

MINUTES OF THE BOARD OF CITY COMMISSIONERS  
HELD FEBRUARY 17, 2015

The regular meeting of the Devils Lake City Commission was held Tuesday, February 17, 2015 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler (via telephone), 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 February 2, 2015. 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 issue a Class IV retail liquor license to Big Eye Hospitality LLP dba Sleep Inn & Suites located at 1413 Hwy 2 E. The Police Chief reviewed the residency requirement for a license. The owner is aware of this license being denied and is making changes to meet the requirement. Hearing and receiving no other comments, President Johnson closed the public hearing.

Commissioner Morse moved to deny issuing a Class IV retail liquor license to Big Eye Hospitality LLP dba Sleep Inn & Suites since the partner did not meet the residency requirement as recommended by the Police Chief. The motion was seconded by Commissioner Robbins. Discussion followed on this being a full license with on and off sale and how the motel plans to use the license. The motion carried unanimously.

**5:30 P.M.** – This was the time set for a public hearing to review a proposed change in the zoning ordinance that would allow oil refineries and petrochemical plants in an area zoned as heavy industrial. The City Assessor stated since the zoning planning manual had nothing related to oil refineries, the issue was researched with Stark and Williams Counties.

Jim Chattin thinks the City too readily minimized the concerns in the due diligence report since shortly after receiving the report the land for the refinery was annexed. His concerns include Eagles Ledge being an investment company only with no development experience, costs of the project, debt load, shortage of trained engineers, overly optimistic revenue, zoning of annexed land and the lack of a developers agreement. He believes it will take twice as long and cost twice as much.

President Johnson stated the development agreement will be developed, and a committee is being appointed tonight. The City is taking the time needed and protecting the community as it moves forward.

Jessica Ramey had concerns about Eagles Ledge and subsidiaries.

Mary Lundy had the following questions:

1. Is the area zoned heavy industrial already? It is currently zoned as agricultural. This is not a meeting for zoning. Zoning change hasn't started yet.
2. Was there a reason in the past why oil refineries or petrochemical plants weren't zoned as heavy industrial? Were they excluded for a certain reason or was it because we had no reason to add it? There was no reason to have it. When looking at zoning manuals, they were included as heavy industrial. Including the language in the zoning gives the City more chances to have more meetings since it would be under conditional uses.
3. Are there any pros/cons of adding oil refinery and petrochemicals to the heavy industrial zoning? These will be identified during the permitting process.
4. As for the developers agreement, how important is the permit matrix? Rachel Lindstrom, Executive Director of Forward Devils Lake, stated the matrix is a to do list of what happens at what time frame.
5. How can we do a good developers agreement without having all the permitting requirements? A law firm is being selected to help with the agreement – an environmental attorney to help protect the City.
6. Will the development agreement be completed prior to the zoning? The zoning could be completed and include a contingency before the agreement is finalized.

Jessica Ramey thought the zoning was contingent upon Eagles Ledge purchasing the property. The annexation was contingent upon having a developer agreement and title being conveyed.

Hearing and receiving no other comments, President Johnson closed the public meeting.

Commissioner Robbins moved to accept the recommendation of the Devils Lake Planning Commission to proceed with the change in the language for conditional uses in an area zoned as heavy industrial to accommodate an oil refinery and petrochemical plant. The motion was seconded by Commissioner Stromme, 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 single family to residential low density for Lots 1-4 and Lot 6, Block 2, Replat of Smith's Subdivision (16<sup>th</sup> St SE). Property owners in the area objected at the Planning Commission meeting. Hearing and receiving no other comments, President Johnson closed the public meeting.

Commissioner Stromme moved to deny a change in zoning from residential single family to residential low density for Lots 1-4 and Lot 6, Block 2, Replat of Smith's Subdivision (16<sup>th</sup> St SE) as recommended by the Devils Lake Planning Commission. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Galen Cariveau from Cariveau Workforce Services, appeared before the City Commission to review his proposal for a marketplace survey for salaries. Three to five cities with similar populations to Devils Lake would be recruited as part of the survey. The cities would hopefully be in North Dakota, but maybe in Minnesota. The second part of the proposal would be to build a new compensation system. The survey would compare salaries and health insurance, but not any other benefits.

**Commissioner Heisler** - The City Engineer stated everything was fine.

The City Assessor stated everything was fine.

**Commissioner Stromme** - The Police Chief stated two vehicles were damaged in a pursuit – one has over \$9,000 damages and the other one has bumper damage. A third vehicle had a window kicked out. Therefore, they have only three operational vehicles, and they usually have six. A new vehicle is on order, and the one with the broken window should be operational soon.

The Sanitation Supervisor reported everything was fine.

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

The Public Ways Supervisor stated everything was fine.

