

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD FEBRUARY 2, 2015

The regular meeting of the Devils Lake City Commission was held Monday, February 2, 2015 at 5:30 P.M. with the following members present: President Johnson, Commissioners Tim Heisler (via telephone), Craig Stromme, and Dale Robbins. Commissioner Rick Morse was absent.

Pledge of allegiance was recited.

Commissioner Stromme moved to approve the minutes of the regular City Commission meeting held January 20, 2015. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Jessica Ramey appeared before the City Commission to discuss freedom of speech and the oil refinery project.

It was noted the due diligence report on the oil refinery is available at Forward Devils Lake.

Commissioner Stromme - The Police Captain requested the 2011 Explorer (vehicle A8) be declared surplus and sold to Marketplace Motors. The engine on this vehicle has gone out, and it does not pay to replace it.

Commissioner Stromme moved to declare the 2011 Explorer as surplus and sell it to Marketplace Motors for \$2,000.00 as recommended by the Police Captain. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The Sanitation Supervisor reported everything was fine.

Commissioner Robbins – The Public Ways Supervisor stated everything was fine.

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

Commissioner Heisler – The City Engineer received notification from Burlington Northern Sante Fe (BNSF) that the fence is in place. They will be increasing trains speeds from 45 mph to 50 mph. At a later date BNSF will meet with the City to discuss increasing the train speeds to 60 mph.

The City Assessor stated everything was fine.

President Johnson - The Public Ways Supervisor reported everything was fine.

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

The City Auditor stated everything was fine.

The City Administrator said everything was fine.

The Fire Chief stated the annual fishing tournament was successful.

The City Attorney said everything was fine.

The second reading of Ordinance No. 924 – Annexation was held. The ordinance would annex the following property into the City: N½ of Section 20-154-64 and NW¼SE¼ of Section 20-154-64 (These two parcels contingent on said property being conveyed to Eagles Ledge, LLP); Outlot #44-0002; Part of the S½SE¼ and the SE¼SW¼ Section 20, Township 154 North, Range 64 West; Outlot #44-0003; Part of the N½NE¼ and the SE¼NE¼ Section 29, Township 154 North, Range 64 West; parcel of land consisting of twenty-five (25) acres (more or less) as described in Document No. 218655 described as follows: Commencing at the Section line between Sections 19 and 20, Township 154 North, Range 64 West, and between the railroad formerly known as the Soo Line Railroad at the North and the railroad formerly known as the Burlington Northern Railroad at the

South, and thence taking all the land between the aforesaid railroads and its right of way running in a Southeasterly direction through Sections 20 and 29, Township 154 North of Range 64 West, less land previously conveyed to the Farmers Union Elevator Company of Devils Lake on December 9, 1983, which deed was filed for record in the Office of the Register of Deeds, Ramsey County, North Dakota, on the 20th day of December, 1983 at 3:00 o'clock P.M. and duly recorded as Document No. 178626; 66' wide strip of the section line between Sections 28 and 29 from the north right of way line of 50th St NE to the south right of way line of Hwy 2; that portion of railroad right of way adjacent to the southerly line of Outlot 44-0002 and Outlot 44-0003; NE¼SE¼ of Section 20-154-64; West 33' of Lot 1, Block A, Riggins Acres; West 33' of a parcel of land situated in the West Half (W½) of Section Twenty-Eight (28), Township 154 North, Range 64 West of the 5th Principal Meridian, Ramsey County, North Dakota, being more particularly described as follows: Beginning at the Northeast corner of Lot One (1), Block "A" of Riggins Acres Subdivision; thence S89°57'16"W along the North line of said Lot One (1) a distance of 288.82 feet to the West line of said Section Twenty-Eight (28); thence N00°02'39"W along said Section line a distance of 371.02 feet to the Southerly right of way line of the Soo Line Railroad; thence S57°50'06"E along said right of way line a distance of 2112.47 feet to a rebar in concrete at the Northwest corner of Solheim Subdivision; thence S36°34'09"W along the West line of Solheim Subdivision a distance of 317.88 feet to the Northerly line of Block "E" of the First Addition to Riggins Acres; thence N53°17'26"W along said Subdivision line a distance of 308.92 feet; thence continuing along said Subdivision line N57°17'26"W a distance of 834.10 feet; thence N53°17'26"W a distance of 449.62 feet to the East line of said Lot One (1); thence N00°06'44"E a distance of 104.95 feet to the Northeast corner of said Lot One (1) and the point of beginning. Said parcel contained 12.81 acres, more or less, with 9.70 acres in the Southwest Quarter of the Northwest Quarter (SW¼NW¼), 1.57 acres in the Southeast Quarter of the Northwest Quarter (SE¼NW¼), 1.49 acres in the Northeast Quarter of the Southwest Quarter (NE¼SW¼), and 0.05 acres in the Northwest Quarter of the Southwest Quarter (NW¼SW¼) and is subject to a 33 feet township road right of way easement along the westerly boundary line. That portion of railroad right of way adjacent to the southerly edge of Outlot 44-0002 and Outlot 44-0003, Ramsey County, North Dakota, and the portion of railroad right of way located in the West 33' of Section 28-154-64; West 33' of NW¼ of Section 28-154-64; and West 33' of Section 21-154-64.

