

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD NOVEMBER 21, 2016

The regular meeting of the Devils Lake City Commission was held Monday, November 21, 2016 at 5:50 P.M. with the following members present: President Johnson, Commissioners Ben Sander, 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 November 7, 2016. The motion was seconded by Commissioner Sander, and the motion carried unanimously.

5:30 P.M. – This was the time set for a public hearing to review changing the city zoning ordinance to allow an accessory (second) dwelling unit on the same parcel as a single family detached structure. Hearing and receiving no comments, President Johnson closed the public hearing.

The City Assessor had received requests over the years for a second dwelling for caregivers. The City Planning Consultant researched the issue. Bismarck and Minot have just passed ordinances on this issue. In Devils Lake the units would not be rental units and would be restricted by size. The owner would need to live in one of the units. A conditional use permit would be needed for the accessory dwelling.

Commissioner Stromme moved to approve changes to the zoning regulations that would allow an accessory dwelling unit on a parcel of land that contains a single family detached home as recommended by the Devils Lake Planning Commission. The motion was seconded by Commissioner Sander. It will not be come effective until the ordinance is passed. The motion carried unanimously.

Commissioner Sander – The City Assessor stated everything was fine.

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

Commissioner Stromme - The Sanitation Supervisor reported everything was fine.

The Police Chief stated support has been provided to Morton County for the pipeline. So far 22 man days with four different officers have been provided. Another request has been received for supplies since there is a backlog on orders. The supplies will be replaced when their orders are received.

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

Commissioner Morse –The City Engineer said everything is fine.

The Public Ways Supervisor stated the sanders are ready.

President Johnson – The City Auditor stated everything was fine.

The Fire Chief said everything was fine.

The City Attorney said everything was fine.

The 1st reading of Ordinance No. 944 – wine license in retail store was held.

The City Attorney reviewed the restrictions for gross sales, seating and square footage. Discussion following on the ordinance being for wine on-sale only; however, the owner is interested in both on-sale and off-sale of wine. Discussion continued on the off-sale portion competing with others, and the City having to set a fee for this new license. Off-sale will be added to the ordinance for the second reading.

The 2nd reading of Ordinance No 943 - repeal pit bull ordinance was held. President Johnson stated public comments would be accepted but individuals had to speak from podium and state their name; comments needed to be directed to the Commission; the audience needed to be attentive; and the comments were not to be repetitive.

Kelsey Windseth trained dogs in Montana for several years. She is a member of the Pet Professional National Guild and is a Canine Good Citizen evaluator. She lives in Lakota because their dog is prohibited in Devils Lake. She urged Commissioners to use facts over fear. Visual breed identification is not a dependable method to base legislation. There are better ways to keep society safe. Need to hold all dog owners responsible for their pets regardless of the breed. The law should not determine which kinds of dogs people are allowed.

Amanda McDonough had requested the repeal of the ordinance prohibiting pit bulls. A Facebook poll was done, and 179 people voted to repeal the current ordinance and 6 voted not to repeal the ordinance. She stated it is not fair to discriminate against one breed. Discussion followed on the Facebook poll being local people, but it did not ask if they were city residents, and on how many more pit bulls would be in the City. It should be the responsibility of the owner and not held against a breed due to fear.

Mary Delorme currently lives in Devils Lake due to a medical issue and would like to have her pit bull reside with her, but because of the ban her dog is being cared for in Cavalier. Her dog has not been trained as a medical dog, but she has saved her life many times.

Garland Sagen stated he walks daily and has been threatened by dogs when walking. He avoids walking in certain areas because of dogs there, but new areas of dogs come daily. He is very threatened by pit bull dogs. He also discussed the incident of a 9-year girl in Devils Lake being bit by a pit bull. He loves dogs. Dogs are bred for certain reasons, and pit bulls are bred for protection.

LuAnn Hinderscheit is the founder and coordinator of TLCND Animal Rescue. The ordinance is from 1987 and should be repealed. We are now more informed and more educated. It is a fairness issue. If the ordinances on record would be enforced, a pit bull breed ban would not be needed. The problem is not dogs. It is people who are irresponsible in their care of dogs. She stated dogs have been seized in the City because of their appearance of being a pit-mix. The City is wasting resources patrolling for dog breeds instead of concentrating on dogs not being cared for responsibly by their owner. People would be safer if ordinances would be enforced. Citizens need to report issues to the Police.

