

I. CALL TO ORDER

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

II. ROLL CALL

Present were: President Dennis W. Johnson, Commissioners Bill Reitmeier, Rhonda Dukart, Carson Steiner and Joe Frenzel

STANDARD MOTIONS1. ORDER OF BUSINESS

MOTION BY: Carson Steiner SECONDED BY: Rhonda Dukart

To approve the October 2, 2006 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Carson Steiner SECONDED BY: Bill Reitmeier

A. Approval of minutes of regular meeting dated September 18, 2006;

B. Approval of Addendum to Agreement with Baker Boy Bake Shop to include Stark County in municipal wastewater system;

C. Approval of DFC Consultants, Ltd. Service Consulting Agreement for Microsoft Dynamics and ISV Solutions;

D. Approval to grant a Temporary Easement to NDDOT on property located near 10th Avenue East and waive the \$150 payment.

E. Approval to advertise for two taxi company 7-passenger ADA Accessible Mini-vans and amend the Grant Fund budget;

F. Approval to pay Youth Tobacco violation fines to Southwest District Health;

G. Approval of Contracted Services Agreement with NDSU-RSVP.

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

Motion declared duly passed.

TIMETABLE AGENDA

5:30 PM

2005 AUDIT PRESENTATION – MARV ECKMAN – STATE AUDITOR’S OFFICE

President Johnson welcomed Marv Eckman from the State Auditor’s Office. Mr. Eckman presented highlights from the City’s 2005 audit. He stated there were no major errors or problems therefore the City received a clean opinion. Eckman stated overall the city has positive fund balances with the majority of the funds doing fairly well. He stated overall in 2005 the City had over \$500,000 excess over expenditures, which is good. President Johnson questioned whether in the future, pension plan allocations will be audited. Mr. Eckman stated the new retiree benefits analysis requirement will be implemented within two or three years.

5:45 PM

PUBLIC HEARING – BRAUN PROPERTIES, LLC/QUEEN CITY BEVERAGE & CANDY – KEVIN BRAUN

President Johnson opened the public hearing at 5:55 PM regarding a request from Braun Properties, LLC/Queen City Beverage., Inc./Queen City Candy (Braun Distributing) for property tax relief on their new distribution center located at 153 26th Street West.

City Assessor Jan Zent, presented information regarding a payment in lieu of taxes (PILOT) request by Braun Distributing. Ms. Zent stated the payment in lieu of taxes can be used in place of, or in combination with, property tax exemptions for qualifying projects. She noted the City’s tax exemption policy does not address PILOT exemptions but are allowed through NDCC. Zent stated based upon a \$2,900,000 structure, the property would be taxed approximately \$70,443/year for 5 years without a PILOT and \$37,094/year with a five-year primary business exemption described in city policy. Zent stated based upon the city’s policy, Mr. Braun believes his business should be classified

as a “primary sector business” which means the majority of the sales of the business occur at least 100 miles from Dickinson. Zent stated if they would be classified as a non-primary sector business, taxes would be approximately \$47,625 per year for two years.

Kevin Braun, President of Braun Distributing, addressed the commission. He stated originally Braun Distributing was just a beer company but no longer sells just beer. He stated they employ sales people and rent warehouse space in Bismarck. He stated each week they ship products to Bismarck and distribute as needed. He stated most of their sales come from outside the 100 mile local service area which is why they feel they are a primary sector business. He stated while his application indicates construction costs for the new facility to be \$2,900,000, they received an appraisal for the building in the amount of \$1,900,000. He stated the appraiser was unable to locate comparables for the property therefore was required to use property in Bismarck and beyond as comparables. President Johnson questioned Mr. Braun whether he is able to document to the City Commission that at least 50% of their sales are from a distance of 100+ miles. Braun stated it was his projection that in 2006 the majority of his sales would be generated from a distance of 100+ miles. Commissioner Steiner referenced a statement in Mr. Braun’s application that indicated they are in competition with Jerome Distributing. Steiner questioned what percent of products are duplicates with Jerome Distributing. Braun estimated similar products to be approximately 25% of sales. President Johnson questioned what towns were the farthest Braun Distributing covers in the four directions. Braun stated the farthest they travel to the east is Jamestown, west is Baker Montana, to the north Watford City, and to the south Lemmon, South Dakota. Commissioner Frenzel stated he feels the commission will need to first decide whether Braun Distributing is a “primary” or “non-primary” business sector before they can decide on the tax exemption request. Frenzel questioned whether Mr. Braun could provide some sort of documentation. Mr. Braun concurred. President Johnson questioned City Attorney Timothy Priebe whether Braun Distributing would be allowed to use 2006 numbers as the year was not complete. City Attorney Priebe stated the City Commission has latitude in looking forward. President Johnson then emphasized the need for Mr. Braun to provide documentation stating 50% of their sales in 2006 would meet the 100 mile radius requirement. Johnson stated he expects the document to carry some legal weight, therefore recommended the document be certified as it is not the City’s intent to send in an auditor. Sund stated should Braun Distributing have a business plan, it could be used for certification purposes.

