

Order of Business

City Commission Meeting

Monday, April 1, 2013

4:30 PM

Dickinson City Hall – 99 2nd Street East

Type of meeting: Regular Meeting of the Dickinson City Commission
Presiding Officer: President of Commission (Vice President in absence of President)

Opening of Meeting

Call to Order

Roll Call

President: Dennis W. Johnson

Vice President: Gene Jackson

Commissioners: Carson Steiner

Klayton Oltmanns

Shirley Dukart

1. ORDER OF BUSINESS: Consideration for approval

2. CONSENT AGENDA

- A. Approval of minutes of regular meeting dated March 18, 2013 (Enc.);
- B. Approval of Accounts Payable (via email);
- C. Approval of 2013 Irrigation Agreement (Enc.);
- D. Approval of Pay Requests for Water Reclamation Facility (Enc.);
- E. Approval of Post-Issuance Compliance Procedures & Policy for Bond Issues (Enc.);
- F. Approval of National Museum of the US Air Force Static Display Program (Enc.);
- G. Approval of NDDOT final payment for 1st Street West from State Avenue to ND22 and 2nd Street West from State Avenue to ND22 (Enc.);
- H. Approval of Public Works Building Construction Agreements (Enc.);

Persons desiring to attend the meeting who require special accommodations are asked to contact the City Administrator by the Friday preceding the meeting.

3. **Timetable Agenda**

5:00 p.m **Public Hearings – Rezoning Petitions**

1. Buffalo Bend

Consideration to approve first reading of Ordinance No. ____ (Next Ordinance No.) (Enc.)

2. Kuchenski-Consolidated

Consideration to approve first reading of Ordinance No. ____ (Next Ordinance No.) (Enc.)

3. Aldrich Avenue and 8th Street East

Consideration to approve first reading of Ordinance No. ____ (Next Ordinance No.) (Enc.)

5:15 p.m **Public Hearing – West River Community Center Expansion**

4. **Non-Timetable Agenda**

ADMINISTRATION/FINANCE

A. Montana Dakota Utility Gas franchise agreement.

Consideration to approve gas franchise agreement (Enc.)

B. Development Impact Fee District Approval and Notice of Impact Fees

1. Fisher East Side 2nd Addition (Enc.)

Consideration to approve Resolution (Next Resolution No. _____) (Enc.)

C. Reports:

1. Pump Station Memorandum of Understanding

5. **PUBLIC SAFETY**

A. Reports:

A. None

6. **ENGINEERING**

A. None.

7. **COMMUNITY DEVELOPMENT**

A. Rezoning Petitions

1. Mayer First Subdivision

Consideration to approve second reading and final passage of Ordinance No.1501 (Enc.)

2. West Ridge First Addition

Consideration to approve second reading and final passage of Ordinance No. 1502 (Enc.)

8. **PUBLIC WORKS**

A. Water Tank Recoating

Consideration to award bid (Enc.)

B. Water Main Replacement Phase II

Consideration to award bid (Enc.)

C. Reports:

1. Water Reclamation Facility Update (Enc.)

9. **COMMISSION**

10. **PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA**

ADJOURNMENT

I. CALL TO ORDER

President Dennis Johnson called the meeting to order at 4:30 PM.

II. ROLL CALL

Present were: President Dennis W. Johnson, Commissioners Gene Jackson, Klayton Oltmanns, Shirley Dukart and Carson Steiner

Absent: None.

STANDARD MOTIONS1. ORDER OF BUSINESS

MOTION BY: Shirley Dukart SECONDED BY: Gene Jackson

To approve the April 1, 2013 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Carson Steiner SECONDED BY: Shirley Dukart

A. Approval of minutes of regular meeting dated March 18, 2013 (Enc.);

B. Approval of Accounts Payable (via email);

C. Approval of 2013 Irrigation Agreement;

D. Approval of Pay Requests for Water Reclamation Facility;

E. Approval of Post-Issuance Compliance Procedures and Policy for Bond Issues;

F. Approval of National Museum of the US Air Force Static Display Program;

G. Approval of NDDOT final payment for 1st Street West from State Avenue to ND22 and 2nd Street West from State Avenue to ND22;

H. Approval of Public Works Building Construction Agreements.

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

TIMETABLE AGENDA5:00 PMPUBLIC HEARING – REZONING PETITIONS**1. Buffalo Bend**

City/County Planner Steven Josephson presents a Rezoning Petition from Low Density Residential to Medium Density Residential for the proposed Buffalo Bend Subdivision. The site is situated to the west of 10th Avenue East and generally located in the NE1/4 of Section 3, Township 139N, Range 96W. The property is +/- 3.56 acres. The Planning and Zoning Commission and City staff recommend approval.

President Johnson opens the public hearing at 5:02 p.m. Hearing no comments the public hearing closed at 5:03 p.m. and the following motion was made.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns
To approve first reading of Ordinance No. 1503

ORDINANCE NO. 1503

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

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

2. Kuchenski-Consolidated

City/County Planner Josephson presents a Rezoning Petition from Medium Density Residential to Planned Unit Development for Consolidated. The site is easterly of the existing facility located via 5th Street SE and +/- .75 acres. The Planning and Zoning Commission and City staff recommends approval contingent upon the seven (7) conditions of approval.

President Johnson opens the public hearing at 5:04 p.m. Hearing no comments the public hearing closed at 5:05 p.m. and the following motion was made.

MOTION BY: Shirley Dukart SECONDED BY: Carson Steiner
To approve first reading of Ordinance No. 1504

ORDINANCE NO. 1504

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

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

3. Aldrich Avenue and 8th Street East

Mr. Josephson presents another Rezoning Petition from General Commercial to High Density Residential for five (5) lots generally located on the south side of Aldrich Street and the west side of 8th Avenue East. The site is +/- one (1) acre. The Planning and Zoning Commission and City staff recommend approval.

President Johnson opens the public hearing at 5:06 p.m.

Realtor Ninetta Wandler from Everett Real Estate supports this rezoning as she states it is hard to sell residential homes in a commercial area and it is also very difficult to receive financing for homes in this area as it is zoned commercial.

President Johnson closes the public hearing at 5:08 p.m. and the following motion was made.

MOTION BY: Klayton Oltmanns

SECONDED BY: Shirley Dukart

To approve first reading of Ordinance No. 1505

ORDINANCE NO. 1505

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

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

5:15 PM

PUBLIC HEARING – WEST RIVER COMMUNITY CENTER EXPANSION

President Dennis Johnson asks for public comment. Johnson asks for individuals who are speaking against the expansion of the Community Center. Hearing no rebuttals Mr. Johnson continues to ask for positive comments on the expansion.

Scott Karsky, Chairman of West River Expansion Committee, states the Community Center is a high priority for people to live here. Karsky states due to the rapid population growth the Community Center is falling behind. Karsky explains the expansion of the Community Center and the sheet of ice for hockey. Karsky states the community deserves to move forward.

President of the Dickinson Park Board Mike Lefor states this project has been in the planning for three years. Lefor states the Rec Center is heavily used and the building is at capacity. He states this proposal has been a culmination of tremendous amount of work from the City staff, Park and Rec, etc. Lefor states public hearings have been held and will continue to be held at the next commission meeting.

President Johnson states the Commissioners will be voting on this matter next meeting.

4. GENERAL ISSUES/FINANCE

A. MONTANA DAKOTA UTILITY GAS FRANCHISE AGREEMENT

City Attorney Kolling presents the renewal of MDU utility gas franchise agreement. This agreement normally is renewed every 20 years. This renewal request is from a request from MDU. This will coincide with the Service Agreement that was completed a couple of meetings ago.

MOTION BY: Klayton Oltmanns

SECONDED BY: Shirley Dukart

To approve first reading of Ordinance No. 1506

ORDINANCE NO. 1506

AN ORDINANCE GRANTING TO MONTANA-DAKOTA UTILITIES CO., A DIVISION OF MDU RESOURCES GROUP, INC., ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE, WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE CITY OF DICKINSON, STARK COUNTY, NORTH DAKOTA, A GAS DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING NATURAL GAS FOR PUBLIC AND PRIVATE USE.

DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 0, Abstain 1

B. DEVELOPMENT IMPACT FEE DISTRICT APPROVAL AND NOTICE OF IMPACT FEES

1. Fisher East Side 2nd Addition

City Attorney Matt Kolling states Fisher East Side 2nd Addition application had been approved in October, 2012 and at this time a resolution is created allowing \$600,000 maximum allowed for commercial projects. Kolling states this resolution is a declaration of intent required by IRS regulations in case the City would like to issue bonds.

Commissioner Jackson is concerned as funding for this is project is an issue.

City Administrator Kessel states developers have been installing water and sewer in this area. Their original request was \$900,000. Kessel states two roads will not be hard surfaced if the total request is not funded. Kessel states the district could be recreated.

KLJ Craig Kubas states water and sewer were installed last year to this area. Street, curb gutter were all bid last year but were unable to be awarded because financing could not be made. Kubas states the developer committed just over 50%. Kubas states at this time the developer will commit to their portion and not pave the rest of the streets that are in question. Kubas states the developer needs approximately \$300,000 to continue to complete the entire project.

Attorney Kolling feels another special assessment district could be created to pave those streets. Kolling states the City's ordinance only allows \$600,000 for funding.

President Johnson would like for the City to recommend on how this program can come to a close. Johnson does not think these two roads should be left unimproved. He suggests possibly taking \$300,000 out of the street fund.

Commissioner Jackson states the City has not been paying for streets in new developments. If there is a street left out we can go back and create a new improvement district for that street. Jackson is concerned about putting money into the streets and there should be another possibility to review.

Kolling feels the developer could go back and reformulate the boundaries of the district. Kolling states if the City is looking at contributing additional funds to construct streets the cost would be over \$100,000 and needs public bid, etc.

Commissioner Oltmanns feels this improvement should be the developer's responsibility. He feels Development Impact Fees are like bonus monies to help developers.

President Johnson states the City does not have policies in place to hit every situation. He feels the City does not have much of a choice here and tonight the Commission needs to pass the Resolution and the streets in questions are not going to get paved and the City will have to get them paved some other way. He does not think it will look right if some of the streets are paved in the area and not all of them.

MOTION BY: Carson Steiner

SECONDED BY: Shirley Dukart

To authorize introduction Resolution 16-2013 for adoption.

RESOLUTION NO. 16-2013

A RESOLUTION APPROVING THE USE OF IMPACT FEES FOR INFRASTRUCTURE IMPROVEMENTS AND THE INTENT OF THE CITY OF DICKINSON TO REIMBURSE ITSELF AT A FUTURE TIME THROUGH THE ISSUANCE OF BONDS IN COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

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

Motion declared duly passed

C. REPORTS

1. Pump Station Memorandum of Understanding

City Administrator Shawn Kessel informs the Commissioner a pump station MOU will be presented at the next meeting. A pump station just east of the existing water treatment plant needs to be discussed.

5. PUBLIC SAFETY

1. None

6. ENGINEERING

1. None

7. COMMUNITY DEVELOPMENT

1. Mayer First Subdivision

City/County Planner Steven Josephson presents a Rezoning Petition from Rural Residential ("RR") to General Commercial ("GC") for the Mayer Subdivision located easterly of 25th Avenue East and south of I-94. The Planning and Zoning Commission and City staff recommends approval contingent upon one (1) condition of approval: 1. Prior to issuance of any building permits for structures on-site, the developer shall record a re-plat of the property. The property shall be re-platted to standards consistent with commercial development.

President Johnson asks for public comment, hearing none the following motion was made.

MOTION BY: Shirley Dukart SECONDED BY: Carson Steiner
To approve second reading and final passage of Ordinance No. 1501

ORDINANCE NO. 1501

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

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

2. West Ridge First Addition

City/County Planner Steven Josephson presents the Rezoning petition which is an adjustment to existing zoning district boundaries to be consistent with the West Ridge 1st Addition lot boundaries. Josephson states last year, the City Commission approved the rezoning of the property, but the subsequent plat lot lines were different from the zoning district boundaries, hence the need for the revision of the zoning district boundaries, as depicted. The Planning and Zoning Commission and City staff recommend approval.

