

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, Gene Jackson, Shirley Dukart, and Joe Frenzel, Carson Steiner

Absent were: None

STANDARD MOTIONS**1. ORDER OF BUSINESS**

MOTION BY: Gene Jackson

SECONDED BY: Joe Frenzel

To approve the October 5, 2009 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Gene Jackson

SECONDED BY: Shirley Dukart

A. Approval of minutes of regular meeting dated September 21, 2009

B. Approval of 12" Feedermain Easement from the State of North Dakota

C. Approval of Web QA – Schedule B – Extension/Request for Additional Services

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

Motion declared duly passed.

TIMETABLE AGENDA

5:30 PM

PUBLIC HEARING – 2010 APPROPRIATIONS ORDINANCE NO. 1372

President Johnson opened the public hearing at 5:42 p.m. to gather input regarding special use permits.

City Engineer, Shawn Soehren introduced a request for a special use permit submitted by Robert and Rogina Cusic which is located at 629 10th Avenue West. This home occupation has services such as Botox, laser treatments, etc. This business would be located in a residential area. Soehren reports there were phone calls from the neighbors but they did not have any problems with the home business. Soehren reports the Planning and Zoning Board has reviewed this application and recommends approval of this special use permit to the City Commission.

Ms. Rogina Cusic spoke about the business and stated this has been a part-time business and the clientele would like more privacy. She states by moving the business to their place of residence the Cusic's feel this will solve the privacy issue.

MOTION BY: Gene Jackson

SECONDED BY: Joe Frenzel

To approve the special use permit for a home occupation at 629 10th Avenue West.

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

Motion declared duly passed.

City Engineer, Shawn Soehren introduced the second special use permit for Jennifer Olson at 276 Kuchenski Drive. This home occupation consists of massage therapy, core synchronism and colon hydrotherapy. Ms. Olson currently has an office in Belfield but with the increased clientele in Dickinson she would like to service those people in her home. Mr. Soehren reports that he did receive one phone call from a neighbor who was concerned with the parking area. Ms. Olson stated to Mr. Soehren that she would only have one client at a time and they would park in her driveway. Soehren states the Planning and Zoning Board has reviewed the application and recommends approval of this special use permit.

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To approve the special use permit for a home occupation at 276 Kuchenski Drive.

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

Motion declared duly passed.

City Engineer, Shawn Soehren introduces the third special use permit application at 312 2nd Ave. W; Dickinson Area Public Library. This special use permit would be for a parking lot in a R1, low family density zone district. Soehren states with the expansion of the library, additional parking areas are needed. Planning and Zoning Board did hold a public hearing and they have reviewed the application and recommend a special use permit for the parking lot.

Ms. Tollefson, Library Director, states that by allowing this special use permit there would be a gain of 37 feet which would be made into parking spaces. She states there would be a barrier zone and they are willing to put up a fence. Ms. Tollefson is very much in favor of this special use permit and is very excited about the project.

MOTION BY: Carson Steiner

SECONDED BY: Shirley Dukart

To approve the special use permit for the Dickinson Area Public Library at 312 2nd Avenue West.

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

Motion declared duly passed.

No further public comment was received, therefore President Johnson closed the public hearing at 5:50

5:50 PM

UNMET NEEDS COMMITTEE REPORT – PASTOR STEVE TANGEN

Pastor Steve Tangen, Chairman of Unmet Needs Committee would like to thank the National Guard, Salvation Army and Red Cross for all their help after the 7/8/09 tornado. He would especially like to thank the BandAid Relief Concert committee as they did a wonderful job in raising funds for the tornado victims. The Unmet Needs Committee received a check for \$57,562.00 contributed by the community on July 19, 2009. Tangen states \$89,000 of contributions will be distributed to applicants later on this week.

Pastor Tangen states RAFT has been a great resource. Applications for tornado relief funds were sent to RAFT, then these applications were assigned a case manager and the case manager submitted the applications to the Unmet Needs Committee. There were 47 applications received and acted on. Approximately 10% of the number of victims applied for funding. When the applications were submitted to the Unmet Needs Committee all personal information was removed. The applications were based on number of people in the house, age, household income, extraordinary expenses, and damage done to their living quarters. Dollars do not go specifically to each applicant. Checks will be distributed to local businesses in forms of vouchers so residence can purchase building supplies as they are needed. Tangen encourages the commission and community to continue their support as the City is nowhere near the end of the rebuilding process of those who were displaced.

Pastor Tangen states that more than \$89,000 was received. The committee set a deadline of \$89,000 to be distributed first. Then the applications will be reviewed again and the greatest needs will have money reissued to them. Applications will be reopened at that time also.

Mr. Kessel, Administrator compliments Pastor Tangen on doing a great job on the Unmet Needs Committee. He states Pastor Tangen knew very little about the project when he stepped up to the plate and became Chairman. Kessel thanks Pastor Tangen for being chair and that he has done an admirable job.

President Johnson also extends his gratitude to Pastor Tangen and states that he is obviously doing a great job. Johnson states he appreciated receiving the email from Pastor Tangen to chair the committee.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. SUNSET SENIOR CENTER

City Administrator, Shawn Kessel reported the Sunset Senior Center has made a request for

Ms. Thiel states she would like to meet with the Commissioners individually as she does not feel the figures are accurate in regards to the lodging. Thiel feels there is a discrepancy between the Occupancy Tax figures for 2008 and 2009. Ms. Thiel does state CVB has money in reserve as they have condensed the budget. Thiel states that she has arrived at a reserve of \$200,000 in case

President Johnson states that the Hospitality Tax will not be used for anything else as it goes into a separate Hospitality Tax fund. He feels there is an issue of transparency and in understanding what the ordinance is requiring us to take 20% of the Hospitality Tax along with 100% of the Occupancy Tax to turn it over to the CVB and that would exceed their budgeted expense by \$100,000 each year. President Johnson does not understand why CVB would want an ordinance that would continue to fund the CVB in excess of their annual budget. Johnson states the CVB's balance sheet is very strong and why should the Commission continue to support an ordinance that would require the City to fund at such an excessive amount of money. Johnson would like to know how much is enough? Johnson states the Hospitality Tax would be in a trust fund and not the general fund. Johnson feels the citizens would support the idea of putting the money in a trust fund instead of the CVB reserve.

City Attorney, Matt Kolling reviewed the law in regards to the Hospitality Tax. The State law requires all money collected in a victory promotional capital fund. The State law then allows for certain items to be purchased out of the capital construction fund, tourism, maintenance repair of buildings and visitor attractions. These funds could be used at the Commission discretion for capital projects for tourism.

C. AUGUST FINANCIAL REPORT:

MOTION BY: Joe Frenzel
To accept the August, 2009 Monthly Financial Report as presented.
DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.
Motion declared duly passed.

SECONDED BY: Shirley Dukart

Commissioner Jackson expressed some concern that if we change this ordinance we may need to revisit the budget in regards to the Hospitality Tax.

MOTION BY: Gene Jackson SECONDED BY: Shirley Dukart
To approve the second reading and final passage of Ordinance No. 1372.
DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Motion declared duly passed.

E. CELEBRATE WHITE CANE SAFETY DAY

City Administrator, Shawn Kessel 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.

F. REPORTS:

1. Property Owner and Builder Exemptions

City Attorney, Matt Kolling reported a draft resolution has been created and will be brought before the next meeting in regards to the tax exemption for property owners and builders. This tax exemption as allowed by state law up to \$75,000 for new residential and \$150,000 for builders. These are the changes that will be brought before the Commission next meeting in a formal resolution.

Commissioner Frenzel relates information from the community that they feel the exemption should be \$100,000 for the home owner for one year and \$100,000 for the builder for one year. He questions as to who would receive the exemption and when would it start if someone already owned the land and would someone build a house on the property.

Commissioner Jackson would like to see the exemption tipped away from the builder and more towards the home owner. He feels ten homes sitting empty for a builder would be a subsidizing issue only.

Attorney Kolling states the draft resolution allows up to 10 homes to be exempt but this could be curbed back. This 10 home exemption is allowed by state law and not necessarily does the City have to follow this law. Kolling states the exemption would begin for the builder at the beginning of construction. For the home owners it would when the deed is transferred to their name. Kolling will review the laws in regards to a person already owns the land and builds a house when would the exemption take place. Kolling also states the builder is exempt from date of construction for up to two years, not liable for property tax. If the builder still owns the house after two years then the builder would be responsible for the property taxes.

President Johnson agrees with allowing the 2 year exemption for the builder and if it is not sold in two years then the builder is responsible for the taxes. Johnson also feels the total dollar exemption could be unlimited in regards to the builder. Johnson relates the economy is pretty good here in regards to building perspective, percentage rates, demand, limit to exemption to buyers right now and when economic changes occur then the resolution could be changed. Johnson states action on the resolution should be no later than the first meeting in December.

City Assessor, Jan Zent would like to see the resolution passed soon. Zent is now working under the existing resolution but would like to see the new resolution passed sooner than later. Possibly have the deadline at the beginning of December.

Commissioner Jackson would like to see this completed within a month. Commissioner Dukart would also like to see the resolution completed soon.

5. PUBLIC SAFETY

A. Report:

1. Battle of the Badges:

Fire Chief Bob Sivak reported the representative from United Blood Services was unable to attend this evenings meeting so this presentation will not take place.

2. Fire Prevention Week Proclamation:

Fire Chief Bob Sivak reported Fire Prevention Week has started with 84 student visitors to the Fire Department today. Prior to this week fire safety lessons were provided to the Dickinson High School. Fire Prevention activities will continue for the next two weeks. Sivak states the

City's past history is very important. Dickinson had a couple of significant fire losses in the past; in 1949, the Villard Hotel between Bogeys and The Brickhouse burnt; and in 1950 St. Charles Hotel, where Jordheim Gym is today burnt. A 16 mm film clip on the St. Charles Hotel fire can be found on the internet.

