



## MEETING OF THE BOARD OF CITY COMMISSIONERS

12/8/2020 - Minutes

Future Commission Meetings:

December 22, 2021

January 12 & 26, 2021

February 9 & 23, 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. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items).

Tim Mattson a Bismarck resident, requested a meeting with the Mayor to further discuss his thoughts on the City's internal policies.

Attorney Christopher Nyhus representing Kelly Moldenhauer of M-Family spoke in favor of approving the request in item #9.

Richard Jensen, a Bismarck resident, requested to keep Bismarck citizens' financial well-being in mind as the pandemic continues.

2. Consider the approval of the minutes.

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

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

3. CONSENT AGENDA

Commissioner Zenker moved to approve the Consent Agenda as presented. Commissioner Guy seconded the motion.

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

A. Consider approval of expenditures.

Vouchers: 1096048-1096214.

B. Consider approval of personnel actions.

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

1. Approve the following liquor licenses renewals:

- A&B Pizza North – 1017 E. Interstate Ave.
- A&B Pizza South – 311 S. 7th St.
- A&B Pizza South – 656 Kirkwood Mall
- AppleBee's North – 434 S. 3rd St.
- AppleBee's South – 3200 N. 14th St.
- Bismarck-Mandan Elks Lodge – 900 S. Washington St.
- Oahu Hawaiian BBQ & Sushi Bar – 2626 State St.
- Pancho's Mexican Grill – 1225 W. Century Ave.
- Pirogue Grill – 121 N. 4th St.
- Plaza Beer Depot – 204 E. Boulevard Ave.
- Radisson Hotel – 605 E. Broadway Ave.
- Ramkota Hotel – 800 S. 3rd St.
- Red Lobster – 1130 E. Century Ave.
- Sidelines Sports Bar – 300 S. 5th St.
- Williquors, Inc. – 3025 Yorktown Dr.
- Staybridge Suites – 2801 Gateway Ave.

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

1. Allow deferral of airport rent and fees.
2. Approve change order #1 to the September 11, 2020 agreement with KLE for the Wetland Phase 5 project.
3. Approve change order #8 to the April 29, 2020, 2018 agreement with Strata Corporation for the short-term, economy and long-term parking expansion.
4. Approve the assignment of the lease for the Runway Express Mart.

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

1. Ratify the Emergency Declaration Oct. 26, 2020 State of Emergency Declaration, related to COVID-19, by the President of the City Commission and extend its effect to Dec. 25, 2020.

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

1. Approve the request from Dr. Bradley King to release the west 40-feet of the continuous non-access line adjacent to the West 256 feet of Lot 1, Block 1, Southbay Fourth Addition. Staff recommends approval.
2. Introduction of and call for a public hearing on a request from Edward and Joi Wos to vacate an approximately 350-square-foot portion of the Golden Wave Drive right-of-way adjacent to Lot 3A, Block 4, Western Hills. Staff recommends approval.
3. Introduction of and call for a public hearing on staff-initiated amendments to the Growth Phasing Plan in the 2014 Growth Management Plan. The Bismarck Planning and Zoning Commission recommends approval.

G. Consider the request for approval from the Human Resources Department for the

following:

1. Approve City Offices to close December 24, 2020 from 12 p.m. to 5 p.m.

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

1. Approve the organizational chart update.

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

1. Approve Change Order 2 with Advanced Mechanical, Inc. for the Public Works Building's HVAC improvement project.
2. Approve Change Order 3 with Advanced Mechanical, Inc. for the Water Treatment Plant's HVAC improvement project.
3. Approve Change Order 5 to the contract with Custom Aire, Inc. for the Library's HVAC renovation project.
4. Approve the contract for consulting services for the Library siding, window and door replacement project.

#### 4. REGULAR AGENDA

5. Consider the request from the Community Development Department for Bryan Skager to appeal the November 4, 2020 decision of the Board of Adjustment to deny a variance from Section 14-01-19(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).

City Building Official Brady Blaskowski explained granting the variance could affect the outcome of flood insurance premiums, existing policies and ability to apply for federal and state loans in the event of an emergency, for not just the City, but those living in the area of Special Flood Hazard Area.

Commissioner Zenker stated he did not see a hardship, but believed staff could reanalyze our current Special Flood Hazard Area. Commissioner Guy asked if we have the option to make changes to the current variance ordinance. Building Official Blaskowski stated he is currently working with FEMA to address an ordinance change to better serve those filing for permits in the floodplain.

Commissioner Zenker stated he wanted to challenge FEMA to change the floodplain, as the structure Mr. Skager built was 1-foot lower than the base flood elevation. Commissioner Marquardt asked if there were options for the building owner. Building Official Blaskowski stated as of now, the only option is to bring the structure up to compliance, and in the case of this specific structure, he felt it was too large of a structure to alternate the ordinance to grant variance.

