

Attorney Kolling states taxing police or fire protection would present some sincere legal challenges. Kolling states street lights are an elective for the City to provide – not constitutionally or legally mandated to provide.

Citizen, Evelyn Bjorness asks the City to budget the way that families budget. Meduna states that families cannot add another fee or tax whenever they need more money. Families work with what they have already.

President Johnson relates there are two issues in the budget this year he would like to expand upon. One is the defined benefit pension plan. Membership in this plan was capped in 2006; new employees were offered a defined contribution plan instead. The long term pension obligation is being dissolved but there are still a lot of employees in the old pension plan. The City did not contribute all of the actuarial study recommended amounts to the 2010 pension plan. Johnson feels the market will be producing more funds in the future and a second actuarial study will be completed. The second issue is the health insurance. The City currently participates in ND PERS where there is a premium adjustment every two years. The 2010 premium increase is 35%. Johnsons feels these are two major costs in the 2010 budget and choices had to be made to lower the property tax burden. Also included in the budget is a 2% increase in the employee wage structure.

Seeing no further public comment, President Johnson closed the public hearing at 5:57 p.m.

5:45 PM

PUBLIC HEARING – LIQUOR LICENSE

President Johnson opened the public hearing at 5:58 p.m. to gather input regarding Liquor License violations.

Administrator Kessel informed the Commission that the Police Department along with a local agency do compliance checks of all liquor license holders to ensure compliance with local laws. Each time they bring a minor into the liquor establishment and the minor attempts to purchase alcohol. This time there were five violations and two for two the violators it was their second offense in 24 months. The penalty for violators according to ordinance is as follows: Second Offense; \$1,000 administrative penalty, plus one day suspension of alcoholic beverage license; also a mandatory hearing before the Board of City Commissioners.

Felipe Aquirre of El Sombrero Inc. stated that he is the minority owner of this restaurant/liquor establishment and he was the one that made the mistake of not carding the minor. Aquirre states they are trying to be more careful and not do it again. He states that he has visited with his employees and servers. His employees are taking advantage of the training the community offers. He states that now they are trying to card everyone.

Don Paul of Ponderosa Liquors states he is sorry to have to take up the Commissioners valuable time with this issue. He states Ponderosa has had a perfect record for 11 years and does not know how this incident had happened since their policy is to card almost everyone who comes in. These two infractions were done by two of his newest employees. These two employees do have regular employment and they work eight hours shifts there and then come to the liquor store and work a shift. The two shifts that the infraction occurred are the busiest times in the store. Mr. Paul has taken considerable measures such as no cell phone when working, more signs, bonuses if someone retrieves a fake ID, extra workers during busy hours, etc. Mr. Paul states that some customers do not respond well to getting carded. He feels sometimes his employees are at risk when they ask to check ID's as customers are offended. He feels the penalty for a second offense is very harsh and he doesn't feel the employee will be able to compensate for the fine.

Commissioner Dukart asks if they have a ticker or sign up on the door or around the cash register that states the year the minor needs to be born in order for them to be of age to buy liquor. Mr. Paul states there are two date tickers in his establishment. Paul feels that the minor who is breaking the law should be penalized.

President Johnson feels this ordinance has been written in such a way that does not allow the Commission to make any adjustments with the minimal penalty listed. Johnson realizes that in North Dakota there is a problem with under-aged drinking and drinking and driving. President

Johnson feels that Administrator Kessel and the liquor license holder can set up the date to administer the suspension.

Commissioner Steiner feels that Mr. Paul is very sincere in trying to correct the problems that cause violations in his liquor establishment. Steiner feels the hardship will be more for the liquor establishment rather than the restaurant/liquor establishment since they will still be able to serve food. Steiner feels the ordinance should be reviewed and to look at hardship in different situations.

Mr. Paul volunteered to work on a new ordinance or range of penalties for the violations. He feels that a 19 year old is not hoping to fall through the cracks when he is in a liquor establishment. A 19 year old will have a bootlegger or a big brother buys him alcohol.

