

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD NOVEMBER 3, 2014

The regular meeting of the Devils Lake City Commission was held Monday, November 3, 2014 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler and Craig Stromme. Commissioners Rick Morse and Dale Robbins were absent.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held October 20, 2014. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Suzie Kenner and Tom Haahr, representing the Tourism Committee, appeared before the City Commission to discuss the repayment of \$112,000 in lodging funds to the State. The City Administrator is working with the State on having \$5,000 deducted from the City's monthly restaurant and lodging payments. Suzie indicated the Chamber has approximately \$35,000 from the PIC funds which were going to be used for marketing and promotion that could go towards the repayment.

Jessica Ramey appeared before the City Commission to discuss the public meetings for the oil refinery.

President Johnson stated the public meetings have not been held yet since there was no project until the City acted on the letter of support. A public hearing is scheduled for November 24, 2014. In addition, annexation hearings, planning commission hearings and city commission hearings will be needed as the project progresses. Public hearings will be published. Most of the key players will be at the hearing on November 24th.

Commissioner Heisler – The City Engineer stated the cleanup on the west side has been completed. The material was hauled to the landfill, and letters have been sent to the Department of Health identifying that the work has been completed even though the Department of Health was on site most of the time when the work was being done. The area has been reclaimed although some additional topsoil may be hauled to the site and grass seeded next spring.

The City Assessor said everything was fine.

Commissioner Stromme - The Sanitation Supervisor reported everything was fine.

The Police Chief stated he has started advertising for the open position, and applications will be accepted until November 4th.

President Johnson – The Public Utilities Supervisor said everything was fine in the Water Department.

The Public Utilities Supervisor said everything was fine in the Sewer Department.

The City Auditor stated everything was fine.

The City Administrator was going to review a request from Devils Lake Kids for the City to be the sponsor for a grant application. However, Devils Lake Kids was reinstated today for their nonprofit status by the IRS so they will not need a sponsor.

The City Administrator indicated a special city commission meeting will be held on Wednesday, November 5th at 4:00 P.M. to recognize Melanie Bailey.

The Fire Chief stated the Department started installing the LED lights this afternoon.

The Fire Chief indicated the blighted structure hearings were held. One owner protested at the hearing. The nuisances have been turned over to the City Attorney for the completion of the process.

The Fire Chief attended a conference in Bismarck for haz-mat. The incident commander from the west Texas fire gave a very informative presentation. Another presenter was one of the contractors that cleaned up mess at the Quebec fire.

The City Attorney said everything was fine.

President Johnson stated the committee met with Burlington Northern Santa Fe (BNSF). BNSF holds all the cards. Whatever the City could negotiate was a plus. BNSF could go to 60 mph at any time except for oil trains and heavies. BNSF agreed to the increment increases in speeds. There will be three separate agreements. The speed will go to 45mph on November 5, 2014. BNSF is also installing a fence and gates. When the fence is completed the speed will increase to 50 mph. After the pedestrian gates are installed and barring no problems at 50 mph, the speed will increase to 60 mph. BNSF will be spending approximately \$600,000 on this project.

The City Engineer stated the fence will be an eight-foot high, chain link fence from Roosevelt Park to 14th Avenue. The City will have some maintenance for the fence. It will be installed along the south edge of the right-of-way. Discussion followed on having something in the agreement for adjusting or changing the fence at some future time.

The City Engineer reviewed quiet zones. The area of Elks Drive is an issue because of the drainage ditch and the steep slopes. The cost is \$200,000 per crossing for just the electronics needed for a quiet zone.

Commissioner Stromme moved to approve the following proposal for Burlington Northern's train speeds: BNSF proposes to increase speed to 45 mph starting November 5, 2014; BNSF will install fence along portions of the rail corridor. Once fence is installed (expected to be within the next 2 months), speed will increase to 50 mph on January 5, 2015; BNSF will install pedestrian gates at 12th Avenue SE and have them operational by March 30, 2015. At that time, BNSF and the City will meet to discuss the train speed issue, with a good faith effort to allow BNSF to increase train speed to 60 mph barring any major safety concerns noted with the 50 mph speed; and there will be 3 separate agreements drafted for work to be completed: Lights and Gates Agreement; Fence Easement/Agreement; and NDDOT-West Underpass Agreement. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

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

1. Game of chance permits for the month of October 2014; and
2. Gaming site authorization submitted by St Joseph School of Devils Lake to be held June 19, 2015 at the Knights of Columbus Hall – 522 4th St NE.

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

President Johnson reviewed the policy for setting the agenda. The City Administrator stated Jerry Hjelmstad, attorney for League of Cities, indicated this policy is used by most of the bigger cities. Discussion followed on designating the vice president to approve the agenda when the president is unavailable. If the vice president is absent, any other commissioner may approve the agenda.

Commissioner Heisler moved to approve the city commission meeting policy which included Setting the Agenda – Items need to be submitted to the City Auditor by noon on the Wednesday preceding the meeting; Agenda Approval – Approved by the Mayor or in his absence the Vice President or if both are absent any one of the commissioners; and Public Input - If there is a public hearing scheduled there will be a sign up sheet at the meeting for the public to sign up and testify during the hearing. There may be a time limit enforced if the Mayor so desires; the Mayor may call on the public if he desires input during the meeting; or if someone has been placed on the visitor's agenda according to approval under Section 2 of this policy they will be allowed to speak. Citizens have the right to listen and or record at the meeting, but do not have the right to speak unless they qualify under items 1, 2 or 3. The motion was seconded Commissioner Stromme, and the motion carried unanimously.

The City Engineer reviewed the declaration of utility easement. This easement is being placed on city property for the construction, reconstruction, operation, repair and maintenance of city utilities. The easement is needed for 8th and 9th Ave SE water & sewer before selling the property.

Commissioner Heisler moved to approve the declaration of utility easement for the property described as parcels situated in the NW1/4 of Section 2, T153N, R64W in the City of Devils Lake, Ramsey County, North Dakota, being more particularly described as follows: Easement#1 - Beginning at the Northwest corner of a parcel described in Document #245648 on file at Ramsey County Recorder's Office; thence North along the East Right of Way line of 8th Avenue SE to the South Right of Way line of 5th Street SE; thence East along the South right of Way line of 5th Street SE a distance of 10 feet; thence South parallel to the East Right of Way line of 8th Avenue SE to a point on the North line of the parcel described in Document #245648, 10 feet from point of beginning; thence West 10 feet along North line of said parcel to the point of beginning. Said easement contains 1,600 sq. ft., more or less. And Easement#2 - Beginning at the Northwest corner of a parcel described in Document #260221

on file at Ramsey County Recorder's Office; thence East along the North line of said parcel a distance of 15 feet; thence North along a line 15 feet from and parallel to the East line of parcels described in Documents #228138 and #245648, thence continuing North to the South Right of Way line of 5th Street SE; thence Northwesterly along the South Right of Way line of 5th Street SE a distance of 22.03 feet; thence South along a line 20 feet from and parallel to previously described line, to a point on the North line of parcel described in Document #245648; thence East along said North line, a distance of 5 feet to the Northeast corner of said parcel; thence South along the East line of parcels described in Documents #245648 and #228138 to the point of beginning. Said easement contains 6,607 sq. ft., more or less. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Rachel Lindstrom, Executive Director of Forward of Devils Lake, reviewed the multi-family housing incentive for Klemetsrud's Investments. Klemetsruds will receive \$50,000 for two duplexes within city limits, and construction will start within 6 months. Two \$50,000 incentives are still available.

Commissioner Heisler moved to approve the multi-family housing incentive for Klemetsud's Investments. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

President Johnson reviewed the final resolution for vacation of Summers St NW from Hwy 2 to the east right of way line of Kelly Dr NW.

The City Attorney stated the vacation was originally approved contingent upon the County vacating the section line; however, the Attorney General states the County has no jurisdiction to vacate section lines in city limits. Therefore, the vacation is being brought back to the City Commission for final approval.

Doug Broden, representing the Davis Family, objected to the closing of the street for three reasons – paying specials on streets for several years; limit future development on their land and giving away public property without any public benefit.

Summers Manufacturing stated it was in the best interest of public safety to close street due to the increase fork lift traffic.

Commissioner Heisler moved to approve the resolution vacating property set aside for public use for Summers St NW from Hwy 2 to the east right of way line of Kelly Dr NW contingent upon a utility easement being retained on the entire vacated street; a public access ingress/egress easement being retained on the easterly portion of Summers St NW that lies within 66 feet of the US Hwy 2 right of way; and a public access ingress/egress easement to be provided by landowner across the portion of Lot 7, Block 2, Davis Commercial Park, that lies within 66 feet of US Hwy 2 right of way as recommended by the Planning Commission. The motion was seconded by Commissioner Stromme. Discussion followed on the condition originally included for the County to vacate the section line, but the County has no jurisdiction; therefore, it was brought back to the City. The motion carried unanimously.

Commissioner Stromme moved to approve writing-off a portion of the utility bill at 902 4th Ave NE for Randy Nelson in the amount of \$137.39 in accordance with the United States Bankruptcy Court. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

Commissioner Stromme moved to approve payment of the list of bills as submitted. The motion was seconded by Commissioner Heisler. The City Engineer indicated about \$12,000 of outside cleanup bills for the Roundhouse Subdivision is included in the list of bills. Commissioner Morse arrived at the meeting at 6:10 P.M. On roll call all Commissioners voted aye, and the motion carried.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:11 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT