

I. CALL TO ORDER

President Scott Decker called the meeting to order at 4:30 PM.

II. ROLL CALL

Present were: President Scott Decker, Vice President Jason Fridrich,
Commissioners Suzi Sobolik, John Odermann and Nikki Wolla

Absent: None

1. ORDER OF BUSINESS

MOTION BY: Suzi Sobolik

SECONDED BY: Jason Fridrich

To approve the September 21, 2021 Order of Business as presented with the addition of Riverfront Estates Third Final Plat.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Nikki Wolla

SECONDED BY: Suzi Sobolik

A. Approval of meeting minutes dated September 7, 2021 and September 14, 2021.

B. Approval of Accounts Payable, Commerce Bank & Checkbook.

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

3. ADMINISTRATION/FINANCE**A. Manufacturing Day in Dickinson**

President Scott Decker reads the Manufacturing Day in Dickinson Proclamation which proclaims October 13, 2021 Manufacturing Day in Dickinson.

MOTION BY: Jason Fridrich
Adopt Resolution 27-2021

SECONDED BY: Suzi Sobolik

RESOLUTION NO. 27 – 2021**A RESOLUTION PROCLAIMING OCTOBER 13, 2021 AS MANUFACTURING DAY IN DICKINSON**

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

Arborist Day Proclamation

President Scott Decker reads the Arbor Day Proclamation proclaiming October 7, 2021 as Arbor Day in Dickinson.

MOTION BY: Nikki Wolla
Approve Arbor Day Proclamation.

SECONDED BY: John Odermann

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

B. Monthly Financial Report

Accountant Robbie Morey updates the Commission on the August 31, 2021 Financial Report. He states there have been no changes in investments. The Occupancy Tax is the highest it has been in three years. Oil Impact is about the same as 2019, up about \$6,000. General Fund expenses are 61% expended; revenue is collected at 82%. The Enterprise fund is expended at 58% and Enterprise fund revenue is 72% collected.

MOTION BY: Suzi Sobolik
To approve the monthly financial report.

SECONDED BY: Jason Fridrich

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

C. Downtown Square Bid

City Administrator Brian Winningham presents the bid tabulation sheets. The low bid for general is Tooz Construction, Mechanical prime bid is Central Mechanical and Electrical Prime bid is Denny's Electric. Administrator Winningham discusses alternates. He states the City has struck alternate #5 which was lithocrete.

Commissioner John Odermann discusses alternates and if a motion needs to be made on them.

City Attorney Christina Wenko states dealing with these types of bid situations would make sense to make a motion for the baseline bids and then to motion on the alternates one by one.

Public Works Director Gary Zuroff states that he would approve the base bids and maybe talk about each alternate. He states in the work session there was discussion of the combined bids and that was thrown out when you delete alternatives. Unless you know specifically the alternates you want to do in one motion.

City Administrator Brian Winningham discusses the construction cost with the contingency of 5%. He states the soft costs are \$394,400 for a total of \$4,713,685 for the total cost of the project. His recommendation is to accept low bid and total cost and accept alternates at a different time. Once the bid is accepted and approval is done then the City can talk about each one of the alternates.

Commissioner Jason Fridrich states he would support only 2 alternates at this time and the others to be considered not able to do at a later time. Splash pad lighting and pergolas are the only ones that he would consider approving at this time as they cannot be added at a later date.

City Administrator Brian Winningham visits about the high value splash pad lighting. He recommended previously to strike out but it would not be able to add back in. He also discusses the pergolas which were added and these also would be difficult to add later. There is a total of 7 pergolas in the project. Administrator Winningham states the city would hold to 60 day bid timeline in the alternate bids that the initial bid would be acceptable. After 60 days it would be a change to the project if a change in this bid.

President Scott Decker would like to look at the bid tab and only thing under alternate bid tab is \$8,350 is just electrical. There is \$80,000 outside of the bid for splash pad.

City Administrator Brian Winningham discusses the alleyway behind new town square and sidewalks, these are costs the City would pick up. He is not sure if the City could do that cheaper than the project.

Mr. Zach Mathern from JLG states in the next few months there will not be doing construction but making decisions on ordering supplies. If you delay the prices may change. The City may choose not to purchase the equipment and can ask contractor to not to do this and how much money not to install electrical.

