

Order of Business

City Commission Meeting

Monday, March 16, 2015
4:30 PM
Dickinson City Hall – 99 2nd Street East

Type of meeting:

Regular Meeting of the Dickinson City Commission

Presiding Officer:

President of Commission (Vice President in absence of President)

Opening of Meeting

Call to Order

Roll Call

President: Dennis W. Johnson

Vice President: Gene Jackson

Commissioners: Carson Steiner

Klayton Oltmanns

Scott Decker

1. **ORDER OF BUSINESS:** Consideration for approval

2. **CONSENT AGENDA**

- A. Approval of meeting minutes dated Commission Meeting March 2, 2015 (Enc.);
- B. Approval of Accounts Payable (via email);
- C. Approval of State Small Business Credit Initiative Mandan Consortium Amendment (Enc.);
- D. Approval of Agreement with Zuercher Technologies (Enc.)

Persons desiring to attend the meeting who require special accommodations are asked to contact the City Administrator by the Friday preceding the meeting.

Next Resolution No: 10-2015

Next Ordinance No: 1573

3.	Timetable Agenda	<u>INTRODUCTION</u>
5:00 p.m.	Street Vacation – Lots 4-6, Block 1, Westgate Industrial Acres Subdivision Consideration to approve Resolution (Next Resolution No. ____) (Enc.)	City Engineer Kubas
5:10 p.m.	Rezoning Petition – Barons Vista Consideration to approve first reading of Ordinance No. ____ (Ordinance No. ____) (Enc.)	Interim Planning Director Milstone
5:30 p.m.	HUB – Tobacco Sales	Jared Scheeler
4.	Non-Timetable Agenda	
	<u>ADMINISTRATION/FINANCE</u>	
A.	Questica Software Consideration to approve software contract (Enc.)	City Admin. Kessel
B.	West Gravity Phase II 1. Memorandum of Understanding Consideration to approve MOU (Enc.) 2. NDSU Easement Consideration to approve easement (Enc.)	Attorney Kolling
C.	Easement – State Water Commission Consideration to approve easement (Enc.)	Attorney Kolling
D.	21st Street West – Dickinson Energy Park Right-of-Way Agreement Consideration to approve agreement (Enc.)	Attorney Kolling
E.	KLJ Task Order Amendment Consideration to approve amendment (Enc.)	Attorney Kolling
F.	Finance Report – 12/31/2014 Consideration to approve Finance Report (Enc.)	City Admin. Kessel
G.	Reports: 1. Legislative Update 2. Hiring Journal (Enc.) 3. Electrical Franchisee Service Agreement	City Admin. Kessel HR Manager Nameniuk Attorney Kolling
5.	<u>PUBLIC SAFETY</u>	
A.	Fire Department Reports: None	Fire Chief Sivak
B.	Police Department Reports: 1. None	Police Chief Dassinger
6.	<u>ENGINEERING</u>	
A.	Street and Storm Sewer Improvements - 40th Street East Consideration to approve award (Enc.)	City Engineer Kubas
B.	Water, Sewer, Street and Storm Sewer Improvements – State Avenue Consideration to approve award (Enc.)	City Engineer Kubas
C.	Water, Street and Storm Sewer Improvements – 21st Street West Consideration to approve award (Enc.)	City Engineer Kubas
D.	NDDOT Cost Participation and Maintenance Agreement – State Avenue Railroad Bridge Consideration to approve agreement (Enc.)	City Engineer Kubas
E.	NDDOT Cost Participation and Maintenance Agreement – Traffic Signal Improvements on South Ramp of Exit 61 Consideration to approve agreement (Enc.)	
F.	Apex Task Order - Lamont Storm water Detention Pond Consideration to approve Task Order (Enc.)	City Engineer Kubas
G.	Reports: 1. 2015 Mill and Overlay – Status Report (Enc.) 2. 15th Street and SID Proposal (Enc.)	City Engineer Kubas

	3. 2015 Sidewalk Replacement Program Update 4. Winter Shutdown Restriction Update	
7.	<u>PUBLIC WORKS</u>	
A.	Reports: 1. Project Updates	PW Director Zuroff
8.	<u>PLANNING</u>	
A.	None	Interim Planning Director Milstone
9.	<u>COMMISSION</u>	
10.	<u>PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA</u>	
	<u>ADJOURNMENT</u>	

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 Gene Jackson, Carson Steiner, and Scott Decker.

