

I. CALL TO ORDER

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

II. ROLL CALL

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

Absent: None.

STANDARD MOTIONS

1. ORDER OF BUSINESS

MOTION BY: Shirley Dukart SECONDED BY: Klayton Oltmanns
To approve the November 5, 2012 Order of Business as presented with the addition of a 5:40 time table, presentation of the Public Works Building.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Klayton Oltmanns SECONDED BY: Gene Jackson

- A. Approval of minutes of regular meeting dated October 15, 2012;
- B. Approval of Accounts Payable (via email);
- C. Approval of Liberty Tire Recycling LLC Contract
- D. Approval of sale of 1999 Street Sweeper to City of Gladstone, ND
- E. Approval of Cleaning Contract with Able, Inc.

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

TIMETABLE AGENDA

5:00 PM

PUBLIC HEARING – REZONE PETITIONS

1. Northern Heights Subdivision

City Planner Ed Courton presents a rezoning petition from AG to R2 for the +/- four (4) acre existing plat. The site is located easterly of State Avenue and is

President Johnson opens the public hearing at 5:10 p.m. Hearing no public comment on Northern Heights Subdivision the following motion was made.

ORDINANCE NO. 1487

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

City Planner Ed Courton presents a rezoning petition for Koch Meadow Hills 4th Addition. Courton states there is a well head issue which needs to be resolved before this rezoning can occur.

Mike Koch of Koch Property Investments states that he understands the safety factor and his design is up to 150'. Koch states if it is not to exceed 150' it would virtually take away 14 lots.

Fire Chief Robert Sivak makes a point of clarification that he had visited with Mr. Koch prior and the residential properties were not addressed in the fire code. The first time Sivak was in contact with Mr. Koch the property was not annexed into the City. Sivak does recommend 150' and a barrier around the well site properties. Sivak states soon there could possibly be 10 wells in the City limits. All wells do require work over rigs at some time.

City Assessor Joe Hirschfeld states FHA does require 200' in order to be eligible for financing.

Gene Jackson suggested that the Commission only approve the zoning change for Lot 1 Block 4 of the request. The rezoning petition for other lots could be postponed until the well head issue is resolved.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns
To approve the first reading of Ordinance No. 1488

ORDINANCE NO. 1488

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.

Mr. Koch states if the law states 150' he would be able to build on 10 lots and if it changes to 200' he would get 5 lots.

City Administrator Kessel would like to table this issue until the next meeting.

President Dennis Johnson feels the houses should be moved as far away from the well site as possible. Johnson feels the City has some responsibility, as platting was approved under one set of rules and then the City changed the rules. The City would like to see the least amount of harm to the developer and the people living there.

3. St. Joseph's Hospital and Health Center

City Planner Ed Courton presents a rezoning petition from Park to Planned Unit Development (PUD) for the future St. Joseph's Hospital and associated medical and residential uses. The project consists of a hospital, three-story medical office building, helipad, residential housing and other medical-related buildings. The site is located to the south of Empire Road, west of 23rd Avenue, north of Fairway Street and east of the I-94 Business Loop. The parcel size is +/- 68 acres. The Planning and Zoning Commission and City staff recommend approval contingent on eleven (11) conditions of approval. Prior to Final Approval of the PUD ("PUD"), the City shall approve the Planned Unit

President Johnson closes the public hearing at 5:37 p.m.

ORDINANCE NO. 1489

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

City Planner Ed Courton presents a Special Use Permit is to allow a tax accounting business in a R1 district as a Home Occupation within a residence consistent with Section 39.06.008. The property is located immediately to the west of the West Dickinson Industrial Park and is accessed by 114th Avenue SW. The Planning and Zoning Commission and City staff recommend approval contingent on the following two (2) conditions of approval. The project must remain in compliance with Section 39.06.008 at all times. The approval of the

Home Occupation Permit shall be terminated if the business use is changed or the business ceases operation for more than one (1) year.

MOTION BY: Carson Steiner SECONDED BY: Klayton Oltmanns
To approve the special use permit for Larry and Valerie Robinson to include the two conditions.

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

5:25 PM

ELGI, LLC DEVELOPMENT IMPACT FEES

City Planner Ed Courton presents a request for Development Impact Fees from Sax Motor Company.

Attorney Mike Maus states that Sax Motors did meet with Dave Kitzan and Kitzan has withdrawn any objection of impact fees. Maus states that Sax motor company will pay 75% of the specials and the home owners will pay 25%.

City Attorney Matt Kolling states the resolution this evening only establishes the district in which the development impact fees will be applied. Kolling states that when the project is complete specials will then be distributed per the Special Assessment Committee's recommendation.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns
To approve the EGLI, LLC Development Impact Fees. Resolution 64-2012.

RESOLUTION NO. 64-2012

**A RESOLUTION APPROVING THE USE OF IMPACT FEES FOR
INFRASTRUCTURE IMPROVEMENTS AND THE INTENT OF THE
CITY OF DICKINSON TO REIMBURSE ITSELF AT A FUTURE TIME
THROUGH THE ISSUANCE OF BONDS IN COMPLIANCE WITH
REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL
REVENUE CODE**

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

5:40 PM

HULSING AND ASSOCIATES

Jan Prchal from Hulsing and Associates presents the City of Dickinson Public Works Facility and Animal Shelter along with the probable cost. Ms. Prchal states the Public Works building is 98,000 square feet. She presents the site plan with secured fencing around the entire site. Prchal states the project's projected cost is \$15 million dollars. She states to add onto the building would cost approximately \$150 per square foot. At this time the building is 220' x 200'. Ms. Prchal also presents the animal shelter and the cost of this building is \$1,167,000.

Administrator Kessel explains some of the features of the animal shelter. Kessel also stated Stark County was asked if they would like to be part of the animal shelter and Stark County would prefer to just pay rent for their animals.

Police Chief Dustin Dassinger states the animal shelter at this time is at full capacity. He states everyone works hard at having the animals adopted out as soon as possible.

President Johnson states the animal shelter looks good but the City cannot build a \$1.2 million dollar animal shelter.

Commissioner Oltmanns thought the animal shelter was going to be part of the Public Works building.

Administrator Kessel states it was felt the animal shelter would be better off being a stand alone facility.

President Johnson feels the animal shelter should be on the same site as the Public Works building. He feels 20 kennels for dogs and 20 for cats is too many. Also possibly not having a bathroom as this is not used highly by the public. Johnson states the City has budgeted \$500,000 for the animal shelter.

Ms. Prchal states cutting down the amount of kennel areas for the shelter would cut the building in half. Prchal states there would still need to be a toilet and to eliminate the facilities and an office would probably not cut the cost. The site alone is \$250,000 and \$750,000 for the building. She states the cost of construction is very high in Dickinson at this time.

Commissioner Oltmanns is disappointed in reviewing this shelter and wonders how it compares to other cities.

Commissioner Jackson feels the City should take more advantage of the Public Works Building and to make the shelter part of the Public Works building. Jackson feels the City needs to go back to the drawing board.

President Johnson feels the consensus is that a new animal shelter is needed but not for \$1.2 million and the Public Works building is far more expensive than budgeted. Johnson does not feel the City can go to the citizens and the State and ask for another \$1.2 million to fund an animal shelter as this would be tough to sell.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. MOTEL/HOTEL LIQUOR LICENSE – ASTORIA HOTEL AND EVENT CENTER

City Administrator Shawn Kessel presents a motel/hotel liquor license for Astoria Hotel and Event Center. This license would start on January 1, 2013. Kessel states there are 75 units in this hotel. Due diligence was done on the owners and everything appears to be in order.

MOTION BY: Shirley Dukart SECONDED BY: Carson Steiner
To approve the motel/hotel liquor license for Astoria.

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

B. CITY ENGINEERING CONTRACT – SHAWN SOEHREN

Administrator Kessel presents the engineering contract with Shawn Soehren. Mr. Soehren would be doing engineering services on behalf of the City of Dickinson, short time until two weeks after the new hire. Kessel states at this time there are six applicants. Soehren would be involved in projects such as the water treatment facility, truck reliever route, Painted Canyon issues, etc.

Commissioner Dukart would like to see this contract end sooner.

President Johnson states the alternative to Soehren would be to hire one or more engineering firms and their rates would not be lower than his.

Commissioner Oltmanns feels that having someone that is familiar with the current issues is better to have on board.

City Planner Courton states there is no let up in the workload. The Comprehensive Plan is coming to a point where a public hearing will be held. Mr. Soehren's institutional knowledge is very valuable during this interim time.

Assistant City Engineer Nathan Peck does concur with Mr. Courton's statements in that the workload is increasing.

Commissioner Steiner has no problem with continuing with Mr. Soehren engineering expertise and paying the \$110 an hour. Steiner states Soehren does have the experience.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns
To approve the Engineering Contract with Shawn Soehren

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

Commissioner Jackson states the work is daunting and the cost of bringing Shawn back is less dollars than a full time engineer.

C. ANNEXATIONS

City Attorney Matt Kolling presents the first resolution that is 310 acres. This area is west of the current Koch Meadow Hills 4th Addition. There are some concerns regarding timing of an annexation due to the fact that it is a significant annexation and has no current municipal services.

City Planner Ed Courton states the City is 3 months from a Comprehensive Plan. Courton states a draft of the Comprehensive Plan was delivered today. A public hearing will be held on November 15, 2012. Courton recommends for Herauf and Walton to not continue annexation at this time. The staff would have time to digest goals, etc. and provide sufficient timing on the mechanism for annexation. Courton does agree with the Lyons and Northern Heights annexation as they are small in nature.

1. Herauf

Developer Mike Koch states he has taken time to put the projects together. They have done extensive work on the property to include the services. Koch states he feels this property has everything to be annexed. He states infrastructure will not be seen for at least 1 – 1 ½ years.

Attorney Kolling explains the annexation process.

President Johnson feels the City is not preventing Mr. Koch from going ahead and doing design work if the property is not annexed.

Commissioner Jackson states he cannot be in favor of this large annexation at this time. Jackson feels the Commission has done enough annexations right now. He does not believe annexing this property into the City is the right thing for the City to do. He does feel some portion of this west side of States Avenue should be annexed but not this entire area.

Steve McCormick of Northern Improvement states time is money and the cost of building is increasing daily. McCormick would like to see the resolution passed this evening so that bids can be gotten from contractors. The longer this is put off the more it is going to cost.

President Johnson states if the resolution is acted on tonight then the earliest would be December 17, 2012 to be annexed. Johnson states the Comprehensive Plan will be presented to us in 3 months. Johnson would like to see the developers come back with a new plan in 2 weeks.

Commissioner Dukart states the developer's state there will be no cost to the city but this is incorrect as the City needs to hire more police officers, city workers and more equipment.

Fire Chief Robert Sivak states that 85% of buildable land needs to have fire hydrants and this would not be the case.

Commissioner Jackson states Mr. Koch has been working with the City for some time. He states some developers do nothing with the land. Jackson states the McCormick family has good developments but not all at one time.

No action was taken on this matter this evening.

2. Northern Heights Subdivision

City Planner Courton explains this resolution provides for the annexation of certain property to existing city limits. Courton states this property is 4.10 acres. This is considered an infill property as it is close to the City.

President Johnson asks for public comment. Hearing none the following motions is made.

MOTION BY: Klayton Oltmanns SECONDED BY: Gene Jackson
To authorize introduction Resolution 65-2012 for adoption.

RESOLUTION NO. 65- 2012

**A RESOLUTION EXTENDING THE BOUNDARIES OF THE CITY
OF DICKINSON, NORTH DAKOTA, AND ANNEXING A
CERTAIN TRACT OF LAND ADJACENT TO THE BOUNDARIES
OF THE PRESENT CITY LIMITS**

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

3. Lyon's Third Subdivision

Attorney Matt Kolling states this annexation of Lyon's Third Subdivision is 24 acres. This property has already been rezoned and platted with the intent to be annexed into the City for quite some time. This is infill property.

President Johnson asks for public comment. Hearing none the following motion is made.

MOTION BY: Gene Jackson SECONDED BY: Shirley Dukart
To authorize introduction Resolution 66-2012 for adoption.

RESOLUTION NO. 66 - 2012

**A RESOLUTION EXTENDING THE BOUNDARIES OF THE CITY
OF DICKINSON, NORTH DAKOTA, AND ANNEXING A
CERTAIN TRACT OF LAND ADJACENT TO THE BOUNDARIES
OF THE PRESENT CITY LIMITS**

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

4. Walton Family

Planner Courton presents a resolution for annexation for 80 acres.

Victor Mahoney who is a nephew of Bob Walton, owner of property for annexation states the 80 acres have been included in the urban boundary and are found in the current comprehensive plan. Mahoney applauds the City for doing a good job. Mahoney states they are providing a gas line, electrical and they are near water and sewer. Mahoney states this acreage is the gateway to the City.

Matt Reichert states this property is in the right path of development. This property will be adjacent to the hospital, residential and retail to the north. Reichert states they will wait until the Comprehensive Plan is final.

President Johnson states this property is like the Herauf land and is well positioned for the City. No action will be taken on this property and deferred until a later date.

D. Zoning Text Amendment – Garages

City Planner Ed Courton presents an amendment to the zoning text. This is an amendment to the Zoning Code to allow garages between the front property line and the principal building along roadways with access onto the site. The current code prohibits garages placed in front; consequently, several apartment complexes have petitioned and received variances to place garages in the front. City staff concurs with the proponent of this amendment that this section of Code was intended for single and two family dwellings rather than multi-family buildings. Further, the zoning code requires all garages to be constructed with similar materials, as the main structure and each garage can screen the parking lot and reduce noise unto adjacent properties. The Planning and Zoning Commission and City staff recommend approval.

President Johnson asks for public comment. Hearing none the following motion was made.

MOTION BY: Shirley Dukart SECONDED BY: Klayton Oltmanns
To approve the first reading of Ordinance No. 1490

ORDINANCE NO. 1490

**AN ORDINANCE AMENDING AND RE-ENACTING SECTION
39.07.002(a)(5)(b) OF THE CITY CODE OF THE CITY OF
DICKINSON, NORTH DAKOTA, RELATING TO SETBACK
ADJUSTMENTS – EXCEPTIONS TO OPENNESS OF REQUIRED
YARDS – ACCESSORY BUILDINGS – FRONT YARDS.**

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

E. SW Water Agreement – Allstate Peterbilt Group

City Administrator Shawn Kessel presents a request from Allstate Peterbilt Group and SW Water. The reason for this agreement would be that Centennial Homes is outside of the City limits and serviced by SW Water. Allstate Group does agree to connect to City water once infrastructure is within 300 feet of its property.

MOTION BY: Gene Jackson SECONDED BY: Carson Steiner
To approve the Allstate Peterbilt Group Agreement, SW Water and the City of Dickinson.

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

F. REPORTS

1. Municipal Court Quarterly Report

Attorney Bekki Grant presents the third quarter report for prosecution. The contract for municipal court started on January 1, 2012 and since that time they have reviewed more than 800 files for 2012. Grant explains the 2012 criminal activities have changed along with a greater number of citations and a greater amount of fines. Court is held three times weekly. Grant reports since January, 2012 there have been over 96 cases and those cases have increased the revenue \$43,920. At this time there are no outstanding criminal complaints.

President Johnson thanks Ms. Grant for doing a great job as the City Prosecutor. The Commission is very thankful she has taken on this job.

2. ICMA Conference

City Administrator Shawn Kessel states the ICMA training was an excellent training.

3. Bakken Infrastructure Conference

Administrator Kessel explains the Bakken Conference was held in Denver and was very informative.

4. PW/City Engineer Position Recommendation

Kessel suggests splitting the two positions of Public Works Director and City Engineer into two positions. The additional position is not budgeted in 2013 and would be a budget add on.

President Johnson supports this change.

5. PUBLIC SAFETY

A. None.

6. PUBLIC WORKS/PLANNING

A. Final Plat – Country Oaks Estates Third Addition

City Planner Ed Courton presents a Final Plat for the Country Oaks Estates Third Addition located northerly of Century Apartments and southerly of 25th Street West and east of Country Oaks Drive. There is approximately 3 acres.

MOTION BY: Carson Steiner SECONDED BY: Shirley Dukart
To authorize introduction Resolution 67-2012 for adoption.

RESOLUTION NO. 67 - 2012

**A RESOLUTION APPROVING FINAL PLAT ENTITLED
COUNTRY OAKS ESTATES THIRD ADDITION, STARK
COUNTY, NORTH DAKOTA.**

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

7. CITY COMMISSION

Commissioner Oltmanns congratulated Commissioner Dukart and her husband on 50 years of marriage.

8. PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA

None.

ADJOURNMENT

MOTION BY: Shirley Dukart SECONDED BY: Klayton Oltmanns
For adjournment of the meeting at approximately 7:30 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: _____