



MEETING OF THE BOARD OF CITY COMMISSIONERS

4/25/2023 - Minutes

Call to Order

The Board of City Commissioners met in regular session on April 25, 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 Connelly, Commissioner Marquardt, Commissioner Zenker, and Mayor Schmitz.

FUTURE COMMISSION MEETINGS:

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

MISSION STATEMENT

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

Arbor Day 2023 Proclamation

Mayor Schmitz read a proclamation declaring May 5, 2023, as Arbor Day in the City of Bismarck.

World Wish Day 2023 Proclamation

Mayor Schmitz read a proclamation declaring April 29, 2023, as World Wish Day in the City of Bismarck.

MEETING OF THE BOARD OF CITY COMMISSION

1. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items)
 - Alfred Frank, a Bismarck resident, addressed the Commission regarding the utility rate study update. He encouraged the Commissioners to consider the difference between residential and commercial use and not penalize residents for the increased use of commercial properties.
 - Kate Herzog, with the Bismarck Downtowners Association, addressed the Commission regarding Regular Agenda items 5 and 10. Ms. Herzog spoke in support

of the East Main Avenue Corridor Study and the reinstatement of the Renaissance Zone Program in Bismarck.

- Kim Jondahl, a Bismarck resident, addressed the Commission in support of Regular Agenda item 9 and thanked the Commission for considering the community's concerns relating to the placing of a cellular tower in the neighborhood.

2. CONSENT AGENDA

Commissioner Zenker 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: #1110571 – 1110766.

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

- 1. Letter of support from Frank Properties, LLC.
- 2. Consider the request to renew applications for charitable gaming.
- 3. Renaissance Zone Authority member resignation.
- 4. Vision Fund Committee member resignation.

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

- 1. Permission for BBPH to accept a donation of previously used medical exam tables from the Bismarck Cancer Center.

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

- 1. Amendment to the Bismarck Event Center Liquor Vendor Services Contract.

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

- 1. Approval of an encroachment agreement with Bismarck Larks for hanging banners on City-owned light poles.
- 2. Utility Relocation Agreements for projects HC 149 and HC 150.
- 3. Request to receive bids and award contract for Sewer Utility Project SU 88.
- 4. Request to receive bids and award contract for Sewer Utility Project SU 89.
- 5. Request to receive bids and award contract for Water Utility Project WU 140.
- 6. Request to receive bids and award contract for Water Utility Project WU 142.

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

1. Applications for abatement where the Assessing Division recommends approval.
2. Resolution authorizing the issuance and sale of \$45M in wastewater revenue bonds from the State of North Dakota Revolving Fund Program to construct the Hay Creek Lift Station and the Hay Creek Sewer Interceptor Projects in north Bismarck.
3. Special Assessment Commission member appointment.

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

1. Business Ethics Committee member appointment.

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

1. Permission to conduct the Annual Deer and Turkey Archery Hunting Program on City properties.

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

1. Permission to enter into an agreement for the Collection and Disposal of Hazardous Waste by Clean Harbors Environmental Services, Inc. and to increase landfill fees for the disposal of hazardous waste for non-residents and businesses/commercial customers to capture increased fees and administrative costs.
2. Permission to award the contract for plant material/tree planting for the 2023 Partners in Planting Tree Planting Project to Prairie View Landscaping.
3. Permission to decommission and sell for scrap value vehicles and equipment.
4. Permission to sell overhead dumpsters with lids by public sale.
5. Permission to adjust the rate for customers for the 2023-2024 Single Sort Curbside Recycling to match the rate of the contract with Waste Management.

3. REGULAR AGENDA

4. Receive the annual report from the City of Bismarck Human Relations Committee.

Sargianna Wutzke, a member of the Human Relations Committee presented the committee's 2022 Annual Report to the Commission.

The Commission received the report.

<https://www.bismarcknd.gov/DocumentCenter/View/42202/Item-4-PDF>

5. Request of the Bismarck-Mandan Metropolitan Planning Organization for acceptance of the East Main Avenue Corridor Study.

Scott Harmstead, a representative with SRF Consulting, presented the final report for the East Main Avenue Corridor Study to the Commission. The study provided options for future roadway corridor treatments along Main Avenue extending from 7th Street to 26th Street. Options include a portion of Main Avenue being converted to a 3-lane section which would provide additional on-street parking, enhanced pedestrian features, and accommodations for bicycles. Additional alternatives include medians to improve safety at select intersections and elimination or consolidation of driveways to help limit the number of conflicts through the corridor.

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

<https://www.bismarcknd.gov/DocumentCenter/View/42203/Item-5-PDF>

6. Public hearing on Ordinance 6548 to amend the criminal trespass for remaining after a request to leave premises to be an offense, not an infraction.

Janelle Combs, City Attorney, addressed the Commission regarding Ordinance 6548 relating to Criminal Trespass.

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

Commissioner Zenker motioned to approve Ordinance 6548 as presented, and Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted, aye. M/C.

7. Public hearing on Ordinance 6549 to amend the liquor license ordinances.

Janelle Combs, City Attorney, addressed the Commission regarding Ordinance 6549, to amend the City's liquor license ordinance. Attorney Combs noted several changes from the initial draft. The changes were primarily clerical in nature, with no substantive changes to the content.

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

Commissioner Zenker motioned to approve Ordinance 6549 as presented, and Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted, aye. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/42204/Item-7-PDF>

8. Consider a request from the Fort Abraham Lincoln Foundation regarding approval of alterations to the property owned by the City of Bismarck.

Aaron Barth, a representative of the Fort Abraham Lincoln Foundation (FALF), provided a presentation to the Commission regarding alterations for the property at 1700 River Road, Bismarck. The FALF would like to pursue alterations that could facilitate a kayak/canoe launch and improvements to the riverboat docking system. Before proceeding to State and Federal agencies, Mr. Barth requested consent from the City to pursue the project.

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

<https://www.bismarcknd.gov/DocumentCenter/View/42205/Item-8-PDF>

9. Consider the request to award the bid for the water tower redevelopment site located at 202 W Ave F.

Michelle Klose, Public Works Utility Operations Director, addressed the Commission seeking approval of the bid award to the Residential Neighborhood Partnership (RNP) in the amount of \$150,000.00.

Commissioner Zenker motioned to approve as presented, including the conditions outlined in the memorandum, and Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted, aye. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/42206/Item-9-PDF>

10. Request for Reauthorization of Bismarck's Renaissance Zone Program.

Daniel Nairn, Senior Planner, presented the request to pursue re-establishing a Renaissance Zone within the City of Bismarck. Mr. Nairn noted that Governor Burgum signed the bill to finalize the recently approved legislation. Mr. Nairn closed by stating the City of Bismarck will pursue the written support of the Bismarck Public School District, Burleigh County, and the Bismarck Parks and Recreation District as required by state law.

Commissioner Zenker motioned to approve staff moving forward with the Renaissance Zone project as presented, and Commissioner Cleary seconded. Upon a roll call vote Commissioners Marquardt, Zenker, Cleary, and Mayor Schmitz voted aye. Commissioner Connelly voted nay. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/42207/Item-10-PDF>

11. Consider the request for resolution receiving bids and ordering the preparation of the Engineer's statement and resolution awarding contract for Street Improvement District SI 572.

Gabe Schell, City Engineer, presented the bid tabulation for Street Improvement District SI 572, with the low bid being submitted by Strata Corporation in the amount of \$1,188,358.70.

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

<https://www.bismarcknd.gov/DocumentCenter/View/42208/Item-11-PDF>

12. Receive an update on the City of Bismarck's Animal Advisory Board.

Commissioner Marquardt provided an update on the activities of the Animal Advisory Board for the first quarter of 2023. Commissioner Marquardt detailed a variety of topics relating to the Bismarck Animal Impound Facility, including issues with staffing, overcrowding, building conditions, and the current Memorandum of Understanding with the City of Mandan.

Jason Tomanek, Assistant City Administrator, updated the Commission on efforts the Administration will provide communications support to the Animal Impound staff with the intent of sharing information in educating the general public on the operations and services provided by the facility.

Lt. Jeff Solemsaas addressed the Commission on the staffing struggles and condition of the building. Lt. Solemsaas closed by noting the 2024 budget process will include elements to address some of the concerns.

Commissioner Marquardt motioned to request a meeting with the City of Mandan to review the current Memorandum of Understanding for the Animal Impound Facility, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

13. Finalize discussion on Utility Rate approach for 2023.

Michelle Klose, Public Works Utility Operations Director, addressed the Commission relating to the water utility rate study.

Commissioner Zenker noted his preference is for the single unit rate of \$3.42 per unit. Commissioner Zenker reiterated his desire to remove the fear of using water for irrigation and recreation.

Commissioner Connelly noted that he prefers the four-tier option because the first tier provided the best rate for those individuals using a modest amount of water for basic household needs.

Commissioner Cleary noted that she prefers the four-tier option because it provides the most affordable option for those using minimal amounts of water.

Mayor Schmitz indicated that he analyzed the options and prefers the four-tier method because it is the most equitable and it promotes the conservation of water by consumers.

Commissioner Cleary motioned to move forward with the four-tiered option for residential properties, including the updated cost of service for the remaining properties and the adjustments for sewer averaging to begin in May of 2023, and Commissioner Connelly seconded.

During the discussion, Commissioner Marquardt inquired when the rate adjustment would begin. Commissioner Cleary amended the motion to clarify the rate adjustment would begin with the start of the utility billing cycles in May 2023, and Commissioner Marquardt seconded the motion. Upon a roll call vote for the amended motion, Commissioners, Cleary, Marquardt, Connelly, and Mayor Schmitz voted aye. Commissioner Zenker voted nay. M/C.

Upon roll call vote for the initial motion to implement a four-tier rate system in May 2023, Commissioners, Cleary, Marquardt, Connelly, and Mayor Schmitz voted aye. Commissioner Zenker voted nay. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42220/Item-13-PDF>

14. Receive an update on the sesquicentennial time capsule project.

Jason Tomanek, Assistant City Administrator, updated the Commission on the Sesquicentennial time capsule event, which will be held on Sunday, May 14, 2023, at 2:00 PM at Camp Hancock Historical Site in Downtown Bismarck. Mr. Tomanek highlighted some of the time capsule's contents that were collected throughout the sesquicentennial celebration in 2022 and closed by welcoming the public to the culmination of the year-long celebration of Bismarck's 150th Anniversary.

15. Review and discuss 2023 Legislative Report.

Janelle Combs, City Attorney, updated the Commission regarding the 2023 Legislative Assembly. Attorney Combs noted the City is monitoring a small number of bills that will likely be resolved in the upcoming days as the Legislature comes to a close.

16. Other Business

- Commissioner Marquardt addressed the Commission relating to the various aspects of public safety and response by City of Bismarck Fire Department personnel. Commissioner Marquardt continued on including the proposed carbon dioxide pipeline that could be located beyond the City's extraterritorial area north of Bismarck. Commissioners Cleary, Marquardt, and Zenker expressed interest in discussing Bismarck's support for Burleigh County in regard to the pipeline at the May 9, 2023, City Commission meeting. Mayor Schmitz noted the City of Bismarck is willing to listen to the property owners that could be impacted by the pipeline; however, the City of Bismarck cannot make policies or rules that could impact the project. He encouraged those with concerns to consider providing their remarks to the Public Service Commission because it has final authority over the pipeline and its location.
- Commissioner Cleary highlighted the upcoming 10th Annual Keep Bismarck Beautiful event sponsored by the Bismarck Rotary on Saturday, May 6, 2023, and encouraged all to participate in the clean-up efforts.

Adjourn

There being no further business to discuss, the meeting adjourned at 7:54 PM.

*Phone: 701-355-1300 | 221 North 5th Street | P.O. Box 5503 | Bismarck, ND 58501
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