



MEETING OF THE BOARD OF CITY COMMISSIONERS

5/9/2023 - Minutes

Call to Order

The Board of City Commissioners met in regular session on May 9, 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 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.

Law Enforcement Memorial Week Proclamation 2023

Mayor Schmitz read a proclamation declaring May 9-20, 2023, as Law Enforcement Memorial Week.

National Public Works Week Proclamation 2023

Mayor Schmitz read a proclamation declaring May 21-27, 2023, as National Public Works Week.

MEETING OF THE BOARD OF CITY COMMISSION

1. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items)
 1. Chad Moldenhauer with K&L Homes and Heritage Developments requested that the City Commission publically oppose the CO2 pipeline route through Burleigh County. Mr. Moldenhauer also stated concerns for property owners and the inability to attain insurance to cover any losses or damages associated with a pipeline leak or explosion.
 2. Joe Hillerson, with the Bismarck Mandan Home Builders Association, read a proposed resolution from the BMHBA opposing the proposed pipeline and its location.
 3. Chad Wachter requested the City Commission issue a statement to the Public

Service Commission requesting that the proposed CO2 pipeline be located further away from Bismarck than planned. Mr. Wachter also referenced the Satartia, Mississippi, CO2 pipeline leak and the dangers associated with CO2 poisoning. Mr. Wachter closed by requesting that the City Commission pass a resolution opposing the proposed CO2 pipeline and its location.

4. Steve Bakken expressed concerns with the proposed pipeline's location and its potential to impede potential growth in Bismarck. He is also concerned that an emergency management plan has not been provided to local first responders. Mr. Bakken suggested that the proposed pipeline project be delayed until the Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations have been updated. Mr. Bakken closed by encouraging the Commission to recommend the proposed pipeline be rerouted.

5. Derek Wachter requested that the Commission view a documentary detailing the dangers and lasting results of the CO2 pipeline leak in Mississippi in 2020. Mr. Wachter closed by encouraging the Commission to avoid taking unnecessary risks and oppose the pipeline.

6. Curtis Jundt encouraged the Commission to review testimony from a public meeting relating to the pipeline held earlier in the day in Emmons County. Mr. Jundt expressed concerns about the potential of a hazardous plume resulting from a leak or explosion of the exposed pipeline. He also shared information about various types of pipeline construction methods and materials.

7. Karl Rakow expressed concerns about valves, safety, and the pressure within the proposed pipeline as potential risks to human life and property. Mr. Rakow shared a map he created demonstrating the potential for a plume resulting from an explosion or leak from the proposed pipeline.

8. Mitch Flanagan, the Burleigh County Building Official, addressed the Commission with concerns about the volume of CO2 proposed to be transmitted through the pipeline. He also expressed concerns about Burleigh County being at the end of the line for the pipeline, which he implied comes with a greater risk.

9. Gaylynn Becker encouraged the Commission to consider the pipeline's need and location. He also expressed concerns for human safety.

10. Joe Gross encouraged the Commission to review the earlier meeting in Emmons County. Mr. Gross referenced the testimony of the fire chief on duty at the time of the leak in Mississippi in 2020. He closed by asking the Commission to provide a letter of support to Burleigh County.

11. Susan Doppler expressed concerns relating to the personal and financial liability of landowners in the area where the pipeline is proposed. Ms. Doppler noted that her family owns land along the proposed route and has had to hire an attorney because they were summoned to court for not permitting land surveyors on their property. Ms. Doppler closed by saying that her insurance company notified her that she would not be covered for incidences relating to a pipeline emergency.

12. Michelle Jundt noted that she has concerns about potential investors in the pipeline.

2. CONSENT AGENDA

Commissioner Marquardt motioned to approve as presented, and Commissioner Zenker 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: #1110767-1111000.

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

1. 2023 Administration Department Fees and Charges.
2. Gaming site authorization renewals.

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

1. Approval of the substantial amendment to the 2019 Annual Action Plan for CDBG.
2. Introduction of and call for a 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, where the Bismarck Planning and Zoning Commission recommends approval.
3. Introduction of and call for a public hearing on Ordinance 6550, a request for a zoning change from the A – Agricultural zoning district to the RR – Residential and Conditional RR5 – Residential zoning districts for Tall Pines Subdivision requested by Eric and Melanie Wagner, where the Bismarck Planning and Zoning Commission recommends approval.
- 4. Accept the resignation of Walt Bailey from the Historic Preservation Commission.**

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

1. Approval of Utility Relocation Agreements for Ash Coulee Drive reconstruction project HC 143.
2. Consider the request for a resolution declaring petitions for improvements have been received and a resolution creating districts and ordering the preparation of preliminary reports for Street Improvement District SI 573.
3. Consider the request for a resolution declaring petitions for improvements have been received and a resolution creating districts and ordering the preparation of preliminary reports for Street Improvement District SI 575.
4. Consider approval of Contract Change Order No. 1 for Water Utility Project WU138.

G. 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 a \$2,000,000 State SRF Bond/Loan for a lead service line replacement project in 2023.

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

1. Permission to accept ergonomic grant funding from Workforce Safety and Insurance.

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

1. Permission for the Police Department to solicit donations to support the 2023 Annual Bismarck Police Department Benefit Golf Tournament.

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

1. Permission to sell equipment at Public Sale or Online Auction.

3. REGULAR AGENDA

4. Receive an update relating to the City of Bismarck Media Kit collaborative project with students from United Tribes Technical College.

Kalen Ost, the City of Bismarck's Communications Strategist, provided an update on the City of Bismarck's Media Kit collaborative project with students from United Tribes Technical College. The team from United Tribes who worked on the project shared their experiences and gratitude for the opportunity to work on the project.

The Commission received the update.

5. Receive a report from BNSF Railway regarding rail safety.

Amy McBeth, the Public Affairs Representative for BNSF Railway, addressed the Commission with a presentation on safety measures and protocols administered by BNSF. Ms. McBeth highlighted first responder coordination and training, track inspections, safety prevention, and restoration responsibilities resulting from a railway incident.

The Commission received the report.

<https://bismarcknd.gov/DocumentCenter/View/42317/Item-5-PDF>

6. Consider the request for approval of the Silver Ranch Fourth Addition and part of Silver Ranch Third Addition, requested by Investcore, Inc. and Silver Ranch 18 LLLP.

Ben Ehreth, Community Development Director, addressed the Commission regarding approval of the annexation of part of Silver Ranch Third and Fourth Additions; a zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, and CA – Commercial districts for Silver Ranch Fourth Addition; and a major subdivision final plat for Silver Ranch Fourth Addition requested by Investcore, Inc. and Silver Ranch 18 LLLP. Due to an error in the advertised legal description, Director Ehreth requested that the public hearing for the annexation ordinance be continued to the June 13, 2023, City Commission meeting.

Mayor Schmitz opened the public hearing.

Lanon Niemiller, with Swenson, Hagen & Co., addressed the Commission and noted that this phase of the Silver Ranch addition would provide a connection for the east-to-west traffic corridor between 52nd Street going east.

Commissioner Zenker motioned to approve Ordinance 6537 as presented and to continue the hearing on Ordinance 6536 to the June 13, 2023, City Commission meeting, and Commissioner Connelly seconded. Upon a roll call vote, all voted, aye. M/C.

7. Discussion on social media.

City Attorney Jannelle Combs reviewed the open meeting guidelines related to social media. Attorney Combs suggested the Commissioners focus their efforts and conversations on the subjects of their portfolio assignments and direct constituents to the appropriate City staff or portfolio holder.

The Commissioners discussed ways to avoid a potential conflict with a consensus that information shared by Commissioners should be in an open meeting and part of the official record.

8. Discussion on Bismarck-Burleigh Public Health Joint Powers Agreement.

Commissioner Cleary provided an overview of the current Board of Health composition and structure and discussed how other public health departments throughout North Dakota are governed and operate. Commissioner Cleary continued with the discussion of a single Board of Health consisting of one Bismarck City Commissioner, one Burleigh County Commissioner, and three health professionals to guide and direct the work and focus of the public health department. Commissioner Cleary shared that Burleigh County Commission Chair Becky Mathews will present this concept at an upcoming Burleigh County Commission meeting. Commissioner Cleary noted that the respective commissions would retain budget authority over the public health department under this proposed scenario and stated that the discussion would continue with the Bismarck Burleigh Commissions Committee in the upcoming weeks.

9. Discussion regarding pipeline safety.

The Commission discussed the proposed resolution to support Burleigh County's position about the proposed CO2 pipeline drafted by Attorney Combs. Concerns relating to the proposed location, the proposed depth, and concerns for the City of Lincoln were expressed by the Commission, in addition to a desire to encourage a route for the proposed pipeline south of Bismarck after the proposed PHMSA regulations have been approved. The Commission collectively provided modifications to the resolution.

Upon Consensus, Commissioner Marquardt motioned to send the updated resolution as drafted to the Public Service Commission, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42318/Item-9-PDF>

10. Other Business

Adjourn

There being no further business to discuss, the meeting adjourned at 8:07 PM.

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