

I. CALL TO ORDER

President Dennis W. Johnson called the meeting to order at 5:15 P.M.

II. ROLL CALL

Present were: President Dennis W. Johnson, Commissioners Bill Reitmeier, Rhonda Dukart and Carson Steiner

Absent was: Commissioner Joe Frenzel

STANDARD MOTIONS1. ORDER OF BUSINESS

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart
to approve the February 7, 2005 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Rhonda Dukart SECONDED BY: Bill Reitmeier

A. Approval of minutes of regular meeting dated January 18, 2005;

B. Approval of Pledged Securities report dated December 31, 2004;

C. Approval of Pitney Bowes Agreement for Inserter and Mail Machine (2005 Budgeted Item) for 48 months at \$508/month.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.

Motion declared duly passed.

MOTION BY: Rhonda Dukart SECONDED BY: Carson Steiner

to approve the Police Department Record Software Contract with Archonix (2005 Budgeted item) subject to making corrections recommended by City Attorney Timothy Priebe in paragraph 3A, 12B, 11A and 17 and also correcting the spelling of Dickinson on the front page.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.

Motion declared duly passed.

TIMETABLE AGENDA

5:45 PM

WEST RIVER COMMUNITY CENTER - JAMES KRAMER

James Kramer presented a financial and pass holder update on the West River Community Center. He stated compared to memberships on opening day of May 17, 2004 as of January 31, 2005, they are up 452 package memberships and 255 for punch card/tanning memberships for a total increase of 707. He stated in April/May 2005 they will be working on marketing and advertising for the new membership year. He stated in February 2005, memberships exceeded 6000. Kramer stated the center has averaged 1000 daily users since opening with Friday, Saturday and Sunday being the least used days of the week. He stated when they originally estimated pass holder numbers it was thought that 50% of the people would choose the basic package and 50% the full center pass. He stated currently 80% of the people have full center passes. He also highlighted the Center's financial information. He stated the budget called for the City to subsidize the Center with \$203,365 from Sales Tax revenues but due to a profit of \$283,288.07 for 2004 there will be no need for a City subsidy in 2005. He stated due to the layout of the building they have been able to keep staffing lower than anticipated. He stated utilities for the eight months were lower than budgeted but from past experience have learned that on cold days the utilities are approximately \$1,000. President Johnson commended James Kramer and his staff for the successful management of the building. He noted the expenses are less than projected by the outside consultant and contributed this fact to efficient management of the Center. Commissioner Dukart also commended the Park District on their management.

6:00 PM

HUMAN RELATIONS COMMISSION - MARY JO GONZALES

Mary Jo Gonzales, Chairperson of the Human Relations Commission, invited the City Commission to attend a luncheon planned on Friday, February 25th at 12:00 Noon at City Hall. She stated the luncheon is an opportunity to educate the public on leadership in the areas of civil rights, human relations and diversity. She stated Dickinson is one of three cities in North Dakota that has a Human Relations Commission and commended the City Commission on establishing the committee. She stated the committee has been in existence since 2002 and has the ability to have nine members with a current six member team. She stated the luncheon is an open forum with an opportunity for open ended discussion after the presentation. She asked the City for continued financial support for the Human Relations Commission events and asked for feedback on community concerns and needs.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. DECEMBER 2004 MONTHLY FINANCIAL REPORT

Director of Finance and Administrative Services, Tim Kessel, presented the December 2004 monthly financial report.

MOTION BY: Rhonda Dukart SECONDED BY: Bill Reitmeier
to approve the December 2004 financial report as presented.
DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

B. 2005 BUDGET

Tim Kessel presented a powerpoint presentation highlighting the 2005 budget.

C. AMERICAN STATE BANK RENAISSANCE ZONE PROJECT

Greg Sund stated he spoke with Rich Grey of the ND Division of Community Service regarding the Renaissance Zone project for American State Bank at 46 1st Street West. Sund stated because it took time to establish the project and due to American State Bank beginning the demolition and cleanup process, the State recommended the City Commission revisit the project and give final approval of a renaissance zone project. Sund stated he did a walk through of the building and along with City Engineer Soehren participated in a meeting to discuss the project and the work yet to be done. He said based upon the work completed to-date and the need for substantially more work needed to complete the project, it was his recommendation to give final approval of the project as a qualified renaissance zone project.

