

**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, Gene Jackson, Klayton Oltmanns, Carson Steiner and Rod Landblom

Absent were: None

**STANDARD MOTIONS**

**1. ORDER OF BUSINESS**

MOTION BY: Klayton Oltmanns                      SECONDED BY: Carson Steiner

To approve the October 4, 2010 Order of Business as presented with the rescheduling of Battle of the Badges Award to the October 18, 2010 agenda.

DISPOSITION: Motion carried unanimously.

**2. CONSENT AGENDA**

MOTION BY: Carson Steiner                      SECONDED BY: Rod Landblom

A. Approval of minutes of regular meeting dated September 20, 2010.

B. Watermain Replacement Project 2010 Phase 1 & 2.

C. North Dakota Department of Transportation – Alcohol Highway Safety Grant

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

Motion declared duly passed.

**TIMETABLE AGENDA**

5:30 PM

**PUBLIC HEARING – APPLICATION FOR DRILLING AN OIL WELL**

City Engineer Shawn Soehren received a request from Halek Operating ND LLC to drill an oil well west of Dickinson. The Stark County shop road will be used to get to the oil well location. The Energy Committee recommends approval of this request. There were a couple of concerns, one being if the well is producing a screen would be required and two through the process of drilling the well the company has reserved pits to catch material from the well, typically they use 12 mill thickness but 16 is requested at this time.

President Johnson opens the public hearing at 5:31.

Citizen Bob Walton thanks the City Commission for all their hard work and they do a good job for the City.

President Johnson closed the hearing at 5:32.

Commissioner Landblom asks who the mineral right owners are.

City Engineer Soehren replies the City does not require this information prior to approving or disapproving the well.

MOTION BY: Carson Steiner                      SECONDED BY: Klayton Oltmanns  
To approve the Halek Operating ND LLC Oil Well Permit with the condition that a 16" mill liner be used along with a 6' chain link fence with slats be installed for screening requirements.

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

5:40 PM

**BATTLE OF THE BADGES AWARD- LEAH FINK**

Tabled until October 18, 2010 meeting.

5:50 PM

**WEST RIVER COMMUNITY CENTER BOND**

City Attorney Matt Kolling introduces Mike Manstrom from Dougherty and Company, LLC to explain the refinancing of the bonds for the West River Community Center.

Mike Manstrom from Dougherty and Company, LLC presents the bond issue for refinancing the West River Community Center. The principal balance amount of \$1,990,000 is still remaining for the Community Center and with the refinancing the city would be able to save \$46,343.00. Manstrom explains the City would still need to make their normal December payment and the savings will begin next year. Manstrom does explain that Dickinson is rated A which is a very good rating.

MOTION BY: Klayton Oltmanns                      SECONDED BY: Carson Steiner  
To authorize introducing Resolution No. 38-2010.

**RESOLUTION AUTHORIZING ISSUANCE OF \$1,990,000 SALES TAX  
REFUNDING REVENUE BONDS, SERIES 2010**

President Dennis Johnson opened the public hearing at 6:04 p.m. to gather input regarding the Lyons Subdivision petition.



Commissioner Jackson feels this plat looks very good in character now compared to earlier.

**PUBLIC HEARING – REZONING PETITION – DIAMOND ACRES SUBDIVISION**

City Engineer Soehren received a request to rezone Diamond Acres Subdivision. This area currently has requested to be zoned to Residential Low, Residential Medium, Residential High Densities and General Commercial. Soehren states this plat has been reviewed for an extensive amount of time and feels this makeup of zoning fits pretty well in this area.

Commission Landblom is concerned about the general commercial area as he is concerned about the influence on the residential area.

President Dennis Johnson opened the public hearing at 6:18 p.m. to gather input regarding the Diamond Acres Subdivision petition. Hearing no public input President Johnson closed the public hearing at 6:19 p.m.

MOTION BY: Carson Steiner      SECONDED BY: Klayton Oltmanns  
To approve the first reading of Ordinance No. 1399.