Discussion followed on the cities that have a pit bull ban, on personal experiences with dog attacks, on the clamp of the pit bull and the tendency to not let go and on neighbors being reluctant to report on neighbors.

Elizabeth Evans identified with both those opposed and in favor of the repeal. She loves dogs and witnessed a pit bull attack another dog. Pit bulls do not let go easily, and they have a high pain threshold. How do you guarantee a dog will be raised right? Dogs are bred for different purposes. There are many dangerous breeds out there. Dog attacks across the nation are mainly due to pit bull mixes. Discussion followed on what large dogs are used for – protection. The pit bull fear has to do with the way pit bulls attack.

Commissioner Morse discussed bull dogs, pain thresholds and use of dogs. Any dog that can be ornery can give you trouble.

TJ Jerke, ND State Director for the Humane Society of United States, has worked with many different agencies on animal related public policies. There are dog management strategies that work. He discussed dog regulations for dogs and their owners. Restricted dog ownership by breed does not accomplish safe communities. He also discussed being proactive, fairness, science and facts and risk assessment. Communities are moving away from breed specific bans because they are not effective.

Daisha Azure, owner of Pretty Paws, stated the bite per pressure of rottweilers, dobermans and German shepherds are higher than that of a pit bull. She discussed being attacked by a dog. Dogs bite because they are scared and because of genetics. The ban is inhibiting growth of the City. Any large dog can do harm.

Commissioner Sander stated most comments received by him were against repealing the ban. He understands the fairness issue. He has little kids and worries about their safety.

Commissioner Robbins agreed most comments were for not repealing the ban.

President Johnson stated residents want the ban left in place because it keeps them safe. The dangerous ordinance is more reactive than proactive.

Commissioner Morse moved to approve the second and final reading of Ordinance No. 943 –repeal pit bull ordinance – An ordinance which upon adoption, shall repeal that part of Ordinance No. 709 which has been codified as Section 6.32 of the Devils Lake Municipal Code. The motion was seconded by Commissioner Sander. It was noted other ordinances are in place for dangerous animals. President Johnson stated most of the comments sent to him wanted to leave the ban in place. Commissioner Stromme concurred that responses received were to leave the ban in place. On roll call, Commissioners Morse and Sander vote aye; Commissioners Robbins and Stromme and President Johnson voted nay. The motion failed.

Commissioner Sander on behalf of the Sewer Committee requested to table the Jason Hodous request since releases from his insurance company have not been received.

Commissioner Sander moved table the Jason Hodous request as recommended by the Sewer Committee. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

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

Authorizing the City Auditor to call for proposals for a single axle fire apparatus (heavy rescue pumper) with proposals to be opened on Tuesday, January 3, 2017 at 5:30 P.M. at the City Office as recommended by the Fire Chief.

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

Commissioner Robbins moved to approve Budget Amendment #06-16 – Library. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The first reading of Ordinance No. 945 – Accessory units was held.

The City Engineer reviewed the easement with Nodak Electric Cooperative. This easement would cover an existing power line in the city garden area, and Nodak will be installing a second line within this easement.

Commissioner Robbins moved to approve an easement with Nodak Electric Cooperative located in the S1/2 S1/2 SE1/4 of Section 3, Township 153N, Range 64W as recommended by the City Engineer. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

The City Auditor reviewed the request of the Mayor's Committee on Employment of People with Disabilities to continue funding the transit program annually at one mill with the funds being overseen by Senior Meals & Services since the Mayor's Committee is dissolving at the end of the year.

Commissioner Stromme moved to continue funding the transit program annually at one mill with the funds being overseen by Senior Meals & Services. The motion was seconded by Commissioner Sander, and the motion carried unanimously.

Commissioner Stromme moved to approve payment of Estimate No. 7 to Elshaug Concrete Construction for 2016 Curb, Gutter & Sidewalk in the amount of \$19,798.10 as recommended by the City Engineer. The motion was seconded by Commissioner Robbins. On roll call all Commissioners voted aye, and the motion carried.

The Police Chief reviewed his recommendation for suspending the taxi license of Devils Lake Taxi for a three day minimum until the vehicle is properly signed.

The City Attorney stated before action is taken on the license, the license holder has an opportunity to be heard. He recommended setting the hearing for the next commission meeting. Discussion followed on the protocol for suspending the license, on the information in the ordinance, on possible criminal versus administrative action, on the need for a hearing, and on sending a certified letter for the hearing.

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

President Johnson acknowledged the following report:

Fire Department monthly report.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 7:24 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT