

I. CALL TO ORDER

Vice President Joe Frenzel called the meeting to order at 5:15 PM.

II. ROLL CALL

Present were: Vice President Joe Frenzel, Shirley Dukart and Carson Steiner

Absent were: President Dennis W. Johnson and Gene Jackson

STANDARD MOTIONS1. ORDER OF BUSINESS

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To approve the October 19, 2009 Order of Business as presented with the exception the 5:35 time table agenda item, H1N1 Presentation, is unable to be present at the meeting. The planned 6:05 presentation was moved forward to the 5:35 timetable agenda slot.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Gene Jackson

SECONDED BY: Shirley Dukart

A. Approval of minutes of regular meeting dated October 5, 2009

B. Approval of Software Update Advanced Weighing Systems for \$7,995.00

C. Approval of Traffic Safety Contract for 2010

D. Approval of State Historical Society of ND Grant Contract

E. Approval letter of opposing Public Safety Employer-Employee Cooperation Act 2009

F. Approval of Assignment of JABG Funds to Williams County

Roll call vote...Aye 3, Nay 0, Absent 2.

Motion declared duly passed.

TIMETABLE AGENDA

5:30 PM

INTRODUCTION AND OATH OF OFFICE FOR POLICE OFFICER TREY WEYER

Police Chief Chuck Rummel stated it was his privilege to introduce the newest Dickinson Police Officer, Trey Weyer. Rummel states Weyer is a Wibaux, MT native and graduated in the top half of his class. He then went to Rocky Mountain College and does have his private pilot license. Weyer did receive a BS in Pre Law in Political Science from DSU. Officer Weyer states that he feels Dickinson has a lot to offer to include hunting and fishing and he is quite pleased to be here.

Administrator Kessel swore in Trey Weyer with the Oath of a Police Officer and welcomed him to the community.

5:35 PM

2010 CENSUS PRESENTATION – LORI JORDHEIM

Lori Jordheim from Stark County Development speaks about the 2010 Census and how this information will be used to promote Dickinson, Stark County and SW North Dakota. She reports the Census is completed every 10 years. She states this year's form will be the shortest census form in history. These short forms have only 10 questions which refer to the number of members in your household, their age, and sex but the forms do not ask for social security numbers. All of the information on the forms is strictly confidential. In 2000, 281 million people were counted in the United States. A count of all individuals will be attempted as of April 1, 2010. Census forms will be sent to mailing addresses with bar codes but not post office boxes. Other means will be taken in order to count the post office box individuals. Snowbirds also need to be counted and it is very difficult for this to take place as many of the snowbirds have already traveled to warmer climates and census forms are not forwarded. Ms. Jordheim has created a snowbird poster and a post office box user flyers in order to increase the awareness for them to be counted in the Census. Another challenge will be counting the university students. The university students will need to fill out an individual Census form for 2010. Others challenges are to count oil industry workers and tornado victims who have been displaced. The federal government will not allow

grant funds to be used for paid advertising. The 2010 Census is of utmost importance as federal funding is tied to the results and political representation is also tied to census results. Jordheim would like to thank everyone who has allowed her to hang posters at their place of business. Lori expresses that everyone here wants to have a great place to live and we need tools to reach everyone in order for them to be counted for the Census. She would like to make everyone aware that they need to return the Census forms to make this campaign a success and to help Southwestern North Dakota grow and prosper.

Commissioner Dukart stated at the League of Cities Convention a statement was made that Dickinson was way ahead of everyone else in regards to the Census and Dukart thanked Lori for doing a great job.

5:50 PM

PUBLIC HEARING – HOSPITALITY TAX ORDINANCE

Vice President Joe Frenzel opened the public hearing at 5:48 p.m. to gather input regarding the Hospitality Tax Ordinance.

Terri Thiel, Executive Director of the Convention and Visitors Bureau (CVB) provides a brief power point and history on the CVB and the hospitality tax which was first created in 1992. Thiel explains this tax was specifically generated to fund the CVB to provide tourism to the City. Thiel would like to continue with the current Hospitality Tax Ordinance as this provides them with money to market the City and to support the community. Thiel continues with the concern of the discrepancy between her figures for the lodging and hospitality tax receipts for the year and the City's figures. She currently reports to have received \$189,473 this year which is up 17% from last year. According to the City's figures we are expected to close the year at \$310,000 which the CVB would need over \$60,000 for the months of November and December. Thiel figures a 5% increase on the dollars that the CVB would be receiving in 2010 from 2009. Ms. Thiel feels a six month reserve of \$150,000 is an adequate amount for the CVB.

