



## MEETING OF THE BOARD OF CITY COMMISSIONERS

4/11/2023 - Minutes

### Call to Order

The Board of City Commissioners met in regular session on April 11, 2023, 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 Zenker, and Mayor Schmitz.

### FUTURE COMMISSION MEETINGS:

- April 25, 2023
- May 9, 2023 & May 23, 2023
- June 13, 2023 & June 27, 2023

### MISSION STATEMENT

To provide high-quality public services in partnership with our community to enhance our quality of life.

### Fair Housing Month Proclamation

Mayor Schmitz read the proclamation declaring April 2023, as Fair Housing Month in the City of Bismarck.

<https://bismarcknd.gov/ArchiveCenter/ViewFile/Item/2950>

### MEETING OF THE BOARD OF CITY COMMISSION

1. Oath of Office for Newly Appointed Commissioner, Administered by the City Attorney.

Commissioner Zenker motioned to appoint Michael Connelly to fill the vacancy created by Mark Splonskowski's resignation, and Commissioner Marquardt seconded. Upon a roll call vote, Commissioners Zenker, Marquardt, and Mayor Schmitz voted aye. Commissioner Cleary voted nay. M/C.

City Attorney Jannelle Combs administered the oath of office to Commissioner Connelly, and he joined the meeting at 5:22 PM.

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

- Chris Ebertz addressed the Commission supporting a tiered rate system that will be fair and beneficial for city residents.
- Clark Borman addressed the Commission regarding Street Improvement District SI 572. He received a letter stating that improvements will be made to Clydesdale Drive in 2023. He informed the Commission of a letter he received stating that property owners would be responsible for damages incurred to driveway aprons during construction. His main concern relates to his driveway abutting Clydesdale Drive was installed in 2021. He considers it to be in good condition and does not want to see it damaged. City Engineer Gabe Schell acknowledged Mr. Borman's concern and indicated the project manager from the City Engineering Department has been notified of the concerns.

### 3. CONSENT AGENDA

- A. Consider approval of minutes
- B. Consider approval of personnel actions
- C. Consider approval of expenditures

Vouchers: #1110323 - 1110570.

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

- 1. Consider the draft response letter to the Federal Emergency Management Administration (FEMA) regarding the City of Bismarck's preliminary Flood Insurance Rate Map (FIRM) changes.
- 2. Consider the request to renew charitable applications for gaming.
- 3. Consider approval of a financial contribution to the ND League of Cities to support the 2023 Annual Conference.

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

- 1. Receive and consider bids for the Airfield Painting Project.
- 2. Consider an Engineering Agreement with KLJ for Asphalt Pavement Maintenance Project.

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

- 1. Consider the introduction and call for a public hearing on Ordinance 6548 to amend the criminal trespass for remaining after a request to leave premises to be an offense, not an infraction.
- 2. Consider the introduction and call for a public hearing on Ordinance 6549 to amend the liquor license ordinances.

<https://www.bismarcknd.gov/DocumentCenter/View/42153/Item-F2-PDF>

- 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 6536, a request for annexation of parts of Silver Ranch Third Addition and Silver Ranch Fourth Addition, requested by Investcore, Inc. and Silver Ranch 19 LLLP, which the Bismarck Planning and Zoning Commission recommends approval.
2. Introduction of and call for a public hearing on Ordinance 6537, a request for a zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, and CA – Commercial zoning districts for Silver Ranch Fourth Addition, requested by Investcore, Inc. and Silver Ranch 19 LLLP, which the Bismarck Planning and Zoning Commission recommends approval.
3. Consideration of Subordination Agreement between the City of Bismarck and Beyond Shelter, Inc.
4. Minor Subdivision final plat of Sykes Second Addition, requested by Northern Improvement Company, which the Bismarck Planning and Zoning Commission recommends approval.
5. A request of the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, for approval of the Bis-Man Transit Bus Engine Replacement Request.
6. A request of the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, for approval of the Bis-Man Transit Vehicle Purchase Request.

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

1. Consider approval of the development agreement with Blue Water Development, LLC.
2. Consider approval of Contract Change Order No. 1 for Street Improvement District SI 559B.
3. Consider Request for Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement and Resolution Awarding Contract for Street Improvement District SI 570.
4. Consider Request for Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement and Resolution Awarding Contracts for Parts A-1, A-2, and B for the construction of sidewalk, curb and gutter and driveways 2023 CC2023 - Parts A&B.

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

1. Applications for abatement.

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

1. Award bid for Concrete Street Light Poles to Graybar Electric Company, Inc. for Public Works Service Operations Electrical Division.
2. Permission to award the contracts for 2023 Furnishing Paving Materials.
3. Approval of Task Order 23-01 for groundwater sampling agreement with Houston Engineering.
4. Approve bid awards for a 2-year contract for hayland mowing at the landfill.
5. Permission to award the bid for installation of painted pavement marking.
6. Permission to sell/dispose of vehicles and equipment at public sale.
7. Permission to sell surplus vehicles and equipment at the City Auction.
8. Permission to negotiate with Sitelogiq to provide Guaranteed Savings Program Services.
9. Permission to award the stump grinding contract.

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

1. Consider approval of an agreement with Soo Line Railroad Company doing business as Canadian Pacific for the Hay Creek Interceptor project.
2. Consider approval of the Change Order for the Professional Services Agreement Amendment No. 1 relating to the use of FAMS-XL software.
3. Consider approval of Change Order No.16 on the Public Works Expansion project.

#### 4. REGULAR AGENDA

5. Public hearing on the request to transfer the Class C-2 Hotel or Motel Alcohol License from Dosch Hospitality, Inc. (dba) Expressway Suites to BDH3 – Bismarck, LLC. (dba) Expressway Suites at 180 East Bismarck Expy.

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

Commissioner Zenker motioned to approve the license transfer as presented, and Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted, aye. M/C.

6. Public hearing on the request for a new Class F1 Restaurant Full Alcohol license for MayaS Incorporated (dba) MayaS at 1601 West Century Avenue.

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

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

7. Public hearing on Ordinance 6543 to amend the personnel regulation portion of the code regarding at-will employees.

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

Commissioner Zenker motioned to approve the license transfer as presented, and

Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted, aye. M/C.

8. Consider the request to hear Insufficiency of Protests on Resolution of Necessity for Street Improvement District SI 572.

City Engineer Gabe Schell addressed the Commission regarding the insufficiency of protests for Street Improvement District SI 572.

Commissioner Zenker motioned to accept the insufficiency of protests on the resolution of necessity for Unit 1 of Street Improvement District SI 572, and Commissioner Cleary seconded. Upon a roll call vote, all voted, aye. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/42152/Item-8-PDF>

9. Continue discussion on Utility Rate approach and Survey results.

Commissioner Zenker opened the discussion by stating he believes eight units of water is the minimum amount necessary per household for basic needs. He described the proposed 4-tiered system. Within the 4-tier structure, 1-8 units of water would be billed at \$1.75 per unit; 9-16 units would be billed at \$4.79; 17-24 units would be billed at \$6.16; and 25 units and above would be billed at \$7.86 per unit. Commissioner Zenker noted that some residents were confused by the tiered system and believed that once they reached a certain tier, all previous units would be billed at the highest rate per unit. Commissioner Zenker clarified that the units used in each tier are billed exclusively at that tier's rate. Commissioner Zenker closed by saying he prefers the Alternate 4 system-wide unit rate of \$3.21.

Mayor Schmitz indicated a tiered system and would rather see the 4-tier model over the current 5-tiered structure.

Commissioner Connelly noted that 95% of users consume 23 units or less monthly.

Commissioner Marquardt indicated that he also prefers the 4-tiered model.

Commissioner Cleary stated that she initially thought a 3-tiered system would be the most desirable, but after further analysis, she is leaning towards the 4-tiered model.

Commissioner Marquardt noted the importance of public communications and education to help residents and business owners become familiar with the chosen model.

Commissioner Zenker noted his three objectives for addressing the water utility rate system: 1. Green up the city by encouraging citizens to water their lawns. 2. Consume water without the fear of a confusing tiered billing structure. 3. Develop a balanced billing option similar to other utilities that provide this service in the community.

Commissioner Marquardt noted that he is cautious of a flat rate and has concerns about the overuse of water resulting in water storage depletion during hot and dry conditions. Commissioner Marquardt reminded the Commissioners about the necessity of having water available for the Fire Department's use during a fire emergency, which should remain a top priority for the Water Utility.

Commissioner Connelly motioned to delay a decision on the Water Utility Rate Study for two weeks, and the motion died for lack of a second.

Mayor Schmitz noted there seems to be consensus forming among the Commissioners and directed staff to include this item on the April 25, 2023, Commission meeting.

<https://www.bismarcknd.gov/DocumentCenter/View/42154/Item-9-PDF>

10. Review and discuss 2023 Legislative Report.

City Administrator Keith Hunke addressed the Commission regarding recent Legislative activity. He said that there is no new news to report but will continue to monitor bills that could have an impact on City operations.

11. Other Business

Commissioner Zenker asked about portfolio assignments with the appointment of Commissioner Connelly. Mayor Schmitz remarked that Commissioner Connelly will be assigned the vacated portfolios previously handled by Commissioner Splonskowski.

Adjourn

There being no further business to discuss, the meeting adjourned at 6:00 PM.

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