MOTION BY: Bill Reitmeier SECONDED BY: Carson Steiner
to give final approval as a renaissance zone project for American State Bank at 46 1st Street West.
DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

D. HISTORIC ELKS BUILDING CLEANUP

Sund stated bids were opened for the Historic Elks Building Environmental cleanup. He stated two bids were received: Remediation Specialists, Inc. (RSI) in the amount of \$158,000 and Total Control, Inc. in the amount of \$198,498. Sund stated he sought EPA and State input in developing the Request For Proposal (RFP) and sent the RFP to companies that would be interested to do the cleanup on the building. He stated RSI of North Sioux City, South Dakota, was low bid and according to the proposal is capable of performing the work. He asked that the proposal be approved with two waivers. He stated the RFP requested verification of their lead cleanup license, but RSI did not present documentation until after the bid opening. Secondly, the RFP required of at least three years operation under one name and they had switched names two or three years ago. Steiner questioned the reason for RSI switching their name. Sund stated he understood it was due to an accident in the State Capitol Building in Iowa while performing asbestos cleanup which caused the building to burn. Reitmeier questioned whether RSI was bonded. Sund stated they submitted a bid bond and would be required to provide a performance bond prior to award. Johnson questioned

whether the performance bond covered the contract amount or the building value. Sund stated they are required to provide \$1 million dollar coverage. Dukart stated she did some checking with the Department of Environment in Iowa and South Dakota and learned of the situation of the fire and noted Total Control had questions regarding the RFP. Todd Tooz of Total Control Inc. addressed the commission. He stated there are two ways to bid the project and he bid the environmental method which is more costly than his competitor who bid the demolition method. He stated projects of this type usually have a environmental consultant who reviews the project and prepares the RFP along with work orders which this project did not possess. He stated because the bids were not bid with the same method, the bids were not comparable. He asked the City Commission to level the playing field. He stated the reason he bid the project as environmental is that it would have less impact on the public and reduce contaminates in the landfill. He stated he realizes costs are greater taking the environmental method but felt low bid was not always the best way to proceed. City Attorney Timothy Priebe stated the RFP was created so that the method chosen would comply with all state and federal compliance issues and let the bidder choose the method in which they would bid. Sund stated Tracy Tooz of Tooz Construction, brother to Todd Tooz of Total Control Inc., reviewed the RFP and concurred RSI could perform the work needed. He stated the City Commission can choose a certain method and make the project as expensive as they would like but the only requirement is that the method is approved according to state law and felt the RFP as written was to complete the project as cost efficiently as possible. Johnson questioned Todd Tooz whether he spoke with the City prior to the deadline of RFP issues. Todd Tooz stated he had spoke with Tracy Tooz and expressed concerns but not to the City of Dickinson other than basic comments made at time of the walk through of the building. Sund stated he was not aware of concerns with the RFP until after bid opening. Commissioners discussed the requirements of the RFP and the need to have someone that would perform the work required by the State and EPA and would assume the risk of the job. They also discussed whether it was a requirement that an environmental consultant be responsible to prepare the RFP. Sund stated EPA or the State never indicated the need to have a consultant hired to prepare the RFP. Commissioner Reitmeier questioned what the next step would be should RSI, Inc. not be bondable. Sund stated the City would have the option to accept the next bid which would be Total Control Inc. or rebid the project. Steiner stated he desired to hire a local firm but due to the cost difference being \$40,000 and seeing nothing presented that would justify the need to spend the additional money, he did not see a way other than accept low bid with the understanding they would be bondable. Johnson stated the City is dealing with federal moneys and must follow guidelines. He stated should there have been an error noted in the RFP by Total Control Inc, it would have been easier to notify the City so an Addendum to the RFP could have been sent out, therefore dealing with the issue after the fact is difficult. Todd Tooz stated he did not feel there was going to be a problem.

MOTION BY: Carson Steiner **SECONDED BY:** Bill Reitmeier
to accept the bid from Remediation Specialists, Inc. (RSI) with the two waivers as indicated above, subject to a background check and if there is anything of great discrepancies to bring the proposal back to the City Commission for further review.

DISCUSSION: Johnson asked Steiner what was meant by the motion requesting a further background check. Steiner indicated he was interested in knowing if there was further reasoning for RSI changing their name. Johnson questioned whether there was urgency in approving the proposal, otherwise it was his preference to hold off on approving the proposal until the February 22nd meeting. Sund stated the successful bidder would need to provide a performance bond and then would need to provide a 10 day notice to the State prior to starting. Dukart recommended the City further checked with the Division of Labor in Iowa as well as the Department of Environment for background check.

