they comply with the regulations and are signed properly. It was questioned what the City's liability would be if the land was being used without permission. That would be considered trespassing and could be used in a defense. The liability to the City increases if people are invited to use the land.

Commissioner Robbins moved to enter into a snowmobile trail agreement which will include the provisions recommended by the City Attorney with the snowmobile club for use of the land along the embankment from Highway 20 to Highway 2 contingent upon approval of the City Attorney. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

**Commissioner Stromme** - The Sanitation Supervisor reported everything was fine

The Police Chief stated everything was fine.

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

The City Administrator said everything was fine

The Fire Chief stated the IRS audit and DES audit went well. He also stated the public meeting for landlords regarding the inspection program is being held tomorrow night.

The City Attorney said the condemnations are moving along. Depositions are being held in Minneapolis on December 10<sup>th</sup> and 11<sup>th</sup>, and he would like permission to attend the depositions to represent the City.

Commissioner Morse moved to approve out-of-state travel for the City Attorney on December 10<sup>th</sup> and 11<sup>th</sup> to travel to Minneapolis, MN to represent the City in depositions for the embankment project. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

President Johnson reviewed the limited franchise agreement for power regarding Nodak Electric Cooperative (Nodak). Otter Tail Power (OTP) has a franchise to provide electricity in the City. Nodak Cooperative's franchise request was denied; however, the City needs to do something to allow Nodak to service current accounts they have within the City. The limited franchise would include current areas serviced today and maybe new areas such as the new industrial park and areas on the east edge of town. Nodak is not interested in a limited franchise without a service agreement. Discussion followed on the service agreement.

Mylo Einarson, President and CEO of Nodak Electric Cooperative stated Nodak and OTP can come to an agreement, but they would like the City to be part of the discussion.

Tim Greene, Otter Tail Power Company, stated OTP will work with the City and Nodak on an agreement.

Consensus of the City Commission was to have the City Administrator, OTP and Nodak work on a service agreement. This agreement is needed for Nodak to receive a limited franchise.

The City Administrator reviewed the pump station agreement with Ramsey County.

Commissioner Heisler moved to approve the agreement with Ramsey County for the operation and maintenance of the flood control project with Ramsey County responsible for 100% of the operating and maintenance costs of the Highway 20 pump station, Lakewood pump station and the golf course pump station, for 8% of the operating and maintenance costs of the Creel Bay pump station and for operating, maintaining and replacing the storm sewer and drainage features of the Creel Bay station, and for 30% of the operating and maintenance costs of the flood protection embankment. The motion was seconded by Commissioner Stromme. The City Engineer stated there are some drainage aspects on Highway 20. Another pump station similar to the golf course pump station is a possibility. This possible pump station is not in this

agreement. He questioned on how to address this possible pump station. It would be 100% county. The City Attorney recommended doing an addendum to the contract when the pump station is operational. The motion carried unanimously.

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

1. Gaming site authorization submitted by St Joseph School for June 27, 2014 at the Knights of Columbus 522 4<sup>th</sup> St NE; and
2. Permit to sell alcoholic beverages at a special event submitted by Proz Inc for the LRSC Key Event fundraiser to be held November 15, 2013 at the Memorial Building.

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

The City Engineer reviewed the North Dakota Department of Transportation agreement for the ND National Guard to place a new sign on DOT right-of-away adjacent to Camp Grafton's entrance. The City is a party to the agreement since the location is in proximity to the City's flood protection project.

Commissioner Stromme moved to approve the North Dakota Department of Transportation agreement for placement of a new sign at Camp Grafton's entrance on DOT right-of-away and requested by the ND National Guard contingent upon approval by the Corps of Engineers as recommended by the City Engineer. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Commissioner Heisler moved to approve payment of Estimate No.5 to Tri State Paving Inc for 2013 Curb, Gutter & Sidewalk in the amount of \$7,421.27 as recommended by the City Engineer. The motion was seconded by Commissioner Robbins. On roll call all Commissioners voted aye, and the motion carried.

Heartland Care is refinancing bonds, and the City has no liability with respect to the bonds. The bonds were being sold to a bank in Wisconsin; however, this deal fell through. Therefore, this resolution rescinds that the resolution approved on September 16, 2013. The bonds will now be sold to a bank in Minnesota.

Commissioner Stromme moved to approve the resolution approving the issuance of senior housing refund revenue bonds (Heartland Care Center Project) Series 2013 with the trustee as Bell State Bank and Trust, Moorhead, MN and rescinds the resolution approving the issuance senior housing refund revenue bonds (Heartland Care Center Project) Series 2013 with the trustee as First National Bank, Waupaca, WI. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

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

President Johnson acknowledged the following report:  
Police Department monthly 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**