

MEETING OF THE BOARD OF CITY COMMISSION
May 28, 2019

The Board of City Commission met in regular session on May 28, 2019 at the hour of 5:23 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Marquardt, Guy, Zenker, Oban, and President Bakken.

1. Commissioner Marquardt moved to approve the minutes of the January 25, 2019 and May 10, 2019 Special Commission meeting and the May 14, 2019 Regular Commission meeting Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C
2. Public comment (restricted to items on the Consent Agenda and the Regular Agenda, excluding public hearing items). Peter Neigum, Eugene Lehr, Bonnie Palicek, Dick Gross and Dennis Burdolski appeared in opposition of item 6. Tanner Reidman, Jake Axtman, David Witham, Daniel Schwartz, Brad Obritsch and Andrea Toman appeared in favor of item 6. Kate Herzog appeared in favor of item 11.
3. Commissioner Guy moved to approve the consent agenda. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C
 - A. Voucher numbers: 1087187-1087445
 - B. Personnel actions
 - C. Administration Department:
 1. Vision Fund Committee recommendation to fund the Bismarck Mandan Chamber EDC operating grant of \$200,000 from the Vision Fund.
 2. Gaming Site Authorizations for the following:
 - Bismarck Hockey Boosters
 - Lucky's Thirteen – Bismarck
 - Our Place Tavern
 - The Craftcade
 - The Pier
 - Fort Abraham Lincoln Foundation
 - Bismarck Hotel Radisson
 - Dosch Hospitality Inc. / Expressway Suites
 - Ramada of Bismarck / 701 Lounge
 - Gilbert N Nelson, VFW Post 1326, Dept. of North Dakota
 - VFW Post 1326
 - Matpac Wrestling Club, Inc.
 - Blarney Stone – Bismarck

- North Dakota Chapter of Delta Waterfowl
 - Delta Waterfowl Foundation Building
 - Bismarck Amvets Club
 - Prairie Public Broadcasting, Inc.
 - Dakota Skies Bingo
 - Sidelines
 - Sports Page
 - The Main Bar & Package Store
 - Amvets Post #19
 - Amvets Post #19
 - Bismarck-Mandan Elks Lodge BPOE1199
 - Bismarck Elks Home Association
3. Liquor License Renewals for the following:
- Captain Jack's #7046 – 808 S 2nd St
 - Captain Jack's #7047 – 3131 Weiss Ave
 - Captain Jack's #7048 – 1140 W Turnpike Ave
 - Cash Wise Liquor – 900 NE 43rd Ave
 - Charras – 4503 Skyline Crossings
 - China Town Buffet Inc. – 330 Riverwood Dr
 - Expressway Suites – 180 E. Bismarck Expressway
 - Horizon Market, LLC – 125 Durango Dr
 - PetroServe USA #077 – 1120 E Divide Ave
 - Red Lobster Hospitality LLC – 1130 E Century Ave
 - Ruby Tuesday – 3520 State Street
 - Runway Express Mart – 1740 Airport Rd
 - Texas Roadhouse Holdings LLC – 1505 Burnt Boat Dr
 - Vintner's Cellar Winery – 3250 Rock Island Place, Ste 5

- D. Airport:
1. Amendment 1 to the February 12, 2019 agreement with Kadrmass, Lee & Jackson for design of wetland mitigation phase 5.
- E. Bismarck-Burleigh Public Health Department:
1. Authorization to apply for funding from the North Dakota Department of Health and the North Dakota Comprehensive Cancer Control Program to increase colorectal cancer screening efforts.
 2. Authorization to apply for funding from the Consensus Council, Inc.
- F. City Attorney:
1. Introduction of and Call for a Public Hearing on Ordinance 6381 relating to Trash Collection by the City; Exceptions.
- G. Engineering Department:

1. Receive Bids and Award the Contract for Concrete Contract Part B-3.
 2. Development agreement with Boustead Enterprises, LLC for Huntington Plaza.
 3. Modification to Capital Improvement Plan for low cost improvement projects.
 4. Selection of Terracon and GeoServ to provide material testing services.
 5. Corrected project budget for Storm Sewer Improvement District 563.
 6. Receive Bids and Award the Contract for Street Utility Project 51 for Units 1, 3, and 4.
 7. Acceptance of storm water and drainage easements and access easements for the Clear Sky Addition development and other adjoining properties.
- H. Finance Department:
1. A one-year term for Sidewalk, Curb and Gutter assessments of \$250 or less.
 2. Authorization to use the State contract for the software purchase for mobile data management, virus, and malware protection for all devices.
- I. Fire Department:
1. Authorization to participate in a fundraising event sponsored by the Bismarck Larks.
- J. Police Department:
1. Authorization to conduct the Archery Hunting Program on City properties.
- K. Public Works Service Operations Department:
1. Change the fee for administrative costs for weed mowing from \$120 to \$40.
 2. Award the bid for floor sweepers.
 3. Award the bid for forklift trucks.
- L. Public Works Utility Operations Department:
1. Contract with Advanced Engineering Services for engineering consulting services for the Lockport Pump Station Project not to exceed \$750,000.
 2. Amendment to the Flood Response and Action Plan with Apex Engineering Group.
 3. Task Order Number 7 to the agreement with Advanced Engineering Services for the 2019 Water SCADA Project

4. REGULAR AGENDA

5. The Commission considered the request from the Police Department for a discussion of the Bismarck Community Oriented Policing Program. Police Chief Dave Draovitch provided a presentation.

6. The Commission considered the request from Anne Cleary to appeal the May 2, 2019 decision of the Board of Adjustment to deny a variance from Section 14-04-03(4) of the City Code of Ordinances (R5-Residential/Lot Area) to allow the construction of a single-family dwelling on a lot, platted prior to 1953, that is less than 5,000 square feet. Ann Cleary provided information regarding the project. Ann Cleary provided information regarding the project.

Commissioner Marquardt moved to reverse the decision of the Board of Adjustment to deny a variance from Section 14-04-03(4) of the City Code of Ordinances (R5-Residential/Lot Area) to allow the construction of a single-family dwelling on a lot, platted prior to 1953, that is less than 5,000 square feet. Commissioner Zenker seconded the motion. Upon a roll call vote, all voted aye. M/C

7. The Commission President called for the Public Hearing on Ordinance 6379 relating to liquor license. City Attorney Jannelle Combs provided a narrative of Ordinance 6379. Michelle Kauffman addressed the commission to say that she is glad that they are moving forward with the changes proposed in this ordinance. She also would like to see additional changes to the liquor license codes to reflect some of the issues that were discussed at the meetings that were held and she hopes that discussions will continue. Susan Pudwill addressed the commission to ask if there was going to be a fee structure change. Assistant City Attorney Jason Tomanek addressed the commission to provide an explanation that the fee schedule was removed to be consistent with other fee schedules in other departments. Any fee change would need to be presented to commission for approval.

Commissioner Zenker asked for clarification regarding the bidding process for one Class D & one Class E license as stated in the ordinance. City Attorney Combs provided information regarding the bidding process. Mayor Bakken asked City Attorney Combs if there was going to be an ongoing discussion as requested by Michelle Kauffman, which she stated that there would be.

Commissioner Marquardt moved to approve the second reading and final passage of ordinance 6379. Commissioner Guy seconded the motion. On a roll call vote, Commissioner Marquardt, Guy, Oban and Bakken aye. Commissioner Zenker nay. M/C

8. The Commission President called for the Public Hearing on Ordinance 6377, a request for the annexation of Auditor's Lot 6A of Lot 6, part of Auditor's Lot 7, and part of Auditor's Lot 8B of Lot 8 in the NE 1/4 and SE 1/4 of Section 1, T138N-R80W/Lincoln Township and Lots 1-15, Block 1, Lots 1-11, Block 2, Lots 1-11, and Lot 22, Block 3, Lots 1-8, Block 5, Lot 1, Block 10, Clear Sky Addition; the Public Hearing on Ordinance 6378, a request for a zoning change from the A-Agriculture zoning district to the R5-Residential and P-Public zoning districts for Clear Sky Addition and approval of the final plat of Clear Sky Addition, including the Park Development Agreement. Community Development Director Ben Ehreth informed the commission there was an error with not sending adjacent property owners letters informing them of the Public Hearing and asked that the Public Hearing be continued to the next commission meeting.

Commissioner Marquardt moved to continue the Public Hearing to June 11, 2019 to allow staff to provide the necessary notifications. Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C

9. The Commission President called for the Public Hearing on Ordinance 6380, a request for a zoning change from the A-Agricultural and CG-Commercial zoning districts to the CG-Commercial zoning district for Memory Second Addition; and approval of the major subdivision final plat of Memory Second Addition.

Commissioner Marquardt moved to approve the second reading and final passage of Ordinance 6380 and the major subdivision final plat of Memory Second Addition. Commissioner Zenker seconded the motion. Upon a roll call vote, all voted aye. M/C

10. The Commission considered the request from Brick Oven Bakery, LLC for a Lease Renaissance Zone project at 112 North 4th Street. The Renaissance Zone Authority recommends approval.

Commissioner Zenker moved to approve the request as presented. Commissioner Guy seconded the motion. Upon a roll call vote, all vote aye. M/C

11. The Commission considered the request from the Community Development Department for the amendment to the Renaissance Zone Development Plan. The Renaissance Zone Authority recommends approval.

Commissioner Oban moved to approve the request as presented. Commissioner Guy seconded the motion. Upon a roll call vote, Commissioner Zenker, Guy and Oban aye. Commissioner Marquardt and Bakken nay. M/C

12. The Commission considered the request for approval from the City Attorney for a discussion and direction to staff regarding the off-highway vehicle draft ordinance 6375.

Commissioner Guy moved to approve having a Public Hearing on 6375 using option 1 as presented. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C

13. The Commission considered the request for approval from the City Attorney of the purchase agreement with the University of Mary for the Bismarck-Burleigh Public Health building or enter executive session under NDCC 44-04-19.1(9) to provide direction for negotiation/negotiation strategy of the proposed purchase agreement.

Commissioner Oban moved to approve the purchase agreement with the University of Mary for the Bismarck-Burleigh Public Health building. Commissioner Zenker seconded the motion. Upon a roll call vote, all voted aye. M/C

Other Business – Assistant City Administrator Tomanek provided an update on the ITG Committee meeting where technology upgrades to the Tom Baker Meeting Room were discussed. The plan will be to install new equipment in the Tom Baker Meeting Room in 2020 with a cost-share by the City of Bismarck, Burleigh County, Bismarck Public Schools and the Bismarck Parks & Recreation District. Commissioner Guy wanted to congratulate Jenny Wollmuth on her completion of the Chamber EDC's Leadership Program.

Having completed the items on the agenda, President Bakken asked if there was any other business. The meeting was declared adjourned at 7:45 p.m.