6. PUBLIC WORKS – ENGINEERING

A. Sims and Museum Intersection Project

City Engineer, Shawn Soehren, reports the bids were open for the reconstruction of Museum Drive and Sims Street Intersection. A total of two bids were received with TooZ Construction, Inc. coming in as the low bidder at \$89,807.04. This project will make improvements to the intersection at Sims Street and Museum Drive. This intersection took quite a beating this past winter with the drainage and in proposing is a concrete intersection.

MOTION BY: Gene Jackson

SECONDED BY: Carson Steiner

To accept the low bid of \$89,807.04 from TooZ Construction Inc. for the reconstruction of Museum Drive and Sims Street Intersection.

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

Motion declared duly passed.

B. Reports:

1. Board of Adjustment Meeting Minutes – September 14, 2009

Soehren informed the Commission the Meeting Minutes were for informational purposes only.

2. Planning and Zoning Commission Meeting Minutes – September 16, 2009

Soehren informed the Commission the Meeting Minutes were for informational purposes only.

3. Code Enforcement Report – September, 2009

City Engineer, Shawn Soehren reported 19 commercial permits issued at the present time as compared to 18 last year. Discussion about another hotel has been taking place and there are hopes of placing the footings before the ground freezes. Soehren feels the increase in single family housing is due to the tornado destruction. Soehren reports total fees remitted to the city has generated approximately \$35,000 which is being used in our community.

Soehren has been looking into the stimulus project and there is approximately \$217,000 remaining. Mr. Soehren will be working with Fire Chief Bob Sivak on a new project. They will be investigating signal controllers for the Fire Department. Mr. Soehren will continue to inform the Commission on the advancement of this project.

7. PUBLIC WORKS – MAINTENANCE AND UTILITIES

None.

8. ADMINISTRATION:

A. City Administrator Report

1. Liquor License Violation Follow-up

Administrator, Shawn Kessel updated the Commission on the one day suspension for the Ponderosa and El Sombrero. The closing date for the Ponderosa was September 27, 2009 and the El Sombrero will be October 6, 2009.

2. HR 413

Administrator Kessel reports this bill is a collective bargaining rights for public safety officers at the state and local level. This bill would allow the police and fire personnel to form unions. Police and Fire Chief's are opposed to this legislation.

Commissioner Jackson states he does oppose the HR 413 bill.

Mr. Kessel will compose and submit a letter for approval or denial at the next Commission meeting.

3. Census 2010 Update

Mr. Kessel reports Lori Jordheim has been hired for the 2010 Census Coordinator. Three different groups are being focused on; snow birds, students and oil field workers. Kessel reports if a person have lived in the City for at least six months plus one day they are considered a resident here and should be counted. The focus of the census will be to make sure everyone is counted. Ms. Jordheim will give an update on the 2010 Census at the October 19, 2009 meeting.

4. Land Sale to Facilitate Section 8 Housing Retention

The tornado had affected 30 units of Section 8 housing on the south side of the city. Those units are being removed. The land has transferred ownership to Toozy and Metro Plains. The City was looking at an opportunity to sell City land to replace Section 8 Housing as the zoning no longer allows building in the same area. These units will be replaced with 50 units; 30 low income and 20 regular income housing. Two alternative sites have been identified; one is west of the Elks building and second was Lutz subdivision. The proposal in its current state is. City purchases 5 parcels from Toozy/Metro Plains for \$1.50 a square foot = \$122,724. Toozy/Metro Plains purchases the 23rd street property for \$1.75 per square foot = \$170,376 and the second property (which needs parcel lines drawn) for \$2.50 per square foot = \$56,626. Grand total for all city owned parcels being \$226,626; and a difference of \$103,902 will be owned by Toozy/Metro Plains.

MOTION BY: Shirley Dukart

SECONDED BY: Gene Jackson

To accept the City and Toozy/Metro Plains purchases as presented.

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

Motion declared duly passed.

5. Public Building Update:

Baler Building: Kessel reports mostly all repairs are complete on the baler building. The damage to the building did exceed \$300,000 and all expenses are expected to be covered except the \$1,000 deductible.

Museum Center: The museum is expected to be opened today. The museum has been having a great year prior to this incident. The Hospitality Tax dollars in reserve will be used for the expenses in getting this building reopened.

6. EECBG: The City has received the EECBG grant for \$60,000. These dollars will be used for more efficient street lighting, army roof replacement and for the recycling project in the community.

Commissioner Dukart was questioning the water pressure in States Addition - Kessel states that with the new 12" feedermain easement that was approved today, when this project is complete there will be more water pressure in the States Addition.

City Engineer, Shawn Soehren reports the 12" water main project has been started and this will be completed sometime in the middle of November and we are hoping that it will be as functional as we anticipate it to be in regards to the pressure.

9. ACCOUNTS PAYABLE

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

To approve the accounts payable list as presented along with the additional accounts payable list, numbers 070343 to 0070479. 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: Joe Frenzel

SECONDED BY: Carson Steiner

For adjournment of the meeting at approximately 6:40 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: _____