

MEETING OF THE BOARD OF CITY COMMISSIONERS

JULY 12, 2016

The Board of City Commissioners met in regular session on July 12, 2016 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Askvig, Guy, Oban, Marquardt and President Seminary.

A Chaplain of the Bismarck Police Department presented the invocation.

1. The Board of City Commissioners considered approval of the minutes of the meeting on July 12, 2016.

Commissioner Askvig made a motion to approve the minutes. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

2. CONSENT AGENDA

A. The Board of City Commissioners considered and approved voucher numbers 1065706-1066011.

B. The Board of City Commissioners reviewed the personnel actions.

C. The Board of City Commissioners considered renewal of liquor licenses from August 1, 2016 to July 31, 2017. A list of the licenses will be included at the end of the minutes.

D. The Board of City Commissioners considered the request from Dakota Media Access (DMA) to reappoint Robin Thorstenson and appoint Greg Wheeler and Janeanne Bischke to their Board of Directors.

E. The Board of City Commissioners considered the introduction of and called for a public hearing on the following:

- 1) Ordinance 6219 relating to the Bismarck Animal Advisory Board.
- 2) Ordinance 6220 relating to Civic Center.

ORDINANCE NO. 6219

AN ORDINANCE TO CREATE AND ENACT CHAPTER 3-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO THE BISMARCK ANIMAL ADVISORY BOARD.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Chapter 3-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the Bismarck Animal Advisory Board is hereby created and enacted to read as follows:

CHAPTER 3-04  
BISMARCK ANIMAL ADVISORY BOARD

**3-04-01. Bismarck Animal Advisory Board; Purpose.** There is hereby created and established a body to be known as the Bismarck Animal Advisory Board. The purpose of the Animal Advisory Board is to advise the Bismarck City Commission on companion animal welfare policies, promote collaboration between the City and private citizens, institutions, and agencies interested in or conducting activities relating to companion animal welfare in the city, to identify proactive, creative approaches to engage and facilitate communication and education within the companion animal welfare community and to foster and assist the development of animal welfare programs in the community. The Animal Advisory Board may study, advise, and report on policy recommendations it deems effective to promote companion animal welfare outcomes consistent with City goals and objectives as outlined by the City Commission and the Mayor.

**3-04-02. Membership – Terms – Filling Vacancies.** The Bismarck Animal Advisory Board shall consist of seven members, who will serve without pay. Members shall be nominated by members of the Board of City Commissioners, subject to confirmation by a majority of the Board of City Commissioners. It is the intent of this chapter for the Animal Advisory Board to be made up of a diverse membership from an array of animal welfare businesses and organizations. This may include, but is not limited to; Small Animal Veterinarian; Large Animal Veterinarian; Animal Shelter; Animal Rescue; Attorney; Zoo; Large Animal organization; and a member at-large. City employees, whose chief function is to handle animals and enforce City Ordinances on a daily basis may staff the Animal Advisory Board as non-voting, technical advisors at the discretion of their departments. Of the initial appointees, three shall serve for three year terms and four shall serve for two year terms. After expiration of each initial term, all terms shall run for three years. After the initial terms, no Board Member may serve on the Bismarck Animal Advisory Board more than an unexpired term plus two full terms. Appointees to the Board should promote companion animal welfare and represent the citizens and animals of the City of Bismarck.

**3-04-03. Board President – Meetings – Records to be kept.** The Bismarck Animal Advisory Board shall elect its President for a term of one year from among its members and shall hold regular meetings. The Bismarck Animal Advisory Board shall keep a record of its resolutions, findings and determinations and all records shall be public records unless otherwise provided by North Dakota law. The Bismarck Animal

Advisory Board may appoint such subcommittees from among the appointed members as may be necessary for its work.

**3-04-04. Powers and Duties of Board.** The Bismarck Animal Advisory Board shall:

1. Report to the Board of City Commissioners regarding the activities of the Bismarck Animal Advisory Board.

2. Recommend to the Board of City Commissioners action and programs within the authority of the City in furtherance of the purpose of the Bismarck Animal Advisory Board as described in this Chapter.

3. Consult with and advise public officials and agencies and with private individuals and organizations to provide education regarding animal welfare.

4. Assist aggrieved individuals by offering information and referral, guidance and services as a forum for discussion.

5. Research wildlife, and animal agriculture issues, only at the request of the City Commission.

**3-04-05. Bismarck Animal Advisory Board Advisory in Nature.** The Bismarck Animal Advisory Board shall be advisory in nature and shall submit all reports and recommendations to the Board of City Commissioners of the City of Bismarck. Final authority shall be in the Board of City Commissioners.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

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ORDINANCE NO. 6220

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 10-10-01 AND 10-10-02 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO CIVIC CENTER.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 10-10-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Control of Civic Center is hereby amended and re-enacted to read as follows:

CHAPTER 10-10. CIVIC BISMARCK EVENTS CENTER

**10-10-01. Control of Civic Events Center.** The civic Events Center is under the supervision and control of the Board of City Commissioners and is subject to such regulations as the Board shall from time to time direct.

Section 2. Amendment. Section 10-10-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Alcoholic Beverages is hereby amended and re-enacted to read as follows:

**10-10-02. Alcoholic Beverages.** The Board may, pursuant to the provisions of Chapter 5-01, issue a license to a qualified person for the sale of alcoholic beverages at the Civic Events Center. Otherwise, alcoholic beverages may be sold or dispensed pursuant to special permits issued pursuant to Chapter 5-01 for sale of alcoholic beverages at designated locations issued by the board or by means of a concession agreement for the provision of alcoholic beverages at the Events Center awarded to any qualified City liquor licensee. The Board may award separate concessions for different areas of the Events Center or separate concessions for beer, wine and alcoholic beverages or in any combination.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

F. The Board of City Commissioners considered the following requests from the Community Development Department:

- 1) Appointment of Richard Wohl to the Board of Adjustment.
- 2) Release of 60 feet of a non-access line along the east side of Fernwood Drive, adjacent to Lot 2, Block 1, Double P Subdivision. Staff recommends approval.

## RESOLUTION

### RELEASE OF A PLATTED NON-ACCESS CONTROL LINE IN DOUBLE P SUBDIVISION

WHEREAS, the owners of Lot 2, Block 1, Double P Subdivision, Burleigh County, have set forth the facts and reasons in a petition requesting that part of a platted non-access control line be released; and

WHEREAS, the Board of City Commissioners of the City of Bismarck, North Dakota, deemed it expedient that said matter is preceded with, ordered said petition to be filed in the office of the City Administrator; and

WHEREAS, the City Traffic Engineer, County Engineer, and Hay Creek Township have determined that the portion of the non-access line to be released would not be necessary for efficient traffic movement or public safety.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota:

1. Petition heretofore described praying for the release of the north-westerly 60 feet of the south-easterly 440 feet of the non-access line adjacent to Lot 2, Block 1, Double P Subdivision, Burleigh County, is in all things allowed and granted.
2. That the City Administrator be and is hereby authorized to file a transcript thereof for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 12<sup>th</sup> day of July, 2016.

G. The Board of City Commissioners considered the requests from the Community Development Department for introduction of and call for public hearing on the following items. Bismarck Planning and Zoning Commission recommends approval:

- 1) Ordinance 6218, a zoning ordinance text amendment relating to Accessory Dwelling Units, initiated by the city of Bismarck.

### ORDINANCE NO. 6218

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-02-03 DEFINITIONS, 14-03-08 SPECIAL USES, 14-04-01 RR RESIDENTIAL DISTRICT, 14-04-01.1 RR5 RESIDENTIAL DISTRICT, 14-04-03 R5 RESIDENTIAL DISTRICT, 14-04-06 R10 RESIDENTIAL DISTRICT, 14-04-07 RM RESIDENTIAL DISTRICT, AND 14-04-17 A AGRICULTURAL DISTRICT OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO ACCESSORY DWELLING UNITS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-02-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Definitions is hereby amended and re-enacted to read as follows:

**14-02-03. Definitions.** The following definitions represent the meanings of terms as they are used in these regulations:

\* \* \* \* \*

Accessory dwelling unit: A separate and complete dwelling unit established in conjunction with, but clearly subordinate to, the principal single-family dwelling unit, whether within the same structure as the principal unit or within a detached accessory structure on the same lot or parcel. An accessory dwelling unit contains at least one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

\* \* \* \* \*

(Ord. 4165, 07-21-87; Ord. 4424, 03-31-92; Ord. 4486, 04-27-93; Ord. 4529, 07-06-93; Ord. 4564, 11-23-93; Ord. 4631, 08-30-94; Ord. 4735, 11-14-95; Ord. 4756, 05-14-96; Ord. 4828, 03-25-97; Ord. 4880, 12-30-97; Ord. 4912, 07-14-98; Ord. 4936, 09-08-98; Ord. 5122, 07-10-01; Ord. 5139, 11-13-01; Ord. 5163, 04-09-02; Ord. 5228, 01-28-03; Ord. 5278, 09-23-03; Ord. 5287, 12-16-03; Ord. 5365, 10-26-04; Ord. 5468, 10-25-05; Ord. 5527, 06-27-06; Ord. 5528, 06-27-06; Ord. 5540, 08-22-06; Ord. 5584, 03-27-07; Ord. 5599, 04-24-07; Ord. 5678, 07-22-08; Ord. 5689, 08-26-08; Ord. 5719, 05-12-09; Ord. 5728, 05-26-09; Ord. 5764, 01-12-10; Ord. 5811, 03-22-11; Ord. 5859, 01-24-12; Ord. 5887, 05-22-12; Ord. 5958, 03-26-13; Ord. 6020, 11-26-13; Ord. 6028, 01-28-14; Ord. 6040, 04-22-14; Ord. 6050, 05-27-14; Ord. 6118, 05-12-15; Ord. 6172, 10-27-15; Ord. 6190, 03-08-16; Ord. 6203, 05-24-16)

Section 2. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses is hereby amended and re-enacted to read as follows:

**14-03-08. Special Uses.**

\* \* \* \* \*

4. Permanent uses (planning and zoning commission approval). The city planning and zoning commission is authorized to grant special use permits for the following uses:

\* \* \* \* \*

y. Accessory Dwelling Units:

1. Intent: Provide for a broader range of housing options, efficiently utilize existing infrastructure and housing stock, and preserve the character of existing single-family neighborhoods.

2. Applicability: An accessory dwelling unit to a single-family dwelling is permitted as a special use within any R5 – Residential, R10 – Residential, RM – Residential, RR – Rural Residential, RR5 – Rural Residential, and A – Agricultural zoning district subject to all requirements of the City of Bismarck Code of Ordinances, unless otherwise stated within this section.

3. Requirements for All Accessory Dwelling Units: Prior to receiving a special use permit an applicant shall demonstrate that the following requirements will be met:

a. No more than one accessory dwelling unit may be permitted on each lot or parcel.

b. An accessory dwelling unit must be contained completely within the principal structure on the lot or parcel, or contained within an accessory structure that meets all requirements of this Code, including size and setback requirements of the underlying zoning district. However, the height of any accessory dwelling unit may be up to twenty (20) feet or the height of the principal structure on the lot, whichever is less.

c. The principal or accessory dwelling unit must be occupied by the owner of the subject parcel as a legal residence for more than six (6) months of any given year. The home may not be owned by a corporation, but the owner-occupant may be a benefited person in a private trust or life estate. The owner-occupancy requirement applies to the applicant as well as all subsequent owners of the property.

d. At least one off-street parking space shall be provided for an accessory dwelling, in addition to any parking required for the principal dwelling unit on the lot. However, in such cases where existing conditions render additional parking infeasible, the applicant may submit a parking plan to demonstrate how on-street facilities or other methods are sufficient to meet anticipated parking demand, such as the dwelling unit being reserved for a class or individual who does not need to store a personal vehicle on-site.

e. Size requirements.

1. Units within Principal Structure: The floor area of an accessory dwelling unit may not exceed forty percent (40%) of the gross floor area of the principal structure, excluding any attached garage, and may not be greater than 800 square feet or less than 300 square feet.

2. Units within Accessory Structure: The floor area of an accessory dwelling unit may not be greater than 800 square feet or less than 300 square feet, regardless of the overall size of the accessory structure.

f. An accessory dwelling unit on any lot or parcel that does not conform to the minimum lot size requirement of the underlying zoning district may only be permitted inside the principal building.

g. No part of any rooftop deck or balcony on an accessory dwelling unit may be located within twenty five (25) feet of a side or rear property line.

h. An accessory dwelling unit must be connected to public utilities if available on the lot or parcel. If the lot is serviced by an on-site sewage treatment facility, the applicant must show that sufficient sewage treatment capacity will be available to meet anticipated needs.

i. An accessory dwelling unit must comply with all residential building code requirements outlined in Title 4 of the Bismarck Code of Ordinances.

j. An accessory dwelling unit may be occupied by no more than one family, as defined by this Title 14 of the Bismarck Code of Ordinances.

4. Methods of Creation: A new accessory dwelling unit may be created in any of the following ways:

a. Conversion of a portion of an existing principal or accessory structure into a separate accessory dwelling unit.

b. Expansion of an existing structure that is in compliance with all setback, lot coverage, and height requirements of the underlying zoning district.

c. Construction of a new structure containing a single family dwelling unit with an internal accessory dwelling unit.

d. Construction of a new detached accessory structure containing a dwelling unit on a lot with an existing principal structure.

e. Reuse of a non-conforming second dwelling unit within a residence that has ceased to be continuously utilized as a dwelling unit and thus does not qualify as a non-conforming use under Section of 14-03-09 of the Bismarck Code of Ordinances.

5. Special Use Permit Submittal Requirements: The following documents shall be submitted with any application for a special use permit to allow an accessory dwelling unit:

a. A building plan necessary to show compliance with all requirements of the residential building code.

b. For all new construction of an accessory structure, a site plan is required. The site plan must show, to scale, the location and dimensions of the building, all required setbacks, and any easements on the property.

c. For all accessory dwelling units that would not comply with required parking, a parking plan as detailed in Subsection 3.d of this Section is required.

d. For all accessory dwelling units that would be served by an on-site sewage treatment facility, sufficient evidence to assure compliance with Subsection 4.f of this Section to the satisfaction of the Building Official is required.

6. Termination of Special Use Permit: A special use permit for an accessory dwelling shall automatically expire if the permitted accessory dwelling unit is substantially altered and no longer in conformance with these provisions, the owner of the property no longer occupies one of the units, the required parking is no longer maintained and available for use by the occupant, or the permit is not put to use within twenty-four (24) months.

(Ord. 4136, 4-28-87; Ord. 4286, 08-22-89; Ord. 4312, 2-20-90; Ord. 4331, 6-05-90; Ord. 4425, 03-31-92; Ord. 4486, 04-27-93; Ord. 4563, 12-07-93; Ord. 4564, 11-23-93; Ord. 4598, 04-28-94; Ord. 4598, 04-28-94; Ord. 4620, 07-19-94; Ord. 4702, 06-13-95; Ord. 4713, 08-22-95; Ord. 4738, 11-14-95; Ord. 4739, 11-14-95; Ord. 4745, 02-13-96; Ord. 4802, 11-12-96; Ord. 4808, 11-12-96; Ord. 4912, 07-14-98; Ord. 4913, 06-09-98; Ord. 4936, 09-08-98; Ord. 4946, 10-27-98; Ord. 5027, 02-08-00; Ord. 5214, 11-12-02; Ord. 5218, 11-26-02; 5224, 12-17-02; Ord. 5228, 01-28-03; Ord. 5278, 09-23-03; Ord. 5317, 06-22-04; Ord. 5343, 06-22-04; Ord. 5348, 07-27-04; Ord. 5351, 08-24-04; Ord. 5438, 06-28-05; Ord. 5467, 10-25-05; Ord. 5527, 06-27-06; Ord. 5719, 05-12-09; Ord. 5728, 05-26-09; Ord. 5764, 01-12-10; Ord. 5820, 4-26-11; Ord. 5852, 11-22-11; Ord. 5958, 03-26-13; Ord. 6028, 01-28-14; Ord. 6040, 04-22-14; Ord. 6050; 05-27-14, corrected 06-10-14; Ord. 6121, 05-26-15; Ord. 6122, 05-26-15; Ord. 6175, 11-24-15; Ord. 6179, 12-22-15; Ord. 6190, 03-08-16);

Section 3. Amendment. Section 14-04-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RR Residential District is hereby amended and re-enacted to read as follows:

**14-04-01. RR Residential District.** In any RR residential district, the following regulations shall apply:

\* \* \* \* \*

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers.
- b. Religious Institution.
- c. Accessory dwelling unit.

\* \* \* \* \*

(Ord. 4564, 11-23-93; Ord. 4577, 02-01-94; Ord. 4631, 08-30-94; Ord. 4756, 05-14-96; Ord. 4772, 06-25-96; Ord. 4828, 03-25-97; Ord. 4875, 10-14-97; Ord. 5280, 09-23-03; Ord. 5286, 11-13-03; Ord. 5287, 12-16-03; Ord. 5369, 11-23-04; Ord. 5566, 12-12-06; Ord. 5902, 06-26-12; Ord. 5958, 03-26-13; Ord. 6040, 04-22-14; Ord. 6109, 03-24-15)

Section 4. Amendment. Section 14-04-01.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RR5 Residential District is hereby amended and re-enacted to read as follows:

**14-04-01.1. RR5 Residential District.** In any RR5 residential district, the following regulations shall apply:

\* \* \* \* \*

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers.
- b. Religious Institution.
- c. Accessory dwelling unit.

\* \* \* \* \*

(Ord. 5296, 02-24-04; Ord. 5371, 11-23-04; Ord. 5902, 06-26-12; Ord. 6040, 04-22-14; Ord. 6109, 03-24-15)

Section 5. Amendment. Section 14-04-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to R5 Residential District is hereby amended and re-enacted to read as follows:

**14-04-03. R5 Residential District.** In any R5 residential district, the following regulations shall apply:

\* \* \* \* \*

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers.
- b. Religious Institution.
- c. Accessory dwelling unit.

\* \* \* \* \*

(Ord. 4486, 04-27-93; Ord. 4564, 11-23-93; Ord. 4610, 05-24-94; Ord. 4703, 06-13-95; Ord. 4756, 05-14-96; Ord. 4991, 06-22-99; Ord. 5958, 03-26-13; Ord. 6040, 04-22-14)

Section 6. Amendment. Section 14-04-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to R10 Residential District is hereby amended and re-enacted to read as follows:

**14-04-06. R10 Residential District.** In any R10 residential district, the following regulations shall apply:

\* \* \* \* \*

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers

b. Religious Institution

c. Accessory dwelling unit.

\* \* \* \* \*

(Ord. 4486, 04-27-93; Ord. 4564, 11-23-93; Ord. 4610, 05-24-94; Ord. 4649, 12-06-94; Ord. 4703, 06-13-95; Ord. 4756, 05-14-96; Ord. 4828, 03-25-97; Ord. 4991, 06-22-99; Ord. 5027, 02-08-00; Ord. 5666, 05-27-08; Ord. 5958, 03-26-13; Ord. 6040, 04-22-14; Ord. 6176, 11-24-15)

Section 7. Amendment. Section 14-04-07 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RM Residential District is hereby amended and re-enacted to read as follows:

**14-04-07. RM Residential District.** In any RM residential district, the following regulations shall apply:

\* \* \* \* \*

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

a. Child care centers.

b. Religious Institution.

c. Accessory dwelling unit to a single-family home.

\* \* \* \* \*

(Ord. 4486, 04-27-93; Ord. 4564, 11-23-93; Ord. 4703, 06-13-95; Ord. 4864, 08-12-97; Ord. 4947, 10-27-98; Ord. 4970, 04-27-99; Ord. 5027, 02-08-00; Ord. 5527, 06-27-06; Ord. 5563, 11-28-06; Ord. 5641, 10-09-07; Ord. 5678, 07-22-08; Ord. 5958, 03-26-13; Ord. 6040, 04-22-14; Ord. 6044, 04-22-14; Ord. 6076, 08-12-14)

Section 8. Amendment. Section 14-04-17 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to A Agricultural District is hereby amended and re-enacted to read as follows:

**14-04-17. A Agricultural District.** In any A agricultural district, the following regulations shall apply:

\* \* \* \* \*

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Temporary circus/fair/carnival.
- b. Temporary Christmas tree sales.
- c. Temporary religious meetings.
- d. Seasonal nursery and bedding stock sales.
- e. Temporary fireworks sales.
- f. Temporary farm and garden produce sales.
- g. Solid waste disposal facility.
- h. Recreational vehicle park.
- i. Small animal veterinary clinic.
- j. Animal hospital or kennel.
- k. Airport.
- l. Cemetery.
- m. Junkyard.
- n. Child care center.
- o. Religious institution.
- p. Golf driving range.
- q. Vehicular racetrack.
- r. Hazardous material bulk storage plant.
- s. Concrete and asphalt production facilities, both permanent and temporary.
- t. Accessory dwelling unit

\* \* \* \* \*

*(Ord. 4486, 04-27-93; Ord. 4564, 11-23-93; Ord. 4803, 11-12-96; Ord. 5026, 02-08-00; Ord. 5027, 02-08-00; Ord. 5286, 11-13-03; Ord. 5287, 12-16-03; Ord. 5368, 11-23-04; Ord. 5478, 12-13-05; Ord. 5665, 05-27-08; Ord. 5902, 06-26-12; Ord. 5958, 03-26-13; Ord. 6040, 04-22-14; Ord. 6109, 03-24-15; Ord. 6179, 12-22-15)*

Section 9. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 10. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

- 2) Ordinance 6221 relating to a zoning change for Cottonwood Lake Sixth Addition Second Replat.

#### ORDINANCE NO. 6221

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the Conditional RM10-Residential zoning district and included in the RM10-Residential zoning district:

Cottonwood Lake Sixth Addition Second Replat.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- 3) Ordinance 6222 relating to a zoning change for part of Wachters Addition, Wachters Addition Replat, part of Replat of Kavaney Commercial Park and part of Boutrous 2nd Addition, initiated by city of Bismarck.

#### ORDINANCE NO. 6222

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the CR-Commercial zoning district and included in the CG-Commercial zoning district:

Tract of the land in the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 27, T139N-R80W/Hay Creek Township, described as: the East 40 feet of the West 140 feet of the South 50 feet of the North 1,162.84 feet of said quarter-quarter section.

Parcel 1A-3 of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 27, T139N-R80W/Hay Creek Township.

Part of Lot 2, Block 1, Boutrous 2<sup>nd</sup> Addition, described as: Beginning at a point 175 feet South of the NW corner of Lot 1 of said Block, thence bearing East for a distance of 212 feet; thence bearing South for a distance of 95 feet; thence bearing West for a distance of 212 feet; thence bearing North for a distance of 95 feet to the point of beginning, and the East 40 feet of the West 140 feet of the South 120 feet of the North 929.2 feet of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 27, T139N-R80W/Hay Creek Township.

Part of Lot 3, Block 1, Boutrous 2<sup>nd</sup> Addition, described as: Beginning at the SW corner of said Lot 3; thence bearing North for a distance of 115 feet; thence bearing East for a distance of 145 feet; thence bearing South for a distance of 115 feet; thence bearing West for a distance of 145 feet to the point of beginning, and the East 40 feet of the West 140 feet of the South 60.8 feet of the North 1223.64 feet of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 27 and the East 50 feet of the South 54.2 feet of the North 1277.84 feet of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 27, T138N-R80W/Lincoln Township.

Lots 1-2, Block 1, Boutrous 2<sup>nd</sup> Addition, Less part described as: Beginning at a point 175 feet South of the NW corner of Lot 1 of said Block, thence bearing East for a distance of 212 feet; thence bearing South for a distance of 95 feet; thence bearing West for a distance of 212 feet; thence bearing North for a distance of 95 feet to the point of beginning; and Part of Lot 3, Block 1, Boutrous 2<sup>nd</sup> Addition, Less part described as: Beginning at the SW corner of said Lot 3; thence bearing North for a distance of 115 feet; thence bearing East for a distance of 145 feet; thence bearing South for a distance of 115 feet; thence bearing West for a distance of 145 feet to the point of beginning.

All of the Replat of Kavaney Commercial Park, Less that part taken for Lots 1-3, Block 1, Kavaney Commercial Park Second Replat.

Lot 4, Block 1, Kavaney Commercial Park Second Replat.

Auditors Lot A, C, and D, Blocks 3 and 4, Wachter's Addition, Less a part of Auditor's Lot A, described as: Beginning at the SW corner of Lot 8 of said Block 4; thence bearing East a distance of 207.14 feet; thence bearing South a distance of 203.75 feet; thence bearing West a distance of 207.66 feet; thence bearing North a distance of 200 feet to the Point of Beginning, and Less part taken for Wachter's Addition Replat.

Lot 1, Block 1, Wachter's Addition Replat.

The North 294.10 feet of Lot 8, Block 4 and Auditor's Lot E and F of Blocks 3 and 4, Wachter's Addition.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- 4) Ordinance 6223 relating to a zoning change for Lots 4 & 5, Block 4, Meadowlark Commercial Seventh Addition.

#### ORDINANCE NO. 6223

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the RT-Residential zoning district and included in the CA-Commercial zoning district:

Lots 4 and 5, Block 4, Meadowlark Commercial 7<sup>th</sup> Addition.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- 5) Ordinance 6224 relating to a zoning change for Auditor's Lots 6A and 6B of Auditor's Lot 6 of the NE 1/4 of Section 1, Lincoln Township.  
ORDINANCE NO. 6224

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the RR – Residential zoning district and included within the Conditional MA – Industrial zoning district:

Auditor's Lots 6A and 6B of Auditor's Lot 6, Section 1, T138N-R80W/Lincoln Township

This Conditional MA – Industrial zoning is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted:

- a. Hotel-motel.
- b. Retail group A.
- c. Retail group B.
- d. Service group A, excluding dry cleaning plants, mortuaries or funeral homes.
- e. Service group B.
- f. Wholesale group.
- g. Truck terminal.
- h. Industrial group A, excluding ice manufacturing, soft drink bottling plants and petroleum bulk plants.
- i. Commercial recreation group.
- j. Office-bank group.
- k. Health-medical group.
- l. Radio or television transmitting station.
- m. Utility service group.
- n. Religious institutions.

2. *Special Uses.* The following uses are allowed as special uses pursuant to Section 14-03-08 of the City Code of Ordinances:

- a. Temporary Christmas tree sales.

- b. Temporary religious meetings.
- c. Temporary farm and garden produce sales.
- e. Seasonal nursery and bedding stock sales.
- e. Small animal veterinary clinic.
- f. Drive-in retail or service establishments.
- g. Golf driving range.
- h. Small animal veterinary clinic.
- i. Auto laundry-car wash.
- j. Roadway maintenance facilities.
- k. Small wind energy systems.
- l. Animal hospital or kennel.
- m. Recreational vehicle park.
- n. Filling station.

### 3. *Dimensional Standards.*

- a. Lot Area. The minimum lot area is 10,000 square feet.
- b. Lot Width. The minimum lot width is sixty (60) feet.
- c. Front Yard Setback. The minimum front yard setback is fifteen (15) feet along interior roadways. The minimum front yard setback along 52<sup>nd</sup> Street is fifty (50) feet.
- d. Side Yard Setback. The minimum side yard setback is ten (10) feet.
- e. Rear Yard Setback. The minimum rear yard setback is ten (10) feet.
- f. Height. The maximum building height is forty (40) feet.
- g. Lot Coverage. The maximum lot coverage for buildings and required parking is 80% of the total lot area.

### 4. *Design and Aesthetic Standards.*

- a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, to create a lessened visual impact upon the surrounding land uses and to stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.

- b. **Building Materials.** The main building facade facing a public street within this Conditional MA-Industrial zoning district must be designed with architecturally finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or prefinished metal architectural panels. If prefinished metal architectural panels are used, no more than 70% of the front elevation and no more than 80% of any other elevations facing a public-right-of-way may consist of this material. The following building types and materials are expressly prohibited: wood as an exterior wall finish, except where used as an accent material; corrugated metal roofing or siding; and exposed, untextured, uncolored, unaugmented concrete.

The main entrance or façade of the buildings shall be given special treatment through the use of different materials, colors and/or architectural features to enhance the view from the public right of way.

All subsequent renovations, additions and related structures constructed after the construction of the original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

- c. **Building Colors.** The main mass of the building shall be of a neutral, subtle color that reflects those found in the natural environment to help de-emphasize the overall mass of the building elevation. Design features that provide accents to the building façade may be of a brighter color that is vibrant but not garish, in a shade that complements colors utilized in the main mass of the building.
- d. **Enclosed Building Requirement.** All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building except for outdoor storage areas.
- e. **Outdoor Storage Areas.** Outdoor storage areas shall be placed to the rear or side of the principal structure and shall be subject to the building setback requirements. The storage area shall be fenced around its perimeter with a minimum six foot wall or fence and any storage area visible from the public right-of-way shall be screened with a vegetative buffer yard. Goods and

materials shall be located on a paved or gravel surface and the outdoor storage area shall be maintained in an orderly fashion.

- f. The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the fence, with the exception that the height of materials may be increased to two times the fence height if the stored material meets the building setback requirements. The outdoor storage area shall not reduce the amount of required parking on the site.

6. *Development Standards.*

- a. **Accessory Buildings.** Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Storage containers may not be used as Accessory Buildings.
- b. **Parking and Loading.** Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. Loading areas within 400 feet of the centerline of 52<sup>nd</sup> Street shall be oriented away from 52<sup>nd</sup> Street.
- c. **Landscaping and Screening.** Parking lot landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
- d. **Buffer Yards.** In addition to the requirements of Section 14-03-11, a 50 foot wide buffer yard shall be provided along the eastern boundary of the PUD zoning district. Said buffer yard shall be shown on the face of the plat as a landscape easement and shall be densely planted in conjunction with site development with the minimum number, species and size of trees and shrubs required for buffer yards in the City's landscaping ordinance (minimum of 6 trees and 25 shrubs per 100 linear feet, with at least 50% of the required trees and shrubs being evergreens).
- e. **Screening of Mechanical Equipment and Solid Waste Collection Areas.** Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the

City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).

- f. Signage. Signage for the development may be installed in accordance with the provisions of Sec14-03-05 (10) (Industrial Park Area Identification Signs). Signage for individual lots within the development shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

H. The Board of City Commissioners considered the request from the Event Center to approve the sole bid to replace a faulty water heater for \$33,000.

This is the water heater which failed inspection and staff asked the Board to replace it back in April. HA Thompson was the company who submitted the sole bid for \$33,000. The paperwork submitted was included in the agenda packet. The bid is within the \$40,000 amount previously approved by the Board and Event Center staff recommends approval.

I. The Board of City Commissioners considered the request from the Finance Department to receive the 2015 Comprehensive Annual Financial Report (CAFR) and Annual Audit for the city from Eide Bailly.

The city received an unqualified opinion which means that the financial statements have been prepared using generally accepted accounting principles (GAAP) and do not contain material misstatements, and are presented fairly. In other words, the city received a “clean” audit opinion. Copies of the reports can be accessed on the city’s website.

J. The Board of City Commissioners considered the following requests from the Police Department:

- 1) Permission to house prisoners at regional jails.

The Police Department is requesting authorization to house prisoners at seven jails in the region. These contracts are not intended nor are they a guarantee of beds. They would call and ask if they have room or if they wanted the prisoner. This allows them to know the costs and other incidentals like how medical care is given and billed. The seven jails are as follows: McLean County, Mercer County, Richland County, Pierce

County, Southwest Multi-County Correction Center (Dickinson), Stutsman County Correctional Center, all in North Dakota and then Walworth County in South Dakota.

- 2) Permission to sell seized/forfeited vehicle through Northland Auto Auction in Mandan.

This request is for a 1999 Chrysler 300. The vehicle was forfeited to the Bismarck Police Department through the formal court process as the vehicle was used in the commission of a felony (narcotic trafficking). Upon the sale of the vehicle, 20% of the net proceeds are distributed to the Burleigh County State's Attorney and 80% of the funds going to the city of Bismarck general fund.

- 3) Permission to sell three decommissioned vehicles through a public market place commonly used for the sale of motor vehicles.

The department is seeking to sell three decommissioned vehicles. The Public Works Department was contacted to see if they were interested in these vehicles and they advised the Police Department they were not. The vehicles are as follows:

- 2014 Ford Explorer Intercept Utility with 106,642 miles on it. The vehicle was replaced in the 2016 budget.
- 2009 Dodge Van with 115,359 miles on it. This vehicle was replaced in the 2016 budget.
- 2011 Ford Crown Victoria with 103,562 miles on it. This vehicle will be replaced with a newer existing police vehicle.

K. The Board of City Commissioners considered the request from the Public Works Utility Operations Department for permission to request bids for mill and overlay of interior roadway that services the sludge truck loading building at the Wastewater Treatment Plant.

There are several areas of pavement at the Wastewater Treatment Plant that are in poor condition. The interior roadway that services the sludge truck loading building could be maintained at a lower cost with a mill and overlay now rather than a delay, which may require further and more costly repairs.

This was not included in the Capital Improvements Program (CIP) for 2016. Staff would like to receive bids and then determine at that time to proceed with this project or not.

L. The Board of City Commissioners considered the request from the Bismarck Veterans Memorial Public Library to appoint Bob Bartosh and reappoint Michael Schaff to the Library Board of Directors.

M. The Board of City Commissioners considered the request from Central Dakota Communications Center (CenCom) for approval of the first amendment to the Agreement for Joint Exercise of Governmental Powers.

The 9-1-1 Strategic Technology Planning Subcommittee (STEPS), the governing body for the Statewide NG911 Joint Powers Agreement, met on April 20, 2016. At that meeting, a unanimous decision was made to reduce each individual county's obligation of 9-1-1 taxes in support of the program from 15% to 10% of the first \$1.00 collected. This change will take effect on January 1, 2017.

In the agenda packet, a copy of the amendment to the Joint Powers Agreement dated November 20, 2015, which formed the Central Dakota 9-1-1 Authority and Central Dakota Communications Center (CenCom). The amendment allocates the 5% retained 9-1-1 taxes to the CenCom annual operating budget. This has the effect of reducing the general fund obligation of each party.

The Board of Directors met on May 31, 2016 to review and did approve the language in the amendment (in agenda packet) and recommends its passage by each party's respective Board.

Addendum Item:

N. The Board of City Commissioners considered the request for approval to renew the site authorization for the Bismarck Moose Lodge 302 from July 1, 2016 to June 30, 2017.

Commissioner Askvig made a motion to approve the consent agenda. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Guy, Oban, Marquardt and President Seminary. Nays: None, the motion carried.

REGULAR AGENDA

3. The Board of City Commissioners considered the request from the Bismarck Airport to receive a presentation by UBL Design Group and consider discussion of options for the security checkpoint reconfiguration.

Tim Thorsen, Assistant Airport Director, appeared before the Board. On April 1, 2016, the Board approved an agreement with Ubl Design Group to develop design options for security checkpoint reconfiguration at the passenger terminal. Specifically, Ubl Design Group's work included developing reconfiguration options of the checkpoint glass wall, a floor addition to prevent a passenger chokepoint while exiting from the boarding (sterile) area, redesign of the Transportation Security Administration (TSA) checkpoint equipment, and addition of necessary electrical connections for the reconfigured checkpoint equipment.

Jeff Ubl, Ubl Design Group, appeared before the Board. He went through the two options available for expansion and their costs. The expansion will move the glass walls, expand the size of the checkpoint, adjust electrical, and show two options for

expanding the floor exit and queuing space. Concept #1 would be approximate \$254,000 and Concept #2 (includes Alternate #1) would be approximately \$450,000.

Mr. Thorsen said this project is not in the Airport's current Capital Improvements Program (CIP). They've had cost savings on other CIP projects (snow removal plow, reconstruction project on Maverick Avenue/Terminal Boulevard, and the paved parking rehabilitation) plus a little airport funds, they believe they have in the current spending plan approved by the Board they can pay for the base project. He said if they chose to do alternate #1, they would be spending additional Airport cash reserves. The project is Passenger Facility Charge (PFC) eligible so they would be putting this into PFC #7 along with the runway rehabilitation. Mr. Thorsen asked the Board to approve the design for both concepts. Bids will determine if any alternates moves forward and they will come back before this Board for guidance.

Commissioner Askvig made a motion to approve the recommendation. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nayes: None, the motion carried.

4. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING on the request from Airport DakoTaxi to obtain a new Taxi Cab License.

There were no oral or written protests.

Commissioner Askvig made a motion to approve the new taxi cab license. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nayes: None, the motion carried.

5. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING on Ordinance 6217 relating to collection regulations and collection by city; exceptions (recycling sites).

#### ORDINANCE NO. 6217

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 8-07-04 AND 8-07-05 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO COLLECTION REGULATIONS AND COLLECTION BY CITY; EXCEPTIONS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

There were no oral or written protests.

Commissioner Askvig made a motion to adopt Ordinance 6217. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

6. The Board of City Commissioners considered the request for a presentation by Bis-Man Transit, a PUBLIC HEARING and consideration of the proposed changes to Bis-Man Transit's Fixed Route and Paratransit bus service, including a new component for an extended hours service.

Ben Ehreth, MPO President and Roy Rickert, Bis-Man Transit's Executive Director, appeared before the Board and made a short presentation to address the questions that the Board asked at the June 14, 2016 meeting. Discussion between the Board and Mr. Ehreth and Mr. Rickert included funding, proposed route changes, and ridership.

President Seminary opened the public hearing. Those persons appearing in opposition of the proposed changes by Bis-Man Transit included Royce Schultz, Executive Director of Dakota Center of Independent Living; Teresa Heupel, representing Bridging the Gap; Chris Jones, Vice President, Strategy and Business Development at Catholic Health Initiatives; Bruce Murray, ND Association of Community Providers; Teresa Larson, Executive Director of North Dakota Protection and Advocacy Project; Tom Schiwal, Division of Vocational Rehabilitation Office; Renee Kipp, Executive Director of Bismarck Senior Center, Debbie Lafferty, Director of Mandan Golden Age Services; Trevor Vennett, paratransit rider; Nancy Olson, RSVP Program Manager; Erin Pringle, RVSP Program Director; Moira Solberg, Director of Volunteer Caregivers for the Elderly; Wayne Lang, paratransit rider; Charley Spencer, paratransit rider; Lois Wannamaker, paratransit rider; Betty Jean Olson, paratransit rider; Darcy Andahl, paratransit rider; Beth Stelton, paratransit rider; Chelsi Collins, paratransit rider; Kayla Serpus, paratransit rider; and Robin Werre, former director of Bis-Man Transit, now with Dakota Center for Independent Living.

Their opposition to the proposed changes included the following concerns: schedule changes relating to evenings, weekends and holidays, which can cause isolation of paratransit riders; costs are more than paratransit riders can afford; a lot of volunteers use transit services so that may impact number of volunteers at various organizations; paratransit riders may have impairments that are not visible; reduction of bus hours reduces hours paratransit riders area available to work at their jobs; weather can be a factor to prohibit paratransit riders getting on the fixed route; riders and agencies weren't approached by Transit for their opinions; application process for paratransit services can be very difficult for those with disabilities; age qualification for paratransit services being removed; lack of accessible vehicles to haul persons utilizing wheelchairs; discontinuation of service in Lincoln will be difficult for riders; lack of 24-hour services; lack of paratransit services affects other areas of life if they can't go to doctor, run errands to store, etc.

Those persons appearing in support of the proposed changes by Bis-Man Transit include: Kim Badenhop, Bis-Man Transit Board member; Robert Westermeyer, North Dakota Association for the Blind. Their testimony related to: changes to this program must come before this Board because of federal grants received; very concerned about the financial health of Bis-Man Transit; want to serve as many people as we can with tax dollars they have; need to make these changes to keep Transit around; only concern is how to get recertified if you can't fill out your own paperwork.

