

**I. CALL TO ORDER**

President Dennis W. Johnson called the meeting to order at 4:30 PM.

**II. ROLL CALL**

Present were: President Dennis W. Johnson, Commissioners Joe Frenzel,  
Carson Steiner and Klayton Oltmanns

Absent: Gene Jackson

**STANDARD MOTIONS**

**1. ORDER OF BUSINESS**

MOTION BY: Joe Frenzel

SECONDED BY: Carson Steiner

To approve the December 5, 2011 Order of Business with the addition of 4A –  
Dickinson Armory Roof completion contract.

DISPOSITION: Motion carried unanimously.

**2. CONSENT AGENDA**

MOTION BY: Carson Steiner

SECONDED BY: Joe Frenzel

A. Approval of minutes of regular meeting dated November 21, 2011

B. Approval of Accounts Payable - (078191-078288)

C. Approval of Pledge of Securities dated September 30, 2011

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

**TIMETABLE AGENDA**

**5:00PM**

**PUBLIC HEARING – REZONING PETITION**

**BLOCK 1, LOTS 1-10 KOCHS MEADOW HILLS SECOND SUBDIVISION**

City Planner Ed Courton states this request is for Koch's Meadow Hills 2<sup>nd</sup>  
Addition from R1 to R2 and R3 for Block 1, Lots 1-10. This site is located  
westerly of 10<sup>th</sup> Avenue West and northerly of Koch's Meadow Hills 1<sup>st</sup> Addition.

President Johnson opened the public hearing at 5:05 p.m. to gather input  
regarding Koch's Meadow Hills Second Subdivision rezoning petition.

Hearing no comment President Johnson closed the public hearing at 5:06 p.m.

MOTION BY: Carson Steiner

SECONDED BY: Klayton Oltmanns

To approve the first reading of Ordinance No. 1438

**ORDINANCE NO. 1438**

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 4, Nay 0, Absent 1.  
Motion declared duly passed

**5:05PM**

**PUBLIC HEARING – REZONING PETITION**

**LYONS SUBDIVISION**

City Planner Ed Courton states this request is for Lyons Subdivision from R1 to R2 for the property depicted on the enclosed map. This site is easterly of 4<sup>th</sup> Avenue East and southerly of 40<sup>th</sup> Street East.

Johnson opened the public hearing at 5:08 p.m. to gather input regarding Lyons Subdivision rezoning petition.

Hearing no comment President Johnson closed the public hearing at 5:09 p.m.

MOTION BY: Klayton Oltmanns                      SECONDED BY: Carson Steiner  
To approve the first reading of Ordinance No. 1439

**ORDINANCE NO. 1439**

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 4, Nay 0, Absent 1.  
Motion declared duly passed

**5:10PM**

**PUBLIC HEARING – REZONING PETITION**

**LOTS 2-4, VAAGEN SUBDIVISION**

City Planner Ed Courton states this request is for Vaagen Subdivision from AG to RR. This site is located northerly of 25<sup>th</sup> Street SW and from intersection of 10<sup>th</sup> Avenue East and 21<sup>st</sup> Street East.

Johnson opened the public hearing at 5:10 p.m. to gather input regarding Lyons Subdivision rezoning petition.

Hearing no comment President Johnson closed the public hearing at 5:11 p.m.

MOTION BY: Klayton Oltmanns                      SECONDED BY: Carson Steiner  
To approve the first reading of Ordinance No. 1440

**ORDINANCE NO. 1440**

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 4, Nay 0, Absent 1.  
Motion declared duly passed

**5:15 PM**

**PUBLIC HEARING – SPECIAL USE PERMIT – WESTON SOLUTIONS**

City Planner Ed Courton presents a special use permit application which would use an office space in a residential R2 zoned area. This office would be located at 509 3<sup>rd</sup> Avenue West. Weston Solutions would be allowing their employees to work and live in the same building.

Johnson opened the public hearing at 5:11 p.m. to gather input regarding Weston Solutions Special Use Permit.

Hearing no comment President Johnson closed the public hearing at 5:12 p.m.

MOTION BY: Carson Steiner                      SECONDED BY: Klayton Oltmanns  
To approve the request of Weston Solutions to operate an office at 509 3<sup>rd</sup> Avenue West.

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

**NON-TIMETABLE AGENDA**

**4.**

MOTION BY: Klayton Oltmanns                      SECONDED BY: Joe Frenzel  
To authorize ratifying the attached Visitors Committee Board Member terms.

