

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD APRIL 18, 2016

The regular meeting of the Devils Lake City Commission was held Monday, April 18, 2016 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler and Dale Robbins. Commissioners Craig Stromme and Rick Morse were absent.

Pledge of allegiance was recited.

Commissioner Robbins moved to approve the minutes of the regular City Commission meeting held April 4, 2016. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

5:30 P.M. - This was the time set for the bid opening for 2016 Asphalt and Street Repair. The following bid was opened and read:

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	\$ 70.00	\$ 28,000.00
Paver Patch	100 TN	\$127.00	\$ 12,700.00
Asphalt Street Repair (5")	500 SY	\$ 75.00	\$ 37,500.00
Asphalt Street Repair (7")	500 SY	\$100.00	\$ 50,000.00
Concrete Street Repair	250 SY	No bid	
Asphalt Street Opening (5")	250 SY	\$ 75.00	\$ 18,750.00
Asphalt Street Opening (7")	250 SY	\$100.00	\$ 25,000.00
Concrete Street Opening	50 SY	No bid	
		Total Bid	\$171,950.00

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

5:30 P.M. – This was the time set for the bid opening for installation of the cemetery fence. The following bids were opened and read:

Leben Masonry – Devils Lake, ND	\$22,220.00
Kimball Masonry - Minot, ND	\$22,900.00
Rick's Concrete – Devils Lake, ND	\$13,381.00

Commissioner Morse arrived at 5:34 P.M.

Commissioner Heisler 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 Robbins, and the motion carried unanimously.

5:30 P.M. – This was the time set for a public hearing to issue a Class VIII hotel liquor license to Eric Boren dba Cobblestone Hotel and Suites located at 1801 Highway 2 E. Hearing and receiving no comments, President Johnson closed the public hearing.

Commissioner Heisler moved to issue a Class VIII hotel liquor license upon payment of the license fee to Eric Boren dba Cobblestone Hotel and Suites located at 1801 Highway 2 E as recommended by the Police Chief. The motion was seconded by Commissioner Morse. The fee will be set later at the meeting. The motion carried unanimously.

5:30 P.M. - This was the time set for a public hearing to review a request for a conditional use permit to allow more than 18 children in a home day care at 304 18th Ave SE. One comment was received at the Planning Commission meeting. Hearing and receiving no other comments, President Johnson closed the public hearing.

Commissioner Morse moved to approve a conditional use permit to allow more than 18 children, with a maximum of 30 children, in a home day care at 304 18th Ave SE submitted by Lila Robbins, as recommended by the Devils Lake Planning Commission. The motion was seconded by Commissioner Heisler. Commissioner Heisler, Morse and President Johnson voted aye. Commissioner Robbins abstained. The motion carried.

5:30 P.M. - This was the time set for a public hearing to review a request for a conditional use permit to move a cabin onto commercially zoned property on Lots 1 and 2, Peterson 2nd Subdivision. Hearing and receiving no comments, President Johnson closed the public hearing.

Commissioner Robbins moved to approve a conditional use permit to allow moving a cabin onto Lot 1, Peterson's 2nd Subdivision which is zoned as highway commercial and submitted by Randy & Julie Schemionek, as recommended by the Devils Lake Planning Commission. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

5:30 P.M. - This was the time set for a public hearing to review a request for annexation for a parcel of land in the NW1/4SE1/4, Section 35, T154, R64, containing 3.70A (located on 5th St NE on the east side of 14th Ave NE) to be zoned as residential medium density. The City Engineer stated the infrastructure is in place – water and sewer mains. The housing complex to the south would require roadway and infrastructure improvements. The City Attorney said it would be annexed by ordinance since three-fourths of owners requested it. Hearing and receiving no other comments, President Johnson closed the public hearing.

Commissioner Morse moved to proceed with the annexation of a parcel of land in the NW1/4SE1/4, Section 35, T154, R64 containing 3.70A (located on 5th St NE on the east side of 14th Ave NE) as recommended by the Devils Lake Planning Commission. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

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

The Public Ways Supervisor said he would bring the bid recommendation for the cemetery fence to the next meeting.

Commissioner Morse – The Public Ways Supervisor reviewed the asphalt and street repair bid. Prices have decreased from last year. The Public Ways Supervisor recommended awarding the bid to Tri-State Paving.

Commissioner Morse moved to accept the bid from Tri-State Paving for HBP Class 27 or 29 at \$70/ton, paver patch at \$127.00/ton, 5" asphalt street repair at \$75.00/sy, 7" asphalt street repair at \$100.00/sy, 5" asphalt street opening repair at \$75.00/sy, and 7" asphalt street opening repair at \$100.00/sy. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The Public Utilities Supervisor said an employee resigned last week.

Commissioner Heisler – The City Engineer stated work continues on handicapped accessibility fishing piers and on a small drainage contract on east side for the embankment.

The City Assessor said a date for the annual equalization meeting needs to be set. Consensus of the City Commission was to meet at noon on June 2nd.

The City Assessor requested out-of-state travel for the North Central Regional Assessor Association conference to be held June 19-22, 2016 in Des Moines, IA.

Commissioner Heisler moved to approve out-of-state travel for the City Assessor to attend the North Central Regional Assessor Association conference to be held June 19-22, 2016 in Des Moines, IA. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

President Johnson - The Police Chief requested trying an aircard in one of the vehicles.

The Sanitation Supervisor reported spring cleanup starts Monday, April 25th.

The City Auditor stated everything was fine.

The City Administrator received a request from Lake Region Heritage Center to be the sponsor for a CDBG grant for fixing the steps.

Commissioner Heisler moved to approve the City of Devils Lake being the local grant sponsor for the Lake Region Heritage Center's CDBG grant application. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Administrator said a developer has inquired about forming a TIF district for 50-60 single residential homes, one home per lot, on the north end of town. The houses would sell for \$150,000 - \$200,000. The City Administrator will research the issue more including estimates and payback.

The Fire Chief stated six firefighters returned from rail safety training in Pueblo, CO.

The City Attorney requested going into executive session at the end of the meeting to discuss a suit filed by Michael Hunter.

The second reading of Ordinance No. 934 – Highway commercial was held.

Commissioner Robbins moved to approve the second and final reading of Ordinance No. 934 – Highway Commercial – An ordinance, which upon adoption, shall amend Ordinance Nos. 879, 856, 827 and 895, which have been codified as Sections 17.48.030(F) and (G) and Section 17.48.060 (D) of the Devils Lake Municipal Code and effective immediately. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Engineer recommended awarding the 2016 Curb, Gutter & Sidewalk bid to Elshaug Concrete Construction.

Commissioner Heisler moved to award the 2016 Curb, Gutter & Sidewalk bid to Elshaug Concrete Construction LLC of Devils Lake, ND in the amount of \$154,822.50 as recommended by the City Engineer. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Engineer said the ND Department of Transportation (NDDOT) opened bids for the Hwy 19 roadway improvements from the airport to the intersection of US Highway 2. The City currently has a cost share and maintenance agreement with NDDOT for this roadway. The low bid received was submitted by Gowan Construction for \$7,530,249.00, and the City's share would be \$174,398.00. The ND Department of Transportation would like the City to concur in writing to accept the low bid from Gowan Construction of Oslo, MN.

Commissioner Robbins moved to concur with the State on awarding the bid to Gowan Construction of Oslo, MN for the Hwy 19 roadway improvements from the airport to the intersection of US Highway 2 in the amount of \$7,530,249.00 with the City's share being \$174,398.00 as recommended by the City Engineer. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Engineer said the bids for the Cenex frontage road were opened. The low bid received was submitted by Strata Corporation for \$729,489.90. Farmers Union Oil Co has agreed to the award so the City needs to concur to accept the low bid from Strata Corporation of Grand Forks, ND. Unit prices have come down, and the amount is under the engineer's estimate.

Commissioner Heisler moved to concur with the Farmers Union Oil Co on awarding the bid to Strata Corporation of Grand Forks, ND for the Cenex frontage road in the amount of \$729,489.90 as recommended by the City Engineer. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

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

1. Authorizing the City Auditor to cancel Check No 109311 dated February 2, 2016 in the amount of \$15.00 to Bonnie Herman (Watermain Impr 24-15 Various – Nondepartmentalized – Miscellaneous Expense) – the check was lost and will be reissued;
2. Extension of premises application for a special event submitted by Star City Investments Inc for a truckload beer sale to be held May 27, 2016;
3. Fireworks permit submitted by Mark Olson;
4. Reappointment of Paula Bourcy, Deb Follman and Kevin Davidson as members of the Devils Lake Shade Tree Committee for three-year terms expiring June 30, 2019; and
5. Transient merchant permit submitted by Two Rivers Outfitters, Ben Murphy dba Oof-da Tacos for food concessions to be held June 1, 2, 3, and 4, 2016 at Leever's Supermarket, 807 Hwy 20 South.

