



MEETING OF THE BOARD OF CITY COMMISSIONERS

8/8/2023 - Minutes

Call to Order

The Board of City Commissioners met in regular session on August 8, 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 22, 2023
- September 12, 2023 & September 26, 2023
- October 10, 2023 & October 24, 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 made a motion to approve as presented, Commissioner Zenker seconded the motion. Upon 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: #1112390-1112608.

- 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 for a new Class B-3 Commercial Passenger Vessels on the Missouri River alcohol license for Missouri Riverboat, Inc. (dba) Mnishoshe at 1700 River Road.
2. Appoint Carol Cristilli to the Bismarck-Mandan Mayors' Committee for People with Disabilities.
3. ~~Flex PACE program interest buy-down for CMK Holdings LLC.~~
4. ~~Flex PACE program interest buy-down for Simson Holding Company LLC.~~
5. ~~Flex PACE program interest buy-down for Venture Building Company LLC.~~

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

1. Accept the bid and award the Asphalt Pavement Maintenance Project bid to the low bidder Asphalt Surface Technologies Corporation.
2. Engineering Agreement with KLJ for the Taxiway C North Reconstruction / Rehabilitation Project.
3. Disposal of 2002 S220 Bobcat skid steer loader via trade-in.

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

1. Introduction of and call for a public hearing on Ordinance 6556, a request for a zoning map amendment from the CG – Commercial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, Schilling Second Addition where the Planning and Zoning Commission recommends approval.
2. Introduction of and call for a public hearing on Ordinance 6557, a request for a zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lot 1, Block 1, Basin Electric 4th Addition; Tracts 1A, 2A, 3A (of Lot 1), Lot 2, Block 1, Basin Electric 3rd Addition and Lot 3, Block 1, Wisdom Office Park Addition where the Planning and Zoning Commission recommends approval.
3. Introduction of and call for a public hearing on Ordinance 6558, a request by Edgewood Properties LLLP, for a zoning map amendment from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lot 52, Block 1, Edgewood Village 7th Addition First Replat where the Planning and Zoning Commission recommends approval.
4. Introduction of and call for a public hearing on Ordinance 6561, a request for annexation of that portion of Lot 2, Block 1, not previously annexed, and all of the Ash Coulee Drive right-of-way not previously annexed and included in the plat of Northern Sky Second Addition First Replat, where the Planning and Zoning Commission recommends approval.
5. Introduction of and call for a public hearing on Ordinance 6562, a request for annexation of two rights-of-way within Northern Sky Second Addition First Replat where the Planning and Zoning Commission recommends approval.

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

1. Resolution Approving Contracts and Bonds for previously awarded special assessed projects.
2. Development Agreement with Blue Water Development, LLC.
3. Development Agreement with Gold Star Properties, LLC.
4. Consultant services contract and scope of work with KLJ Engineering LLC relating to E Century Avenue Reconstruction Project HC 165.
5. Resolution creating district and ordering preparation of preliminary report and resolution approving the preliminary report and directing the preparation of plans and specifications for Street Improvement District SI 576.

H. Consider the request for approval from the Event Center for the following:

1. Permission for Bismarck Event Center staff to collaborate with the Capital City Christmas Committee to plan the Capital City Christmas Event.

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

1. Introduction of and call for a public hearing on Ordinance 6559 to Amend the 2023 Budget.
 - o <https://bismarcknd.gov/DocumentCenter/View/42699/Item-I1-PDF>
2. Applications for Abatement.
3. Resolution authorizing the issuance and sale of the \$45M wastewater revenue bond with the State of North Dakota State Revolving Fund Program.
4. Resolution authorizing the issuance and sale of \$2M in water treatment revenue bonds with the State of North Dakota State Revolving Fund Program for the purpose of continuing the replacement of lead service lines in the City.
5. City's revised fund balance policy.
6. Resolution to direct special assessments to be levied.
7. City's revised travel policy.

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

1. Agreement with Stacy Schaffer of 31:8 Project.
2. Memorandum of Understanding (MOU) between Bismarck Animal Control and the Dakota Zoo.

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

1. Award the Tree Removal contract with Bullinger Tree Service and the Stump Grinding contract with Beaver Creek Tree Service, LLC for Forestry Operations.

2. Award the 2023 Furnishing Street Maintenance Materials - Salt and Sand to the lowest bidders.

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

1. Amendment #3 to the License & Maintenance Agreement for use of FAMS-XL.

3. REGULAR AGENDA

4. Receive a report from Josh Askvig, Co-Director and Board President of the Bismarck Marathon, relating to the revised route for the upcoming Bismarck Marathon on September 16, 2023.

Josh Askvig, Co-Director and Board President of the Bismarck Marathon provided a report to the Commission regarding the revised route for the upcoming Bismarck Marathon on September 16, 2023. The new route will start and end at the State Capitol Grounds. Mr. Askvig requested that the Commission approve the road closure of 6th Street to facilitate the beginning of the marathon for the safety of participants and motorists and the support of the Bismarck Police Department for traffic control for select intersections along the route with the understanding the Bismarck Marathon would financially compensate the Bismarck Police Department for the officers' wages. Mr. Askvig encouraged the community to support the race along the route or to volunteer and noted the route is intended to be a qualifying race for the Boston Marathon.

Commissioner Zenker motioned to approve the road closure as described and to provide support from the Bismarck Police Department with the understanding that Bismarck Marathon would financially compensate the Bismarck Police Department for the officers' wages and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

5. Consider the request from the Vision Fund Committee regarding a Flex PACE program interest buy-down for CMK Holdings LLC.

Nathan Schneider with the Bismarck-Mandan Chamber EDC provided an overview of the application for a Flex PACE program interest buydown for CMK Holdings LLC. The Vision Fund Committee reviewed CMK Holdings LLC's complete application at its July 10, 2023, meeting and recommended approval.

Cam Knutson, with CMK Holdings LLC, provided an overview of the project proposed to take place within Boden Addition. Mr. Knutson noted that current economic conditions including high interest and inflationary rates are causing developers to consider alternative approaches to development projects. Mr. Knutson noted that his company has increased in staff in recent years and the new space will allow them continued growth providing new job opportunities and expansion in the future.

The Lewis & Clark Development Group can provide the loan servicing administration required for this request. A loan servicing fee of 1% will be paid to Lewis & Clark Development Group by CMK Holdings LLC. A loan interest charge of 1% will be paid back to the Vision Fund by CMK Holdings LLC. The Vision Fund Committee approved moving the request to the City Commission for consideration and final approval. The amount requested from the Vision Fund is \$107,692.30.

Commissioner Cleary noted she has had conversations with others about the current applications and past projects which have applied for support through the Vision Fund. She expressed concerns with the current guidelines recognizing that it has been many years since they have been updated. Commissioner Cleary also noted concerns about the current balance being depleted with the proposed projects without review and modification of the current guidelines.

Mr. Schneider stated the three projects considered on the agenda all qualify under the current Vision Fund guidelines citing the businesses will become owner-occupied spaces which are adding staff and expanding the business. Mr. Schneider agreed that the guidelines should be reviewed and he is working to develop a consistent review process for all Vision Fund applications.

Commissioner Cleary noted that she is hesitant to consider these projects for approval with the possibility of the guidelines being modified in the near future. She stated it would be her preference to update the guidelines and the scoring matrix before the final review of these three projects.

Commissioner Zenker suggested adding City funds to the Vision Fund and stated economic development in the community is good for all businesses and it bolsters the tax base.

Commissioner Cleary closed by stating it is her desire to ensure the work being done is in proper order, which ensures new funds are being contributed to the Vision Fund which in turn will support future projects. It would be her preference to have guidelines developed specifically for Bismarck and she is excited to see the Vision Fund used for more projects.

Commissioner Zenker made a motion to approve, Commissioner Marquardt seconded the motion. Upon roll call vote, all voted aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42697/Item-5-PDF>

6. Consider the request from the Vision Fund Committee regarding a Flex PACE program interest buy-down for Simson Holding Company LLC

Nathan Schneider with the Bismarck-Mandan Chamber EDC provided an overview of the application for a Flex PACE program interest buydown for Simson Holding Company LLC. The Vision Fund Committee reviewed Simson Holding Company LLC's complete application at its July 10, 2023, meeting and recommended approval.

Jon Simmers, with the Bismarck Aero Center, provided an overview of their request to construct additional hangar space at the Bismarck Airport. The Lewis & Clark Development Group can provide the loan servicing administration required for this request. A loan servicing fee of 1% will be paid to Lewis & Clark Development Group by Simson Holding Company. A loan interest charge of 1% will be paid back to the Vision Fund by Simson Holding Company. The Vision Fund Committee approved moving the request to the City Commission for consideration and final approval. The amount requested from the Vision Fund is \$107,692.30.

Commissioner Zenker made a motion to approve, Commissioner Cleary seconded the motion. Upon roll call vote, all voted aye. M/C.

7. Consider the request from the Vision Fund Committee regarding a Flex PACE program interest buy-down for Venture Building Company LLC.

Nathan Schneider with the Bismarck-Mandan Chamber EDC provided an overview of the application for a Flex PACE program interest buydown for Venture Building Company LLC. The Vision Fund Committee reviewed Venture Building Company LLC's complete application at its July 10, 2023, meeting and recommended approval.

Tom Seifert, with Venture Building Company, LLC, outlined the plan for their project. The Lewis & Clark Development Group can provide the loan servicing administration required for this request. A loan servicing fee of 1% will be paid to Lewis & Clark Development Group by Venture Building Company LLC. A loan interest charge of 1% will be paid back to the Vision Fund by Venture Building Company LLC. The Vision Fund Committee approved moving the request to the City Commission for consideration and final approval. The amount requested from the Vision Fund is \$107,692.30.

Commissioner Zenker made a motion to approve, Commissioner Connelly seconded the motion. Upon roll call vote, all voted aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/42698/Item-7-PDF>

8. Request of Commissioner Marquardt to discuss the amendment to Title 14 zoning associated with home occupations.

Commissioner Marquardt requested a discussion of an amendment to Title 14 relating to zoning associated with home occupations. Commissioner Marquardt noted that he has received many phone calls over the years relating to home occupation, vehicles with business names being parked in front of homes, and concerns raised by residents of the extraterritorial area where neighboring properties appear to be used as a home base for their business. The main concern with home-based occupation relates to increased traffic, outdoor storage of equipment and materials, and the unintended consequences of business uses in residential areas.

Community Development Director, Ben Ehreth, provided an overview of Title 14 - Zoning regulations relating to home occupation. Director Ehreth stated generally certain types of businesses are allowed when they are considered ancillary to the primary residential use. Director Ehreth noted with home-based occupations there is typically a low impact on the neighborhood, limited traffic, signage is not allowed to identify the business, and few customers visit the site. Director Ehreth closed by informing the Commission the Building Inspections Division typically responds to complaints relating to home-based occupations and follows a process to determine if the complaint is valid.

Commissioner Zenker noted concerns with Title 14 being too rigid and not allowing staff discretion to interpret the code for various situations. Commissioner Zenker also stated concerns with the implied usage associated with permits for accessory structures when staff believes the structure will be utilized for non-residential purposes. He continued by instructing staff to communicate more effectively when a change of direction is determined. He closed by expressing his preference that drawings submitted for a building plan should not always be required to have the stamp of a licensed engineer on the drawing.

Mayor Schmitz recommended the Commission give direction to Community Development and suggested that the current ordinance be considered for revisions following the current practice where the Planning Commission provides a role in a recommendation to the City Commission.

The general consensus of the Commission is to direct the Community Development Department to begin the process of reconsidering the current language relating to home-

based occupation immediately through the use of stakeholder groups and following the Planning Commission's process.

9. Other Business

Mayor Schmitz noted that the current episode of Bismarck Insights with Mayor Schmitz focuses on the 2024 City Budget and he encourages citizens to watch.

<https://dakotamediaaccess.net/CablecastPublicSite/show/10120?channel=2>

Adjourn

There being no further business to discuss, the meeting adjourned at 7:10 PM.

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