

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, Rod Landblom, Carson Steiner and Klayton Oltmanns

Absent were: All present

STANDARD MOTIONS

1. ORDER OF BUSINESS

MOTION BY: Klayton Oltmanns SECONDED BY: Carson Steiner

To approve the November 15, 2010 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Rod Landblom SECONDED BY: Gene Jackson

A. Approval of minutes of regular meeting dated November 1, 2010.

B. Approval of new restaurant application – JD’s BBQ.

C. Approval of ND Department of Transportation School Funds Contract.

D. Approval of Department of Interior Cooperative Agreement.

E. Approval of City of Dickinson Pledged Securities from American Bank Center.

F. Approval of Web QA Addendum.

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

Motion declared duly passed.

TIMETABLE AGENDA

5:30 PM

STREET SAFETY/TRAFFIC LIGHTS – KEITH ANTON

Citizen Keith Anton relays some concerns of his in regards to the traffic in Dickinson. 1: The traffic on 21st Street North and Highway 22, making a left turn takes several minutes. He is wishing to have a turn signal that would allow four or five vehicles to turn before oncoming traffic moves forward. Anton has made a special trip to avoid this intersection and he feels this is unnecessary. Anton is also concerned about 9th Street and Highway 22, vehicles that are facing west and need to make a left turn. Mr. Anton feels with the growth of Dickinson future decisions need to be made in order to keep the flow of traffic going.

City Engineer Shawn Soehren states ND Department of Transportation owns Highway 22 and the City is trying to get approval from DOT for a left hand turn signal on 21st Street North. This project is projected for 2012 but he will see if the project can be moved to a date in 2011. Soehren also states a total upgrade needs to be completed on 12th Street and Highway 22. Ninth Street is currently being reviewed and is part of a project for left turn phasing.

Commissioner Steiner feels Mr. Anton does have valid concerns and Steiner is hoping that the City can address them in the near future.

Commissioner Landblom is concerned about States and Fairway and he feels this area warrants a stop light. Also concerning is the off ramp from Highway 94 on to Highway 22.

City Engineer Soehren reveals State Avenue is an Urban Road project where the City receives federal dollars to help construct the road. For that reason the City needs to follow the same criteria as Highway 22. The City pays 20% of the cost of repairs/construction. Soehren states if a stop light is put in at this intersection it may be have negative impact with more accidents. ND DOT is reviewing the current issue of the I-94 off ramp onto Highway 22 and possible alternative such as a half of a clover leaf could be constructed.

5:45 PM

PUBLIC HEARING – LIQUOR LICENSE

President Johnson opened the public hearing at 5:45 p.m.

Attorney Kolling states the ordinance reads the same as presented at a prior meeting. The major change eliminated the provision of a caterer's license. This conclusion came from the recommendation of city staff not to offer a caterer's license. Having this license would be a significant burden every time the caterer would have a special use permit issued.

Commissioner Landblom requests the ordinance include a minimum bid or clause for the City to establish a minimum bid for a liquor license.

Janice Martin of Lady J's Catering would like the Commission to reconsider her request for a caterer's license. Martin states her liquor sales are 14% of her business. She would like to have 70-80 bars per year with 50% in food sales. This would be a better fit for Lady J's. Martin states the bar is open when people book the hall.

Administrator Kessel states this process has been very difficult as Lady J's operates a restaurant and caterer business. This is a difficult and unique nature of business. The Police Department requires a 30 day notice to review the special use permit and approve the security when an event is held. Kessel also feels other restaurants may apply for this caterer's license.

President Johnson states there are several eating establishments that currently do not serve liquor but could apply for a license and have such an event.

Commissioner Jackson is having the same struggle with having a caterer's license added to the ordinance. He feels a caterer is quite different than a restaurant.

Janice Martin appreciates the Commissioners views and states again Lady J's does not do the business a regular bar does for seven days a week. She does not feel she needs to pay the high liquor permit and doesn't do the business like others.

President Dennis Johnson closed the public hearing at 6:01 p.m.

Commissioner Steiner has been contacted by lodge board members and they are concerned as to why they have to pay on/off sale license when they are not allowed to sell off sale.

Administrator Kessel has visited with all three lodge owners and since some are nonprofit they are not allowed to sell off sale. There is some conflict between all three of the lodges.

Attorney Kolling will review this ordinance and report back with any further information regarding lodges and off sale.

Commissioner Oltmanns feel that the ordinance should add a caterer's license as Lady J's is not like other restaurants or liquor establishments.

Commissioner Jackson feels Lady J's does sponsor weddings/events upon request but also holds her own non-sponsored events and he is having trouble with this issue. Should Lady J's hold their own event this is more like a restaurant than a caterer.

Police Chief Rummel would like to continue to review special event permits as the Police Department can keep better control of what event is happening and the concern of minors being on the premises. He also is concerned that other

restaurants will be able to obtain this license and control would also be lost in this area.

President Johnson agrees with Commissioners Jackson and Steiner that the City is better off to leave the caterer's section out of the ordinance. Johnson feels Lady J's is a good operator but her business doesn't quite fit into what we have added. He feels the on/off sale liquor license is the closest fit we have. He does agree with the two points made, 1: Commissioner Jackson pointed out the difference between requested events and an event hosted by Lady J's. 2: Administrator Kessel's point about having consequences if the caterer's license is added into the ordinance. Johnson feels the language that Commissioner Landblom requested about a minimum bid can be added but to leave the caterer's license omitted. Also the on/off sale of lodges should be reviewed. This ordinance will be reviewed again in December.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. OCTOBER FINANCIAL REPORT

Finance Director Tina Johnson highlighted the October 2010 financial report. Ms. Johnson states the last payment for the West River Community Center will be in 2012 and for the Badlands Activity Center will be in 2013.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns

To accept the October, 2010 Financial Report as presented.

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

Motion declared duly passed

B. 2011 LIQUOR LICENSE RENEWALS

City Administrator Shawn Kessel presented the 2011 annual liquor license renewal applications. He stated all but one business has submitted their application and that business will be presented at the next Commission meeting. The Police Department reviewed the applications and they all abide by our ordinance. Kessel explains JD's BBQ did not return an application.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns

To approve renewing the following 2011 Liquor License Applications:

On-Off Sale Commercial Liquor License (\$2,845); Army's West, Inc.; B. P. Marsh Enterprises, Inc. (Esquire Club); C. Haider, Inc. (Southside Saloon); Huffman, R. Steven (Spur Bar & Lounge); The Evil Olive Pizzeria and Bar – Jason Polanchek; Koffler, Darryl (Frontier Liquors); TH Investments, LLC (Liquor Warehouse); Maverick Saloons, Inc.; Ottonomics, Inc. (House of Booze); Paragon Bowl, Inc. (Champs Sports Club); Paul, Don & Linda (Ponderosa

annexation. After much discussion it was decided that an updated mutual aid agreement between both fire departments will suffice. Such an agreement will not contain any wording dealing with payment for services.

B. Police Department

Police Chief Rummel presented the October, 2010 traffic report, created by Officer Leintz which included 63 accidents. Zero accidents were injury related. Rummel states this is a very busy time for the Police Department with trying to retaining employees and filling position. Two new employees have been hired and will begin employment in the near future. Rummel is hopeful to have full staff in the future.

6. PUBLIC WORKS – ENGINEERING

A. REZONING PETITION - PRAIRIE HILLS 4TH

City Engineer Shawn Soehren received a request from Larry Kostelecky on Lot 1, Block 7, Prairie Hills 4th, Dickinson, ND. Kostelecky would like to build multi-family housing on this property. There is currently multi-family housing on the west side of this property.

MOTION BY: Gene Jackson SECONDED BY: Rod Landblom
To approve the second and final reading of Ordinance No. 1405.

ORDINANCE NO. 1405

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

B. REPORTS:

1. Code Enforcement Report, October, 2010

City Engineer Shawn Soehren reports the new building permits are up to 178 which are compared to 93 last year. November has been very busy with large commercial projects. Overall this report shows the increase we have seen throughout the year. These projects have almost doubled since 2009.

President Johnson would like to see the number of living units available. Johnson feels the single family dwelling permits should be close to 130 by the end of 2010.

City Engineer Soehren will be working on a report to provide information on the number of living units. Soehren also worked on the snow removal policy and reviewed it with his staff.

7. **PUBLIC WORKS – MAINTENANCE AND UTILITIES**

A. None

8. **ADMINISTRATION:**

A. **City Administrator Report**

1. **Human Relations Recommendation for Religious Symbols on Public Property**

Administrator Shawn Kessel presents a letter from the Human Relations Committee in regards to religious symbols on public property. Kessel explains this was not a request from a resident. This recommendation is a proactive item. Kessel asks for recommendations from the Commission.

2. **Lots Available**

Administrator Kessel presents a map to the Commissioners which provided total number of residential, commercial and industrial lots. These lots are available to be built on at any time. Kessel explains this is phase one and phase two of this project will be providing approved plats. Also the unplatted lot numbers will be provided next meeting. There are only five industrial zoned lots inside of the City and this is a concern.

President Johnson states if there are 130 single homes to be built in 2010 this would be a fast growing rate and the City would only have a 21 or 22 month supply.

Commissioner Landblom states the City needs to look at the development of the lagoon along with the carrying capacity of water and sewer lines. The City needs to keep abreast of the subsurface development as well as surface developments.

City Engineer Soehren states the City is looking at directions as they move forward with infrastructure. Some lots listed on the map may not necessarily be buildable as people purchased these lots for their yards, vacant lots for space, etc.

3. **Armory/Two Rivers Construction**

City Administrator Matt Kolling explains Two Rivers Construction Company has failed to complete/repair the Armory project and has left

North Dakota. This contractor is in breach of contract and there was no bond. There is some concern of collectability on this project. It appears the material suppliers for this contractor have not been paid and at least one lumber supplier. The roof truss supplies has contacted the City and indicated that they have not been paid. These supplies do not have a right of action with the City as their deal was made with the contractor.

Administrator Kessel indicates these fixes are substantial and will require another contractor to come in and make structural improvements to the building itself. There are no estimates at this time and the improvements will be put up for bids. Because the structure might be sound the current occupants were contacted and asked to move to different sites.

Attorney Kolling states you can require a bond on any construction project. The State law says if the project is more than \$100,000 a bond is needed. The City elected not to require a bond on this project and it is a lesson well learned.

President Johnson states the City should have paid professional fees for an architect, etc. and gotten proposals, produced drawings, etc. and the way this project was approached was not good. To fix this armory roof the City will do it the right way as we only want to fix it once.

Commissioner Oltmanns checked on Two Rivers background and they are Nordic Construction now and live in Boise, ID. Oltmanns is concerned of the vendors that have not been paid. He is not only concerned about the project getting done but to satisfy the vendors who have not been compensated.

Administrator Kessel states the selection of the Two Rivers Company was made by a former staff member. We were withholding dollars from this project in case issues did arise. Kessel did approve the first disbursement of money to be paid to the trusses which was around \$53,000. That vendor was not paid and this City employee allowed a second reimbursement. The retainage left is about \$10,000. This amount is not enough to pay the suppliers. If the City did chose to pay those vendors it would be like paying for the project twice.

President Johnson would like not to spend a lot of money on trying to collect from Two Rivers but would like to make sure this doesn't happen to anyone else. The first step will be filing a lawsuit even though there is

