

**I. CALL TO ORDER**

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

**II. ROLL CALL**

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

Absent were: None.

**STANDARD MOTIONS**

**1. ORDER OF BUSINESS**

MOTION BY: Gene Jackson

SECONDED BY: Shirley Dukart

To approve the May 3, 2010 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

**2. CONSENT AGENDA**

MOTION BY: Carson Steiner

SECONDED BY: Joe Frenzel

A. Approval of minutes of regular meeting dated April 19, 2010

B. Approval of Public Transit Contract Agreement

C. Approval of Smart Computer Agreement

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

Motion declared duly passed.

**TIMETABLE AGENDA**

5:30 PM

**LAND SALES – COUNTRY OAKS – BLOCKS PARITAL 6, ALL 7, 8, 9, 11, 12, and 13**

President Johnson commented two parties made an offer on the Country Oaks property. The recommendation from the city attorney and the city administrator were to sell it to Gary and Elaine Bullinger.

Chad Waechter from Landcore, LLC stated he had emailed a purchase agreement on 3/25/10. He was then asked to submit the purchase on the City's purchase agreement. Waechter was told that the purchase agreement looked good and that the city administrator would recommend approval of it. Mr. Waechter feels that they have complied with all the City's regulations and now they are being penalized for it. Jason Fridrich, Landcore, LLC was asked to include one piece of property that was inadvertently left off the purchase agreement.

President Johnson states one day after the City received the initial offer from Landcore the Bullingers gave a full price offer submitted on the City's purchase agreement form.

City Attorney Kolling informs the Commission the City's policy when an offer comes in on a city owned property at full price the administrator has the authority to sign the agreement. When there are multiple offers the first offer is the one that would receive the purchase. Kolling stated the City's prior practice is by quit claim deed and not warranty deed as Landcore, LLC entered on their purchase agreement.

Mr. Waechter was not aware of the real estate policy. He states he did everything Administrator Kessel asked of him to do and he asks the Commission to table the matter until the next meeting and review the emails that were between Administrator Kessel and himself as they would reveal that he has done everything that has been asked of him.

Mr. Kolling did state that Mr. Kessel, Administrator does have negotiating powers but does not have the authority to bind the city into any real estate agreement. This offer was not of full price. A nonstandard form for purchases has to come before the commission. He does not fault Mr. Waechter or Landcore, LLC for doing something wrong and tried to comply with the City's request and the problem is that Landcore, LLC's purchase agreement came in second.

President Johnson states that Mr. Kessel did not have the authority to make an agreement with Landcore, LLC and the commission only has the authority to okay the agreement.

Administrator Kessel wishes that he would have stated his emails much differently to Mr. Waechter then he did. He also states that he should have gotten the city attorney involved in the situation earlier.

President Johnson states theoretically since the City has an offer that complies with the real state policy it is deemed an offer. Johnson feels we should discuss and debate the real estate policy and place it on the agenda. He feels that it is good business on the part of the city when they receive multiple offers to negotiate with both parties.

Jason Fridrich, Landcore, LLC believes that if they would have been told to change their purchase agreement this would have been done immediately. He was not told that Mr. Kessel did not have any authority to negotiate. Fridrich states that he had negotiated in the past with the old administrator.

MOTION BY: Gene Jackson

SECONDED BY: Joe Frenzel

To consummate the sale of the Country Oaks property to Gary and Elaine Bullinger.

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

Motion declared duly passed.

5:45 PM

## **PUBLIC HEARING – REZONING PETITION**

### A. Terrance L. Clement- Country Oaks Estates

City Engineer Shawn Soehren received a rezoning petition for N129', Lot 8, Block 2, Country oaks Estates from a R2 (medium density) to an R3 (high density). Mr. Clement plans on building a six plex on this property. The planning and zoning commission did review this request and do recommend approval of this rezoning petition.

President Dennis Johnson opened the public hearing at 6:12 p.m. to gather input regarding the Terrance Clement rezoning petition.

Hearing no comment President Johnson closed the public hearing at 6:13 p.m.

MOTION BY: Shirley Dukart                                      SECONDED BY: Joe Frenzel  
To approve the first reading of Ordinance No. 1381.

**ORDINANCE NO. 1381**

**AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR  
REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCK OR  
TRACTS OF LAND WITHIN THE CITY LIMITS, CITY OF DICKINSON,  
NORTH DAKOTA.**

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.  
Motion declared duly passed.

