

9/8/2020 - Minutes

MISSION STATEMENT

To provide high-quality public service 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).

Leigh Jacobs, a Bismarck resident, spoke against Community Development's item E2, the re-authorization of the applications for the HOME and NSP Funds for the Boulevard Avenue Apartments. Mr. Jacobs stated he feels that the money could be used more efficiently for other projects and that the renovations would not be successful.

Brent Ekstrom, the Executive Director of the Lewis and Clark Development Group and a member of the non-profit Community Works, who is coordinating the Boulevard Apartment renovations, updated the Commission on the project's progress.

Dr. Joan Connell, Dr. David Field, Dr. John Hagen and Dr. Guy Tangedahl, Bismarck residents and local healthcare physicians, spoke in favor of mandating masks in the City.

In addition, Sister Kathleen Atkinson, a member of the Bismarck-Burleigh COVID-19 Task Force, also spoke in favor of the mask mandate.

Kendi Chase, a Bismarck resident, and Dr. Steve Nagel, a licensed chiropractor, spoke in opposition of the mask mandate.

2. Consider the approval of the minutes.

Commissioner Zenker moved to approve the minutes as presented. Commissioner Marquardt seconded the motion.

Upon a roll call vote, all voted aye. M/C.

3. CONSENT AGENDA

Commissioner Zenker requested item J2 be pulled for discussion. President Bakken requested I2 also be pulled for discussion.

Commissioner Marquardt moved to approve the consent agenda, with the exception of J2, I2 E2 and G1, which he also requested be pulled for discussion. Commissioner Splonskowski seconded his motion.

Upon a roll call vote, all voted aye. M/C.

J2: Commissioner Zenker asked when the City budgeted for the project, which would study the space needs of Bismarck-Burleigh Public Health, the Police Department and Public Works. Finance Director Dmitry Chernyak informed the Commission that the plan was budgeted for Budget 2020.

President Bakken asked how much the City is currently paying the University of Mary to lease the space that Bismarck-Burleigh Public Health is currently occupying. Director Chernyak estimated the

lease was about \$120,000 a year. Mayor Bakken stated he felt it was important to move forward with the Leo A. Daly study as soon as possible, as he did not want to lease the space another year. He also said he felt that this study would be beneficial to further understand how to distribute funds for building these new facilities and for future growth and development.

Commissioner Guy moved to approve the facilities study. Commissioner Marquardt seconded the motion.

Upon a roll call vote, Commissioner Guy, Marquardt and Mayor Bakken aye, Commissioner Splonskowski and Zenker nay. M/C.

I2: After further clarification from the Human Resource Director Bob McConnell, about how this item would allow employees to use their sick and annual leave to substitute the remaining 1/3 of their normal compensation while qualified under the Families First Coronavirus Response Act (FFCRA), which only provides 2/3 pay to employees, Commissioner Zenker moved to approve item as presented. Commissioner Guy seconded the motion.

Upon a roll call vote, all voted aye. M/C.

E2: Mr. Ekstrom presented additional information on how the funds would be used and the bid process for the Boulevard Avenue Apartments project. Mr. Ekstrom stated that the apartments' renovation funds were not City tax dollars, and that this project is being paid for through state, federal and private funds solely authorized for low-income housing projects.

Commissioner Marquardt moved to approve the re-authorizing of the City's application for the funds. Commissioner Guy seconded the motion.

Upon a roll call vote, all voted aye. M/C.

G1: Ubl Design Group provided additional information on fixing the drain. Commissioner Marquardt moved to approve the item as presented. Commissioner Zenker seconded the motion.

Upon a roll call vote, all voted aye. M/C.

In addition, the Mayor and Commissioners were e-mailed a letter from a concerned Bismarck resident in regards to Finance item F4. The information was passed on to the City Commission before the meeting, but there was no further discussion on the item.

Please see the link to read the full letter. <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5397?fileID=12988>

A. Consider approval of expenditures.

Vouchers: 1094609 and 1094829.

B. Consider approval of personnel actions.

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

1. Approve actions for Wetland Phase 5 Project.

D. Consider the request for approval from the Bismarck - Burleigh Public Health for the following:

- 1. Approve Burleigh-Morton COVID-19 Task Force Purchase Agreement.**
- 2. Permission to accept COVID-19 Cares Act Funding and authorize an increase in budget authority for Public Health Government Grants.**

3. Permission to apply for grant funding from the National Association of County and City Health Officials.

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

- 1. Approve the City's substantial amendment to the 2018 Annual Action Plan.**
- 2. Consider re-authorizing the City's application for 2018 HOME, 2019 HOME and 2019 NSP funds for Boulevard Avenue Apartments.**
- 3. Introduction of and call for a public hearing on Ordinance 6433, a request for the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7th Addition and adjacent rights-of-way not previously annexed. The Bismarck Planning and Zoning Commission recommends approval.**
- 4. Introduction of and call for a public hearing on Ordinance 6434, a request for a zoning change from an existing PUD-Planned Unit Development zoning district to a new PUD-Planned Unit Development zoning district for Stoneridge Addition Second Replat.**
- 5. Introduction and call for a public hearing on Ordinance 6435, a request for a zoning change from the A-Agricultural, R10 - Residential, CA-Commercial and P-Public zoning districts to the R10-Residential, CA-Commercial and P-Public zoning districts for Silver Ranch Second Addition.**
- 6. Introduction of and call for a public hearing on Ordinance 6436, for a zoning change from the A-Agricultural and RR-Residential zoning districts to the PUD-Planned Unit Development zoning district for Lot 1, Block 1, Pat's Acres and Auditor's Lots A, B and C of the NE 1/4 of the NE 1/4 of Section 14, T139N-R81W/West Hay Creek Township, requested by Chase and Toni Dauenhauer. The Bismarck Planning and Zoning Commission recommends approval.**

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

- 1. Approve amendment to existing agreement for professional services with AE2S for Tyler Coulee Regional Stormwater Design.**
- 2. Approve Change Order No. 4 for WU 130.**
- 3. Approve NDDOT's cost participation, construction and maintenance agreement for the School Safety Project - HC 136.**
- 4. Approve the dedication and acceptance of a sanitary sewer easement on Lot 11, Block 1, Eagle Crest Eighth Addition.**

G. Consider the request for approval from the Event Center for the following:

- 1. Approve Ubl Design and Northern Plains Plumbing to fix the deck area drain on the employee parking area.**

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

- 1. Application for abatement, 2020, market value reduction, 4801 Windsor St.**
- 2. Approve resolution to direct special assessments to be levied.**
- 3. Extend Joe Ibach's term with the Special Assessment Commission until April, 2023.**
- 4. Introduction of and call for a public hearing on Budget 2021.**
- 5. Introduction of and call for a public hearing on Burleigh County Housing Authority to apply for the Payment in Lieu of Taxes (PILOT) property tax incentive.**
- 6. Introduction of and call for a public hearing on the concrete sidewalk, curb and gutter and private driveway assessment as part of the SW2019 assessments.**

I. Consider the request for approval from the Human Resources Department for the following:

- 1. Approve the Azurance Group's proposal for Flexible Spending and COBRA administration.**
- 2. Approve City employees to use Sick or Annual Leave for the Families First Coronavirus Response Act.**

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

1. Allow free disposal at the landfill Sept. 21-26, 2020 for Bismarck residents presenting their August 2020 City of Bismarck utility bill.
2. Approve contract for consulting services for Phase 1A and 1B for the Public Health, Police and Public Works facilities space needs.
3. Grant permission to dispose of/sell Public Works' inventory at a public marketplace, commonly used for the sale of motor vehicles, as described in City Ordinance 7-01-05.

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

1. Approve Task Order No. 2 to the agreement with Apex Engineering Group Inc. for the Hay Creek Lift Station Improvements.

4. REGULAR AGENDA

5. Receive the United Way Emergency Homeless Shelter mid-term report.

Jena Gullo, the Executive Director of the MSA United Way, presented the report.

Please see the link for her full presentation.

<https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5386?fileID=12989>

No motion was made for this item.

6. Receive a Public Health COVID-19 update from Renae Moch, Bismarck-Burleigh Public Health Director.

Director Moch shared with the Commission what Public Health has done since the pandemic began and how they will be moving forward with the state doing contact tracing now, public education, testing and vaccination planning. In addition, she also addressed Public Health's coordination with the Burleigh-Morton COVID-19 Task Force and the visit from the U.S. Public Health Service COVID-19 Response Team.

Please see the link to view Director Moch's full presentation.

<https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5399?fileID=12990>

Director Moch stated one of the recommendations from members of the Task Force was a mask mandate.

Mayor Bakken, who represents the City Commission on task force stated he feels outreach and education is key now and briefly touched on how the task force is working with Agency MABU to develop stronger efforts in this area. Mayor Bakken also stated he feels that a mask mandate should come from the governor's office and not the City Commission table, and that wearing a mask comes down to personal responsibility. Commissioner Zenker echoed Mayor Bakken's statements.

The Commission requested Director Moch give another update on the Task Force and COVID-19 at the next City Commission Meeting on September 22, 2020.

No motion was made for this item.

7. Public hearing for the Bismarck Cancer Center to vacate the dedicated alley over the North 20 feet of Lot 5, the deeded alley over the East 8 feet of the North 20 feet of Lot 8, the deeded alley over the South 19.3 feet of the East 8 feet of Lot 9, and the deeded alley over the South 19.3 feet of the West 8 feet of Lot 4, all in Block 38, Northern Pacific Second Addition.

No member of the public appeared for comment.

Commissioner Marquardt moved to approve the item as presented. Commissioner Zenker seconded the motion.

Upon a roll call vote, all voted aye. M/C.

8. Consider the request from the Community Development Department for continued discussion on the easement release process.

Community Development Director Ben Ehreth, presented the information the Commission requested at the August 11, 2020 City Commission Meeting.

Director Ehreth also developed a list of possible options for an alternative process.

These include:

Alternative A – Keep processes as is and assume no change to process.

Alternative B – Adjacent property owner notifications for easements which benefit the City of Bismarck. These types of easements would generally be related to stormwater/drainage easements, specific utility easements involving public infrastructure, and access easements. This alternative would involve sending out directly adjacent property owner notifications of the process culminating in a public hearing opportunity at the City Commission level. Easement releases in conjunction with a Major Plat would be assumed to not be included in the notification of adjacent property owners as that would occur through the plating processes.

Alternative C – Adjacent property owner notifications for all easement releases. This alternative would involve sending out directly adjacent property owner notifications of the process culminating in a public hearing opportunity at the City Commission level. Easement releases in conjunction with a Major Plat would be assumed to not be included in the notification of adjacent property owners as that would occur through the plating processes.

Please see link for more information on the easement release alternatives.

<https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5392?fileID=12991>

Commissioner Zenker stated he felt option B would be the best solution, as his ultimate goal was to inform the adjacent properties of an easement release when requested in their area. Commissioner Zenker then moved to have Director Ehreth work with the Engineering Director Gabe Schell to finalize the details of the easement release process and bring it back to the Commission at the October 13, 2020 City Commission Meeting. Commissioner Sponskowski seconded the motion.

Upon a roll call vote, all voted aye. M/C.

9. Consider the request from the Administration Department for discussion regarding the annual alcohol renewal process.

In April, the City Commission put the annual alcohol renewal process on hold and requested to revisit the item in September.

Now, revisiting the item, Assistant City Administrator Jason Tomanek presented the following options for the Commission to vote on to move forward with the license process.

These include:

1. Extend the expiration date of all current alcohol licenses until a date to be determined.
2. Pro-rate the annual license renewal fee based on dates when select businesses were not able to operate/sell alcohol due to the COVID-19 pandemic due to state guidelines limiting the operation of select businesses statewide.
3. Waive renewal fees for select businesses that were not able to operate/sell alcohol due to the COVID-19 pandemic due to state guidelines limiting the operation of select businesses statewide.
4. Proceed with the annual renewal process without any changes to the fee structure or renewal fees.

Commissioner Zenker moved to pro-rate all liquor licenses for 2020, with a discount of 2 months, equaling \$55,572.15. Commissioner Splonskowski seconded his motion.

Upon a roll call vote, all voted aye. M/C.

In addition to the item, Assistant Administrator Tomanek stated a business was interested in bidding on a Class E liquor license and another business requested a 2 a.m. closing time.

Mayor Bakken stated that although he was not opposed to the later closing, he would like to see more information from other cities, businesses and police before making the decision. Commissioner Marquardt suggested coordinating with Mandan on the ordinance change. Commissioner Zenker suggested putting the item on hold until after the Pandemic. All other Commissioners agreed.

Commissioner Marquardt then motioned to allow one Class E license to be placed out for bid. Commissioner Zenker seconded the motion.

Upon a roll call vote, all voted aye. M/C.

Other Business

Having completed all the items on the agenda, President Bakken asked if there was any other business.

Adjourn

The meeting was adjourned at 8:57 p.m.