There was discussion between the Board with their concerns about the proposal. They also thanked those that came out tonight for this item as well as those who contacted them as well. Commissioner Askvig made a motion to send the proposed changes back to Bis-Man Transit to work with and reach out to users and user groups and make the necessary changes. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

7. The Board of City Commissioners considered the following requests for resolutions relating to Street Improvement District 15-499:

- Receiving Bids
- Awarding Contract

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Street Improvement District Number Four Hundred Ninety-Nine (499). The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that four sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

<b>BIDDER</b>	<b>BID AMOUNT*</b>
Concrete Services	\$1,114,180.90
Northern Improvement Co.	\$1,522,739.97
Strata Corporation	\$1,826,616.45
EHC, LLC	\$2,026,250.95
* Engineer's Estimate = \$1,866,448.77	

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION RECEIVING BIDS  
AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED NINETY-NINE (499)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Street Improvement District Number Four Hundred Ninety-Nine (499).
2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Askvig seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Guy, Oban, Marquardt and President Seminary. Nays: None, the motion carried.

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION AWARDING CONTRACT FOR THE CONSTRUCTION OF  
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED NINETY-NINE (499)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Number Four Hundred Ninety-Nine (499) having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is Concrete Services, of Bismarck, North Dakota, and the estimated bidder's proposal for the construction of the work is \$1,114,180.90.
2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.
3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the

contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Askvig seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Guy, Oban, Marquardt and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

8. The Board of City Commissioners considered the following requests for resolutions relating to Street Improvement District 16-511:

- Receiving Bids
- Awarding Contract

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Street Improvement District Number Five Hundred Eleven (511). The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that two sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

<b>BIDDER</b>	<b>BID AMOUNT*</b>
Mariner Construction	\$1,607,081.08
Northern Improvement	\$1,754,526.50
* Engineer's Estimate = \$1,987,257.18	

Commissioner Guy introduced the following resolution and moved its adoption:

**RESOLUTION RECEIVING BIDS  
AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED ELEVEN (511)**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Street Improvement District Number Five Hundred Eleven (511).

2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Marquardt seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Guy, Oban, Marquardt and President Seminary. Nays: None, the motion carried.

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION AWARDING CONTRACT FOR THE CONSTRUCTION OF  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED ELEVEN (511)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Number Five Hundred Eleven (511) having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is Mariner Construction, of Bismarck, North Dakota, and the estimated bidder's proposal for the construction of the work is \$1,607,081.08.

2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Marquardt seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Guy, Oban, Marquardt and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

9. Request from the Fire Department to receive and consider disposition of bids for fire training tower site improvements

President Seminary said this item was pulled from the agenda. Therefore, the Board took no action.

10. The Board of City Commissioners considered the request from the Community Development Department for approval of the 2016 Annual Plan for the Home Program.

Sue Redman, Planner, appeared before the Board and presented the information from her memo to the Board (in the agenda packet). The recommendation by staff is for the following funding priorities: \$75,000 to Community Action Program, \$260,000 for Burleigh County Housing Authority/Community Homes of Bismarck and contingency funding for Ruth Meier's Hospitality House, if available. Commissioner Marquardt expressed concern about the funding recommendations and didn't feel there was enough time.

Commissioner Askvig made a motion to approve the request. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Guy, and President Seminary. Nays: Commissioners Marquardt and Oban, the motion carried.

11. The Board of City Commissioners considered the request from the Public Works Service Operations Department to receive and consider disposition of bids to purchase and install video detection cameras and equipment for traffic signal coordination at the following locations:

- Washington Street South and Wachter Avenue
- Washington Street South and Reno Avenue
- 19th Street and East Broadway Avenue

Jeff Heintz, Public Works Service Operations Director, appeared before the Board. This bid is for video detection cameras and their related processors, cable, power on assistance and aiming by the vendor technician. The cameras and cable will be installed by city traffic signal employees at the intersections listed above. A Capital Improvements Program (CIP) will be used for these camera installations at existing controlled intersections that are being upgraded to this technology. The CIP Camera Replacement funding source will be used for the two intersections on Washington Street and the one intersection on 19<sup>th</sup> Street.

The lone bid received for three video detection systems was as follows:

BIDDER	BID AMOUNT
Traffic Control Corporation	\$47,800

Mr. Heintz recommended awarding the bid to Traffic Control Corporation for \$47,800.

Commissioner Guy made a motion to approve the request. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

12. The Board of City Commissioners considered the request from the Public Works Utility Operations Department for permission to purchase SL-RAT Portable Onsite Assessment Tool for the Water and Sewer division.

Michelle Klose, Public Works Utility Operations Director, appeared before the Board. This piece of equipment would aid in prioritizing the maintenance efforts in our sanitary sewer system by giving employees the information needed to assess the condition of sewer pipe between manholes. This would help focus cleaning efforts in areas that have the greatest potential for sewer blockages resulting in sewer backups with property damage. By being able to assess pipes within minutes with little resources put toward the assessment process, staff can then focus cleaning efforts toward efficient preventative maintenance sewer cleaning, getting quality cleaning instead of just quantity.

The SL-RAT is a portable onsite assessment tool that provided a sewer line blockage assessment in less than three minutes. It is comprised of two components – a uniquely configured pair consisting of a transmitter unit and a receiver unit. The transmitter unit provides the active acoustic transmission through the pipe, and the receiver unit provides the microphone and signal processing capabilities to listen and interpret the received acoustic signal for any blockage and then process the blockage assessment results. A team of two workers can rapidly assess a large area by deploying these sensors, moving manhole to manhole.

The SL-RAT has an ESRI GIS interface that can generate a map showing the sewer conditions and can be used to plan cleaning activities.

Commissioner Askvig made a motion to approve the request. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

13. The Board of City Commissioners considered the request from the Public Works Utility Operations Department for permission to extend contract with Presort Plus for utility billing.

Michelle Klose, Public Works Utility Operations Director, appeared before the Board. She made the request to extend the contract with Presort Plus, as they are the only provider in town for this type of service.

Commissioner Guy made a motion to approve the request. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes:

Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

14. The Board of City Commissioners considered other business.

Commissioner Askvig asked to talk about water issues on the roof of the Exhibit Hall of the Event Center. There are some proposed fixes for these issues which he will defer to Charlie Jeske, Event Center Director. Mr. Jeske appeared before the Board and said he was asking for emergency funding, which is in the existing budget. This is not to exceed \$85,000. He said they want to extend downspouts down to the street and out to the curbs.

Commissioner Marquardt said he's asked before about recouping some of these costs. Who is at fault? This is a brand new building and we're having way too many issues. Mr. Jeske said the stormwater system on 5<sup>th</sup> and Bowen is part of the issue and this is something currently being studied. That will be a bigger fix once the study is done but for now, this emergency funding will be for the quick fix. Michelle Klose, Utility Operations Director, said she's unsure if a study was done in this area or not before construction. Linda Oster, Planning & Design Engineer, said prior to construction of the Exhibit Hall, a stormwater management plan was done by the project engineer with the site plan and both the site plan and stormwater management plan were approved.

