



MEETING OF THE BOARD OF CITY COMMISSIONERS

7/13/2021 - Minutes

FUTURE COMMISSION MEETINGS:

MISSION STATEMENT

MEETING OF THE BOARD OF CITY COMMISSION

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

There was no Public Comment

2. CONSENT AGENDA

Item J was pulled for No Action.

Commissioner Marquardt made a motion to approve the minutes and consent agenda as presented, Commissioner Guy seconded the motion.

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

- A. Consider approval of minutes.
- B. Consider approval of expenditures.

Vouchers 1099170-1099500.

- C. Consider approval of personnel actions.
- D. Consider the request for approval from the Administration Department for the following:

1. Approve renewal of liquor licenses from August 1, 2021 to July 31, 2022.
  - 40 Steak & Seafood - 1401 E Interchange Ave
  - A&B Pizza South, Inc. - 311 S 7th St
  - A&B Pizza South, Inc. - 656 Kirkwood Mall
  - Amvets Post 9 - 2402 Railroad Ave
  - Anima Cucina - 101 N 5th St

- Beer Cave - 1020 S Washington St
- Bismarck Brewing - 1100 Canada Ave #1
- Bismarck HuHot Mongolian Grill - 409 S 3rd St
- Bistro 1100 - 1103 E Front Ave
- Blarney Stone Pub - 408 E Main Ave
- Bruno's Pizza - 910 E Front Ave
- Buffalo Wild Wings - 3420 N 14th St
- Buffalo Wild Wings - 218 S 3rd St
- Butterhorn - 210 E Main Ave
- China Town Buffet - 330 Riverwood Dr #1
- Corral Bar - 2111 E Main Ave
- Country House Deli - 1045 E Interstate Ave
- EAT Thai Café - 409 Riverwood Dr
- Fireflour Pizza - 111 N 5th St
- Interstate A & B Pizza - 1017 E Interstate Ave
- Jack's Steakhouse & Seafood - 1201 S 12th St
- Jimmy V's - 512 E Main Ave
- La Carreta Mexican Restaurant - 505 E Bismarck Expy
- Lady J's Catering - 930 N Griffin St
- Lander's Shell - 2210 N 12th St
- La Quinta Inn & Suites - 2240 N 12th St
- Luckys 13 Pub - 915 S 3rd St
- Lüft - 510 E Main Ave
- Marlin's Family Restaurant - 3938 Miriam Ave
- Bismarck Moose Lodge #302 - 312 N 20th St
- Our Place Tavern - 1305 E Front Ave
- Paradiso - 2620 State St
- Peacock Alley - 422 E Main Ave
- Radisson Hotel & Conference Center - 605 E Broadway Ave
- Ramkota Hotel & Conference Center - 800 S 3rd St
- Sports Page - 1120 Tacoma Ave
- Taco Del Mar - 1024 S 12th St
- Williquors - 3025 Yorktown Dr

2. Approve the request for letter of support from Sabre Properties, LLC.

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

1. Approval of utility easement for Capital Electric Cooperative, Inc.

2. Approval of a lease agreement with the State Historical Society of North Dakota for a storage building.
3. Approval to sell or dispose of 1995 Ford FT900 with Epoke Sander at a public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-01-05.

F. Consider the request for approval from the City Attorney for the following:

1. Introduction and call for a public hearing on Ordinance 6472 to amend Section 5, 6 and 12 to conform to state law.

G. Consider the request for approval from the Bismarck-Burleigh Public Health Department for the following:

1. Approval to accept state aid funding for public health services from the ND Department of Health.

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

1. Consider the request and allow for the reallocation of \$214,804 of CDBG-CV funds originally awarded for the operation of the COVID-19 Emergency Shelter to be reallocated for another eligible project(s).
2. Introduction of and call for a public hearing on Ordinance 6475, a request for the annexation of Lots 1-3, Block 1, Memory Third Addition and all of the right-of-way for Brookside Place, requested by TPR Partnership LLP and Belfield Access Terminal LLC. The Bismarck Planning and Zoning Commission recommends approval.
3. Approval of proposed revised minor subdivision final plat for Northern Plains Commerce Centre Second Addition.
4. Introduction of and call for a public hearing on Ordinance 6477, a staff-initiated zoning ordinance text amendment relating to floodplain regulations. The Bismarck Planning and Zoning Commission recommends approval.
5. Introduction of and call for a public hearing on Ordinance 6476, a request for the annexation of parts of Silver Ranch First Addition and Silver Ranch First Addition First Replat, requested by Investcore, Inc. The Bismarck Planning and Zoning Commission recommends approval.
6. Approve Bis-Man Transit to purchase one (1) paratransit cutaway bus.

I. Consider the request for resolution from the Engineering Department for the following:

1. Approval of Contracts and Bonds for previously awarded special assessed projects.
2. Approval assignment of North Dakota Department of Transportation (NDDOT) COVID Relief Funds to upcoming 43rd Avenue NE reconstruction project 1-981(123), PCN 22929; HC 131 from State Street to 26th Street.
3. Approval of North Dakota Department of Transportation (NDDOT)

Preliminary Engineering Reimbursement Agreement for Bismarck Expressway Pavement Rehabilitation and Safety Improvement Project 1-810 (031)002, PCN 23207; 1-094(221)925, PCN 23208; 1-810(032)002, PCN 23225; City Project HC 145.

4. Approval of North Dakota Department of Transportation (NDDOT) Preliminary Engineering Reimbursement Agreement for University Drive Pavement Rehabilitation Project NHU-SU-1-804(050)072, PCN 23223; City Project HC 146.

5. Approval of Contract Change Order No. 2 for SI 531A.

6. Approval of Contract Change Order No. 7 for SI 531B.

7. Approval of Change Order No. 2 for SI 532, time extension to August 15, 2021.

8. Approval of Change Order No. 1 for SI 534, time extension to August 15, 2021.

9. Accept Insufficiency of Protests on Resolution of Necessity for Street Improvement District SI 555.

10. Approval of dedication and acceptance of Storm Water Easement and Maintenance Agreement on Lot 1, Block 15, Silver Ranch Third Addition.

11. Request to receive bids and award contract for Sewer Utility Project SU 84 to Tand Construction.

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

1. ~~Approval to extend current ticketing services agreement with Etix for the 3-year option.~~

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

1. Introduction of and call for a public hearing on ordinances 6469-6471, to create special assessment districts for annexed properties.
2. Application for Abatement for 2021, Comparable Market Value at 3249 Crocus Avenue.

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

1. Approval to accept donation of a ProForm 505 SPX exercise bike.

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

1. Approve and allow the grant application for comprehensive opioid, stimulant, and substance abuse program.

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

1. Award the bid for recyclable materials contract for Solid Waste to Gerdau Ameristeel US, Inc.
2. Award the bid for self-propelled brooms for Roads & Streets operations to

Swanston Equipment Companies.

3. Award the 2021 furnishing street maintenance materials as follows: Part 1 – deicing sand to Northern Improvement Company; and reject all bids for Part 2 – rock salt.

4. Approval to purchase a Carlson Compactor/Dozer Cab Mount GPS System for Solid Waste Disposal operations from the MN SWIFT Contract No. 171660, Release No. S-934(5).

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

1. Approval of the 2021-22 option to the Utility Billing Fulfillment Services Contract with Peregrine Services.

2. Approval of Contract Change Order M-01 with Central Mechanical, Inc., for the Lockport Pump Station.

### 3. REGULAR AGENDA

4. Public Hearing on a new Class F1 Restaurant Full Alcohol liquor license for Pitorro Restaurant & Bar LLC (dba) Pitorro Restaurant & Bar at 1235 South 12th Street.

Commissioner Splonskowski made a motion to approve the Class F-1 Restaurant Full-Alcohol license as presented, Commissioner Guy seconded the motion.

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

5. Public Hearing on Ordinance 6478, a request for a zoning change from the CA-Commercial zoning district to the PUD-Planned Unit Development zoning district for Lots 2-4, Block 1, Northridge Estates Commercial Park, less the portion taken for right-of-way requested by Five Star Storage, Steve Mariner and Art Mariner.

Commissioner Marquardt asked for clarification between the existing CA-Commercial zoning district and the proposed Planning Unit Development(PUD) zoning district. Ben Ehreth indicated the CA Commercial zoning allows a variety of retail and service uses by right, whereas the PUD zoning district is a narrowly tailored district with the specific list of allowed uses.

Commissioner Splonskowski asked what would happen if the uses in the PUD are not adhered to. Ben Ehreth replied that it would be considered a zoning compliance issue, no different than other zoning districts, and there are measures in place to gain compliance.

Commissioner Zenker asked how the proposed self-storage use is different than shop condos. End Ehreth said typically self-storage is located in an industrially-zoned district with other compatible land uses. Also, shop condos can be utilized for storage, personal, or retail uses, whereas this proposed use is solely for indoor self-storage.

Jake Hendricks, 5 Star Storage, provided testimony for the proposed use. Mr. Hendricks also displayed a map of the surrounding properties to demonstrate which owners indicated their support for the proposed project.

Ben Hendricks, 5 Star Storage, and Marlin Peterson (an area resident) provided supportive testimony for the proposal.

John Klein, an area resident, spoke against the proposal project. Mr. Klein cited his concerns indicating the project could be incompatible with existing residential land uses and noting that typically storage facilities are found in industrially-zoned areas with like uses.

Lindsay Kostelesky provided testimony against the proposed zoning change citing her concerns with the process, the HayCreek Township board meetings, and the concern of the potential adverse impacts to the existing residential land uses in the immediate vicinity.

Commissioner Marquardt asked what parameters are set within this PUD. Ben Ehreth replied that design considerations are included, but not specific for building materials and colors.

Commissioner Guy inquired about the lack of City services to the site and what types of land uses are common in this situation. Ben Ehreth indicated without city water the types of uses is limited because rural water cannot provide adequate fire protection for the suppression systems or enough volume of water to support fire hydrants. In this case the developers are proposing to have on-site water to storage tanks for rural fire protection.

Mayor Bakken noted the Community Development Department's current project to complete the Comprehensive Plan. He indicated a desire to see the plan's completion before making a final decision on the request.

Commissioner Zenker made a motion to deny the request. Commissioner Splonskowski seconded.

Commissioner Splonskowski, Guy, and Marquardt voted Nay, Mayor Bakken and Commissioner Zenker voted yay, M/F.

Commissioner Guy made a motion to approve PUD the as presented. Commissioner Marquardt seconded.

Commissioner Splonskowski, Zenker, and Marquardt, and Mayor Bakken voted Nay, Commissioner Guy voted yay, M/F.

Commissioner Marquardt made a motion to send the request back to the City Planning and Zoning Commission with a public hearing at the August 25, 2021 meeting. Commissioner Splonskowski seconded.

Commissioner Splonskowski, Zenker, Guy, and Marquardt voted aye, Mayor Bakken Voted Nay. M/C.

6. Public Hearing on Ordinance 6465 to amend Ordinance 6-08-06, regarding BB and Pellet Guns.

Taylor Kindseth gave testimony in support of the ordinance.

Commissioner Zenker made a motion to approve the Ordinance as presented, Commissioner Marquardt seconded the motion.

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

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

1. Request and direct staff to prepare written consent of the annexation request for the property located within a portion of the City of Bismarck extraterritorial area described as: Lincoln Township, Auditor's Lot AC of the SE ¼, Section 13, Township 138 North, Range 80 West, Burleigh County, North Dakota (Parcel Number 38-138-80-00-13-805).

Director of Community Development Ben Ehreth was supportive of the request, stated that it is difficult for the City to provide services to the tract and that the Airport expressed no concerns for future growth. Justin Hagel, the City Attorney for Lincoln stood for questions, none were asked.

Commissioner Zenker made a motion to approve the request for annexation as presented, Commissioner Splonskowski seconded the motion.

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

8. Consider the request for resolution from the Engineering Department for the following:

City Engineer Schell presented bids for SI 554. The low bid was submitted by Northern Improvement at \$212,009.30.

Commissioner Zenker made a motion to accept bid and award contract for SI 554, Commissioner Splonskowski seconded.

Upon roll call all voted aye. M/C

[/DocumentCenter/View/38190/Item-8---bid-summary-and-project-budget---210712---SI554](#)

9. Consider the request for resolution from the Engineering Department for the following:

City Engineer Schell presented bids for WU 135. The low bid was submitted by DL Barkie Construction at \$174,992.00.

Commissioner Marquardt made a motion to accept bid and award contract for WU 135, Commissioner Zenker seconded.

Upon roll call all voted aye. M/C

[/DocumentCenter/View/38191/Item-9---bid-summary-and-project-budget---210712---WU-135](#)

10. Receive presentation of the 2020 Annual Audit results and comprehensive financial report.

City Finance Director Dmitriy Chernyak gave a presentation on the 2020 Audit by Eide Bailly, LLP. The City had a clean audit.

Commissioner Marquardt made a motion to receive the presentation, Commissioner Zenker seconded.

Upon roll call all voted aye. M/C

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

Robert McConnell, the Human Resources Director answered questions on the Condrey & Associates report and discussions from the budget committee. The Committee recommended modified plan A.

Commissioner Marquardt made a motion to accept modified Plan A, Commissioner Guy seconded.

Commissioners Zenker & Splonskowski voted nay, Commissioners Guy and Marquardt and Mayor Bakken voted aye. M/C

12. Discussion of 2022 budget recommendations provided by the City's Budget Committee and discuss the 2022 preliminary budget.

Finance Director Dmitriy Chernyak and Commissioner Marquardt presented the preliminary budget reports from the Budget Committee.

Commissioner Guy made a motion to proceed as presented, Commissioner Marquardt seconded.

Commissioners Zenker & Splonskowski voted nay, Commissioners Guy and Marquardt and Mayor Bakken voted aye. M/C

/DocumentCenter/View/38192/2022-Preliminary-Budget-Presentation-07-13-2021-final

13. Consider the request from the Engineering Department to enter into an Executive Session under North Dakota Century Code (NDCC) Section 44-04-19.1(9).

At 9:07 p/m Commissioner Marquardt moved to enter the executive session. Commissioner Zenker seconded the motion.

After a brief recess, the Executive session started at 9:11 p.m.

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

At 9:30 p.m. the board adjourned from executive session.

#### Other Business

Commissioner Zenker brought up water rates for discussion, stating he wants it on the next agenda. Michelle Klose provided information on the usage citing the difference in usage between summer and winter. Also stated that 2/3 of residents use less than 18 units. Commissioner Zenker requested a breakdown of water rates and usage for the 7/27/2021 Agenda.

#### Adjourn





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