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

The 1st reading of Ordinance No. 938 – Taxicabs was held. Clarification will be inserted to specify what type of drug testing will be conducted, who incurs the cost of the testing, and guest passenger related to shift changes.

The 1st reading of Ordinance No. 939 – Annexation Eventide was held.

The 1st reading of Ordinance No. 940 – Midcontinent Communications franchise agreement was held.

The City Administrator reviewed the fee for a hotel liquor license. Discussion followed on a lower fee, on the fee being the same as Class IV and on tabling the decision until input is received from others holding liquor licenses.

Commissioner Heisler moved to approve establishing the fee for a hotel liquor license at \$2,250.00/year to be reviewed at the May 2nd meeting. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Lyle Belleque, President of the Lake Region Public Library, updated the City Commission on the potential budget impacts for 2017, the pending retirement of the current library director and on the search for a new director. Jim Chattin was thanked for his years of service to City.

The City Administrator reviewed the offer of settlement with the Securities and Exchange Commission. The agreement is for the continuing disclosure statements on the bond issues. The older bond issues had a June 30th date as to when the audited financial information had to be submitted. Based on when State Auditor's Office completes the City's audit, this timeline was impossible to comply with. The new rules allowed for the City to self report if they were noncompliant. By doing this there is no monetary penalty, but the City will need to put together a policy.

Commissioner Heisler moved to approve the certificate of resolution for the Securities and Exchange Commission's offer of settlement as recommended by the City Administrator and Bond Counsel. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The Devils Lake Access Committee requested a waiver of the septic hauler lagoon dumping fee - \$20/1000 gallons in order to assist in keeping the fish cleaning stations operational.

Commissioner Morse moved to approve waiving the septic hauler lagoon dumping fee for the Devils Lake Access Committee. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Assessor reviewed the request by Richard Graham to purchase a lot in the Roundhouse Subdivision.

Commissioner Heisler moved to approve selling Lot 16, Block 10, Roundhouse Subdivision for \$2,000.00 plus the outstanding special assessment principal balance of \$319.60 to Richard Graham with the stipulation that the lot be built on within two years as recommended the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the request by Eric Kaeding to purchase a lot in the Roundhouse Subdivision.

Commissioner Robbins moved to approve selling Lot 1, Block 10, Roundhouse Subdivision for \$2,000.00 plus the outstanding special assessment principal balance of \$351.59 to Eric Kaeding with the stipulation that the lot be built on within two years as recommended the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Assessor reviewed the request by Dennis Gleason to purchase a lot in the Roundhouse Subdivision.

Commissioner Robbins moved to approve selling Lot 1, Block 9, Roundhouse Subdivision for \$2,000.00 plus the outstanding special assessment principal balance of \$768.86 to Dennis Gleason with the stipulation that the lot be built on within two years as recommended the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Engineer reviewed the resolution for Street Improvement Project 58-15. Water and sewer will need to be stubbed from the mains. The City owns some of the lots.

Commissioner Morse moved to approve the resolution approving plans and specifications and directing advertisement for bids for Street Improvement District No 58-15 (16th St SE, 17th St SE, 10th Ave SE). The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward Devils Lake, appeared before the City Commission to request permission for Forward Devils Lake to pursue recovery from Ultra Green Packaging under business incentive agreement.

Commissioner Robbins moved to approve Forward Devils Lake pursuing recovery from Ultra Green Packaging under the business incentive agreement. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

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

President Johnson stated the west end outlet has been turned on.

President Johnson acknowledged the following reports:

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

The City Attorney requested the Commission go into executive session to discuss the filed against the City by Michael Hunter.

Commissioner Morse moved to enter into executive session to discuss the law suit filed by Michael Hunter. The motion was seconded by Commissioner Robbins. On roll call all voted aye, and the motion carried.

Executive session of the Commission was called to order at 6:55 P.M. on April 18, 2016 with President Dick Johnson, Commissioners Tim Heisler, Rick Morse and Dale Robbins, City Administrator, City Auditor, Police Chief, and City Attorney.

During the executive session the City Commission met with the City Attorney to discuss a law suit. Since this discussion is considered attorney consultation it is exempt from open meeting laws according to NDCC 44-04-19.1.

Commissioner Morse moved to adjourn the executive session at 7:06 P.M. on April 18, 2016. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Morse moved to delay action on the law suit filed by Michael Hunter until criminal matters are resolved. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 7:07 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT