



MEETING OF THE BOARD OF CITY COMMISSIONERS

7/27/2021 - Minutes

FUTURE COMMISSION MEETINGS:

MISSION STATEMENT

MEETING OF THE BOARD OF CITY COMMISSION

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

Robert Graham, Blaine Nordwall, Howard Rieger, Cynthia Graham, Aggie Horner, Betty Greff, Miles Doll, & Marlin Schick spoke against tiered water rates, citing high costs and lack of green lawns as main concerns. There were also requests for clearer public rate information. Chris Ebertz, Kevin Martin, & Ken Grigsby spoke in support of the water rates saying they were the most fair. Mike Connelly spoke about alternate solutions to rate changes and traditional lawn alternative.

<https://bismarcknd.gov/DocumentCenter/View/38299/Item-15-Letters>

2. CONSENT AGENDA

Commissioner Marquardt made a motion to approve the minutes and consent agenda as presented, Commissioner Zenker seconded the motion.

A. Consider approval of minutes.

B. Consider approval of expenditures.

Vouchers 1099501-1099725

C. Consider approval of personnel actions.

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

1. Approve renewal of liquor licenses from August 1, 2021 to July 31, 2022.

- Ale Works - 1100 Canada Ave
- Bismarck Distillery - 1100 Canada Ave #2
- Bismarck Larks Baseball - 201 W Front Ave
- Bismarck Larks Catering - 201 W Front Ave
- Bismarck Staybridge Suites - 2801 Gateway Ave

- Courtyard Bismarck - 3319 N 14th St
- Gideon's Brewing Company - 107 N 5th St
- Harvest Catering & Events - 308 West Main St
- La Enchilada - 1101 S 12th St
- Laughing Sun Brewing Co. - 1023 E Front Ave
- Lewis and Clark Riverboat - 1700 River Rd
- MacKenzie River Pizza, Grill & Pub - 4510 Skyline Crossings
- Pancheros Mexican Grill - 1225 W Century Ave
- Red Lobster - 1330 E Century Ave
- Riverwood Golf Course - 725 Riverwood Dr
- Sixteen03 Main Events - 1603 E Main Ave
- Shelter Belt - 307 N 3rd St
- Stonehome Brewing Company - 1601 N 12th St
- Terra Nomad - 514 E Main Ave
- The CraftCade - 405 N 4th St
- The Toasted Frog - 124 N 4th St
- The Walrus Restaurant - 1136 N 3rd St
- Tom O'Leary Golf Course / Bobcat Hockey - 1200 N Washington St
- Touchmark on West Century - 1000 W Century Ave
- Tri-Energy Cenex - 2520 Centennial Rd

2. Approval of request from the University of Mary for support of expanding their water and sewer infrastructure utilizing State of North Dakota American Rescue Plan Act Funding.

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

1. Receipt of the bids for Concrete Panel Replacement and Joint Sealing and award of bid to Northern Improvement Company subject to Cares Act Requirements.
2. Approval of Engineering Services Agreement with KLJ for Lancair Loop Design, Administration, Construction Inspection and Project Closeout

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

1. Introduction and call for a public hearing on Ordinance to enact Ordinance 8-08-12 regarding Urban Rodent Control.

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

1. Approval for BBPH to apply for BCBSND Caring Foundation Spark Grant Funding
2. Approval for BBPH to accept donations for World Breastfeeding week.

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

1. Request of the Bismarck-Mandan Metropolitan Organization, on behalf of Bis-Man Transit, for approval of the City of Bismarck's Disadvantaged Business Enterprise (DBE) Goal of .25% for 2022-2024.
2. Request of the Bismarck-Mandan Metropolitan Organization, on behalf of Bis-

Man Transit, for approval to apply for a FY21 Section 5307 grant.

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

1. Approval of dedication and acceptance of Utility Easement on Lots D and E of Lot 22, Block 2, Pinehurst 3rd Replat.
2. Approval of encroachment agreement for Sanford Bismarck Outpatient Surgery Center located at 715 E Broadway Ave.
3. Approval of Contract Change Order No. 1 for SI 543.
4. Request for Resolution Approving Plans and Specifications of SI District 545 and Resolution Directing the Advertisement of Bids and Reveal of Bids.
5. Approval of Contract Change Order No. 13 for WU 130.
6. Approval of a Memorandum of Understanding with Bismarck Parks and Recreation District regarding City's financial contribution for the purchase of lease portions of Lions Park.

J. Consider the request for approval from the Library for the following:

1. Approval for reappointment of Sue Sorlie to the Library Board for a second three year term.

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

1. Approval to pursue grant funding from the Hazard Mitigation Grant Program for the Fire Station #1 Backup Generator.
2. Approval to lease sweepers for Roads & Streets operations.

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

1. Approval to enter into sanitary sewer connection contract negotiations with the City of Lincoln.

3. REGULAR AGENDA

4. Commissioner Portfolio Report - Commissioner Splonskowski

Commissioner Splonskowski gave a presentation of his portfolio.

5. Public Hearing on Ordinance 6472 to amend Section 5, 6 and 12 to conform to state law.

Commissioner Marquardt moved to approve Ordinance 6472. Commissioner Guy seconded the motion.

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

6. Public Hearing on Ordinance 6475, a request for the annexation of Lots 1-3, Block 1, Memory Third Addition and all of the right-of-way for Brookside Place, requested by TPR Partnership LLP and Belfield Access Terminal LLC.

Commissioner Splonskowski moved to approve Ordinance 6475. Commissioner Guy seconded the motion.

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

7. Public Hearing on Ordinance 6476, a request for the annexation of parts of Silver Ranch First Addition and Silver Ranch First Addition First Replat, requested by Investcore, Inc.

Commissioner Guy moved to approve Ordinance 6476. Commissioner Splonskowski seconded the motion.

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

8. Public Hearing on Ordinance 6477, a staff-initiated zoning ordinance text amendment relating to floodplain regulations.

Brady Blaskowski, Building Official, gave an overview of the main changes including definition changes to accessory building and floodproofing. Commissioner Zenker asked if this would affect item 10 on the agenda, Brady stated it would not due to building size, which is greater than 600 square ft. Mr. Blaskowski stated that the 600 sq ft limit was negotiated with FEMA.

Commissioner Guy moved to approve Ordinance 6477. Commissioner Marquardt seconded the motion.

Upon roll call vote, Commissioners Splonskowski and Zenker voted nay, Mayor Bakken and Commissioners Marquardt and Guy voted aye. M/C

9. Public Hearing on ordinances 6469-6471, to create special assessment districts for annexed properties.

Commissioner Guy moved to approve Ordinance 6469-6471. Commissioner Marquardt seconded the motion.

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

10. Consider the request for continuation from the Community Development Department for the following:

1. Continuation of a request for Brian Skager to appeal the November 4, 2020 decision of the Board of Adjustment to deny a variance from Section 14-04-19(6)(b)(4)(c) of the City Code of Ordinances (FP-Floodplain District) to allow a recently constructed residential accessory building, located within the Special Flood Hazard Area (SFHA) or 100-year floodplain, below the elevation requirement, located on Lot 6, Block 11, Falconer Estates (6300 Apple Creek Drive)

Kim Lee, Planning Manager, gave an overview of the appeal. She stated that the new floodplain Ordinance will not cover this due to the building size being above 600 sq ft. Brian Skager spoke, stating that he was issued a permit by Burleigh County for the building prior to construction. Mayor Bakken asked about FEMA conflicts if a variance is granted. Brady Blaskowski stated that it could impact the City's good standing. Commissioner Zenker asked if being given permission by the County in error is a "hardship". Attorney Combs clarified that the legal definition of hardship is related to the irregular size of the lot and the

topography. Commissioner Guy asked if the variance could put mortgages and insurance for residents of the city in jeopardy, Attorney Combs stated it could. Commissioner Splonskowski inquired whether the 600 sq ft restriction was for an entire lot, or per building. Building Official Blaskowski said it is per building. Commissioner Guy asked about the timeline, how long Mr. Skager would have to take the building down or explore other options. Brady said that FEMA is expecting a resolution in the near future. He also indicated that Mr. Skager may have options relating to a LOMR (Letter of Map Revision), changing the structure, or legal action against Burleigh County for issuing the building permit in error.

Commissioner Guy made a motion to deny the appeal for the variance request. Commissioner Marquardt seconded the motion.

Commissioners Splonskowski and Zenker voted nay, Commissioners Guy, Marquardt, and Mayor Bakken voted aye. M/C

<https://bismarcknd.gov/DocumentCenter/View/38298/Item-10-Letters>

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

1. Request of JMN Roots, LLC and Freedom Financial Group – Bismarck LLC for designation of 212 North 2nd Street as a purchase with improvements Renaissance Zone project for JMN Roots, LLC for a five-year property tax exemption and approval of a designation of 212 North 2nd Street as a lease project for JMN Roots, LLC and Freedom Financial Group – Bismarck LLC for a five-year income tax exemption. The property is owned by SRSSM Partnership and is legally described as Lot 6, Block 60, Original Plat.

Commissioner Guy moved to approve the request. Commissioner Splonskowski seconded the motion.

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

12. Consider the request for update from the Community Development Department on changes to the existing lot modification process and associated ordinance changes.

Ben Ehreth gave a presentation, stated that the Community Development Department is changing ordinance to comply with ND State Century Code.

13. Consider the request for update from the Community Development Department on the BNSF Replacement:

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

1. Approval of request to apply for the Burleigh County American Rescue Plan funding for public health, water and wastewater infrastructure.

Keith Hunke, City Administrator, requested approval to apply for the Burleigh County American Rescue Plan funding for the Public Health Building for \$2M, the Water Treatment Supervisory Control and Data Acquisition System for \$1.4M, & the Aerated Flow Equalization Basin for \$6,955,000.

Commissioner Zenker moved to accept the request. Commissioner Splonskowski seconded.

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

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

Michelle Klose, Director of Public Works Utility Operations, provided a report on the water rates structure, utility billing, and general information relating to production and distribution of water service. Director Klose also addressed the concerns raised during public comment by condominium residents relating to sewer use charges and irrigation.

16. Consider the request for approval from the Finance Department of the 2022 Preliminary Budget.

Commissioner Marquardt provided a brief overview of the 2022 budget and then made a motion to approve the 2022 preliminary budget for the general fund, special revenue funds, debt service funds, and all the recommendations made in this memo and attached documents and all attachments; approve the 2022 General Fund base budget; approve the 2022 priority initiatives for all funds recommended by the Budget Committee; approve the 2022 capital improvement projects (CIPs) recommended by the Budget Committee; approve the 2022 fees and charges recommended by the Budget Committee; approve the 2022 preliminary property taxes of \$32,853,676 based on estimated property values of as shown on the attached worksheet with the note salaries will be adjusted based on the City Commission approved Condrey Study and final property tax will be adjusted based on the final values provided by Burleigh County and State of North Dakota. Commissioner Guy seconded the motion.

Upon roll call vote, Commissioners Guy and Marquardt voted aye, Commissioners Splonskowski, Zenker, and Mayor Bakken voted no. M/F

Mayor Bakken inquired as to what would happen if \$900,000 from CARES Act Funds was transferred to the general fund to help offset some costs of one time projects. Commissioner Marquardt stated this would cause the city to continue to be below the 60% threshold (per City policy) for fund balance and the Budget Committee would need to reevaluate future plans. Dmitriy Chernyak, Finance Director, indicated that the amount to pay back to the fund balance would compound on itself and would cause the need for additional funds in the future in order to adhere to City policy.

Commissioner Guy asked if there were any projects where CARES Act funds could be spent in the 2022 Budget. Dmitriy Chernyak indicated that equipment replacement could be done with CARES Act dollars but could result in a higher Mill levy next year because some of the costs are ongoing and the CARES Act is a one time payment.

Commissioner Marquardt made a motion to reconsider his previous motion. Commissioner Guy seconded the motion.

Upon roll call vote, Commissioners Guy and Marquardt voted aye, Commissioners Splonskowski, Zenker, and Mayor Bakken voted no. M/F

City Administrator Keith Hunke informed the Commission that they could authorize the transfer of \$1.4 million from the general fund to lower the proposed 9.0 Mill increase to the general fund budget. Mr. Hunke continued by saying that the Commission would then avoid

the need for a special City Commission meeting on August 3rd.

Mayor Bakken made a motion to send the proposed budget back to the Budget Committee to explore the impacts of a \$1.4 million transfer from the general fund using CARES Act funds for Roads and Streets. Commissioner Zenker seconded the motion.

Upon roll call vote Commissioners Guy, Marquardt, Splonskowski, and Zenker voted nay, Mayor Bakken voted aye. M/F

Commissioner Guy made a motion to rescind all previous motions and approve the preliminary budget as presented. Commissioner Marquardt seconded the motion.

Upon roll call vote, Commissioners Guy, Marquardt, and Mayor Bakken voted aye, Commissioners Splonskowski and Zenker voted no. M/C

Other Business

There was not other business

Adjourn

The meeting was adjourned at 10:07 p.m.

Phone: 701-355-1300 | 221 North 5th Street | P.O. Box 5503 | Bismarck, ND 58501
www.bismarcknd.gov | TDD 711 | An Equal Opportunity-Affirmative Action Employer

