

MEETING OF THE BOARD OF CITY COMMISSIONS  
February 27, 2018

The Board of City Commission met in regular session on February 27, 2018 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Marquardt, Guy, Askvig, Oban, and President Seminary.

A Chaplain of the Bismarck Law Enforcement Chaplaincy presented the invocation.

1. Commissioner Guy moved to approve the minutes of the February 13, 2018 regular city commission meeting. Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted aye. M/C
2. Commissioner Askvig moved to approve the consent agenda. Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C
  - A. Voucher numbers: 1078817 - 1079104
  - B. Personnel actions.
  - C. Administration Department:
    1. Taxi license application from Dakota Taxi and call for a PUBLIC HEARING.
  - D. Airport:
    1. Lease agreement with Chad Wachter, Investcore, Inc. for temporary equipment and vehicle parking.
    2. Sale of surplus ticket spitters.
  - E. City Attorney:
    1. Introduction and call for a PUBLIC HEARING on ordinance 6313, regarding Crime Victim and Witness fees.

CITY OF BISMARCK  
Ordinance No. 6313

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 2-05-02 AND 6-09-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DUTIES AND POWERS AND FEE ASSESSMENTS FOR FUNDING CRIME VICTIM AND WITNESS PROGRAMS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 2-05-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Duties and Powers is hereby amended and re-enacted to read as follows:

2-05-02. Duties and Powers. The judge has the power to perform all duties prescribed by state law, specifically Chapter 40-18, NDCC, and the ordinances of the city. The judge has the authority to impose any fee, fine, court cost, impact fee or other charge authorized by state law, by a fee schedule approved by the City Commission or imposed by ordinances of the city. The judge may impose a fee of twenty-five dollars (\$25) as part of a sentence imposed on a defendant who pleads guilty to or is convicted of violating a city ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment. All fees paid to the municipal court under this section shall be deposited in the general fund monthly for annual allocation by the board of city commissioners to victim and witness advocacy programs whose primary function is to provide direct services to victims and witnesses of crime or to the statewide automated victim information and notification system, as provided for under Chapter 12.1-34, NDCC.

Section 2. Amendment. Section 6-09-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Fee Assessments for Funding Crime Victim and Witness Programs is hereby amended and re-enacted to read as follows:

6-09-04. Fee Assessments for Funding Crime Victim and Witness Programs. The municipal judge may assess a fee of not more than twenty-five (25) dollars as part of a sentence imposed on a defendant who pleads guilty to or is convicted of a violation of Section 6-02-07, 6-03-01, 6-03-02, 6-03-03, 6-05-01, 6-05-02, 6-05-03, 6-05-06, 6-05-07, 6-05-08 or a charge of aiding, accomplice or attempt of these offenses. The fee assessed under this section is in addition to any fine, penalty, costs, or administrative fee prescribed by law. The municipal judge may assess the fee when sentence is imposed or when sentence is suspended or imposition of sentence is deferred, unless the defendant is indigent and unable to pay the fee. All fees paid to the municipal court under this section or under City Ordinance Section 2-05-02 shall be deposited in the general fund monthly for annual allocation by the board of city commissioners to private, non-profit domestic violence or sexual assault programs, or to victim and witness advocacy programs whose primary function is to provide direct services to victims and witnesses of crime or to the statewide automated victim information and notification system, as provided for under Chapter 12.1-34, NDCC.

*(Reference: NDCC 27-01-10)*

*(Chapter Source: Home Rule Charter for City of Bismarck)*

*(Ord. 4655, 12-20-94)*

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

- F. Community Development Department – Planning Division:
1. Reconsider the revised final plat for Sattler’s Sunrise Tenth Addition. The Planning and Zoning Staff recommends approval.
  2. Reconsider the revised final plat for Silver Ranch 1<sup>st</sup> Addition. The Planning and Zoning Staff recommends approval.
- G. Engineering Department:
1. Street Improvement District No. 519:
    - Resolution Approving Plans and Specifications.
    - Resolution of Necessity.
    - Resolution Directing Advertisement of Bids and Receiving Bids.

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED NINETEEN (SI519)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Street Improvement District Number Five Hundred Nineteen (SI519), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

RESOLUTION DECLARING THE NECESSITY OF AN IMPROVEMENT IN  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED NINETEEN (SI519)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. It is hereby found, determined and declared that it is necessary and expedient for the City of Bismarck to construct an improvement in and for Street Improvement District Number Five Hundred Nineteen (SI519) consists of one unit of streets for concrete pavement repair.

UNIT NO. 1  
MN02132018

EAST CENTURY AVENUE – STATE STREET TO IOWA LANE  
NORTH 19TH STREET – EAST CENTURY AVENUE TO 166' NORTH OF EAST  
CENTURY AVENUE

2. The cost of the improvement will be paid for by special assessments to be levied against properties benefited by the improvement in amounts proportionate to and not exceeding such benefits. The estimate cost by the Engineer for said improvements is in the amount of \$4,958,218.29

3. The Special Assessment Analyst is hereby authorized and directed to cause this resolution, together with a map of the city showing the improvement district, to be published once each week for two consecutive weeks in the official newspaper of the City. The owners of property within said improvement district and liable to be specially assessed for said improvement shall be afforded the opportunity to file written protests with the Special Assessment Analyst at any time within thirty (30) days after the first publication of this resolution. The Board of City Commissioners shall, at its next meeting after the expiration of said period, to-wit, April 10, at 5:15 p.m. meet at the City Hall for the purpose of hearing and determining the sufficiency of any protests so filed and to take such other and further action with reference to said improvement as may then be deemed necessary and expedient.

RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS AND RECEIVING BIDS  
FOR  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED NINETEEN (519)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Street Improvement District Number Five Hundred Nineteen (519), according to plans and specifications heretofore approved by this Board, shall be received on Monday, April 2, 2018, at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

2. Street Improvement District No. 520:
  - Resolution Approving Plans and Specifications.
  - Resolution of Necessity.
  - Resolution Directing Advertisement of Bids and Receiving Bids.

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED TWENTY (SI520)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Street Improvement District Number Five Hundred Twenty (SI520), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby

MN02132018

approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

RESOLUTION OF NECESSITY  
RESOLUTION DECLARING THE NECESSITY OF AN IMPROVEMENT IN  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED TWENTY (SI520)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. It is hereby found, determined and declared that it is necessary and expedient for the City of Bismarck to construct an improvement in and for Street Improvement District Number Five Hundred Twenty (SI520) consists of eight units of new street lighting and appurtenances.

**Unit No. 1**

Round Top Road – 160’ East of High Creek Road to 110’ West of East Valley Drive

**Unit No. 2**

Huron Drive – Colt Avenue to 90’ West of Serenity Court

**Unit No. 3**

4th Street – Lunar Lane to 148’ south of Saturn Drive

**Unit No. 4**

Interstate Avenue - 180’ East of Washington Street to Redstone Drive

**Unit No. 5**

Miriam Avenue – 325’ East of Hancock Drive to 1400’ East of Hancock Drive

**Unit No. 6**

Meridian Drive – Washington Street to 725’ West of Leighton Drive

Leighton Drive – Meridian Drive to 900’ North Leighton Drive

Stacy Drive – Leighton Drive to 400’ South of Nina Lane

**Unit No. 7**

23rd Street – Lee Avenue to 450’ North of Lee Avenue

**Unit No. 8**

Irvine Loop – Washington Street to Santa Fe Avenue

Live Oak Lane – Irvine Loop to 145’ East of Irvine Loop

Santa Fe – Washington Street to 150’ East of Irvine Loop

2. The cost of the improvement will be paid for by special assessments to be levied against properties benefited by the improvement in amounts proportionate to and not exceeding such benefits. The estimate cost by the Engineer for said improvements is in the amount of \$394,942.20.

3. The Special Assessment Analyst is hereby authorized and directed to cause this resolution, together with a map of the city showing the improvement district, to be published once each week for two consecutive weeks in the official newspaper of the City. The owners of property within said improvement district and liable to be specially assessed for said improvement shall be afforded the opportunity to file written protests with the Special Assessment Analyst at any time within thirty (30) days after the first publication of this resolution. The Board of City Commissioners shall, at its next meeting after the expiration of said period, to-wit, April 10, 2018, at 5:15 p.m. meet at the City Hall for the purpose of hearing and determining the sufficiency of any protests so filed and to take such other and further action with reference to said improvement as may then be deemed necessary and expedient.

RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS AND RECEIVING BIDS  
FOR  
STREET IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED TWENTY (520)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Street Improvement District Number Five Hundred Twenty (520), according to plans and specifications heretofore approved by this Board, shall be received on Monday, April 2, 2018, at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

3. Access easement and maintenance agreement with Mariner Construction and Northern Metal Recycling on a City-owned parcel within the Northern Plains Commerce Centre Addition.
- H. Bismarck Event Center:
1. A third party agreement with Trixsounds, LLC for video advertising.
  2. Addendum to the Bismarck Event Center User Agreement with Dakota Pro Football, LLC.
- I. Finance Department:
1. 2017 summary of grants and activities.
  2. Authorize Finance Department Comptroller, Jennifer Scheet to sign for financial transactions for the City.
  3. The Upland Maintenance Agreement with the 5-year term for Optic View.
  4. Parking space lease agreement between the Police Department and Prairie Public Broadcasting. The Budget Committee recommends approval.

5. Police Department Chiller Replacement Project. The Budget Committee recommends approval.
  
- J. Finance Department – Assessing Division for the following:
  1. Request to maintain the City’s sales ratios report.
  2. Application for property tax abatement 2017, Disabled Veteran Credit for the property at 713 N 10<sup>th</sup> St.
  
- K. Police Department:
  1. Participate in the Bismarck Larks Law Enforcement Appreciation Event.
  
- L. Public Works Utility Operations Department:
  1. Sole source purchase of seven (7) Limitorgue Generation 3 Valve Actuators for the water treatment plant.

## REGULAR AGENDA

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

No members of the public appeared for comment.

4. Commissioner Marquardt gave an update on the Budget Committee’s recommendations regarding utility fees. The Budget Committee and Michelle Klose, Director of Utility Operations met to discuss proposed revisions to the 2018 Capital Improvements Plan. The estimated revenue for Utility Operations was reduced by \$1,062,000 or 14%. The estimated revenue reductions are as follows: Water \$430,000, Sewer \$470,000, Stormwater Operation and Maintenance \$88,000, and Stormwater Unannexed Surcharge \$74,000. The 2018 water, sanitary sewer, and stormwater capital improvement plans were adjusted, to reflect the reductions in estimated revenue, and approved. City staff is working on a request for proposals for a cost of service rate study to help determine a fair, equitable and sustainable utility rate structure. The deadline for submittals will be March 23, 2018. Administrator Hunke provided information relating to the variations in housing density in the older neighborhoods compared to neighborhoods developed after the 1970s. Mr. Hunke noted that the change in development patterns will need to be considered throughout the cost of service rate study to better determine the impact of varying density patterns on the utility fund and the cost to consumer/rate payers in the community.

Keith Hunke, City Administrator addressed the commission to discuss utility fee increases and provide additional information regarding the impacts to the Capital Improvement Plan.

Commissioner Marquardt moved to approve the recommendations from the Budget Committee as presented. Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C

5. The Commission President called for the PUBLIC HEARING on ordinance 6309, an amendment relating to traffic and safety advisory committee.

No members of the public appeared for comment.

Commissioner Marquardt moved to approve the second reading and final passage of ordinance 6309. Commissioner Askvig seconded the motion. Upon a roll call vote, all voted aye. M/C

6. The Commission President called for the PUBLIC HEARING on ordinance 6312, a request for a zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential, RM10-Residential, Conditional RM10-Residential, RT-Residential, Conditional RT-Residential and Conditional CA-Commercial zoning districts on part of the N 1/2 of Section 17, Hay Creek Township, requested by William E. Clairmont Revocable Living Trust and Mapleton Investors, LLP.

No members of the public appeared for comment.

Commissioner Askvig moved to approve the second reading and final passage of ordinance 6312. Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C

7. The Commission President called for the PUBLIC HEARING on ordinance 6310, a staff-initiated zoning ordinance text amendment relating to accessory dwelling units.

No members of the public appeared for comment.

Commissioner Marquardt moved to approve the second reading and final passage of ordinance 6310. Commissioner Askvig seconded the motion. Upon a roll call vote, all voted aye. M/C

8. The Commission President called for the PUBLIC HEARING on ordinance 6311, a staff-initiated zoning ordinance text amendment relating to landscaping and screening.

No members of the public appeared for comment.



Commissioner Askvig moved to approve the second reading and final passage of ordinance 6311. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C

9. The Commission considered the request for approval from the Community Development Department – Planning Division for a Resolution for the vacation of building setback lines in the Aero-Commercial Subdivision.

Commissioner Askvig moved to approve the request as presented. Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C

10. The Commission considered the request for approval from the Renaissance Zone Authority for a Rehabilitation Renaissance Zone project at 815 East Main Avenue requested by Invision Properties, LLP.

Commissioner Askvig approved the request as presented. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C

11. The Commission the request from the Engineering Department for the following:
1. Construction of Sidewalk, Curb and Gutter, and Driveways – 2018 (CC18-Parts A&B)
    - Resolution Creating District City Commission18-Parts A-1, A-2, B-1, and B2.
    - Resolution Approving Plans and Specifications.
    - Authorization to Advertise and Receive Bids for CC18-Parts A-1, A-2, B-1 and B-2.

Commissioner Askvig moved to approve the request as presented. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C

12. The Commission considered the request for approval from the Public Works – Service Operations Department to award the contract for 2018 painted pavement marking to Traffic Safety Services, Inc. for \$73,967.29. This was the only bid received.

Commissioner Askvig moved to award the contract to Traffic Safety Services, Inc. for \$73,967.29. Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted aye. M/C

Having completed the items on the agenda, President Seminary asked if there was any other business.

The meeting was declared adjourned at 6:17.

