

## MEETING OF THE BOARD OF CITY COMMISSIONERS

OCTOBER 11, 2016

The Board of City Commissioners met in regular session on October 11, 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, Marquardt, Guy, Oban, and President Seminary.

1. The Board of City Commissioners considered approval of the minutes of the special meeting on September 21, 2016 and the regular meeting on September 27, 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 1067684 to 1068034.

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

C. The Board of City Commissioners considered introduction of and call for a public hearing on the request to transfer a Class F-1 liquor license from CAPSCO Entertainment, Inc. to Galpin Entertainment, LLC at 1120 Riverwood Drive (dba The Pier).

D. The Board of City Commissioners considered the request from the City Administration Department for approval of the Capital Cities' Mayors Homelessness Awareness Installation Initiative.

The Capital Cities' Mayors Homelessness Awareness Installation campaign is an initiative started in Charleston, SC as part of a national campaign to raise public awareness about the plight of those experiencing homelessness. Through the installation of plywood figures displaying a homeless symbol in a prominent location at the entrance of a capital city building – capital cities hope to raise public awareness about those experiencing homelessness in their community. The plywood figure homeless symbol will be displayed at the Bismarck Public Library entrance.

E. The Board of City Commissioners considered the request from the Bismarck Airport for approval of Change Order 4 with Northern Improvement Company for the Maverick Avenue reconstruction and Terminal Boulevard rehabilitation projects.

Maverick Avenue reconstruction and Terminal Boulevard rehabilitation are substantially complete and are in service. Change Order 4 adds drainage structures and a sign mounting and adds additional time until June 15, 2017 to complete the work if weather prevents completion of the work this fall. The extended completion time requires Board approval. In reviewing the existing conditions on the west and east sides of the Quick Turn Around (QTA) facility west entrance, the drainage structures do not allow proper grading of this area to allow access for maintenance of inslopes and ditch. As a result, a 48-inch manhole will be installed to tie the existing storm sewer together and allow the grading of this area with slopes that can be maintained more readily. Once this is completed, two 15-inch Reinforced Concrete Pipe (RCP) and one 4-inch Poly Vinyl Chloride (PVC) pipe will be extended to tie into the 48-inch manhole. The Contractor shall reinstall two of the salvaged 15-inch Reinforced Concrete End Section (RCES) with trash guards and dispose of the other 15-inch RCES. The Contractor shall remove and salvage the existing concrete headwall, and place it in storage at a location determined by the Owner. Note that the mobilization amount is broken into two pieces. The \$660 of additional mobilization will be paid if the work on Change Order 3 and 4 cannot be completed at the same time. The proposed cost of \$12,565.60 appears to be reasonable, allowable and we plan to recover costs in Passenger Facility Charge (PFC) #7.

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

- Ordinance 6234, a zoning ordinance text amendment relating to the elimination of the CR Zoning District - Sections 14-03-06, 14-03-08, 14-04-01, 14-04-13 and 14-05-05.1, initiated by the city of Bismarck;

#### ORDINANCE NO. 6234

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-01, 14-03-06, 14-03-08 AND 14-05-05.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) AND TO REPEAL SECTION 14-04-13 OF THE BISMARCK CODE OF ORDINANCES (REV.), RELATING TO DIVISION OF THE CITY INTO DISTRICTS, INCIDENTAL USES, SPECIAL USES, ACCUMULATION OF CERTAIN ITEMS PROHIBITED, AND THE CR – COMMERCIAL ZONING DISTRICT.

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

Section 1. Amendment. Section 14-03-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Division of City Into Districts is hereby amended and re-enacted to read as follows:

**14-03-01. Division of City Into Districts.** For the purpose of these regulations, the city is hereby divided into twenty classes of districts, which are established as follows:

RR	Residential (rural single-family)
RR5	Residential (rural single-family – 5 acres)
R5	Residential (single-family)
RMH	Residential (manufactured home park)
R10	Residential (two-family)
RM	Residential (multifamily)
RT	Residential (office – multifamily)
HM	Health-Medical
CA	Commercial (neighborhood)
<del>CB</del>	<del>Commercial (downtown)</del>
CG	Commercial (heavy commercial)
<del>CR</del>	<del>Commercial (regional shopping center)</del>
MA	Industrial (light industrial)
MB	Industrial (heavy industrial)
P	Public
A	Agricultural
PUD	Planned Unit Development
FP	Floodplain
AN	Airport Noise
DC	Downtown Core
DF	Downtown Fringe

*Reference: NDCC Sec. 40-47-02; (Ord. 4424, 03-31-92; Ord. 4936, 09-08-98; Ord. 5422, 10-24-05)*

Section 2. Amendment. Section 14-03-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses is hereby amended and re-enacted to read as follows:

**14-03-06. Incidental Uses.** Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal use, subject to the following standards:

\* \* \* \* \*

3. Portable Storage Containers.

\* \* \* \* \*

c. Portable storage containers in commercial zoning districts.

1. Portable storage containers are allowed in the CA, CG and CR Commercial Zoning Districts for the purpose of

storage of seasonal merchandise during the following time periods:  
November 1 through January 15, and April 1 through June 15.

\* \* \* \* \*

(Ord. 4235, 1-17-89; Ord. 4327, 4-24-90 & 5-01-90; Ord. 4341, 9-11&18-90; Ord. 4529, 07-06-93; Ord. 4634, 09-27-94; Ord. 4772, 06-25-96; Ord. 4880, 12-30-97; Ord. 5237, 02-25-03; Ord. 5372, 11-23-04; Ord. 5447, 07-26-05; Ord. 5468, 10-25-05; Ord. 5528, 06-27-06; Ord. 5728, 05-26-09; Ord. 5902, 06-26-12; Ord. 6028, 01-28-14; Ord. 6109, 03-24-15; Ord. 6203, 05-24-16)

Section 3. 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.** In order to carry out the purposes of this title, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the city planning and zoning commission and by the Zoning Administrator (where allowed) prior to the granting of a building permit or certificate of occupancy and that the city planning and zoning commission and the Zoning Administrator (where allowed) are hereby given limited discretionary powers relating to the granting of such permit or certificate.

\* \* \* \* \*

2. Temporary uses (administrative approval). The Zoning Administrator is authorized to grant permits for certain temporary uses without a public hearing or approval of the city planning and zoning commission. All temporary structures used for the following uses shall be removed within fifteen (15) days after termination of the use. The following are temporary uses to which such regulations apply:

- a. For a religious meeting in a tent or other temporary structure in a CG, MA, MB or A district for a period not to exceed thirty (30) days.
- b. For the open lot sale of Christmas trees in a CA, CG, ~~CR~~, MA, MB or A district for a period not to exceed forty-five (45) days.
- c. For seasonal sales of nursery and bedding stock for a period of not more than ninety (90) days in a CA, CG, ~~CR~~, MA, MB or A district.
- d. For sale of fireworks for a period of not more than thirty (30) days in a MA, MB or A district.
- e. For sale of locally grown farm or garden produce in a CA, CG, ~~CR~~, MA, MB or A district of not more than ninety (90) days.

f. For temporary retail sales in a CA, CG, ~~GR~~ or MA district for a period not to exceed sixty (60) days.

g. For a show, circus, menagerie or carnival in a CA, ~~GR~~, CG, MA, MB, A or P Zone for a period of no more than ten days provided that proof of a bond or liability insurance as required by City Ordinance 5-03-08 is provided prior to the first day of the event and that no less than thirty days prior to the first day of the event the applicant shall submit an application for the event to the Zoning Administrator. Such application shall be accompanied by a fee, as established by the City, for each day of the event which shall be in addition to any other license or inspection fees, and a site plan of the event showing at least the following details:

- 1) General layout with dimensions and legal description.
- 2) Location and type of sanitary facilities. There shall be at least one toilet facility for each sex for every ten concessions.
- 3) Circulation plan showing access points, pedestrian areas and parking areas.
- 4) At least nine hundred square feet of area shall be required for each concession.
- 5) No public right-of-way shall be utilized for any portion of the event without special permission of the Board of City Commissioners.
- 6) No noise in excess of sixty decibels may be emitted after 11:00 p.m.
- 7) No event may begin earlier than 9:00 a.m. nor continue later than 1:00 a.m.
- 8) Each event which conducts, operates, manages, or sponsors any ferris wheel, merry-go-round, or other amusement ride shall post a \$500,000 bond or liability insurance as required by City Ordinance 5-03-08.
- 9) Shows, circuses, menageries, or carnivals held at the Civic Center or the Missouri Valley Complex do not require a special use permit. Events held at those locations must still comply with all applicable City ordinances and adopted codes.
- 10) The Zoning Administrator will provide a copy of each application for a temporary special use permit for a show, circus, menagerie, or carnival to the Police Department, Fire Department, the Building Official, the Traffic Engineer, and to the Environmental Health Administrator for events held within the City, and to the Sheriff, the County Engineer, the Building Official, and the Rural Fire Department for events held outside the City.

\* \* \* \* \*

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:

\* \* \* \* \*

b. Off-Premise Advertising Sign: Off-Premise Advertising Signs may be permitted in any CG, ~~CR~~, MA, or MB district as an administrative special use provided:

\* \* \* \* \*

e. Filling stations. A filling station may be permitted in a CA, ~~CB~~, CG, ~~CR~~, or MA district as a special use provided:

\* \* \* \* \*

g. Drive-in/drive-through retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in/drive-through facility, including, but not limited to drive-in/drive-through restaurants, banks or other drive-in/drive-through facilities, exclusive of theatres, may be permitted in a CG, ~~CR~~, MA or HM district (drive-in/drive-through facilities for banks and drive-in/drive-through windows for pharmacies as an ancillary use to a medical office/clinic only may also be permitted in a CA district) as a special use provided:

\* \* \* \* \*

m. Auto laundry-car wash. An auto laundry or car wash may be permitted in a CG, ~~CR~~, MA or MB district as a special use, provided:

\* \* \* \* \*

s. Retail Liquor Sales. Retail liquor sales for Burleigh County Class AA, B, D and E liquor license holders may be permitted within the city's four-mile extraterritorial jurisdiction in any CA, ~~CB~~, CG, ~~CR~~ or MA district as a special use provided:

\* \* \* \* \*

v. Small Wind Energy Systems. This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or

replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.

\* \* \* \* \*

6. Sound produced by a SWES shall not exceed the following limits at the property line:

Zoning District	Day	Night
Residential: RR, RR5, R5, RMH, R10, RM, RT, HM, DF	55	45
Commercial: CA, CG, CR, DC	60	50
Industrial: MA, MB, P, A	65	60

\* \* \* \* \*

(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; Ord. 6218, 07-26-16);

Section 4. Amendment. Section 14-05-05.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Accumulation of Certain Items Prohibited is hereby amended and re-enacted to read as follows:

**14-05-05.1. Accumulation of Certain Items Prohibited.**

\* \* \* \* \*

2. No person shall cause, permit, keep, accumulate or allow the accumulation of any junk, refuse, surplus, scrap, salvage or similar items outside of a closed building or opaque fencing in any commercially, industrially or agriculturally-zoned district absent a special use permit. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household or commercial appliances, used building materials or salvage, construction demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, used tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items may have value does not excuse the conduct prohibited by this section.

The prohibitions contained in this section shall apply to properties zoned ~~CA, DC, DF, PUD, CR, CG, MA, MB, or A~~ CA, CG, MA, MB, A, PUD, DC, or DF. Prior to signing a complaint under this section, the Health Officer or his or her agent must serve the property owner or tenant with a notice and order pursuant to Section 14-05-03.1.

*(Ord. 4861, 08-12-97; Ord. 4936, 09-08-98; Ord. 5728, 05-26-09; Ord. 6028, 01-28-14)*

Section 5. Repeal. Section 14-04-13 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the CR Commercial District is hereby repealed:

~~14-04-13. CR Commercial District.~~

~~1. General description. The CR commercial district is established as a district in which the principal use of the land is for regional shopping centers and related services. For the CR commercial district in promoting the general purposes of this article, the specific intent of this section is:~~

~~a. To prohibit residential, heavy commercial and industrial uses of the land, and to prohibit any other use which would substantially interfere with the development or continuation of commercial structures in the district.~~

~~b. To discourage any use which, because of its character or size, would interfere with the use of land in the district as a shopping and service center for the regional area served.~~