Absent: Klayton Oltmanns

1. ORDER OF BUSINESS

MOTION BY: Gene Jackson SECONDED BY: Scott Decker

To approve the March 16, 2015, Order of Business as presented with removing 4E, KLJ Task Order Amendment.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Carson Steiner

- A. Approval of meeting minutes dated March 2, 2015.
- B. Approval of Accounts Payable (via email).
- C. Approval of Small Business Credit Initiative Mandan Consortium Amendment.

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

3. TIMETABLE AGENDA

5:00 p.m. – Street Vacation – Lots 4-6, Block 1, Westgate Industrial Acres Subdivision

City Engineer Craig Kubas presents a petition for vacation. The owners of Lots 4-6 in the Westgate Industrial Acres Subdivision have signed a petition to vacate Gateway Street and a portion of Westgate Ave. The applicant has secured a utility easement that generally follows the existing Right-of-Way. If the vacation resolution is passed the applicant has expressed their desire to combine the lots that are currently separated by the street right of way.

MOTION BY: Gene Jackson SECONDED BY: Scott Decker
Adopt Resolution 10-2015.

RESOLUTION NO. 10 - 2015

A RESOLUTION APPROVING VACATION OF A STREET WITHIN THE CITY OF DICKINSON, NORTH DAKOTA

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

5:10 p.m. – Rezoning Petition – Barons Vista

Interim City Planner Mark Milstone presents a Rezoning Petition from Agriculture to Low-Density Residential, Medium-Density Residential, Community Commercial, General Commercial and Public. The site is generally located in the N2 of Section 6, Township 139N, Range 96 W. The site is +/-282 acres. The Planning and Zoning Commission did not make a recommendation.

Attorney Susan Weeks presents the rezoning application for Baron's Vista which is a mix of R1, single family residents of 79 acres, multi-family, R2 of 17 acres and 69 general commercial and the rest is open space. Ms. Weeks states this petition is followed by substantial investment. She states a sewer, water and transportation study has been done and Baron's Vista has come this evening with great confidence that they can meet the infrastructure needs. She states she heard this evening the City does not have money to contribute to this development and Baron's Vista would be doing their own project without any contribution. Ms. Weeks is asking for approval of the entire project. She states they need the entire area rezoned to set their finances. Ms. Weeks states they have already spent over \$300,000 on the studies. She feels the City of Dickinson needs housing. Ms. Weeks states our ordinances and resolutions can have benchmarks requesting the items that are needed in order to complete the project.

Developer Danny Lin from Singapore discusses the company's history and he would like to take advantage of spending money in Dickinson, ND. Mr. Lin states now is the time to build when people are seeing the drop in oil prices and leaving. He states he is willing to build single family houses for \$280,000. Mr. Lin states he would be willing to sign off of all of the City's requests.

Matt Reichert who is a broker for the Walton family and is selling the property discussed states the Walton family has been looking for a developer like Baron's Vista. Mr. Reichert states Mr. Lin is committed to do the project.

Contractor George Miles from Watford states there is a need for housing priced at \$280,000 and the development in the area would be great. He states many people are tired of living in RV campers.

Resident Karen Weiler states she has been born and raised in Dickinson and sees the need for a new home that is reasonably priced. She feels this would be an

awesome opportunity for residents to move from overpriced apartments into affordable housing.

Resident Jimmy Roberts who resides in Richardton states that he moved to ND in 2010 and started to live in a camper but fortunately found a place to live in Richardton. He states he is a permanent transplant and would like to see houses built in order for someone to purchase.

Stark Development Director Gaylon Baker is in support of the project and he recognizes good things that can happen from the development. Mr. Baker states it is tough to project what is going to happen but feels these developers are sincere in their project.

Nancy Jacobson who has lived in Dickinson for three months states the housing is not affordable here in Dickinson. She states the people are working but cannot afford to stay here. She states this development would bring people in with their families to live here. She feels this is a win win situation for all.

