

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD MARCH 17, 2014

The regular meeting of the Devils Lake City Commission was held Monday, March 17, 2014 at 5:30 P.M. with the following members present: President Johnson, Craig Stromme, Rick Morse and Dale Robbins. Commissioner Heisler was absent.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held March 3, 2014. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

5:30 P.M. – This was the time set for the bid opening for a skid steer loader for the Public Utilities Department. The following bids were opened and read:

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| 1. Bobcat of Devils Lake, Devils Lake, ND | Bid \$34,819.00 |
| 2. Butler Machinery Company, Devils Lake, ND | Bid \$45,480.38 |

Commissioner Robbins moved to accept the bids as read, and refer them to the Public Utilities Supervisor for further review and recommendation. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Greg Bracken, Spirit Lake Riders, appeared before the City Commission to discuss the proposed noise ordinance and how it would affect the Memorial Day rodeo and ride. The group does not want to create a situation where they are causing an ordinance violation with the parade and ride. They have been doing this ride for over ten years, raising a lot of money for charity, and would like to continue to do so. They do not want to be inviting people here that may have loud bikes, and having those guests get in trouble with the ordinance. The ordinance is on hold as of now. The noise committee will be meeting tomorrow at 8:00 P.M, and Mr. Bracken was invited to attend. It was noted that the ordinance contains an exception which the Police Chief could allow. Mr. Bracken inquired about what would be needed to request an exception. They have always had a good, working relationship with the City and would like to keep it that way.

Jessica Ramey Gillam appeared before the City Commission to discuss two articles in the *Devils Lake Journal* - the oil refinery and Ultra Green.

President Johnson stated the Commission does not control the *Devils Lake Journal* articles. The information for the oil refinery did not come from the City.

Ms. Gillam requested to be on the agenda for the next meeting to discuss open meeting laws.

John Knutson appeared before the City Commission regarding the appraisal for John and Nancy Kuntz. He questioned how LaFleur's appraisal was \$1.7 million, and Kuntz's offer was approximately \$360,000. It was stated Prosource did most of the appraisals for the embankment. Mr. Knutson compared LaFleur's property tax of \$4,500 to Kuntz's tax of \$1,800. He figured Kuntzs were offered \$200 per property tax dollars, and LaFleurs were paid a lot more than that.

The City Assessor stated there is a Federal act that takes care of relocation and appraisal work. There are two sections – acquisition and relocation. The LaFleur home was one of a number of homes done through the embankment project and handled by the City. The City had only taken a small piece of the Kuntz property for the embankment project. The Kuntz relocation and acquisition is through the Airport expansion project so it was not handled through the City. The relocations were based on appraised costs, relocation costs and other items. The City did administrative settlements which were negotiated by both parties. Through the Airport project the Kuntzs had the same offers as the relocation administrative settlements. The settlements had nothing to do with the property taxes being paid. It is a complicated process. The City Assessor offered for Mr. Knutson to stop by his office, and he would go through the whole process.

Mr. Knutson stated he does not understand how the whole thing works, but it seems lopsided.

The City Assessor stated the administrative settlement for Kuntzs was considerably more than the \$300,000 Mr. Knutson was talking about; it was more like \$560,000. You would have to know the properties in order to understand where the amounts are coming from. The administrative settlements were based mostly on cost of construction to replace. On the Kuntz property, there are two different projects – embankment and airport.

Mr. Knutson indicated that even though Kuntzs have not settled, their land is gone, and they had to move.

The City Assessor stated the Airport hired a relocation officer, KLJ, to help with the relocation process. The project has to continue. If the parties can not negotiate a settlement, there is condemnation, and it goes through the court system.

Mr. Kuntz stated they were supposed to be relocated by an advisor, and they never got that for five and one-half years. They were not to have an appraisal; they were to be relocated.

President Johnson stated it is a complicated process. No one is at fault, and the Commission feels for the Kuntzs. However, the City Commission needs to be fair to Nancy and John and to the taxpayers. It is important to treat everyone fairly.

Commissioner Stromme - The Police Chief said the Police Department year end report was published.

The Sanitation Supervisor stated garbage has been moved to the streets.

Commissioner Robbins - The Public Ways Supervisor stated everything was fine.

The Public Utilities Supervisor listed where there have been water breaks or other issues:

1. 2-inch service line on College Dr which affect the Minnie H School. School had to be cancelled for the day.
2. Water break at 10th St and 6th Ave;
3. Water break at 515 8th St NE;
4. Water break at 610 5th St NE;
5. Water break at 303 13th St NW;
6. Watermain valve leak at 8th Ave and 1st St;
7. Water break at 11th Ave and 1st St;
8. Frozen service lines that had to be dug at 812 and 814 4th Ave;
9. Frozen service line at 301 10th St NW;
10. Frozen service line in the Chrysler Center area;
11. Frozen sewer lines at Coke plant;
12. Sewer troubles at Glass Shop;
13. Frozen sewer line at DOT;
14. Frozen sewer line at Summer's Manufacturing;
15. Frozen water line at Western State Bank. This line is still frozen, and a temporary line is being used. However it is not being metered. Their water service line comes out on the asphalt side under their apron. It is probably frozen all the way to the curb stop. The Public Utilities Supervisor is hesitant to dig.

The Public Utilities Supervisor stated he has a good city crew.

The City Commission is appreciative of the hard work being done by the employees in the Public Utilities Department.

The Public Utilities Supervisor stated if someone is leaving their house for a few days, they should have a neighbor run some water. Also, if you have water coming out at 36 degrees, you should run water for an hour. In addition Midland Excavating has been very accommodating in assisting the City when needed.

Commissioner Morse – The Public Utilities Supervisor stated he received an email from Curt Stier who handles the City's lagoon permit. He had a complaint about the odor from the lagoon. There is an air quality measurement that towns have to follow; however, the City is exempt for 14 days after the ice goes off.

The Public Ways Supervisor indicated the sweeper was out today. Also, Del Nordrum resigned to work for the State Water Commission.

President Johnson – The City Engineer indicated a call for bids was authorized last fall for the street improvement for Highland Park. The plans will be completed this week, and the project will be advertised. Bid opening will be the first or second meeting in April. Also, they will be working on the street improvement project for Agassiz. However, the water and sewer improvements need to be completed first for this subdivision.

The City Assessor reviewed the letter from North Plains Grain Inspection Service for purchasing city land between 8th Ave and 9th Ave, north of the Holiday Inn Express. There is also another party interested in land in that area for a bread truck transfer facility. North Plains Grain currently has a location downtown, but they are expanding and need more room. An exact lot area is not available yet. North Plains Grain was looking for approval from the City that what they want to do in

the area is okay, and that the City would sell them a piece of property. A dollar per square foot for the property not fronting on 5th had been discussed. The building would front the gravel road. There will be some specials because there is no water. Both the grain inspection and the bread transfer would be along the gravel road. North Plains Grain has looked at several different areas, but is leaning towards this one. Zoning is okay. The two businesses do not need highway frontage or visibility. There is not a lot of walk-in business. Discussion followed on trucks using the gravel road. Northern Plains Electric used the road all the time for their trucks.

The City Auditor stated everything was fine.

The City Administrator stated the year end report is available.

The Fire Chief received an email from the state association today. Senator Heitkamp has requested that the Fire Chief from Casselton to go to Washington, DC to testify on hazardous chemicals going through communities.

The Fire Chief stated training with BNSF will be held April 2nd at the Rural Fire Department.

The City Attorney said everything was fine.

The Public Utilities Supervisor recommended accepting the bid from Bobcat for the skid steer loader in the amount of \$34,819.00.

Commissioner Stromme moved to award the bid for the skid steer loader to Bobcat, Devils Lake ND in the amount of \$34,819.00 as recommended by the Public Ways Supervisor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

President Johnson reviewed the recommendation from Terry Fasteen of KLJ for the airport relocation payment to John and Nancy Kuntz. The amount has been pared down due to the square footage of the house, less previous payments, and an add-on for the embankment payment less damages. It was determined that the \$573,375.00 offered August 18, 2011 was fair and reasonable, but to adjust it for inflation. The maximum offer will not exceed \$596,310.00. Discussion followed on the highest offer not being accepted; therefore, the negotiation process started. It was noted there will be more expenses forthcoming.

Commissioner Stromme moved to approve payment to John and Nancy Kuntz as part of the Airport relocation in the amount of \$127,615.75 as recommended by Terry Fasteen from KLJ. The motion was seconded by Commissioner Morse. Discussion followed on the previous payments of \$304,000 from the Airport and \$66,000 from the City. Additional expenses incurred will be submitted to KLJ for review and recommendation. The Airport Authority then acts on the recommendation and forwards it to the City Commission. On roll call all Commissioners voted aye, and the motion carried.

The second reading of Ordinance No. 919 – Warrantless Arrests for Assault of Family or Household Member was read. The ordinance changes the time limit for an arrest. Locally it was four hours, but the State allows 12 hours. This change will concur with state law.

Commissioner Stromme moved to approve the second and final reading of Ordinance No. 919 - Warrantless Arrests for Assault of Family or Household Member – An ordinance which upon adoption, shall amend that portion of Ordinance No. 789, which had been codified as Section 9.14.011 of the Devils Lake Municipal Code. The motion was seconded by Commissioner Robbins. Discussion followed on how many domestic violence advocates the Police Department has. It was clarified that the law enforcement officers have 12 hours to find the party and arrest without a warrant. If it is more than 12 hours, a warrant is needed. Commissioner Morse called for the question. The motion carried unanimously.

The second reading of Ordinance No. 920 – Violations and Penalties was read. Under Subsection 2 of 10.46.280, a subsection was removed that referred to operating a motor vehicle without liability insurance. Under 10.46.290, subsections were added - 7 for no liability insurance, 8 and 9 reference Ordinance No. 921. This is to align with state law.

Commissioner Robbins moved to approve the second and final reading of Ordinance No. 920 – Violations and Penalties – An Ordinance, which upon adoption, shall amend Ordinances Nos. 688 and 599 to the extent they have been codified as Section 10.46.280(B) of the Devils Lake Municipal Code and Ordinances Nos. 724, 688, and 599 to the extent they have been codified as Section 10.46.290(B) of the Devils Lake Municipal Code. The motion was seconded by Commissioner Morse, and the motion was carried unanimously.

The second reading of Ordinance No. 921 – Use of Wireless Communication Devices Prohibited was read. The texting and emailing sections are verbatim from Section 39.08.23 of the Century Code. The use of electronic devices by minors is from 39.08.24 of the state statute. The laws are already in place under state law. So they are not new laws. This ordinance allows the cases to be handled under municipal court opposed to district court.

Commissioner Robbins moved to approve the second and final reading of Ordinance No. 921 – Use of Wireless Communication Devices Prohibited – An Ordinance, which upon adoption, shall create Sections 10.46.450 and 10.16.460 of the City of Devils Lake Municipal Code. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

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

1. Authorizing the City Auditor to cancel Check No. 104615 dated December 17, 2013 in the amount of \$25.00 payable to Chad Engen (General-Police Department-Victim Fees). The check has been lost and will be reissued;
2. Fireworks permit submitted by Black Powder LLC dba TNT Fireworks;
3. Gaming site authorization submitted by Lake Region Community College Foundation for October 24, 2014 at the Memorial Building – 524 4th Ave NE;
4. Parade permit submitted by Devils Run Car Show on May 31, 2014 to begin at 9:50 A.M.;
5. Permit to sell alcoholic beverages at a special event submitted by Proz Inc for the wedding reception and dance for Emilee Soper and Brent Luehring to be held March 12, 2014 at the Memorial Building; and
6. Permit to sell alcoholic beverages at a special event and public dance permit submitted by Proz Inc for a fundraiser for DLYA and Devils Lake Elks Tournament to be held April 5, 2014 at the Burdick Arena.

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

Commissioner Stromme moved to approve Budget Amendment No. 02-14 – Airport. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Robbins moved to approve the ND Department of Transportation Agreement for Temporary Highway Closure to close ND Highway 19 from College Dr and Highway 2 from 12:00 P.M. on May 30, 2014 until 2:00 P.M. on June 1, 2014 for the Devils Run car show as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Administrator presented a request for the Flex PACE Incentive Program. Decorated Wearables is building a new building, and is applying for the Flex Pace Program with the Bank of North Dakota. Forward Devils Lake would participate by buying down the interest rate for the Bank of North Dakota loan. After the original loan is paid back, Forward Devils Lake is paid back.

Commissioner Morse moved to approve MJ Industries dba Decorated Wearables for the Flex PACE Incentive Program as recommended by the City Administrator. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Administrator reviewed the request from RSVP for an increase in the amount of funds received as support from the City. The rent for RSVP is increasing \$25.00 per month starting April 1, 2014.

Commissioner Stromme moved to approve increasing the amount of support from \$400/month to \$425/month beginning April 1, 2014 for RSVP for their rent. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer reviewed the request from the Lake Region Bowman's Club and the 4-H Shooting Sports to develop an archery shooting range on City property, south of Ed's Bait Shop. The property is part of the 100-year flood plain for the Creel Bay pump station. Drainage isn't fantastic, but the land would be utilized later in the summer. The Public Utilities, Police Department and Public Ways Departments were contacted. If the Commission is in general concurrence for them to utilize the land, the City Engineer would work with the City Attorney to develop a lease agreement. There is potential for some commercial development adjacent to Hwy 20 so the lease would address future use. The group mentioned adding a structure, but you can't put a structure in the 100-year flood plain. Currently the ground is being hayed, but there is no contract for the haying.

Consensus of the City Commission was to move forward with the plan to develop an archery shooting range on the City property south of Ed's Bait Shop.

Item six on agenda – the potential buyer has withdrawn his request.

Commissioner Robbins 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. 2013 yearend report;
2. City Auditor monthly report; and
3. Police Department monthly report.

Commissioner Robbins moved to approve April 1, 2014 as the effective date of Ordinance No. 919 – Warrantless Arrests for Assault of Family or Household Member. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Morse moved to approve April 1, 2014 as the effective date of Ordinance No. 920 - Violations and Penalties. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Morse moved to approve April 1, 2014 as the effective date of Ordinance No. 921 - Use of Wireless Communication Devices Prohibited. The motion was seconded by Commissioner Stromme, and 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