MOTION BY: John Odermann
To approve the baseline bid for general, mechanical and electrical. The
lowest bidders will be Tooz Construction, Central Mechanical and Denny's
Electric.

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

Motion declared duly passed

MOTION BY: John Odermann
To approve Alternate #10: Alley.

SECONDED BY: Suzi Sobolik

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

MOTION BY: John Odermann
To approve Alternate #11: Sidewalk.

SECONDED BY: Jason Fridrich

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

MOTION BY: John Odermann
To approve Alternate #3: Flagpole.

SECONDED BY: Jason Fridrich

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

MOTION BY: Jason Fridrich
To approve Alternate #4: Splash Pad Lighting.

SECONDED BY: Nikki Wolla

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

Commissioner John Odermann does not know if the City would get the value it is looking for with the splash pad and how often it would be used. Also, would it be used after dark and what kind of headache would it create for the Police Department as it is very near to bars.

Mr. Zach Mathern states in order for the lights to be on the splash pad would need to be running. The lights produce heat.

Commissioner John Odermann states realistically the City would only be able to have the splash pad with lights on for six months of the year.

Chief Dustin Dassinger states time would tell and with security cameras and warning devices.

Commissioner Suzi Sobolik would like to see the splash pad on during the day and during 1st on 1st. She is leaning away from the lighting as she is not sure it is \$80,000 dollars' worth of lighting as if you can't use the lighting without the splash pad being on.

Commissioner Jason Fridrich rescinded his motion on item #4 – splash pad lighting.

MOTION BY: Jason Fridrich
To approve Alternate #6: Pergolas.

SECONDED BY: Suzi Sobolik

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

D. Reports:

1. HR Monthly Report

HR Coordinator Shelly Nameniuk updates the Commission on the open positions for the City of Dickinson such as Utility Manager, Communication Specialist which has been a difficult position to fill; the Reclamation Operator has been filled internally, Corporal which has been filled internally and seasonal Tree Data Collection position.

4. PUBLIC SAFETY

A. Fire Department

1. Reports:

None

B. Police Department

1. Reports

Monthly Report

Police Chief Dustin Dassinger updates the Commissioners on the August calls for service which were 2,394 which is slightly down from July. The most prominent calls are suspicious person and vehicle and to speak to an officer. City traffic violations highest were speeding with 53 accidents and 2 injuries. There were 446 traffic stops with 99 citations and 279 warnings; 52 warrant arrests and 95 behavioral health calls. The training was mostly concentrated on the SRO program. Chief Dassinger states there are 52 open cases for criminal investigations with 35 new cases/incidents for the month. Dispatch had 939 emergency calls. Records had 65 sets of fingerprinting. The Animal Shelter had 165 calls for services. Promotions were made for Corporal Casey Brosten and Sergeant Mike Hanel.

5. ENGINEERING

A. Task Order with KLJ for the 2022 Mill and Overlay with Special Improvement District

Interim City Engineer Loretta Marshik presents a task order with KLJ Engineering for the 2022 Mill and Overlay Project. This agreement is professional services consisting of preliminary engineering, design, bidding and construction administration. The task order will be billed at an hourly rate with a not to exceed amount of \$175,000.

MOTION BY: John Odermann

SECONDED BY: Jason Fridrich

To approve the KLJ Task Order Agreement of the 2022 Mill and Overlay Project.

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

6. PUBLIC WORKS

A. Highlands Engineering Task Order for West Ridge 1st Addition Road Construction. City Project #202112

Public Works Director Gary Zuroff presents a Task Order to provide Design, Bidding, and Construction Administration services for the street improvements for protruding manhole sections and temporarily filling voids in preparation of the reconstruction with reinforced concrete pavement planned for next year. The work would be done on 40th and 44th Avenue West, north of West Ridge Drive. The estimate cost would be \$615,000. Public Works staff recommends approval.

Highlands Engineering Andrew Shrank states the investigation on this site has now shown the exact cause as some tests show good ground impaction for 6' and some impaction good only 3'.

MOTION BY: Suzi Sobolik

SECONDED BY: John Odermann

To approve the Highlands Engineering Task Order for West Ridge 1st Addition Road Construction Project. City Project #202112

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

7. **PLANNING**

A. Riverfront Estates Final Plant

Planning Director Walter Hadley presents to the Commission a final plat for Riverfront Estates 3rd Addition. This is a 16 lot residential subdivision. This item was heard at the Planning and Zoning Meeting last week and is at the Commission for approval.

MOTION BY: Nikki Wolla
Adopt Resolution 28-2021.

SECONDED BY: Jason Fridrich

RESOLUTION NO. 28-2021

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

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

8. **BUILDING/CODE ENFORCEMENT**

A. Reports

1. None

9. **PUBLIC HEARING AND PUBLIC COMMENTS NOT ON AGENDA – 5:00 P.M.**

A. Public Hearing – 2022 Budget

Deputy City Administrator Linda Carlson presents the ordinance for the 2022 budget. There have been no changes from the work session discussion on the ordinance. The total general budget is \$22,451,331. Deputy City Administrator Linda Carlson reviews the PowerPoint with the public.

President Scott Decker opens the public hearing at 5:13 p.m.

Resident Jeff Ficek thanks the Commissioner's for the splash pad. He does feel that there would be icicles shooting out of the splash pad during the winter. Mr. Ficek would like to discuss the mausoleum budget issue. He visits about the mausoleum and the cemetery and asks if the public had any input into the mausoleum creation and the proposed budget of \$1.5 million.

Commissioner John Odermann states there was a planning process and procurement process with a design and states that the nice thing about the mausoleum and cemetery the money will be coming back to the City once the lots are sold.

Mr. Jeff Ficek states he is a private contractor and discusses surface vaults. He discusses why the covers are deteriorating. Mr. Ficek is wondering why no one in the city had visited with anyone whom works in the cemetery. This is another problem down the road. There is a lot of spaces in western ND. The City could look at having another cemetery with a cemetery commission where the public was a participant in the decision as it used to be this way. He states if there is a tornado on the north side of town the cemetery would go to pieces. He asks the City to talk to people outside in the public.

Public Works Director Gary Zuroff state the public is pushing for additional vaults along with crypts and urns. There are not many issues with mausoleums.

Commissioner Suzi Sobolik states the elderly can visit their loved ones in the warmest of conditions from the inside. She states the city is running out of space in the mausoleum. She states they have heard from both sides of people already.

President Scott Decker closes the public hearing at 5:28 p.m. and the following motion is made.

MOTION BY: Suzi Sobolik SECONDED BY: Nikki Wolla
To approve first reading of Ordinance No. 1725.

ORDINANCE NO. 1725

ANNUAL APPROPRIATION AND TAX LEVY

AN ORDINANCE ENTITLED “THE 2022 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 1, 2022 AND ENDING DECEMBER 31, 2022, INCLUSIVE.

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

B. Public Hearing – Chapter 39 Amendments – Wireless Communication

Planning Director Walter Hadley presents the wireless communication chapter 39 amendment. This is in regards to small cell communication within the right of way. This is regulated by the FCC. There has been no input from the public. This ordinance change would allow people to install in the public right of way.

City Attorney Christina Wenko states there was a major push for this ordinance change. NDDOT request to agree with these facilities. Ms. Wenko states in the technology era and the city is to regulate these to a degree

President Scott Decker opens up the public hearing at 5:30 p.m. Hearing no public comment, the hearing is closed at 5:31 p.m. and the following motion is made.

MOTION BY: Nikki Wolla SECONDED BY: John Odermann
To approve first reading of Ordinance No. 1726.

ORDINANCE NO. 1726

AN ORDINANCE AMENDING AND ENACTING CHAPTER THIRTY-NINE (39) OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO ZONING AND WIRELESS TELECOMMUNICATIONS FACILITIES

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

C. Public Hearing – Chapter 39 Amendments – Adult Entertainment Center

Planning Director Walter Hadley presents a chapter 39 amendment to the ordinance in regards to adult entertainment centers. This amendment is to clean up the existing code. Any adult entertainment center defined would be allowed in a limited industrial and commercial area as allowed by the Commission. This item was heard at the Planning and Zoning Meeting with no opposition.

City Attorney Christina Wenko states these Chapter 39 amendments will go hand in hand with Chapter 3. This specifically to allow adult entertainment center in those particular zoning districts. This is a minor change and would allow them in certain zoning districts.

President Scott Decker opens the public hearing at 5:33 p.m. Hearing no public comment, the hearing was closed at 5:34 p.m. and the following motion is made.

MOTION BY: Jason Fridrich SECONDED BY: Nikki Wolla
To approve first reading of Ordinance No. 1727.

ORDINANCE NO. 1727

**AN ORDINANCE AMENDING AND RE-ENACTING CHAPTER 39 OF THE
CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA,
RELATING TO ZONING REGULATIONS REGARDING ADULT**

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

Planning Director Walter Hadley presents Chapter 39 amendments that deals with definitions. This is to clean up the ordinance on definition to be appropriate for both previous ordinances.

MOTION BY: Suzi Sobolik SECONDED BY: John Odermann
To approve first reading of Ordinance No. 1728.

**AN ORDINANCE AMENDING AND RE-ENACTING CHAPTER 39 OF
THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA,
RELATING TO DEFINITIONS IN THE ZONING CODE**

MOTION BY: Jason Fridrich SECONDED BY: Suzi Sobolik
To approve first reading of Ordinance No. 1729.

AN ORDINANCE AMENDING AND RE-ENACTING CHAPTER 3 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO ADULT ENTERTAINMENT CENTERS OR ESTABLISHMENTS.

City Attorney Christina Wenko states she has visited with Mr. Dukart herself about the property issues. She was told that an individual was going to purchase the property and now she is hearing that no one is purchasing the property. She states it is a legal process

to go through condemnation. She states there was a previous no trespass order and Mr. Dukart has been in court for violation of these orders. She states if he is on the property the Police Department should be notified.

Ms. Blackwood states Mr. Dukart was on the property on Saturday again. She states the law does not apply to Mr. Dukart. She is really hoping the City has some teeth to sink into this property and to get the process complete and that he would stay off the property.

Attorney Christina Wenko states if Ms. Blackwood observes someone on this property she should call the Police Department. The City needs to work with property owner but at this time this is not realistic anymore. Ms. Wenko assures Ms. Blackwood that the City will be moving forward on this property to be cleaned up.

Ms. Blackwood states Mr. Dukart does not have any money to clean up the place and he won't stay off the property. He comes and goes at all hours of the day and night and does what he wants to do. The Police Department has been called all the times. She states Mr. Dukart time is up and the neighbors really need the City's help in pushing this forward. She is very hopeful.

Attorney Wenko states the City has been keeping her up to speed on the status of this property. They are going through the legal process on this property.

Resident Nichole Wahl states she has visited with Mr. Justin Dukart and he is confused. Mr. Dukart does not have anymore options with the City. She reads a letter where this issue has been going on for years. In June 8, 2021 this property was declared unsafe. She is getting very frustrated with the situation and the City as she states that Mr. Justin Dukart has 30 days and 30 days and 30 days and his 30 days have been up a long time ago. This issue has been going on for 10 years. There is drugs and pornography in that place and she is hoping this issue comes to an end.

President Scott Decker closes the public comment section at 5:58 p.m.

10. **COMMISSION**

Public Works Director Gary Zuroff updates the Commissioners on the new City Hall progress. He states progress is going well with the upstairs casing is complete and are waiting on the windows. The offices upstairs are almost done but the work in the commission is not quite complete. There is still a lot of work to be completed. The commission room is the last thing to be done. Once the sheet rock is done then the ceiling tile work will be complete. This project is mostly coming together as most of the mechanical work is complete.

City Administrator Brian Winningham states the plan time for moving is October 15, 2021. There may be a time where the staff is split in different buildings. Mr. Winningham will be talking to the bank in regards to the current lease.

ADJOURNMENT

MOTION BY: Suzi Sobolik

SECONDED BY: Jason Fridrich

Adjournment of the meeting at 6:20 P.M.

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:

Brian Winningham, City Administrator

Scott Decker, President
Board of City Commissioners

Date: _____ October 5, 2021