

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD SEPTEMBER 4, 2018

The regular meeting of the Devils Lake City Commission was held Monday, September 4, 2018 at 5:30 P.M. with the following members present: President Dick Johnson, Commissioners Dale Robbins, Shane Hamre, Rob Hach and Jacob Volk. None were absent.

Pledge of allegiance was recited.

Commissioner Volk moved to approve the minutes of the regular City Commission meeting held August 20, 2018, and of the special City Commission meeting held August 21, 2018. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Suzie Kenner appeared before the City Commission to discuss the work to be done at the Bridgestone Park. Electrical and site grading will be completed this fall with grass and trees being planted next spring. The grant needs to be completed by June 2019. Monster Lawn and Lake Region Electric are donating labor for this phase of the project. It was noted the Devils Lake Chamber of Commerce would be submitting grants on behalf of the City for other parts of the park.

Mark Olson requested to be moved to the September 17th meeting.

Commissioner Hach – The Sanitation Supervisor stated free landfill dumping for residents will be held the next two weeks.

The City Assessor said everything was fine.

Commissioner Hamre – The Public Utilities Supervisor stated everything was fine in water and sewer.

President Johnson – The City Auditor stated everything was fine.

The City Administrator reviewed the notice of estimated property tax and budget hearing dates sent out by the county.

The City Administrator and President Johnson updated the City Commission on the leadership trip to Washington, DC.

The Fire Chief said a record amount of people participated in the blood drive.

The City Attorney stated everything was fine.

Commissioner Volk – The City Engineer said specifications will be written for snow removal equipment. Also, ordinances will be reviewed and may need to be revised for snow removal and street maintenance.

The Street Department has been mowing and patching.

The City Engineer stated the ND Department of Transportation and the contractor for the west underpass are coordinating when it will reopen. Utility work is still ongoing, and the work on the roadway has not yet started. The waterline is not completed, and a sanitary sewer line needs to be rerouted. Some storm sewer work needs to be done.

It was noted the mosquito traps had 16 mosquitoes, but none were positive for the West Nile virus. The last week of August was the last week of counts.

Commissioner Robbins - The City Engineer stated prep work is taking place on 2nd Ave and 4th Ave north of 12th St. The week of September 17th, the areas should be milled, and the following week asphalt placed. Later this week, removal should be completed on 5th Ave and 14th St with work starting in earnest next week.

The Police Chief stated a protest is planned for the release of the officer-involved shooting video for the meeting on September 17th. Discussion followed on neither the Police Department nor the City having the right to release the video. The decision is up to the State's Attorney Office.

The first reading of Ordinance No. 955 – Fireworks was held.

The City Attorney reviewed the attorney's retainer contract. The client has the sole authority to settle and needs to appoint the City Attorney to monitor claims. There is no guaranty of any success on claims. The schedule of fees is 25% goes to the law firms up to recovery of \$2.5 million with graduated percentages as recovery increases. The contract allows for reasonable attorney fees and expenses and cost of litigation such as depositions, service fees and out-of-pocket expenses. These expenses will be paid by the law firms to be reimbursed by settlement. Consent of the client needs to be secured before any final settlement. The law firms may associate with other attorneys. The law firms will defend and indemnify the City. Any dispute of this contract will be settled in Ramsey County and ND law applies.

Commissioner Volk moved to approve the attorney's retainer contract with Ferrer Poirot & Wansbrough, Fears Nachawati, McNamee Hosea and Motley Rice for opioid litigation and to designate the City Attorney to monitor claims. The motion was seconded by Commissioner Hach, and the motion carried unanimously.

The City Administrator reviewed the recommendation from the personnel policy committee on the cost of living increase for 2019. Discussion followed on how an even dollar amount impacts the pay scale compared to the percentage method.

Commissioner Robbins moved to approve the recommendation from the personnel policy committee to keep the cost of living raise at 2 percent for 2019. The motion was seconded by Commissioner Hach. President Johnson, Commissioners Robbins and Hach voted aye. Commissioners Hamre and Volk opposed. The motion carried.

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

1. Extension of premises application for a special event submitted by Devils Lake Elks Club for a wedding reception on September 8, 2018 at the Devils Lake Elks Club;
2. Game of chance permits for the month of August 2018;
3. Parade permit submitted by Devils Lake Public Schools for Saturday, September 29, 2018 at 10:00 AM; and
4. Use of city property permit and training site permission letter agreement submitted by USDA-NRCS for October 2-4, 2018 for an area east of fire training tower.

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

The City Engineer reviewed the contract with ND Department of Transportation for the downtown project. The cost is projected to be \$5,762,064.77 with the City share approximately \$1.1 million. There is no cap on the federal end.

