

I. CALL TO ORDER

President Dennis Johnson called the meeting to order at 5:15 PM.

II. ROLL CALL

Present were: President Dennis W. Johnson, Commissioners Carson Steiner, Shirley Dukart and Gene Jackson

Absent were: Commissioner Joe Frenzel

STANDARD MOTIONS1. ORDER OF BUSINESS

MOTION BY: Gene Jackson

SECONDED BY: Shirley Dukart

To approve the November 16, 2009 Order of Business as presented with two additional items under the General Issues/Finance; Eldercare Public Transit Agreement and a request for visitors committee funds to support an Eagle Scout Project.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Gene Jackson

SECONDED BY: Carson Steiner

A. Approval of minutes of regular meeting dated November 2, 2009; with the following correction, Item F – parking lot sale – seconded by Joe Frenzel.

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

Motion declared duly passed.

MOTION BY: Gene Jackson

SECONDED BY: Shirley Dukart

B. Approval of Pledged Securities Report dated September 30, 2009;

C. Approval of Sewer Relining Financing Agreement with Kinetic Leasing;

D. Approval of Supplemental Services Agreement with American Trust Center for OPEB Investment Fund;

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

Motion declared duly passed.

TIMETABLE AGENDA

5:30 PM

PROPERTY TAX ABATEMENT HEARING

President Dennis Johnson opened the public hearing at 5:30 p.m. to gather input regarding the Property Tax Abatement.

City Assessor Jan Zent stated that 31 property owners filed for tax abatement in 2009 due to the tornado damage. These people were given 50% deduction on their properties.

Commissioner Jackson asked what the \$1.6 million dollar reduction for the 2009 tornado damages would amount to in property tax dollars.

Zent stated it would be approximately \$30,000 using the total mill levy.

Jeremy J. & Cheryl Wanner	633 4th Avenue SE	\$	98,200	\$	52,200
Ryan Koeplin	541 1st Avenue SW	\$	118,200	\$	63,800
Florence A. Billig	517 1st Avenue SW	\$	168,000	\$	93,400
Raymond J. & Connie C. Wiege	691 1st Avenue SW	\$	112,500	\$	62,400
Donald P. & Dorothy Bussier	582 1st Avenue SW	\$	81,300	\$	50,100
Brad & Arlinda Holthus	587 2nd Avenue SW	\$	98,800	\$	54,100
Double D Construction	571 2nd Avenue SW	\$	105,300	\$	57,300
Pauline Kessel	549 2nd Avenue SW	\$	106,200	\$	101,100
Gerard Gayda	597 South Main	\$	169,500	\$	93,000
Gerard W. Gayda	89 6th Street SE	\$	186,300	\$	102,200

DP Enterprises	567 South Main	\$	43,800	\$	26,600
Dustin Dassinger	617 South Main	\$	108,400	\$	63,600
Daniel & Margo Frank	173 6th Street SE	\$	78,300	\$	75,800
Caroline M. Klein(Schmidt)	581 1st Avenue SE	\$	99,700	\$	92,800
Todd J. & LaRae M. Lynch	641 2nd Avenue SE	\$	105,200	\$	99,400
Chad & Sarah McCaskey	559 3rd Avenue SE	\$	96,100	\$	52,700
Paul J. & Terry A. Johnson	325 6th Street SE	\$	129,300	\$	75,000
Lennick Family Limited Partnership	267 & 287 7th Street SW	\$	218,100	\$	115,300
David J. Wanner, et-al	321 & 341 7th Street SW	\$	187,300	\$	99,800
Brian & Gail Urbanec	561 3rd Avenue SW	\$	135,600	\$	74,200
David M. & Mary D. Shetler	551 3rd Avenue SW	\$	126,800	\$	71,000
David M. & Mary D. Shetler	541 3rd Avenue SW	\$	112,600	\$	62,700
Micheal J. & Lora L. Berger	519 3rd Avenue SW	\$	112,000	\$	62,400
Rockford Corporation	507 3rd Avenue SW	\$	160,900	\$	84,100
Rockford Corporation	516 2nd Avenue SW	\$	207,800	\$	109,200
Rockford Corporation	534 2nd Avenue SW	\$	212,900	\$	111,800
Rockford Corporation	556 2nd Avenue SW	\$	209,300	\$	109,900
Larry S. & Lisa L. Heiser	558 3rd Avenue SW	\$	113,300	\$	63,100
John Gaffaney, Jr.	483 South Main	\$	156,500	\$	154,800
Wilbert E. & Julia J. Mayer	556 1st Avenue SW	\$	43,300	\$	31,100
Roger & Nanette Rapp	184 5th Street SW	\$	52,500	\$	31,600
		\$	3,954,000	\$	2,396,500

President Johnson asks for public input. Seeing no public comment, President Johnson closed the public hearing at 5:35 p.m.

MOTION BY: Shirley Dukart

SECONDED BY: Gene Jackson

To approve the 2009 tax abatements as presented.

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

Motion declared duly passed.

5:45 PM

DR. RICHARD MCCALLUM

Dr. McCallum thanks the City Commission for the opportunity to speak. McCallum would like to provide an overview on the activities and developments at DSU. Dr. McCallum sincerely thanks the City, Police Department, Stark County Sheriff's Office and everyone else who helped DSU and the families of the three lost students. He outlines DSU programs and the plan that is underway for their future. In 2015 DSU will face 10 year reaccreditation.

Dr. McCallum explains the five HLC (spell this out) criterion of the college as being the anchor and central focus of DSU. This vision is now becoming a reality. In the synchronization effort for efficiency five teams were formed to be anchored around accreditation. Dr. McCallum spoke about the hallmarks of distinction and the number of distinctions that they are very proud of such as the athletic program who have won four Commissioners Cups based on competitive scales, to achieve the winning score. Also, two teams have been with the National Rodeo Circuit. Dr. McCallum also explains the top five areas in regards to majors with Business Administration coming out at the top of the chart. He explains the growing numbers in DSU enrollment from 1999-2009. Since 1999 the total number of students has increased from 1867 to 2767 which is a wonderful increase.

Dr. McCallum also explains the outreach efforts and would like to thank the City for participating in the Theodore Roosevelt (TR) Symposium. The attendance increased this year and should continue in the future. In 2011, McCallum is proud to announce that the TR Associations Annual Meeting will be part of the 2011 symposium and this is a great accomplishment. Tentatively Ken Burns will be speaking at the symposium. The TR library is excited about converting all TR documents into a digital format. Harvard will be joining DSU with 55,000 documents to convert to digital.

The Strom Center continues to work very hard in human resources, business technology and marketing.

In regards to the Badlands Activity Center Dr. McCallum expresses that the community has enjoyed football games there this fall and noticed that the track and field are complete with the lighting and the building progressing in a very timely manner. He states that the construction is on schedule and is tentatively scheduled to be completed by April 15, 2010. There are hopes of an addition to the library. The addition to the library would be approximately 40,000 square feet and this would include a new home for the TR Center and the digital library. Dr. McCallum states that he would like to continue to inform everyone of his synchronization which would include the line of effort, fund raising effort, operation budget and the operating budget and make things work hard for DSU in order for DSU to be successful.

President Johnson states that he knows that Dr. McCallum, DSU student body and faculty along with the community have had a tough two weeks with the tragic accident and deaths of three DSU student athletes. Johnson is very impressed with the families of the students, impressed with Dr. McCallum and the student body on how they conducted themselves and spoke very well of DSU and out community.

6:00 PM

FINAL PUBLIC HEARING – HOSPITALITY TAX

President Dennis Johnson opened the public hearing at 6:06 p.m. to gather input regarding the Hospitality Tax Ordinance.

President Johnson presented a city sales tax use of funds statement:

There are four (4) different city sales taxes. Each tax has a different use of funds definition which is codified in either North Dakota state law or city ordinance. The occupancy tax has the most limited definition of use of funds. The other three sales taxes have multiple uses of fund options. While each use of funds definition is different there is some overlap in use of funds authorizations between taxes. For example, funding for the Badlands Activity Center meets both the requirements of the 30% portion of Sales Tax Two and the requirements of the Hospitality Tax. The inclusion of the word “tourism” in the Hospitality Tax use of funds definition allows the Hospitality Tax to be used for visitor promotion in the same manner as the Occupancy Tax. Since there is multiple uses of fund options available there are spending choices to be made. Making choices means determining priorities.