Commissioner Dukart suggests the CVB receive a certain amount of money each month rather than having additional monies in the CVB reserve.

CVB President Pat Pender states the hospitality tax was formed with representatives from the hospitality industry to include motels, hotels, and liquor establishments to promote Dickinson and their destination. The strengths of the city are those people who have created the tax, these are the people who collect the tax and make our CVB work. Pender states with the expansion of lodging facilities, new facilities, new convention and visitor's center and the Badlands Activity Center these funds allow the CVB to begin to compete and expand promotional opportunities to fill our motels, hotels, bars and continue to have visitors from across the state. Pender states each day will not continue to be the best day so we should be aggressive when conditions are good and plan to continue. Pender does not support the ordinance change.

CVB Board Member Craig Steve states the CVB Board went through a day long analysis of the budget and they are responsible for overseeing the entire facility and staying within the budget. Steve states the CVB Board does not support the ordinance change.

CVB Board Member Terry O'Brien states there are nine board members with business backgrounds which include a president of a local bank. With this wide variety of business background he feels the CVB is well looked after.

Citizen Bob Heim stated that he was one of the founders of this tax. Heim states at the time this tax was initiated we had a sale tax committee, that tax committee was dissolved by Stark County Hospitality Association. The Hospitality Association recommended that 50% of tax receipts go to CVB. City Commission reduced the recommendation of 50% to 20% which Mr. Heim felt this reduction was wise as the remaining was used for other projects, BAC, etc. With these new projects we can add to the number of people coming to the community. Mr. Heim feels reducing this 20% means that the CVB will not know what dollar amount they will exactly receive and he would encourage the Commission to leave the ordinance as is.

Diana Knutson, concerned citizen stated that she has been on the CVB board for the past 17 years with being president for 7 years. Ms. Knutson's concern centers on the striking out of the portion

of the ordinance that is to fund the CVB. The wording in the current ordinance states that not less than 20% shall be given to the CVB. In the proposed ordinance this statement is completely taken out. She feels striking any reference to specific funding level is going totally against the ordinance itself. Knutson states success is a key word and the CVB is a very humble organization in tooting their horn. She states Dickinson CVB is one of the premium CVB's in the State. Dickinson's CVB has received many awards and the CVB takes a true leadership role in the community. The CVB has quality leadership at the board level, excellent staff, supportive community and commission. The CVB has visionary leaders who put into place a hospitality tax ordinance to support growth of an active CVB to ensure long term growth of Dickinson and to provide a consistent funding source. These items have all led to the CVB's ultimate success in Dickinson. Ms. Knutson does not support changing the current Hospitality Tax Ordinance.

City Attorney Matt Kolling states the hospitality tax was originated in 1982 and since that time state law has changed and the City ordinance has changed to separate the hospitality and the lodging tax. All of these taxes were imposed simply by a vote of City Commission, not approved by general public as a municipal vote.

Commissioner Steiner feels the CVB should be part of the City's budgeting process. Mr. Steiner would have felt better about this ordinance if the CVB would have been part of the 2010 budget creation. Steiner also feels that a nine month reserve would be a sufficient amount for the CVB. He feels the income from lodging and hospitality will be down this fall as with the H1N1 some hunters will not be coming to this area.

Vice President Frenzel feels that more community input should be allowed on this subject and not just let assumptions be made. Frenzel states the CVB finally has enough money to accomplish projects opposed to being barely holding their own so he is reluctant to eliminate the ability to do these things.

Vice President Frenzel asked if there was any other public comment. No other public comment was received. Vice President Joe Frenzel closed the public hearing at 6:19 p.m.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. CHAPTER 29 – PERSONNEL CODE

Administrator Kessel explains the personnel code revision which refers to a section of the code that allows an exemption of the public works director position from civil service review. The public works position has not been used for some time. Kessel reports with the reorganization the public works director job description needs to be subjected to Civil Service. With this first reading of the personnel code ordinance language to make public works director subject to Civil Service review.