**ORDINANCE NO. 1399**

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

6:20 PM

**THEODORE ROOSEVELT REGIONAL AIRPORT – MATT REMYNSE**

Administrator Kessel introduces TRRA Manager Matt Remyse as he is here this evening to discuss a subsidy request regarding expansion at the regional airport.

Matt Remyse, Manager of Theodore Roosevelt Regional Airport, comes before the Commission this evening to request \$100,000 for a new hanger. Since Mr. Remyse's original request of \$250,000 he has achieved other funding of \$150,000. Remyse's projected revenue after the hanger is built is \$34,000. He explains certain expenses that Dickinson Air Services would incur in operating the hanger but is not certain on the costs of insurance, etc. Remyse will be speaking to Stark, Dunn county officials and Stark Development within the next

few weeks and ask them for funding for the hanger. Mr. Remyse states the overnight flight has been wonderful for Dickinson. He reports there has not been a morning in September that there have been less than 20 passengers on flight in the a.m. The airport will be looking at housing overnight aircraft in Dickinson in the wintertime. Remyse states with the 100x100 hanger additional aircraft will be able to be housed overnight. This hanger will be used for commercial and general aviation. Remyse reviews MOA and explains this to City Commission.

Commissioner Oltmanns commends Mr. Remyse on the work he has done on reviewing other funding for the hanger. Oltmanns feels this is a very important project to the community and especially since Dickinson is very close to 10,000 enplanements.

Mr. Remyse states the worse scenario would be if no funding would be received from either county. His choices would be to apply for more funding in 2011 before continuing with construction. He would prefer to have action soon in order to design the building before the end of 2010. Remyse feels the start of construction could take place beginning in the spring of 2011.

President Johnson feels the use of hospitality tax towards this project would be feasible as this project meets the definition quite well. Johnson states the hospitality tax will end the year with \$650,000 cash balance. If the Commission is in favor of this project this certainly could be a source of funding. This project will be placed on the October 18, 2010 agenda.

6:30 PM

#### **DISCUSSION OF NORTHSIDE ANNEXATION**

Mark Hendrickson from Northern Improvement states that Northern Improvement is opposed to annexation and would like this motion currently withdrawn. He does not have a problem with developing an area but does not feel this annexation needs to cover such a wide area to the north. He feels the area surrounding Northern Improvement is already developed and does not need to become part of the City. Hendrickson states there will be no additional services to them should they be annexed into the City. The only problem he sees is the taxes will be higher and nothing in return for the higher property taxes. He feels they will not better themselves if they were annexed.

Bill Gion, Human Resource Manager from Wyoming Casing speaks on behalf of Steve Halvorson. He would like the City to re-establish the north boundary of annexation. He is also not opposed to growth south of Wyoming Casing but he does not feel the need to be annexed at this time. He feels this issue could be revisited at a different time. Mr. Gion states Wyoming Casing is self sufficient at

this time and feels the dollars collected could be used in some other area. He feels if the City would consider the north line of annexation it would be a win/win situation. Wyoming Casing is in the process of building a third building. Gion feels that having his company in the county is a real independence in this community and doesn't feel the city services are necessary at this time.

TJ Herauf from Coca-Cola Bottling Co. questions the annexation and if this could be amended. He does not feel the City taxes are an issue for Coca-Cola but he knows services will not be constructed to his property for quite a few years. He also does not like the idea that the services will be brought to his property and then the company is responsible for the installation. He also questions the fireworks stand that he usually has each year and what kind of issue it would be for the City. He questions the responsibility of installing water and sewer to his company and also the drainage facilities that he now has. Who will be responsible for the costs incurred to replace these items. At this time Mr. Herauf does oppose the annexation and feels that a line could be drawn just south of Tooz Construction. Herauf states if the pool of people opposing the annexation are less than 25% of the property it is very frustrating.

Attorney Kolling explains the annexation process and how it needs to be carried out once an initial motion is made to accept the ordinance.

Commissioner Jackson explains that properties will be assessed specials once services are provided.

President Johnson states it is hard to say what is going to happen in the future as there may be different commissioners, different owners, etc. He feels the major reason for the annexation is to develop the area that is adjacent to the City. He does not want the City to get ringed in by those developments that are outside of the City standards. President Johnson states the only way that the city can annex the property is to get enough property to total up so that the opposing has less than 25%. Johnson states the City is growing to the north and if the City continues to have land developed around the opposing citizens it does make sense that this little piece of land be outside of the City. Johnson states it is in the best interest of the City for those opposing to come into the city. The City does have a 2 mile jurisdiction beyond its boundaries. Johnson would like to see a natural growth of the City and that growth is to the north.

Commissioner Jackson states the City does not have all the answers to the questions right now. At this time the Commission feels this is the right way to go with the annexation. Jackson states that up until now there has been no balance between the home owners and the business owners who have businesses outside

of the city. He feels now is the opportune time to have the fairness issue to spread to both where you work and where you live.

Commissioner Oltmanns states that 20-30 years ago the commission sat down and mapped out a master plan and held new subdivisions coming in to a higher standard and now the current Commissioners are clearing up those issues and expenses are falling back on the taxpayers. This is the way things get accomplished and this will be the most equitable way to ensure this. The curb, streets and gutters will need to be developed to City standards as we are trying to move forward in development.

Jay Wilhelm – Dickinson Econostorage states that taxes are the real reason that they do not want to be annexed into the City. Wilhelm already has access to water and septic. Wilhelm feels that annexation on the south side of Tooz would be a more proper cut off line. He states the main reason he moved to the county was to get away from water, sewer, curb, gutter as this is very expensive to construct. He was wondering who would help pay for those expenses should the annexation pass.

President Johnson states when the construction will take place a new set of Commissioners will probably be in control and hopefully they will consider helping the landowners.

Dale Andrus, All Seasons Storage, thanks Shawn Kessel and Shawn Soehren for answering questions in regards to the annexation. Andrus is opposed to the annexation at this time as they do not need sewer or water. He is not in favor of the boundary lines at this time.

Susan Knutson from Andrus Outdoors is concerned because her bait tanks need fresh water and not City water. They also need to run 24 hours day with the fresh water supply. Right now Andrus's have a drainage field which is going to be complete within the next few weeks and the cost is \$7,000. She states it will be years until the company will receive curb, water, sewer, gutter and then will be responsible to remove the septic system that Andrus Outdoors already has. She states they cannot use City water; treatments in the water kill the bait in three minutes. Also she is concerned about the hours of operation for her store. She states that she is not supporting the annexation either because of the higher taxes they will be charged. She does not feel that they need to pay for the taxes for 20 years until the services will reach them. She would like the City to reconsider the boundaries for the annexation. Ms. Knutson feels the City is "black mailing" as some of the businesses were left out of the annexation so that the minority only owned 23% of the land mass.



City Engineer states even if this annexation takes place it does not mean that citizens would have to have City water as they can still have well water.

Attorney Kolling does explain the Sunday opening law is a creature of the State and the City has no law regarding Sunday opening.

Mark Hendrickson from Northern Improvement feels that most businesses would like to build outside of the City limits. They do not want to be in the cluster of the City. Northern Improvement does have big trucks with big equipment and prefers not to have those in the City limits. He feels these would end up being tight quarters and tough to get the equipment around. He feels business is more conducive to be outside of the City.

President Johnson advised again the City has a two miles jurisdiction already and this does give the City further zoning authority. Johnson feels the City will grow beyond this area in a matter of time.

Commission Jackson states the City is growing towards Northern Improvement and the congestion is coming towards the company. Jackson states the City is looking out for the good of the entire community.

Commissioner Steiner feels that these individuals could apply for some tax break when the curb, sewer and gutter are constructed.

Fire Chief Robert Sivak states the issue of annexation has been discussed with the rural fire department. Sivak explains some issues will need to be resolved prior to the City taking over the area for fire control.

Administrator Kessel feels with using City's Fire Department it would lower the County's expenses and burdens. He states there have been no final decisions as discussion is still taking place. The County does have a limited and tight budget and taking away their mills could impact the County.

Police Chief Chuck Rummel states annexing this area into the City would put a burden on the police force as there would be more territory to patrol. The Police Department does work 24/7 while the County officers do not work this 24/7 so there will be more security. The City is already seeing a tremendous growth in the City with quite an influx in people and calls. Chief Rummel states the Police Department is not against the annexation.