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

#### D. PRECINCTS AND POLLING PLACES

Administrator Kessel states Stark County is requesting to consolidate the existing seven precincts into two and use the newly established legislative districts as the new precinct boundaries. Administrator Kessel states there would be at least two different election centers, possibly the Armory and the BAC.

MOTION BY Carson Steiner                      SECONDED BY: Joe Frenzel  
To approve the second reading and final passage of Ordinance No. 1435.

**ORDINANCE NO. 1435**

**AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 1.080 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO PRECINCT BOUNDARIES AND POLLING PLACES**

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

## E. ZONING ORDINANCE CHANGE – CAMPGROUNDS

City Attorney Matt Kolling presents a proposed revision of the zoning ordinance for campgrounds which adds language preventing the use of campgrounds as “crew camp” facilities without the consent or the issuance of a special use permit. This ordinance would make sure no property is used as a man camp without consent. The ordinance states campgrounds are intended for tourist and recreational use and not to be used as man camps. The ordinance states a 14 day stay is allowed in the campground. Kolling states the number of days could be negotiated.

## President Johnson asks for public input.

Bert Lombard from Camp on the Heart states his park is a licensed trailer park campground. Lombard is opposed to the 14 day stay limit as he thinks this is a major concern. He has various visitors on his campground ranging from nurses to developers who need to stay more than 14 days. He states his campground is a suitable, pleasant place to stay while the alternative places are full. Mr. Lombard states the City should be concerned about the affect it will have on others such as

MDU, people who sell campers, etc. He feels further restrictions are not going to solve the problem.

Ted Bratten of North Park feels this ordinance has two problems: 1: It limits the time and people that they can rent to. 2: He feels this restriction should be left up to the owner of the campground. Bratten knows Dickinson has a housing problem and desperate times demand desperate measures. He feels even if you can find a place to rent, you cannot afford it.

Commissioner Oltmanns states if North Park and Camp on the Heart are zoned appropriately this ordinance will not affect them.

City Attorney states this ordinance was created so that the City does not have any campgrounds operating as crew camps.

City Planner Courton states this ordinance is to clear up the wording as the zoning code is vague and needs to be clarified. Courton states there is not a campground in this City at this time that it would affect.

Fire Chief Sivak states Camp on the Heart is considered in the City limits. North Park is considered to be a campground and is licensed as a campground but zoned as a mobile home park.

Courton states a campground does not allow for a mobile or manufactured home, just tents and RV's. Mobile home parks allow for mobile or manufactured homes. Courton states the ordinance is specific to campgrounds as it is originally vague.

Rod Shaper from Roughrider RV's asks for a definition of a campground/mobile/manufactured home park. He also is concerned about the 14 day limitation.

Ms. Teri Walker, a single mom living at North Park is concerned as she has no other place to live then at North Park. She states it would be a horrible thing if she had to live on the street. She does not want to be homeless.

Maureen Bratten of North Park states most of the people who are living in the campground are energy industry workers. Bratten wants to maintain North Park as a recreational campground. Bratten states they are not going to turn people away that need a place to live. She states by cutting their business people will be out of work. She just wants those people to have a safe place to call home.

Valerie Fugett, Manager of Heartland Homes questions the intent of the ordinance and wonders if this will affect the operation of Heartland Homes.

President Johnson states the ordinance wants to make sure someone does not establish a business such as a campground and turn it into a crew camp. Johnson does not want to have someone skirt the issue and come up with a crew camp that evades the City's intent.

Courton does agree that the intent provides some clarification and tries to differentiate a camp site from manufactured/mobile home park.

President Johnson does understand the concern and states no one wants to throw a single mom out of a campground. Johnson does see the need for temporary housing. Discussion took place in regards to the table of codes. Johnson would like to hold a public hearing in regards to this matter.

Commissioners agreed to move forward with the ordinance but strike section e. 4.

MOTION BY: Klayton Oltmanns                      SECONDED BY: Carson Steiner  
To approve the first reading of Ordinance No. 1437

#### **ORDINANCE NO. 1437**

AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 39.06.005 RELATING TO SUPPLEMENTAL USE REGULATIONS: COMMERCIAL USE; AND TABLE 4-2 OF ARTICLE 39.04 RELATING TO PERMITTED USES BY ZONING DISTRICT.

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

President Johnson does thank the public for all their comments.

#### **F. RECYCLING SITE COMPLIANCE ORDINANCE**

City Administrator Kessel presents the recycling site compliance ordinance to establish an infraction when dumping materials other than what the recycling site is intended for. There would be up to a \$500 fine per offense. A sign will be posted at the site stating a fine will be imposed.

President Johnson asks for public comments. Hearing no comments the following motion was made.

Commissioner Steiner asks the ordinance be submitted to the Police Department once it is signed.

MOTION BY Joe Frenzel                      SECONDED BY: Klayton Oltmanns  
To approve the first reading of Ordinance No. 1441

**ORDINANCE NO. 1441**

**AN ORDINANCE ENACTING SECTION 25.16.12160 OF THE CITY  
CODE OF THE CITY OF DICKINSON, NORTH DAKOTA,  
RELATING TO UNLAWFUL DEPOSIT OF MATERIALS AT  
RECYCLING SITES**

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

**G. KOCH'S DEVELOPMENT AGREEMENT**

City Attorney Matt Kolling presents the Koch's Development Agreement. Kolling has talked with Mr. Koch and Mr. Lefor. Koch has signed the agreement and presented an \$8,000 check to the City. Koch also presented a copy of an estimate of the trees that will be planted as a tree buffer.

Mr. Greg Lefor, land owner states he received a quote of \$18,000 to create a tree buffer along the property line. Lefor discusses the tree line and kinds of trees to be planted. Lefor states the Development Agreement does not specify the minimum height or species that need to be planted.

Attorney Kolling states that he cannot see anything that Mr. Koch did not comply with.

Attorney Mike Maus appearing on behalf of Greg Lefor discusses the property line in which the trees are to be planted. Maus is also concerned about the tree rows creating an opaque shelter and deciduous trees do not provide privacy in the winter time. Maus also feels there should be some guarantee of the trees along with mulching and staking of them. Maus feels some sort of guarantee should be given to the landowner.

Attorney Kolling states the agreement has been drafted as it pertains to Lots 6-13 of Block 5. There was no prior discussion about the tree row on the west end of Mr. Lefor's property. Kolling states if the trees do not grow 6' tall then the City can take the option of bringing a case against the owner. A restrictive covenant



can be enforced by any benefited owner. Kolling states whomever purchases the lots have to take care of the trees and keep the barrier there.

Lefor states things are not specified and finalized the correct way in his opinion. Lefor does not feel the bid that was submitted by Mr. Koch states the size of the tree, what to do with the trees, allow perimeter for watering, and Lefor would like this issue cleaned up and done right. He feels the purpose of this buffer was to create privacy and trees with leaves does not create privacy. Lefor has seen developers digging basements and pouring footings on this property.

Commissioner Steiner would like to invite Mr. Koch back to the meeting and discuss this issue.

President Johnson feels Mr. Koch has complied with the previous request and signed the agreement. Johnson hesitates to bring Mr. Koch back to the table again.

City Planner Courton states the Lefor property would be for the most part opaque except for a short time over the winter but they are probably not outside and so there would be no problems. Courton also states the deciduous trees would have to be severely pruned and if too close together would die.

Kolling explains the City Code on buffering.

Commissioner Steiner does feel that the City should hold off on the agreement until the next visit with Mr. Koch.

Kolling is concerned as the Commission has already made an approval of the agreement with the contingency on the record of Koch's Third Addition plat. Kolling states Koch has complied with this Commission by signing an agreement and provided surety for the trees. Kolling recommends approval of the agreement and consider the contingency sufficient or remove the contingency.

Courton states that a building permit was not issued but a grade and site along with pouring the foundation can be done prior to issuing a permit.

MOTION BY: Carson Steiner

To deny the consideration to approve the Development Agreement with Koch's.  
Motion died due to lack of a second

MOTION BY Joe Frenzel

SECONDED BY: Klayton Oltmanns

City Attorney states this is different than the agreement that was signed. The City would have to return the security deposit and provide Koch with a revised copy of the agreement. The contingency upon recording the Third Addition would remain on the agreement. The plat cannot be recorded at this time according to Kolling. Kolling states no recording can be done until such time as a Development Agreement is signed. Kolling states the City has offered an agreement to Koch and he has agreed to sign it but now the Commission is changing the rules of the agreement and this may create some headaches for the City in the future.

Discussion was had in regards to the Development Impact Fees in that Koch's still will be requesting funds.

MOTION BY: Joe Frenzel                      SECONDED BY: Klayton Oltmanns  
To direct staff to send a copy of the buffering ordinance to Mr. Koch  
DISPOSITION:            Roll call vote...Aye 4, Nay 0, Absent 1.  
Motion declared duly passed.

MOTION BY: Klayton Oltmanns  
To approve Koch Development Agreement.

Mr. Lefor is questioning the Commission on what their hurry is in approving the agreement.

Commissioner Frenzel requests this issue be taken back to the Planning and Zoning Board to discuss this kind of issue and deal with the buffer zones.

## **1. Stark Development Corporation Multi-Funding Agreement**

Administrator Kessel presents the revised version of the Stark Development Corporation Multi-Funding Agreement. The five year agreement starting at \$550,000 per year does provide annual increases of \$50,000 per year up to \$750,000. Minor changes were made to the original agreement but overall do not change materially to the agreement.

## **2. Joint Powers Agreement**

Administrator Kessel presents the Joint Powers Agreement that will be presented to Stark County Commission tomorrow. This agreement would allow the City of Dickinson to hire an assistant planner to share their time 50/50 with Stark County. The new employee would work 80 hours for each entity each month with an average salary of \$55,000 a year with 35% benefits. Kessel feels hiring this assistant planner will be a benefit to the county as well.

## **3. Elks Building Update.**

Administrator Kessel states he visited with Beaver Brinkman and the lawsuit has been settled in part. Brinkman's organization will be reimbursed and this should be settled in January, 2012. Kessel reports the City stands now with no extension being offered. Kessel presents the three options the City has as follows: 1: Do nothing; 2: Initiate litigation and 3: Wait again or issue another extension. Brinkman stated he has another partner to provide bridge financing until funds are received and he will be paying for the building permit in December. Brinkman will provide the sales agreement. Kessel states the City is probably not interested in litigation as there are many liens against the building.

## **4. State of Kansas**

Kessel states the State of Kansas is experiencing an oil boom of its own. Dickinson has hosted Kansas officials and in turn Kansas officials did invite and host City employees on the 2<sup>nd</sup> of December in Kansas. Kessel, City Engineer Soehren and Fire Chief Sivak did attend the meeting and addressed 80 officials from the State of Kansas on oil impacts, what to expect and various items with rapid growth. Kessel states Sivak and Soehren did an admirable job in presenting.

## **5. PUBLIC SAFETY**

### **A. Reports:**

## **6. PUBLIC WORKS/PLANNING**

### **A. REZONING PETITION – LOT 1, BLOCKS 1, PRAUS'S FIRST SUBDIVISION**

City Planner Ed Courton presents the rezoning petition for Praus's First Subdivision. This would be rezoned from LI (Light Industrial) to R-1 (Residential

City Planner Courton presents the November, 2011 Code Enforcement Report which shows that values are well ahead of building permit and alterations values from last year.

### **3. Public Works Projects Update**

#### **a. Truck Route**

City Engineer Soehren states the Department of Transportation has visited Dickinson and as a result funds were provided for an Environmental Study for a truck route. They will be reviewing all impacts along the routes, precast and problems to do a project like this. The study will be looking at 4 or 5 alternatives in that direction to come up with the best solution on how the truck route should be created. The key component to the study would be the ending point of the truck route. The route will be in the NW part of town.

#### **b. Urban Roads Program**

Soehren lists the current projects from the Department of Transportation Urban Roads. There are many projects to be completed in the future and these projects are 80/20 match except for Highway ND22 where this is a regional project where the Department of Transportation pays for the 20%.

#### **c. Waste Water Treatment Facility**

Soehren states currently the facility is 30% design. Apex will be invited to next commission meeting. Apex is redefining some of the building sizes and cost estimates and will present this information at the meeting. Apex would like to design the facility to be expandable. Apex currently has an estimate of 31,000 people in 20 years. Soehren states we are awaiting the census figures from NDSU.

#### **d. Landfill Master Plan**

Soehren has received a draft master plan from Wenck and Associates. He states they have done a great job and will be meeting with them later on this week. They will also come and do a presentation on the landfill project. Wenck did help the City with drafting the application for renewal. All indications are that the State is okay with the application as a whole. The master plan will be information for the City on types of equipment, personnel and the fee structure. Soehren states with the added waste from oil industry the City may be low on fees.

#### **e. Department of Transportation**

Soehren stated that an informational meeting was held with the Department of Transportation on the Highway 22 project north of Dickinson. They would like to create a 5 lane highway from the end of the City to the Dunn County line. Several people did attend this meeting. There was much discussion on installing a light on the corner of 40<sup>th</sup> and

22<sup>nd</sup>, Soehren asked DOT to review this light due to the added growth in that area.

7. **CITY COMMISSION**

None.

8. **PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA**

City Attorney Matt Kolling gave a brief introduction of Attorney Bekki Weldon who will be assisting Mr. Kolling with the municipal prosecution duties in which there are 34 scheduled cases for pretrial in January.

**ADJOURNMENT**

MOTION BY: Klayton Oltmanns

SECONDED BY: Joe Frenzel

For adjournment of the meeting at approximately 7:15 PM.

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

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: \_\_\_\_\_