

MINUTES OF THE BOARD OF CITY COMMISSIONERS  
HELD MAY 18, 2015

The regular meeting of the Devils Lake City Commission was held Monday, May 18, 2015 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler, Craig Stromme and Rick Morse. Commissioner Dale Robbins was absent.

Pledge of allegiance was recited.

Commissioner Morse moved to approve the minutes of the regular City Commission meeting held May 4, 2015. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

**5:30 P.M.** - This was the time set for the bid opening for 2015 Asphalt and Street Repair. The following bids were opened and read:

Strata Corporation - Grand Forks, ND			
ND Contractor License No. 693 Class A			
Item	Quantity	Unit Price	Extended Price
HBP Class 27 or 29	400 TN	\$ 80.00	\$ 32,000.00
Paver Patch	100 TN	\$155.00	\$ 15,500.00
Asphalt Street Repair (5")	500 SY	\$110.00	\$ 55,000.00
Asphalt Street Repair (7")	500 SY	\$122.00	\$ 61,000.00
Concrete Street Repair	250 SY	\$155.00	\$ 38,750.00
Asphalt Street Opening (5")	250 SY	\$118.00	\$ 29,500.00
Asphalt Street Opening (7")	250 SY	\$128.00	\$ 32,000.00
Concrete Street Opening	50 SY	\$170.00	\$ 8,500.00
		Total Bid	\$272,250.00
*Mobilization per site	1 each	\$1,750.00	

Tri-State Paving & Concrete, Inc. - Grand Forks, ND			
ND Contractor License No. 39411 Class A			
Item	Quantity	Unit Price	Extended Price
HBP Class 27 or 29	400 TN	\$ 75.00	\$ 30,000.00
Paver Patch	100 TN	\$140.00	\$ 14,000.00
Asphalt Street Repair (5")	500 SY	\$ 80.00	\$ 40,000.00
Asphalt Street Repair (7")	500 SY	\$105.00	\$ 52,500.00
Concrete Street Repair	250 SY	No bid	
Asphalt Street Opening (5")	250 SY	\$ 80.00	\$ 20,000.00
Asphalt Street Opening (7")	250 SY	\$105.00	\$ 26,250.00
Concrete Street Opening	50 SY	No bid	
		Total Bid	\$182,750.00

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

**Commissioner Heisler** – The City Engineer stated he is working with the Corps of Engineers on awarding the last phase of work for the embankment project. Also, he is advertising for bids on the various water main replacements throughout the city. The bids will be opened at the next meeting.

The City Assessor stated the Board of Equalization meeting is May 27, 2015 at noon.

**Commissioner Stromme** - The Sanitation Supervisor said this is the last week of the spring special pickup.

The Police Chief said applicants were interviewed on Friday, and he will make a job offer this week. Also, the body cameras finally came in, and they are being issued to the officers. The cameras involve some training.

President Johnson inquired about the fallen trees from yesterday's wind. The Fire Department worked yesterday cleaning up some trees, and the Street Department has been picking and cleaning up trees today.

The Fire Chief stated Shade Tree has no employees at this time; however, one might be coming back. He may need to re-advertise for help.

**Commissioner Morse** – The Public Ways Supervisor reviewed the asphalt and street repair bids. Discussion followed on the concrete portion of the bid. Based on the small amount of concrete, the City could use the contractor for the 2015 Curb, Gutter & Sidewalk. The Public Ways Supervisor would recommend both bids for item #1 and Tri-State's bid for all the other items except for the concrete which Tri-State did not bid.

Commissioner Stromme moved to accept the bid from Tri-State Paving and Strata Corporation only for HBP Class 27 or 29 at \$75.00/ton and \$80.00/ton respectively and to accept the bid from Tri-State Paving for paver patch at \$140.00/ton, 5" asphalt street repair at \$80.00/sy, 7" asphalt street repair at \$105.00/sy, 5" asphalt street opening repair at \$80.00/sy, and 7" asphalt street opening repair at \$105.00/sy. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The Public Ways Supervisor requested out-of-state travel to pick up the downtown flowers in Minnesota and the fireworks in Wisconsin.

Commissioner Stromme moved to approve out-of-state travel for the Public Ways Department to pick up the flowers in Red Wing, MN and the fireworks in Ellsworth, WI on May 20<sup>th</sup> and 21<sup>st</sup>. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Discussion returned to how to handle concrete needs. At this time the City does not have any concrete street openings.

The Public Utilities Supervisor said alarms went off at the storm lift stations.

**President Johnson** - The Public Utilities Supervisor said at the water treatment plant the roof flashing and rubber membrane peeled back and exposed half of the building. Insulation and light fixtures need to be checked over for damage. The roof has a 20-year warranty; however, wind gusts would have to be less than 55 mph. The insurance adjustor was there today. The roofing contractor is coming from Fargo and will be on site tomorrow. Due to the membrane system warranty the contractor has to be a certified installer.

The City Auditor stated everything was fine.