The City Administrator acknowledged two emails were received commenting on the annexation.

President Johnson stated the comments from the public tonight are on the annexation issue and not on air quality which will be addressed during the permitting process. The annexation issue has to be decided before any permits can be submitted.

Jessica Ramey stated the annexation area has wetland easements surrounding the property, and has sites vital for temporary nesting.

The City Engineer stated there are wetlands, but he is not aware of any easements. There is a process to follow if wetlands are impacted. If the company impacts wetlands, it will be addressed during the permitting process.

Morgan Fee stated they do not want their property annexed.

It was questioned if the truck route would be paved. Eagles Ledge plans to improve and pave the roadway they will utilize. The road half a mile west was underwater until the last two years. There is water on both sides and it won't stand up to truck traffic. This is a township road.

KLJ Engineer is working on improvements on the east/west portion of the truck route.

Mr. Wooley stated America Dakota Refinery is a Delaware corporation that would own and operate the oil refinery. They have expressed a great amount of confidence in the Devils Lake area for both the natural and human resources available here. They are prepared to invest over \$200 million. The refinery would employ modern, proven technology for manufacturing clean products and for clean operations. The carbon footprint – greenhouse gas emissions (mainly CO2) – would comply with set regulations. A prevention of significant deterioration (PSD) permit would not be needed because the refinery would not be exceeding limits. The refinery is not big by environmental standards and will not exceed standards. They will balance care for the environment with economic development. The refinery will pay for itself, and doesn't rely on freebies. It will

generate income and pay salaries and taxes. The location is in the industrial part of town and will use the infrastructure already in place.

Marian Chattin echoed the concerns in the due diligence report in regards to Eagles Ledge having no experience in developing a refinery; Eagles Ledge being more of a financial company; the company's financial information; Triad Engineering having no recent experience with a project of this scope and their number of employees; and the quality and scheduling of the modulars for the building.

Rachel Lindstrom, Executive Director of Forward Devils Lake, stated using modulars is typical because it cuts cost and is quicker. As for experience, it is common to outsource and contract for engineering so a company doesn't have to sit with engineers on staff waiting for the next project. The company is privately owned so they do not have to release financial information; however, more will be known when the development agreement is completed. The City is not an investor in the company. It is a privately held company just like any other private business to come to Devils Lake.

Indemnification and bonding will be addressed in the development agreement. If the annexation is approved tonight, it will be conditioned on successfully developing a development agreement.

The Engineer requested the area east of the section line and the one quarter be contingent upon the project moving forward. It was noted options are available if the 33 feet is annexed. The remainder could be removed if not used.

Rudolph, electrical superintendent on design-build projects, stated the process to accumulate the people necessary to perform the work cannot be done until there is money to do it. That is in place right now and is happening. People are being recruited that have the talents to finish the project.

