



## MEETING OF THE BOARD OF CITY COMMISSIONERS

2/27/2024 - Minutes

### Call to Order

The Board of City Commissioners met on February 27, 2024, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioner Cleary, Commissioner Connelly, Commissioner Marquardt, Commissioner Zenker, and Mayor Schmitz were present.

### FUTURE COMMISSION MEETINGS

- February 27, 2024
- March 12, 2024 & March 26, 2024
- April 9, 2024 & April 23, 2024

### 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. Pledge of Allegiance led by local boy scouts.
2. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items)
  1. Bill Sorensen - Regular Agenda Item 4A
    - o [https://www.bismarcknd.gov/DocumentCenter/View/44932/Item-2\\_February-27-2024](https://www.bismarcknd.gov/DocumentCenter/View/44932/Item-2_February-27-2024)
  2. Brenda Nagel - Regular Agenda Item 4J
  3. Rachel Howard - Regular Agenda Item 4A
    - o [https://bismarcknd.gov/DocumentCenter/View/44959/Item-2-Howard\\_February-27-2024](https://bismarcknd.gov/DocumentCenter/View/44959/Item-2-Howard_February-27-2024)
  4. Jesse Walstad - Regular Agenda Item 4A
  5. Tom Job - Regular Agenda Item 4A

### 3. CONSENT AGENDA

Commissioner Connelly motioned to approve the Consent Agenda as presented without

items E1 and E2 being pulled for discussion, and Commissioner Marquardt seconded. Upon a roll call vote, all voted, aye. M/C.

Commissioner Connelly motioned to approve items E1 and E2 as presented, and Commissioner Zenker 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: # 1116257 to 1116539.

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

1. Letter of support from Bismarck-Burleigh Public Health for the development and implementation of dental hygiene and dental assisting programs at Bismarck State College.

- E. Consider the request for approval from the Bismarck Event Center for the following:

1. One-year stage show agreement with Nightlife Music LLC DBA Nightlife Sound & Lighting.
2. Historic Preservation Fund Grant and Cultural Heritage Grant for the Belle Mehus Auditorium.
3. Extend the Ubl Design Group contract on the arena locker room project.

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

1. One-year stage show agreement with Nightlife Music LLC DBA Nightlife Sound & Lighting.
2. Historic Preservation Fund Grant and Cultural Heritage Grant for the Belle Mehus Auditorium.
3. Extend the Ubl Design Group contract on the arena locker room project.

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

1. Amendment 4 to the existing agreement for professional services with Apex Engineering Group, Inc. for S Washington St reconstruction - HC 158.
2. Insufficiency of protest on the resolution of necessity for Street Improvement District 578.
3. Insufficiency of protest on the resolution of necessity, the request for a resolution approving plans and specifications, and a resolution directing the

advertisement of bids and receiving bids for Street Improvement District 579.

4. Sidewalk and utility easement at the intersection of Century Ave and 4th St.

5. Dedication and acceptance of Watermain, Sanitary Sewer, and Access easements as part of Silver Ranch Fourth Addition.

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

1. Application for abatement for Property ID 0105-016-020 where the Assessing Division recommends approval.

2. Application for abatement for Property ID 2155-001-001 where the Assessing Division recommends denial and application for abatement for Property ID 2155-002-001 where the Assessing Division recommends a reduction of the certified values.

3. Special Assessment Commission Member Resignation.

4. 2025 Budget Calendar.

I. Consider the request for approval from the Human Resources Department for the following:

1. HR Management Recruiting Software Request for Proposal

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

1. Endo opioid bankruptcy settlement.

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

1. Permission to solicit donations for the 2024 Annual Bismarck Police Department Benefit Golf Tournament.

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

1. Permission for the Forestry Division to accept the North Dakota Forest Service Grant awards from the North Dakota Forest Service.

2. Permission for the Forestry Division to apply for the Targeted Assistance Grant (TAG) from the North Dakota Department of Agriculture.

3. Permission to purchase one new pickup for Bismarck Parking Authority.

4. Permission to sell City Assets at a Public Sale or Online Auction.

5. Permission to purchase traffic signal equipment for traffic signal detection and cobalt equipment.

M. Consider the request for approval from the Public Works Utility Operations Development Department for the following:

1. Task Order No. 5 with Bartlett & West for Mandan Street Tank Removal.
2. Amendment No. 1 to the Hazard Mitigation Grant Program (HGMP) Cost Share Agreement for the Pioneer Lift Station Generator.
3. Change Order #22 for Public Works Expansion Project.

#### 4. REGULAR AGENDA

- A. Receive an update and final recommendation from the City Commission Fact Finding Subcommittee relating to the performance issues of Charlie Jeske, Event Center Director, and recommendations regarding the appropriate actions to take to address any necessary employee discipline and changes to Event Center operations.

Gordy Smith, Commissioner Cleary, and Commissioner Connelly presented the findings from the Fact Finding Subcommittee. The committee recommended the following:

- Termination of Charlie Jeske's employment
- Securing a point-of-sale system for the sale of alcohol
- Staff 360-degree evaluations of the Bismarck Event Center's supervisors, managers, and department director every two years
- Hiring a firm to conduct a risk assessment of the Bismarck Event Center
- Modifying current contract with CPA firm to include additional examination of the Bismarck Event Center.

Commissioner Marquardt motioned to table the item for the March 12, 2024, meeting, and Commissioner Zenker seconded. Upon a roll call vote, Commissioners Marquardt and Zenker voted Aye. Commissioners Connelly, Cleary, and Mayor Schmitz voted nay. M/F.

Commissioner Connelly motioned to table the item for the March 12, 2024, meeting and place the director on administrative leave to allow further research into the item, and Commissioner Cleary seconded. Upon a roll call vote, Commissioners Connelly, Cleary, and Mayor Schmitz voted aye. Commissioners Marquardt and Zenker voted nay. M/C.

Commissioner Zenker motioned to make Amanda Yellow the interim director of the Event Center while Charlie Jeske is on administrative leave, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

[https://bismarcknd.gov/DocumentCenter/View/44933/Item-4A\\_February-27-2024](https://bismarcknd.gov/DocumentCenter/View/44933/Item-4A_February-27-2024)

- B. Public hearing on the request to have the Class E - Sale At Retail of Beer Only alcohol license located at 601 Memorial Hwy transferred from 3 Fat Boys, LLC. to BHB, LLC.

Mayor Schmitz continued the public hearing. No member of the public appeared for comment.

Commissioner Marquardt motioned to approve as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- C. Public hearing on Ordinance 6571, a request for zoning map amendment from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Sonnet Heights Subdivision Ninth Replat and associated Minor Subdivision Final Plat.

Ben Ehreth, Community Development Director, presented information regarding Ordinance 6571, a request for zoning map amendment from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Sonnet Heights Subdivision Ninth Replat and associated Minor Subdivision Final Plat.

Mayor Schmitz opened the public hearing. No member of the public appeared for comment.

Commissioner Marquardt motioned to approve Ordinance 6571 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- D. Public hearing on Ordinance 6572, the annexation of Lot C, Section 19 and Lot B, Section 30, Hay Creek Township.

Ben Ehreth, Community Development Director, presented information regarding Ordinance 6572, the annexation of Lot C, Section 19, and Lot B, Section 30, Hay Creek Township.

Mayor Schmitz opened the public hearing. No member of the public appeared for comment.

Commissioner Cleary motioned to approve Ordinance 6572 as presented, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

- E. Consider the request for Amendment No. 1 to South Central Regional Water Contract.

Regular Agenda Item E was pulled from the agenda prior to the meeting.

- F. Consider the request for approval of award concurrence of South Washington Street Reconstruction Project, AC-NHU-1-981(137), City Project HC 158, resolution receiving bids and ordering preparation of the Engineer's Statement and resolution awarding bids for Street Improvement district SI 580 and Sewer Improvement district SE 584.

Gabe Schell, City Engineer, provided information relating to the request to award concurrence of South Washington Street Reconstruction Project, AC-NHU-1-981(137), City Project HC 158, resolution receiving bids and ordering the preparation of the Engineer's Statement and resolution awarding bids for Street Improvement district SI 580 and Sewer Improvement district SE 584. The low bid was Knife River Corporation in the amount of \$16,986,618.65. The sales tax funds allocated for this project in the 2023 and 2024 budgets will cover the cost of the project, but there is an additional request to fund an additional \$1,050,000.00 for the contingencies using the half-cent sales tax funding.

Commissioner Marquardt motioned to concur with the North Dakota Department of Transportation (NDDOT) in the award of South Washington Street reconstruction contingent on the NDDOT concurrence of South Washington Street Reconstruction Project, AC-NHU-1-981(137), City Project HC 158, resolution receiving bids and ordering the preparation of the Engineer's Statement and resolution awarding bids for Street Improvement district SI 580 and Sewer Improvement district SE 584, and approval of an additional half-cent sales tax allocation of \$1,050,000 to cover project contingencies, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

- G. Consider the request for resolution receiving bids and ordering preparation of the Engineer's Statement and request for resolution awarding contracts for Street Improvement District SI 577 - Part A and Part B.

Gabe Schell, City Engineer, provided information relating to the request for resolution of receiving bids and ordering the preparation of the Engineer's Statement and request for resolution awarding contracts for Street Improvement District SI 577 - Part A and Part B. The low bid for Street Improvement District No. 577 Part A was from Strata Corporation in the amount of \$2,815,987.65. The low bid for Street Improvement District No. 577 Part B was from Northern Improvement Company in the amount of \$3,508,640.60.

Commissioner Cleary motioned to approve the request for resolution of receiving bids and ordering the preparation of the Engineer's Statement and request for resolution awarding contracts for Street Improvement District SI 577 - Part A and Part B as presented, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

[https://www.bismarcknd.gov/DocumentCenter/View/44935/Item-4G\\_February-27-2024](https://www.bismarcknd.gov/DocumentCenter/View/44935/Item-4G_February-27-2024)

- H. Consider the request for resolution receiving bids and ordering preparation of the Engineer's Statement and resolution awarding contract for Sewer Improvement District SE 582/WPSP392.

Gabe Schell, City Engineer, requested that this item be moved to the March 12, 2024, Commission meeting so that the Engineering Department can solicit additional bids.

Commissioner Connelly motioned to move this item to the March 12, 2024, Commission meeting, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye.

- I. Request for resolution creating district Parts A-1, A-2, and B, Resolution Approving Plans and Specifications, and authorization to advertise and receive bids for City Concrete (CC)24 - Parts A-1, A-2, and B.

Commissioner Zenker motioned to move this item to the March 12, 2024, Commission meeting, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

- J. Consider the request to use resources from NPCC to refill the Vision Fund for projects and ongoing costs.

Dmitriy Chernyak, Finance Director, addressed the Commission with a request for \$1 million to replenish the Vision Fund to support economic development projects from the Northern Plains Commerce Center fund.

Commissioner Connelly motioned to approve the request as presented, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

- K. Continued discussion and approval of department director employment and performance processes.

Item K was pulled from the agenda and moved to the March 12, 2024 meeting for discussion.

- L. Consider the request to provide direction for recruiting to fill the vacant Assistant City Administrator position.

Leanne Schmidt presented a proposed plan for internal recruitment of the vacant Assistant City Administrator Position. The general consensus of the Commission is to recruit internal and external applicants for the Assistant City Administrator position.

- M. Consider approval of the application by Cloverdale Foods Company PACE Loan interest rate buy down for and expansion project necessary to accommodate growth.

Nathan Schneider, with the Bismarck-Mandan Chamber EDC, presented an application by Cloverdale Foods Company for a PACE Loan interest rate buy down for an expansion project necessary to accommodate growth.

Commissioner Marquardt motioned to approve the plan as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- N. Request of the Bismarck Event Center to go into executive session under NDCC 44-04-19.1 (9) for contract negotiation / negotiation strategy.

Item N was pulled from the agenda prior to the meeting.

- O. Request of the Engineering Department to enter Executive Session under North Dakota Century Code Section 44-04-19.2 regarding contract negotiation/negotiation strategy under NDCC Section 44-04-19.1 (9).

Commissioner Marquardt motioned to enter into executive session under N.D.C.C. § 44-04-19.2 to discuss contract negotiation/negotiation strategy under NDCC Section 44-04-19.1 (9) at 10:02 PM, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

Commissioner Cleary motioned to exit the executive session at 10:22 PM, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

Commissioner Cleary motioned to direct staff to proceed as discussed in the executive session, and Commissioner Marquardt seconded. Upon a roll call vote, all voted aye. M/C.

## 5. Other Business

- 1. Ben Ehreth, Community Development Director, presented a request for support of a letter to the Department of Housing and Urban Development regarding Docket Number 24 CFR 91, 24 CFR 570, and 1003 as they relate to the Community Development Block Grant Program. The general consensus of the Commission is to submit the letter.

- o [https://www.bismarcknd.gov/DocumentCenter/View/44937/Item-5\\_February-27-2024](https://www.bismarcknd.gov/DocumentCenter/View/44937/Item-5_February-27-2024)

Adjourn

There being no further business to discuss, the meeting adjourned at 10:24 PM.

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