



MEETING OF THE BOARD OF CITY COMMISSIONERS

5/25/2021 - Minutes

FUTURE COMMISSION MEETINGS:

MISSION STATEMENT

MEETING OF THE BOARD OF CITY COMMISSION

1. Recognize Renae Moch for Receiving Health Care Hero Award
2. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items).
3. CONSENT AGENDA

Commissioner Zenker moved to approve the consent agenda and minutes and pull Item D10 for date clarifications. Commissioner Marquardt seconded the motion.

Upon roll call vote, all voted aye. M/C

Commissioner Zenker moved to approve the date clarification of August 1, 2021 - July 31, 2022, for consent agenda Item D10. Commissioner Marquardt seconded the motion.

Upon roll call vote, all voted aye. M/C

- A. Consider approval of minutes.
- B. Consider approval of expenditures.  
Vouchers: 1098498 - 1098729
- C. Consider approval of personnel actions.
- D. Consider the request for approval from the Administration Department for the following:
  1. Approve gaming site authorization renewal for American Legion Post #1 Lloyd Spetz at:
    - o Jacks Steakhouse - 1201 S 12th St
  2. Approve gaming site authorization renewal for Amvets Post #9 at:
    - o Amvets Post #9 - 2402 Railroad Avenue
  3. Approve gaming site authorization renewal for Bismarck Hockey Boosters, Inc. at:
    - o Blarney Stone Pub - 408 E Main Ave

- Lucky's Bar - 2176 E Thayer Ave
  - Our Place Tavern - 1305 E Front Ave
  - Tap-In Tavern - 601 Memorial Highway
  - The Pier - 1120 Riverwood Drive
4. Approve gaming site authorization renewal for Cystic Fibrosis Association of North Dakota at:
- Cheap Shots - 3938 Miriam Ave
5. Approve gaming site authorization renewal for Dakota Junior Golf Association, Inc. at:
- Elbow Room 115 S 5th St
6. Approve gaming site authorization renewal for Fort Abraham Lincoln Foundation at:
- Expressway Inn & Suites - 180 E Bismarck Expressway
  - Ramada of Bismarck/701 Lounge - 1400 E Interchange Ave
7. Approve gaming site authorization renewal for Mandan Baseball Club, Inc. at:
- Jimmy V's - 512 E Main Ave
  - Laughing Sun Brewing - 1023 E Front Ave
  - Lucky's 13 Pub - 915 S 3rd St
  - Red Eye Room at The Luft - 501 E Main Ave
8. Approve gaming site authorization renewal for Matpac Wrestling Club, Inc. at:
- Borrowed Bucks Roadhouse - 118 S 3rd St
  - Main Bar & Package Store - 804 E Main Ave
  - Sidelines - 300 S 5th St
  - Sports Page - 1120 Tacoma Ave
  - The Craftcade - 405 N 4th St
9. Approve gaming site authorization renewal for Nodak Sportsman's Club at:
- A & B Pizza/Kirkwood Mall - 656 Kirkwood Mall
  - Corral Bar - 2111 E Main Ave
  - Midway Tavern - 1915 E Sweet Ave
  - Space Aliens - 1304 E Century Ave
10. Approve renewal of liquor licenses from August 1, 2019 to July 31, 2020.
- Bismarck Eagles Club #2237 - 313 N 26th St
  - Bismarck-Mandan Elks Lodge 1199 BPOE - 900 S Washington St
  - Borrowed Bucks Roadhouse - 118 S 3rd St
  - Charras & Tequila - 4503 Skyline Crossings
  - Elbow Room - 115 S 3rd St
  - Expressway Suites - 180 E Bismarck Expressway
  - Famous Dave's - 401 E Bismarck Expressway
  - Ground Round - 526 S 3rd St
  - Horizon Market - 125 Durango Dr
  - JL Beers - 217 N 3rd St
  - Main Bar & Package Store - 804 E Main Ave
  - Panchero's - 1485 E LaSalle Dr
  - PetroServe USA #077 - 1120 E Divide Ave

- Polar Package Place/Lucky's Bar - 2150 E Thayer Ave
- Rock'N 50s Café - 2700 State Street
- Ruby Tuesday - 3520 State St
- Runway Express Mart, Inc. - 1740 Airport Road
- Sam's Club #4933 - 2821 Rock Island Pl
- Simonson Station Stores, Inc. - 1011 E Main Ave
- Simonson Station Stores, Inc. - 1309 E Interstate Ave
- Space Aliens Grill & Bar - 1304 E Century Ave
- Stadium Sports Bar & The Lodge - 1247 W Divide Ave
- Texas Roadhouse - 1505 Burnt Boat Dr
- The Junction - 2301 University Dr
- The Pier Bar & Grill - 1120 Riverwood Dr
- Vintner's Cellar Winery - 3250 Rock Island Pl Suite #5
- Walmart #1534 - 2717 Rock Island Pl
- Walmart #3648 - 1400 Skyline Blvd

11 Approve a financial contribution of \$2500.00 to support the ND League of Cities 91st Annual Conference being held in Bismarck September 16-18, 2021, at the Bismarck Event Center.

12 Introduction of and call for a public hearing on a new Class I-2 Restaurant Beer and Wine liquor license for BCOCS West, Inc., dba Cracker Barrel Old Country Store #447 at 1685 North Grandview Lane.

13 Reappoint Kevin Strege, Andrea Petersen, and Stephanie Honeyman to the Vision Fund Committee for a term to expire in December of 2024.

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

1. Authorize staff to complete necessary actions to accept the Airport Coronavirus Response Grant Program (ACRGP) Grants.
2. Approve the adjustment of the customer facility charge (CFC) to \$5.70 effective July 1, 2021.
3. Approve the fee for the Airport electrical vehicle (EV) charging station.
4. Approve the deferral of airport rents and fees.
5. Approve the change order #10 with Strata Corporation for Short-Term, Economy, and Long-Term Parking Expansion.

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

1. Consideration of a contract amendment with Metcalf Archeological Consultants, Inc for the Highland Acres survey project.

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

1. Acceptance of North Dakota Department of Transportation (NDDOT) Transportation Alternatives (TA) funding on behalf of Bismarck Parks and Recreation District (BPRD).
2. Approval of North Dakota Department of Transportation (NDDOT) cost participation, construction, and maintenance agreement for Urban Grant Project UGP-1-981(127), HC 142.
3. Approval of Memorandum of Agreement (MOA) with Bismarck State College (BSC) for the Bismarck Base Station (BSMK) with respect to the global positioning system (GPS) community base station on the BSC campus.

4. Approval of dedication and acceptance of the right of way and utility easement associated with Elk Ridge 2nd Addition.
5. Approval of Memorandum of Understanding with Dennis Senger relating to N 26th Street construction as part of SI 539.
6. Approval of Resolution of Necessity for SI 555.
7. Approval of local match letter for FEMA Advanced Assistance Flood Control Study.

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

1. Application for Abatement for 2020, Comparable Market Value at 1107 Round Top Road.

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

1. Approval to pursue grant funding from the Hazard Mitigation Grant Program for the installation of three (3) new sirens in north Bismarck.

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

1. Approve purchase of 10 truck boxes, including installation at the State of North Dakota bid price.

#### 4. REGULAR AGENDA

5. Consider the request of Jerri Buchmiller and Aaron Joramo to appeal the May 6, 2021 decision of the Board of Adjustment to deny a variance from Section 14-04-01(5) of the City Code of Ordinances (RR-Residential)(Side Yard) to reduce the required side yard setback, located along the west side of the property, from fifteen (15) feet to eleven and a half (11.5) feet for the purpose of constructing a 2,304 square-foot detached accessory building to be located on Lot 23, Block 2, Copper Ridge Subdivision (5627 Kayley Drive).

Jenny Wollmuth, with the Community Development Department provided an overview of the staff report from the Board of Adjustment to deny a variance from section 14-04-01(5) of the City Code of Ordinances (RR-Residential)(Side Yard) to reduce the required side yard setback, located along the west side of the property, from 15 feet to 11.5 feet for the purpose of constructing a 2,304 square-foot detached accessory building to be located on Lot 23, Block 2, Copper Ridge Subdivision (5627 Kayley Drive).

Aaron Joramo presented information relating to the property. He indicated the drain field is impacting the location of the proposed building and presented a letter from the adjacent property owner supporting the request.

Jannelle Combs, City Attorney, clarified the need to determine a hardship.

Commissioner Guy made a motion to uphold the Board of Adjustment's denial. Commissioner Marquardt seconded the motion.

Upon roll call vote, all voted aye. M/C

6. Consider the request of Dan Potter to appeal the April 28, 2021 decision of the Bismarck Planning and Zoning Commission to deny a zoning change from the RR-Rural Residential

zoning district to the RR – Residential and R5-Residential zoning districts and the minor subdivision final plat of Potter Pointe Subdivision.

Ben Ehreth, Community Development Director, provided background information regarding options for the Commission to consider for the appeal of the April 28, 2021 decision of the Bismarck Planning and Zoning Commission to deny a zoning change from the RR-Rural Residential zoning district to the RR-Residential and R5-Residential zoning districts and the minor subdivision final plat of Potter Pointe Subdivision.

1. Uphold the Bismarck Planning and Zoning Commission action.
2. Reverse the Bismarck Planning and Zoning action.
3. Receive a new proposal with modified lots which would require a Bismarck Planning and Zoning Commission action and public hearing.

Landon Niemiller a representative of Swenson, Hagen and Co. spoke on the applicant's behalf. He described the applicant's intent to develop a single lot for his use along with additional smaller lots that would be sold for development. The applicant indicated a desire to increase the lot sizes to help fit better with existing adjacent lots.

Niemiller withdrew the appeal with the understanding that a revised project would have an option to be reconsidered by the Bismarck Planning and Zoning Commission.

<https://bismarcknd.gov/DocumentCenter/View/37755/Potter-point-appeal-05252021>

<https://bismarcknd.gov/DocumentCenter/View/37756/Potter-Pointe-05252021>

7. Public hearing on a new Class F1 Restaurant Full Alcohol Liquor License for Huckleberry House, LLC dba Huckleberry House at 1700 River Road.

Commissioner Guy moved to approve the Class F1 Restaurant Full Alcohol Liquor License for Huckleberry House, LLC dba Huckleberry House at 1700 River Road. Commissioner Zenker seconded the motion.

Upon roll call vote, all voted aye. M/C

8. Consider the request from the Community Development Department for the following:

1. Public Hearing on Ordinance 6461, a request for a zoning change from the RM15-Residential and PUD-Planned Unit Development to a new PUD-Planned Unit Development zoning district for Hamilton's First Addition First Replat.
2. Minor subdivision final plat of Hamilton's First Addition First Replat.
3. Private Drive and Private Utility Agreement.

Commissioner Marquardt moved to approve Ordinance 6461 including two conditions noted in staff report. Commissioner Splonskowski seconded the motion.

Upon roll call vote, all voted aye. M/C

9. Public hearing on Ordinance 6462, a request for a zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition, requested by James Barnhardt.

Commissioner Splonskowski moved to approve Ordinance 6462, the request by James

Barnhardt, for a zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition. Commissioner Zenker seconded the motion.

Upon roll call vote, all voted aye. M/C

10. Public hearing on Ordinance 6463, a request for a zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition, requested by Kier and Candance Vander Wal. Commissioner Marquardt moved to approve Ordinance 6463, the request by Kier and Candance Vander Wal, for a zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition. Commissioner Splonskowski seconded the motion.

Upon roll call vote, all voted aye. M/C

11. Public hearing on Ordinance 6464 to amend Ordinance 6-08-06 regarding BB and Pellet Guns.

Commissioner Guy moved to approve Ordinance 6464 to amend Ordinance 6-08-06 regarding BB and Pellet Guns as presented. Commissioner Zenker seconded the motion.

Upon roll call vote, all voted aye. M/C

12. Consider the request from the Engineering Department for the following:

1. Approve request to procure engineering services for a half-cent sales tax-funded project on Ash Coulee Dr from Tyler Parkway/15th Street to N Washington St.
2. Approve additional \$600,000 budget appropriation from the sales tax fund for the preliminary engineering phase.

Commissioner Zenker directed staff to procure engineering services for a half-cent sales tax funded project on Ash Coulee Dr from Tyler Parkway/15th Street to N Washington Street and \$600,000 budget appreciation. Commissioner Marquardt seconded the motion.

Upon roll call vote, all voted aye. M/C

13. Request to go into executive session under NDCC 44-04-19.1(9) for contract negotiation / negotiation strategy.

At 6:18 p.m. Commissioner Guy moved to enter the executive session. Commissioner Marquardt seconded the motion.

Upon a roll call vote, all voted aye. M/C.

At 7:30 p.m. the board adjourned from executive session.

Commissioner Guy moved to direct staff to proceed as agreed during executive session. Commissioner Splonskowski seconded the motion.

Upon a roll call vote, all voted aye. M/C.

Other Business

Adjourn

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