MOTION WITHDRAWN BY: Carson Steiner and Bill Reitmeier

MOTION BY: Carson Steiner **SECONDED BY:** Rhonda Dukart
to direct City Staff and City Attorney Timothy Priebe conduct additional background check on Rehabilitation Specialists, Inc. (RSI).

DISCUSSION: Johnson stated he supported further background check but reminded the commission that if RSI is bondable we need to be cautious in denying low bid.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

E. HISTORIC ELS BUILDING CONSTRUCTION MANAGER

Sund stated Tracy Tooz of Tooz Construction has been active in the plans and assistance of Careage Inc. regarding the restoration of the Historic Elks Building, therefore a Project Management Agreement was drafted to propose Tooz Construction, Inc. be the Construction Manager to proceed with the clean-up project. Sund stated because of the brother relationship of Tracy Tooz of Tooz Construction, Inc. and Todd Tooz of Total Control, Inc., it was his recommendation to delay action until the proposal was approved to a specific company.

F. DJ LIQUORS, INC.

Sund stated the City was notified by DJ Liquors when first awarded their Alcoholic Beverage License that with the completion of their new building on State Avenue, they would relocate their business to the new building. He stated because the relocation is within the same commercial complex and the licensees informed the City Commission of their intent to establish a temporary site in the complex, he did not feel comfortable charging the licensee a transfer fee but recommended proceeding with the transfer of location requirements.

MOTION BY: Carson Steiner SECONDED BY: Bill Reitmeier
to waive the \$500 transfer fee for DJ Liquors, Inc. for the relocation of the business from
683 State Avenue Suite E to 745 State Avenue Suite D and E and proceed with the
advertisement requirements of the location transfer for the On/Off Commercial Alcoholic
Beverage License.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

G. PARKING FEES ORDINANCE AMENDMENT

A draft ordinance amendment was provided which amends fees for most parking related violations. Sund stated at the present time there are two separate fees and with the amendment all fees would be \$15 with the exception of handicap parking. Sund stated the amendment was prepared based upon a recommendation of Municipal Court and has been reviewed by the Police Chief. Johnson asked if there was anyone in the audience who wished to comment regarding the ordinance. No one spoke on behalf of the amendment.

MOTION BY: Carson Steiner SECONDED BY: Rhonda Dukart
for first reading (and waiver thereof) of Ordinance No. 1292:

ORDINANCE NO. 1292

**AN ORDINANCE AMENDING AND RE-ENACTING SECTION 23.56.345 OF THE
CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA RELATING TO
PENALTY FOR PARKING VIOLATIONS.**

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

5. PUBLIC SAFETY

E. REPORTS:

1. Police Chief Retirement Report:
Police Chief Gary Banyai addressed the City Commission announcing his retirement as Police Chief effective as of March 1, 2005. He thanked the City Commission for their past support and noted he has been involved with police activities since 1972 and has been at the Dickinson Police Department since 1976. He stated he has worked under five different Police Chiefs and has seen 110 people come and go in the Dickinson Police Department. He stated throughout the years he has been fortunate to work with many talented individuals who are well trained and through their efforts has made Dickinson one of the safest areas in North Dakota. President Johnson thanked him for his service and career in law enforcement and stated he would be missed as he has done a good job serving the City of Dickinson. Steiner stated also commended Chief Banyai on a job well done and noted the Police

Department will be left in better shape than when he came which is a complement to his management efforts. Sund also commended Chief Banyai on his management style as a strong professional. Sund stated he believes there are several employees in the department who are qualified and will pursue the internal hiring process. Commissioners Steiner and Reitmeier agreed to participate on the committee to hire the next Police Chief.

6. PUBLIC WORKS - ENGINEERING

A. 2005 MILL AND OVERLAY AND SEAL COAT PROJECT

City Engineer, Shawn Soehren, presented the Engineering Agreement from Kadrmas, Lee and Jackson (KLJ) for the 2005 Mill and Overlay and Seal Coat Projects. He stated the fee is \$12,300 for Seal Coat and \$13,500 for Mill and Overlay. Soehren stated the City is asking KLJ to provide the design work and the City will take on most of the construction inspection work. He stated the seal coat area will consist of the southwest part of Dickinson and the mill and overlay will be south of Broadway and west of Highway 22. Soehren recommended approval of the agreement.