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To approve the first reading of Ordinance 1374.

ORDINANCE NO. 1374

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 29.08.02120 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO OFFICERS AND EMPLOYEES COVERED – GENERALLY

DISPOSITION: Roll call vote...Aye 3, Nay 0, Absent 2.

Motion declared duly passed.

B. REPORT

Property Tax Exemption options for Builders and Buyers

City Attorney, Matt Kolling presents information on three options regarding the resolution for property tax exemption for builders and buyers. Home Buyers Option #1: Exemption of \$75,000 with 2 years; #2: \$75,000 with 1 year or #3: \$100,000 with 1 year. Home Builders Options #1: Exemption unlimited for 2 years and 10 homes limit #2: \$150,000 with 1 year and

5 homes limit #3: \$100,000 with 2 years and 10 homes limit. Kolling states the state limit for the number of homes a buyer can have exemptions on is 10. Kolling also explains if you already own the land and have a house built on the property the builder and buyer would get an exemption. The exemption for the home owner would be upon completion of the home.

Commissioner Dukart feels that the option could be mixed as to 1 or 2 years with an unlimited amount up to \$150,000 for up to 2 years. She would like to see the limit on homes for builders to change to a smaller limit.

Commissioner Frenzel feels the exemption for the buyer should be for 2 years and have the home builder limited to 5 homes instead of 10.

Commissioner Steiner would like to see the home buyer exemption for \$75,000 for 2 years but would accept \$100,000 for 2 years. Steiner feels 10 homes exemption for a builder is quite extreme and would like to see a buyer with \$100,000 for 2 years and 5 homes.

Attorney Kolling clarified questions as to the exemption as it only applies to first time home buyers. He also stated once a builder sells the property there is no more builder exemption, this exemption is non-transferrable. Also a building has to be unoccupied in order to get the exemption. If someone moves into the home the builder exemption no longer applies.

City Attorney Kolling reported a property tax exemption draft resolution will be created and presented at the next Commission meeting.

5. PUBLIC SAFETY

A. Report:

1. Fire Chief Bob Sivak highlighted the September, 2009 monthly report. He stated there were 23 total incidents for the month. The Fire Department took part in the annual Barbeque from the Heart competition and took first place. Sivak reports hazardous material operations training was held on September 11, 12 and 13th. This training is required to be part of the State's regional response plan. The Fire Department had received a grant from Stark County Emergency Management to cover the ancillary costs. Special training had taken place on and around the water tower north of Wal-Mart. Chief Sivak thanked Public Works Manager, Skip Rapp for the support and encouragement of this type of training. The new pumper was inspected and will be ready for final inspection at the end of October. Sivak reported the Fire Department received \$58,176.49 from the North Dakota Insurance Department. The North Dakota Insurance Department's payment reflects a portion of the insurance premium tax collected from the sale of certain insurance products sold within each fire district.

Battle of the Badges: Representative Lea Fink from the United Blood Services announced the third annual Battle of the Badges was held on September 14 and 15th. This battle is between local law enforcement and the fire department. Ms. Fink reports September is the most difficult month to collect blood. The blood drive in Dickinson had a wonderful response and was very successful with 125 donors with 25 of them being first time donors. Fink stated 134 units of blood were collected. Ms. Fink thanked the community, Fire Department and the local law enforcement for participating. This year's winner was the Fire Department. Ms. Fink presented Chief Sivak with the trophy.

2. Police Department Monthly Report:

Police Chief Rummel informed the Commission the Police Department Monthly Report is for informational purposes only.

6. PUBLIC WORKS – ENGINEERING

A. Final Plat – Morey Bang Piney Acres West Subdivision

City Engineer Shawn Soehren requested approval of the final plat for Morey Bang Piney Acres West Subdivision. He stated the property is located one mile Northwest of Dickinson. There are 15 lots which are approximately 5 acre lots. The planning and zoning commission has reviewed this final plat and along with Mr. Soehren would recommend approval of this Morey Bang Piney Acres West Subdivision.

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To authorize introducing Resolution 18-2009 for adoption.

RESOLUTION NO. 18-2009

A RESOLUTION APPROVING FINAL PLAT ENTITLED MOREY BANG PINEY ACRES WEST SUBDIVISION, STARK COUNTY, NORTH DAKOTA.

DISPOSITION: Roll call vote...Aye 3, Nay 0, Absent 2.

Motion declared duly passed.

B. Design Engineering Agreement on the 2010 Urban Roads Project

City Engineer Shawn Soehren presents the engineering agreement for the 2010 Urban Roads Project. This project would be for 1st and 2nd streets from Highway 22 to State Avenue. The cost of this project would be \$205,000. Mr. Soehren recommends awarding of the Professional Engineering Services agreement to Kadrmas, Lee and Jackson.

MOTION BY: Carson Steiner

SECONDED BY: Shirley Dukart

To approve the Professional Engineering Services Agreement with KLJ for the 2010 Urban Roads Project.

DISPOSITION: Motion carried unanimously.

C. Reports:

1. Board of Adjustment Meeting Minutes – September 21, 2009

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

2. Planning and Zoning Commission Meeting Minutes – September 30, 2009

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

7. PUBLIC WORKS – MAINTENANCE AND UTILITIES

Public Works Manager Skip Rapp asks the Commission to approve Sole Source JWC Septic Disposal System for \$61,000. This equipment would meter the volume from the waste haulers, remove the solids and de-water the material through existing equipment. Budgeted was \$84,000 between wastewater and solid waste. Installing this equipment would save approximately \$20,000.

MOTION BY: Carson Steiner

SECONDED BY: Shirley Dukart

To approve the purchase of Sole Source JWC Septic Disposal System for \$61,000 from JWC Environmental.

DISPOSITION: Roll call vote...Aye 3, Nay 0, Absent 2.

Motion declared duly passed.

8. ADMINISTRATION:

A. City Administrator Report

1. Real Estate Purchase Offer for Property North of KDIX

Administrator, Shawn Kessel stated HR Properties is interested in purchasing the lot North of KDIX radio. With the purchase of the property 10-12 staff cars would be moved from the immediate area and to the new area freeing up downtown parking. The sale of this property would be \$4.00 per square foot and be approximately \$85,000 for six lots. The City has sought alternative buyers but was unsuccessful. Kessel reports Assessor Zent, City Engineer Soehren and himself support this sale and will look forward to a vote on this issue at the next meeting.

2. Elks Building

Administrator Kessel reports he spoke with Granville (Beaver) Brinkman, owner of the former Elks building. Beaver informed Mr. Kessel that they are waiting for the arrival of the windows and they will be installed sometime in November. Upon completion of the installation of windows, interior improvements will be made to the 1st and 2nd level. Kessel did report that Brinkman did receive financing but not locally.

9. **ACCOUNTS PAYABLE**

MOTION BY: Carson Steiner

SECONDED BY: Shirley Dukart

To approve the accounts payable list as presented along with the additional accounts payable list, numbers 070480 to 0070639. Said list is available in the Accounting Office.

DISPOSITION: Roll call vote...Aye 3, Nay 0, Absent 2.

Motion declared duly passed.

10. **CITY COMMISSION:**

Commissioner Dukart spoke of some citizen concerns of rental property. Dukart has heard complaints from citizens of people who rent out their homes. The question Dukart has is how many people can rent a home. Administrator Kessel states the City has had complaints about the renting issue and along with the renting issue comes parking issues. Administrator Kessel states the ordinance for rental property in an R1 zoned area limit is four unrelated people. He states this ordinance is hard to enforce as there are only four people listed on the rental agreement but many more people come and stay with the original four. Kessel informs the Commission that Police Chief Rummel and City Engineer Soehren are reviewing this ordinance. City Engineer Shawn Soehren states that the City has written letters to the owners of the home stating they are in violation of the rental ordinance. Soehren is contacting the home owners to verify who is living at these residences.

Commissioner Dukart also questions the use of empty lots. She is concerned with people who have purchased empty lots with intentions of building homes on one day and now are parking their campers on the lot. Dukart feels this has created a snow problem in the wintertime. This is happening on Park Street. City Administrator Kessel states this issue has also turned into many complaints. This issue is also being addressed by the City Engineer and the Chief of Police.

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

None.

ADJOURNMENT

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

For adjournment of the meeting at approximately 6:30 PM.

DISPOSITION: Roll call vote...Aye 3, Nay 0, Absent 2.

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: _____