



## MEETING OF THE BOARD OF CITY COMMISSIONERS

5/28/2024 - Minutes

### CALL TO ORDER

The Board of City Commissioners met on May 28, 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

- June 11, 2024 & June 25, 2024
- July 9, 2024 & July 23, 2024
- August 13, 2024 & August 27, 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. PUBLIC COMMENT

John Simmers with the Bismarck Aero Center spoke in opposition to the proposed development agreement in Regular Agenda Item 3.G.

#### 2. CONSENT AGENDA

Commissioner Marquardt motioned to approve the Consent Agenda as presented and Commissioner Cleary 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: 1117884 to 1118165.

D. Consider the request for approval from the Administration Department for the following:

1. Gaming Site Authorization Renewals.
2. Liquor License Renewals.

E. Consider the request for approval from Bismarck Burleigh Public Health for the following:

1. Permission to apply for Bismarck Parks and Recreation District's Matching Grant funds.

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

1. Permission to apply for a FY24 Section 5307 grant.
2. Receive information relating to a special meeting to amend section 14-04-19 of the City Code of Ordinances relating to the Flood Insurance Rate Map (FIRM) effective date and requirements for manufactured home parks, enclosures, and substantial improvements – Zoning Ordinance Text Amendment.

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

1. Receive bids and award contract for Project HC 168.
2. Resolution approving the engineers' report, approving the plans and specifications, and directing the advertisement of bids and receiving bids for Sewer Improvement District SE 582.
3. Dedication and acceptance of an access easement in Silver Ranch Third Addition.

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

1. Applications for Abatement.

I. Consider the request for approval from the Human Resources Department for the following:

J. Consider the request for approval from the Police Department:

1. Dispose of a bomb squad trailer that is obsolete and serves no purpose for the City of Bismarck.

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

1. Permission to award the bid for design and construction administration services for the Fire Station 2 generator replacement project to Apex Engineering Group, Inc.
2. Permission from the Weeds Division to assist the Bismarck Parks and Recreation District, as a subrecipient, for two (2) noxious weeds management grant awards.
3. Permission to accept the Targeted Assistance Grant (TAG) Award from the North Dakota Department of Agriculture.
4. Permission for Fleet Services to sell Bismarck Parking Authority's 2012 Chevrolet Silverado 4x4 Pickup at public online auction.

5. Permission for the Solid Waste Division to sell/dispose of items at public online auction.
  6. Permission for the Fleet Services Division to sell truck boxes at public auction.
- L. Consider the request for approval from the Public Works Utility Operations Department for the following:
1. Change Order No. 1 to BEK Consulting Inc. contract for the Hay Creek Interceptor Project (SU90), Century Ave to Calgary Ave.

### 3. REGULAR AGENDA

- A. Public hearing on a request for a new Class C-2: Hotel or Motel Alcohol license for Merlin Hotel Group, LLC. dba Days Inn Bismarck, ND at 1300 E Capitol Ave.

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

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

- B. Public hearing on a request for a new Class E - Sale at Retail of Beer Only Liquor License for Tri-Energy Cooperative (dba) Tri-Energy Cenex - Expressway at 3801 East Rosser Avenue.

Mayor Schmitz opened the public hearing. Sarah Tschider the general manager for Tri-Energy Cooperative was available for questions.

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

- C. Public hearing on a request for a new Class I-2: Complementary Alcohol license for Rainbow Nails & Spa, LLC. at 722 South 26th Street, Units A & B.

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

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

- D. Consider request to receive update on half cent sales tax and assign Tyler Parkway Extension as the next half-cent sales tax funded project and begin preliminary engineering.

Gabe Schell, City Engineer provided an update on the half-cent sales tax for arterial road construction and reconstruction which was passed in 2018. The half-cent sales tax has a 10-year sunset, with the proposed Tyler Parkway Extension being the last project.

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

<https://www.bismarcknd.gov/DocumentCenter/View/46953/Item-3D---May-28-2024-PDF>

- E. Consider the request to receive an update regarding the Bismarck Event Center.

Amanda Yellow, Acting Event Center Director, provided an update on Bismarck Event Center activities that have taken place the last three months as well as upcoming events. Acting Director Yellow also presented the Event Center's Annual Report.

The Commission received the report.

<https://www.bismarcknd.gov/DocumentCenter/View/46954/Item-3E---May-28-2024-PDF>

- F. Consider the request by Executive Air Taxi Corporation (EATC) to amend its Development Agreement Hangar size from 260' x 120' to 280' x 120'.

Mayor Schmitz recused himself from the item due to a conflict of interest.

Greg Haug, Bismarck Airport Director, and Timothy Thorsen, Bismarck Airport Assistant Director provided information to the Commission regarding the request from Executive Air Taxi Corporation (EATC) to amend its Development Agreement Hangar size from 260' x 120' to 280' by 120'.

Paul Vetter, a representative with EATC provided information regarding the request.

John Simmers, with Bismarck Aero Center (BAC), addressed the Commission regarding BAC's lease agreement with Bismarck Airport.

Commissioner Cleary expressed concerns for the BAC and the impact that construction may have on their business.

Commissioner Zenker motioned to approve the request as presented and Commissioner Cleary seconded. Upon a roll call vote, Commissioners Cleary, Zenker, Connelly, and Marquardt voted aye. Mayor Schmitz abstained from voting. M/C.

<https://www.bismarcknd.gov/DocumentCenter/View/46955/Item-3F---May-28-2024-PDF>

- G. Consider the request to enter into executive session under NDCC 44-04-19.2 to receive attorney consultation regarding an imminent lawsuit.**

Commissioner Marquardt motioned to enter into executive session under NDCC 44-04-19.2 to receive attorney consultation regarding an imminent lawsuit and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

Commissioner Zenker motioned to exit executive session at 7:27 PM and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

The Commission reconvened at 7:28 PM, with all members present.

Commissioner Cleary motioned to move forward with the consensus as discussed during the Executive Session and declare the surety in breach of contract against the bonding agency for default on contract for Wetland Mitigation Project Phases 5 and 6, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

#### 4. OTHER BUSINESS

ADJOURN

There being no further business to discuss, the meeting adjourned at 7:29 PM.

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