



MEETING OF THE BOARD OF CITY COMMISSIONERS

7/25/2023 - Minutes

Call to Order

The Board of City Commissioners met in regular session on July 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:

- August 8, 2023 & August 22, 2023
- September 12, 2023 & September 26, 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)

No public comment was received.

2. CONSENT AGENDA

Commissioner Marquardt motioned to approve as presented, and Commissioner Connelly 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: #1112088-1112389.

- D. Consider the request for approval from the Administration Department for the following:
 1. Liquor license renewals.

- E. Consider the request for approval from Bismarck-Burleigh Public Health for the following:
1. Permission to place unused office furniture up for auction.
 2. Permission to increase fees for specific services due to increases in Medicaid reimbursement rates effective August 1, 2023.
- F. Consider the request for approval from the Community Development Department for the following:
1. 2023 Annual Action Plan, which functions as the City's application to the Department of Housing and Urban Development (HUD) for Community Development Block Grant (CDBG) funds.
- G. Consider the request for approval from the Engineering Department for the following:
1. Contract Change Order No. 2 for Highway Construction Project HC 143.
 2. Contract Change Order No. 5 for SI 564 for a time extension.
 3. Request for resolution receiving bids and ordering the preparation of the Engineer's Statement and awarding the contract for Street Improvement District SI 573, Part A.
 4. Request for resolution receiving bids and ordering the preparation of the Engineer's Statement and awarding the contract for Street Improvement District SI 575.
 5. Acceptance of the award of North Dakota Department of Transportation (NDDOT) Urban Grant Program funding for a 2026 Downtown Street Improvement Project.
 6. Dedication and acceptance of Watermain, Sanitary Sewer, and Access Easements as part of Silver Ranch Fourth Addition.
- H. Consider the request for approval from the Finance Department for the following:
1. Applications for abatement.
- I. Consider the request for approval from the Fire Department for the following:
1. Permission to enter into a cooperative Sourcewell contract to purchase two fire engines with the requested City resources.
- J. Consider the request for approval from the Public Works - Service Operations Department for the following:
1. Change Order 2 to the contract with Greystone Construction.
- K. Consider the request for approval from the Public Works - Utility Operations Department for the following:

1. Sole source purchase of pump from WWGoetsch for the Hillside Booster Pump Water Station.
2. Sole source purchase of pump from Dakota Pump and Control for the Pioneer Lift Station.

3. REGULAR AGENDA

4. **Public hearing on Ordinance 6555 to amend several criminal and traffic ordinances.**

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

Commissioner Zenker motioned to approve Ordinance 6555 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C

5. Public hearing on ordinances 6551-6552 to create special assessment districts for annexed properties.

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

Commissioner Marquardt motioned to approve Ordinance 6551-6552 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C

6. Public hearing on Ordinance 6554, a request for a zoning change from the RM30 – Residential, CG – Commercial, and PUD – Planned Development zoning districts, to the RM30 – Residential and CG – Commercial zoning districts for Lots 1-3 and 7, Block 16, Wachters Second Addition and adjacent lands.

Ben Ehreth, Community Development Director, addressed the Commission regarding a request for a zoning change from the RM30 – Residential, CG – Commercial, and PUD – Planned Development zoning districts to the RM30 – Residential and CG – Commercial zoning districts for Lots 1-3 and 7, Block 16, Wachters Second Addition and adjacent lands.

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

Commissioner Connelly motioned to approve Ordinance 6542 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C

7. Public hearing on the vacation of the right-of-way of Vermont Avenue adjacent to all of Lots 4-5, Block 4, and Lot 13, Block 1, Sloven Second Subdivision, requested by Premier Storage, Stephen and Karen McCormick, and the City of Bismarck.

Daniel Nairn, Senior Planner, addressed the Commission regarding a request by Premier Storage and Stephen and Karen McCormick for the vacation of the right-of-way of Vermont Avenue adjacent to all of Lots 4-5, Block 4, and Lot 13, Block 1, Sloven Second Subdivision, requested by Premier Storage, Stephen and Karen McCormick, and the City of Bismarck. According to North Dakota Century Code, a vacated right-of-way becomes part of the property of the adjoining landowners. In this case, the owners of Lots 4-5, Block 4, Sloven Second Subdivision, and Lot 13, Block 1, Sloven Second Subdivision (City of Bismarck). The property is divided along the centerline of the roadway. Sanitary sewer lines and a manhole are already installed within this right-of-way. A new easement over a smaller area would be recorded with this release to grant rights to these existing facilities.

Mr. Nairn also explained that the action determined for item 7 would impact item 8, a request to change the name of Vermont Avenue to "Truck Center Drive" within Sloven Second Subdivision, south of East Bismarck Expressway. If the Commission agrees to grant the vacation of the right-of-way, the City of Bismarck Community Development Department and Central Dakota Communications Center (CenCom) recommend approving the name change.

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

Commissioner Zenker motioned to approve the vacation of the right-of-way, lot modification for the Sloven Second Subdivision, and the name change from Vermont Avenue to "Truck Center Drive" with the condition that adequate right-of-way or easement is dedicated to allowing turnaround space at the eastern terminus of the remaining western segment of Vermont Avenue before recordation of a vacation resolution and a 10-foot utility easement is dedicated within the vacated segment of Vermont Avenue, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42647/Item-7-PDF>

8. Consider the request of the City of Bismarck and CenCom for a street name change for a segment of Vermont Avenue south of East Bismarck Expressway.

<https://bismarcknd.gov/DocumentCenter/View/42648/Item-8-PDF>

9. Public hearing on the request by Ridgeline Contracting for the vacation of the North 35 feet of the Wanchena Way right-of-way adjacent to and parallel with the south line of Lot 2A of Lot 2, Block 1, Sykes Addition.

Daniel Nairn, Senior Planner, addressed the Commission regarding a request by Ridgeline Contracting for the vacation of the North 35 feet of the Wanchena Way right-of-way adjacent to and parallel with the south line of Lot 2A of Lot 2, Block 1, Sykes Addition. The right-of-way would be released with the reservation of a 10-foot utility easement on the south side of the strip.

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

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

<https://bismarcknd.gov/DocumentCenter/View/42649/Item-9-PDF>

10. Continued discussion on the approval of increased general funding for Bis-Man Transit.

Diedre Hughes, Executive Director at Bis-Man Transit, and William Troe, a representative from SRF Consulting, provided the additional information the Commission requested regarding the general funding request for Bis-Man Transit. Mr. Troe explained that Bis-Man Transit continues to operate with costs exceeding its revenue, and relief funds available through the CARES Act and ARPA funding have been exhausted. If Bis-Man Transit continues to operate without additional funding, its current reserves balance will be depleted by 2026.

Commissioner Marquardt inquired about the administrative fees and asked if there were possible ways that they could be lowered. Mr. Troe and Ms. Hughes explained that the budget has been carefully examined, and measures have been taken to reduce the

administrative fees as much as possible.

Mayor Schmitz inquired whether the organization had evaluated if restructuring would lower administrative costs. Mr. Troe stated that the structuring had been examined, with the result being similar to the cost currently expensed.

Mr. Troe and Ms. Hughes will meet with the City of Mandan on Wednesday, July 26, 2023, to request additional funding for the ridership in Mandan.

The general consensus of the Commission is to provide the requested cost allocation of \$225,628 for 2023 and 2024 with the understanding that Transit continues to find resolutions to the current funding gap.

Commissioner Zenker motioned to amend the 2023 budget to provide Bis-Man Transit with the cost allocation of \$225,628 out of the reserve fund as presented, and Commissioner Cleary seconded the motion. Upon a roll call vote, all voted, aye. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/42644/Item-10-PDF>

11. Continued discussion for the funding and next steps of implementing Phase I Study for energy/facility equipment of City-owned facilities identified by SitelogIQ.

Steve Salwei, Public Works Service Operations Director, and Gavin Benson, Gavin Benson, a representative with SitelogIQ, addressed the Commission with the additional information requested at the July 11, 2023 Commission meeting. Director Salwei provided an updated list of City buildings that could be excluded from the Energy Savings Project as they have had lighting upgrades recently or are scheduled for construction in the future.

The Commission discussed the overall cost of the project and the potential return on investment. The general consensus of the Commission was to replace fixtures on an as-needed basis instead of allocating the funds to have everything replaced at once.

Commissioner Cleary motioned not to move forward with the project and reject the bid to implement Phase I Study for energy/facility equipment of City-owned facilities, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye, M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/42645/Item-11-PDF>

12. Discussion of the City's 2024 preliminary budget, budget requests, and Budget Committee recommendations.

Commissioner Marquardt opened the discussion for the 2024 preliminary budget. The preliminary budget has not changed from what was presented at the July 11, 2023, meeting. The Commission discussed the Bis-Man Transit fund request for 2024, which would need to come out of the City's unrestricted reserve fund balance.

Commissioner Zenker inquired about the projected reserve fund balance as of the end of 2024. Dmitry Chernyak, Finance Director, stated that the reserve balance with the projected Bis-Man Transit funding is approximately \$34.785 million.

Commissioner Zenker recommended that the Commission consider including the administrative fees in the 2024 funding for Bis-Man Transit as they did with the 2023 budget amendment. Mr. Troe stated that the amount requested for 2024, including the

administrative fees, is \$261,757.

The Commission also discussed the reasoning for not adding additional equipment for snow removal in the Roads and Streets Division of Public Works. Director Salwei explained that there are ongoing costs that accompany adding additional equipment. Director Salwei discussed that his plan for the division is to utilize the equipment and staff currently employed. Current staff in other divisions are also undergoing training so additional operators can be utilized during a large snow event.

Commissioner Marquardt explained that the Budget Committee cannot approve all of the presented requests. The Budget Committee must review all requests and base their recommendations on needs correlating to available funds.

Commissioner Zenker wanted the public to understand that the decisions for staff and equipment are not made lightly during the budget process and that the Budget Committee does their due diligence when planning for events during the budget process.

Commissioner Marquardt motioned to accept the preliminary 2024 budget, property taxes, fees, priority initiatives, capital projects, and salary plan as presented in the agenda packet and to add funding of \$261,575 for Bis-Man Transit, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C.

13. Discussion on the City's Fund Balance Policy

Dmitriy Chernyak, City Finance Director, addressed the Commission regarding the current Fund Balance Policy approved in 2011. The current unassigned fund balance must maintain a minimum General Fund balance equal to 60% of the General Fund revenue. If the balance drops below the threshold, it must be replenished within five years.

Commissioner Marquardt noted that the reserve funds are used when the City experiences catastrophic events such as the flood of 2011.

Mayor Schmitz provided information on the fund balance policies for other cities around the state. Mayor Schmitz stated that he is confident that the City could function adequately with a three-month reserve balance. He noted that keeping the current rate of 60% will cause a tax rate increase in the upcoming years.

Commissioner Zenker noted that he preferred keeping the balance between 40-45% of the General Fund revenue.

Commissioner Marquardt asked Director Chernyak how lowering the reserve fund balance percentage would affect the City's debt rating. Director Chernyak noted that the rating should not be impacted unless the City's balance falls below 20-30%.

Commissioner Cleary commented that it would be the responsible action of the City to use the reserve funds for necessary foreseen projects rather than raise mills to do so.

Commissioner Zenker motioned to change the unassigned general fund balance from 60% of revenue to 40% of expenditures, and Commissioner Marquardt seconded. Upon a roll call vote, all voted, aye. M/C.

14. Other Business

Commissioner Marquardt asked Police Chief Draovitch to explain the process for helping

other communities and what steps the Bismarck Police Department takes to keep its officers safe. Chief Draovitch noted that Bismarck Police will have a presence at the memorial for the fallen Fargo Police Officer and will work within their department to ensure safety measures are in place once more information is released about the incident. The Commission thanked the Police Department for the work that they do every day and their sacrifices for the City of Bismarck.

Adjourn

There being no further business, the meeting adjourned at 7:32 PM.

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