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart
to approve the Engineering Agreement with Kadrmas, Lee and Jackson for the 2005
Mill and Overlay in the amount of \$13,500 and 2005 Seal Coat in the amount of
\$12,300.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

B. SPECIAL USE PERMIT - HOME BASED BUSINESS (607 SHINAGLE DRIVE)

City Engineer Shawn Soehren stated Kurt Robinson has requested a Special Use Permit to operate a business out of his home located at 607 Shinagle Drive for a period of one year. He stated Mr. Robinson intends to use his garage to create signs, banners and vinyl graphics. Soehren stated the request has been approved by the Planning and Zoning Commission with a one year limitation. Soehren also recommended approval.

MOTION BY: Bill Reitmeier SECONDED BY: Carson Steiner
to approve the Special Use Permit request for a home based business of Kurt Robinson at
607 Shinagle Drive (L21, B3, Washington 4th Addition) for a period of one year.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

C. REPORTS:

1. Code Enforcement Report for January 2005:

City Engineer Shawn Soehren, presented the January 2005 Code Enforcement Report. He stated he is looking forward to 2005 residential numbers being comparable with 2004 but possibly higher in the multi-family and duplexes.

2. Planning and Zoning Commission meeting minutes of January 18, 2005:

Soehren stated two plats are in the preliminary stage and will likely be submitted for City Commission approval in March.

7. PUBLIC WORKS - MAINTENANCE AND UTILITIES:

N/A

8. ADMINISTRATION:

A. CITY ADMINISTRATOR REPORT:

1. Alcoholic Beverage Ordinance Amendment:

Sund stated revisions have been made to the alcoholic beverage ordinance amendment. Johnson questioned whether clarification should be made regarding the third offense. City Attorney Timothy Priebe stated he would clarify that portion of the amendment. Sund stated he would schedule a meeting with the liquor license holders regarding the draft and obtain

feedback from them prior to presenting it to the City Commission for consideration of first reading. Reitmeier questioned whether the ordinance should include language whereby there is a time frame for the violation to be relayed to the licensee. Priebe and Sund stated they would review potential language amendment.

2. Wastewater Backup Ordinance:

Sund referenced the Wastewater Backup ordinance. He stated the draft included language for actual cash value and depreciated value and asked for Commission input regarding their preference. Johnson questioned whether people know that actual cash value means depreciated value. Steiner stated actual cash value means new less depreciation. He stated he has more concern that the ordinance does not reference a cap than he is on whether it says cash value or depreciation value. Dukart also stated she desired to see the ordinance have a maximum payout amount. Reitmeier referenced last City Commission meeting discussion and the need to encourage homeowners to carry sewer backup coverage on their personal insurance policy and also feels there is need to have a cap placed on what the City will pay in the case of a sewer backup. Johnson referenced the expertise of Commissioner Steiner regarding insurance and noted that it was Steiner=s preference to reference payment based on replacement value with a limit on damages the city will cover. Steiner recommended a maximum of \$7,500 with replacement cost. Dukart questioned whether additional days for notifying the city should be extended from the three days as currently listed in the draft. Discussion was held as to referencing @three business days@ and further wording should a homeowner not be in town for an extended period of time and not aware of the damages. Staff was directed to revise the ordinance based on discussions.

3. Sunrise Youth Bureau Annual Report:

A copy of Sunrise Youth Bureau=s annual report for 2004 was presented with no oral discussion.

4. Legislative Bills:

Sund stated numerous bills are before legislature. He stated the bill regarding the NDPERS Health Insurance for retirees regardless their pension payout choice failed in the Senate along with the bill that would give cities the ability to collect cleanup costs from a former property owner. He stated numerous other bills are before the legislature that he would be testifying on. Sund stated should individuals be interested in legislative issues, he has placed legislative bill information on the City=s web page in the e-government section.

9. ACCOUNTS PAYABLE AND PAYROLL:

MOTION BY: Carson steiner SECONDED BY: Rhonda Dukart

to approve then accounts payable as presented with accounts payable numbers 55,585 to 55,753 and payroll with checks number 32,617 to 32,678 in the amount of \$310,682.27.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.

Motion declared duly passed.

10. CITY COMMISSIONERS= REPORTS:

N/A

11. PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA:

N/A

ADJOURNMENT

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart

for adjournment of the meeting at 7:50 PM

DISPOSITION: Motion carried unanimously.

OFFICIAL MINUTES PREPARED BY:

Administrator

Cindy Selinger, Assistant to City

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APPROVED BY:

Greg Sund, City Administrator

Dennis W. Johnson, President
Board of City Commissioners

Date: