



MEETING OF THE BOARD OF CITY COMMISSIONERS

3/26/2024 - Minutes

Call to Order

The Board of City Commissioners met on March 26, 2024, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioner Cleary, Commissioner Connelly, Commissioner Marquardt, Commissioner Zenker, and Mayor Schmitz were present.

FUTURE COMMISSION MEETINGS

- April 9, 2024 & April 23, 2024
- May 14, 2024 & May 28, 2024
- June 11, 2024 & June 25, 2024

MISSION STATEMENT

To provide high-quality public services in partnership with our community to enhance our quality of life.

MEETING OF THE BOARD OF CITY COMMISSION

1. Proclamations

1. Fair Housing Month Proclamation
2. National Public Safety Telecommunications Week

2. Recognition of Bismarck Citizen Academy Participants

The City Commission recognized the 2024 Bismarck Citizen Academy participants and staff for participating in the City's Citizen Academy program.

3. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items)

Dustin Gawrylow, Wayne Munson, Trevor Vannett, and Susan Dingle addressed the Commission relating to item 5K.

4. CONSENT AGENDA

Commissioner Zenker motioned to approve the consent agenda with the removal of items

4.F.2 and 4.E.2 for discussion and Cleary seconded. Upon a roll call vote, all voted aye. M/C.

Commissioner Zenker motioned to approve item 4.F.2. with the change to hours of operation beginning at 9:00 AM Friday, May 31, 2024, and ending at 11:00 PM Saturday, June 1, 2024, and Commissioner Connolly seconded. Upon a roll call vote, all voted aye. M/C.

After discussion highlighting the project, Commissioner Marquardt motioned to approve item 4.E.2 as presented, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

- A. Consider approval of minutes
- B. Consider approval of personnel actions
- C. Consider approval of expenditures

Vouchers #: 1116755 to 1117012.

- D. Consider the request for approval from the Bismarck Airport for the following:

- 1. Change Order #2 to the Ostrom Painting and Sandblasting Inc. Contract dated October 19, 2023.
- 2. Northern Improvement Company (NIC) Change Order #15 Final to Snow Removal Equipment (SRE) Building Agreement.

- E. Consider the request for approval from the Community Development Department for the following:

- 1. Appointment to the Bismarck Planning and Zoning Commission.
- 2. Approval of a contract and scope of work for the Land Development Code.
- 3. Approval of a substantial amendment to the Community Development Block Grant (CDBG) 2019 Annual Action Plan.
- 4. Approval of amendments to the Community Development Block Grant (CDBG) Citizen Participation Plan.
- 5. Approval for the release of a 14-foot utility easement over the south 7 feet of Lot 5B and the north 7 feet of Lot 6, running 390 feet east and west, less the west 7-foot and east 10-foot perimeter easements in Edens Subdivision.
- 6. Permission to assign the City of Bismarck's rights and responsibilities related to the 2017 HOME funds provided for the Washington Court project to North Dakota Housing Finance Agency (NDHFA).

- F. Consider the request for approval from the Engineering Department for the following:

- 1. Encroachment and waiver agreement with Cape Boats, LLC for installation of a sign overhanging the right of way.
- 2. Cathedral of the Holy Spirit street closure request.
- 3. Request to receive bids and award Street Light and Traffic Signal Project SV 72.

G. Consider the request for approval from the Finance Department for the following:

1. Applications for Abatement.
2. Approval of parking web payment convenience fees and credit card processing fees to be paid by the motorist.
3. Consider the introduction of and call for a public hearing on Ordinance 6574 to amend the 2023 budget ordinance.
4. Approval of the 2023 budget carryovers into the 2024 budget.

