

MINUTES OF THE BOARD OF CITY COMMISSIONERS  
HELD AUGUST 4, 2014

The regular meeting of the Devils Lake City Commission was held Monday, August 4, 2014 at 5:30 P.M. with the following members present: President Johnson, Tim Heisler, Craig Stromme, Rick Morse and Dale Robbins. None were absent.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held July 21, 2014 and of the public meeting held July 28, 2014. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Terry Wallace, on behalf of Twice in a Blue Moon, appeared before the City Commission to present information on an all town reunion. Johnny Holmes has agreed to play on August 1, 2015, and the group is requesting the City set aside this date and to close-off streets for the event.

Consensus of the Commission was to reserve August 1, 2015 for the Twice in a Blue Moon Committee for the all town reunion.

**Commissioner Robbins** - The Public Utilities Supervisor stated everything was fine in the Sewer Department.

The Public Ways Supervisor said they have been spraying only twice per week because of the low mosquito count.

**Commissioner Morse** - The Public Ways Supervisor stated the Beautification Committee met and wishes to replace the globes and lights for the downtown lights. There are seventy downtown lights, and the lights would be replaced with LED lights. The plan would be to do the 36 lights on 4<sup>th</sup> St this year. The poles would be painted. It would cost approximately \$20,000 for the globes and lights for these 36 lights. The Public Ways Supervisor requested permission to call for proposals to replace the globes and lights for the first 36 lights. Proposals would be solicited from the local electricians for installation.

Commissioner Morse moved to approve calling for proposals for painting the poles, replacing the globes and lights, and for installation of the lights for the first 36 lights downtown. The motion was seconded by Commissioner Robbins. The money is available, and the businesses will not be special assessed. Discussion followed on painting the poles. The motion carried unanimously.

The Public Utilities Supervisor reviewed the memo regarding the culverts by the cemetery. The culverts tie Ruger Park to the cemetery. The north culvert has collapsed. The south culvert is still functional, but in poor shape. He recommended replacing the culverts. It would cost around \$80,000 for option 3 for materials and installation. The City Engineer reviewed the materials under each option, and the rationale for using the materials under option 3. Funds would come from the sewer separation fund. The City's normal suppliers would be solicited for materials.

Commissioner Robbins moved to declare an emergency for the replacement of the culverts under 14<sup>th</sup> Avenue and to request proposals for the installation and to solicit the City's normal suppliers for the materials under option 3. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

**Commissioner Heisler** – The City Engineer reviewed the pay estimate for Peterson for the Agassiz project.

Commissioner Heisler moved to approve payment of Estimate No. 1 to Peterson Construction for Water & Sewer Improvement 51-11 - Agassiz in the amount of \$159,259.80 as recommended by the City Engineer. The motion was seconded by Commissioner Stromme. On roll call all Commissioners voted aye, and the motion carried.

The City Engineer gave an update on the following projects:

1. Highland – Gravel is in place for Lincoln Avenue. The last section of roadway, which is Sadie Avenue, is being worked on. There is difficulty due to the high ground water. A portion of the curb is placed, and should be completed in two weeks.
2. Agassiz – Concrete is being placed. Most of the north-south roadway should be paved on Wednesday.

3. Hwy 2 & Hwy 19 – Concrete is being milled. Hwy 2 & Hwy 20 will be milled next, and then 5<sup>th</sup> Ave will be milled. Three inches is being placed on Hwy 2, and two inches at gutter line to surface at center line for City's projects.

The City Assessor stated everything was fine.

**Commissioner Stromme** – The Police Chief said Burlington Northern Santa Fe (BNSF) is placing no trespassing signs on the railroad right-of-way. Discussion followed on the Police Department having the authority to enforce the no trespassing.

President Johnson will be meeting with Matthew Rose, Executive Chairman BNSF and Senator Hoeven in Bismarck on Friday.

The Sanitation Supervisor stated it is free residential dump day on Saturday.

**President Johnson** - The City Auditor stated everything was fine.

The Assistant Fire Chief requested permission for four employees to travel out-of-state on August 17<sup>th</sup> & 18<sup>th</sup> for the final inspection of the fire truck.

Commissioner Robbins moved to approve out-of-state travel for four employees to travel to Brandon, SD on August 17<sup>th</sup> and 18<sup>th</sup> for the final inspection of the fire truck. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Attorney reviewed the procedure for liquor licenses upon the death of the license holder. The license needs to be revoked or suspended temporarily. The bar cannot operate until the personal rep can appear or a new license can be issued. The Commission can give the personal rep the right to carry on the business. Someone needs to be responsible for it. An application would need to be submitted so the appropriate background check could be completed. The City has a special meeting and budget meetings within the next week where the application could be approved.

Commissioner Morse moved to approve the City Attorney sending a letter to Razor's Edge stating the establishment has to close in accordance with the municipal code until an application is submitted for a person to carry on the business and approved by the Commission. The motion was seconded by Commissioner Robbins. Ray Belford addressed the Commission regarding the liquor license, family members having to travel a distance, the difficulty in paying bills and in laying off employees. The City is willing to work with the individuals to process the paper work without a personal appearance and to hold a special meeting. It was noted that with the death nobody holds the license. Mr. Belford stated the license is in a LLC name. The license was reviewed. It is in the LLC name and the owner's name who is 100% owner of the LLC. Based on the license being in the LLC name and the individual name, Commissioner Robbins rescinded his second, and Commissioner Morse rescinded his motion.

The City Attorney stated some details of the settlement agreement for Mertens Farms are still being worked on. A special meeting will be requested later this week.

Commissioner Robbins moved to approve the consent agenda which included the following:

1. Authorizing the City Auditor to cancel Check No 100067 dated November 22, 2011 in the amount of \$18.30 payable to Pam Davidson (Flood Protection District-1466 Raise-Land Acquisition) and Check No 100322 dated January 4, 2012 in the amount of \$4.59 payable to Scott and Janet Otis (Flood Protection District-1466 Raise-Land Acquisition). The checks were never cashed, and in accordance with the North Dakota Century Code a new check will be issued to the State's unclaimed property fund.
2. Game of chance permits for the month of July 2014;
3. Permit to sell alcoholic beverages at a special event submitted by Proz Inc for the Sandberg/Nygaard wedding reception and dance to be held August 9, 2014 at the Bill Jerome Arena;
4. Permit to sell alcoholic beverages at a special event submitted by Thirstys Bar for a wedding dance to be held September 6, 2014 at the Memorial Building;
5. Permit to sell alcoholic beverages at a special event submitted by Ye Olde Tavern for the Tony Hansen wedding dance to be held October 4, 2014 at the Memorial Building;
6. Permit to sell alcoholic beverages at a special event and a public dance permit submitted by Thirstys Bar for the Lunacy Bike Ride and band to be held August 23, 2014 in Roosevelt Park; and

7. Permit to sell alcoholic beverages at a special event and a public dance permit submitted by Thirstys Bar for the rodeo beer gardens to be held September 26, 27 and 28, 2014 at the Burdick Arena and for the rodeo dance to be held September 27, 2014 at the Burdick Arena.

The motion was seconded by Commissioner Morse, and the motion carried unanimously.

The City Attorney presented the ballot for the special election to be held October 7, 2014. Jim Stewart, bond counsel, has reviewed the ballot and resolution. The Commission requested changing "and/or" in the ballot and resolution to just "and". Discussion followed on the sales tax increase terminating when the bond is repaid. The sales tax increase will not be used for the operation of either building. The City would have to make-up any shortfall for the operation costs.

Commissioner Heisler moved to approve the ballot and resolution with the change of "and/or" being just "and", and to hold a special election on October 7, 2014 to vote on whether to increase the city's sales tax by .5% for the construction and equipping of a wellness center and event center. The motion was seconded by Commissioner Stromme. On roll call all Commissioners voted aye, and the motion carried.

Commissioner Stromme moved to approve payment of Estimate No. 3 to Elshaug Concrete for 2014 Curb, Gutter and Sidewalk in the amount of \$31,985.60 as recommended by the City Engineer. The motion was seconded by Commissioner Morse. On roll call all Commissioners voted aye, and the motion carried.

The City Assessor reviewed the cancellation for the purchase agreement for Lots 2 & 3, Block 2, Replat of Smith's Sub. The sketch of the home would not fit on one lot, so the City approved selling them two lots. However, the costs for the plans are greater than the value so they will not be following through with these plans.

Commissioner Heisler moved to approve the cancellation of the purchase agreement and to refund the earnest money in the amount of \$500.00 for Christopher and Penny Morin for Lots 2 & 3, Block 2, Replat of Smith's Sub as recommended by the City Assessor. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Assessor stated the City had sold the last lot in Smith's Sub at a previous meeting to David Slama to build a spec home. Mr. Slama has now requested purchasing these two lots which were just cancelled, Lots 2 & 3, Block 2, Replat of Smith's Sub. The City Assessor stated one concern is that there is a stipulation on these lots that they have to build a substantial structure, home, in two years. Mr. Slama is speculating with these lots. The City Assessor has not seen the plans for the first lot Mr. Slama is building on, and there have been no plans for these two lots. Since this is for two lots, there should be two homes.

Commissioner Heisler stated the City should hold off on selling these two lots since Mr. Slama is already building one home which hasn't gotten too far yet. The City should have three houses going here. The City should hold off and see what happens with the original lot he is building on, see if he gets going on the home. The City does not want to start granting extensions, which the City has done, when he hasn't even started on the first one, and now wants to do a second one.

Commissioner Heisler moved to deny the purchase agreement for David Slama for Lots 2 & 3, Block 2, Replat of Smith's Sub in the amount of \$15,000.00 as recommended by the City Assessor. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Commissioner Stromme moved to approve writing-off the utility bill at Hwy 2 for Felix's in the amount of \$630.20 in accordance with the United States Bankruptcy Court. The motion was seconded by Commissioner Morse, and the motion carried unanimously.

Commissioner Morse moved to approve payment of the list of bills as submitted. The motion was seconded by Commissioner Robbins. On roll call all Commissioners voted aye, and the motion carried.

President Johnson acknowledged the following report:  
City Auditor monthly report.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:28 P.M.

**LINDA LYBECK**  
**CITY AUDITOR**

**RICHARD S. JOHNSON**  
**PRESIDENT**