## B. Hauck Family Trust – Country Oaks Estates

City Engineer Shawn Soehren received a rezoning petition for Lots 13, 14, 15, 16, 19, 20, 21, 22 Block 5 Country Oaks Estates 2<sup>nd</sup> Replat, Lots 5-11 Block 1 and all of Block 5. from a R2 (medium density) to an R3 (high density). Mr. Clement plans on building an eight plex with eight garages on this property. The planning and zoning commission did review this request and do recommend approval of this rezoning petition.

President Dennis Johnson opened the public hearing at 6:15 p.m. to gather input regarding the Hauck Family Truck – Country Oaks rezoning petition.

Hearing no comment President Johnson closed the public hearing at 6:16 p.m.

MOTION BY: Gene Jackson   SECONDED BY: Joe Frenzel  
To approve the first reading of Ordinance No. 1380.

**ORDINANCE NO. 1380**

**AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR  
REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCK OR  
TRACTS OF LAND WITHIN THE CITY LIMITS, CITY OF DICKINSON,  
NORTH DAKOTA.**

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.  
Motion declared duly passed.

**PUBLIC HEARING – SPECIAL USE PERMIT**

**A. Charbonneau Car Center**

City Engineer Shawn Soehren received a special use permit request to construct a parking lot in a R3 zoned area. The address for this lot would be at 444 1<sup>st</sup> Street West. Soehren states there was much debate at the Planning and Zoning Meeting. At the last planning and zoning meeting a contract for deed for the property arose. The owners did reject the contract for deed and decided to sell it to Charbonneau Car Center for a parking lot. Most of the area downtown is zoned R3.

President Dennis Johnson opened the public hearing at 6:18 p.m. to gather input regarding the Charbonneau Car Center Special Use Permit.

Resident Chuck Peterson asked the Commission to deny the special use permit. Peterson stated the house was for sale and Jeremy Davis was interested in purchasing the house for \$63,000. Davis's were unable to secure financing from the bank but with private financing the Davis's were able to enter into a Contract for Deed with the owners. The owners did not want to sell to the Davis's as they did not like the financing. Mr. Peterson would like to see the old house restored as the ones are in the same area. The house currently is not habitable. The purchase agreement was never signed by the buyer and seller.

City Attorney Matt Kolling stated Charbonneau applied for a special use permit for a parking lot. Kolling states what the Commission views the highest and best use of this property would be in order for the rezoning to occur. The planning of restoring this property was not feasible and recommends to commission approval of special use permit.

Tiffany Koller resident at 430 1<sup>st</sup> Street West would rather not see a parking lot next door to her.

Terry Saville resident at 125 5<sup>th</sup> Avenue West is also opposed to the special use permit. He states this would have an adverse effect on the enjoyment of present home owners. He would possibly restore it as a historic home. This restoration would add character and value to the city of Dickinson.

President Johnson closed the public hearing at 6:48 p.m.

MOTION BY: Gene Jackson    SECONDED BY: Shirley Dukart  
To deny the Special Use Permit request from Charbonneau Car Center for a parking lot  
on a R3 zoned lot.

### **B. FMWS Constructors, LLC – Brian Mortensen**

President Dennis Johnson opened the public hearing at 6:51 p.m. to gather input regarding the FMWS Constructors, LLC –Brian Motensen special use permit.

Engineer Soehren states this would be a \$190,000 unit type size facility. This developer also developed in the Stang addition and has some pretty nice units.

MOTION BY: Gene Jackson   SECONDED BY: Joe Frenzel  
To approve the Special Use Permit request from FMWS Constructors, LLC for the building and selling of duplexes.

### C. Carlie Wanner

Hearing no comment President Johnson closed the public hearing at 7:08 p.m.

MOTION BY: Gene Jackson

SECONDED BY: Carson Steiner

To approve the Special Use Permit request from TMJ Properties for the building of an 8 plex; multi-family unit in an LC zoned area.

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

Motion declared duly passed

Commissioner Dukart is concerned of all the additional boats and other vehicles parked on this open area now. Terrance Clement stated these items will be removed once the new building is complete.

### **NON-TIMETABLE AGENDA**

#### **4. GENERAL ISSUES/FINANCE**

##### **A. COMMUNITY ACTION TEEN DANCE – JULY 2, 2010**

City Administrator Shawn Kessel received a request to rent the armory for a teen dance. A previous teen dance revealed inadequate security, vandalism and under aged drinking.

Becky Byzewski, Community Action Safe Community Coordinator stated that a town hall meeting was held and the under aged youth expressed some concern of the lack of activities in Dickinson after 10:00 p.m. Ms. Byzewski states there is a lack of entertainment after 10:00 p.m. for the youth in Dickinson. Shirley Dukart from Home and Land Company has agreed to sponsor a teen dance on July 2, 2010. Ms. Byzewski would like to try this event again and hope that it will be a positive experience for the City.

Holly Praus, SADD Coordinator along with high school representatives from SADD spoke to the Commissioners on allowing the teens to have another teen dance. Ms. Praus, the students along with Ms. Byzewski are asking for the Commissioners support in allowing them to organize a teen dance.

Ms. Byzewski also states that private security will be hired to secure the facility during the dance.

President Johnson along with many of the Commissioners point to the lack of security that was shown the last time a teen dance was held. This lack of security did lead to vandalism at the armory.

Ms. Byzewski assured the Commissioners there would be private security hired for this event and the security in turn would monitor who would be entering the dance.

MOTION BY: Shirley Dukart

SECONDED BY: Gene Jackson

To allow the armory to be rented to Community Action for a teen dance on July 2, 2010 with the condition that security be hired.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.  
Motion declared duly passed

**B. CELL PHONE POLICY**

Administrator Kessel states the City has created a cell phone policy and there have been no changes to this policy since the first reading.

MOTION BY: Shirley Dukart  
SECONDDED BY: Carson Steiner  
To approve the second reading and final passage of Ordinance 1379.

**ORDINANCE NO. 1379**

**AN ORDINANCE ENACTING PARAGRAPH 14 OF SECTION 29.08.04040 \_  
OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA,  
RELATING TO CELL PHONE AND CELL PHONE EQUIPMENT  
POLICY.**

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.  
Motion declared duly passed

**5. PUBLIC SAFETY**

**A. Reports:**

**1. Assistance to Fire Fighters Grant – Chief Robert Sivak**

Fire Chief Bob Sivak states the grant process has begun. This funding is used to fund self contained breathing apparatus. This is the only grant opportunity to help the fire fighters fund the purchase. This is a matching grant of 5% based on population. The 5% is approximately \$8,800 which is not figured into the budget and would not be included in the budget until 2011.

MOTION BY: Shirley Dukart  
SECONDDED BY: Carson Steiner  
To approve to proceed with the application for Assistance to Fire Fighters Grant.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.  
Motion declared duly passed

**6. PUBLIC WORKS – ENGINEERING**

**A. FINAL PLAT – SCHWAB ADDITION**

City Engineer, Shawn Sohren presented the final plat on Schwab Addition and consideration of Resolution 08-2010. This property is located at NW1/4 of Section 6, T139N, R95W, 5<sup>th</sup> prime meridian.

MOTION BY: Joe Frenzel  
SECONDDED BY: Shirley Dukart



To authorize introduction Resolution 08-2010 for adoption

**RESOLUTION NO. 08-2010**

**A RESOLUTION APPROVING FINAL PLAT ENTITLED WAREHOUSE  
SUBDIVISION, STARK COUNTY, NORTH DAKOTA.**

DISPOSITION:       Roll call vote...Aye 5, Nay 0, Absent 0.  
Motion declared duly passed

**B. Reports:**

**1. 2010 Urban Road Project**

City Engineer Shawn Soehren reports on April 23, 2010 the urban road project bidding had opened. Northern Improvement was the lowest bidder at \$1,874,270. This bid was a lower result than the engineers cost. Soehren will bring the contract for signature.

**2. State bid for a 6x4 SBA 7400 International Truck**

City Engineer Shawn Soehren reported the city received a state bid for a 6x4 SBA 7400 International truck. With all the new emission regulations that came into effect the total cost for the truck is \$101,078.22 which is \$16,078 over the budgeted amount. Soehren reports other equipment was purchased at a lower cost so the remaining balance of those equipment purchases will be used for the purchase of the 7400 International Truck.

**3. Planning and Zoning Commission Meeting Minutes, April, 2010**

City Engineer Shawn Soehren presents the Planning and Zoning Meeting Minutes for informational purposes only.

Commissioner Jackson pointed out just how much residential construction the commission is approving. Jackson feels there could be up to 1500 new housing units. He feels the growth is exciting and welcoming to new families and new businesses. Jackson is concerned about the handle that the Commission has on the approving of new construction. He feels policies should be developed in regards to the following: annexation; strip development with commercial and residential between Dunn County; use of development impact fees for local and neighborhood extensions of infrastructures; and planning and zoning for major subdivisions to have the developers submit a developing plan.

Engineer Soehren did agree with Commissioner Jackson that there are many issues the City will need to deal with in the near future with development.

**4. Inspector/Planner Position**

City Engineer Shawn Soehren states with the City's development the need for an inspector/planner position has risen. Soehren reports the need for someone to help the full time inspectors.

President Johnson feels an additional inspector/planner is a much needed position. Johnson would not be opposed to amending the 2010 budget to add this much needed position.

Commissioner Jackson suggests the same position as it is for our greater community and also could possibly share this position with the county.

City Engineer Soehren informed the Commissioner the mill and overall project has begun and also the lift station which is located near Lincoln School.

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

**A. Reports:**

**1. Landfill Permit Renewal -2010**

Public Works Director Skip Rapp presents the Dickinson's Municipal Landfill permit which expires on September 8, 2010. Mr. Rapp is in the process of renewing the permit. A \$5000 application fee is required to renew this permit. Once the State receives the application there will be a 30 day comment period and then the permit will be reissued.

Commissioner Jackson states the ND Dept of Health compliments Mr. Rapp and his staff for the quality of work that is done at the landfill and how well it is run.

**8. ADMINISTRATION:**

**A. City Administrator Report**

**1. Dickinson Urban Forestry Committee Letter**

Administrator Kessel provides a letter from the Dickinson Urban Forestry Committee. This Committee provides the Commission with a recommendation in regards to the downtown park.

**2. Thank You Notes**

The City has received thank you notes from various Senior Citizen Centers around the community for the City's contribution of Senior Citizen Grant money.

**3. Baler Building Update**

City Administrator reported all restorations have been completed from the baler building fire. The total cost of damages was \$350,739.80. A partial payment for \$126,019.71 has been received and the City does expect to receive full restoration funds in the future.

**4. Testimony Provided to State of North Dakota Interim Transportation Committee**

Administrator Kessel provided information to an Interim Transportation Committee on issues and concerns Dickinson is facing with the growth it is encountering. The Transportation Committee was very receptive of the City's concerns and issues. The Federal Government is changing their funding and they believe the State of North Dakota will not have future funds and Cities will need to fund their own projects.

**5. Elks Building Update**

City Administrator Kessel received a tour of the Elks Building. Kessel states the tour was brief but the contractors are moving forward. Most of the work is complete on the second floor with the walls being studded out and drywall. The subfloor is in the 3<sup>rd</sup> and 4<sup>th</sup> floor and work on the first floor will begin this week. The contractors are working diligently towards the City's deadline.

**6. Fair Association Commitment**

On April 3, 2000 the City Commission passed a motion and entered into a joint powers agreement to dedicate \$500,000 from the 30% share of the 1% sales tax for a regional recreational facility. The agreement was amended and \$160,000 was provided to Southwest Speedway. The Stark County Board of Commissioners have now stated the fair association is no longer "first in line" for the funding.

**7. Stark County Unmet Needs**

Administrator Kessel reported the Stark County Unmet Needs Committee has concluded their work. This committee was created after the July, 2009 tornado. A report showed 51 applications and approximately \$120,000 was distributed to the needy. Kessel commends the committee on the hard work they did and thanks them for their dedication.

**8. 2009 Audit Report**

City Administrator Shawn Kessel reports the field work has been completed for the 2009 audit. The draft is in production and preliminary reports are positive. A final report will be presented at a later date.

**9. On/Off Liquor License Potential Expansion**

A request has been made for an additional on/off sale liquor license. Currently there are no on/off sale liquor licenses available. Information will be provided at the next meeting to support the population increase of 18,000 people in Dickinson.

Attorney Kolling states it would be wise for the City Commission to determine a fair method of allocating another license if one is allowed.

President Johnson states that liquor licenses are valuable and the City should not just give the licenses away. Johnson does not want to reinvent the wheel and create a new process in which to add another license.

Commissioner Frenzel feels the liquor license would be worth a considerable amount of money. Also Frenzel feels a license should not be issued to just anyone and that the Commission should take a look at who the person is, background, etc.

**9. ACCOUNTS PAYABLE**

Commissioner Steiner feels the accounts payable could be sent to the Commissioners electronically. He feels many documents that are related to the commission meeting could be sent electronically.

MOTION BY: Carson Steiner

SECONDED BY: Joe Frenzel

To approve the accounts payable list as presented along with the additional accounts payable list, numbers 072442 to 072586. 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:**

Commissioner Dukart would like to see the City start enforcing parking on lawns. Dukart states the city has turned into a big parking lot. Dukart has viewed many campers, cars, working equipment on the front lawn of residences. She feels if there is not enough room for the owner to park their extra vehicles in their driveway a new home should be found for them.

City Engineer Soehren states that this issue does fall within his realm as well and will make an effort to address this issue.

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

None.

**ADJOURNMENT**

MOTION BY: Shirley Dukart

SECONDED BY: Joe Frenzel

For adjournment of the meeting at approximately 7:55 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: \_\_\_\_\_