

I. CALL TO ORDER

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

II. ROLL CALL

Present were: President Dennis W. Johnson, Gene Jackson, Klayton Oltmanns, Carson Steiner and Rod Landblom

Absent were: None

STANDARD MOTIONS

1. ORDER OF BUSINESS

MOTION BY: Gene Jackson

SECONDED BY: Klayton Oltmanns

To approve the October 18, 2010 Order of Business as presented with the removal of item under #10: Charbonneau Parking Lot.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Gene Jackson

SECONDED BY: Rod Landblom

A. Approval of minutes of regular meeting dated October 4, 2010.

B. Approval of Liberty Tire Services Agreement.

C. Approval of Carol Kuether as a Board Member for the Dickinson Public Library Board

D. Memorandum of Understanding between Stark County Commission/City of Dickinson/Dunn County.

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

Motion declared duly passed.

TIMETABLE AGENDA

5:20 PM

BATTLE OF THE BADGES

Representative Lea Fink from the United Blood Services announced the fourth annual Battle of the Badges. This battle is between local law enforcement and the fire department. Ms. Fink reports the blood drive in Dickinson had a wonderful response and was very successful with 166 donors, 182 units of blood collected with 46 first time donors. Ms. Fink thanked the community and the Fire Department and the local law enforcement for participating. This year's winner was the Fire Department. Ms. Fink presented Chief Sivak with the trophy.

Chief Sivak thanks all the area Fire Departments for donating blood to help take the win. Sivak states it was a pleasure to defeat the Police Department and help United Blood Services in this extremely worthy cause.

5:30 PM

DISCUSSION OF NORTHSIDE ANNEXATION

City Attorney Matt Kolling recaps the annexation process and the commissioners remaining obligation:

- The city is proceeding with annexation by resolution. Under this procedure, the City is proceeding with annexation by resolution. Under this procedure, the city defines the area that it wishes to see annexed to city limits, and believes is appropriate for annexation.
- That area was set forth and legally-described in the resolution passed by the commission at its meeting on September 7, 2010. That resolution annexed the property to city limits, subject to the requirement that owners of land had the opportunity to file written protests to the annexation.
- By law if the owners of more than one-fourth of the land subject to annexation file written protests, it is a bar to annexation
- Property owners have 30 days from the publication of the resolution calling for annexation in which to file a written objection. That time per has now expired.
- State law requires that at this meeting – the first one following the expiration of the time for filing the protests – the city commission shall hear and determine the sufficiency of protests.

Thus, the remaining obligation of the city commission is to determine whether owners of one-fourth of territory proposed to be annexed have filed written protests to the annexation. The obligation of the City Commission now is not to determine whether or not the land should be annexed. The decision was already made in your resolution passed on September 7, 2010. The Commission need only determine whether the owners of more than one-fourth of the territory proposed for annexation have filed written protests.

Kolling states it is his understanding that the owners of approximately 15% of the land area proposed for annexation have filed written protests to the annexation. If the Commission accepts Mr. Soehren's calculation of the land area for which protests were filed a motion shall be made in this manner. Should the motion pass the annexation of the property is effective as soon as a copy of the resolution and an accurate map of the area annexed are filed with the county recorder. Annexation is effective for the purpose of general taxation on the first day of the next February.

City Engineer Shawn Soehren presented the map which was color coded in the protest area. Soehren reports the City did receive 44.34 acres in opposition. This totals to 15.5% of the area in opposition of the annexation.

President Johnson asked for any public input.

Susan Knutson from Andrus Outdoors states that she has never received an annexation letter and does show many copies of maps from the City. She claims that she personally visited many businesses in regards to the annexation. She did check with the ND Highway Department and they have not received any notification. She does state the Highway Department is required to write a consent letter for the annexation.

City Engineer Soehren states the numbers do not include the Highway Department acres. Soehren did visit with the ND Highway Department and they were in favor of the annexation. Soehren reveals the Highway Department does have 25 acres of land.

Attorney Kolling explains that Administrator Kessel and Engineer Soehren did visit with some of the land owners in the area.

City Engineer Soehren states that letters were sent to the property owners which were out of state or out of Dickinson.

Ms. Knutson states that many property owners in the area did not receive the letters.

City Engineer Soehren did reveal that information about the land owners was retrieved from Stark County Courthouse.

Commissioner Jackson states if the Highway Department right away was included in the calculations the percentage level would be lower.

Attorney Kolling states the Highway Department does not have any issues with the annexation and a written consent will be sought after.

Jay Wilhelm – Dickinson Econostorage reaffirms his opposition to the annexation. He is confused as to why the City would draw the annexation line to include the north property. Wilhelm states it seems a bit cheesy to annex this area.

Tom Kurchen also is opposed to current proposal. He states the President of Northern Improvement did not receive a letter for annexation.

Mary Groll of MGM Sanitation is highly concerned about the annexation as they provide services to outside of the City limits. Should the annexation take place the City will be taking away MGM Sanitation's customers. Groll is very concerned about losing all this business. Groll questions if the City will be buying their customers from them. Groll states everyone is suppose to keep business in our own City and the City is going to destroy a small business.

Attorney Kolling states the City is not obligated to purchase for private businesses.

Commissioner Jackson states the Commission has approved a lot of rural subdivisions and has MGM calculated what has been added to the city for rural subdivisions.

Mark Groll of MGM Sanitation states they are not allowed to provide services in city limits and they have no way to compete with the City sanitation. Groll feels they have no other ultimatum other than losing these customers. Groll state the City is taking competition completely out of place.

President Johnson states the City has no obligation to provide MGM with what they are asking for.

Bill Gion, Human Resource Manager from Wyoming Casing speaks on behalf of Steve Halvorson. The key reason for opposing this annexation is that he feels the annexation was planned and calculated strategically and stacked the deck to be self serving. Gion feels the boundary lines could be redrawn and the City would then get overwhelming support. He feels there are a lot of complexities here as property in western ND is driven by the oilfield and Dickinson already benefits from this. Gion feels these companies do not need to be annexed into the City to be a good neighbor. He feels their payroll has a direct affect on Dickinson. He also states the oil companies are watching what the City of Dickinson is doing and they may not want to be part of this City. Mr. Gion feels the letters that were mailed should have been certified mail. He states again the oil field companies are watching the City and possibly do not want to come here. He feels the process, although it was followed legally, was not done quite correctly.

George Nodland – District 36 Senator has been contacted by the landowners in the annexation area. He is concerned with the procedure that was followed in notifying the land owners. He feels a certified letter would have helped the

process. He states the City did not contact Stark County in regards to this annexation and the county will be losing \$92,000 in taxes. Nodland also states the rural fire department will also be losing revenue. Mr. Nodland is representing the people that are going to be annexed into the City. Nodland feels this process should be restarted and the City should work with the people and may be they would accept this annexation. The City is criticized for not making the extra effort by not visiting with the people before the annexation.

President Johnson mentions the annexation was on the agenda a few weeks ago and the City did all the correct procedures in following the law for notification. Mr. Kessel and Mr. Soehren did go out and visit with the land owners prior to the annexation. Johnson feels Mr. Nodland should create a new law in regards to annexation. Johnson states the City did stack the deck and this was made very clear two weeks ago. The City may never have this opportunity again to annex this area into the City so we need to take advantage of the opportunity now.

Dale Potteroff from Advanced Custom Contracting feels the City should vote no on the annexation and leave things alone. Should there be pavement up to 40th Street then the additional owners should be asked to be annexed into the city but that could be up to 10 years before services are received in this area. Potteroff feels there is a crooked line in Commissioner Chairs.

TJ Herauf from Coca-Cola Bottling Company asks if this annexation is a done deal as it certainly seems that the percentage is less than 25% of land mass that is opposed. Herauf would like to see the burden of proof that these land owners received their notification letter. Herauf also feels the City should slow down and take look at the process. He would favor the annexation if the services were in their area already.

Attorney Kolling explains the motion this evening is to only approve the calculations if there are 25% more or less than needed for the opposition of the annexation.

Commissioner Steiner feels this annexation was opposed this evening then certified letters could be sent out and given enough time to review this process.

Bill Gion's concern is legitimate and the process is messed up. The City should step back and take a look at the numbers after new letters are sent and maybe the same percentage will show but apparently people did not get letters.

Walt Smith from Kadrmas, Lee and Jackson states his developer is the property owner of the majority of the land mass and the plat is contingent upon the

approval of the annexation. Any delay of the annexation would hold up the development process. Smith states the landowners are opposed to dragging this process out.

Tracy Hauck of Hauck Family Truck has five lots and they are opposed to the annexation. This annexation does not benefit the Hauck Family Trust in any manner. Hauck feels the owners have spent a lot of money on their own septic systems and the increase of taxes would be no benefit what-so-ever.

City Engineer states the land owners that did not reply is not a surprise to him. The land owners that didn't respond had no indication that they would have responded as they were in favor of the annexation.

Citizen Sandra Kuntz questions the fact that the plats were contingent upon the approval of the annexation.

Attorney Kolling states the city does not put conditions on plats for future entitlement. The City does not have the power to impose annexation to the future owners. Kolling explains the annexation process and states if the Commission votes this evening they are voting on the fact there are less than 25% of the land mass that are opposed to the annexation.

Commissioner Steiner feels that the City has done the right process according to the law but he is kind of hesitant to go along with the annexation. He feels the City should slow down and take a look and redo the mailing. Steiner would like to rescind this annexation at this time and take a few steps and restart the process.

Commissioners Oltmanns main concern is the developer and the time it will take to resend the letters and restart the process. The developer would like to develop to City standards and annexation is the second level of assurance that everything was going to be at that level. Oltmanns would like the development to move forward without the annexation passing.

Attorney Kolling state the previous plat is contingent upon annexation. The developer cannot proceed at this time if the annexation is not passed. If you elect tonight not to certify the numbers from Engineer Soehren you would be finding there was a defect in the annexation process and would come back and redo the annexation and this would require us to restart and it would be another six weeks until it would be able to be passed.

Lisa Call, Dickinson Press questions the boundary lines of annexation. She would like to see the annexation up to 40th street and then at a later date when the services were to 40th then ask the remaining land owners to be annexed.

President Johnson feels if the entire land is not annexed at this time, at a later date the small area of opposition may not be in favor of annexing. How would the City continue to grow would have this small piece of land not annexed.

Bill Andres of All Seasons Storage extends an invitation to the Commission to come to the area in question and to spend a few minutes to show the Commission the well, water, sewer, etc.

President Johnson feels the annexation would be the City's best interest at this time.

Susan Knutson from Andrus Outdoors feels the City made some sort of deal with the developer so that he could develop his area. She is not happy about being forced into the annexation.

Walt Smith of Kadrmas, Lee and Jackson states originally the developer was not in favor of the annexation but he did agree that if he wanted to develop this property he would be annexed into the City. Smith states it would be much cheaper to develop in the county then in the City. Smith feels services will be to the 40th street within the next year.

Commissioner Jackson states the City has been very transparent in their actions. He also feels this annexation is the best for the City and they have been very consistent about it. He states if the City is not going to redraw the boundaries there is no need to prolong the annexation.

Commissioner Oltmanns states the opposing land owners can be seen from the edge of Walmart. These property owners are right on the edge of the current development which will be in city limits. This is the most cost effective way to develop an area.

President Johnson feels this is the best for the City and the right decision as the opposing property owners will be just adjacent to the new development. Johnson thanks the citizens for their concerns. He does feel this is the most cost affective and least disruptive procedure. He would like to have this development done the right way the first time.

Gaylon Baker of Stark Development Corporation states everyone should take a look at this development in the long run. If the annexation does not move forward the main client is going to move out and the economy will lose 400+ jobs. These people moving in will need storage, roads, food, etc. and will purchase these items locally. The economic impact with proceeding with this annexation is very positive for the community as a whole and the neighbors.

Commissioner Landblom states the market has benefited many businesses in our community. He feels the City might remiss if they don't take action to incorporate this property tonight.

MOTION BY: Gene Jackson SECONDED BY: Rod Landblom

To find that the owners of less than one-fourth of the territory proposed to be annexed have filed written protests to annexation, and that the territory described in Resolution No. 37-2010 is hereby annexed to the city limits of the City of Dickinson.

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

Commissioner Jackson is making the motion but he is not convinced that we can accomplish much by delaying this project but don't think the outcome will change. He feels that the City is welcoming oil companies. He does have sympathy that a solid waste business may lose customers. He would be in favor of some transitional period for the solid waste for an amount of time. He feels this is the right thing to do and feels there are negative feelings this evening.

Commission Steiner doesn't disagree with the annexation but the only thing that bothers him in the motion to find the owners less than one fourth of written protests. Steiner would not change the boundaries but has a question if the letters reached everyone of interest.

5:50 PM

ULTEIG PRESENTATION

Mike Berg and Karla Olson from Ultieg Engineering presented the Commission with the final presentation on the preliminary engineering report and improvement to the wastewater plant. The purpose of the presentation this evening was to show the overview of the master planning process. This provided updates, existing conditions, future conditions, equipment evaluation, and alternative analysis. Karla Olson presents the master planning which is at high level. She presents the future tasks of the master lift station, aeration ponds with expansion and upgrades. Olson and Berg provide the design and construction of the master lift station, aeration ponds, rapid infiltration basis, French drain pump along with the cost of

each project. They also reviewed the schedule with the Commission with the final completion date of August, 2012.

President Johnson questions if many general contractors will bid on this project, if the project is large enough to bring many bidders.

Mike Berg does expect a large number of contractors for this project as this is quite a large project.

Ms. Olson states they do have a substantial and final completion date and Ulteig has a very tangible way to hold to completion dates.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. SEPTEMBER FINANCIAL REPORT

Finance Director Tina Johnson highlighted the September 2010 financial report. Ms. Johnson states the municipal court fines have been tracking much lower in the past part of year but are now maintaining.

MOTION BY: Carson Steiner SECONDED BY: Klayton Oltmanns

To accept the July, 2010 Financial Report as presented.

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

Motion declared duly passed

B. DIVERSITY MONTH PROCLAMATION – MARY MASSAD

Mary Massad, representative from the Mayor's Committee states October is known as employment month with persons with disabilities. Massad states the Mayor's Committee has been employing individuals with disabilities since 1986. Massad thanks everyone for their past support. She does thank the Optimist Club for all their hard work. The Mayor's Committee does sponsor Diversity Days. Ms. Massad read the proclamation.

C. THEODORE ROOSEVELT REGIONAL AIRPORT – MATT REMYNSE

Matt Remyse, Manager of Theodore Roosevelt Regional Airport, comes before the Commission this evening to request \$100,000 grant for a new hanger. Mr. Remyse has visited with Dunn and Billings County and only Billings County was very responsive to his request for funding for the hanger. Remyse states that the airport will be quite tight for space as they have received three more aircrafts. The construction of a hanger would allow room for aircrafts which would ensure Dickinson an overnight flight.

MOTION BY: Rod Landblom SECONDED BY: Klayton Oltmanns
To grant the Theodore Roosevelt Regional Airport a \$100,000 grant from the City of Dickinson to construct a hanger. The funding source for this project will be the Hospitality Tax.

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

D. UTILITY BILLING CLERK JOB CLASSIFICATION

Aaron Praus, Chief Operator for Solid Waste states a request has been made by Tiffany Messer to have a reclassification to an Utility Billing Clerk position as her position at the baler building is no longer an entry level position. She has been taking on new duties and requests a reclassification.

President Johnson states Administrator Kessel does not approve this reclassification at this time.

Mr. Praus recommends the reclassification to be a Utility Billing Clerk. Civil Service has also recommended the reclassification to Utility Billing Clerk. This would move from a Grade I to a Grade III. Ms. Messer is satisfied with the move to a Utility Billing Clerk.

President Johnson states if the duties have changed it would be due diligent to reclassify but Johnson would like to hear from Administrator Kessel and he is not present at this meeting.

President Johnson suggests tabling this reclassification until the November 1, 2010 meeting.

E. WEIGHT LIMITS FOR TRUCKS

City Attorney Matt Kolling explains this ordinance would impose a penalty scheme and a regulatory scheme on the trucks that use the City streets. This would allow the Dickinson Police Department to impound trucks that are overweight. This ordinance is equivalent with the ND DOT and Highway Department rules. The Police Department is going throughout training with the DOT to recognize trucks that are overweight and take care of the process as well.

Captain Dusty Dassinger states one officer is being trained in this field. The Police Department is working with the Law Enforcement Training Academy in Bismarck. Dassinger states this is a tool so streets do not get abused.

City Engineer Soehren will present truck routes and review the signs when they are established.

AN ORDINANCE ENACTING SECTION 23.16.100 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO AVOIDING A TRAFFIC DEVICE

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

H. WATER UTILITY ACCOUNTS COMBINATION

City Attorney Matt Kolling explains this ordinance as it would be combining the water fund and the wastewater fund as a single fund for waters utilities. This ordinance consists of language clean up.

President Johnson feels this will be an easier way to budget as these two funds are closely related to each other. There are no separate employees for either of these funds as well it is difficult to define expenses for each account.

MOTION BY: Carson Steiner SECONDED BY: Rod Landblom
To approve the first reading of Ordinance No. 1403.

ORDINANCE NO. 1403

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 38.20.020 REGARDING MONTHLY BASIS; AMENDED AND RE-ENACTING SECTION 38.20.030 REGARDING WATER RATES; REPEALING SECTION 38.20.040 REGARDING WASTEWATER RATES; AMENDING AND RE-ENACTING SECTION 38.203060 REGARDING DUE DATE-FAILURE TO PAY GENERALLY; AMENDING AND RE-ENACTING SECTION 38.20.070 REGARDING JOINT AND SEVERAL LIABILITY OF OWNERS AND OCCUPANTS-BILLING AND PAYMENT AFTER NOTICE OF TERMINATION; AMENDING AND RE-ENACTING SECTION 38.20.080 REGARDING CHARGES TO CONSTITUTE LIEN ON PREMISES; ASSESSMENT AND COLLECTION OF LIEN; AND AMENDING AND RE-ENACTING SECTION 38.20.110 REGARDING WATER AND WASTEWATER FUND

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

I. PANCREATIC CANCER AWARENESS MONTH

President Johnson read the Pancreatic Cancer Awareness Proclamation

J. EXTRA MILE FOUNDATION

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.
Motion declared duly passed

C. REPORTS:

1. Code Enforcement Report, September, 2010

City Engineer Shawn Soehren states the new building permits have more than doubled since last year, from 65 to 138. Additions and alterations are down a bit at this time. There is quite a bit of construction taking place at this time of the year such as three motels, etc.

2. Board of Adjustment Meeting Minutes, October 11, 2010

For informational purposes only.

Commissioner Landblom did point out a mistake on the minutes and they will be amended correctly.

7. PUBLIC WORKS – MAINTENANCE AND UTILITIES

A. Lift Station Inspection Agreement

Tabled until 11/1/10 meeting.

8. ADMINISTRATION:

A. City Administrator Report

1. ND DOT Letter

Attorney Kolling explains Administrator Kessel wrote a letter requesting federal dollars administered by ND DOT to assist the City in creating a Comprehensive Plan. There is a match for the federal dollars in the 2011 budget.

City Engineer Soehren explains this Comprehensive Plan scope would have transportation, growth areas and land use.

2. MOU between St. Joseph's Hospital and City of Dickinson in participation of the 340 B Drug Program

President Johnson presents the MOU from St. Joseph's Hospital which would allow the City to participate in the 340B drug program. This would allow St. Joseph's Hospital to perhaps better serve the underinsured. This MOU will be presented at the 11/1/10 meeting for a vote.

3. **Historic Elks Building**

President Johnson mentions the City has received a formal letter of request to extend the work on the Historic Elks Building. City Attorney Matt Kolling cannot represent the City in this matter as there is a relationship with Mr. Brinkman.

Mr. Granville Brinkman gives a presentation of the Historic Elks Building and the progress that has been made over the past years. Brinkman is requesting a formal request for extension. Currently the first, second and basement floors have a completion date of early spring. Mr. Brinkman states 85% of the first floor, 90% of the second floor, and 89% of the basement are completed. The third floor has a delay due to the selection of finishes. Brinkman states this is not the pace that he would like either but there has been substantial completion done on the building and he is committed to this building. Brinkman did show a slide presentation on the progress of the inside of the building. He does state that North Dakota is very fortunate to have the economy they have and there have been workers onsite every day. Brinkman states for months he has not had the time to dedicate to the Elks Building that he would have liked to but they have crossed that bridge and will be moving forward

President Johnson questions Mr. Brinkman on the rumors of him not making any progress in the building due to financial challenges. The economy is very difficult in the country and questions how it relates to construction and the challenges it has for Dickinson and for Mr. Brinkman.

4. **Staffing Update**

President Johnson notes the City has interviewed for a Public Works Director but decided not to extend an offer. Also a candidate for the Planning Position was interviewed and was offered a position but then declined the offer. The City will contact the next Planner applicant.

5. **Thank You Note**

Provided for informational purposes only

9. **ACCOUNTS PAYABLE**

MOTION BY: Carson Steiner

SECONDED BY: Gene Jackson

To approve the accounts payable list as presented along with the additional accounts payable list, numbers 074074 to 074230. 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: Carson Steiner SECONDED BY: Rod Landblom

For adjournment of the meeting at approximately 10:00 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: _____