



MEETING OF THE BOARD OF CITY COMMISSIONERS

3/28/2023 - Minutes

MEETING OF THE BOARD OF HEALTH

1. Call to order

The Board of Health met in regular session on March 28, 2023, at the hour of 5:15 PM in the Tom Baker Meeting Room, City/County Building, 221 N. 5th Street, Bismarck, North Dakota. Commissioners present included: Commissioner Cleary, Commissioner Marquardt, Commissioner Zenker, and Mayor Schmitz.

2. Receive an update from Public Health Director Moch regarding the 2022 Annual Report

Renae Moch, Public Health Director, presented the 2022 Bismarck Burleigh Public Health Annual Report to the Commission.

The Commission received the report.

<https://bismarcknd.gov/DocumentCenter/View/42044/Board-of-Health-PDF>

3. Adjourn

There being no further business, the Board of Health adjourned at 5:26 PM.

MEETING OF THE BOARD OF CITY COMMISSION

Call to Order

The Board of City Commissioners met in regular session on March 28, 2023, at the hour of 5:27 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 Zenker, and Mayor Schmitz.

FUTURE COMMISSION MEETINGS:

- April 11, 2023 & April 25, 2023
- May 9, 2023 & May 23, 2023
- June 13, 2023 & June 27, 2023

MISSION STATEMENT

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

of life.

Recognition of Milla Weigel for Accomplishment of the Girl Scout Gold Award

The Commission presented a certificate to Milla Weigel for achieving the Girl Scout Gold Award.

Recognition of Bismarck Citizen Academy Participants

The City Commission recognized the 2023 Bismarck Citizen Academy participants and staff for participating in the City's Citizen Academy program.

<https://bismarcknd.gov/Archive.aspx?ADID=2949>

National Public Safety Telecommunications Week Proclamation

Mayor Schmitz read the proclamation declaring April 9th – 15th, 2023, National Public Safety Telecommunications Week in the City of Bismarck.

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

Chris Ebertz addressed the Commission regarding the draft letter to FEMA. Mr. Ebertz provided support for the tiered water utility rate structure. He remarked that the tiers give control to the consumer and provided a recent utility bill demonstrating his household use.

<https://bismarcknd.gov/DocumentCenter/View/42057/Chris-Ebertz-PDF>

Al Walker addressed the Commission with concerns relating to the utility rate discussion and recent assessment of his residential property.

2. CONSENT AGENDA

Commissioner Zenker motioned to approve the consent agenda with the removal of item E4 as presented, and Commissioner Marquardt 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: #1110093-1110322.

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

1. Introduction of and call for a public hearing on a request to transfer the Class C-2 Hotel or Motel Alcohol License from Dosch Hospitality, Inc. (dba) Expressway Suites to BDH3 – Bismarck, LLC. (dba) Expressway Suites at 180 East Bismarck Expy.
2. Introduction of and call for a public hearing on a request for a Class F1

Restaurant Full Alcohol license for MayaS Incorporated (dba) MayaS at 1601 West Century Avenue.

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

1. Actions for the General Aviation (GA) Apron Phase 4 Project.
2. Extension of Rural Metro Fire Department Agreement.
3. Request to sell or dispose of vehicles as described in Ord. 7-01-05.
4. Budget change related to Wetland Phase 7 project.

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

1. Introduction and call for a public hearing on Ordinance 6543 to amend the personnel regulation portion of the code regarding at-will employees.

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

1. Approval of dedication and acceptance of a sanitary sewer easement granted by the Bismarck Parks and Recreation District within Lot 24, Block 2, Pebble Creek 3rd Addition.
2. Approval of dedication and acceptance of sidewalk easements granted by Liechty Homes, Inc. within Lot 1, Block 4 and Lot 1, Block 1, Stonecrest 2nd Addition.
3. Encroachment and waiver agreement with Fierce Properties, LLC dba The Window Source for a sign and hardware overhanging the public right of way of Memorial Highway.
4. Approval of the Development Agreement with MBR Properties, LLC regarding Paradise Valley Addition.
5. Request to Receive Bids and Award Contract for Street Light and Traffic Signal Utility Project SV 68.
6. Request to Receive Bids and Award Contract for Water Utility Project WU 141.

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

1. Application for Abatement.
2. 7-year tax-exempt financing lease of two sweepers, one motor grader, and one scraper (landfill) at a 3.905% interest rate from Bank of America.
3. 2023 budget reallocation for the fire station #1 remodel project.
4. Accept awarded grant from the North Dakota Department of Emergency Services (NDDDES) Division of Homeland Security.

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

1. Updated City of Bismarck Title VI plan.

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

1. Award the bids for the Fire Station 1 Remodel Project.

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

1. A development agreement with Boden Development, LLC.

2. Permission to award the bid for construction of sanitary sewer - Hay Creek Interceptor from Century Avenue to Calgary Avenue project (SU23-90).

<https://bismarcknd.gov/DocumentCenter/View/42046/Item-K2-PDF>

3. REGULAR AGENDA

4. Public hearing on the request for a new Class D Full Alcohol license from The Domain, LLC. (dba) The Domain, at 307 North 3rd Street.

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

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

5. Public hearing on Ordinance 6545, a zoning map amendment from the P – Public zoning district to the R5 – Residential zoning district for Lots 1-8, Block 1, Hay Creek Park Addition, requested by Bismarck Parks and Recreation District.

Ben Ehreth, Community Development Director, addressed the Commission regarding a zoning map amendment from the P – Public zoning district to the R5 – Residential zoning district for Lots 1-8, Block 1, Hay Creek Park Addition, requested by Bismarck Parks and Recreation District.

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

Commissioner Cleary motioned to approve Ordinance 6545 as presented, and Commissioner Zenker seconded. Upon a roll call vote, all voted, aye. M/C.

6. Public hearing on Ordinance 6546 to amend the motorized scooter portion of the traffic code.

Janelle Combs addressed the Commission regarding Ordinance 6546 to amend the motorized scooter portion of the traffic code and noted the revised version attached to the agenda.

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

Commissioner Marquardt motioned to approve the revised Ordinance 6546 as presented,

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

7. Public Hearing on Ordinance 6547 to Amend the 2022 Budget for Governmental Accounting Standards Board (GASB) 87 reporting purposes.

Dmitriy Chernyak, Finance Director, addressed the Commission regarding Ordinance 6547 to Amend the 2022 Budget for Governmental Accounting Standards Board (GASB) 87 reporting purposes. The purpose of the 2022 final amended budget ordinance is to add budget appropriation in the general fund and special revenue funds for the implementation of the Governmental Accounting Standards Board (GASB) Pronouncement No. 87 – Leases for reporting purposes only. The City must also report a financing source of equal value in the accounting records as the lease proceeds to offset the additional expenditures and create a zero net effect for the City's financial position.

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

Commissioner Marquardt motioned to approve Ordinance 6547 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C.

8. Consider approving the 2024 lease from the City of Bismarck to Burleigh County for the first floor of the City/County Building.

Janelle Combs, City Attorney, addressed the Commission regarding the 2024 lease of Burleigh County for the first floor of the City/County building. The Bismarck Burleigh Commission Committee members approved the lease agreement at its March 10, 2023, meeting. The final approval is subject to acceptance by Burleigh County Commission.

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

9. Consider approval of a Memorandum of Understanding with Bird Rides, Inc. to operate standup electric scooter sharing within the City of Bismarck right of way.

Gabe Schell, City Engineer, addressed the Commission regarding a Memorandum of Understanding with Bird Rides, Inc. to operate standup electric scooter sharing within the City of Bismarck right of way. Bird Rides, Inc has requested a new MOU to provide scooter rentals in 2023. The MOU reflects proposed changes to the scooter ordinance and aligns with scooter operation rules for privately owned scooters and scooters rented through Bird. The MOU would expire on December 31, 2023, and can be terminated with 30 days written notice.

Kylie Floodman, a representative with Bird Partnerships, provided an update on local operation practices to the Commission.

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

10. Consider request for resolution receiving bids and ordering preparation of the engineer's statement and request for resolution awarding contract for Street Improvement District SI 571.

Gabe Schell, City Engineer, addressed the Commission regarding the request for resolution of receiving bids and ordering the preparation of the engineer's statement and request for

resolution awarding the contract for Street Improvement District SI 571. The low bidder was Asphalt Surface Technologies Corp in the amount of \$935,817.25.

Commissioner Zenker motioned to receive bids, award the contract to Asphalt Surface Technologies Corp for \$935,817.25, order preparation of the engineer's statement, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42056/Item-10-PDF>

11. Continue discussion on Utility Rate approach and Survey results.

Michelle Klose, Utility Operations Director, provided the information requested by the Commissioners at the March 14, 2023, meeting for the ongoing utility rate project. Director Klose referenced pages 14, 15, and 22 in the presentation, which outlined dollar amounts at different tiers and alternatives ranging from \$1.21 to \$3.59 per unit. Director Klose noted that the table on page 22 indicates the five units of water usage would be considered the average for a single-family household.

The Commission received the report and requested additional time to review the recently provided information with discussion at future Commission meetings.

<https://bismarcknd.gov/DocumentCenter/View/42045/Item-11-PDF>

12. Review and discuss 2023 Legislative Report.

Keith Hunke, City Administrator, provided a second Legislative Report to the Commission. Administrator Hunke reported that HB 1229 had been modified with the removal of bars. Administrator Hunke also reported that HB 1237, relating to the funding sources for special assessments, passed in the House of Representatives but failed to pass in the Senate. Administrator Hunke requested that the Commission reconvene the Special Assessment Task Force to discuss the next steps for the Street Utility Fee Initiative.

Commissioner Marquardt motioned to reconvene the Special Assessment Task Force after the Legislative Session ends to discuss next steps, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C.

Administrator Hunke continued with updates on HB 1266 relating to expired Renaissance Zone designations, SB 1251 relating to core functions of public health units, and SB 2183 relating to snow removal grants and reimbursements. The Commission requested information from Steve Salwei, Public Works Service Operations director, regarding the accumulated snow removal cost. Director Salwei reported that to date cost of snow removal is \$3.3 million.

13. Consider the attached draft response letter to the Federal Emergency Management Administration (FEMA) regarding the City of Bismarck's preliminary Flood Insurance Rate Map (FIRM) changes.

Commissioner Zenker requested the letter be modified to include recognition of an existing flood control structure that is operational and in place along South Washington Street at the drainage channel. City Administrator Hunke noted the verbiage "a functioning flood control structure" will be added to the letter. The general consensus of the group was to have the Commission review the letter at the April 11, 2023, meeting before it is sent to FEMA.

14. Consider clarifying the motion to appoint Michael Connelly to the open City Commission seat.

City Attorney Jannelle Combs addressed the Commission, clarifying City Ordinance does not allow the Commission to appoint Michael Connelly to fill the unexpired term left vacant by Commissioner Splonskowski's recent resignation until 15 days after the acceptance of the resignation. The general consensus will be to have Mr. Connelly sworn in as a commissioner on April 11, 2023.

15. Other Business

Mayor Schmitz outlined his goals for the 2024 City of Bismarck Budget. Mayor Schmitz indicated the following:

1. No change to the real estate tax rate.
2. Plan for new staffing positions necessary to support public safety only.
3. Establish a lower reserve policy at 30% of general fund spending.
4. Utilize excess reserves, commit funds for the new fire station to be built to avoid bonding, and save the citizens from a tax rate increase to fund construction and commit resources for land acquisition costs for a new police station location.
5. Utilize excess reserve funds to fund the 2024 budget as a bridge due to the anticipated valuation changes not remaining constant with inflationary impacts.
6. Commit funds from the American Rescue Plan Act (ARPA) and the state Prairie Dog Fund to road infrastructure projects and capital improvement projects at the water treatment plant and wastewater treatment plant to help offset rate increases.

Mayor Schmitz closed by stating this plan is forward-thinking in planning for the future to provide a stable tax rate year over year and consistent support for the City staff.

Adjourn

There being no further business to discuss the meeting adjourned at 7:02 PM.

*Phone: 701-355-1300 | 221 North 5th Street | P.O. Box 5503 | Bismarck, ND 58501
www.bismarcknd.gov | TDD 711 | An Equal Opportunity-Affirmative Action Employer*

