

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD JANUARY 17, 2017

The regular meeting of the Devils Lake City Commission was held Tuesday, January 17, 2017 at 5:30 P.M. with the following members present: President Johnson, Commissioners Craig Stromme, Rick Morse, and Dale Robbins. Commissioner Ben Sander was absent.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held January 3, 2017. 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 IX wine only license to Cynthia Sitar dba Rue 54 LLC located at 215 Hwy 2 W. Hearing and receiving no comments, President Johnson closed the public hearing.

Commissioner Stromme moved to issue a Class IX wine only license to Cynthia Sitar dba Rue 54 LLC located at 215 Hwy 2 W. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Katie Haarsager from Enbridge presented an update of the Sandpipe Pipeline project. The project is still needed; however, each state needs to approve it. Delays in Minnesota have put an indefinite hold on the project.

Commissioner Robbins – The Public Ways Supervisor said everything was fine.

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

Commissioner Morse – The Public Ways Supervisor reported cleanup continues. They are now working on sidewalks. Highway 2 will be picked up, and the streets will be widened.

The City Administrator indicated the League of Cities has requested costs from everyone for snow removal so far this season. As for the City of Devils Lake hiring outside trucks and equipment, a little over \$100,000.00 has been spent. When overtime and extra cutting blades and fuel are figured in, it will be close to \$150,000.00. The ND Department of Transportation has also requested the information. The City of Devils Lake has spent all of its snow removal money budgeted for 2017.

The City Engineer stated everything was fine.

Commissioner Stromme - The Sanitation Supervisor reported everything was fine.

The Police Chief stated Sergeant Jason Toso was recognized for 20 years of service with the City.

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

The City Assessor stated the department is looking to reassign the duties of the clerk instead of hiring for the position. Since the money has already been budgeted for this year, he would like to leave the position in place in case it doesn't work out to reassign the duties. The proposal would save around \$45,000.00.

The City Administrator said the Engineering Clerk would go up two steps with the increase being a little more than the \$150.00/month she is getting for doing the extra work now. The Utility Billing Clerk would take over the cemetery and since she has assumed a lot of duties when the Municipal Court was moved up to city hall, the City Administrator has looked at moving her up two grades. The back area would be remodeled to have one window for the Engineering Clerk to man.

Commissioner Robbins moved to approve reassigning the duties of the assessing clerk to current staff and to increase the salary of the engineering clerk from a 10J to 10L and the utility billing clerk from 6N to 8J as recommended by the City Assessor. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Administrator stated the City currently rotates insurance agents every year for the insurance with the ND Insurance Reserve Fund. At renewal time, it is a lot of work so he would like to request proposals for insurance to be held for five years; instead, of switching insurance agents every year.

Commissioner Robbins moved to approve having the City Administrator seek five year proposals for the City's insurance with the ND Insurance Reserve Fund. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The Fire Chief said the fundraiser is close to happening again this year.

The City Attorney said everything was fine.

Commissioner Stromme moved to approve moving the settlement agreement presented to the Eagle Bend party defendants to the end of the agenda. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The Fire Chief recommended accepting the bid from M&T Fire Safety & Smeal Fire Equipment for the fire rescue apparatus. The low bid was not compliant. It was two feet shorter than what was bid.

Commissioner Morse moved to accept the bid from M&T Fire Safety & Smeal Fire Equipment of Volga, SD for the fire rescue apparatus in the amount of \$580,510.00 as recommended by the Fire Chief. The motion was seconded by Commissioner Robbins. The proceeds from the sale of the current truck would go towards the purchase of this new truck. Two grant requests are pending, and the remainder will be paid by the volunteers. The motion carried unanimously.

President Johnson recognized the volunteer firefighters for all they do for the City of Devils Lake.

The Fire Chief requested out-of-state travel for three people to take care of business on the new truck. They will travel to Snyder, NE. The company will pay for the travel.

Commissioner Stromme moved to approve out-of-state travel for two Fire Department employees and one volunteer to go to Snyder, NE for the new truck purchase as recommended by the Fire Chief. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

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

1. Authorizing the City Auditor to call for bids for 2017 Public Utilities Pickup to be opened on Monday, February 6, 2017 at 5:30 P.M. at the City Office as recommended by the Public Utilities Supervisor;
2. Gaming site authorization submitted by Devils Lake Rural Fire Department, Inc for January 26, 2017 through January 28, 2017 at the Memorial Building - 524 4th Ave NE; and
3. Permit to sell alcoholic beverages at a special event submitted by Thirsty LLC for a wedding dance on January 21, 2017 at the Memorial Building.

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

Commissioner Stromme moved to approve the 2017 mileage rate of \$.535 if using own vehicle because City vehicle is unavailable or \$.17 if using own vehicle and City vehicle is available as of January 1, 2017. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The Fire Chief reviewed the mutual aid agreement with the Bismarck Fire Department. It was requested when there were issues with the protests.

Commissioner Robbins moved to approve the mutual aid agreement between the Devils Lake Fire Department and the Bismarck Fire Department as recommended by the Fire Chief. The motion was seconded by Commissioner Morse, and the motion was carried unanimously.