### **NON-TIMETABLE AGENDA**

4. **GENERAL ISSUES/FINANCE**

**A. 2011 ANNUAL APPROPRIATIONS ORDINANCE**

President Johnson invites the public to comment.

Bernie Marsh, Esquire Club feels the raising of the annual fee of the liquor license renewal should have been announced publically or at least the liquor establishments should have been notified of this increase. He was asking if the City would be able to ask the public transportation to review their hours to enable them to provide rides until 1:00 a.m. from Sunday through Thursday. Mr. Marsh does give rides home to his patrons when public transportation is unavailable. Mr. Marsh's daughter has spoken to the cab with no results. He states it is very difficult to get rides for his patrons if they are not prescheduled.

President Johnson states the City does give public transit a fairly significant subsidy for 2011 of \$52,500.

MOTION BY: Gene Jackson

SECONDED BY: Klayton Oltmanns

To approve the first reading of Ordinance No. 1390.

**ORDINANCE NO. 1390**

**ANNUAL APPROPRIATION AND TAX LEVY**

**AN ORDINANCE ENTITLED "THE ANNUAL APPROPRIATION AND TAX LEVY" APPROPRIATING THE SUM OF MONEY NECESSARY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF DICKINSON, NORTH DAKOTA, AND MAKING THE ANNUAL TAX LEVY FOR THE FISCAL YEAR BEGINNING JANUARY 01, 2011 AND ENDING DECEMBER 31, 2011, INCLUSIVE.**

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

**B. CELEBRATE WHITE CANE SAFETY DAY**

President Johnson announces Celebrate White Cane Safety Day which is related to those individuals who are vision impaired in our community. This Proclamation encourages people to be aware of those individuals, especially those traveling through our community. Should anyone come across a guide dog or someone using a white cane to use extreme caution and care. President Johnson read and signed the Proclamation.

**C. CITY ATTORNEY AGREEMENT**

City Administrator Kessel reviewed the new city attorney agreement with the Commission. The current agreement sets a monthly cost and the City is billed separately for issues not covered under retainer. The new contract will have two rates of pay; 1) there will be a charge for attending meetings which is a proactive side which will be billed at a lower rate and 2) items where a work product is created will be billed at a slightly higher rate. This new contract will require the City staff to manage a little better. The fee may be slightly higher in 2011 but this was also budgeted.

Commissioner Jackson commends Mr. Kolling on an excellent job that he does for the City during this busy time of the year.

MOTION BY: Gene Jackson                      SECONDED BY: Carson Steiner

To approve the City Attorney Agreement.

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

#### **D. LIQUOR LICENSE REPORT**

City Attorney Matt Kolling states the proposed ordinance covers a number of matters. 1: Provides potential on/off liquor license sale by bid process 2: Caterers' license 3: Annual fees per classes as directed by city commission and 4: Issuance fee and transfer fees.

Commissioner Jackson questions a catering license and if that means you can have a hosted bar under this license or does it still need a special use permit.

President Johnson feels this ordinance should say cash or hosted bar or some other verbiage. Johnson feels the Commission would like to accommodate the caterers without the intention of serving alcohol other than contracted events not open to the public.

City Attorney Kolling states Lady J's feels a distinction needs to be made between the caterer and restaurant business. This ordinance would allow the caterer to offer liquor off premises but a restaurant license would still be required if their intentions are to offer alcohol on premises. If this was still the procedure for Lady J's they would need a restaurant and caterer license.

President Johnson would like some of the CPA designation wordage be corrected on the ordinance.

Commissioner Jackson questions if Lady J's serves alcohol whether they need to have both licenses.

Kolling states if it states she can have catering on her premises the City could run into some issues of enforcement problems. A defined area in which alcohol will be served needs to be designated.

City Administrator Kessel is wondering if there would be a better way to handle this issue as her concern is paying too much for a license. Kessel feels a different draft needs to be drawn up and presented at the next meeting.

Commissioner Oltmanns would like to clean up the strangling license, Evil Olive. He feels if this ordinance is going to be resolved he would like to see all the finishing touches so that the Commission will not have to come back in a few months to review it again.

President Johnson states the general feeling of four of the Commissioners is to leave the Evil Olive as it is. He would like to see a new ordinance and a first reading at the October 18, 2010 meeting and at that time Mr. Oltmanns can argue it diligently to change the ordinance. At that time Mr. Johnson will ask for public comment.

## **5. PUBLIC SAFETY**

### **A. Reports:**

#### **A. Fire Department**

##### **1. Fire Prevention Week Proclamation**

Fire Chief Bob Sivak presents the Governor's Proclamation recognizing October 3-9, 2010 as Fire Prevention Week. Chief Sivak read the proclamation. Sivak would like to make citizens aware of smoke alarms, testing smoke alarms and replacing them after 10 years of use. Sivak states when the time changes citizens should change their batteries in their smoke alarms.

##### **2. Kidde Fire Trainers**

Fire Chief Bob Sivak presents a proposal from Kidde Fire for work to be done on the tank prop at the training site. Sivak is requesting for Kidde Fire as the sole source vendor for work on fire props. This the only vendor that would build the tank prop that is needed for training. The equipment will be paid through an Energy Impact Grant of \$93,500 that the City has received.

MOTION BY: Gene Jackson

SECONDED BY: Rod Landblom

To approve the Kidde Fire Trainers Agreement.

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

**B. Police Department**

**1. Ordinance for Avoiding Traffic Device**

Captain Dassinger presents an ordinance for avoiding traffic device. With the rising number of motorists at the intersection of States and Fairway traffic has been proceeding through the strip mall to get on Fairway. Pedestrian safety is a concern in the parking lot. There is major traffic flow issues at the intersection and to avoid waiting several people are cutting through the strip mall parking area.

MOTION BY: Gene Jackson

SECONDED BY: Klayton Oltmanns

To approve the first reading of Ordinance No. 1400.

**ORDINANCE NO. 1400**

**AN ORDINANCE ENACTING SECTION 23.16.100 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO AVOIDING A TRAFFIC DEVICE**

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

Captain Dassinger enlightens the Commission on the training that was received from the ND Highway Patrol on weight limits and the weighing of trucks. An ordinance in regards to weight limits will be presented at the 10/18/10 meeting.

**6. PUBLIC WORKS – ENGINEERING**

**A. REPORTS:**

**1. Board of Adjustment Meeting Minutes, September 13, 2010**

City Engineer Shawn Soehren states there are some fairly large structures being constructed. A revision in the existing ordinance in regards to wall height limits may be presented soon as there have been some issues in regards to this.

**2. Planning and Zoning Meeting Minutes, September 15, 2010**

City Engineer Shawn Soehren states there are three subdivisions that will be presented in the near future.

**3. Energy Committee Meeting Minutes, September 15, 2010**

City Engineer Shawn Soehren explains the Energy Committee Minutes are for informational purposes only but the oil well discussed tonight was one of the Energy Committee issues.

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

A. **None.**

**8. ADMINISTRATION:**

**A. City Administrator Report**

**1. Thank You Note**

Provided for informational purposes only.

**2. ND League of Cities**

Administrator Kessel reports President Dennis Johnson has received the Elected Official of the Year from the ND League of Cities.

**3. Friends of Transit Award**

Kessel reports Dickinson received the Friends of Transit Award along with Eldercare receiving Innovator of the Year and Driver of the Year awards.

**9. ACCOUNTS PAYABLE**

MOTION BY: Rod Landblom

SECONDED BY: Carson Steiner

To approve the accounts payable list as presented along with the additional accounts payable list, numbers 073959 to 074073. 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: Carson Steiner

SECONDED BY: Rod Landblom

For adjournment of the meeting at approximately 8:00 PM.

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

Motion declared duly passed.

OFFICIAL MINUTES PREPARED BY:

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Rita Binstock, Assistant to City Administrator

APPROVED BY:

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Shawn Kessel, City Administrator

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Dennis W. Johnson, President  
Board of City Commissioners

Date: \_\_\_\_\_