Mr. Braun stated it was Braun Distributing’s intent to request a payment in lieu of taxes as they did not want to avoid paying taxes entirely which he thought an exemption would do. He added since reviewing Ms. Zent’s tax numbers, he desired to withdraw their proposed payment schedule as he felt it was no longer appropriate. Johnson noted Braun’s comment regarding the appraisal being somewhat less than the property values used in the application and requested City Assessor Zent review numbers presented. Dukart echoed the comments of Commissioner Frenzel and requested additional information be provided prior to voting on the request. Ms. Zent stated she would appraise the property and compare costs with appraisal amounts and provide information to the City Commission at a future meeting.

Commissioners discussed the need to review the city’s tax exemption policy to give better guidance for future applicants. Sund suggested a committee be appointed to review future tax exemption requests prior to requesting City Commission action.

Based upon commission discussion, no action was taken on the tax exemption request but requested Mr. Braun provide documentation for proof of primary sector business designation and Assessor Zent review valuation figures.

No further public comment was received, President Johnson closed the public hearing at 6:30 PM.

NON-TIMETABLE AGENDA

4. **GENERAL ISSUES/FINANCE**

A. **2007 ANNUAL APPROPRIATIONS ORDINANCE**

President Johnson asked if there was anybody from the public who wished to speak in regard to final passage of the City's 2007 budget. No public comment was received. Sund referenced his memo and the adjustments made since first reading of the ordinance.

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart
For second reading and final passage of Ordinance No. 1328:

ORDINANCE NO. 1328

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, 2007 AND ENDING DECEMBER 31, 2007, INCLUSIVE.

DISCUSSION: President Johnson stated Commissioners received a letter from Western Wellness Program (Best Friends) requesting a one-time subsidy. Johnson questioned whether it was Commission intent to amend the budget. He stated the organization presented an annual subsidy request previously but were not included into the 2007 budget. Commissioner Steiner stated he received a phone call regarding the request and stated he favored approving a \$2,000 subsidy for the organization. Commissioner Dukart questioned whether \$2,000 would make a difference or be a temporary bandaid. City Administrator Sund stated when the subsidy request was originally made he and City Attorney Priebe researched the organizations purposes and questioned whether the organization's purpose fit state statutory requirements regarding governmental agency donations. City Attorney Timothy Priebe stated should the City Commission desire to consider a subsidy to the organization, additional statutory regulations would need to be reviewed.

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

B. **AMENDMENT TO 2007 FEE SCHEDULE**

Public Works Manager Skip Rapp, requested an amendment to the 2007 Fee Schedule due to approval of the new cemetery excavation contract.

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart
To authorize introducing Resolution 22-2006 for adoption:

RESOLUTION NO. 22-2006

A RESOLUTION AMENDING THE CITY OF DICKINSON FEE SCHEDULE REGARDING CHARGES FOR BURIAL SITES.

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

C. **REAL ESTATE OFFER ON CITY OWNED PROPERTY – BIG K HOMES, LLC**

1. Consideration of offer to purchase:

City Administrator Greg Sund presented an offer received from Big K Homes, LLC on Lot 2, Block 1, Country Oaks 2nd Addition. Sund stated currently the lot is grouped in with undeveloped lots. He stated the Real Estate Committee met and reviewed the offer and asks the City Commission to consider establishing a list price for three of the lots in the area that have since been improved due to the new improvement district in the area. Sund stated list prices being recommended are based upon similar zoned parcels.

ORDINANCE NO. 1325

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 31.090 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA RELATING TO ALARM SYSTEMS.

