

City Engineer Shawn Soehren received a request to vacate a utility easement from Pamela Kolling Living Trust. The area is located between Blocks 11, 12 and 23 and 24 of Country Oaks Second addition. This is located along 10th Avenue West. Soehren recommends approval.

President Dennis Johnson opened the public hearing at 5:37 p.m. to gather input regarding the utility easement vacation.

President Johnson asked if there was any public comment. No public comment was received President Johnson closed the public hearing at 5:38 p.m.

MOTION BY: Carson Steiner SECONDED BY: Klayton Oltmanns
To authorize introducing Resolution No. 24-2011.

RESOLUTION NO. 24-2011

A RESOLUTION APPROVING VACATION OF A UTILITY EASEMENT IN THE CITY OF DICKINSON, NORTH DAKOTA.

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

5:35 PM

COMMEMORATION OF THEODORE ROOSEVELT SPEECH – DR. MCCALLUM AND KEVIN THOMPSON

Dr. McCallum, President of Dickinson State University briefly touches upon materials received in the packet which includes the 2010 annual report, student housing in the spring and fall semesters. McCallum explains there will be visiting partners from China to teach the language of Chinese. McCallum mentions all the great things unfolding at the Strom Center. The Theodore Roosevelt Digital library has been continuing to grow and unfold into new adventures. Dr. McCallum remarks on the Theodore Roosevelt Symposium which will be held October 27-30, 2011. McCallum believes Theodore Roosevelt's speech on the lawn of the Stark County Courthouse launched his profession. Once this statute is in place it will commemorate this great historical site for the City of Dickinson and attract many tourists.

Kevin Thompson, DSU Foundation, explains the Theodore Roosevelt Plaza and the perspective rendering of the plaza. Thompson explains the landscaping for the placement of the Theodore Roosevelt statute will cost approximately \$78,000. DSU along with the DSU Foundation has asked Stark County to contribute half of the cost and the City of Dickinson to contribute half of the cost. This area would

be prepared for the statute of Theodore Roosevelt standing on a soap box. Theodore Roosevelt will be a little bit larger than life of 5'8". The statute will arrive in October. The County did have a motion to work with the City to split the funds of the landscaping and the statue will be paid for by other means. The statue will cost approximately \$80,000.

President Johnson suggests this item be placed on a future agenda.

5:50 PM

ELDER CARE ANNUAL REPORT – COLLEEN RODAKOWSKI

Fred Gengler explains Public Transit has gone way beyond the goals through the hard work of the staff and the City. Gengler explains it is becoming more and more difficult to continue with the budget that Public Transit has. Gengler explains with the shortage of staff and the lower wages it is hard to operate in this budget. He does thank the City for the wonderful partnership there is between the City and Public Transit.

Colleen Rodakowski, Executive Director provides the 2010 Elder Care Annual Report along with the challenges, ridership and goals for the upcoming year. Rodakowski explains with the growth of the City has come along with many challenges. She explains customer service and safety are at the top of the list for Elder Care. She does explain the funding for Elder Care/Public Transit has been quite a bit lower this year. Ms. Rodakowski states the fares will be reviewed this coming week as some fares are considerably lower than should be. She explains that there are pickups from New England, Belfield, and others. This is only done when a driver is available. Approximately 300 airport fares are reported in the first quarter of 2011. Rodakowski states there are some concerns with some individuals that make the taxi wait for more than five minutes. She is concerned with assisting the elderly and handicapped in the City. Ms. Rodakowski thanks all the individuals along with the City and her Board of Directors for all the hard work they have done to keep the taxi going.

City Administrator Kessel is happy to say there have been no complaints about Elder Care/Public Transit. Kessel reports customer service certainly is a high standard for Public Transit.

President Johnson is so pleased the City receives very little or no complaints so this shows the company is doing a great job in managing and managing the growth of the company. Johnson would like to thank Ms. Rodakowski's staff for their work.

City Administrator along with the President and Commissioners discuss the subsidy that is used to support public transit. President Johnson states the \$50,000 that has been subsidizing the taxi has been coming from the general fund.

Rodakowski reports the State will be funding Public Transit \$50,000 to get through June, 2011. Colleen reports Public Transit needs \$20,000 from the City to continue to make it through June, 2011. Rodakowski is concerned about losing current staff because of the lower wages they pay. She would like to request \$100,000 for the next year budget. She states they are helping about 6,000 people per month. Customer service is important and if we cannot continue to make it we may need to cut services, possibly hours, etc.

6:05 PM

DICKINSON PARKS AND REC – CENTRAL PLAINS REQUEST AND PARKS UPDATE

James Kramer presents the Central Plains Regional Tournament request a bid amount was \$30,000 per year that goes to National League. This event will be hosted by Dickinson in 2011 and 2012. The Park District did receive \$25,000 and the Park District did contribute the other \$5,000 needed for the tournament. Many new improvements will be taking place at the ball diamond to include concessions, backstop, handicapped bathrooms and lighting. The price tag to upgrade the new lighting is \$136,000 to get the brightness on the field. Approximately \$86,000 has already been secured for the lighting but the Park District is requesting \$50,000 from the City. Kramer informs the Commission on how much revenue will be brought into the City from this event, about \$500,000 per tournament. The lighting will be installed at the end of May.

Administrator Kessel stated the Parks and Rec did request \$50,000 for two years but these requests did not make it into the budget. Kessel states his recommendation is the Hospitality Tax would be used to fund this project

Commissioner Jackson feels this event is a great item for our community and feels the City should be on board with this. Commissioner Jackson would like us to consider the Occupancy tax. This tax has risen considerably in the past two years and should be reviewed in regards to this.

President Johnson asks Financial Director Johnson to prepare a projection for the Hospitality tax monies. A reasonable projection can be made for our annual revenue and what we have committed to and show a worksheet in regards to this tax. He suspects based on those projections the City will have the funds to support this project. Johnson states the prudent thing to do is to see what the projection shows in two weeks. President Johnson does support this project but

would like to see an updated projection. Occupancy tax usage is defined by the State.

Mr. Kramer presents the 2010 annual report for the West River Community Center. Kramer thanks the City for all their cooperation in regards to the Community Center and the Parks and Rec. Kramer explains the work on the band shell has slowed down as the workload has increased. They are going to visit with the Veterans to see if this project could be completed.

NON-TIMETABLE AGENDA

4. GENERAL ISSUES/FINANCE

A. FINANCIAL REPORT THROUGH MARCH, 2011

Finance Director Tina Johnson highlighted the March, 2011 financial report.

Ms. Johnson states the audit field work will begin next week.

MOTION BY: Klayton Oltmanns SECONDED BY: Carson Steiner

To accept the March, 2011 Financial Report as presented.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 0.

Motion declared duly passed

B. ANNEXATION RESOLUTION ON KOCHS MEADOW HILLS FIRST

Attorney Kolling presents resolution annexation of certain property to City of Dickinson. This area consists of Kochs Meadow Hills Addition. There are two property owners in this annexation area and those property owners did object to the platting of the Koch's Meadow Hills Addition but because these property owners are right against city limits they would be surrounded on three sides by city property. City staff recommends including these two properties. City Engineer Soehren states 10th will be installed within the next two years. There are some right away challenges to get through this area. The streets of 12th Avenue and 29th would have the access to this addition. Values would be assessed as to where the development would be on February 1, 2012. When the streets are developed along with the homes they will be assessed according to the property valuation. Soehren is hoping to use Urban Roads dollars to develop this road.

City Administrator Kessel mentions upon annexation we provide general City services immediately once that is recorded such as Police and Fire. Kessel states water and sewer are not paid through general taxation.

MOTION BY: Gene Jackson SECONDED BY: Carson Steiner

To authorize introduction Resolution 22-2011 for adoption.

RESOLUTION NO. 22-2011

A RESOLUTION EXTENDING THE BOUNDARIES OF THE CITY OF DICKINSON, NORTH DAKOTA, AND ANNEXING A CERTAIN TRACT OF LAND ADJACENT TO THE BOUNDARIES OF THE PRESENT CITY LIMITS

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

Commissioner Steiner would prefer to leave the two property owners that are protesting out of the annexation at this time.

City Attorney Kolling states the boundaries are entirely at Commissioners' discretion. If the Commissioners want to exclude these two properties he would need to rewrite the resolution to exclude the two properties.

City Administrator Kessel states the City Commission takes the stance that if a development occurs adjacent to the City the development would be annexed into the City. This is consistent with the other annexations. The City does have a meeting with the property owners on Monday.

Commissioner Jackson feels these properties should have been annexed a number of years ago. The present land owners are not the original owners but this to me is such an obvious case of properties being so contiguous to the city limits and enjoying benefits that come to properties that are contiguous. This seems to be a necessary item. This is a very logical annexation.

C. WASTEWATER TREATMENT PLAN DESIGN APEX ENGINEERING

City Engineer Soehren presents the Engineers Agreement from Apex. The agreement was reviewed and recommends approval of the agreement submitted.

City Attorney Kolling points out and explains items in the contract in regards to waivers such as consequential damages. Second item stated are limits to engineer in liability in general malpractice. Another item does include a provision where engineers are a go between the City and contractors. The City needs to be aware it does include a provision that the City agrees it will not bring suit against the engineer for certain change orders that are made to the contract. The theory is this is going to be a very complicated project and the engineer assumes there will be change orders to the contract as the development proceeds and this may cost the City and provisions makes the City agree to these changes ahead of time and not hold the engineer responsible for these change orders. The other provisions are standard mutual items. The compensation due to the engineer is included in

A RESOLUTION APPOINTING A PERSON TO FILL CITY
COMMISSION VACANCY

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

E. NORTHSIDE ANNEXATION

City Attorney Matt Kolling presents a proposed resolution finding that less than 25% of the land owners in the north annexation area filed protests. The Commission adopted the second annexation resolution on March 7, 2011 that annexed the same property that was annexed in 2010. The Commission filed the second annexation to firmly resolve the status of the property even though there is a pending lawsuit. The court heard the land owners request to impose an injunction and the court has dismissed the injunction. Kolling does recommend filing the second annexation resolution. Kolling does point out in the resolution that less than 25% of the territory proposed to be annexed has filed protests. Kolling discusses many of the findings listed in the resolution. These included the publishing, notification to landowners, ND DOT right-of-way approval, and others. Resolution finds that less than one fourth of the property proposed to annexed have filed protests. All protests were counted even the one that was received late was still counted. A total of 324.37 acres were annexed and when all protests were calculated total opposed were 64.06 acres, which is 19.75% of the total annexed area, well below 25% threshold. If the resolution is signed this evening, this will be filed at the Stark County Court House and the second annexation would be considered closed.

Bill Gion, HR Manager for Wyoming Casing Inc. and is representing Steve Halvorson. Gion has obtained the protest letters and would like to discuss why the City's calculations and Mr. Gion's calculations are not the same. Mr. Gion would like to include the roadways in the annexations. He feels his way is the right way to calculate the protests. Gion's figures show that there is a 25% protest. Mr. Gion explains his calculations according to the protest letters. Gion feels that there is a total of 24.7959% acres that are protesting. He feels the roadways are owned by the landowners. Gion would like to know why Henry Braun was excluded from the annexation in Lane's Subdivision. Gion suggests that the City should go back to those people who want to be annexed into the City and annex those into the City. Mr. Gion requests the Commission table this annexation resolution for two weeks so that the calculations can be recalculated.

City Attorney Kolling states the statute should be making the decision this evening but the law does allow delaying the decision. Kolling responds to Mr. Gion's issues. The calculations are figured on what the land owners own and this

Soehren explains there are 13 development impact fee projects. Several projects have gone to bid. Some of these projects have been approved as well as this one. Soehren does have 5-8 other requests that are being worked on. At the next meeting Soehren will present the number of projects, areas and the funding that the City has been working on. Soehren states 518 total lots for residential and 131 permits have been issued to date on those lots. If everything goes with the current proposal 387 lots would be developed this summer. This is based on the projects approved today.

D. Reports:

- 1. Board of Adjustment Meeting Minutes – March and April, 2011**
- 2. Code Enforcement Report – March, 2011**
- 3. Planning and Zoning Commission Meeting Minutes – March, 2011**

Soehren reviews on the Code Enforcement Report which shows new building permits which is 10 for this year compared to last year of 8 and the significant difference is that the though the valuation is \$9.2 million compared to \$1.9 million last year as there a couple of pretty big commercial projects in that number. The Baler Building did have a situation where power was lost and the generator came on and there were problems when the generator and ended up with an oil leak that locked up the generator so currently we are dealing with warranty issues. A new engine had to be placed in the generator. Soehren explains another issue happening is the lift station by Lincoln Elementary. The lift station is functioning in a limited capacity to handle the school addition but some issues have been happening with pumping into the force main as it has been designed. Soehren hopes to resolve the problems with this lift station in a couple of weeks. Both the pot holes and snow removal issues will be discussed as there is a shortage of employees in this department.

Commissioner Oltmanns and Engineer Soehren will be reviewing the snow removal, snow gates and staff per miles of street.

6. PUBLIC SAFETY

A. Fire Department

1. Fire Department Monthly Report – March, 2011

Fire Chief Bob Sivak reports the Dickinson Fire Department has been very busy during the month of March with 15 incidents. Sivak reviews the plan reviews, construction inspections and others with the Commissioners. CPR recertification also took place in March. The Fire Department is working on a needs assessment and will bringing that report forward to the Commission at a later date.

B. Police Department

1. Police Department Monthly Report – March, 2011

Police Chief Rummel presents the March Traffic Service report which included 118 traffic crashes compared to 2010 which were 83. This does support the conversation of the Police Department being very busy and the traffic is up.

2. 2010 Annual Police Department Report

Police Chief Rummel starts with a note of thanks as this is the first year that all of the officers have returned from the Tour of Duty which started in 2007. Since that time we have had one or more officers serving our country. They have all returned safe and we are thankful for that. In 2010 we have seen several retirements, 80 years of experience has left our department. Replacing officers has been challenging at times and we have gotten strong applicants from eastern ND and MN. There has been an increase in crime with weapons and burglaries. We were able to receive \$250,000 in grants this year. Rummel did highlight positions on the Organizational Chart. He reports the average years of service for our patrolmen are 1.6 years. Rummel reports on the current trends which continue to rise with the additional population in the City. The Police Department's goals are to retain and the possibility of adding on personnel but the main goal is to strive to keep the City safe for the citizens who reside here. Rummel explains the calls for service indicate the need for additional staff. Rummel indicates the "prioritization of calls" has started to take place as there are several calls at one time.

7. ADMINISTRATION

City Administrator Report

1. Recycling Update

Administrator Kessel states the Recycling Committee has participated in an EPA Partnership for Local Action Program. This opens up opportunities for them to engage an intern. They will also use a "sister city" to implement and learn from a city about recycling. Both of these items come to the City at no cost to the City. We are moving forward with the recycling collection sites and hope to have those constructed by the end of May.

2. Legislative Update

Kessel explains House Bill #1012 did pass which allows the Department of Transportation funding which brings about \$142 million dollars to be dedicated to western North Dakota. House Bill #1013 passed which would allow \$100 million in impact grants for western ND. Thirty five million dollars is specifically designated for Dickinson, Williston and Minot.