Commissioner Askvig said something was missed between design and build-out of the gap between the two buildings. Every time it rains, we are getting water in the building and that part needs to get fixed as soon as possible. There have been discussions about trying to recoup costs in the past; it may not be worth our time trying to pursue that and spend more money in the end. We need to get the water further away from the building, which won't fix the problem totally, but it will help with some of the problems. Looking at a construction manager at risk is probably something to look at in the future.

President Seminary said there are two different issues here. The first is the regional storm water management issue. This is the 2nd time we've had challenges because of error and nothing to do with storm water management other than getting it away from the building. He would like at some time, a written account of what happened. Either an engineer or architectural project manager has to let us know what happened. Commissioner Marquardt said if it's a roof issue, it might be something we might need to look at. He would like to see an account of what happened also. Commissioner Oban asked if we've looked at the consequences of moving that water to a different place. President Seminary said as far as regional that will come to us with the study being done. With regards to moving water off the infrastructure, hopefully the amount of water won't exasperate the problem in the regional stormwater.

Commissioner Askvig made a motion to approve the request for use of emergency funding at the Event Center, not to exceed \$85,000. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners

Askvig, Guy, Oban, and President Seminary. Naves: Commissioner Marquardt, the motion carried.

Having completed the items on the agenda, President Seminary asked if there was any further business for this meeting. There being none, the meeting was declared adjourned at 8:49 p.m.

Applebee's Neighborhood Grill & Bar	3200 N 14 <sup>th</sup> St	Bismarck ND 58503-0634	LICENSE #LIQ2016-00077	CLASS "F-1"	YES	On	RETAIL LIQUOR
Bismarck Courtyard	3319 N 14th St	Bismarck ND 58503	LICENSE #LIQ2016-00073	CLASS "C-2"	YES	On	BEER AND WINE
Bismarck-Mandan Elks Lodge #1199	900 S Washington St	Bismarck ND 58504-5478	LICENSE #LIQ2016-00071	CLASS "A"	YES	On & Off	RETAIL LIQUOR
Bismarck Moose Lodge #302	312 N 20 <sup>th</sup> Street	Bismarck ND 58501-4752	LICENSE #LIQ2016-00064	CLASS "A"	YES	On & Off	RETAIL LIQUOR
Bismarck Residence Inn	3421 N 14th Street	Bismarck ND 58501	LICENSE #LIQ2016-00074	CLASS "C-2"	YES	Complementary	BEER AND WINE
Captain Jacks #7048	1140 W Turnpike Ave	Bismarck ND 58501	LICENSE #LIQ2016-00033	CLASS "D"	YES	Off	RETAIL LIQUOR
Comfort Inn Lounge	1030 E Interstate Ave	Bismarck ND 58503-0596	LICENSE #LIQ2016-00078	CLASS "D"	NO	On & Off	RETAIL LIQUOR
Country West Shell - MVP	2205 Tyler Parkway	Bismarck ND 58503-0804	LICENSE #LIQ2016-00055	CLASS "D"	YES	Off	RETAIL LIQUOR
Elbow Room	115 S 5 <sup>th</sup> Street	Bismarck ND 58501-4062	LICENSE #LIQ2016-00072	CLASS "D"	YES	On & Off	RETAIL LIQUOR
Famous Dave's	401 E Bismarck Expy	Bismarck ND 58504-6511	LICENSE #LIQ2016-00084	CLASS "F-1"	YES	On	RETAIL LIQUOR
Firefour Pizza	111 N 5th Street	Bismarck ND 58501	LICENSE #LIQ2016-00086	CLASS "I-2"	NO	On	BEER AND WINE
Ground Round	526 S 3 <sup>rd</sup> Street	Bismarck ND 58504-5523	LICENSE #LIQ2016-00019	CLASS "F-1"	YES	On	RETAIL LIQUOR
HuHot Mongolian Grill	409 S 3rd Street	Bismarck ND 58504	LICENSE #LIQ2016-00079	CLASS "F-2"	YES	On	BEER AND WINE
Lady J's Catering Inc.	930 N Griffin Street	Bismarck ND 58501-3477	LICENSE #LIQ2016-00089	CLASS "M"	YES	On	RETAIL LIQUOR
Laquinta Inn & Suites	2240 N 12th Street	Bismarck ND 58501	LICENSE #LIQ2016-00069	CLASS "C-2"	NO	Complementary	RETAIL LIQUOR
Laughing Sun Brewing Company	107 N 5th Street	Bismarck ND 58501	LICENSE #LIQ2016-00091	CLASS "O"	YES	On & Off	BREWERY
MacKenzie River Pizza Grill & Pub	4510 Skyline Crossing	Bismarck ND 58501	LICENSE #LIQ2016-00060	CLASS "F-1"	YES	On	RETAIL LIQUOR
Main Bar	804 E Main Avenue	Bismarck ND 58501-4526	LICENSE #LIQ2016-00067	CLASS "D"	NO	On & Off	RETAIL LIQUOR
Midway Tavern	1915 E Sweet Avenue	Bismarck ND 58504-6020	LICENSE #LIQ2016-00068	CLASS "E"	YES	On & Off	BEER
Our Place Tavern	1305 E Front Avenue	Bismarck ND 58504-6061	LICENSE #LIQ2016-00087	CLASS "E"	YES	On & Off	BEER
Pancho's Mexican Grill	1225 W Century Avenue	Bismarck ND 58503	LICENSE #LIQ2016-00083	CLASS "I-3"	YES	On	BEER
Plaza Beer Depot	204 E Boulevard Ave	Bismarck ND 58501-3575	LICENSE #LIQ2016-00092	CLASS "D"	YES	Off	RETAIL LIQUOR
Pub 21	1014 S 12 <sup>th</sup> Street	Bismarck ND 58504-6628	LICENSE #LIQ2016-00082	CLASS "D"	NO	On & Off	RETAIL LIQUOR
Shogun Japanese Steakhouse	2700 State Street	Bismarck ND 58501	LICENSE #LIQ2016-00037	CLASS "F-1"	YES	On	RETAIL LIQUOR
Stadium Sports Bar and Lodge	1247 W Divide Avenue	Bismarck ND 58501-1290	LICENSE #LIQ2016-00088	CLASS "D"	YES	On & Off	RETAIL LIQUOR
Superpumper #39	2901 N 19 <sup>th</sup> Street	Bismarck ND 58503-5310	LICENSE #LIQ2016-00081	CLASS "E"	YES	Off	BEER
Superpumper #40	1122 Tacoma Avenue	Bismarck ND 58504-7454	LICENSE #LIQ2016-00080	CLASS "E"	YES	Off	BEER
The Pier Bar & Grill	1120 Riverwood Drive	Bismarck ND 58504-6256	LICENSE #LIQ2016-00065	CLASS "F-1"	YES	On	RETAIL LIQUOR
The Pier C-Store	1120 Riverwood Drive	Bismarck ND 58504-6256	LICENSE #LIQ2016-00066	CLASS "E"	YES	On & Off	BEER