Commissioner Stromme moved to approve the Pledge of Assets and a Certified Copy of the Board of Directors Meeting minutes submitted by Bremer Bank and Ramsey National Bank and Trust Company as recommended by the City Administrator. At this time no City funds are deposited with American Bank Center, Horizon Financial Bank, US Bank or Western State Bank. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Robbins moved to approve funding for the first quarter of 2017 for the Lake Region Heritage Center in the amount of \$5,500.00 to be paid from general fund (1000-000-55170). The motion was seconded by Commissioner Stromme. On roll call all Commissioners voted aye, and the motion carried.

The City Administrator reviewed the request from Lake Region Search & Rescue to pay just water and sewer on their utility bill.

Commissioner Stromme moved to approve waiving the miscellaneous fees and the garbage fees for Lake Region Search & Rescue as recommended by the City Administrator. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Commissioner Morse 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.

President Johnson acknowledged the following reports:

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

Dan Gaustad, acting City Attorney, requested going into executive session for the consideration and approval of the settlement agreement presented by the City to the Eagle Bend party defendants and the time period for the Eagle Bend party defendants parties to execute the settlement agreement all relating to the pending litigation described as City of Devils Lake v. Thompson, et al., Ramsey County District Court case number 36-2014-CV-00046.

Commissioner Stromme moved to enter into executive session to discuss consideration and approval of the settlement agreement presented by the City to the Eagle Bend party defendants and the time period for the Eagle Bend party defendants parties to execute the settlement agreement, all relating to the pending litigation described as City of Devils Lake v. Thompson, et al., Ramsey County District Court case number 36-2014-CV-00046. The motion was seconded by Commissioner Morse. Mr. Warcup, attorney for Thompsons and LaFleurs, requested to address the City Commission. Mr. Gaustad indicated he would prefer to talk with his client, the City Commission, before the opposing attorney talked to the City Commission unless the defendants were willing to sign the agreement. Mr. Warcup stated his clients were willing to sign the agreement. Based on the defendants' attorney saying his clients would sign the agreement, President Johnson allowed Mr. Warcup to address the City Commission. Mr. Warcup indicated there were four parts that they disagree on. The first one is a license to use real estate. The second point is the easement for a lakeside lot. The third point is the full indemnification requested by the City. The fourth issue is the deposition fee. The amount of the deposition fee was discussed. Mr. Gaustad stated this is the most he has heard from the defendants in almost a year. He has a list of various communications he made to Mr. Warcup and clients without response. Mr. Gaustad would like to enter into executive session. On roll call all voted aye, and the motion carried.

The City Commission recessed at 6:29 P.M. for those not allowed at the executive session to exit the meeting.

The City Commission reconvened at 6:34 P.M.

Executive session of the Commission was called to order at 6:34 P.M. on January 17, 2017 with President Dick Johnson, Commissioners Craig Stromme, Rick Morse and Dale Robbins, City Administrator Terry Johnston, City Assessor Gary Martinson, City Engineer Mike Grafsgaard and Acting City Attorney Dan Gaustad. During the executive session the City

Commission met with the Acting City Attorney to discuss pending litigation with Thompson and LaFleur on land acquisition for the embankment. Pursuant to N.D.C.C. §§ 44-04-19.2, the Commission may convene into executive session for attorney consultation to consider and discuss Ramsey County District Court case number 36-2014-CV-00046 and may consider closed or confidential records and information, negotiating strategy or negotiating instructions as provided by N.D.C.C §§ 44-04-19.1, 44-04-19.2 and 44-04-18.4 .

Commissioner Robbins moved to adjourn the executive session at 7:37 P.M. on January 17, 2017. The motion was seconded by Commissioner Morse. On roll call all Commissioners vote aye, and the motion carried.

Although he disagrees with the assessment of how we got to this point, Dan Gaustad suggested the City Commission try one last effort to see if this case can be resolved by directing him to have an in-office, face-to-face meeting with the Eagle Bend attorney and representatives to see if they can move passed these matters and have it accomplished within the next fourteen days.

Commissioner Morse moved to direct the Acting City Attorney, Dan Gaustad, to have a face-to-face meeting with the Eagle Bend attorney and representatives within fourteen days to have one final communication to try to settle this matter as recommended by Dan Gaustad. The motion was seconded by Commissioner Robbins. Discussion followed on the four issues to be resolved. Rick LaFleur stated he leaves Saturday and will not be back until February 5th. Rick LaFleur talked about needing access to the lake, and how this could have been settled. Commissioner Robbins agreed it could have been settled a long time ago, but someone has been dragging their feet intentionally to get what they want. Discussion followed on changing the time frame to 30 days. The motion and seconded were amended from having the meeting within 14 days to 30 days. On roll call all the Commissioners vote aye, and the motion carried.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 7:52 P.M.

**LINDA LYBECK
CITY AUDITOR**

**RICHARD S. JOHNSON
PRESIDENT**