

I. CALL TO ORDER

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

II. ROLL CALL

Present were: President Dennis W. Johnson, Commissioners Rhonda Dukart, Bill Reitmeier and Joe Frenzel.

Attorney Randy Sickler represented City Attorney Timothy Priebe

Absent was: Commissioner Carson Steiner

STANDARD MOTIONS1. ORDER OF BUSINESS

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart

To approve the March 19, 2007 Order of Business as presented.

DISPOSITION: Motion carried unanimously.

2. CONSENT AGENDA

MOTION BY: Rhonda Dukart SECONDED BY: Joe Frenzel

A. Approve minutes of regular meeting dated March 5, 2007;

B. Approval for Fire Department to apply for an Oil and Gas Impact Grant to purchase a foam proportioner and foam for firefighting;

C. Approval of contract with ND Forest Service Community Transportation Enhancement Grant (Storm Damaged Trees/Tree Replacement Grant);

D. Approval of Lease Agreement with GE Express Financial Solutions for Police Department copy machine.

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

Motion declared duly passed.

TIMETABLE AGENDA

5:45 PM

PUBLIC HEARING – APPEAL OF SPECIAL USE PERMIT – ST. BENEDICT’S HEALTH CENTER

President Johnson opened the public hearing at 5:45 PM to gather input regarding the Special Use Permit appeal from St. Benedict’s Health Center (St. Ben’s) for a group daycare. Jon Frantsvog, Administrator of St. Ben’s, gave history on their request. He stated they have been working with the City since December 2006 and in January 2007 the Planning and Zoning Commission heard their request and asked that they again attempt to hold meetings with one of the neighbors that oppose the daycare location. He stated St. Ben’s employs 240 individuals of which many have young children who need daycare. He stated St. Ben’s is a 24 hour facility and employing individuals who need daycare services is a struggle as normal daycare hours are 8:00 AM to 5:00 PM. He stated St. Ben’s owns a home at 237 8th Street East which they would like to renovate into a daycare to assist their employees with daycare services. Mr. Frantsvog also stated he is on St. Joseph’s Health Center Board and they too have problems finding employees who need daycare services. He stated the daycare would not just be for St. Ben’s staff but they would offer financial incentives for those using the services. He stated they will not provide night time or sick-child daycare. He stated the property they are proposing was chosen due to its open floorplan, walkout basement, limited remodeling requirements and the backyard adjoins St. Ben’s property which will facilitate ease to staff, residents, children, supplies and moving between the daycare and St. Ben’s. He stated a portion of the area outside of St. Ben’s activity room will be a play area for daycare children which will be visually pleasing to the residents. He stated the daycare facility would help in meeting staffing challenges and provide greater quality of life for the residents. He stated the proposed project would be located in a R1 district as are the majority of other group daycare facilities are located in Dickinson.

Florence Herauf resident of 811 2nd Avenue E and employee of St. Ben's for 30+ years spoke on behalf of the request. She stated she works with over 100 Certified Nurse Assistant's (CNA) and sees how the girls struggle to find daycare. She stated she also supports the daycare as she can see the magic children have with residents. Ms. Herauf asked the Commission to look favorable upon the request on behalf of St. Ben's staff.

Shannon Strogal, CNA with St. Ben's, spoke on behalf of herself and all her co-workers. Ms. Strogal stated she moved to Dickinson 1½ years ago from Minneapolis and found it almost impossible to find daycare when working shiftwork. She stated she has seen the joy children bring to the residents therefore felt the addition of a daycare would be a huge success.

Heidi Matthews, employee of St. Ben's asked City Commission to grant the special use permit as she struggles to find daycare for her daughter. She stated when she is scheduled to work a weekend, she drives 110 miles one way to take her child to her mother's for daycare services. She stated during the week she takes her daughter to her sister's house until a daycare opens. Ms. Matthews also stated if the daycare children are able to mingle with the St. Ben's residents there will be a greater opportunity for City history to be shared and passed on.

Earl Abrahamson, Chairman of the Planning and Zoning Commission spoke on behalf of the Planning and Zoning Commission and their reason for recommending denial of the special use permit for a group daycare. He stated the issue for denial was not that they do not believe there is need for daycares but rather that there is neighborhood opposition and feel it is their job to take care of the neighborhood values and rights of the people that live in the area. He stated he also did not feel that the St. Ben's employee daycare issue was that they could not find daycare but rather that they could not afford daycare. Abrahamson stated it was the Commission's feeling that they would like St. Ben's to provide a masterplan. He stated it is important that the board does not rezone based upon attrition. President Johnson referenced an enclosure provided by Mr. Frantsvog stating 24 or 25 of the existing group daycares are located in residential areas and questioned what the difference with this request. Johnson questioned whether the Planning and Zoning Board was aware special use permits could be approved with conditions. Abrahamson stated the board was aware of adding conditions but did not consider conditions as they felt the neighborhood's financial commitment needed to be protected first.

Tiffany Pavlicek, employee of St. Ben's for nine years, stated she has been working at St. Ben's since her son was an infant and desired to clarify a statement made by Mr. Abrahamson. She stated it is not that she cannot afford a daycare, but rather has had a problem finding a reliable daycare, therefore has had to rely on family members.

Jon Frantsvog clarified statements made by Mr. Abrahamson. He stated St. Ben's own three residential homes not four and has done extensive research on daycares and the appropriate place for the daycare

Commissioner Frenzel referenced St. Ben's masterplan and noted according to the plan it is the intent for the daycare to eventually be housed inside St. Ben's facility. Frantsvog concurred. Frenzel asked whether St. Ben's is in the process of purchasing the remaining two homes on the block. Frantsvog stated they are engaged in discussions with the two owners. Frenzel stated he would like to see the City Commission wait two weeks before making a decision on the special use permit and allow additional time for further discussions and allow the Planning and Zoning Commission to revisit the request.

Loretta Scott stated she lives in a cul-de-sac which has six houses of which two homes have daycares. She stated the stipulations being discussed for St. Ben's would be much stricter than the area she lives in. She stated the people of her neighborhood have accepted the two daycares and are careful when driving in the cul-de-sac. She stated St. Ben's daycare likely would not have children playing in the front yard, therefore did not understand the neighborhood objections.

ORDINANCE NO. 1332

AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 5.04.010, 5.04.040, 5.08.002, 5.08.004, 5.08.008, 5.08.012, 5.08.104, 5.08.018, 5.08.020, 5.08.022, 5.08.030, 5.08.032, 5.08.036, 5.08.038, 5.08.040, 5.08.042, 5.12.040, 5.12.045, 5.12.050, 5.12.060, 5.12.070, 5.12.080, ENACTING SECTIONS 5.02.010, 5.04.055, 5.04.058, 5.12.045, 5.12.090 and 5.12.100, AND REPEALING SECTIONS 5.08.001, 5.08.016, 5.08.024, 5.08.026, 5.08.028, 5.08.034, 5.08.042 and 5.12.070 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA RELATING TO ANIMALS

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

5. **PUBLIC SAFETY**

A. **REPORT:**

1. Fire Department Monthly Report:

Fire Chief Bob Sivak highlighted February 2007 activities. He stated they received a general alarm structure fire call which ended in a total loss but expressed appreciation to all city departments and the rural fire department for their immediate response with equipment and assistance. Sivak stated the State Fire School was held in Bismarck with several members attending along with three of the members serving as instructors. He also stated the Fire Department has created a new web site for the fire department and encouraged people to view it at dickinsonfire.com.

6. **PUBLIC WORKS - ENGINEERING**

A. **FINAL PLAT – WINN SUBDIVISION**

City Engineer Shawn Soehren requested approval of a final plat for Winn Subdivision. He stated the subdivision is located in the southwest corner of 8th Street SW and Hwy 22. Soehren stated Planning and Zoning Commission recommended approval of the plat and he concurs with their recommendation. He also stated the subdivision is located outside city limits but will be requesting annexation of the property in the future.

MOTION BY: Rhonda Dukart SECONDED BY: Bill Reitmeier
To authorize introducing Resolution No. 08-2007 for adoption.

RESOLUTION NO. 08-2007

A RESOLUTION APPROVING FINAL PLAT ENTITLED WINN SUBDIVISION, STARK COUNTY, NORTH DAKOTA.

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

B. **REZONE ORDINANCE FOR WINN SUBDIVISION**

City Engineer Soehren stated as part of the platting process for Winn Subdivision they looked at zoning and it was the recommendation to rezone Winn Subdivision from Agriculture to General Commercial. He stated Planning and Zoning Commission received one objection letter from a resident in the area. He stated the Commission recommends approval of the rezone and he also recommends approval. Soehren reminded the City Commission that when the subdivision is developed, there will be buffer regulations which should address neighbor concerns. President Johnson asked if there was anybody from the public who wished to comment regarding the first reading of the ordinance. No public comment was received.

MOTION BY: Bill Reitmeier SECONDED BY: Rhonda Dukart
For first reading (and waiver thereof) of Ordinance No. 1334:

ORDINANCE NO. 1334

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 4, Nay 0, Absent 1.
Motion declared duly passed.

C. FINAL PLAT – PORTER SECOND SUBDIVISION

City Engineer Shawn Soehren requested approval of a final plat for Porter Second Subdivision which is located north of 26th Street West and East of Hwy 22. He stated the Planning and Zoning Commission recommended approval of the plat and he concurs.

MOTION BY: Joe Frenzel SECONDED BY: Rhonda Dukart
To authorize introducing Resolution No. 09-2007 for adoption:

RESOLUTION NO. 09-2007

A RESOLUTION APPROVING FINAL PLAT ENTITLED PORTER'S SECOND SUBDIVISION, STARK COUNTY, NORTH DAKOTA.

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

D. REZONE ORDINANCE FOR PORTER SECOND SUBDIVISION

City Engineer Shawn Soehren stated as part of the platting process for Porter's Second Subdivision they looked at zoning and it was the recommendation to rezone Porter's Second Subdivision from Agriculture to General Commercial. He stated the Planning and Zoning Commission recommends approval of the rezone and he also recommends approval. Soehren stated the subdivision is located outside city limits, but expects they will request annexation in the future. President Johnson asked if there was any public comment. No public comment was received.

MOTION BY: Bill Reitmeier SECONDED BY: Joe Frenzel
For first reading (and waiver thereof) of Ordinance No. 1335.

ORDINANCE NO. 1335

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 4, Nay 0, Absent 1.
Motion declared duly passed

E. FINAL PLAT – KUNTZ SECOND SUBDIVISION

City Engineer Shawn Soehren requested City Commission approval of the final plat for Kuntz Second Subdivision. He stated it is located north of town approximately ½ mile between Welk Subdivision and Galster Subdivision. Soehren stated the Planning and Zoning Commission and he recommend approval of the final plat.

MOTION BY: Joe Frenzel SECONDED BY: Bill Reitmeier
To authorize introducing Resolution No. 10-2007 for adoption:

RESOLUTION No. 10-2007

A RESOLUTION APPROVING FINAL PLAT ENTITLED KUNTZ SECOND SUBDIVISION, STARK COUNTY, NORTH DAKOTA.

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

F. REPORTS:

1. Code Enforcement Report for February 2007:

City Engineer Soehren stated the City has issued seven more building permits than this time last year which amounts to an additional permit value of \$3.1 million dollars.

2. Planning and Zoning Commission meeting minutes of February 21, 2007:
Provided for informational purposes.

7. PUBLIC WORKS – MAINTENANCE AND UTILITIES

OTHER:

President Johnson stated shortly after the last City Commission meeting, City Attorney Timothy Priebe informed the City he would be leaving Mackoff Kellogg Law Firm and would be going into the private sector as of July 1, 2007. He stated Attorney Priebe has been the City Attorney for approximately 16 years and has done a great job. He stated the City has been fortunate to have a person of his caliber along with the entire firm as the City's backup. Johnson stated he has asked City Administrator Sund to put together options regarding the City Attorney position and the City Commission will address at the April 2nd meeting. Johnson stated the City has the option to continue with the current contract, re-bid the contract or employ their own city attorney. President Johnson asked if Attorney Sickler had any comments. Attorney Sickler stated if the City choose to stay with Mackoff Kellogg Law Firm, they stand ready, willing and able to provide all services the city needs.

Commissioner Reitmeier stated has received citizen calls regarding the trains in regard to whistles, length of whistles and volume. President Johnson stated in the past City Administrator Sund has done research on the issue as there have been complaints in the past. Sund stated the city has no authority to regulate trains. He stated the speed and noise is regulated 100% by the federal Railroad Administration. He stated NDDOT does have occasional conversation with the federal government and they are learning of more options to control sounds. He stated he estimates the cost of a silent crossing is near one million dollars. Johnson directed Sund to further research the train issue and possible options other than a quiet crossing. Sund stated the City could consider inviting a representative of DOT to speak regarding the train issue. Johnson stated the information would be informative to both the Commission and the public. Commissioner Dukart suggested Sund also contact the City of Bismarck as they are in the middle of discussions regarding train issues and alternatives.

- 11. PUBLIC ISSUES OF CITY CONCERN NOT ON THE AGENDA:
N/A

ADJOURNMENT

MOTION BY: Bill Reitmeier SECONDED BY: Joe Frenzel
For adjournment of the meeting at approximately 7:22 PM.
DISPOSITION: Roll call vote...Aye 4, Nay 0, Absent 1.
Motion declared duly passed.

OFFICIAL MINUTES PREPARED BY:

Cindy Selinger, Assistant to City Administrator

APPROVED BY:

Greg Sund, City Administrator

Dennis W. Johnson, President
Board of City Commissioners

Date: _____