Commissioner Robbins moved to approve the second and final reading of Ordinance No. 924 – Annexation – An Ordinance, which upon adoption, shall annex to the City of Devils Lake the property described as N½ of Section 20-154-64 and NW¼SE¼ of Section 20-154-64 (The annexation of the above two parcels is contingent on said property being conveyed to Eagles Ledge, LLP and said parcels being included in a Development Agreement with the City of Devils Lake.) The annexation of the following three parcels is contingent on the above two parcels being annexed to the City of Devils Lake: NE1/4SE1/4 of Section 20-154-64; West 33' of NW1/4 of Section 21-154-64; and West 33' of NW1/4SW1/4 of Section 21-154-64. The annexation of the following parcels are not subject to any contingency: Outlot #44-0002 Part of the S½SE¼ and the SE¼SW¼ Section 20, Township 154 North, Range 64 West; Outlot #44-0003 Part of the N½NE¼ and the SE¼NE¼ Section 29, Township 154 North, Range 64 West; A parcel of land consisting of twenty-five (25) acres (more or less) as described in Document No. 218655 as follows: Commencing at the Section line between Sections 19 and 20, Township 154 North, Range 64 West, and between the railroad formerly known as the Soo Line Railroad at the North and the railroad formerly known as the Burlington Northern Railroad at the South, and thence taking all the land between the aforesaid railroads and its right of way running in a Southeasterly direction through Sections 20 and 29, Township 154 North of Range 64 West, less land previously conveyed to the Farmers Union Elevator Company of Devils Lake on December 9, 1983, which deed was filed for record in the Office of the Register of Deeds, Ramsey County, North Dakota, on the 20th day of December, 1983 at 3:00 o'clock P.M. and duly recorded as Document No. 178626.; 66' wide strip of the section line between Sections 28 and 29 from the north right of way line of 50th St NE also known as 14th Street NW to the south right of way line of Hwy 2.; That portion of railroad right of way adjacent to the southerly line of Outlot 44-0002 and Outlot 44-0003.; West 33' of Lot 1, Block A, Riggins Acres; West 33' of a parcel of land situated in the West Half (W½) of Section Twenty-Eight (28), Township 154 North, Range 64 West of the 5th Principal Meridian, Ramsey County, North Dakota, described in Document No. 249057 and being more particularly described as follows: Beginning at the Northeast corner of Lot One (1), Block "A" of Riggins Acres Subdivision; thence S89°57'16"W along the North line of said Lot One (1) a distance of 288.82 feet to the West line of said Section Twenty-Eight (28); thence N00°02'39"W along said Section line a distance of 371.02 feet to the Southerly right of way line of the Soo Line Railroad; thence S57°50'06"E along said right of way line a distance of 2112.47 feet to a rebar in concrete at the Northwest corner of Solheim Subdivision; thence S36°34'09"W along the West line of Solheim Subdivision a distance of 317.88 feet to the Northerly line of Block "E" of the First Addition to Riggins Acres; thence

N53°17'26"W along said Subdivision line a distance of 308.92 feet; thence continuing along said Subdivision line N57°17'26"W a distance of 834.10 feet; thence N53°17'26"W a distance of 449.62 feet to the East line of said Lot One (1); thence N00°06'44"E a distance of 104.95 feet to the Northeast corner of said Lot One (1) and the point of beginning. Said parcel contained 12.81 acres, more or less, with 9.70 acres in the Southwest Quarter of the Northwest Quarter (SW¼NW¼), 1.57 acres in the Southeast Quarter of the Northwest Quarter (SE¼NW¼), 1.49 acres in the Northeast Quarter of the Southwest Quarter (NE¼SW¼), and 0.05 acres in the Northwest Quarter of the Southwest Quarter (NW¼SW¼) and is subject to a 33 feet township road right of way easement along the westerly boundary line.; That portion of railroad right of way adjacent to the southerly edge of Outlot 44-0002 and Outlot 44-0003, Ramsey County, North Dakota, extended easterly to include that portion of railroad right of way located in the West 33' of Section 28-154-64; West 33' of NW¼ of Section 28-154-64 and West 33' of SW1/4SW1/4 Section 21-154-64. The motion was seconded by Commissioner Stromme. On roll call all Commissioners voted aye, and the motion carried.

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

1. Game of chance permits for January 2015; and
2. Permit to sell alcoholic beverages at a special event submitted by Thirsty's for a private wedding dance to be held on March 14, 2015 at the Memorial Building.

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

Commissioner Stromme moved to approve the 2014 Budget Amendment No. 08-14 – final adjustment to actual as recommended by the City Auditor. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The Public Ways Supervisor reviewed the proposals received for a pickup, and recommended accepting the low proposal of \$26,324.00 from the Devils Lake Chrysler Center.

Commissioner Stromme moved to approve accepting the low proposal from the Devils Lake Chrysler Center for a pickup in the amount of \$26,324.00 as recommended by the Public Ways Supervisor. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The 2015 loan agreement for the F-101F Aircraft at the Airport was reviewed.

Commissioner Heisler moved to approve the 2015 Loan Agreement between the National Museum of the United States Air Force and the City of Devils Lake for the period from April 1, 2015 and ending March 31, 2016 for displaying an airplane at the Devils Lake Regional Airport. The motion was seconded by Commissioner Stromme, and the motion carried unanimously.

Reg Herman appeared before the City Commission to discuss the plans for repurposing the old Wal-mart building. One option is to add an office complex for the City and other government entities. The plan is to blend a motel, event center, retail, food and office space. An investment group was formed. They are asking the City to rethink local competition and build for the future in a more visible manner. They would like to bring commerce here so it does not go out of town. There are certain services and goods that you cannot get in Devils Lake, and they would like to bring those items here. The group is proposing to have a city office complex in the building. By combining everything in one area, synergies could be created that we don't have today. He is asking the City to look at improvements in access, communication, efficiencies, convenience, image, cross-department efficiencies and many other synergies.

President Johnson stated he is concerned about taking traffic from downtown when downtown needs more traffic. Also, the City would have to consider owning offices versus renting space. The City has purchased property next to the current city hall for storage and expansion. The City would have to look at the benefit to the citizens.

Reg Herman stated the easiest course would be to add three retail stores and have a strip mall without bringing any new businesses to town.

The Commissioners commended the group for taking the initiative to do something with the empty building.

Doug Lawson, Lake Region Ambulance Service, stated they have outgrown their present facility and are looking to expand. They are requesting to purchase a parcel of land for a new emergency ambulance building. The new location would not impact the residential area and would give them access to Highway 2.

The City Assessor stated the amount is based on his estimate. An outlot will need to be drawn up, but it should be close to 21,000 square feet. The land was advertised in 2005 with a minimum bid, but no one bid. The City has been selling the land off in pieces.

Commissioner Stromme moved to approve the purchase of a tract of city owned property by Lake Region Ambulance Service in the amount of \$1.00 per square foot as recommended by the City Assessor with the contingency that if a substantial commercial building is not constructed on the property within two years from the date of their deed, the title to the property will revert back to the City and any amounts paid by Lake Region Ambulance Service will be forfeited, and the property and any improvements will belong to the City. The parcel will be approximately 21,000 square feet and is part of 39-2702-00039-001. The motion was seconded by Commissioner Heisler, and the motion carried unanimously.

The City Assessor reviewed the request from the Northern Plains Grain Inspection Service to purchase a parcel of land in the same area. An Otter Tail Power pole will need to be moved. One piece will be remaining to sell.

Commissioner Stromme moved to approve the purchase of a tract of city owned property by Northern Plains Grain Inspection Service in the amount of \$1.00 per square foot as recommended by the City Assessor with the contingency that if a substantial commercial building is not constructed on the property within two years from the date of their deed, the title to the property will revert back to the City and any amounts paid by Northern Plains Grain Inspection Service will be forfeited, and the property and any improvements will belong to the City. The parcel is approximately 15,000 square feet and part of 39-2702-00039-001. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

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

President Johnson acknowledged the following reports:

1. Fire Department 2014 annual report; and
2. Police Department monthly report.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:45 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT