



## MEETING OF THE BOARD OF CITY COMMISSIONERS

1/24/2023 - Minutes

### Call to Order

The Board of City Commissioners met in regular session on January 24, 2023, at the hour of 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 Marquardt, Commissioner Splonskowski, Commissioner Zenker, and Mayor Schmitz.

### FUTURE COMMISSION MEETINGS:

- February 14, 2023 & February 28, 2023
- March 14, 2023 & March 28, 2023
- April 11, 2023 & April 25, 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)
  - Dustin Gawrylow requested the City of Bismarck change its position on House Bill (HB) 1328 relating to special assessments and manufactured home parks from opposed to neutral.
  - Mike Riepl, Kim Jondahl, Jared Schumacher, and John Ward addressed the Commission siting concerns with consent agenda item L1. The group requested additional time to prepare a proposal in response to the request for proposals (RFP) for the property located at 202 West Avenue F. These individuals cited concerns with a cell tower being placed in a historic residential neighborhood. Steve Ward with Ward Development addressed the Commission on behalf of AT&T, who submitted one of the proposals that City staff is proposing to be rejected.

### 2. CONSENT AGENDA

Commissioner Marquardt motioned to remove consent agenda item L1 for discussion and approve the remainder of the consent agenda as presented, and Commissioner Zenker seconded.

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

Commissioner Marquardt motioned to reject the proposals submitted for a previously issued request for proposals (RFP) for the redevelopment of a water tower site be rejected and recommended that the RFP be reissued, 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: #1108954 -1109204.

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

- 1. Recommendation to appoint Patty Olson to the City of Bismarck Animal Advisory Board.
- 2. Receive and accept the bid tabulation for the Class D Full-Alcohol On/Off-Sale license.
- 3. Consider application for gaming by the Fort Abraham Lincoln Foundation at The Craftcade, 405 North 4th Street.

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

- 1. Change Order #6 to the April 27, 2022, Weisz & Sons agreement for Wetland Phase 7 project.

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

- 1. Permission to increase fees for QuantiFERON TB Gold (blood test) and the TB skin test due to an increase in the cost of lab fees and serum supplies.

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

- 1. Corrected Ordinance 6526, the zoning change for part of Lot 2, Block 1, Meadowlark Hill Second Addition Replat, to correct the legal description of the property to be rezoned.

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

- 1. Approval of award concurrence of the North Dakota Department of Transportation (NDDOT) State Street Safety Improvements and Preventative

Maintenance Project SHE-1-083(118)901 PCN 20097, SHE-1-083(119)088 PCN 20098, NHU-IM-1-083(133)901 PCN 22769, NHU-IM-1-083(134)088 PCN 22770; City Project HC 133.

2. Approval of an amendment to the existing agreement for professional services with KLJ for Ash Coulee Dr. Reconstruction; City Project HC 143.

3. Approval of award concurrence of North Dakota Department of Transportation (NDDOT) Bismarck Expressway Pavement Rehabilitation project Washington St to north of Main Ave), CVD-NHU-CPU-1-810(031)002, PCN 23207; NHU-1-094(221)925, PCN 23208; SHE-1-810(032)002, PCN 23225; City project HC 145 and tied project Bismarck Expressway Pedestrian Facility TAU-1-981(128), City project HC 150.

4. Approval of award concurrence of North Dakota Department of Transportation (NDDOT) University Drive Pavement Rehabilitation project (Signal St to Bismarck Expy), NHUSU-1-804(050)072, PCN 23223, City project HC 146.

5. Approval of a resolution of necessity for Street Improvement District SI 571.

6. Approval of request for a resolution approving plans and specifications and resolution directing the advertisement of bids and receiving bids for Street Improvement SI 574.

7. Approval of Contract Change Order No. 2 for Streetlight and Traffic Signal Utility Project SV 63.

8. Approval of a street closure for Urban Harvest.

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

1. Applications for Abatement where the Assessing Division recommends approval.

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

1. Permission to purchase three sets of extrication equipment through HGAC-Buy Contract number EE08-19 through Ultimate Safety Concepts, Inc.

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

1. Award bid for traffic signal pole at US Highway 83 and Skyline Boulevard, westbound, for the Electrical Division.

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

1. Reject proposals for the redevelopment of the water tower site at 202 West Avenue F, and reissue the request for proposals.

3. REGULAR AGENDA

4. Request of Steve and Michelle Mariner to release the South 108.02 feet of the access easement within Lots 1 and 2, Block 1, Missouri Meadows Subdivision.

Daniel Nairn, Community Development Senior Planner, addressed the Commission regarding the request of Steve and Michelle Mariner to release the South 108.02 feet of the access easement within Lots 1 and 2, Block 1, Missouri Meadows Subdivision. The easement was granted with the plat of Missouri Meadows Subdivision, which was recorded on June 9, 2021. A new easement would be recorded in conjunction with the release to provide sufficient access from Burleigh Avenue to Lot 2. The final outcome would be an extension of the driveway 48.15 feet to the south. The driveway would still be terminated with a hammerhead turnaround.

Commissioner Zenker motioned to approve the request as presented, and Commissioner Splonskowski seconded the motion.

5. Continuation of consideration of a major subdivision final plat of Norbs Subdivision, requested by GKNG Properties, LLC., located east of Bismarck, east of 52nd street SE, and south of East Main Avenue/County Highway 10, along the west side of Mulberry Lane.

Ben Ehreth, Community Development Director, addressed the Commission regarding GKNG Properties, LLC's request for approval of a major subdivision final plat for Norbs Subdivision. The request is located east of Bismarck, east of 52nd street SE, and south of East Main Avenue/County Highway 10, along the west side of Mulberry Lane. Landon Niemiller with Swenson, Hagen & Company addressed the Commission noting the concerns with secondary access for the four additional lots that would result from Norb Subdivision. Mr. Niemiller said through conversations with the Burleigh County Highway Department the maintenance of the gate and Knox Box would be the responsibility of the Highway Department.

Commissioner Zenker noted the desire for written acceptance of responsibility from the Burleigh County Highway Department to ensure that the gated access would be adequately maintained.

Commissioner Marquardt motioned to table the request to the February 14, 2023, City Commission meeting to allow the owner's consultant time to obtain written acceptance from Burleigh County Highway Department, and Commissioner Cleary seconded.

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

6. Consider approving a revised inclement weather policy.

Janelle Combs, City Attorney, provided an update from the Subcommittee meeting held on January 18, 2023, to discuss the Inclement Weather Policy. At the meeting, the consensus of that Committee was to revisit the decision to require employees who are not on-site to have to work remotely, make up their time, or use leave. The Committee proposes that the policy be amended for clarity but that all who are scheduled to work between midnight and midnight on the calendar day that offices are closed be awarded 8 hours of annual leave. Mayor Schmitz noted the cost to compensate City staff during an eight-hour snow day event is \$191,000. Commissioner Zenker noted that the Subcommittee considered the cost associated with a snow day but felt the need to develop a definitive answer within the policy.

Commissioner Zenker motioned to approve the Inclement Weather Policy as drafted, and Commissioner Cleary seconded.

Upon a roll call vote, Commissioners Zenker, Cleary, Splonskowski, and Marquardt voted aye, and Mayor Schmitz voted nay. M/C

<https://bismarcknd.gov/DocumentCenter/View/41757/Item-6-PDF>

#### 7. Consider review and discussion of the 2023 Legislative Report #1.

City Administrator Keith Hunke addressed the Commission with a Legislative update. Administrator Hunke provided an update on various bills that could impact city operations.

Commissioner Splonskowski voiced his support for HB1205 and SB2123 and requested the City change its position from opposed to neutral.

Commissioner Cleary voiced her concerns with both proposed bills citing the subjectivity and vagueness. She expressed concerns about the potential differences in the interpretation of subjective content and potential misdemeanor charges of library staff.

Commissioner Marquardt noted that the library currently has a process to determine the appropriateness of library materials, and he has no concerns with being opposed to the two draft bills.

Commissioner Cleary motioned to remain opposed to HB1205 and SB2123, and Commissioner Zenker seconded the motion.

Upon a roll call vote, Commissioners Zenker, Cleary, Marquardt, and Mayor Schmitz voted aye, and Commissioner Splonskowski voted nay. M/C

Commissioner Zenker motioned to approve the recommendation from Administrator Hunke based on discussion and consensus at the table, and Commissioner Splonskowski seconded.

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

<https://bismarcknd.gov/DocumentCenter/View/41762/Item-7-PDF>

#### 8. Other Business

Mayor Schmitz updated the Commission on Burleigh County Commission's decision to decline its participation in the new committee proposed by the Mayor. Mayor Schmitz noted Burleigh County Commissioner Bitner cited the previously established Intergovernmental Committee as a reason to abstain from accepting the Mayor's invitation. Mayor Schmitz said he had discussed the committee with Burleigh County Commission Chair Matthews, who supported the committee. Mayor Schmitz closed by stating that he will attend the next County Commission meeting to discuss the proposal and answer any questions the County Commission may have.

Commissioner Marquardt asked if there would be a conflict in the future with the committee if newly-elected Auditor Splonskowski were to participate in committee meetings that would provide recommendations to the City Commission and the Burleigh County Commission. Commissioner Marquardt then directed the City Attorney to provide an attorney's opinion on whether there is a conflict between the newly-elected Burleigh County Auditor position held

by City Commissioner Mark Splonskowski.

Commissioner Zenker reminded the Commission of the two public information meetings being held on January 31, 2023, and February 1, 2023, and encouraged members to attend one, if not both, meetings. The meetings' purpose is to provide information and receive feedback regarding the City's Water Utility Rate Study.

Adjourn

There being no further business, the meeting adjourned at 6:56 PM.

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