Developer Tracy Tooz is in support of Baron's Vista because there are not a lot of developers coming to the table offering what they are willing to do. He states Mr. Lin is agreeing to spend money and do the infrastructure that the City is requiring. He is in favor of the project.

City Attorney Matt Kolling states the rezoning ordinance covers the entire 270+ acres. Mr. Kolling states there are no legal assurances in the ordinance at this time. Mr. Kolling states normally the assurances are included in the development agreement. The development agreement is then recorded.

City/County Planner Steven Josephson states there will be 500 lot subdivision without having enough road to access arterial roadway. Mr. Stevenson states this project would interfere with the West Dickinson Plan.

Steve Circle states he supports Baron's Vista project.

President Johnson closes the public hearing at 6:20 p.m.

Commissioner Jackson states Planning and Zoning has been dealing with Baron's Vista for almost a year already. Commissioner Jackson states a tie vote was at the Planning and Zoning meeting last time and he voted no. Commissioner Jackson states the City has to decide what the population is going to be and consideration of location for growth. Commissioner Jackson feels the City's inventory has enough R1 and R2 lots that either are platted or need to be

platted and can handle 4,000 homes. Also there are enough R3 property and zoned to give another 4,000 apartments. Commissioner Jackson feels the City has enough inventory to handle over 20,000 people. He does not feel 600 homes could be sold in Dickinson in one year.

Commissioner Decker does not believe in penalizing Baron's Vista because others did not develop their own property. Commissioner Decker does like competition and he feels the City does need this development.

City Attorney Matt Kolling states there are 4 Commissioners present and in order for it to go forward the motion needs to pass by a majority vote.

MOTION BY: Carson Steiner SECONDED BY: Scott Decker
To approve first reading of Ordinance No. 1573.

ORDINANCE NO. 1573

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

DISPOSITION: Roll call vote...Aye 3, Nay 1, Absent 1
 Motion declared duly passed

President Johnson states that he votes yes not necessarily in favor of the project but this would give the entire Commission a chance to consider the vote at second reading.

Commissioner Jackson states his concerns have nothing to do with the fact that we have some deadbeat developers in town. This is simply his opinion of the inventory that the City has. Jackson states it is not about penalizing this developer because some of the other developers have not followed through. He is just reviewing the housing right now.

5:30 p.m. – HUB – Tobacco Sales

Jared Scheeler from the HUB asks the City Commission to change the age of individuals selling tobacco from age 18 to age 16. Mr. Scheeler states it is challenging to receive applications for individuals who are 18 and older. Mr. Scheeler states convenience stores are the primary retailer of tobacco products. Trying to hire an 18 year old eliminates a large portion of the pool of potential employees. Mr. Scheeler states this age rule is not a State rule but a municipality

City Attorney Matt Kolling presents an easement which allows for the placement of a sanitary sewer main on certain property owned by the State of

North Dakota, acting through the NDSU Dickinson Research Extension Center.

MOTION BY: Carson Steiner
To approve the NDSU Easement.

SECONDED BY: Gene Jackson

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

C. Easement – State Water Commission

City Attorney Matt Kolling presents an easement which grants the State Water Commission an easement for a potable water pipeline across property owned by the City located at the old public works site. This pipeline appears to have been in existence for some time, but a proper easement for the pipeline has not yet been granted. Approval of this easement will assist in clearing up existing title issues with the property.

MOTION BY: Scott Decker

SECONDED BY: Carson Steiner

To approve State Water Commission Easement.

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

D. 21st Street West – Dickinson Energy Park Right-of-Way Agreement

City Attorney Matt Kolling presents a right-of-way agreement which provides for the acquisition of right-of-way from Dickinson Energy Park, LLC, for the construction of 21st Street West. The City had an appraisal performed on the property. The property appraised at a value of \$28,695. Acquisition is made for the full amount of the appraised value.

MOTION BY: Gene Jackson

SECONDED BY: Carson Steiner

To approve 21st Street West – Dickinson Energy Park Right-of-Way Agreement.

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

E. KLJ Task Order Amendment

Removed from agenda.

F. Financial Report – 12/31/14

City Administrator Shawn Kessel presents the Financial Report which concluded on 12/31/14. Mr. Kessel states tax collections were strong.

