



MEETING OF THE BOARD OF CITY COMMISSIONERS

3/23/2021 - Minutes

Future Commission Meetings:

April 13 & 27, 2021

May 11 & 25, 2021

June 8 & 22, 2021

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. Proclamation recognizing April 2021 as Fair Housing Month.

Mayor Bakken signed the Proclamation declaring April as Fair Housing Month.

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

Kate Herzog of the Downtowns spoke in support of Item #6.

3. Consider the approval of the minutes.

Commissioner Marquardt moved to approve the minutes as presented. Commissioner Splonskowski seconded the motion.

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

4. CONSENT AGENDA

Commissioner Zenker moved to approve the consent agenda with the exception of Item J1, at the request of the Airport Director Greg Haug. Commissioner Marquardt seconded the motion.

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

Commissioner Zenker stated there were additional opportunities for both the Police Department and Airport to accept the AED machines. He then moved to approve both departments to accept donations of the machines. Commissioner Marquardt seconded the motion.

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

A. Consider approval of expenditures.

Vouchers: 109764-1097820.

B. Consider approval of personnel actions.

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

1. Approve a letter of support for SHG, LLC, dba, Culver's restaurant.
2. Approve a new gaming site authorization for the Mandan Baseball Club, Inc. at Jimmy V's, 512 E. Main Ave.
3. Introduction of and call for a public hearing for a new Class F1 Restaurant Full Alcohol Liquor License for Shelter Belt LLC, (dba) Shelter Belt, 307 N. 3rd St.

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

1. Approve the sale of surplus/obsolete items at the Police Auction.
2. Grant permission to sell/dispose of a 1994 Kodiak Northwest blower at a public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-01-05.

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

1. Ratify the January 5, 2021 State of Emergency Declaration, related to COVID-19, by the President of the City Commission and extend its effect date to April 20, 2021.

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

1. Appoint David J. Pengilly, MD as City Health Officer.
2. Grant permission to apply for the AARP's Community Challenge Grant.

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

1. Approve the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, to purchase one Flex Cutaway Bus.
2. Approve the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, to submit the FY2023 Urban Grant program application.
3. Appoint Jake Axtman to the Bismarck Parking Authority.
4. Reappoint Walt Bailey and Tory Jackson to the Bismarck Historic Preservation Commission.

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

1. Accept the North Dakota Department of Transportation Urban Grant Program funding for the 2023 Downtown Street Improvement Project.
2. Approve an encroachment agreement at 414 W. Sweet Ave. for the Bismarck Larks to hang banners from City owned light poles.
3. Approve a street closure for the annual Urban Harvest event.
4. Approve an amendment to the contract with KLJ for professional services for 43rd Ave. Reconstruction, HC 131.

5. Award bid for pavement marking for HC 125.
6. Award bid for the HC 137 maintenance project for the Bismarck Expressway Bridge.
7. Award bid and approve the project budget for Water Utility Project WU 134, contingent on the Burleigh County Commission award.
8. Park Improvement District No. 005 - Request for resolution declaring petition for improvements has been received. Request for resolution creating districts and ordering preparation of preliminary engineering reports. Request for resolution approving preliminary reports and directing the preparation of plans and specifications.
9. Park Improvement District No. 006 - Request for resolution declaring petition for improvements has been received. Request for resolution creating district and ordering preparation of preliminary engineering reports. Request for resolution approving preliminary reports and directing the preparation of plans and specifications.
10. Sewer Improvement District SE 578 - Request for resolution declaring petitions for improvements has been received. Request for resolution creating district SE 578 and ordering preparation of the preliminary report. Request for resolution approving preliminary report and directing preparation of plans and specifications.
11. Street Improvement District SI 547 - Request for resolution declaring petitions for improvements has been received. Request for resolution creating district SI 547 and ordering preparation of the preliminary report. Request for resolution approving preliminary report and directing preparation of plans and specifications.
12. Street Improvement District SI 550 - Request for resolution declaring petitions for improvements has been received. Request for resolution creating district SI 550 and ordering preparation of preliminary report. Request for resolution of necessity. Request for resolution approving preliminary report and directing preparation of plans and specifications.

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

1. Application for abatement for 2020, Disabled Veteran, at 420 S. 17th St. for Joseph & Carol Kuntz.
2. Application for abatement for 2020, Disabled Veteran, at 1204 W. Ave. A for Jessica Lawler.
3. Application for abatement for 2020, Tax Exempt Property, at 4007 Greensboro Dr. for Capital Christian Center.
4. Approve American Bank Center as a public depository for City funds.
5. Approve 2020 budget transfers, appropriations, amendments and rollovers into the 2021 budget.
6. Approve 2021 amendments for COVID-19 and grant-related expenditures.
7. Approve the 2022 tentative budget calendar.

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

1. Grant permission for the department to accept a donation of up to 42 Stryker Automated External Defibrillators (AED) machines.

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

1. Approve free disposal for Bismarck residents during Spring Clean-Up Week at the Bismarck Municipal Landfill.
2. Approve Task Order 21-01 to the agreement with Houston Engineering for Solid

Waste Operations engineering services.

3. Approve Task Order 21-02 to the agreement with Houston Engineering for Solid Waste Operations engineering services.

4. Approve Task Order 21-03 to the agreement with Houston Engineering for Solid Waste Operations engineering services.

5. Award bid for collection and disposal of household hazardous waste at the Bismarck Municipal Landfill.

6. Award bid for 2021 furnishing paving materials.

7. Award bid for traffic signal video detection systems for the Electrical Division.

8. Grant permission to enter into a contract with Beaver Creek Tree Service for stump grinding.

9. Grant permission to purchase an SUV for the Water Treatment Plant.

10. Grant permission to purchase a utility tractor and loader for the Roads & Streets Operations.

11. Grant permission to purchase a UTV side by side for the Storm Water Operations.

12. Grant permission to sell/dispose of a frontload refuse truck for Solid Waste Collections at a public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-01-05.

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

1. Grant permission to pursue grant funding from the Hazard Mitigation Grant Program for the Pioneer Lift Station Generator.

5. REGULAR AGENDA

6. Consider the request from the Engineering Department for a Memorandum of Understanding (MOU) with Bird Rides, Inc. to operate stand-up electric scooter sharing with the City of Bismarck.

Mike Covato with Bird Rides, Inc. provided a short presentation on the benefits of allowing a scooter share program to come to the community. Mr. Covato stated their scooters are found in 150 cities across the country, and the cities that have incorporated them have seen a reduction in traffic congestion. He stated businesses also saw benefit, as more riders tend to stop in front of local businesses.

Similar to bike share, the scooters would be managed by a local businesses or entrepreneur. This local operator would bring the scooters out in the spring and store them during the winter months. Riders could rent them using a mobile app from 4 a.m. to midnight. During the operating seasons, scooters would be collected and sanitized each night. The scooters contain a GPS tracking system and are operated using an app. The app also enables riders to stay within a specific area through a geofencing system.

Mayor Bakken asked if there were any businesses in the community interested in becoming vendors for this program. Mr. Covato stated they have heard from several businesses willing to take this on.

Mayor Bakken then asked the Chief of Police if law enforcement had any concerns with this request being approved. The Chief stated he has seen this work in other cities and believes this will be a positive thing to the community.

Engineer Schell stated if the board approved the motion, an ordinance change would later

follow to allow the scooters to operate in the downtown district.

Commissioner Marquardt moved to approve the request as presented. Commissioner Zenker seconded.

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

7. Public hearing on Ordinance 6446, regarding Domestic Distillery and Off-Sale provision.

Kate Herzog spoke in favor of the approving the ordinance.

Commissioner Marquardt moved to approve the item as presented. Commissioner Splonskowski seconded the motion.

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

8. Public hearing on Ordinance 6451, a request for the annexation of Lot 40, Block 2, and Lot 1, Block 14, Silver Ranch First Addition and Lot 25, Block 1, Silver Ranch Second Addition, requested by Bismarck Parks and Recreation District.

No member of the public appeared for comment.

Commissioner Zenker moved to approve the annexation as presented. Commissioner Splonskowski seconded the motion.

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

9. Public hearing on Ordinance 6452, a request for the annexation of Lots 4-11, Block 12, Lots 8-13, Block 13, and Lots 9-12, Block 14, Silver Ranch Third Addition, requested by Chad Wachter, LLC.

No member of the public appeared for comment.

Commissioner Splonskowski moved to approve the annexation as presented. Commissioner Zenker seconded the motion.

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

10. Consider the requests from the Community Development Department, regarding Memory Third Addition, requested by TPR Partnership, LLP.

1. Public hearing on Ordinance 6454, a request for a zoning change from RR-Residential zoning district to the CG-Commercial zoning district for Memory Third Addition.

2. Final plat of Memory Third Addition.

No member of the public appeared for comment.

Commissioner Zenker moved to approve both requests as presented. Commissioner

Splonskowski seconded the motion.

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

11. Public hearing on Ordinance 6454, a request for a zoning change from the PUD-Planned Unit Development zoning district to the Conditional MA-Industrial zoning district for Lots 2 and 3, Block 1, Hay Creek Industrial Subdivision Replat, requested by KNA Holdings, LLP.

No member of the public appeared for comment.

Commissioner Marquardt moved to approve the request as presented. Commissioner Splonskowski seconded the motion.

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

12. Public hearing on Ordinance 6455, a request for a zoning change from the Conditional R10-Residential zoning district to the R10-Residential zoning district on Lots 1-24, Block 6, Cottonwood Parkview Addition, requested by Wachter Family Revocable Trust.

No member of the public appeared for comment.

Commissioner Splonskowski moved to approve the zoning change as presented. Commissioner Zenker seconded the motion.

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

13. Public hearing on Ordinance 6456, a staff-initiated zoning ordinance text amendment relating to domestic distilleries and microbrew pubs.

No member of the public appeared for comment.

Commissioner Marquardt moved to approve the ordinance as presented. Commissioner Splonskowski seconded the motion.

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

14. Consider the request from the Engineering Department for Street Improvement District No. 542 - Request to hear insufficiency of protests.

Commissioner Zenker moved to accept the insufficiency of protests and move forward with the street improvement project. Commissioner Splonskowski seconded the motion.

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

15. Consider the request from the Engineering Department for Street Improvement District No. 544 - Request for resolution receiving bids and ordering preparation of the Engineer's Statement for SI 544.

Commissioner Zenker moved to award the bid for the project to Fetzer Electric for \$425,918.05. Commissioner Splonskowski seconded the motion.

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

Please use this link to view all submitted bids for SI 544: https://www.bismarcknd.gov/AgendaCenter/ViewFile/Agenda/_03242021-882

16. Consider the request from the Engineering Department to provide direction on future interchange preservation at the intersection of US 83 and ND 1804/ 71st Ave. NE.

Engineer Schell requested direction on how to move forward with interchange preservation with these two options:

1. Continue to plan for future interchange at US 83/71st Ave., which could result in access restrictions on proposed intersections of US 83/64th Ave. and ND 1804/Yukon Dr. to accommodate future interchange or
2. Approach the Bismarck-Mandan Metropolitan Planning Organization's Technical Advisory and Policy Board and have them remove any interchange plans from future planning efforts.

Commissioner Zenker stated he felt the City's window for interchange had passed with all the development on the east side of US 83. He advised his recommendation was to move forward with option two.

Commissioner Guy asked Engineer Schell what kind of interchange could work at the intersection. Engineer Schell stated a diamond shaped interchange, but it would affect the commercial businesses around that area, particularly in the southeast quadrant of the intersection.

Mayor Bakken echoed Commissioner Zenker's comments, and stated he felt the area had turned into an urban corridor.

Commissioner Zenker moved to have the Engineering Department approach the MPO's Technical Advisory Committee and Policy Board to request the interchange concept be removed from future planning efforts. Commissioner Splonskowski seconded the motion.

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

17. Receive a 2020 year-end financial update from Finance Director Dmitry Chernyak.

No motion was made for this item.

Please use the link to view Director Chernyak's full presentation: https://www.bismarcknd.gov/AgendaCenter/ViewFile/Agenda/_03242021-882

- ~~18. Consider the request from the Attorney to approve the Water Service Contract with 161 Commercial, LLC (dba) Centennial Park.~~

This item was pulled from the agenda at this time.

19. Review and discuss the 2021 Legislative Report #4.

This is the 12th week of the Legislature, and the Senate is currently reviewing bills. City Administrator Keith Hunke presented the report. Here are the highlights from his presentation:

HB 1056: The bill that is related to the collection of global positioning system data passed both the House and Senate. The Commission supported this bill.

HB 1165: The bill that was related to qualified electors in City elections was defeated in the Senate. The Commission opposed to this bill.

HB 1183: The bill related to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and establishing the onsite wastewater recycling technical committee, and to provide for application, passed both the House and Senate 44/2. The Commission requested the City monitor this bill.

HB 1252: The bill that is related to stopping and yielding while operating a bicycle and to provide a penalty, passed both the House and Senate. The Commission was opposed to this bill.

HB 1259: The bill that was related to participation in a state or national wastewater surveillance system was defeated in the Senate. The Commission was opposed to this bill.

HB 1419: The bill related to the authority for a City to levy an infrastructure fee in lieu of special assessments, the Street Utility bill, will be up for hearing this Friday, March 26 at 9:30 a.m.

SB 2149: The bill related to a commercial service airport's authority to enter an agreement with a transportation network company, passed both the House and Senate. The Commission supported this bill.

SB 3028: The bill related to a concurrent resolution urging Congress to include state and local 911 dispatcher as qualified public safety employees and therefore not subject to the early distribution tax under the Internal Revenue Code retirement provisions, passed both the House and Senate. The Commission supported this bill.

Bills that passed both the House and Senate will move to Governor Burgum to sign for final approval.

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

At 6:51 p.m. Commissioner Marquardt moved to enter into Executive Session. Commissioner Splonskowski seconded the motion. Upon a roll call vote, all voted aye. M/C.

At 8:38 p.m. Commissioner Splonskowski motioned to exit the executive session and re-enter regular session. Commissioner Marquardt seconded the motion.

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

The Commission then directed staff to negotiate to the consensus discussed during executive session.

Commissioner Splonskowski moved to approve the direction as presented. Commissioner Guy seconded the motion.

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

Other Business

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

Adjourn

The meeting was adjourned at 8:39 p.m.

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