H. Consider the request for approval from the Fire Department for the following:

1. Permission to purchase Fire Station Alerting Systems through Purvis Systems, Sourcewell Contract.

I. Consider the request for approval from the Public Works Service Operations Department for the following:

1. Permission to award the contract for 2024 Furnishing Paving Materials to Northern Improvement Company.
2. Permission to enter into an agreement for the Collection and Disposal of Hazardous Waste by Clean Harbors Environmental Services, Inc. and to increase landfill fees for the disposal of hazardous waste for non-residents and businesses/commercial to capture increased fees and administrative costs.
3. Permission to award the bid for Installation of Painted Pavement Markings for 2024 to Traffic Safety Services, Inc.
4. Permission to sell assets from various City Departments at Public Sale or Online Auction.

J. Consider the request for approval from the Public Works Utility Operations Department for the following:

1. Change Order No. 3 to Swanberg Construction's Contract for Water Treatment Plant Filters 1-6 & 12 MGD Accelerator Project.

5. REGULAR AGENDA

- ~~A. Continued discussion and final decision regarding the final recommendation from the City Commission Fact-Finding Subcommittee relating to the performance issues of Charlie Jeske, Event Center Director, and recommendations regarding the appropriate actions to take to address any necessary employee discipline and changes to Event Center operations.~~
- B. Receive a presentation and recommendations on East Century Avenue reconstruction project and provide direction.

Todd Hummel and Brad Krogstad, with KLJ Engineering, presented information on the

East Century Avenue reconstruction project HC 165. Gabé Schell, the City Engineer, recommended supporting Alternative D from the design concepts and determining an appropriate funding source for the tie-in with the existing right-of-way for 52nd Street as part of the 2025 budget development process. Engineer Schell noted that the project is scheduled for the 2025 construction season.

Commissioner Zenker motioned to approve Alternate D with instruction to determine alternate funding sources for the 52nd Street extension and continue working with Bismarck Parks and Recreation District on shared-use path connections, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

<https://bismarcknd.gov/DocumentCenter/View/46407/Item-5B---March-26-2024-PDF>

- C. Public hearing on a request for a new Class I-2: Complementary Alcohol license for COM Garden Center Inc. dba Plant Perfect at 4615 Ottawa Street.

Mayor Schmitz opened the public hearing. No member of the public appeared for comment.

Commissioner Zenker motioned to approve as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- D. Public hearing on a request for a new Class I-2: Complementary Alcohol license for Le Beauty, LLC. dba Lux Nails at 3001 Yorktown Drive.

Mayor Schmitz opened the public hearing. No member of the public appeared for comment.

Commissioner Marquardt motioned to approve as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- E. Public hearing on Ordinance 6573 to amend the zoning district from the R10 – Residential district to a Planned Unit Development (PUD) for McKenzie and Coffin's Second Addition and the request for approval of a minor subdivision final plat, titled McKenzie and Coffin's Second Addition.

Ben Ehreth, Community Development Director, presented information regarding Ordinance 6573 to amend the zoning district from the R10 – Residential district to a Planned Unit Development (PUD) for McKenzie and Coffin's Second Addition and the request for approval of a minor subdivision final plat, titled McKenzie and Coffin's Second Addition.

Mayor Schmitz opened the public hearing. Landon Niemiller, with Swenson Hagen & Company, addressed the Commission with questions about the design of the new multi-unit structure.

Commissioner Marquardt motioned to approve as presented, recognizing the contextual front yard setbacks as noted in the ordinance, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

- F. Appeal of the February 28, 2024, decision of the Planning and Zoning Commission to deny a zoning change from the A – Agricultural zoning district to the Conditional MA –

Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision.

Ben Ehreth, Community Development Director, addressed the Commission regarding the appeal of the Planning and Zoning Commission's February 28, 2024, decision to deny a zoning change from the A—Agricultural zoning district to the Conditional MA—Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision. Jacob Barney, representing 5-Star Storage, and Attorney Bob Martin, representing the landowner, the Ward Family highlighted components of the development project and noted the future land use plan identifies this area as Industrial Flex which would allow for this type of land use.

The Commission discussed the existing land uses and the concerns shared by others.

Commissioner Connelly motioned to uphold the decision of the Planning and Zoning Commission, and Commissioner Zenker seconded for discussion. Upon a roll call vote, Commissioners Marquardt and Connelly voted aye. Commissioners Zenker, Cleary, and Mayor Schmitz voted nay. M/F.

Commissioner Zenker motioned to overturn the Planning and Zoning Commission's decision and follow the process outlined by Community Development Director Ehreth, which requires a public hearing, and Commissioner Cleary seconded. Upon a roll call vote, Commissioners Zenker, Cleary, Marquardt, and Mayor Schmitz voted aye. Commissioner Connelly voted nay. M/C.

- G. Consider the request to receive bids and award contract for Street Light and Traffic Signal Project SV 73.

Gabe Schell, City Engineer, provided information regarding the request to receive bids and award the contract for Street Light and Traffic Signal Project SV 73.

Commissioner Zenker motioned to approve the request for resolutions to receive bids, order preparation of the engineer's statement, and award parts 1, 2, 7, and 8 to Edling Electric for \$96,287.50 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/46405/Item-5G---March-26-2024-PDF>

- H. Consider the request to receive bids and award contract for Street Light and Traffic Signal Project SV 74.

Gabe Schell, City Engineer, provided information regarding the request to receive bids and award the contract for Street Light and Traffic Signal Project SV 74.

Commissioner Marquardt motioned to approve the request for resolutions to receive bids, order preparation of the engineer's statement, and award of contract for Street Light and Traffic Signal Project SV 74 to Edling Electric for \$146,405.00 as presented, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/46406/Item-5H---March-26-2024-PDF>

- I. Consider approval of the revised City Concrete (CC24) A-2 gap sidewalk project list.

Gabe Schell, City Engineer, provided information relating to the request for a resolution creating district Parts A-2 and B, Resolution Approving Plans and Specifications, and authorization to advertise and receive bids for City Concrete (CC24).

Commissioner Marquardt motioned to approve the revised City Concrete A-2 sidewalk gap project list as presented, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

- J. Consider request to receive bids and award contract for Public Works Roofing Project.

Steve Salwei, Public Works Service Operations Director, addressed the Commission regarding the request to receive bids and award the contract for the Public Works Roofing Project.

Commissioner Zenker motioned to receive bids, select all alternates to include the base bid of \$1,374,801.00, Alternate #1 \$886,030.00, and Alternate #2 \$23,117.00, and award the contract to Tecta America as presented for the Public Works Roofing Project and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

- K. Consider the request from Commissioner Connelly to discuss the initiation of a Home Rule Charter Amendment to add an additional ½-cent sales, use, and gross receipts tax with the proceeds to be dedicated exclusively to public safety and public transportation needs.

Commissioner Connelly introduced Carl Young, a sponsor of the initiated 1/2-cent sales and use tax collection. Mr. Young presented background information and noted a similar group of individuals in Mandan successfully collected the adequate number of signatures to be placed on the June ballot in 2024. Mr. Young noted supporters in Bismarck have collected approximately 1,100 signatures, several hundred short of the 1,500+ signatures required to be placed on the June ballot in Bismarck. Mr. Young requested the Commission consider adding the Home Rule Charter Amendment to the June ballot so it would align with similar efforts in Mandan. Mr. Young noted that if the measure were to pass in both communities, the tax collections would begin simultaneously.

Mayor Schmitz expressed support for the concept but raised concerns about the potential North Dakota property tax initiative. He noted that if it is approved, municipalities would be forced to modify budgeting processes to supplement the loss of property tax collections.

The general consensus of the Commission is to encourage the sponsoring committee to continue collecting signatures, recognizing that the deadline for the November general election will be 60 days before the general election day.

<https://bismarcknd.gov/DocumentCenter/View/46394/Item-5K---March-26-2024-PDF>

6. Other Business

Adjourn

There being no further business to discuss, the meeting adjourned at 8:07 PM.

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