

## MEETING OF THE BOARD OF CITY COMMISSIONERS

AUGUST 23, 2011

The Board of City Commissioners met in regular session on August 23, 2011 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. The following were present: Commissioners Seminary, Smith, Askvig, Grossman and President Warford.

A Chaplain of the Bismarck Police Department presented the invocation.

1. The Board of City Commissioners considered approval of the minutes of the following 2011 meetings on:

- August 8 – 9:00 a.m.
- August 9 – 5:15 p.m.
- August 10 – 9:00 a.m.
- August 11 – 4:35 p.m.
- August 17 – 9:00 a.m.

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

### 2. CONSENT AGENDA

A. The Board of City Commissioners considered and approved voucher numbers 1019511 to 1019895.

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

C. The Board of City Commissioners considered Site Authorization for Ducks Unlimited at the Ramkota Hotel for July 1, 2011 through June 30, 2012.

D. The Board of City Commissioners considered the reappointment of Ken Heitkamp and the appointment of Patty Tangen to the Civil Service Commission for five year terms. Their terms will expire July 1, 2016.

E. The Board of City Commissioners considered application for tax abatement for 426 East Calgary Avenue for a Disabled Veteran Credit for 2011: David & Diane Price qualified for the abatement.

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

- Authorization for city employees to participate in the 2011 Battle of the Badges blood drive September 7-9, 2011 at Kirkwood Mall. The event is designed to encourage the public to donate blood as part of a friendly competition between law enforcement officers and firefighters. Requested authorization to allow City employees to participate and donate blood for scheduled times.
- Authorization to sell seized vehicles through Northland Auto Auction. The 1999 Chevrolet Malibu four door was seized in a drug investigation and have been forfeited to the Bismarck Police Department through the formal court process. The vehicle would be sold through a public auction conducted by Northland Auto Auction in Mandan.

Staff will place a reserve price on the vehicles to ensure that we receive an adequate price based on the vehicle condition in comparison to book value. Staff believes that selling the vehicles through Northland Auto Auction will likely result in a higher sale price than selling the vehicles through sealed bids or at the annual city auction. Northland Auto Auction has a sliding fee scale based on the sale price of the vehicle, but based on the estimated sales prices, the auction fee will be approximately 4% or less. The Board previously authorized staff to sell seized vehicles through Northland Auto Auction with good success.

Upon sale of the vehicle, 20% of the net proceeds are distributed to the Burleigh County State's Attorney based on the existing agreement concerning allocation of property forfeiture proceeds. The remaining 80% will be deposited in the Police Department's asset forfeiture account.

G. The Board of City Commissioners considered the following requests from the Public Works Utility Operations Department:

- Approval to renew lease with Pitney Bowes for mailing equipment at state contract rate. The current lease for their mailing inserter and mailing software will expire at the end of October. Staff requests approval to renew this lease for a period of three years at the state rate, which is \$577.12 per month for three years. This lease includes the necessary package of software, hardware and support services to continue the existing mailing system, including replacing the inserter with a new model. Funds for this will come from the enterprise funds that use the combined utility billing process.
- Approval of Contract Change Order with John T. Jones Construction for time extension until September 15, 2011 for the Digester Cover Replacement project. The original date of November 30, 2010 was first extended to July 15, 2011.

- Approval of Contract Change Order with Edling Electric Inc. for time extension until July 31, 2011 for the electrical portion of Digester Cover Replacement project. The original date of November 30, 2010 was first extended to July 1, 2011.

H. The Board of City Commissioners considered the request from the Public Works Service Operations Department for permission to use Houston Engineering to provide bookkeeping services for the curbside sandbag collection and disposal program from the Missouri River flood of 2011. This would entail compiling the weigh tickets information from Knife River and entering the information into a computer spreadsheet for payment and FEMA reimbursement purposes.

I. The Board of City Commissioners considered the request from the Bismarck Airport to purchase used vehicles at public auction (federal and state) for up to \$25,000. As the cost of vehicles continues to rise, staff is now finding that even at the public auctions (state and federal), the used vehicles they routinely purchase for airport operations are exceeding the \$15,000 purchasing limit.

Staff requests consideration to purchase vehicles at a public auction up to a maximum amount of \$25,000. They have had to pass up on vehicles they wanted to purchase in the past and would like a little more latitude in this area. The Airport has saved a considerable amount of funds over the years by purchasing their operations vehicles this way as compared to buying new. Staff feels the current limit appears to be outdated for today's used vehicle pricing.

J. The Board of City Commissioners considered approval of bonds and contracts for the following:

- Sewer Improvement District 529 (Markwed Excavating)
- Street Improvement District 441 (Northern Improvement Company)

The Board of City Commissioners then had before it for consideration the request for approval of the bond and contract on the following improvement district, completing the legal requirements as required by the N.D.C.C.

Commissioner Grossman introduced the following resolution and moved its adoption:

**RESOLUTION APPROVING CONTRACT AND CONTRACTOR'S BOND  
SEWER IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED TWENTY NINE (529)**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota that the bond and contract furnished by Markwed Excavating, Inc, for the construction of Sewer Improvement District Number Five Hundred Twenty Nine (529) are hereby approved.

Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners then had before it for consideration the request for approval of the bond and contract on the following improvement district, completing the legal requirements as required by the N.D.C.C.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION APPROVING CONTRACT AND CONTRACTOR'S BOND  
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY ONE (441)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota that the bond and contract furnished by Northern Improvement Company for the construction of Street Improvement District Number Four Hundred Forty One (441) are hereby approved.

Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

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

- Request for release of a utility easement in Sonnet Heights Subdivision First Replat, requested by Richard Fisher and Jeff Gerbitz. Staff recommends approval.

RESOLUTION

RELEASE OF UTILITY EASEMENT IN  
SONNET HEIGHTS SUBDIVISION FIRST REPLAT

WHEREAS, a petition has been filed by the owner of property for the release of utility easement in Lot 1, Block 3, Sonnet Heights Subdivision First Replat, Bismarck, North Dakota; and

WHEREAS, the utilities for which the easement was granted have filed consent with the City of Bismarck; and

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, a municipal corporation, that the request to release the utility easement described as:

A portion of a utility easement on Lot 1, Block 3, Sonnet Heights Subdivision 1<sup>st</sup> Replat, described as the North 3 feet of the South 7 feet of Lot 1, Block 3, less the East 7 feet and the West 10 feet, is in all things allowed and granted.

BE IT FURTHER RESOLVED that the County Recorder of Burleigh County, North Dakota is hereby authorized and directed to release the easement of record in her office.

- Request from K & L Homes, Inc. to call for a public hearing for the vacation of non-access lines in Promontory Point II. Staff recommends approval. The reason for this request is to revise the 40 foot non-access line on Chisholm Trail to 28 feet to provide enough room for driveway as indicated on the site plan.

L. The Board of City Commissioners considered introduction of and call for public hearing on Ordinance 5845 relating to veterans' preference in employment.

#### ORDINANCE NO. 5845

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 9-03-11 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.) BY AMENDING THE SECTION RELATING TO VETERANS' PREFERENCE.

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

Section 1. Amendment. Section 9-03-11 relating to Veterans' Preference is hereby amended and re-enacted as follows:

**9-03-11. Veterans' Preference.** Notwithstanding section 9-03-10, veterans who are North Dakota residents shall be entitled to preference, over all other applicants, pursuant to N.D.C.C. Section 37-19.1-02, as follows:

1. No distinction or discrimination may be made in the administration of an examination because the applicant may be a veteran. Upon completion of an examination with a passing grade, the applicant must be informed of a veteran's right to employment preference. The applicant shall be required to furnish proof of his or her status as a veteran and, if disabled, proof of disability.

2. ~~Upon receipt of required proof, five points must be added to the examination grade of a nondisabled veteran and ten points shall be added to the examination grade of a disabled veteran.~~ Upon receipt of proof required in subsection 1, on a one hundred point scale, the examiner shall add five points for a veteran and ten points for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score. If a scale other than a one hundred point scale is used, the examiner shall add five percent of the scale

used for a veteran and ten percent of the scale used for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score.

3. ~~Upon request for certification of eligibles to employment pursuant to section 9-03-14, such persons must be identified as veterans, disabled veterans, or nonveterans. The appointing authority shall designate a prescribed number of eligible individuals to be considered from the top number of the group of eligible candidates in rank order, from highest to lowest, based on the applicant's final score.~~

4. The appointing authority shall fill the position from the group of eligible individuals to be considered. The appointing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. ~~In the event the certified list of eligible persons includes veterans, the selection must be made as follows:~~

~~a. A disabled veteran, without regard to examination grade, shall first be entitled to the position and, in the absence of justifiable cause, documented in writing, for not making such selection, shall be appointed.~~

~~b. If the list does not include disabled veterans and includes only veterans, then the one with the highest rating shall first be entitled to the position and, in the absence of justifiable cause, documented in writing, must be appointed.~~

~~c. If the list includes both veterans and nonveterans, but not disabled veterans, the one with the highest rating, whether veteran or non-veteran, shall be entitled to the position and, in the absence of justifiable cause, documented in writing, shall be appointed.~~

5. The provisions of this section do not apply to the appointment of a chief deputy or private secretary of an elected or appointed official or to an internal promotion process.

6. An employee of the City is not eligible for preference when applying for a different job within the City.

*Reference: N.D.C.C. Section 37-19.1-02  
(Ord. 5523, 06-27-06)*

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 and adoption.

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

## REGULAR AGENDA

3. The Board of City Commissioners considered the request from Richard Hammond to appear to appeal the weed cutting notice at four lots from 3248 through 3272 East Capitol Avenue.

The Bismarck Board of City Commissioners considered the appeal of Richard Hammond (Hammond) from the order for him to cut the weeds and tall grasses dated August 3, 2011, for his properties located at lots 3248 through 3272 East Capitol Avenue, a total of four lots, in Bismarck, North Dakota. Richard Hammond did not appear at the hearing. Mr. Burton Pfliger, Environmental Health Specialist, appeared and reported the action of Environmental Health Division and informed the Commission of the situation. All of the records and files of the Environmental Health Division regarding this matter were also before the City Commission and made part of the record. After all of the parties were given an opportunity to present evidence, the City Commission makes the following:

### FINDINGS OF FACT

1. That Hammond's property has weeds and tall grasses in excess of four feet tall as shown by photographs provided at the meeting.
2. That Hammond's property contains both wormwood and Canadian Thistle, both of which are classified as noxious weeds. The City has a cut date of July 15, 2011 and the City notified Hammond of the need to cut his properties by letter dated August 3, 2011. Hammond has not cut the weeds and tall grasses on his property in compliance with City Ordinance Chapter 13-03.
3. That Hammond timely appealed the order to cut his lots issued by the Environmental Health Division but appealed to the Board of Adjustment. Pursuant to City Ordinance, Hammond was notified that his appeal was to the City Commission and Hammond was notified by mail that his appeal would be heard by the City Commission at 5:15 PM on August 23, 2011.

## CONCLUSIONS OF LAW

1. That pursuant to City Ordinance 13-03-04, weeds and tall grasses must be cut June 1, July 15 and if needed, September 1 of each year. That notice to cut was published as required by the Ordinance.

## DECISION

Based upon the findings and the conclusions, the Bismarck Board of City Commissioners concludes that City Ordinance 13-03-04 provides that weeds and tall grasses must be cut at least by June 1 and July 15 of each year or anytime noxious weeds are present or the weeds and tall grasses exceed eight inches in height and Hammond has failed to do so. Hammond's property contains noxious weeds and weeds and tall grasses in excess of eight inches tall. Pursuant to City Ordinance, the properties need to be cut.

Commissioner Grossman made a motion to approve to uphold the order to cut the weeds and tall grasses on the property and deny the appeal. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Naves: None, the motion carried.

4. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING and Confirmation of Special Assessments Districts.

IMPROVEMENT DISTRICT	TOTAL ASSESSED & FINANCED
Storm Sewer Improvement District 514	Assessed: \$791,617.64 Financed: \$173,719.07
Storm Sewer Improvement District 524	\$153,111.06
Sanitary Sewer Improvement District 528	\$15,421.29
Water Improvement District 317	\$10,654.53
Street Improvement District 425	\$261,147.62
Street Improvement District 426	\$145,854.81
Street Improvement District 429	\$164,217.06
Continuous Districts:	
Storm Sewer Improvement District 100	\$98,511.01
Sanitary Sewer Improvement District 150	\$24,577.45
Water Improvement District 100	\$8,053.58
Water Improvement District 148	\$175,270.00
Sanitary Sewer Improvement District 158	\$114,670.00

There were no written or oral protests.

Commissioner Askvig made a motion to confirm the specials as spread. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows:

Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford.  
Nays: None, the motion carried.

5. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING and second reading on Ordinance 5844 relating to library parking lot restricted.

#### ORDINANCE NO. 5844

AN ORDINANCE TO CREATE AND ENACT SECTION 12-13-27 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.) BY CREATING A SECTION RELATING TO LIBRARY PARKING LOT RESTRICTED.

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

Charlie Whitman, City Attorney, said this issue arose during the budget discussions. The Library said there are people parking in the library parking lot on a daily basis when they are not using the library and going to their jobs or doing business downtown. They are hoping this light enforcement at the library would discourage this misuse. Enforcement would be conducted prior to the library opening and tickets would be issued for those who park in the lot and then go downtown. Video surveillance is available in the library parking lot as well.

President Warford asked Mr. Whitman if the ordinance passes, would he like the Board to have a discussion about the fine for violating this ordinance. Mr. Whitman said a fine needs to be set for this violation and added to the parking ticket fee sheet located over at Municipal Court. Commissioner Grossman asked Mr. Whitman to draft this ordinance after budget discussions this year. The library parking lot is for library services patrons only. The other reason is the library has requested to purchase land for additional parking each budget year and it was thought that the parking restrictions would be a more economical way of handling the parking needs. He feels the fine should be of some substance in order to make the ordinance effective.

Commissioner Askvig asked the definition of patron because people may go to the library then decided to walk over to a nearby convenience store to purchase a beverage and walk back to the library since closed beverages are allowed in the library. Mr. Whitman said these violations will be factually driven to a certain extent because there are also meeting rooms in the library. He said basically a library employee will monitor the parking lot at a specific time and if someone receives a ticket, that person will be responsible for showing that they did return to the library. Commissioner Seminary asked what is the difference between the street in front of the library and the parking lot in terms of who pays for it, who owns it, who has the right to use it? Mr. Whitman said the street is public right-of-way and the parking lot is privately owned property of the city.

There were no written or oral protests.

Commissioner Grossman made a motion to adopt the ordinance. Commissioner Smith seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

The Board discussed the fine for newly passed Ordinance 5844 relating to library parking lot restricted. President Warford said the parking fine on the street starts at \$10 and escalates with additional infractions. Mr. Whitman said the fines depend on the circumstance. The lowest parking fee is for the first time timed parking which is \$10. If you get multiple timed parking violations the fines escalate depending on the time period. After a certain period of time, they drop off as terms of counting toward an enhancement. He believes they go from \$10 to \$50 depending on the number and the timeframe. Past \$20 dollars isn't common.

Commissioner Grossman made a motion to set the fine for violating Ordinance 5844 regarding library parking lot restricted at \$20. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

6. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING and second reading on request from Richard Fischer and Jeff Gerbitz for the vacation of the non-access lines in Sonnet Heights Subdivision. Staff recommends approval.

Kim Lee, Planning Manager, said this request has been made to vacate the easterly 25 feet of a 50 foot non-access line along Canada Avenue on the south side of Lot 26, Block 10, Sonnet Heights Subdivision. When this subdivision was platted in 1980, Canada Avenue was the east-west collector for the section. The collector designation has subsequently been moved to LaSalle Avenue. Staff has no objection from this being reduced from 50 feet to 25 feet and recommends approval of the request.

There were no written or oral protests.

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

7. The Board of City Commissioners considered request from Community Development Department to receive and consider negotiated bid for the Youthworks renovation/expansion project to be funded in part with CDBG funds.

This item has been pulled from the agenda.

8. The Board of City Commissioners considered the request from Bismarck Civic Center for drape replacement.

Charlie Jeske, Civic Center General Manager, said Civic Center staff advertised for drape replacement and received one bid for the project. The bid received was:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Innovative Systems	\$34,420.65

Mr. Jeske said this is a budgeted expense and staff recommends awarding the bid to Innovative Systems.

Commissioner Grossman made a motion to award the bid to Innovative Systems for \$34,420.65. Commissioner Smith seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

9. The Board of City Commissioners considered request from Public Works Utility Operations Department:

- Approval to remove storm sewer plugs based on quotes.

Keith Demke, Public Works Utility Operations Director, appeared before the Board. In plugging the city's storm sewer system to prevent the backflow of river water into the city, staff placed sand filled plugs in a dozen storm sewers ranging in diameter from 18 inches to 78 inches. As the river level drops, the plugs will be able to be removed and discontinue the storm water pumping operations. Removing these plugs requires the use of a large capacity vacuum truck. City owned equipment is not adequate to perform this work. There are two local contractors with the appropriately sized equipment for this work. Staff has solicited quotes for hourly rates from both contractors, copies of which were provided to the Board. The hourly rates (based upon six hours of working time in a day) are \$253.00 per hour for Chief Construction and \$251.67 per hour for CEDA.

The total cost to complete this work will exceed the \$15,000 limit for which bids are required. The bidding process would delay unplugging these sewers by approximately a month. Staff is requesting approval to proceed based upon the hourly rates quoted for this work. Time is of the essence in getting these sewers open. The longer they remain plugged, the longer the risk of flooding from internal drainage exists and the longer we must continue to operate the rented pumping equipment. Therefore, to expedite the process and reduce the risk of additional damages, staff is requesting permission to proceed with this work using both contractors and working on multiple sites when possible.

Commissioner Askvig made a motion to approve the request to remove storm sewer plugs based on quotes. Commissioner Grossman seconded the motion. Upon roll call,

the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

- Receive and consider disposition of bids for Wastewater Treatment Plant Digester Boiler Burner Replacement.

Keith Demke, Public Works Utility Operations Director, said this is the bid staff attempted to do about a month ago but no one bid for this work. After speaking to the contractors, they got a couple to agree to submit a bid so this project was rebid. The project budget sheet was also provided to the Board. Mr. Demke presented the bids received:

<b>BIDDER</b>	<b>BID AMOUNT*</b>
John T. Jones Construction Co.	\$233,000
PKG Contracting Inc.	\$249,695
Wrigley Mechanical Inc.	\$250,800
*Engineer's Estimate = \$270,000	

Staff recommends awarding to the low bidder, John T. Jones Construction Co. Commissioner Askvig asked about Edling Electric on the project budget sheet until the Project Construction Contracts section. Mr. Demke said that is the electrical portion of the project that was previously awarded to Edling Electric.

Commissioner Grossman made a motion to award the bid to John T. Jones Construction Co. for \$233,000. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

10. The Board of City Commissioners considered the following requests from Bismarck Airport:

- Receive and consider disposition of bids for the runway deicer material.

Greg Haug, Airport Manager, appeared before the Board. Bismarck Airport uses liquid runway deicer as part of their ongoing snow and ice control program to maintain safe runway conditions. Bismarck Airport has solicited bids to establish prices for Potassium Acetate and/or Aqueous Biobased Solution for the period of November 1, 2011 to April 30, 2012. The Airport needs no deicer fluid at this time but anticipates ordering deicer in 4,400 gallon bulk loads during the winter season as necessary. These bids will allow Bismarck Airport to purchase runway deicer as existing supplies are depleted. The runway deicer will be paid for out of the Airport's budget.

Two different products were bid because staff ran into a situation several years ago where the original solution became unavailable due to a shortage and staff had to find an FAA approved equal. Staff tried the new product and found it worked just as well and was slightly less expensive. Airport staff will plan to order Potassium Acetate as

needed and Airport staff would only purchase Aqueous Biobased Solution if supplies of Potassium Acetate are not available.

Mr. Haug presented the bids received to purchase runway deicer chemical:

<b>Bidder Name</b>	<b>Item 1 Potassium Acetate</b>	<b>Item 2 Aqueous Biobased Solution</b>
Old World Industries	\$5.09/gal	No bid
LNT Solutions	\$6.50/gal	\$6.50/gal
Orison Marketing LLC	\$5.10/gal	No bid

Mr. Haug indicated that the low bidder for Potassium Acetate was Old World Industries and the only and low bidder for the Aqueous Biobased Solution was LNT Solutions. Mr. Haug recommends awarding to both of the low bidders with the understanding that the Airport will be buying the lowest priced all winter unless it doesn't become available because of some shortage. Commissioner Askvig asked about if it wouldn't be possible to accept a different bidder for the Potassium Acetate instead of paying \$1.40 more a gallon for the Aqueous Biobased Solution. Mr. Haug said in the past suppliers have run out of the Potassium Acetate across the country so it was necessary to then use the Aqueous Biobased Solution which is approved by the FAA.

Commissioner Grossman made a motion to award to the low bidders for both products. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

- Consider update to Airport Air Service Development Incentive Program.

Greg Haug, Airport Manager, appeared before the Board. In 2004, the Board approved an Air Service Development Program to be used by the Airport in attracting and retaining new airline service. The current program includes fee waivers and matching marketing funds up to \$25,000 for 12 months. Allegiant Air was the first airline to utilize the program. Since then, Delta and United have used the program to launch service to Salt Lake City and Chicago, respectively.

Airport staff meets periodically with their incumbents and prospective air carriers. Staff knows airlines plan new service/routes months in advance. For example, new service options for next spring and summer are being planned now. In order for the Bismarck Airport to propose any incentive packages for new service for next year, now is the time. This update to the Airport's incentive program has several changes from our existing program.

First, it defines further that incentives would be offered for new, nonstop, or competitive service for a top 20 passenger market. The current program qualifications only included new, nonstop service to a "top" destination. Secondly, it would allow incentives to be

offered for an agreed upon time period not to exceed 24 months as allowed by federal regulations. The current plan was limited to 12 months. Thirdly, the marketing assistance would be increased to \$50,000, up from \$25,000 limit in the current program and would no longer require a match from the airline itself. These changes will allow the Airport to better compete in attracting new service. They have become a necessary part of attracting new air service for any community as it helps offset the initial startup costs making any new route more viable and sustainable.

Commissioner Askvig expressed concern that the airlines are no longer required to put in matching funds. How much did they have to match previously? Mr. Haug said it was dollar for dollar; the airport would match however much the airline put up. Askvig asked what other communities are doing. Mr. Haug said Delta and United didn't take advantage of the one to one match but Allegiant did. Staff just wants the ability to attract new service. President Warford said it's a fine line between trying not to upset the core carriers (Delta and United) yet try to bring in more competitive airfares for our community. Commissioner Seminary asked how staff looks at new markets and matches them up to what's happening in our regional marketplace, for example, energy related activity within the state, for the long term. Mr. Haug said that is something Airport staff works on with their air service consultant, Sixel Consulting Group. They target specific carriers to specific markets where they see the best chance for success in a new area. There are a lot of different factors that have to come together in order to do that. In the Small Community Air Service Development (SCASD) Grant application that was submitted, they did try to target service that would be beneficial to our community as well as the oil and energy sector.

Commissioner Grossman thinks that expanded air service is critical to Bismarck and anything we can do to aggressively pursue that is important. He feels the passenger fees for the current carriers in Bismarck are excessive by comparison to other communities with similar populations. Commissioner Askvig still feels that the company should be paying in for the marketing because there isn't anything from keeping the companies from leaving. Is it possible that for every dollar that the carrier puts in, we will match with two dollars before we put all the money in by ourselves? He feels that if the carrier has to put money in for this, it means they are more committed to our community. President Warford stated that there are extraordinary costs to the carriers for bringing new service to a community so he is comfortable without requiring a match from the carrier.

Commissioner Seminary said Askvig's concern is valid but he doesn't know that it's going to be practical. Our congressional delegation has been extremely aggressive with the airline industry and even they haven't gotten their way every time. He feels that we might not be able to get the airlines to agree to a match however they should be aware that we have a concern about it. Bismarck is a different place than it was 20 years ago and he thinks airlines would see great value in coming to Bismarck. Commissioner Grossman appreciates Askvig's points but in this instance he agrees with President Warford's point about the investments the airlines are required to make to come here. Askvig said marketing is also a cost of doing business so having someone else doing

your marketing for two years maybe a great incentive but it doesn't create the same level of buy in to our community. He will continue to push in the future as to how this is handled because we shouldn't just give them the money and hope that they stay. He feels there should be additional investment by the airlines.

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

11. The Board of City Commissioners considered discussion of Renaissance Zone modification.

Commissioner Seminary said at the last Board meeting it was discussed that Board members would meet with the Renaissance Zone Authority (RZA) and come up with some ideas. However he hasn't met with the Renaissance Zone Authority (RZA) because one of its members told him that wasn't necessary because the decision should come from the Board of City Commissioners. He put together some information for the Board to give some background on why he is thinking this way.

He said he has met with many members of the Mayors' Economic Development Advisory Group (MEDAG) committee and for the most part, they concur with the thoughts. The Renaissance Zone has been a fabulous program. Bismarck is not the same as it was 20 years ago or even 11 years ago. He said the Renaissance Zone is effective enough at this point that it could be considered for modification; he has never indicated that it should be abandoned. In any business if you're doing something the same way for 10 years, it probably won't survive. He crunched the numbers and looked at how effective the tool is. If the two game changing projects hadn't come about, he probably wouldn't have looked at modifying this program. These two projects will change the landscape of downtown but they will also change the tax consequences for many. For a period of five years, those projects won't pay property taxes, and when they do come on the tax rolls, that money doesn't go into the General Fund. He is concerned because for those five years everyone else is paying for the services that the General Fund provides, such as emergency services.

Seminary said Bismarck will continue to grow so he thinks this program needs to be changed so it's current, fair and equitable. He looks at downtown Bismarck differently; he thinks people should be paying us to come to downtown Bismarck instead of us giving them incentives. Downtown Bismarck has a thriving medical hub that will continue to grow, vibrant retail sector, educational hub, etc. This is a very good point based on the success of the Renaissance Zone to ask the RZA to modify their plan and he isn't saying a decision needs to be made tonight. The citizens have elected this Board and he believes that this Board needs to make an appropriate decision for where the city should be 10 years from now and beyond. He met with Commissioner Smith about this topic and they had a very good conversation. The two newest projects are game changers in multiple ways.

Commissioner Smith said she's very passionate about downtown and the Renaissance Zone has been a powerful tool to revitalize downtown Bismarck. She said when she was growing up in Bismarck, downtown was the place to be. That changed when the malls opened in town and downtown became deserted. We have lots downtown: hotel, restaurants, businesses, etc. and it's a fabulous place to be. She's afraid we will lose momentum because when all the Tax Increment Financing (TIF) talk was going on, they didn't have any new applications for months. There is someone who would like to renovate the Cowan Building but needs Renaissance Zone funds as well TIF funds to make his project work. She's afraid that if we lose a project because we can't use the TIF funds, what's going to happen if you start changing the Renaissance Zone program.

The State of North Dakota now allows the city to use 42 tax exemptions; Bismarck currently uses 20 of those. Should we be looking at these other exemptions? Why are we singling out the Renaissance Zone? In order to be fair and equitable, maybe we need to look at all of these exemptions. She has a lot of confidence in the RZA and she would be willing to take these ideas back to them and discuss them. It's always good to look at the program and they are currently in the process of making some upgrades so this would be the time to discuss this with them.

Commissioner Askvig thinks Seminary's real concern is with the TIF lawsuit that the city's involved with right now and based on advice he's been given, the city should wait until the ruling on the appeal comes down from the North Dakota Supreme Court. He said his understanding of the difference between the two is that the Renaissance Zone puts property back on the books at a much higher value after a short period of time and that's not necessarily the case with the TIF. He is trying to understand how there is a disproportionate burden placed on some by just the Renaissance Zone. He still feels there needs to be input from those developing outside the Renaissance Zone about how it affects them. He feels that member of this Board are entitled to share their ideas and he hopes that the RZA wouldn't say that they won't entertain ideas from this Board because he shares the concern that this Board is elected whereas the RZA is appointed by this Board. After the RZA has analyzed it, they can bring their findings back before this Board for a decision to be made.

Commissioner Seminary said it is very difficult to separate the TIF and RZA because they are joined at the hip. He feels Bismarck is a fabulous place and we shouldn't have to do a lot to incentivize people to come here. He thinks modifying it to speed up the process so whatever those property tax dollars that will be generated, whether they go into a lockbox or his preference, the General Fund, so that the process is fair and equitable. Commissioner Smith said the average payback for this property tax is five point four years. When the Pine project comes on, his payback will be less than a year so that's a great investment for our taxpayers.

President Warford thanked Commissioner Seminary for bringing this up. MEDAG was his idea so he does agree with taking fresh looks at things. You need to have plans, monitor them, re-plan, etc. The Renaissance Zone has been a great tool; we have lost

momentum but it seems as if we are regaining it now. As Seminary indicated in his information to the Board, there have been 80 plus projects and \$20 million in new construction and 270 plus jobs have been created since the Renaissance Zone projects began. He also agrees that this commission table makes the final decision but he does think there are smart people on the RZA that have passion for our downtown. What he feels we are really discussing tonight is has Bismarck as a self-sustaining economy does that mean we no longer need to incentivize in the downtown or other areas in order to maintain the growth in our city. We want to do everything in our power to make sure we are fueling the fire in our community and not hurting it. He doesn't want to lose the great program that's working now without a valid study because we feel we are in a good place and no longer need the program. Maybe we should talk to some of the businesses that have come to downtown. He said based on past discussions with people participating in the Renaissance Zone that close to 100 percent said without the Renaissance Zone it is much easier to go outside the downtown to build in a green field space because of issues like parking, problems with construction, etc. He thinks the RZA should find out what people who have used the Renaissance Zone think and would they have not come to downtown without the Renaissance Zone. He would like to hear what thoughts the RZA has on this before he makes a decision.

Seminary said that he didn't say we don't need incentivizing; he said it might need modification. Warford said the recommendations from this Board will be taken to the RZA for their discussion, look at these issues and possibly others as well, then come back before this Board for recommendations.

12. The Board of City Commissioners considered the ongoing project agenda.

Commissioner Askvig requested an update from the Engineering Department on the status of the Washington Street road project near the YMCA. Mel Bullinger, City Engineer, gave an update and said the project is still on track to be done around the end of next week or early in the week after that.

Bill Wocken, City Administrator, said the city of Mandan has requested consideration to participate with them and other cities in the US Dept of Treasury Small Business Credit Initiative program. There is up to \$13 million available for small business financing and development in North Dakota. At this time, he is only asking for permission to look at participation in the program and bring back a specific application to this Board at their September meeting.

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

Having completed the items on the agenda, President Warford asked if there was any further business for this meeting. There being none, the meeting was declared adjourned at 6:21 pm.