Becky Byzewski, Safe Communities Coordinator states all liquor establishment personnel are required to attend server training. This is an extensive training in regards to ID's, rules, educations, etc. She feels this training is very informative and very precise in its training in order for servers to check ID's and what a minor ID looks like and to not make a mistake and serve a minor.

No further public comment was received, therefore President Johnson closed the public hearing at 6:30

MOTION BY: Joe Frenzel

SECONDED BY: Shirley Dukart

To allow Administrator Shawn Kessel to negotiate the suspension date with both violators and to collect the fine from the violation as stated in the City Code.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Motion declared duly passed.

6:00 PM

PROPERTY OWNER AND BUILDER EXEMPTIONS

President Johnson opened the public hearing at 6:31 p.m. to gather input regarding the property owner and builder exemptions.

Kyle Kuntz, Dickinson Area Home Builders Association Representative states both newly enacted laws were sponsored by the State Home Builders Association. The resolution which included new home owner's exemptions has expired. Kuntz feels that with the economy dropping and layoffs this affects the home owner's confidence and the decision to build homes. He feels the tax exemption that was created in 1983 is becoming less appealing every year as home values have increased way beyond that amount. The two year tax exemption value has not increased since 1983. At this time the two year exemption is being used by the builder and the new home owner doesn't get to use the full two years. Kuntz feels the new law should extend to condo and town homes also. Kuntz feels the new resolution should allow first time home buyers to get the first year at tax abatement at \$150,000 and the second year at \$75,000 and the builders should get a property tax exemption for \$150,000 for one year and have up to five homes being built. Mr. Kuntz also proposes to leave the abatement of \$75,000 for the first and second year but to start the abatement at the time the new owners buy the home. He feels the tax abatement is not fair in that a tax payer who has been in a home paying taxes on that home for 20 years get the same one or two year abatement as does the first time home owner. Kuntz feels there should be an incentive for the first time home owner and also the builder.

Citizen Leon Mallberg states he does not see the need for abatements. Mallberg feels people do not move to a City to receive tax abatement. He feels the only person that is benefiting from tax abatement is the home builder and that a builder should receive an abatement since he is taking a risk in building a home in hopes that someone will purchase it. Mallberg states that he has seen tax abatement for new home owners and he does not feel this drew any new people to our community.

Administrator Kessel stated a good discussion was held at a meeting between the City, public school, park and recreation, Stark county, and the builders/realtors. This meeting was for information purposes and to try and gain consensus and a recommendation for the commission.

Although consensus was not achieved opinion were shared with passion on many sides of the exemption issue. Kessel states that some cities are very aggressive in their decision while others are not.

Ron Zeller from Zeller Construction has some concern if the new law allows the second and third time home buyers receive a tax exemption. He feels some home owners will buy a home, live in it for 2-3 years, receive the exemption and then sell their home, move to another home and receive another tax exemption. He suggested a time limit as to how long a home owner should live in a new home, possibly five years. He feels some people will be “caterpillaring” this tax exemption over the years.

Commissioner Dukart inserts that we need to remember that our community, including banks, builders, realtors, etc. benefit when a new home is being built. Dukart states if we continue to give the \$75,000 incentive for home buyers that it is just an incentive as most new homes cost around \$250,000 or more to build. If you build a home for \$150,000 it is just a shell. The home owner is still paying taxes on the value over \$75,000 for two years.

Commissioner Frenzel feels that we should offer a tax exemption to first time home buyers but not to any additional home buyers.

Commissioner Jackson feels Stark County is in the same position as the City. Jackson does not know if giving this exemption is an incentive or not. We cannot prove this incentive as we have no way of tracking the incentive to build. He feels we should offer the exemption to the first time home buyer and look into this subject further for future discussion.

Mr. Kuntz states the ND Association of Home Builders completed a survey and based on 100 single family homes built in one year brought in \$17.1 million, 343 jobs, and \$703,000 in taxes in Minot. He states that housing does pay for itself.

Attorney Kolling states the new legislation went into effect on August 1, 2009. A new resolution needs to be written in order to update the current one as it is no longer in affect. This resolution needs to be approved by February 1, 2010.

President Johnson commended Mr. Kuntz on the presentation. President Johnson did agree with Mr. Mallberg regarding builder’s exemption as being the most important part of the agreement. Philosophically, the property should not be taxed until it is occupied or a reasonable amount of time. He does question the issue of how much of an incentive the exemption is. This probably would be more of an incentive if times were more difficult to build in. Johnson suggests that when times are good as they are right now with 5 to 6% mortgage rates and a strong demand for housing that this would be the time to have low or no exemptions. When the interest rate goes up to 9% and we see less employment opportunities this would be the time to have exemptions. Johnson does favor the builder’s exemptions, and because of the strength of economy and interest rates would go with the low exemption.

No further public comment was received, therefore President Johnson closed the public hearing at 7:04

6:30 PM

PUBLIC HEARING – UTILITY EASEMENT VACATION – N5’ OF S10’ OF LOT 6, BLOCK 2, STATES SECOND ADDITION

President Johnson opened the public hearing at 7:05 p.m. to gather input regarding a utility easement vacation at States Second Addition. City Engineer Shawn Soehren reports that the City Code allows a 10’ easement. This builder is requesting 5’ of the 10’ easement. All utility companies have signed off to vacate that portion of the easement. President Johnson closed the public hearing at 7:07 p.m.

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To authorize introducing Resolution No. 17-2009

RESOLUTION NO. 17-2009

A RESOLUTION APPROVING THAT VACATION OF A UTILITY EASEMENT IN THE CITY OF DICKINSON, NORTH DAKOTA.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Motion declared duly passed

NON-TIMETABLE AGENDA

4. **GENERAL ISSUES/FINANCE**

A. WATER TREATMENT PLANT ASSET ASSUMPTION

City Attorney, Matt Kolling brings up a matter for topic of discussion. Southwest Water Authority (SW Water Authority) would like the City to transfer the ownership of the treatment plant to SW Water. SW Water currently uses the City owned treatment plant. SW water would be interested in the buildings and land on which is built. SW Water would like to make some modifications to the plant but as they are not the owners they do not want to make the financial commitment. The insurance value on the property is \$7 million. SW Water was inquiring if the city could transfer the assets as a gift or an exchange without sale. Some concern is if SW Water purchases the property an increase of water rates could take place. Kolling states the current agreement states if either party defaults the contract the City would continue to have water.

President Johnson states the plant is insured for \$7 million but not necessarily is the plant worth that much since it has reached its maximum of useful life. He feels that it is only makes sense that SW Water would own the treatment facility.

Commissioner Frenzel feels the City should have some contract with SW Water in case they would ever go out of business and we would have to buy the plant back or start to produce our water.

Public Works Manager Skip Rapp feels that at some time SW Water will need to replace the water treatment plant.

Commissioner Dukart feels there should be some exchange for the sale of the plant, possibly water.

Commissioner Jackson feels that this is a significant event and would like to take some time to review our relationship and contract with SW Water. City Attorney Kolling will proceed on that basis.

B. CELEBRATE DIVERSITY

President Johnson presents the Proclamation for Celebrate Diversity of the Employment of Person with Disabilities. President Dennis Johnson read the proclamation and designated the week of October 18-24 as Celebrate Diversity week.

C. REPORT:

1. Hospitality Tax Ordinance Change (Enc.)

City Attorney, Matt Kolling reports the current Hospitality Tax Ordinance states the Convention and Visitors Bureau will receive a minimum of 20% of the 1% sales tax. If the new ordinance is adopted the allocation of the funding would be at the commissions discretion. Administrator Kessel states for the past two years this 20% has amounted to \$100,000-\$110,000. President Johnson informs everyone the 2% tax on motel/hotel rooms is 100% dedicated to the CVB. Johnson feels with the strong economy in Dickinson the 20% dedication would show a pretty significant increase and he would rather see the distribution be decided by the City Commission. If the occupancy tax goes down then the hospitality tax could be adjusted at that time. This ordinance will be brought to the City Commission Meeting on October 5, 2009.

5. **PUBLIC SAFETY**

A. Report:

1. Fire Department Monthly Report:

Fire Chief Bob Sivak highlighted the Fire Department's monthly report. He stated there was a notable fire at the baler building. This was reflected as a structure fire and not a trash fire confined to the area as first indicated. This change was made in the data base and also with the State Fire Department. Chief Sivak also reported routine inspections were completed on all the schools prior to their opening.

2. Police Department Monthly Report:

Police Chief Chuck Rummel highlighted the August, 2009 monthly report. He reported there were 60 accidents in August which is up from July. Rummel reports the opening days of school went very well and the school zone report was good. He also reports the South Sakakawea Narcotics Task Force had a very active month. In August SSNTF initiated five cases and they were submitted for prosecution.

6. **PUBLIC WORKS – ENGINEERING**

A. 12" Feedermain Project- 2009

City Engineer, Shawn Soehren, reports the bids were open for the 12" Feedermain Project for 2009. A total of six bids were received with Molstad Excavating, Inc. coming in as the low bidder. This project will start in 2-3 weeks as some work needs to be done on fire hydrants on Empire and pressure reducing valves in States Addition. Also some easements need to be finalized before the project can begin. Soehren reports the City is working with Southwest Water in trying to contract them in case of an emergency situation in order to fill the tank if needed. They are looking many options in order to have SW Water as backup if needed. Soehren will report with any new updates.

MOTION BY: Shirley Dukart

SECONDED BY: Joe Frenzel

To accept the low bid of \$548,362.00 for the 12" Feedermain Project – 2009 from Molstad Excavating, Inc. of Grand Forks, ND.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Motion declared duly passed.

B. Reports:

1. Planning and Zoning Commission Meeting Minutes – September 2, 2009

Soehren informed the Commission the Meeting Minutes were for informational purposes only.

Soehren updated the Commission on the slurry seal, this project has been completed except for the striping. The mill and overlay is now in full dept work; curb and gutter work is being done on 6th and 10th Avenues. Soehren reports there has been some congestion during the work but all and all the progress has come together pretty well and the projects have been turning out very well for the City.

7. **PUBLIC WORKS – MAINTENANCE AND UTILITIES**

None.

8. **ADMINISTRATION:**

A. City Administrator Report

1. ICMA Conference Report

Administrator Kessel updated the Commission on International City County Management Association conference. Kessel states this is a gather of City/County administrators/managers and is a wonderful opportunity to get hands on information on how other communities handle situations, reduce waste water, cooperate with one another, etc. Kessel hopes to implement some of the programs and knowledge gained.

2. Board Vacancies

Administrator Kessel announces the board openings that are now currently open at the City. Human Relations Commission has three openings; Civil Service has one opening and the Special Assessment Commission has an opening. Kessel states if anyone is interested in any of these positions to contact himself or Rita Binstock at City Hall.

9. **ACCOUNTS PAYABLE**

MOTION BY: Gene Jackson

SECONDED BY: Shirley Dukart

To approve the accounts payable list as presented along with the additional accounts payable list, numbers 070195 to 0070276. Said list is available in the Accounting Office.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Motion declared duly passed.

10. CITY COMMISSION:

None.

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

None.

ADJOURNMENT

MOTION BY: Joe Frenzel

SECONDED BY: Carson Steiner

For adjournment of the meeting at approximately 7:23 PM.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Motion declared duly passed.

OFFICIAL MINUTES PREPARED BY:

Rita Binstock, Assistant to City Administrator

APPROVED BY:

Shawn Kessel, City Administrator

Dennis W. Johnson, President
Board of City Commissioners

Date: _____