

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD JULY 7, 2014

The regular meeting of the Devils Lake City Commission was held Monday, July 7, 2014 at 5:30 P.M. with the following members present: President Johnson, Tim Heisler, Craig Stromme, Rick Morse and Dale Robbins. None were absent.

Pledge of allegiance was recited.

Commissioner Morse moved to approve the minutes of the regular City Commission meeting held June 16, 2014 and of the special City Commission meeting held June 24, 2014. 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 single family to residential medium density to allow townhouses on Outlot A Replat of Smith's Sub (16th St SE). Hearing and receiving no comments, President Johnson closed the public meeting.

Commissioner Stromme moved to approve the recommendation submitted by the Devils Lake Planning Commission to approve a change in zoning from residential single family to residential medium density for Outlot A Replat of Smith's Sub located on 16th St SE and contingent upon any multi-family structures built on this Outlot not being larger than 4 units per building and not more than 4 such buildings on the Outlot and submitted by Sungate Properties. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Tim Motherway, regional safety coordinator of the National Child Safety Council, appeared before the City Commission to present a plaque to the Police Department for 50 years of partnership with the Council.

Jessica Ramey appeared before the City Commission to comment on the Law Enforcement Center.

Commissioner Robbins - The Public Utilities Supervisor stated everything was fine in the Sewer Department.

The Public Ways Supervisor said aerial spraying went well.

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

The Public Ways Supervisor reviewed the proposal from Roughrider Signs & Awnings for placing benches downtown. There is no cost or liability to the City. He sells advertising for the year-round benches. The Public Ways Supervisor's question is will business owners shovel around the benches or pile snow on them. The owner of Roughrider Signs & Awnings will be at the July 21, 2014 meeting. The owner is also interested in placing benches at Ruger Park, along the bike path on Highway 2 and at the golf course. The Commission indicated they would like some references for this business.

Commissioner Heisler – The City Engineer stated work will start on 5th Ave and 5th St next week. After that project is completed, the street improvements projects will be started. Work to improve the roadway in Highland Park will start later this week, and work is continuing in Agassiz to install the water and sewer.

With all of the construction activity going on, the City Engineer would like to hire Gerald Geist, a retired Department of Transportation employee, to help with construction activity on a temporary, hourly basis for \$25.00/hour.

Commissioner Heisler moved to approve hiring Gerald Geist as a temporary employee at \$25.00/hour for construction projects. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer indicated the additional drainage contract may not be completed this year for the embankment.

The City Assessor stated everything was fine.

Commissioner Stromme – The Police Chief reviewed an email about the number of days fireworks are allowed in the City. From June 28th through July 7 there were 18 disturbing the peace calls; however, only 7 were fireworks related. Overall for that time period, there were 11 fireworks related calls – medical, kids playing unattended, too close to building, but only seven for noise.

The Sanitation Supervisor stated Saturday is free dump day for residents.

President Johnson - The City Auditor stated there have been issues with the forms for the utility bills; therefore, starting in July the bills will be printed on regular copy paper until further research can be done for a better billing system.

The City Administrator said Commission pictures are scheduled for July 21st.

The City Administrator reviewed the budget meeting dates. The meetings were scheduled for noon on August 1st, August 11th, and August 18th.

The Fire Chief requested out-of-state travel for two employees to attend haz-mat, crude oil training sponsored by BNSF in Pueblo, Colorado on August 6, 7 and 8, 2014.

Commissioner Stromme moved to approve out-of-state travel for two employees to attend crude oil training sponsored by BNSF in Pueblo, Colorado on August 6, 7 and 8, 2014. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The Fire Chief stated he has four employees for Shade Tree. A \$10,000 grant was received for cutting trees; therefore, a contract was awarded to Chuck Nelson to cut down 16 larger trees. A bid proposal package is being put together for another \$10,000 in grant funds. Shade Tree employees are working on 4th, 5th and 6th Streets to remove trees before the street improvement projects begin. Discussion followed on there being numerous trees where residents are concerned about the safety. The plan is to work with the Street Department this fall to get more trees down. At the beginning of the year, they were behind 134 trees, and once the weather warms up more trees will die. Discussion continued on what options are available. Extra funding would be needed to hire a contractor. Shade Tree is able to remove only 2 ½ to 3 trees per day. The Fire Chief will do an assessment of trees and bring it to the next meeting. It was noted there are lots of trees that need to be trimmed.

The Fire Chief stated a blighted structure meeting will be held tomorrow at 4:00 P.M. No response has been received on four of the structures. The church that had a fire is being remodeled.

The City Attorney said he is preparing for the condemnation trials for July 28th and mid-September.

The second reading of Ordinance No. 922 – Speeding in Construction Zone was read. This ordinance allows the Judge to enforce the cases in Municipal Court.

Commissioner Robbins moved to approve the second and final reading of Ordinance No. 922 – Speeding in Construction Zone – An Ordinance, which upon adoption, shall amend Ordinance No. 654 which has been codified as Section 10.08.020 of the Devils Lake Municipal Code. The motion was seconded by Commissioner Heisler, and the motion was carried unanimously.

The City Administrator reviewed the custodial service agreement. No bids were received. The City Attorney was consulted as to what options were available. The City Administrator contacted the current contractor. The contractor had forgot to bid, but was interested in providing the service. The new bid proposal was reviewed.

Commissioner Stromme moved to accept the bid and award the contract for custodial services for the city office to ServiceMaster of Devils Lake in the amount of \$590/month. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

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

Game of chance permits for the month of June 2014.

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

The City Auditor stated the State Auditors are recommending the capital asset policy be adopted to be in compliance with GASB regulations. A range of years is being used for the useful life of an asset.

Commissioner Morse moved to approve the capital asset policy as recommended by the City Auditor. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Assessor reviewed the access easement and warranty deed for Lakeland Investors. The documents are part of the process for Pan-O-Gold to build a transfer station. The City Assessor stated the declaration of utility easement gives the City an easement for the existing utilities before transferring the property.

Commissioner Heisler moved to approve the access easement and declaration of utility easement for Lakeland Investors Inc. as recommended by the City Assessor. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve the warranty deed, seller's/owner's affidavit and agent authorization for Lakeland Investors Inc. for Outlot 05-0039 as recommended by the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward Devils Lake, reviewed a multi-family housing application submitted by Jay and Jeanne Klemetsrud. The local share is \$50,000, and the Bank of North Dakota share is \$100,000. The funding is for 8 townhomes.

Commissioner Stromme moved to approve the request from FORWARD Devils Lake for an interest buy down of the loan for Jay and Jeanne Klemetsrud in the amount of \$50,000. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward Devils Lake, reviewed a multi-family housing application submitted by Sungate Properties. The local share is \$50,000, and the Bank of North Dakota share is \$100,000. The funding is for a four-plex on 16th St SE.

Commissioner Heisler moved to approve the request from FORWARD Devils Lake for an interest buy down of the loan for Sungate Properties in the amount of \$50,000. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve payment of Estimate No. 1 to Elshaug Concrete for 2014 Curb, Gutter and Sidewalk in the amount of \$13,593.31 as recommended by the City Engineer. The motion was seconded by Commissioner Heisler. On roll call all Commissioners voted aye, and the motion carried.

The City Assessor reviewed the purchase agreement for Lot 4, Block 2, Replat of Smith's Sub. This is the last city-owned lot in Smith's Sub. The purchaser will have to build within two years. Current plans are to build a spec house.

Commissioner Stromme moved to approve the purchase agreement for David Slama for Lot 4, Block 2, Replat of Smith's Sub in the amount of \$7,500.00 as recommended by the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the request from Pleasant Valley Properties for the return of a building permit fee for a garage unit which will not be built. Discussion followed on the plan review fee.

Commissioner Robbins moved to return \$331.08 of the building permit fee to Pleasant Valley Properties. The motion was seconded by Commissioner Stromme. Discussion followed about having a policy of not refunding 100%. This permit was for a garage structure with no heating, foundation and etc. The City will be keeping the review fee. The motion carried unanimously.

Commissioner Stromme moved to approve funding for the third quarter of 2014 for the Lake Region Heritage Center in the amount of \$4,500.00 to be paid from general fund (1000-000-55170). The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

For Street Improvement District No. 53-14 one written protest from Leona Kraft and one verbal protest from Mary Beth Armentrout were received. To protest the project out would need over 50% of the land area in the district.

Commissioner Morse moved to approve the resolution determining insufficient protests were filed in for Street Improvement District No. 53-14 (6th St NE between 6th Ave and 12th Ave). The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Commissioner Robbins moved to approve the resolution determining insufficient protests were filed in Street Improvement District No. 54-14 (5th St NE between 6th Ave and 12th Ave). The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Engineer stated one verbal comment was received on Street Improvement District No. 55-14; however, it was more of a complaint on maintenance of the roadway than it was a protest of the project.

Commissioner Morse moved to approve the resolution determining insufficient protests were filed in Street Improvement District No. 55-14 (4th St NE between 6th Ave and 12th Ave). The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Engineer reviewed the change order for Strata Corporation. This change order would add the work for 4th St NE between 6th Ave and 12th Ave to the original contract for 5th St SE between 5th Ave and 8th Ave. The work for these projects is similar to the 5th St SE project. The unit prices will be the same for this project. The testing is already set up and things are in place to do that type of work so it makes sense to add these projects to the current contract. The City is able to get a quality project for a reasonable cost.

Commissioner Morse left the meeting at 6:25 P.M.

Commissioner Robbins moved to approve Change Order No. 1 for Strata Corporation for Street Improvement District No. 51-13 – 5th St SE between 5th Ave and 8th Ave for Street Improvement No. 55-14 – 4th St NE between 6th Ave and 12th Ave for a net increase in the amount of \$275,171.23 as recommended by the City Engineer. The motion was seconded by Commissioner Heisler. Discussion followed on how using change orders for like projects saves the City money since there are no mobilization costs. The motion carried unanimously.

The City Engineer reviewed the change order for Strata Corporation. This change order would add the work for 5th St NE between 6th Ave and 12th Ave to the original contract for 5th St SE between 5th Ave and 8th Ave. The unit prices will be the same for this project.

Commissioner Stromme moved to approve Change Order No. 2 for Strata Corporation for Street Improvement District No. 51-13 – 5th St SE between 5th Ave and 8th Ave for Street Improvement No. 54-14 – 5th St NE between 6th Ave and 12th Ave for a net increase in the amount of \$266,794.74 as recommended by the City Engineer. The motion was seconded by Commissioner Heisler. The City Engineer explained how unit prices govern for the cost of the project, and it is not based on quantities. The motion carried unanimously.

The City Engineer reviewed the change order for Strata Corporation. This change order would add the work for 6th St NE between 6th Ave and 12th Ave to the original contract for 5th St SE between 5th Ave and 8th Ave. The unit prices will be the same for this project.

Commissioner Robbins moved to approve Change Order No. 3 for Strata Corporation for Street Improvement District No. 51-13 – 5th St SE between 5th Ave and 8th Ave for Street Improvement No. 53-14 – 6th St NE between 6th Ave and 12th Ave for a net increase in the amount of \$203,682.09 as recommended by the City Engineer. The motion was seconded by Commissioner Heisler. The City Engineer stated this project has a narrower roadway; therefore, it is less costly. The motion carried unanimously.

The City Engineer reviewed the traffic signal issue for the new Wal-Mart store. The development agreement calls for substantial completion of all public improvement before taking possession and receiving an occupancy certificate. The vast majority of the public improvements are in place; however, work to install the traffic signals was interrupted due to interference with Western Area Power Association's (WAPA) overhead line. The original study showed there was enough clearance for the traffic signals on the plan, but during the development of the shop drawings for the project there was going to be video detection for the camera which meant the camera

needed to be mounted forty feet high. In order to mount the camera, a light needs to go on one of the poles. Therefore, there was no longer clearance for the overhead power lines. WAPA lines need to be higher due to a hotter wire. An additional 8 feet is needed on the poles.

Commissioner Morse returned to the meeting at 6:30 P.M.

The City Engineer stated the traffic study completed for the intersection at the new Wal-Mart store does not require traffic signals. However, the study did meet the warrants for signals, and since the developer was paying 75% of the costs the signals were included in the project. Discussion continued on there being only one outage on the line since the installation of signals will be coordinated with the work needed for raising the WAPA poles. Also discussed was the hiring of the Police Department to do traffic control at the intersection for the first five days when the new store opens.

Commissioner Heisler moved to approve issuing the occupancy certificate for Wal-Mart and waiving the section in the development agreement for all public improvements to be substantially completed before issuing the occupancy certificate due to the issue with the traffic signal as recommended by the City Engineer. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer reviewed the Western Area Power Association's agreement for the lines at the new Wal-Mart.

Commissioner Robbins moved to approve the agreement with Western Area Power Association as it pertains to the new Wal-Mart location and to pay the \$19,000.00 in accordance with the agreement and recommended by the City Engineer. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Administrator reviewed the recommendation for increasing the water rate. Water usage has decreased; therefore, the revenues are short which will create an estimated \$40,000 deficit for the year. This deficit can be reduced if the water rate is raised as of July 1, 2014. Discussion followed on the City's water rate in comparison to other cities and to rural water systems and on the reasons for the decrease in water usage.

Commissioner Robbins moved to increase the water rate to \$3.00/1,000 gallons retroactive to July 1, 2014 as recommended by City Administrator. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

President Johnson acknowledged the following report:
2nd quarter economic data.

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.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:47 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT