



MEETING OF THE BOARD OF CITY COMMISSIONERS

6/13/2023 - Minutes

Call to Order

The Board of City Commissioners met in regular session on June 13, 2023, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioners present included: Commissioner Cleary, Commissioner Connelly, Commissioner Marquardt, Commissioner Zenker, and Mayor Schmitz.

FUTURE COMMISSION MEETINGS:

- June 27, 2023
- July 11, 2023 & July 25, 2023
- August 8, 2023 & August 22, 2023

MISSION STATEMENT

To provide high-quality public services in partnership with our community to enhance our quality of life.

MEETING OF THE BOARD OF CITY COMMISSION

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

Chris Ebertz addressed the Commission with his concerns regarding Consent Agenda Item I-4. He requested the Commission consider a four-lane design option for South Washington Street from the drainage ditch to Burleigh Avenue. He noted concerns with the transition from four-lanes to three-lanes causing vehicles to occasionally make unsafe driving decisions.

2. CONSENT AGENDA

Commissioner Marquardt motioned to approve as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C

- A. Consider approval of minutes
- B. Consider approval of personnel actions
- C. Consider approval of expenditures

Vouchers: #1111250-1111580.

D. Consider the request for approval from the Administration Department for the following:

1. Appointments to the Dakota Media Access Board of Directors.
2. Liquor license renewals.
3. Gaming site authorization renewals.

E. Consider the request for approval from the Airport for the following:

1. Cofell's Plumbing and Heating Change Order #2 to the Snow Removal Equipment Building Agreement.
2. Northern Improvement Company Change Order #4 to the Snow Removal Equipment Building Agreement.

F. Consider the request for approval from the Bismarck Event Center for the following:

Permission to purchase a Bobcat L28 small articulated loader from Bobcat Company using the pricing from Sourcewell contract #040319-CEC.

G. Consider the request for approval from the City Attorney for the following:

1. Permission for the City of Bismarck to engage Nachawati Law Group to include the City in opioid litigation against McKinsey & Co., Inc.

H. Consider the request for approval from the Community Development Department for the following:

1. Introduction of and call for a public hearing on Ordinance 6553, a request for a zoning map amendment for Lot 1, Block 1, River of Hope Addition and Lot 1, Block 6, Meadowlark Commercial Third Addition where the Planning and Zoning Commission recommends approval.
2. A request of Premier Storage, Stephen and Karen McCormick, and the City of Bismarck for a vacation of the right-of-way on all of Lots 4-5, Block 4, and Lot 13, Block 1, Sloven Second Subdivision.
3. A request of Dakota Pioneer Land Company, LLC to release the North 35 feet of the South 185 feet of the non-access line along Boston Drive adjacent to Lot 32, Block 1, Meadow Village Addition First Replat.
4. A request of Ridgeline Contracting, Inc for the vacation of the North 35 feet of the Wanchena Way right-of-way adjacent to and parallel with the south line of Lot 2A of Lot 2, Block 1, Sykes Addition.

I. Consider the request for approval from the Engineering Department for the following:

1. Acceptance of a sidewalk easement granted by Target Corporation.

2. Acceptance of warranty deed for a lot in Promontory Point 7th Addition for the sanitary sewer lift station.
3. Approval of Contract Change Order No. 1 for Highway Construction Project HC 143.
4. Approval of an amendment to the existing agreement for professional services with Apex Engineering Group, Inc. for South Washington Street reconstruction – HC 158.
5. Resolution receiving bids and ordering the preparation of the engineer's statement and resolution rejecting all bids for Sewer Improvement District 582 and Water and Sewer Improvement Project WPSP 392.
6. Approval of the request for a resolution approving the revised engineer's report, request for a resolution approving plans and specifications, part A, and request for a resolution directing the advertisement of bids and receiving bids, part A for Street Improvement District SI 573.
7. Resolution approving plans and specifications and a resolution directing the advertisement of bids and receiving bids for Street Improvement District SI 575.
8. Approval of Contract Change Order No. 4 for SI 564 for a time extension for Street Improvement District SI 564.
9. Approval of Contract Change Order No. 2 for Water Utility Project WU138.
- 10 Approval of a development agreement for Northern Sky Second Addition First Replat.**

J. Consider the request for approval from the Finance Department for the following:

1. Applications for abatement.

K. Consider the request for approval from the Police Department for the following:

1. Permission to sell two decommissioned Animal Control vehicles.

L. Consider the request for approval from the Public Works - Service Operations Department for the following:

1. Permission to correct the VIN associated with the 2001 Chevrolet 1500 with 117,954 miles sold at the City Auction on May 20, 2023.
2. Change Order E-3 time extension to the Western Edge Electric, Inc. contract for the Fire Station 3 Remodel Project.
3. Permission to sell Public Works retired equipment, 2001 Caterpillar Motor Grader, to the City of Lincoln, for \$85,000.
4. Permission to sell Bobcat Skid Steer Loader and Bucket at public sale or online auction.

M. Consider the request for approval from the Public Works - Utility Operations Department for the following:

1. Task Order No. 6 with Apex Engineering Group, Inc. in the amount not to exceed \$99,456.00 for the development of an Odor and Corrosion Control Master Plan.
2. Change order to increase the Leo A Daly contract by \$55,000.00 for the Public Works Expansion Project and extend the end date of completion to December 31, 2023.
3. Permission to apply for Lead Service Line Inventory Assistance available through the Drinking Water State Revolving Fund.

3. REGULAR AGENDA

4. Public hearing on on Ordinance 6536, a request by Investcore, Inc. and Silver Ranch 18, LLLP for annexation of parts of Silver Ranch Third Addition and Silver Ranch Fourth Addition.

Ben Ehreth, Community Development Director, addressed the Commission regarding a request by Investcore, Inc. and Silver Ranch 18, LLLP, for the annexation of parts of Silver Ranch Third Addition and Silver Ranch Fourth Addition.

Mayor Schmitz opened the public hearing.

Landon Niemiller, with Swenson Hagen & Company, appeared on behalf of the owner.

Commissioner Connelly motioned to approve Ordinance 6536 as presented, and Commissioner Zenker seconded. Upon a roll call vote, all voted, aye. M/C

5. Public hearing on Ordinance 6542, a request for the annexation of Tyler Parkway and Ash Coulee Drive roadway segments, requested by the City of Bismarck and owner Ron Knutson.

Ben Ehreth, Community Development Director, addressed the Commission regarding a request for the annexation of Tyler Parkway and Ash Coulee Drive roadway segments, requested by the City of Bismarck and owner Ron Knutson.

Mayor Schmitz opened the public hearing. No member of the public appeared for comment.

Commissioner Connelly motioned to approve Ordinance 6542 as presented, and Commissioner Marquardt seconded. Upon a roll call vote, all voted, aye. M/C

6. Consider approval of the City/County Building lease with Burleigh County.

Mayor Schmitz updated the Commission regarding the City/County Building lease with Burleigh County. The Bismarck Burleigh Commissions Committee discussed the topic at a prior meeting with general consensus amongst the members to recommend a lease rate by Burleigh County for the first floor of the City/County building and additional on-site storage at a rate of \$13 per sq/ft and an annual amount of \$194,580.75.

Commissioner Zenker motioned to approve the lease as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C

7. Consider request to assign East Century Avenue Reconstruction as the next half-cent sales

tax funded project and begin preliminary engineering.

Gabe Schell, City Engineer, addressed the Commission with a presentation on the history of the voter-approved half-cent sales tax collection for the construction and reconstruction of arterial roadways. Engineer Scheel noted the half-cent sales tax was approved in 2018, with the collection of sales tax beginning in the second quarter of 2019. The half-cent sales tax is scheduled to expire ten years after implementation. Engineer Schell noted that \$35.4 million has been collected over four years, contributing to projects along 43rd Avenue and Ash Coulee Drive.

Engineer Schell requested to assign East Century Avenue Reconstruction as the next half-cent sales tax-funded project and begin preliminary engineering and design. The project would consist of full urban reconstruction from the west of Greensboro Drive to Kost Drive/Sumter Drive. It would include turn lanes, pedestrian facilities, corridor lighting, and water main extensions. Right-of-way has been dedicated for Century Avenue for the majority of the corridor except for the unplatted areas east of 52nd Street NE, where the alignment for Century Avenue and 52nd Street NE has not been finalized. Coordination with the landowner east of 52nd Street NE on the alignment, profile, and typical section of the roadway will occur as part of the right-of-way acquisition process.

This project would be 100% locally funded with no programmed federal or state funding. As such, some of the processes required by federal funding would not need to be performed. However, this roadway is a functionally classified roadway. To not jeopardize future federal funding eligibility, coordination with the North Dakota Department of Transportation (NDDOT) will occur to the degree the NDDOT desires.

Commissioner Zenker motioned to approve the request to assign East Century Avenue Reconstruction as the next half-cent sales tax-funded project and procure engineering services and approve \$600,000 budget authorization from half-cent sales tax for the preliminary engineering phase, and Commissioner Connelly seconded. Upon a roll call vote, all voted, aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42465/Item-7-PDF>

8. Consider the request for approval of Design and Construction Manager At-Risk contracts for the City's Water Treatment Plant and Wastewater Treatment Plant.

Michelle Klose, Public Works Utility Operations Director, addressed the Commission regarding a request for approval of Design and Construction Manager At-Risk contracts for the City's Water Treatment Plant and Wastewater Treatment Plant.

Commissioner Zenker motioned to approve the contracts with PKG, Inc. and HDR Engineering, Inc. for the preconstruction design phase at the WTP and WWTP to include the following findings of fact pending legal review of all contracts related to the project:

1. To find that HDR Engineering Inc. and PKG Contracting, Inc. have no common ownership or conflict of interest with each other, nor are any other entities involved with architecture, engineering, or construction other than those two entities at this time.
2. We determine that it is in the best interest of the public to utilize the construction manager at-risk public improvement delivery method.
3. The construction manager at risk planning and design phase services will not duplicate services normally provided by an architect or engineer.
4. The construction manager at risk construction services will be in addition to and not

duplicate the services provided for in the architect and engineer contracts.

5. To authorize a contract with PKG Contracting, Inc. for preconstruction design phase CMAR services at the WTP for \$645,000.00, which includes the \$250,000.00 passthrough cost for the membrane piloting.

6. To authorize a contract with PKG Contracting, Inc. for preconstruction design phase CMAR services at the WWTP for \$105,000.00.

7. To authorize a contract with HDR Engineering, Inc. for the preconstruction design phase design services at the WTP in the amount of \$4,441,226.00.

8. To authorize a contract amendment with HDR Engineering, Inc. for the preconstruction design services at the WWTP in the amount of \$924,734.

Commissioner Cleary seconded the motion. Upon a roll call vote, all voted, aye. M/C

<https://bismarcknd.gov/DocumentCenter/View/42462/Item-8-PDF>

9. Consider the request to receive bids and award the contract for Highway Construction project HC 161 relating to offsite improvements to US 83 and 64th Avenue and request to approve the construction observation contract to KLJ Engineering, LLC. for HC 161.

Gabe Schell, City Engineer, addressed the Commission regarding a request to receive bids and award the contract for Highway Construction project HC 161 relating to offsite improvements to US 83 and 64th Avenue and request to approve the construction observation contract to KLJ Engineering, LLC. for HC 161. This project will be funded through the half-cent sales tax collection with a cost share of 60% city, and 40% will be the responsibility of Fleet Farm. The project completion date is scheduled to be April 2024, prior to the opening of Fleet Farm.

Commissioner Zenker motioned to receive bids and award the contract for Highway Construction Project HC 161 to Northern Improvement Company for \$3,197,944.45 contingent on developer pre-payment, approve the construction observation contract to KLJ, Engineering LLC for an hourly not to exceed contract of \$336,959.00 for HC 161 contingent on developer pre-payment and approve project budget for HC 161 including authorization of \$2,335,000.00 in half-cent sales tax and a 2023 budget amendment, and Commissioner Marquardt seconded. Upon a roll call vote, all voted, aye. M/C

10. Other Business

Commissioner Marquardt noted that he had been contacted with concerns relating to homelessness within the city. He remarked that the City of Bismarck Police Department is working with local service providers to develop a solution to address the increasing quantities of homeless people in the community.

Mayor Schmitz commented on the ongoing discussions at the Bismarck Burleigh Commissions Committee table relating to the 2024 Bismarck-Burleigh Public Health budget negotiations. Mayor Schmitz noted that he intends to support a shift of the financial responsibility from the city to Burleigh County so there is a more even distribution across all Burleigh County taxpayers for the services provided by Public Health.

Adjourn

There being no further business to discuss, the meeting adjourned at 6:15 PM.

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