Commissioner Robbins stated the daycare board met and decided to close the facility on March 15<sup>th</sup>. The daycare can't make it financially. Discussion followed on the monthly costs, the food reimbursement program and on the number of kids at the daycare.

The City Assessor stated the fire panel for the daycare had been ordered and received. The panel has not been installed. However, if the building is empty, the panel is not needed. The panel can be returned, but the City would be charged a 10% restocking fee. The city hall needs a new panel. Last year, the City received a bid for \$1,800.00 for the panel. This panel is newer, and the company is willing to charge \$2,400.00 instead of \$2,800.00 since not all the strobes and horns are needed. The cost does not include the electrician.

The City Assessor stated the daycare is a city-owned building; therefore, the City will incur monthly expenses for heat and electricity even though the building is empty.

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

The Public Ways Supervisor stated the downtown has been cleaned, and the department will be going back to do the residential area. Also, all the downtown lights are working. The lights on 4<sup>th</sup> St are all LED lights, and it is expected the Beautification Committee will next paint the poles on 4<sup>th</sup> Ave and replace the lights with LED lights.

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

The City Administrator said everything was fine.

Commissioner Morse moved to approve using the fire panel ordered for the daycare in city hall if it is feasible; otherwise, the fire panel can be returned. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The Fire Chief stated the State Fire School will be held in Minot next week. Six firefighters plus the Chief will be attending. He also reported the youth fishing tournament is scheduled for this Saturday.

The City Attorney requested a committee be established for developing the development agreement with Eagles Ledge. Members of the committee would be the Mayor, City Administrator, City Engineer, City Attorney and the Executive Director of Forward Devils Lake.

Commissioner Stromme moved to approve appointing the Mayor, City Administrator, City Engineer, City Attorney and the Executive Director of Forward Devils Lake to the committee developing the development agreement for Eagles Ledge. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Attorney stated he is looking for a lawyer with expertise in this field for bonding and insurance.

The committee meetings will be public; however, there may be some executive sessions.

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

Authorizing the City Auditor to cancel Check No. 106774 dated December 16, 2014 in the amount of \$25.00 payable to Brad Bowman (General-Municipal Court-Legal Fees); Check No. 106688 dated November 18, 2014 in the amount of \$50.00 payable to Safe Alternatives for Abused Families (General-Nondepartmental-Victim/Witness Fees); and Check No. 106689 dated November 18, 2014 in the amount of \$25.00 payable to JustinJoe Sandberg (General-Municipal Court-Legal Fees). These checks were lost and will be reissued.

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

Commissioner Morse left the meeting at 6:35 P.M.

The first reading of Ordinance No. 925-addition of language to heavy industrial zoning-was held.

Commissioner Stromme moved to approve the 2015 Budget Amendment No. 01-15 – special revenue as recommended by the City Auditor. The motion was seconded by Commissioner Heisler. The money will come from the sales tax that goes to the Growth Fund. The motion carried unanimously.

The City Engineer stated Change Order No. 1 for 5<sup>th</sup> Ave SE was for asphalt coring which was missing from the original bid.

Commissioner Stromme moved to approve Change Order No. 1 for Strata Corporation for Street Improvement #51-13-5<sup>th</sup> St SE for the addition of asphalt coring on 5<sup>th</sup> Ave SE for a net increase of \$571.65 as recommended by the City Engineer. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Engineer stated Change Order No. 2 for 5<sup>th</sup> St SE was for asphalt coring which was missing from the original bid.

Commissioner Heisler moved to approve Change Order No. 2 for Strata Corporation for Street Improvement #51-13-5<sup>th</sup> St SE for the addition of asphalt coring on 5<sup>th</sup> St SE for a net increase of \$142.91 as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward Devils Lake, appeared before the City Commission to request funds for the oil refinery due diligence services.

Commissioner Stromme moved to approve payment of \$60,586.67 to Forward Devils Lake for due diligence services for the oil refinery. The motion was seconded by Commissioner Robbins. Commissioner Morse returned to the meeting at 6:39 P.M. On roll call all the Commissioners voted aye, and the motion carried.

The request from Lake Region Community Service and Restitution Program was discussed.

Commissioner Heisler moved to approve the 2015 funding for Lake Region Community Service and Restitution Program in the amount of \$4,000.00 (1000-000-43720). The motion was seconded by Commissioner Stromme. On roll call all Commissioners voted aye, and the motion carried.

President Johnson acknowledged the following reports:

1. 2014 year end financial report (Discussion was held on the increase in the General Fund and on water usage);
2. City Auditor monthly report – December 2014;
3. City Auditor monthly report – January 2015;
4. Fire Department monthly report;
5. Municipal Court monthly report; and
6. Police Department monthly report.

Commissioner Heisler 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.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:50 P.M.

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

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