Mayor Bakken requested Building Official Blaskowski contact FEMA and see what the consequence would be for putting a pause on this request until the ordinance was developed, which could take 3-4 months to develop.

Commissioner Marquardt moved to table the item until the February 9, 2021 meeting to allow staff to prepare the requested information. Commissioner Zenker seconded it.

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

Commissioner Guy motioned to direct the Community Development Department to assemble a stakeholder group and investigate buildings in our floodplain, while preserving insurance reserves. Commissioner Zenker seconded it.

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

6. Consider the request from the Community Development Department for the approval of a fixed route redesign project.

Bis-Man Transit's executive director Deidre Hughes, presented the fixed route proposed redesign project designed by the New Route Task Force in 2020. The goal of the group was to review all current fixed routes and propose changes that would increase ridership throughout Bismarck and Mandan.

Please use the link to see the updated maps: <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5682?fileID=13532>

Commissioner Splonskowski moved to approve the project as presented. Commissioner Guy seconded it.

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

7. Consider the request for approval from the Community Development Department for the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, to submit an application for the FY2022 Section 5310 grant.

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

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

8. Consider the request from the Community Development Department for the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, to submit an application for FY2022 Section 5339 grant.

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

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

9. Consider the request from the Attorney for discussion on the requested correction on Special Assessment 2014-477.

M-Family, LLC filed under NDCC 40-26-02 to decrease the assessment that was levied in 2014 on 320 N. 31st St., claiming there was an error in a measurement taken during the assessment of the property. Due to the company not following the proper procedures, which included a request in writing and appearing at a public hearing in 2014, staff recommended denial of the correction.

When asked why the Commission was just hearing about this request now, Attorney Nyhus

stated all of the M-Family Company paid their special assessments in protest. All assessments associated with this particular project must be at the end of 2021.

Attorney Combs informed the Commission that under the North Dakota Century Code, the City must reassess the properties with the initial street improvement district from 2014, and the special assessment revenue lost in approving the correction would fall back on the remaining property owners within that district.

Commissioner Guy stated she would like to see the exact amount that would need to be reassessed. Mayor Bakken asked if there would be a possibility to extend the timeline for those paying on the reassessed specials. Commissioner Marquardt reiterated that alternating the current process could negatively affect other financial policies in the future.

Commissioner Marquardt moved to table this item until the next meeting and have staff present the requested information. Commissioner Zenker seconded the motion.

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

10. Receive a Financial and CARES Act Update from Finance Director, Dmitriy Chernyak.

Director Chernyak's presentation addressed the tax collections from the month of September, which included sales tax distributions and analysis, an overview of the 2020-2021 CARES Act funds and the importance of property taxes.

Please use the link to view his full presentation:

<https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5685?fileID=13536>

No motion was made for this item.

11. Consider the request from the Engineering Department for discussion on the Special Assessment Policy.

City Engineer Gabe Schell provided a brief presentation on the Special Assessment Policy. In addition, he offered the following options, with a pros and cons list for each, for the Commission's consideration as they moved forward:

1. Area-wide assessment on arterial roads.
2. Utilize federal aid on functionally classified roads.
3. Program projects on arterial and local roads together.
4. Improved information sharing with the public.

Please use the link to view his full

presentation: <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5683?fileID=13541>

Engineer Schell stated his recommendation is not to change the current special assessment policy, but increase communication and outreach efforts for the public to better understand special assessments. The Commission mutually agreed with his recommendation.

No motion was made for this item.

12. Consider the request from the Public Works - Service Operations Department to provide the updated 2020-2021 Snow and Ice Control Plan.

Public Works - Service Operations Department Director Jeff Heintz presented the Snow and Ice Control Plan.

No motion was made for this item.

13. Consider the request from the Administration Department for discussion regarding the responses to the liquor license survey.

Please use the link to view the license holders' responses: <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5686?fileID=13528>

Commissioner Guy moved to continue to allow restaurants with liquor licenses to sell all alcoholic beverages with to-go food orders until the February 9, 2021 and revisit the item at the January 12, 2021 City Commission Meeting. Commissioner Splonskwoski seconded the motion.

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

14. Consider the request from the Administration Department for discussion on an offer to purchase City-owned property.

An offer to purchase the City-owned land located at 2830 N. 19th St. was made through e-mail. for the property located at 2830 N. 19th St.

Commissioner Zenker moved to deny the offer. Commissioner Splonskowski seconded the motion.

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

Commissioner Zenker then moved to direct staff to plat the property. Commissioner Splonskowski 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.

Commissioner Zenker requested bringing back Commissioners portfolio reports for the purpose of transparency for the public and for the other commissioners.

The first portfolio presentation will be January 22, 2021.

Adjourn

The meeting was adjourned at 9:06 p.m.

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