The City Administrator asked about declaring the daycare building as surplus and selling it. The City Assessor was asked to appraise the building or at least place a value on the building. The building could be sold by bids with the bidders being able to orally increase the bids at the bid opening. Otherwise, the building could be listed with all the realtors, but the City would need to have a price on it in order to list it.

Commissioner Morse moved to declare the daycare building at 115 5<sup>th</sup> Ave NE as surplus. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The Fire Chief requested permission to solicit funds for MDA on May 29<sup>th</sup> and May 30<sup>th</sup>. Wal-Mart has contributed \$750.00, and the firemen have donated \$200.00.

Commissioner Heisler moved to approve granting a waiver to Section 10.30.130 of the City of Devils Lake Ordinance for the firefighters and volunteers to solicit funds for MDA during Devils Run. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The Fire Chief requested out-of-state travel for Cory Meyer to attend a leadership course from May 23<sup>rd</sup> through May 30<sup>th</sup>.

Commissioner Heisler moved to approve out-of-state travel for Cory Meyer to attend a leadership course in Emmitsburg, MD from May 23<sup>rd</sup> through May 30<sup>th</sup>. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The Fire Chief indicated nine personnel went to Heimdal to assist with the train derailment.

The Fire Chief stated a \$20,000.00 donation was received for the Devils Lake Volunteer Fire Department from Kathryn Hermann. The firemen will be thanking Kathryn Hermann on Wednesday, May 20<sup>th</sup>, at 2:30 PM at Heartland Care. Everyone is invited for cake and coffee.

The City Attorney said everything was fine.

The City Engineer recommended awarding the 2015 Curb, Gutter & Sidewalk bid to Elshaug Concrete Construction. The unit prices increased less than 10% from last year.

Commissioner Heisler moved to award the 2015 Curb, Gutter & Sidewalk bid to Elshaug Concrete Construction LLC of Devils Lake, ND in the amount of \$153,997.50 as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Engineer reviewed his recommendation on awarding the Water and Sewer Improvement District 59-14 - Smith Dr bid. Only one bid was received. A local contractor had talked with the City Engineer, but did not bid because he was concerned about the completion date. The completion date is being driven by the developer who wants the water and sewer installed so he can have the building completed by August 1<sup>st</sup>. The City Engineer spoke with the contractor who bid, and he was concern with the potential for ground water. At 40% above the engineer's estimate, the bid would have to be rejected. Upon further discussion, the contractor provided information to reduce his bid so it would be within 25% of the engineer's estimate while still completing the project on time and for the same scope of work. If approved a change order would be prepared for the next meeting to decrease the price. The bidder's prices are in line except for the per foot price for water main and sewer main installation. Discussion followed on what happens if the contractor changes his mind. In that case the contract would be terminated before mobilization. The other alternative is to hire the work done hourly which has issues.

Commissioner Heisler moved to award the Water and Sewer Improvement District 59-14 – Smith Dr bid to Naastad Brothers Inc of Hatton, ND in the amount of \$142,050.50 contingent upon a change order being completed and executed to reduce the price by \$17,210.00 as recommended by the City Engineer. 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. 107506 dated April 7, 2015 in the amount of \$214.95 payable to Pelican Products Inc (General-Police-Tools & Equipment Expense). This check was returned since the company will not be charging for the repair.
2. Permit to sell alcoholic beverages at a special event submitted by Ye Olde Tavern for the Reel Fun Days street dance to be held June 27, 2015;
3. Reappointment of Mary Lundy, Doug Goulding, Dan Wakefield and Susan Goulding as members of the Devils Lake Historic Preservation Commission for two-year terms expiring April 30, 2017;
4. Reappointment of Dick Johnson and Barbara Britsch as members of the Renaissance Zone Authority for three-year terms expiring April 30, 2018; and
5. Street dance permit submitted by Chamber of Commerce for the Reel Fun Days to be held June 27, 2015.

Motion seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Morse moved to approve Budget Amendment #02-15 – Police Department for the purchase of body cameras as approved at the December 15, 2014 City Commission meeting. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Auditor indicated the capital asset policy was changed from yearly depreciation in the first and last year to the nearest month.

Commissioner Morse moved to approve the Capital Asset Policy as recommended by the City Auditor. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Engineer reviewed the development agreement for Farmers Union Oil Cooperative. Farmers Union will be developing an area on the east side of town and will need water, sewer and street improvements completed. In order to meet their time frame to meet their deadlines, the process in the development agreement is being proposed. The land will be annexed, a tax increment financing (TIF) district created and a special assessment district created. The City will pay 25% of the public improvements and Farmers Union will pay 25%. The TIF will cover the remaining 50%; however, if there is a shortfall with the TIF, Farmers Union will pay that cost annually. Kadmas, Lee & Jackson will be the engineer for the project. The public improvement costs are just under \$2 million. That is the cost estimate for just construction and does not include engineering. A truncated version of the special assessment process will be completed since Farmers Union is the only benefited property to be annexed and special assessed. In paragraph 14 the payment to the engineer should refer to paragraph 9 and not 8. Discussion followed on what property was to be annexed, the possibility of the street improvement not be completed until next year, on the total cost of the project, how the City would pay for its share, on Farmers Union fronting the costs, and on how any potential shortfall in the TIF would be handled.

Commissioner Heisler moved to approve the development agreement for Farmers Union Oil Cooperative as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward of Devils Lake, reviewed the following requests:

Dakota Dry Bean, Inc requested flex pace funding for expanding services at both locations and upgrading the rail service at the Crary location. Neither of the sites is within city limits; however, they are looking at a \$3 million expansion and the business and employees utilize the Devils Lake community. Previously, Forward DL has provided assistance outside of the city limits for businesses in the Lake Region area. The City's share would be \$50,000.00 to be repaid at the end of the ten year loan. Forward Devils Lake is looking at modifying the application to include the Lake Region area.

Commissioner Stromme moved to approve Flex Pace funding for Dakota Dry Bean, Inc in the amount of \$50,000.00 as recommended by Forward Devils Lake. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Agassiz Properties #2, LLLP would like to utilize the multi-family housing incentive. The City portion would be the in-kind contribution from the tax increment financing district. The project would be the building of 5 duplexes.

Commissioner Heisler moved to approve the multi-family housing incentive for Agassiz Properties #2, LLLP. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Stromme moved to approve payment of Estimate No.3 – Final to Strata Corporation for Street Improvement District #53-14 -6<sup>th</sup> St NE in the amount of \$4,102.53 as recommended by the City Engineer. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Morse moved to approve payment of Estimate No.3 – Final to Strata Corporation for Street Improvement District #54-14 -5<sup>th</sup> St NE in the amount of \$4,651.95 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 Engineer reiterated that these projects were just overlays and not reconstruction of the streets; therefore, cracks from below may travel to the surface.

Commissioner Heisler moved to approve payment of Estimate No.3 – Final to Strata Corporation for Street Improvement District #55-14 -4<sup>th</sup> St NE in the amount of \$5,362.42 as recommended by the City Engineer. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

The City Engineer reviewed the preliminary report for Sewer Main Rehabilitation District No 13-15. For the area of Lincoln Ave between 15<sup>th</sup> St NE and Sweetwater Dr NE, these are old clay tile pipes and the cottonwoods on the boulevard are causing issues with roots in the main. Area 2 on College Dr by Minnie H includes a distressed main. The last area is on 2<sup>nd</sup> St NE by Prairie View. This main is in poor condition and receives discharge from the KDLR lift station.

Commissioner Stromme moved to approve the resolution approving preliminary report and directing preparation of plans and specifications for Sewer Main Rehabilitation District No 13-15 (various locations). The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Assessor reviewed the resolution for vacating property. The property is north of the Holiday Inn Express and across from the bowling alley. Three parcels in the area have been sold. The City will have one parcel left to sell.

Commissioner Heisler moved to approve the resolution vacation property set aside for public use for a parcel of land situated in the W ½ of the NW ¼ of Section 2, Township 153 North, Range 64 West within the City of Devils Lake as recommended by the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the outlot plat for dedicating the public right-of-way known as 9<sup>th</sup> Ave SE between 5<sup>th</sup> St and 8<sup>th</sup> St.

Commissioner Morse moved to approve Outlot 05-0064 part of the W ½ NW ¼ Section 2, T153N, R64, City of Devils Lake as recommended by the City Assessor. The motion was seconded by Commissioner Stromme. Discussion followed on the definition of an outlot. The County has gone away from metes and bounds descriptions to outlots for recording purposes. The motion carried unanimously.

The City Assessor reviewed the outlot plats for deeding property described by a metes and bound legal descriptions. Outlot 05-0066 is still the City's property. The other three outlots have been sold, and once recorded the property can be deeded.

Commissioner Stromme moved to approve Outlot 05-0065 part of the W ½ of the NW ¼ Section 2, Township 153 North, Range 64 West, Outlot 05-0066 part of the W ½ of the NW ¼ Section 2, Township 153 North Range 64 West, Outlot 05-0067 part of the SW ¼ of the NW ¼ of Section 2, Township 153 North, Range 64 West, and Outlot 05-0068 part of the SW ¼ of the NW ¼ of Section 2, Township 153 North, Range 64 West. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Auditor reviewed the requests for the City to act as sponsor for grant applications submitted to Emergency Solutions Grants Program, North Dakota Homeless Grant Program and to Justice Assistance Grant Program by Safe Alternatives for Abused Families.

Commissioner Stromme moved to approve the City acting as sponsor for grant applications submitted to the Emergency Solutions Grants Program, the North Dakota Homeless Grant Program and Justice Assistance Grant Program on behalf of Safe Alternatives for Abused Families and The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

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

President Johnson acknowledged the following report:

1. Fire Department monthly report;
2. Municipal Court monthly report; and
3. Police Department monthly report.

President Johnson informed the Commission about the meeting of the Devils Lake Advisory Committee. The Governor is committed to running pumps at both outlets until the lake reaches 1450 msl. Another meeting may be held when that

level is reached. The criteria are 800 cfs at both outlets for flows and 750 mg/l for the sulfates. The pumps were on, but they have been shutdown because of the moisture received.

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**