In North Dakota the discussions and debate regarding the setting of priorities and spending decisions for public money are to be done in a public meeting by the elected governing body that is accountable to the voters. Ordinances that require a fixed percentage spending allocation to nongovernment entities automatically removes those funds from other alternative public uses. Fixed percentage allocation ordinances remove those funds from public debate by the elected governing body regarding spending priorities and choices. Fixed percentage allocation ordinances transfer accountability for those funds to a nonelected board. The outcome is the nonelected board not having to justify its spending choices to the elected governing body or the public.

A number of supporters for fixed percentage allocation funding to the CVB said they support the status quo because it takes the politics out of funding the CVB. I agree; it does take the politics out of the funding of the CVB. I support the ordinance change because it puts the politics back into the CVB funding process. Budgeting of public funds should be part of the political process. Politics is debating and deciding between competing spending choices and priorities in a public meeting. Politics is allowing public input to be heard. Politics is the elected governing body annually taking responsibility for its entire budget. Second to choosing a city administrator, preparing and approving the annual budget is the most important action the city commission takes. I believe what the fixed percentage annual allocation does is take public input, transparency, and accountability from that portion of the budgeting process.

If energy prices remain strong and oil development continues to grow in the Dickinson area, the present funding formula for the CVB will produce about \$500,000 by 2011. The recent rapid growth of the occupancy tax and the hospitality tax are being driven by the energy sector rather than tourism. I question the need and the priority to allocate that amount of money to visitor promotion.

The CVB as of 12/31/08 had a reserve fund of about \$200,000. There was no public debate and public vote by the governing body to establish this reserve. State law authorizes two funds; a City Visitors' Promotion Fund and a City Visitors' Capital Construction Fund. State law did not authorize a third reserve fund to be held by the Convention and Visitors Bureau.

I support removing the requirement to grant the CVB a minimum of 20% of the hospitality tax. Furthermore, I propose the city commission expand this ordinance change to eliminate the requirement that all proceeds of the occupancy tax be dedicated to the Dickinson CVB. These amounts should be determined annually by the city commission during the normal budgeting process. This was the process prior to June 1997 when the present ordinances were enacted. I don't understand why the CVB should be exempt from the same budgeting process that city departments and other outside organizations are subject to annually.

The governing body of the city is the taxing entity and is charged by the state legislature with the responsibility for managing and administering these funds. The governing body of the city is abdicating its responsibility to transparency, accountability, and public input by having fixed percentage funding allocations to third parties.

Johnson states the governing body of the city is the taxing entity and is charged by the state legislature with the responsibility for managing and administering these funds. The governing body of the city is abdicating its responsibility to transparency, accountability, and public input by having fixed percentage funding allocations to third parties.

President Johnson presented a graph in regards to the city sales taxes use of funds which explained the 1% sales tax two; ½% sales tax three, 2% occupancy tax and 1% hospitality tax.

Commissioner Jackson states that he would like to confirm that the voting on this ordinance will probably take place next meeting should all five commissioners be present. He feels that everyone does not get the opportunity to talk about this issue except at meetings and he feels this is a very important issue. He agrees with the philosophical issue that money should not be transferred in an unlimited fashion to an entity that does not have direct accountability to the tax payer. He does not feel that it is inappropriate for the commission to revisit mechanics and reasons for the CVB subsidy or any subsidy as far as he is concerned. He feels that we should be careful to not micromanage as we should trust people with dollars and decisions. He feels the issue of politics is what we have to contend with. He feels that we should think about the original concept of the hospitality tax, keep that in mind and be careful about this issue. He feels that is appropriate that a local government scrutinize an entity that has a reserve amount probably bigger than any other entity. This is very difficult as the individuals involved with the CVB and the visitor's committees are people who have been loyal and made things happen in this community. He continued to state he thinks we need to openly call on Stark Development and the CVB, who receive tax dollars to come before the board voluntarily and present their subsidy from time to time. He feels that times have changed and the ordinance will need to be changed but just does not know how it should be changed. He feels there is a good discourse and a lot of people trying to do the right thing when these issues arise. Of course not everyone will come away happy but he does feel that something needs to be changed in this ordinance.

Commissioner Dukart feels the public is confused about the issue as there has not been any public point of view except for the CVB board coming to the meetings to speak out on the hospitality tax issue. The intent of the ordinance is to give the CVB money. She states that she would like the CVB to come to City budget meetings to asking for funding. She states the City is growing and would like to see this continue. Dukart states that we do not have a surplus of money.

