



## MEETING OF THE BOARD OF CITY COMMISSIONERS

9/13/2022 - Minutes

### Call to Order

The Board of City Commissioners met in regular session on September 13, 2022, 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 Marquardt, Commissioner Splonskowski, Commissioner Zenker, and Mayor Schmitz.

### FUTURE COMMISSION MEETINGS:

- September 27, 2022
- October 11, 2022 & October 25, 2022
- November 8, 2022 & November 22, 2022

### 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

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

The following people expressed concerns with the proposed changes to the operational hours of the paratransit system: Trevor Vannett, Susan Dingle, Randee Sailer, Jodie Welle, and James Keller.

#### 1. CONSENT AGENDA

Commissioner Zenker motioned to approve the consent agenda, excluding item K2, which he would like to pull for discussion, and Commissioner Cleary seconded.

Upon a roll call vote, all voted aye.

M/C.

Michelle Klose, Public Works Utility Operations Director, presented the Guaranteed Maximum Price (GMP) of \$22,290,323 for the Public Works facility expansion project.

Commissioner Zenker motioned to approve the item as presented, and Commissioner Cleary 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: 1106384-#1106717.

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

1. Approve gaming site application for the following:

- Gilbert N Nelson VFW Post 1326
  - Arco Runway Express - 1740 Airport Road

2. Application to transfer the Class D Alcoholic Beverages Liquor License from Febco, Inc. (dba) Comfort Lounge to ND Hospitality, LLC. (dba) Quality Inn at 1030 East Interstate Avenue.

3. Application for a Class M Catering Liquor License for The Scapegoat Bar, Inc. (dba) The Scapegoat Bar at 202 East Main Street, Mandan, ND 58554.

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

1. Consider Change Order #2, final to the October 5, 2021, agreement with Northern Improvement Company for pavement maintenance.

2. Receive and consider bids for runway deicer.

3. Consider a lease agreement with the State Historical Society of North Dakota for a storage building.

4. Consider a short-term parcel lease with Simson Holding Company, LLC.

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

1. Introduction of and call for a public hearing on Ordinance 6522 to amend the penalty procedure in the traffic codes for clarity.

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

1. Introduction of and call for a public hearing on Ordinance 6521, the annexation of Country West XXXI addition, where the Bismarck Planning and Zoning Commission recommends approval.

2. A request of Justin and Kathryn Kringstad to release a utility easement over Lot 8, Block 1, High Meadows Eleventh Addition, where staff recommends approval.
3. Request to apply for the U.S. Economic Development Administration Public Space Initiative – Placemaking Planning Grant.
4. A request of the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, for approval to decommission and dispose of one (1) 2006 Gillig Low Floor fixed route bus (Bus 602).
5. A request of the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, for approval to accept the lowest compliant bid in order to purchase a new mobile bus hoist.

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

1. Permission to allow staff to issue a Request for Qualifications for a Construction Manager at Risk for the locker room renovation and facility expansion project.

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

1. Introduction of and call for a public hearing on the concrete sidewalk, curb and gutter, and private driveway assessments as part of SW2021 assessments.
2. Applications for abatement where the Assessing Division recommends approval.
3. Authorizing the resolution for the conversion related to the issuance of the Lodging and Restaurant Tax Refunding Note, Series 2022.

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

1. Permission to accept a donation for the purchase of Fire Department fitness equipment.

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

1. Request for approval of three (3) Agreements for Cost-Share Reimbursement with the North Dakota State Water Commission for Wastewater Treatment Effluent Flood Control Construction, Water Treatment Plant Filters 1-6 Piping and Improvements Construction, and Water Treatment Plant Expansion Design.
2. Acceptance of Guaranteed Maximum Price (GMP) for Public Works facility expansion project.
  - o <https://bismarcknd.gov/DocumentCenter/View/41152/Acceptance-of-Guaranteed-Maximum-Price-for-Public-Works-facility-Expansion-Project-PDF>

3. Permission to award the bid for Water Treatment Plant filters, 1-6 face piping replacement, and 12 million gallons per day accelator effluent pipe improvements.

## 2. REGULAR AGENDA

3. Public hearing on a new Class F-1 Restaurant Full Alcohol Liquor License for Tavern Bismarck, LLC. (dba) The Tavern Grill Restaurant & Bar at 1802 North 12th Street.

Mayor Schmitz opened the public hearing.

Thomas Larson, The Tavern Grill Restaurant & Bar's general manager, introduced himself to the Commission and said he was available for questions.

Commissioner Marquardt asked Mr. Larson if the restaurant is experiencing issues with hiring staff. Mr. Larson reported that the restaurant focuses on creating a good environment for employees, so they are not worried, as of yet, about staffing difficulties.

Commissioner Splonskowski motioned to approve the new Class F-1 Restaurant Full Alcohol liquor license as presented, and Commissioner Marquardt seconded the motion.

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

4. Public hearing on a request from Adam Woroniecki and Hamood Ur Rahman for the approval of an access easement release over lots 9-10, Block 5, Promontory Point VI Addition. Staff recommends denial of the easement release.

Daniel Narin, Senior Planner, presented information on the request from Adam Woroniecki and Hamood Ur Rahman for the approval of an access easement release over lots 9-10, Block 5, Promontory Point VI Addition. The recommendation from staff is to deny the request.

Mayor Schmitz opened the public hearing.

Adam Woroniecki, the property owner at 4011 Herd Place, addressed the Commission in favor of the easement release citing his desire to install a fence that would not be allowed in the access easement area.

Hamood Rahman, the property owner at 4005 Herd Place, addressed the Commission in favor of the easement release.

Nick Bradbury, the property owner at 2401 Del Rio Drive, addressed the Commission requesting the denial of the easement release.

Commissioner Zenker motioned to approve the request per the required findings of fact: the easement, or part thereof, shown on the plat of record and proposed for release is no longer needed for the purpose for which it was dedicated, and the release of the easement is consistent with the general intent and purpose of the zoning ordinance; and the release of the easement is consistent with the master plan, other adopted plans, policies and accepted planning practice, and Commissioner Splonskowski seconded the motion.

Upon a roll call vote, Commissioners Zenker, Splonskowski, and Mayor Schmitz voted aye, and Commissioners Cleary and Marquardt voted nay.

M/C.

Commissioner Zenker requested that staff look at the ordinance requiring that mid-block sidewalk and come back with recommendations as to when and how sidewalks should be installed with future developments.

5. Public Hearing on Ordinance 6521 for the 2023 Budget.

Commissioner Marquardt opened the budget discussion by providing information about the 2023 budget process. Dmitry Chernyak, Finance Director, provided information to the Commission regarding the final allocations for the 2023 Budget. The total budget is approximately \$299 million, including a total of \$35.9 million in property tax collections at 77.85 mill levies.

Mayor Schmitz opened the public hearing. No comment was received.

Commissioner Marquardt motioned to approve as presented, and Commissioner Cleary seconded the motion.

Commissioner Zenker started the discussion and noted he believes the City should do two things to help alleviate costs to property owners. The City should look back at incremental increases associated with fees for services provided and reduce the percentage held in general fund reserves from 60% to 50% to reduce mills collected.

Commissioner Marquardt noted that the budget committee will take this into consideration for the 2024 budget process. He closed by stating that there is a need for reserve funds for future City projects.

Commissioner Splonskowski voiced his support for Commissioner Zenker's suggestion.

Mayor Schmitz stated that he prefers a long-term mill reduction plan but favors the 2023 budget. Mayor Schmitz cautioned changes in the policy without vetting the ideas prior.

Upon a roll call vote, Commissioners Cleary, Marquardt, and Mayor Schmitz voted aye, and Commissioners Splonskowski and Zenker voted nay.

M/C

<https://bismarcknd.gov/DocumentCenter/View/41151/2023-Budget-Ordinance-updated-PDF>

6. Consider approving an amendment to the Bis-Man Transit Board 2016 brokerage agreement.

Janelle Combs, City Attorney, introduced the amendment to the Bis-Man Transit Board 2016 brokerage agreement.

Diedre Hughes, Executive Director of Bis-Man Transit, addressed the Commission regarding the proposed amendment to the agreement. Ms. Hughes explained that the amendment would give Bis-Man Transit Board the authority to modify Paratransit hours of operation on select holidays without the City Commission's approval. Ms. Hughes continued by saying Paratransit is mandated to operate during fixed-route hours only and additional hours during holidays are above and beyond Federal mandates to provide service to those who rely on Paratransit.

Denae Kautzman, Bis-Man Transit Board Secretary/Treasurer, addressed the Commission about the Bis-Man Transit Board's hours of operation. Ms. Kautzman stated there are 1,890 certified Paratransit riders, of which 5% use Paratransit rides during holiday hours. Paratransit riders are charged \$3 per ride; it was stated that the total cost of that service is \$36 per ride. It was noted that most trips are between 10 AM and 2 PM on holidays.

Commissioner Marquardt motioned to table the discussion for the next meeting and directed a new amendment be drafted for review, and Commissioner Cleary seconded the motion.

Commissioner Cleary expressed concerns with decreased service hours and requested updates from Transit if hours and routes are being considered for change.

Commissioner Zenker requested semi-annual presentations from the Bis-Man Transit Board Director regarding operations.

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

7. Consider for approval a Memorandum of Understanding with Bismarck State College to convey a City-owned parcel of land near the campus.

Janelle Combs, City Attorney, addressed the Commission about the Memorandum of Understanding (MOU) with Bismarck State College (BSC) and asked for direction on how to proceed.

Commissioner Zenker motioned to approve the MOU as presented, and Commissioner Marquardt seconded the motion.

The Commission expressed support for the project citing that this project will create opportunities for Bismarck, including new students moving to the area and an increased workforce.

Upon a roll call vote, all voted aye.

M/C

8. Bismarck-Burleigh Public Health 2023 County Budget Discussion.

Leo Vetter, Burleigh County Auditor, addressed the Commission regarding the 2023 Bismarck-Burleigh Public Health budget. Auditor Vetter requested the City consider a 12% fee increase rather than the requested 20%.

City Attorney Combs noted that in 2001 State law changed, requiring all counties in North Dakota to be a part of a public health unit. Attorney Combs closed by saying if Burleigh County were to consider dissolving the public health unit, it would require a majority vote of the citizens.

Mayor Schmitz stated that he believes that 100% of the public health budget should be paid through Burleigh County's budget and not through the City's because the County is required by state law to be part of a public health district. The Mayor stated that there had not been significant increases to Burleigh County's portion through the years, and costs are not being appropriately allocated to the County.

Commissioner Cleary mentioned that services might need to be reviewed to align with the 12% portion that Burleigh County offered.

Commissioner Zenker was not in favor of a reduced portion and cited concerns that services for county youth could likely be some of the first to be cut to accommodate the reduced budget.

Commissioner Marquardt questioned where the 12% portion was derived. Auditor Vetter acknowledged it was a number he proposed because the Burleigh County Preliminary Budget has been approved which means the total mill levy cannot increase.

Commissioner Zenker motioned to deny the request for a compromise of 12%, and Commissioner Marquardt seconded the motion.

Upon a roll call vote, Commissioners Cleary, Marquardt, Zenker, and Mayor Schmitz voted aye, and Commissioner Splonskowski voted nay.

M/C

9. Clean-Up Week Discussion.

Doug Wiles, Acting Public Works Service Operations Director, presented information regarding offering free disposal to Bismarck residents during fall clean-up week, September 19-24, 2022.

Commissioner Zenker motioned to approve the request as presented, and Commissioner Cleary seconded the motion.

Upon a roll call vote, all voted aye.

M/C.

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

Commissioner Marquardt motioned to enter executive session under NDCC 44-04- 19.1 (9), and Commissioner Splonskowski seconded.

Upon roll call, all voted aye.

M/C

Entered into executive session at 8:37 PM.

Executive session ended at 8:56 PM.

Regular session was reconvened at 8:57 PM with roll call—all present.

Commissioner Zenker motioned to direct staff to proceed per the consensus of the commissioners during the executive session negotiation strategy discussion, and Commissioner Splonskowski seconded.

Upon a roll call vote, all voted aye.

M/C

#### Other Business

Commissioner Marquardt asked City Engineer Gabe Schell to speak regarding how the street maintenance and construction process works. Engineer Schell explained that each contract has different dates, requirements, and times allowed to complete the project. Each project also has the possibility of being completed by not only a contractor but by several subcontractors as well, depending on the scope of the project.

Commissioner Marquardt also asked Police Chief Dave Draovitch to address the Commission about complaints regarding traffic speed issues and red light runners within the City. Chief Drovitch responded that the Police Department runs operations through traffic control to address the issues as they occur. Chief Draovitch noted that the penalty for traffic violations does not deter residents from breaking the law.

#### Adjourn

There being no further business the meeting adjourned at 8:58 PM.

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