~~2. Uses permitted. The following uses are permitted:~~

~~a. Retail group A.~~

~~b. Service group A.~~

~~c. Office bank group.~~

~~d. Commercial recreational group.~~

~~e. Health medical group.~~

~~f. Religious institution.~~

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

~~a. Temporary Christmas tree sales.~~

~~b. Temporary farm and garden produce sales.~~

- ~~c. — Seasonal nursery and bedding stock sales.~~
  - ~~d. — Filling station.~~
  - ~~e. — Child care center.~~
  - ~~f. — Drive-in retail or service establishment.~~
  - ~~g. — Auto laundry — car wash.~~
  - ~~h. — Retail liquor sales.~~
  - ~~i. — Off-premise advertising sign.~~
- ~~3. — Lot area. No CR commercial district shall contain less than forty (40) acres.~~
- ~~4. — District width. Each CR commercial district shall have an average width of not less than one thousand (1,000) feet and shall have no principal dimension less than five hundred (500) feet in length.~~
- ~~5. — Floor area. The gross floor area of the principal building shall be not less than three hundred thousand (300,000) square feet.~~
- ~~6. — Setback. A minimum setback of fifty (50) feet shall be required of the principal building except when it fronts on an interior street within the district. A setback of at least twenty-five (25) feet shall apply for all other buildings.~~
- ~~7. — Height limits. No building shall exceed fifty (50) feet in height.~~
- ~~8. — Off-street parking. Off-street parking and loading shall be provided in accordance with the provisions of Section 14-03-10 of this Title. A site circulation plan shall be prepared by the shopping center and approved by the Zoning Administrator.~~

~~(Ord. 4462, 08-18-92; Ord. 4486, 04-27-93; Ord. 4564, 11-23-93; Ord. 4808, 11-12-96; Ord. 5027, 02-08-00; Ord. 5728, 05-26-09; Ord. 5958, 03-26-13; Ord. 6028, 01-28-14; Ord. 6040, 04-22-14; Ord. 6123, 05-26-15; Ord. 6190, 03-08-16)~~

Section 6. 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 7. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

- Ordinance 6235, a zoning ordinance text amendment relating to Incidental Uses/Accessory Uses & RMH - Sections 14-03-06 and 14-04-05, initiated by the City of Bismarck;

ORDINANCE NO. 6235

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-06 AND 14-04-05 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO INCIDENTAL USES AND THE RMH RESIDENTIAL DISTRICT.

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

Section 1. Amendment. Section 14-03-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses is hereby amended and re-enacted to read as follows:

**14-03-06. Incidental Uses**. Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal use, subject to the following standards:

1. Accessory Uses and Buildings.

\* \* \* \* \*

b. One and two-family residential accessory uses and buildings.

1. Accessory uses and buildings commonly associated with residential uses include recreational activities, raising of pets, hobbies and parking of occupants' vehicles.

2. Customary domestic pets are allowed in accordance with the provisions of Title 3 of the Bismarck Code of Ordinances, but not including horses, poultry or agricultural livestock except as allowed in Sections 14-04-01, 14-04-02 or 14-04-17 of this ordinance. No more than three (3) dogs or cats, four months of age or older are allowed.

3. Private swimming pools are allowed in accordance with the provisions of Chapter 4-06 of the City Code of Ordinances.

4. All allowable accessory buildings for a one or two-family residence in an urban residential zoning district (R5, R10, RM, RMH & RT) shall be limited to a maximum area of twelve hundred (1,200) square feet, a maximum wall height of twelve (12) feet and a maximum building height of twenty-five (25) feet.

Accessory buildings for the above computations shall include the following buildings: barns, stables, storage buildings, and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.

\* \* \* \* \*

*(Ord. 4235, 1-17-89; Ord. 4327, 4-24-90 & 5-01-90; Ord. 4341, 9-11&18-90; Ord. 4529, 07-06-93; Ord. 4634, 09-27-94; Ord. 4772, 06-25-96; Ord. 4880, 12-30-97; Ord. 5237, 02-25-03; Ord. 5372, 11-23-04; Ord. 5447, 07-26-05; Ord. 5468, 10-25-05; Ord. 5528, 06-27-06; Ord. 5728, 05-26-09; Ord. 5902, 06-26-12; Ord. 6028, 01-28-14; Ord. 6109, 03-24-15; Ord. 6203, 05-24-16)*

Section 2. Amendment. Section 14-04-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RMH Residential District is hereby amended and re-enacted to read as follows:

**14-04-05. RMH Residential District.**

\* \* \* \* \*

3. Development Standards.

a. Density. The maximum allowable density for all manufactured home parks shall be seven (7) families per net acre.

b. Lot Dimensions.

1. For single-wide manufactured home dwelling units, minimum lot dimensions shall be fifty (50) feet and the minimum lot area shall be five thousand (5,000) square feet.

2. For double-wide manufactured home dwelling units, minimum lot dimensions shall be sixty (60) feet and the minimum lot area shall be six thousand (6,000) square feet.

c. Park Area. The minimum total area of a manufactured home park shall be at least one hundred forty thousand (140,000) square feet.

d. Lot Coverage. The ground area occupied by a manufactured home, all utility structures, roofed deck or patio, and required off-street parking spaces shall not exceed forty (40) per cent of the total area of the lot. In computing the ground coverage, sufficient off-street parking space to comply with Section 14-03-10 hereof shall be added to actual area of the principal and accessory buildings. Each lot shall be limited to one attached utility structure of no more than one hundred twenty (120) square

feet. Each lot may also have a detached accessory building(s) in accordance with Section 14-03-06 (1) of this Title, provided the lot coverage requirement is not exceeded.

e. Height Limits. No accessory building shall exceed fifteen (15) feet in height, nor shall any legal attachment to a principal building except the height of the principal building.

\* \* \* \* \*

(Ord. 4756, 05-14-96; Ord. 4936, 09-08-98; Ord. 5728, 05-26-09; Ord. 6028, 01-28-14)

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.

- All of the following items relating to Memory 1st Addition, requested by Ron and Ruth Knutson and RBK Ventures, LLP.
  - Ordinance 6236 relating to partial annexation

ORDINANCE NO. 6236

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

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

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lot 1, Block 2, Memory 1st Addition, along with all of the Elbowoods Lane right-of-way adjacent to Lots 1 and 2, Block 1, and Lot 1, Block 2, and that part of the North 19<sup>th</sup> Street right-of-way from an extension of the southern right-of-way line of Elbowoods Lane north to the northern edge of the plat adjacent to Lots 1 and 2, Block 2 and Lots 3 and 4, Block 3.

The above described tract of land contains 13.27 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

- o Future Land Use Plan amendment for Section 10, Hay Creek Township
- o Ordinance 6237 relating to zoning change from A-Agriculture zoning district to the CG-Commercial and MA-Industrial zoning districts.

ORDINANCE NO. 6237

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 A-Agriculture zoning district and included in the CG-Commercial zoning district:

Lots 1-2, Block 1 and Lots 1-2, Block 2, Memory 1<sup>st</sup> Addition.

The following described property shall be excluded from the A-Agriculture zoning district and included in the MA-Industrial zoning district:

Lots 1-4, Block 3, Memory 1<sup>st</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.

G. The Board of City Commissioners considered the following requests from the Engineering Department:

- Approval of the request to renew the September 25, 2001 franchise with Montana-Dakota Utilities Co through September 25, 2021;

Pursuant to Section 9 of the resolution of September 25, 2001, granting a franchise to Montana-Dakota Utilities Co. to construct, maintain, and operate a fiber optic cable

system and to lease "Dark Fiber" to other entities within the City of Bismarck, Montana-Dakota Utilities Co. is requesting the agreement of the City of Bismarck to exercise the option to renew the franchise through September 25, 2021.

- Approval to order the repair of hazardous sidewalks deemed unsafe for pedestrian traffic from 912 through 918 East Owens Avenue. Note this property owner has already been notified of the need to make repairs as directed by this Board;

Sidewalks located on the following properties are deemed unsafe for pedestrian traffic . Letters were sent notifying the property owners of the hazard along with providing several options for the repair. Additionally, the owners were provided a 30-day window to respond with questions and to provide the City with signed petitions indicating which option they chose to resolve the hazard.

Those that did not respond to the initial letter were sent a second letter outlining their responsibilities with a 15-day window to return the petition . They were further notified that if they did not respond, a request would be forwarded to the Board of City Commissioners to order the repair of the sidewalks in accordance with applicable City of Bismarck Code of Ordinances . The requested repair, if so ordered, shall be completed under Part B1 of the 2016 City Sidewalk Construction Contract and the associated costs assessed to each property owner .

<u>PROPERTY ADDRESS</u>	<u>PROPERTY OWNER OF RECORD</u>
912-918 East Owens Avenue	Kermit Bye (for Capitol Heights Condominiums)

- Approval of Contract Change Order No. 1 with Cofell's Plumbing & Heating for a contract timeline extension until September 27, 2016 for Sewer Improvement District 16-569;

This changes the contract timeline from August 26, 2016 to September 27, 2016.

- Approval of the following requests for resolutions relating to Water Improvement District 16-331 (water main along Arabian Avenue in northwest Bismarck):
  - Creating District and Ordering Preparation of the Preliminary Report;
  - Approving Preliminary Report and Directing Preparation of Plans and Specifications;
  - Approving Plans and Specifications;
  - Authorization to Advertise and Receive Bids

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION CREATING  
WATER IMPROVEMENT DISTRICT NUMBER THREE HUNDRED THIRTY-ONE (331)

AND ORDERING THE PREPARATION OF A PRELIMINARY REPORT

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

1. Pursuant to the provisions of Chapter 40-22 of the North Dakota Century Code, Water Improvement District Number Three Hundred Thirty-One (331) is created for the purpose of making an improvement project, consisting of water main and related work, and to defray all or a portion of the costs thereof by the levy and collection of special assessments in said District.
2. It is the judgment of this Board of City Commissioners, after consultation with the engineer planning the improvement for the City that construction of the improvement project will specially benefit all of the properties within the district, the size and form of which is defined by reference to the plats of the City of Bismarck on file in the office of the County Recorder of Burleigh County, North Dakota, and the district shall include all lots, tracts and parcels of land lying within the following described boundary:

**UNIT NO. 1**

LOT TWO (2), BLOCK THREE (3), LOT ONE (1) LESS NORTH 120 FEET OF SOUTH 220 FEET OF EAST 150 FEET OF BLOCK FOUR (4), K.M.K. ESTATES.

3. The engineer is directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of probable cost of the work.
4. The City Commission declares its official intent to reimburse itself for the costs of the improvement from the proceeds of tax exempt bonds, and the Finance Director is hereby authorized to execute an official declaration of intent on behalf of the City of Bismarck.

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

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PRELIMINARY REPORT AND DIRECTING THE  
PREPARATION OF PLANS AND SPECIFICATIONS FOR  
WATER IMPROVEMENT DISTRICT NUMBER THREE HUNDRED THIRTY-ONE (331)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that this Board has received and considered the report of the engineer as to the general nature, purpose and feasibility of the proposed improvement in and for Water

Improvement District Number Three Hundred Thirty-One (331), and an estimate of the probable cost of the work, and approved the report and directs it to be filed in the City Administration office and the City Engineer's office, and directs the engineer to prepare detailed plans and specifications for the construction of the improvement and to submit the same to this Board of City Commissioners.

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

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
WATER IMPROVEMENT DISTRICT NUMBER THREE HUNDRED THIRTY-ONE (331)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Water Improvement District Number Three Hundred Thirty-One (331), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

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

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS FOR  
WATER IMPROVEMENT DISTRICT NUMBER THREE HUNDRED THIRTY-ONE (331)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Water Improvement District Number Three Hundred Thirty-One (331), according to plans and specifications heretofore approved by this Board, shall be received on October 31, 2016 at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

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

H. The Board of City Commissioners considered the request from the Fire Department for authorization to apply for an Assistance to Firefighters grant.

The funds would be utilized to replace self-contained breathing apparatus which are 15-years old. Performance experience indicates they are less reliable and they are also not meeting today's standards.

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

- Authorization to produce Bismarck PD K-9 calendars to be sold for fundraising for the department's K-9 teams.

For two years now BPD K-9 Supervisor, Sgt. Lyle Sinclair, has produced "Bismarck Police Department K-9" calendars to be sold for fundraising opportunities to supplement the K-9 Program. We have a "donations" line-item in place that is used to support the K-9 Program through donations and has been used in the past to purchase needed equipment and attend trainings that are necessary and/or beneficial, but were unable to be supported by the budget. Terry Richter of State Farm Insurance has offered to sponsor and cover the cost of the calendars in order to sell them as a fundraising source for the BPD K-9 Program. KT Animal Supply maintains a supply of the calendars at their store for people to buy/donate. All proceeds from the calendars are deposited into the K-9 Donations line-item. As in the past, all funds from this donation line-item would be used for the furtherance and benefit of the BPD K-9 Program.

- Permission to sell two decommissioned vehicles

The Bismarck Police Department requests to sell two decommissioned vehicles through either Northland Auction in Mandan or by another public market place commonly used for the sale of motor vehicles as described in City Ordinance 7-05-01.

As in the past, Public Works was contacted to see if they were interested in these vehicles and they advised they were not interested. The vehicles are as follows:

- 1) 2013 Chevrolet Impala with 100,438 miles. This vehicle was replaced in the 2016 budget
- 2) 2013 Ford Explorer Intercept Utility with 104,616 miles. This vehicle has fire damage and was replaced in the 2016 budget

J. The Board of City Commissioners considered the request from Bismarck-Burleigh Public Health for permission to apply for grant funding for future implementation of an Open Streets Project.

Bismarck-Burleigh Public Health is requesting permission to apply for grant funding of up to \$2,000 from Grinnell Mutual for a "Working Together Making it Better" community grant. If awarded, the funds would be used to work towards an open streets project that

encourages physical activity in the community. Open streets events encourage walking, bicycling, dancing, playing and socializing.

There would be no new FTE's with this grant and there is no match requirement. We appreciate your consideration of this request.

K. The Board of City Commissioners considered the following requests from the Public Works Service Operation Department:

- Permission to request donations for the Forestry Division Partners in Planting Program and Arbor Day fund for 2017;

Each year the Forestry Division uses corporate sponsorship in the form of donations to encourage street tree planting along Bismarck's roadways. These corporate sponsorships are matched with city funds to provide a 50% match with a maximum of a \$60 per tree rebate. This program has been very successful and continues to provide property owners an opportunity to recover some of their costs for planting street trees.

The Arbor Day donation allows Bismarck the opportunity to celebrate Bismarck's Tree City designation and promote tree planting in our community. The donations are used to purchase plaques for outstanding commercial landscaping, recognition for volunteers who planted trees in Bismarck under the Forestry Division's guidance, purchasing of the Arbor Day tree, Apple Seed Awards, dedication plaque, printing of the Arbor Day celebration program and billboard advertising promoting Arbor Day in Bismarck.

Both of these programs are budgeted for in the Forestry Division's request to the budget committee as outlined in the Solicitation and Acceptance of Donations City Policy that was updated at the January 1st, 2010 Board of City Commissioners meeting. These donations will be requested from October 2016 thru September 2017. Bismarck businesses will be contacted by a letter from the City Forester asking for their support of these programs.

- Permission to sell five fleet vehicles.

Permission to sell vehicles at Northland Auto Auction in Mandan or by another public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-05-01.

Due to the increased repair costs and high mileage on these Fleet Division vehicles, it is no longer feasible to continue maintenance on these vehicles. Vehicles to be sold are:

(1) 2007 Chev Impala	2G 1WS55R4 79415839	Mileage 120,241
(1) 2007 Ford Expedition	1FMFU16517LA42429	Mileage 119,884
(1) 2010 Ford Expedition	1FMJU1G51AEB60470	Mileage 127,502

(1) 1999 Chev Blazer  
(1) 2012 Chev Impala

1GNDT13W9XK106743  
2G1WD5E38C1295929

Mileage 105,800  
Mileage 117,414

Commissioner Guy made a motion to approve the consent agenda. 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.

## REGULAR AGENDA

3. Public comment (restricted to items on the Regular Agenda, excluding public hearing items).

PERSONS APPEARING	OVERVIEW OF THEIR COMMENTS
Brian Ritter, BMDA	Footprint growth and associated infrastructure challenges coming along with that growth; they worked with the Chamber, Homebuilders, Board of Realtors and city staff (Keith Hunke and Jason Tomanek) this summer to host three infrastructure forums; these forums were to start the discussion/education of what our community faces; job, building permits, airport boardings are all up; infrastructure will be one of the challenges; hearing from business community that they are acknowledging this challenge but now what do we do about it; we need to work together to find a solution; the business community is committed to working with the city to find a solution; if there's any way that we can assist, please let them know.
Nancy Deichert, Bismarck-Mandan Board of Realtors	There were part of the group that Brian just referred to; they want to be involved as much as possible because it could have an impact on all property owners; they are available to help as much as they possibly can.

4. The Board of City Commissioners considered the request from the Administration Department for discussion of Bismarck's footprint growth and infrastructure expansion.

Keith Hunke, City Administrator, appeared before the Board. He presented a large map to the Board outlining the city. He explained what the different colors mean and explained the different quadrants as well. The map will be added at the end of the minutes for reference.

The quadrants are as follows:

- South Bismarck (south of Bismarck Expressway) - \$30 million in arterial roadways and \$2.9 million in water supply mains (\$32.9 million);
- East Bismarck (south of I-94) - \$11.9 million arterial roadway improvements, \$26.1 million in water supply mains and storage facilities, and \$16.5 million sanitary sewer mains and lift stations (\$ 54.5 million);
- East Bismarck (east Bismarck but north of I-94 and east of State Street) - \$60.8 million arterial roadway improvements, \$12.8 million water supply mains and storage facilities, \$25.8 million sanitary sewer mains and lift stations (\$99.4 million)
- West Bismarck (north of I-94 and west of State Street) - \$28.2 million arterial roadway improvements, \$16.6 million water supply mains and storage facilities and \$4.6 million in sanitary sewer mains (\$49.4 million)

We are looking at \$158.5 million arterial roadways, \$58.4 million water supply mains and storage facilities and \$46.9 million sanitary sewer mains and lift stations for a grand total of approximate \$255 million in needs for future city services and infrastructures.

He also said the facility needs which are not on the map such as police station expansion, communications/EOC expansion, City/County Building expansion, future fire stations, public works building expansion, HVAC system at the public library, public health building renovation and/or expansion, and the Event Center renovation and/or expansion. Those needs at a planning level total up to \$250 million estimate. Putting the two sets together, we're looking at a half a billion dollar in needs.

Commissioner Marquardt asked about a task force and said he would like to lead the task force/committee since he has most of the portfolios that will be affected by this. Commissioner Askvig asked Mr. Hunke to clarify the quadrants which Mr. Hunke did. Commissioner Askvig asked if this includes stormwater management and Mr. Hunke said no it does not. Commissioner Askvig said the task force is a good idea but they should come up with potential steps to resolve our issues, not just discuss what we already know. Commissioner Guy asked about how far into the future are these projects anticipated. Mr. Hunke said most of them are within the next seven years. Commissioner Oban asked if there could be a point where the city will have to say no more development because we won't have the money to do these projects and how soon could this happen. Mr. Hunke said it's a very real possibility but he doesn't have that information available at this time. President Seminary said maybe staff can prepare some what ifs to consider now and for task force to have on hand when they meet. Commissioner Askvig sees those as two separate things and if staff has suggestions, they can bring them before this Board. It doesn't preclude them from doing so. He thinks it's a good idea but thinks it's separate from this motion.

Commissioner Askvig made a motion to create a task force with a good cross-section of community, include Commissioner Marquardt and others selected by Mayor Seminary to discuss these issues. Commissioner Guy seconded the motion. Upon roll call, the

commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Naves: None, the motion carried.

5. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING and Confirmation of Health and Safety Assessments.

Tree Removal	\$1,365.24
Water Service Line	\$13,892.28
Sewer Re-Line	\$25,972.28

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

6. The Board of City Commissioners considered the request from the Human Resources Department to award the Request for Proposal (RFP) for life and vision insurance plans.

Robert McConnell, Human Resources Director, appeared before the Board and presented background information for this item from the agenda item. He recommended approval of the Avesis voluntary vision plan and Unum Life Insurance Plan both offered through Blue Cross Blue Shield, as well as approval of a five cent per employee increase in employer funded premium to expand coverage from \$20,000 to \$30,000

Commissioner Askvig made a motion to approve the Avesis voluntary vision plan and Unum Life Insurance Plan both offered through Blue Cross Blue Shield and approval of five cent per employee increase in employer funded premium to expand coverage from \$20,000 to \$30,000. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Naves: None, the motion carried.

7. The Board of City Commissioners considered the request from Public Works Service Operations Department to receive and consider disposition of bids for the natural gas contract for 2016-2017.

LaVonne Wohl appeared before the Board and provided background information for this item. She recommended approving the bids and awarding the contract to Rainbow Gas at a fixed price of \$2.70/MMBtu for November 1, 2016 through March 31, 2017 and CIG minus \$0.285/MMBtu April 1, 2017 through June 30, 2017, plus transportation and fuel rate at the time gas is delivered.

Commissioner Askvig made a motion to approve the bids and award the contract to Rainbow Gas at fixed price of \$2.70/MMBtu for November 1, 2016 through March 31, 2017 and CIG minus \$0.285/MMBtu April 1, 2017 through June 30, 2017, plus

transportation and fuel rate at the time gas is delivered. 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.

8. The Board of City Commissioners considered other business.

President Seminary said MEDAG (Mayor's Economic Development Advisory Group) has been resurrected however this effort was going to be a Bismarck-led. They've had two meetings already and Commissioner Oban is leading the group. Commissioner Oban said they've had two good meetings and these young leaders are good at being completely honest. They've got a good cross-section of people from different industries and what's important to them and to their families. President Seminary said shortly they'll be convening a summit to allow different organizations a short amount of time to pitch to the group why they're here, why they stay, what they don't like, what they want to see, what needs to be in place to make Bismarck attractive for the long haul.

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 6:14 p.m.