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

6. PUBLIC WORKS - ENGINEERING

N/A

7. PUBLIC WORKS – MAINTENANCE AND UTILITIES

A. REPORT:

1. State Tree Transportation Enhancement Grant:

Public Works Manager Skip Rapp, stated NDDOT has established a new program to provide a means for cities severely affected by loss of trees caused by the weather. Rapp stated the City may be eligible for up to \$50,000 which will be a 80/20% match. He stated should the City be approved, it is the intent to have residents desiring to replace trees along public right-of-way pay the local share. He stated if the grant is approved, the city would develop a voluntary sign-up program with the property owner being responsible for watering and caring for the trees for three years with City staff providing the pruning. Rapp stated as the City learns more he will inform the Commission.

2. Elder Care Remodeling Costs:

Skip Rapp stated final costs for the remodel and repair to the Baker Building are not determined as final bills have not been received but will provide at a future meeting.

8. ADMINISTRATION:

A. CITY ADMINISTRATOR REPORT:

1. Parking Lot north of KDIX:

Sund stated the City received requests from three parties to purchase the city owned parking lot on 2nd Avenue West located north of KDIX. He stated the parking lot is located in the Downtown Parking Lot Improvement District and it is his recommendation that should the City consider selling the lot, the purchaser be required to provide alternate parking space in another area of town. He stated the City would also need to advertise the property prior to selling. Commissioner Dukart stated Consolidated is one of the parties that have expressed interested in the lot but would not need the entire area. Commissioner Frenzel stated he would like to see the impact of the renaissance zone projects for the Elks Building and American State prior to making a decision to sell the lots. President Johnson acknowledged both comments from Commissioner Dukart and Frenzel and stated it is important the City determine best use for the property and not move hastily. Johnson encouraged public comment regarding the issue. Sund stated he would attempt to contact a representative of the Greater Downtown Association to gather input. President Johnson directed City Attorney Priebe, Engineer Soehren and City Administrator Sund analyze best use for the property, gather input from the public with possible consideration of a public hearing, and determine a course of action.

2. Oil and Gas Tidbits Newsletter:

Sund presented a copy of the new Oil and Gas Tidbits newsletter.

3. City Sales Tax Analysis:

Sund referenced a City Sales Tax Analysis report provided by the Office of State Tax Commissioner.

4. Association of Oil & Gas Producing Counties annual meeting:

Sund stated he will be attending the Association of Oil & Gas Producing Counties Annual Meeting in Bowman on October 4 & 5.

5. Dr. Emmerich Renaissance Zone application:

Sund stated the City was notified by the State that the Renaissance Zone Application for Mark and Kim Emmerich was denied because the building was purchased prior to

application approval and the project was started prior to approval. Sund stated he will seek Legislative action to amend the laws and relax some of the rules for Renaissance Zone designation.

6. NDLC “We are building an inclusive community campaign”:

Sund stated the National League of Cities is encouraging cities to approve a resolution that supports the “We are Building an Inclusive Community” theme. He stated each city that approves the resolution receives a road sign. He stated the President of the National League of Cities stated the designation simply states the City is working toward the mission and acknowledges it is work in progress. Based upon no commission objection, President Johnson directed Sund present the resolution at a future meeting.

7. Museum Center Enhancement Project:

Sund stated in the 2007 budget the City budgeted \$30,000 to conduct a study to analyze the needs of adding onto the Pioneer Machinery Building located at the Prairie Outpost Park. He stated initially Stark County Historical Society wanted to plan and construct the building and seek money from the city from the Hospitality Tax but he encouraged them to seek a needs assessment study and involve Ms. Stuckle in the planning process. Based upon no commission objection, Sund was directed to advertise for proposals.

8. Other:

Police Chief Rummel presented accident report numbers for the construction area on Hwy 22 North. He stated comparing accidents during the same time frame there were 15 accidents in 2006 compared to 6 in 2005. It was noted that Highway 22 construction was anticipated to be complete around October 15th.

9. ACCOUNTS PAYABLE AND PAYROLL

MOTION BY: Carson Steiner SECONDED BY: Bill Reitmeier

To approve the accounts payable as presented with accounts payable numbers 58,063 to 58,226. Said list is available in the Accounting Office.

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

10. CITY COMMISSIONERS' REPORTS:

N/A

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

N/A

ADJOURNMENT

MOTION BY: Bill Reitmeier SECONDED BY: Carson Steiner

For adjournment of the meeting at 7:18 PM.

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

OFFICIAL MINUTES PREPARED BY:

Cindy Selinger, Assistant to City Administrator

APPROVED BY:

Greg Sund, City Administrator

Dennis W. Johnson, President
Board of City Commissioners

Date: _____