MOTION BY: Klayton Oltmanns SECONDED BY: Gene Jackson
To approve second reading and final passage of Ordinance No. 1502

ORDINANCE NO. 1502

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

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

8. PUBLIC WORKS

A. Water Tank Recoating

City Engineer Gary Zuroff presents the water tank recoating project. Zuroff states the original budget bid did not include the requirements from the Department of Health. Zuroff would suggest accepting the increased bid for 4th Avenue East and Rocky Butte Reservoirs. Budget was \$345,000 without engineering, 2 total bids are \$589,480 without engineering cost and \$666,980 with total engineering cost.

President Johnson comes to the conclusion the recommendation of Zuroff to recoat both reservoirs as it is not going to get any cheaper if the City puts off recoating the second reservoir next year. This expense will be taken out of the water and wastewater fund. It would be Mr. Johnson's recommendation to pass a motion to do away with the reserve and apply the monies towards the project.

Zuroff states rehab and recoating of our existing reservoirs would be important to upkeep the maintenance.

Commissioner Jackson agrees with this procedure.

Finance Director Tina Johnson will work with Attorney Kolling in transferring the funds to be used for this project.

MOTION BY: Klayton Oltmanns

SECONDED BY: Shirley Dukart

Accept the bids by H&H Coating for the reservoirs on 4th Avenue East and Rocky Butte and authorize City staff to enter into negotiations with the bidder in order to draft a contract with the bidder.

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

B. Water Main Replacement Phase II

City Engineer Gary Zuroff presents the 2013 Phase II Water Main Replacement. The lowest bidder is Manitou Construction Inc. which came under the engineers estimate and cost and we recommend awarding the bid to Manitou Construction Inc. for \$862,486.

MOTION BY: Shirley Dukart

SECONDED BY: Carson Steiner

Accept the bid from Manitou Construction for the Water Main Replacement project for 2013 Phase II and authorize City staff to enter into a contract with the successful bidder.

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

C. APEX Task Orders

City Engineer Gary Zuroff presents the Task Agreements which pertain to Apex.

Task Order #2 – Zuroff states this task order pertains to the west gravity sewer along the west I-94 Business Loop, this is convey flow – Apex will provide an environment report needed for funding.

Commissioner Jackson states this agreement and the entire task orders for Apex and KLJ are at various time frames and schedules. Jackson would encourage staff from the City and KLJ and Apex to cooperate in moving the time frames up if at all possible to meet the needs of development of the subdivision. Jackson hopes the City staff could approach these two firms to accelerate their work at times.

MOTION BY: Gene Jackson SECONDED BY: Klayton Oltmanns
Accept Apex Engineering Task #2.
DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Task Order #3 – Zuroff explains this task order pertains to Lift Station 12 Upgrade and Force main.

MOTION BY: Shirley Dukart SECONDED BY: Klayton Oltmanns
Accept Apex Engineering Task #3.
DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Task Order #4 – Zuroff explains this task order is for Lift Station 14 upgrade and force main.

MOTION BY: Gene Jackson SECONDED BY: Shirley Dukart
Accept Apex Engineering Task #4.
DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Task Order #5 – Zuroff presents task order #5 which is wastewater collection system planning and modeling services.

MOTION BY: Klayton Oltmanns SECONDED BY: Carson Steiner
Accept Apex Engineering Task #5.
DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0.

Zuroff states all of these tasks were in the Comprehensive Plan except for #5.

D. Reports

1. Water Reclamation Facility Update

Karla Olson from Apex gives an update on the Water Reclamation Facility. The ground breaking for this facility was in August, 2012. Olson updated the Commissioners on bio solids digesters, framing walls on tanks, finished digester structure. Construction of the IFAS tanks were started last fall and the whole tanks are enclosed, this is coming along quite nicely; processed control building which have four on site. Olson states John T. Jones have 25% complete; electrical which is Muth Electric is 3% and Williams Plumbing and Heating are 22% complete. Olson states one change order was presented this month. Olson states there are someone on site all the time and welcome the Commissioners to tour the facility. Olson states the project is on time, on budget and no one is unhappy at this time with the developers. Olson states the plant is designed to hold 3.65 million gallons a day, a good portion of this water will be able to be reused.

9. CITY COMMISSION

None

10. **PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA**

None

ADJOURNMENT

MOTION BY: Shirley Dukart SECONDED BY: Klayton Oltmanns
For adjournment of the meeting at approximately 6:05 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: April 15, 2013