President Dennis Johnson questions the negative balance at the end of 2014 in the street department fund.

City Administrator Shawn Kessel will review the budget and balance and bring information back to the City Commission.

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

City Administrator Shawn Kessel updates the Commission on the sale of the Baker Building. This building will be auctioned off at a surplus property sale. Also in negotiation with SW Water is the formal water building.

4. Hiring Journal

HR Coordinator Shellly Nameniuk provides information on the Hiring Journal. She states the City is in the 2nd phase of interviews for a police officer; 2 openings for Communication Specialists; 1 Solid Waste which was open and filled; Sanitation Laborer has 2 openings; Sanitation Operator 1 opening; Street Maintenance Operator 2 open and 2 offers made; Chief Engineering Tech position is on hold; Deputy City Administrator position closed last week and interviews are being set up, and 4 to interview. Ms. Nameniuk states an Accountant was hired and he stated last week. A Facility Operator position was open and an offer has been made and accepted today. She states the City is in the background phase of a Custodian; GIS Tech started today; Engineering Project Manager Position is on hold; Safety Trainer position is on hold; and Planning Director interviews are being held tomorrow.

3. Electrical Franchise Service Agreement

City Attorney Matt Kolling provided information on an electrical franchise service agreement between MDU and Roughrider Electric. Mr. Kolling states MDU and Roughrider Electric have a service agreement with the City to provide electrical services. The Service Area Agreement requires the parties to meet and agree on service areas for newly annexed property. Mr. Kolling states MDU and Roughrider Electric are having difficulty in coming to an agreement. Mr. Kolling has contacted Bismarck who was in the same situation and they stated this item went to litigation and fought it out in court. Mr. Kolling feels this issue between MDU and Roughrider Electric may come to litigation.

Commission Jackson is concerned as this is a significant to the City as it is the biggest development of R1 lots.

5. PUBLIC SAFETY

A. Fire Department

None

B. Police Department

None

6. ENGINEERING

A. Street and Storm Sewer Improvements – 40th Street East

City Engineer Craig Kubas presents a 40th Street East Street and Storm Sewer Improvement bid. Mr. Kubas states a total of 6 bids were received and opened on February 26th. Kubas states Northern Improvement Company – Dickinson is the low bidder in the amount of \$4,910,149.20. The engineers estimate was \$4,909,549.75. Staff recommends awarding the contract to Northern Improvement Company-Dickinson.

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

City Engineer Craig Kubas presents a Water, Sewer, Street and Storm Sewer Improvements for State Ave. Mr. Kubas states total of 5 bids were received and opened on March 2nd. Knife River Corporation – Northwest is the low bidder in the amount of \$7,669,795.35. The engineers estimate was \$7,637,738.40. Staff recommends awarding the contract to Knife River Corporation-Northwest.

DISPOSITION: Roll call vote...Aye 3, Nay 0, Absent 1, Abstain 1
Motion declared duly passed

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

City Engineer Craig Kubas presents a NDDOT Cost Participation and Maintenance Agreement (CPM) for State Ave RR Bridge: The NDDOT has sent

MOTION BY: Carson Steiner SECONDED BY: Gene Jackson
To award the contract NDDOT Cost Participation for Traffic Signal
Improvements on South Ramp of Exit 61.
DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1,
Motion declared duly passed

City Engineer Craig Kubas presents a NDDOT Cost Participation and Maintenance Agreement (CPM) for a Traffic Signal Improvements on South Ramp of Exit 61. City Engineer Kubas states the NDDOT has sent us the CPM agreement for review and approval. The total cost participation is estimated at \$2,343,040. BNSF is responsible for 5% of the total construction costs or \$1,076,303.

City Engineer Craig Kubas presents an Apex Task Order for Lamont Stormwater Detention Pond. Mr. Kubas states this task order will engage Apex Engineering Group to complete the design and construction engineering for a regional storm water pond on Dickinson Park and Rec property, upsize a storm sewer trunk main in 1st Ave E, and install storm sewer on 14th Street E from Sims to 1st Ave E. The task order is for \$215,300 and city staff recommends approval.

City Engineer Craig Kubas presents the 2015 Mill and Overlay Status Report. Kubas states City staff has worked with Apex Engineering Group to define the Mill and Overlay limits for the 2015 project. To right-size the project with our budget, the

project will include asphalt work on approximately 20 blocks in the Heart River School neighborhood, Museum Drive east of Sims and 14th Street E. Signing and striping improvements are proposed on 21st Street, 15th Street, State Ave, 12th St W, and 10th Ave E.

Public Works Director Gary Zuroff states 9th Street East was reviewed but it appears this is not a mill and overlay project and does need to be a reconstruction project.

President Dennis Johnson reviews the street department fund as it appears it is in the negative for 2015. He is wanting to verify what amount was in the street fund at the end of 2014. Mr. Johnson states if the street needs to be reconstructed then the budget could be amended to use more street money.

Commissioner Jackson states there is quite a bit of street work to be done in Dickinson. There are many old streets and so little money. He feels mill and overlay in commercial areas should be accompanied by special assessments. He feels it is reasonable and fair to special assessment 50% of the cost.

President Johnson states another alternative could be to transfer oil impact funds to the street fund because certainly these streets are impacted by oil.

Commission Jackson states the City essentially has no specials at this time and it would be used inappropriate tool. He feels this could be used in commercial areas.

President Johnson states the general fund has a growing cash balance at the end of 2014 of \$10.7 million. He feels funds could be transferred from general to the street fund also.

2. 15th Street and SID Proposal

City Engineer Craig Kubas presents a 15th Street West SID proposal. It has been requested that the City create an SID for water, sewer and street improvements along 15th Street West between the Westridge developments and the Pinecrest subdivision. The project would extend from the section line 1 mile west of 30th Ave W, easterly ½ mile. An estimated area of benefitting property is shown on the attached map and is approximately 100 acres. Mr. Kubas presents this to the Commissioners to see if this is a project that would be good for the City.

Commissioner Jackson states there are a lot of things to think about here. He states specials do concern him as the City would be specials on hay fields. He states even the developer north of this property may not own the property or possibly having specials on farmland. He feels specials would be placed on undeveloped land.

President Johnson states when oil was \$80 per barrel it would have been easier for the City to take a risk but now that oil is down the risk has a different condition on it.

Commission Jackson states if this development is completed he feels the streets will be the City's responsibility. Jackson states all lots have access to paved streets in this area.

3. 2015 Sidewalk Replacement Program Update

City Engineer Craig Kubas presents the 2015 Sidewalk Replacement Program. The project is now being advertised to contractors with a bid opening scheduled for April 2nd. We will have an application signup starting soon for property owners to apply for the program.

4. Winter Shutdown Restriction Update

City Engineer Craig Kubas states this is the third winter the City has put winter shutdown in the City's right-of-way. The City has allowed boring under roads. Kubas states the frost is beginning to lift out of the ground. He feels the tentative restriction will be lifted as of March 23, 2015.

7. PUBLIC WORKS

A. Reports:

1. Project Updates:

Public Works Director Gary Zuroff states next meeting there will be an update on Lift Station #5 and fill station sites.

8. PLANNING

A. None

9. COMMISSION

Commissioner Jackson is again requesting information from City/County Planner Steve Josephson and Interim City Planner Mark Milstone lot count and information. Jackson feels this would be a worthwhile presentation.

10. PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA

City Attorney Matt Kolling provides a letter and to announce publicly that Mr. Kolling will be leaving employment for the City of Dickinson. Mr. Kolling states he appreciated the opportunity the City has given to him. He has an offer in North Dakota and will be leaving the City at the end of April. Mr. Kolling thanks the Commissioners again for the opportunity to work for the City.

President Dennis Johnson questions where the City will go from here. He states the workload in development is lighter and the City needs to look either for a full time attorney or retain a law firm as previous. If the City is successful at hiring a

Police Chief Dustin Dassinger presents the Commissioners with a 2014 year end booklet which will be reviewed at the next meeting. Along with introducing the 1st Annual Police/Fireman's Ball on May 9th. Chief Dassinger states there will be food, music and social fun.

MOTION BY: Carson Steiner SECONDED BY: Scott Decker
Adjournment of the meeting at approximately 7:45 PM.

OFFICIAL MINUTES PREPARED BY:

APPROVED BY:

Date: April 6, 2015