Bernie Marsh, owner Esquire states that he did vote against the new hospitality tax ordinance.

President Johnson closed the public hearing at 6:18 p.m.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. PROPERTY TAX EXEMPTION OPTIONS FOR BUILDERS AND BUYERS

Administrator Kessel states that in his memo an error was made with the Option #4, he stated

10 properties would be allowed for the builder but in fact the Option #4 only allows a limit of 5 homes per builder.

Attorney Kolling stated this is the same resolution that was discussed at the previous commission meeting and it is the option that was selected and now it needs to be voted on.

MOTION BY: Gene Jackson
To authorize introducing Resolution No. 20-2009.

SECONDED BY: Shirley Dukart

RESOLUTION NO. 20-2009

A RESOLUTION PROVIDING FOR CERTAIN TAX EXEMPTIONS FOR NEW RESIDENTIAL CONSTRUCTION

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

B. FIRE DEPARTMENT PENSION PLAN

City Attorney Matt Kolling states this ordinance incorporates updates to the current Fire Department Pension Plan. This amendment would bring the plan in compliance with the IRS updates and codes. This reading is unchanged from the first reading.

MOTION BY: Shirley Dukart
To approve the second reading and final passage of Ordinance 1375.

SECONDED BY: Carson Steiner

ORDINANCE NO. 1375

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 32.16 PERTAINING TO PARTICIPATION IN THE DICKINSON VOLUNTEER FIRE DEPARTMENT PENSION PLAN

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

C. STREET LIGHT UTILITY

Administrator Kessel explains the concept endorsed by the 2010 budget on the creation of the street light utility via ordinance. This first reading encompasses the creation of street light utility. An additional resolution will create the fee structure and that will be proposed at this ordinance's second reading.

President Johnson invites the public for their input.

Commissioner Jackson feels this is worth repeating and talking about as 30% of the properties in the City do not pay property taxes. This is a relatively small item but it does give a portion to spread to all properties in the city. He states this year's budget did not increase property taxes other than new properties coming on so he feels we need to keep putting this perspective out there on this issue.

Commissioner Dukart asks how a meter size is determined.

Administrator Kessel state the meter size is determined by the water service line that comes into your residence, place of business, etc. The higher diameter water service line the larger water meter is used. Most residential properties have a 1" meter where apartment complexes, trailer court use a larger size such as a 6". These sizes are used to meet the demands of water usage.

MOTION BY: Gene Jackson
To approve the first reading of Ordinance 1376.

SECONDED BY: Carson Steiner

ORDINANCE NO. 1376

AN ORDINANCE ENACTING SECTION 33.16, *ET SEQ.*, OF THE CITY

5. PUBLIC SAFETY

1. **Fire Department Monthly Report – October, 2009**

Fire Chief Bob Sivak reports that a new flag pole was installed on the NE corner of the fire station. The old flag pole was attached to the second floor of the fire station and was taken down for safety reasons. The new flag pole was installed due to the generosity of Assistant Fire Chief Ed and Renae Sticka and also the BBQ team, Big K and others. Sivak would like to thank the community for all its support. Chief Sivak is proud to announce the arrival of the new fire truck. Training will begin next week on the use of the truck and the fire truck will be the first one out the door by the middle of December.

President Johnson would like to thank Chief Sivak, Assistant Chief Sticka and everyone who contributed to the construction a new flag pole as we certainly do appreciate the support.

Chief Sivak states that this new fire truck replaces a 1973 pumper. A community such as Dickinson needs to keep current with the equipment in order to help maintain classification to reduce the insurance rate. Some gains with the new fire pumper is that it is an automatic, ergonomically built for the city, holds more gallons of water, seatbelts for everyone, safety of the structure of the cab and body and one very important point is that firefighters are able to reach the hose beds while standing on the ground. This has always been a safety concern for firefighters. Sivak would like to thank the commission for their consideration to sell the 1973 pumper to Marmarth Fire Department. Sivak appreciates the generosity.

2. **Police Department Monthly Report – October, 2009**

Police Chief Chuck Rummel reports that during the month of October, 2009, 24 school zones were contacted. The Police Department reported that there has been a spike in the amount of accidents for the month of October. Rummel reports a seat belt usage survey was done by DNL Consulting Inc. and the results were shown that the seat belt use in Stark County is down from 85.3% to 74% in 2009. Rummel encourages the use of seatbelts and stresses the importance of using a seatbelt in either city limits or on the highway. He does not understand why the use of seatbelts is down from last year. The Police Department will be working very hard through the use of grants and overtime to enforce the usage of seatbelts.

Chief Rummel reports that he attended the 116th Annual Chief of Police Conference and received excellent training and networking with other chiefs.

Rummel reports there have been many vehicle parking complaints such as horse trailers, campers, etc. on the streets. The current law states that vehicles can be parked up to 48 hours in the same parking space. At that time the Police Department employees chalk the tires, place a sticker on the vehicle or ticket the vehicle. This policy entails a lengthy follow-up. There have been 102 complaints already this year as compared to 118 complaints last year. Neighbors do not approach other neighbors as they do not want to start a dispute. The most complaints received are about campers and trailers that are parked in the same spot for a long period of time. The owners only need to move their vehicles, etc. 3-10 feet to comply but this does not address the situation.

Officers have seen vehicles parked on streets for a week at a time and then moved on the weekends.

Chief Rummel suggests the possibility of a calendar parking ordinance. Calendar parking would not allow vehicles to be parked from 1:00 a.m. to 7:00 a.m. on streets one day and the other day vehicles would not be able to be parked on avenues. Calendar parking would become part of a routine and after it is established it works very well. Officers would be patrolling residential areas for some period of time during the night. Also a suggestion would be to enforce this ordinance only during certain times of the year; such as October through June or it could be enforced year round. In the wintertime, the removal of cars from the streets or avenues would allow the snow removal equipment to complete their job in a timely manner. Mr. Rummel suggest that possibly a survey could be sent out with utility bills.

President Johnson feels this would work out very well but possibly not enforce the ordinance all year long. Possibly enforce it more during the summer time but to be a little more lenient in the

winter time. Johnson feels it would make good sense of those working on street plows to not have to drive around vehicles to clean the streets. President Johnson is intrigued by this idea.

President Johnson asked Chief Rummel to report on a typical day of a Police Officer at the next commission meeting.

Commissioner Jackson feels this is an interesting idea and it certainly seems like it should work. There would be some question as to those who would work at different time and would have their vehicle on the streets at odd times.

6. PUBLIC WORKS – ENGINEERING

A. City Engineer, Shawn Soehren presents an Energy Services Agreement with Kadrmas, Lee and Jackson. Since there is funding available from the stimulus money additional projects will be completed. Soehren states signal controllers for the downtown area are being considered. These controllers are 30+ years old and currently the City is approaching other cities to find parts to fix these controllers. These new controllers would allow emergency vehicles to activate the signal lights to allow them to move through the green lights. The cost of the design work is \$20,000. Mr. Soehren recommends Kadrmas, Lee and Jackson for the Energy Services Agreement.

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To award the contract for Signal Control Replacements Project to Kadrmas, Lee and Jackson.

DISCUSSION: Commissioner Gene Jackson stated he would need to abstain from voting on the motion as he is an employee of Kadrmas, Lee and Jackson, Inc.

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

Motion declared duly passed

B. Reports:

Code Enforcement Report for October:

City Engineer, Shawn Soehren reported at this time there are 93 new commercial structures which is down from 110 as comparable to last year at this time. The single family dwelling permits are down by 8 at the present time as compared to last year.

7. PUBLIC WORKS – MAINTENANCE AND UTILITIES

N/A

8. ADMINISTRATION:

A. City Administrator Report

1. City of Dickinson Emergency Declaration

Administrator Kessel states the City of Dickinson Emergency Declaration is for report only as this declaration is required as assistance from the ND Highway Patrol, ND Civil Air Patrol and ND National Guard was requested. By declaring this declaration the City will not be responsible for reimbursing the State for the expenses involved with using those organizations staff and/or equipment. If the City should have needed to use the National Guard helicopters with their radar techniques it would have cost \$6,000 per hour.

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 070781 to 0070946. Said list is available in the Accounting Office.

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

Motion declared duly passed.

10. CITY COMMISSION:

None.

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

None.

ADJOURNMENT

MOTION BY: Shirley Dukart

SECONDED BY: Gene Jackson

For adjournment of the meeting at approximately 7:45 PM.

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

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: _____