

MINUTES OF THE BOARD OF CITY COMMISSIONERS  
HELD NOVEMBER 18, 2013

The regular meeting of the Devils Lake City Commission was held Monday, November 18, 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.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held November 4, 2013. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward Devils Lake, appeared before the City Commission to request a change in the security position the City holds on Ultra Green Packaging. Ultra Green Packaging has secured a \$3.2 million SBA loan for equipment and improvements; however, the loan requires a first security position on assets. Western State Bank currently has a first position on the equipment with the City of Devils Lake having a second position on the equipment. Western State Bank's financing is secured by certificates of deposits; therefore, they have no problems with SBA having a first position. Also the equipment used for security has a value in excess of what is needed to cover the lenders. This request will be sent to Dan Gaustad for review.

Commissioner Stromme moved to approve releasing the City's second position on the equipment for Ultra Green Packaging's loan, and to take a third position on the equipment behind SBA and Western State Bank contingent upon the approval of the City's attorney for this matter, Dan Gaustad, as recommended by Forward Devils Lake. The motion was seconded by Commissioner Robbins. On roll call all Commissioners voted aye, and the motion carried.

Mack Traynor, CEO of Ultra Green Packaging, updated the Commission on progress of the business. The business is about a year behind due to the SBA loan. Two out of the four machines for the plastic thermal forming are operating. Within the next two to three weeks the other two machines should be operating. They are actively looking for machine operators for the plastic thermal forming machines. A supervisor for the warehouse area has been hired, and they will be looking for a maintenance worker. The fiber molding will start in January after the electrical work is completed in December. The pulp making will not start until the 2<sup>nd</sup> quarter in 2014. Improvements were made to the warehouse, parking lot, electrical, air compressor and cooling tower. Office upgrades and floor repair are still needed. Discussion followed on the EB5 process which allows the company to have foreign investors. They have the ability to raise \$8 million with sixteen foreign investors. Seven investors are in the queue, and one has completed the process with Ultra Green receiving \$500,000. The EB5 investors receive preferred stock that can not be converted into common stock. They do have a preference in liquidation, and a 5% return is being accrued which will be paid out at the end. The investors do receive a conditional green card that lasts for two years. After two years the investor can apply to have the conditions removed so it would be a permanent green card. At that time Ultra Green will need to prove that ten employees were hired with the investor's funds. Ultra Green received an APUC grant for marketing. The business currently has twelve employees. When the fiber molding starts, more employees will be needed since the machines run 24/7.

**Commissioner Robbins** – The Public Ways Supervisor said all equipment except for one sander is ready for winter; the Christmas decorations will be put up next week; and after thirty-eight years Ron Lang is retiring at the end of the year.

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

**Commissioner Stromme** - The Police Chief stated they are working on adding crime information on a map for public access through the website. The map would indicate the block of the crime and the type of crime. The program is free. The website will have a link for submitting tips. The information is updated by Crimestar.

**Commissioner Heisler** –The City Engineer reviewed the following:

1. Hwy 20 N traffic issues – The engine braking signs are in place. Although official notification has not been received yet, the request to move the speed limit zone is being denied. The State says the traffic pattern does not warrant a change. Discussion followed on the process to appeal this decision, the 85<sup>th</sup> speed percentile, the enforcement of the speed limit, and the possibility of adding a turn lane. The speed limits on Highway 2 by Summer's Manufacturing and on Highway 19 by the embankment were discussed.
2. Hwy 2 waterline – Work continues on this project with the tying in of pipes
3. Agassiz – May complete the sanitary sewer portion of the project before the weather changes.

The City Assessor said Target Roofing has started the roof on the City garage. The building needs heating, cleaning and painting. The roof on city hall will be completed next spring.

**President Johnson** – The Public Ways Supervisor stated everything was fine.

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

The City Auditor stated everything was fine.

The City Administrator reviewed the contract with The Village Business Institute for the employee EAP program. There was no usage from July 2012 through December 2012. However, there were fifteen contacts and five cases for the first half of 2013. The budget includes \$1,710.00 for the program.

Commissioner Heisler moved to approve renewing the EAP Full Service Contract for Services – Employee Assistance Program with The Village Business Institute in the amount of \$1,710.00 for the period of June 1, 2013 through May 31, 2014. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Administrator reviewed the meeting with Summer's Manufacturing for a street improvement. The City Engineer estimates it will cost \$1.5 million for a total reconstruction of the street or \$300,000 for repairing and patching the street. At the meeting it was discussed the City cost sharing 50%. The City Engineer discussed the possibility of repairing the street under the urban roads program since the industrial park is on the urban roads system. However, there is an issue with the urban roads program. The Department of Transportation (DOT) has earmarked the City's money from the urban roads program for the west underpass. This source was not part of the funding in the memorandum of understanding with the Department of Transportation for the west underpass. The City has agreed to use local money for the City's share. If DOT uses the funds from the City's share of the urban roads program there will be a \$700,000 deficit in the program; otherwise, there should be some funds available for the Summer's street improvement. By using the urban roads program, the complete reconstruction would be split 80/20. The City Engineer stated the intent is to pursue rehabilitation of the roadway through the urban roads program. Consensus of the City Commission was for a 50% city cost share for the street improvement at Summer's Manufacturing.

The City Administrator indicated there is a meeting at 10:00 A.M. tomorrow with Otter Tail Power Company and Nodak Electric Cooperative to work on the service agreement so Nodak Electric Cooperative can have a limited franchise with the City. It was noted that Nodak Electric had received a request from the crematory for electricity. Although the crematory will be located in the industrial park which is serviced by Nodak, Nodak refused to provide the power since they do not have a franchise with the City. Nodak would like the first reading on a limited franchise held, but they need the service agreement first. Also, Nodak has indicated they may stop construction on the east pump station since they do not have a franchise. Discussion followed on the City Attorney having sent a letter previously granting Nodak authority to provide power to the east pump station.

Commissioner Robbins moved to authorize Nodak Electric Cooperative to provide service to the crematory and to reiterate that permission was granted to Nodak to provide power to the east ditch pump station. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The Fire Chief stated the public meeting for inspections was well attended by the landlords. He has started scheduling inspections for January and February.

The Fire Chief indicated he will draft a letter for their new employee to receive donated sick leave. The employee has a medical issue and surgery is scheduled for January 13, 2014; however, the employee does not have enough sick leave so others employees plan to donate sick leave for him to use. Recovery time from the surgery is a month.

The City Attorney said everything was fine.

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

Appointment of Rachel Lindstrom and Cheri Martinson and reappointment of Suzie Kenner as members of the Devils Lake Beautification Committee with all their terms expiring on June 30, 2016.

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

Commissioner Stromme moved to approve Budget Amendment No. 05-13 – Library. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Administrator reviewed the agreements for joining the ND Public Employees Retirement System. Discussion followed on portability of the plan.

Commissioner Heisler moved to approve the employer participation agreement in the North Dakota Public Employees Retirement System Defined Benefit Retirement Plan. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve the employer participation agreement in the North Dakota Public Employees Retirement System Law Enforcement Retirement Plan. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Commissioner Heisler moved to approve the portability enhancement provision agreement for participating employers offering a supplemental deferred compensation program. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve the attachment to portability enhancement provision agreement for participating employers providing a supplemental deferred compensation program. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Heisler moved to approve payment of Estimate No.7 - Final to Berger Enterprises for landfill expansion in the amount of \$4,453.31 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 Police Chief reviewed his request for replacement of side arms for the Police Department. The guns are old and should have parts replaced. It would cost \$135.00 per gun for replacement of parts. New guns can be purchased for about \$139.00 per gun.

Commissioner Stromme moved to declare a sole source and to approve replacing the Police Department's side arms with Glock Generation 4 pistols in the amount of \$7,362.00 with trade-in of the old guns at \$4,860.00 for a net price of \$2,502.00 as recommended by the Police Chief. The motion was seconded by Commissioner Heisler, 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 reports:

1. City Auditor monthly report; and
2. Police Department monthly report

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:30 P.M.

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

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