Commissioner Hamre moved to approve the cost participation, construction and maintenance agreement LPA federal aid project with ND Department of Transportation for concrete pavement repair, mill & overlay, seal coat, curb & gutter, sidewalk, lighting and signal for 2nd St NE to 6th St NE, 2nd Ave to 6th Ave and Railroad Ave as recommended by the City Engineer. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The lease agreement for the hangar at the airport was reviewed. Tanner Sotvik, owner of Devils Lake Aero Service and tenant of the hangar, requested that the lease amounts be renegotiated. The new lease calls for amounts 3 to 5 times higher than the current rent. He currently pays \$500.00 per month plus 35% of aircraft storage rental. Discussion followed on comparable leases, the costs of utilities especially in the winter, the availability of courtesy vehicles, the tenant being on call, the tenant's investment in providing fuel service, the replacement of lights, the maintenance of the roof, the tenant's clientele base, and the number of employees.

Rodger Haugen, member of the Airport Authority, reviewed when the airport did not have a mechanic and reinforced all the items Mr. Sotvik brings to the airport including a pilot's lounge.

John Nord, Airport Manager, also provided support for Mr. Sotvik, but did note the rent needed to be raised from the current level.

Commissioner Volk moved to approve having the City Administrator, Mr. Sotvik and an Airport Authority member meet to renegotiate the lease agreement. The motion was seconded by Commissioner Hamre and the motion carried unanimously.

The City Engineer reviewed the memo of understanding for sewer service for Joe Kraft. The area is located on the north side of Highway 2 and west of Roosevelt Park. Lake Region Ready Mix and Joe's Sports are serviced by a privately-owned sewer system. This agreement would allow a privately-owned sewer system to be used by more than one parcel.

Commissioner Hamre moved to approve the memo of understanding for sewer service for Parcel 39-0000-00874-003 described as Outlot 44-0021, being a part of Outlot 44-0016 and an unplatted portion of land in the SW1/4NW1/4, Section 34, Township 154 North, Range 64 West, 2.73 acres; as recorded in the office of the Ramsey County Recorder as Document 268511. Owner is Joe C. Kraft and Cecelia R. Kraft. Parcel 39-0000-00874-002 described as Outlot 44-0016 in the SW1/4NW1/4, Section 34, Township 154 North, Range 64 West, as recorded in the office of the Ramsey County Recorder as Document 260486; And A parcel of land containing portions of vacated Blocks 151, 152 and 167 together with parts of vacated 8th Avenue West, vacated 8th Street West and a vacated County Highway, all situated in parts of the SE¼ of the NE¼ of Section 33 and the SW¼ of the NW¼ of Section 34, T154N R64W of the 5th Principal Meridian, within the City of Devils Lake, Ramsey County, North Dakota and is more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 34; thence Northerly along the West line of said Section 34 a distance of 465.00 feet to the point of intersection with the northerly Right of Way line of a vacated County Road; thence S65°35'00"E along said right of way line a distance of 28.56 feet to a point where said Right of Way line intersects the East line of the vacated Block 151; thence S53°46'56"E a distance of 322.71 feet; thence S45°29'41"W a distance of 157.34 feet to the Northerly right of way line of U.S. Highway #2; thence N44°30'19"W along said Northerly right of way line a distance of 301.14 feet; thence N39°24'00"E a distance of 99.17 feet; thence N00°00'00"E along the East line of vacated Block 151 a distance of 9.57 feet to the point of beginning. Said parcel of land contains 0.9 acres, more or less. No record of easement researched. As recorded in the office of the Ramsey County Recorder as Document 248718; And A tract of land situated in the SW1/4NW1/4 of Section 34-154-64 of the 5th Principal Meridian, Ramsey County, North Dakota, which includes portions of vacated Block 152 and the vacated 8th Street West and the vacated 8th Avenue West of the Original Townsite of the City of Devils Lake, being more particularly described as follows: Commencing at the Southwest corner of the NW1/4 of said Section 34; thence northerly along the west line of said section a distance of 465.0 feet to the point of intersection with the northerly Right of Way line of a vacated county road; thence S65°35'00"E along said Right of Way line a distance of 28.56 feet to a point where said Right of Way line intersects the East line of the vacated Block 151 of the Original Townsite of the City of Devils Lake which is the true point of beginning; thence S0°00'00"E along said block line a distance of 72.48 feet to the southerly Right of Way line of said vacated county road; thence S65°35'00"E along said Right of Way line a distance of 285.93 feet; thence N45°29'41"E a distance of 70.73 feet to the northerly Right of Way Line of said vacated county road; thence N65°35'00"W along said Right of Way line a distance of 341.33 feet to the point of beginning. Said tract contains 20,700 square feet more or less. As recorded in the office of the Ramsey County Recorder as Document 262172; And Less Outlot 44-0021, in the SW1/4NW1/4, Section 34, Township 154 North, Range 64 West. As recorded in the office of the Ramsey County Recorder as Document 268511. Owner is Joe C. Kraft and Cecelia R. Kraft. Parcel 39-0000-00795-006 described as A parcel of land containing portions of vacated Blocks 147, 148, 151, and 152 together with parts of vacated 8th Avenue West, vacated 9th Street West and a vacated County Highway, all situated in parts of the SE¼ of the NE¼ of Section 33 and the SW¼ of the NW¼ of Section 34, T154N R64W of the 5th Principal Meridian, within the City of Devils Lake, Ramsey County, North Dakota and is more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 34; thence Northerly along the West line of said Section 34 a distance of 465.00 feet to the point of intersection with the northerly Right of Way line of a vacated County Road; thence S65°35'00"E along said right of way line a distance of 28.56 feet to a point where said Right of Way line intersects the East line of the vacated Block 151; thence S53°46'56"E a distance of 6.08 feet; thence N39°24'00"E a distance of 273.75 feet to the Southerly right of way line of an existing Burlington Northern Railroad Line; thence N58°29'11"W along said right of way line a distance of 77.53 feet; thence continuing along said railroad right of way line along a simple curve to the right with a radius of 632.24 feet and a delta angle of 7°52'24" for an arc distance of 86.88 feet; thence continuing along said right of way line N50°36'00"W a distance of 8.93; thence S39°24'00"W a distance of 72.61 feet; thence N52°53'56"W a distance of 4.00 feet; thence S39°24'00"W a distance of 272.28 feet to the

Northerly right of way line of U.S. #2; thence S44°30'19"E along said Highway right of way line a distance of 177.33 feet; thence N39°24'00"E a distance of 99.17 feet to the East line of vacated Block 151; thence N00°00'00"E along said vacated Block line a distance of 9.57 feet to the point of beginning. Said parcel of land contains 1.5 acres, more or less. No record of easement researched. As recorded in the office of the Ramsey County Recorder as Document 248716; And A parcel of land containing portions of vacated Blocks 148 and 151, together with parts of vacated 8th Avenue West and vacated 9th Street West and a vacated County Highway, all situated in parts of the SE¼ of the NE¼ of Section 33 and the SW¼ of the NW¼ of Section 34, T154N R64W of the 5th Principal Meridian, within the City of Devils Lake, Ramsey County, North Dakota and is more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 34; thence Northerly along the West line of said Section 34 a distance of 465.00 feet to the point of intersection with the northerly Right of Way line of a vacated County Road; thence S65°35'00"E along said right of way line a distance of 28.56 feet to a point where said right of Way line intersects the East line of the vacated Block 151; thence S53°46'56"E a distance of 6.08 feet; thence N39°24'00"E a distance of 273.75 feet to the Southerly right of way line of an existing Burlington Northern Railroad Line; thence N58°29'11"W along said right of way line a distance of 77.53 feet; thence continuing along said railroad right of way line along a simple curve to the right with a radius of 632.24 feet and a delta angle of 7°52'24" for an arc distance of 86.88 feet; thence continuing along said right of way line N50°36'00"W a distance of 8.93 feet to the Point of Beginning; thence S39°24'00"W a distance of 72.61 feet; thence N52°53'56"W a distance of 4.00 feet; thence S39°24'00"W a distance of 272.28 feet to the Northerly right of way line of U.S. Highway #2; thence N44°30'19"W along said Highway right of way line a distance of 50.00 feet; thence N39°24'00"E a distance of 339.75 feet to the Southerly right of way line of the Burlington Northern Railroad; thence S50°36'00"E along said railroad right of way line a distance of 53.71 feet to the point of beginning. Said parcel of land contains 0.4 acres, more or less. No record of easements researched. As recorded in the office of the Ramsey County Recorder as Document 254932. Owner is Joe C. Kraft; Parcel 39-0000-00795-005 described as: A parcel of land containing portions of vacated Water Blocks R & S, vacated Blocks 130, 148, 149, & 151, together with parts of vacated 8th Avenue West, 9th Avenue West, vacated Lake Boulevard, vacated 9th, 10th & 11th Streets West and a vacated County Highway all situated in parts of the SE1/4 of the NE1/4 of Section 33 and the SW1/4 of the NW1/4 of Section 34, T154N R64W of the 5th Principal Meridian, within the City of Devils Lake, Ramsey County, North Dakota and is more particularly described as follows: Commencing at the Southwest corner of the NW1/4 of said Section 34; thence Northerly along the West line of said Section 34 a distance of 465.00 feet to the point of intersection with the northerly Right of Way line of a vacated County Road; thence S65°35'00"E along said right of way line a distance of 28.56 feet to a point where said Right of Way line intersects the East line of the vacated Block 151; thence S53°46'56"E a distance of 6.08 feet; thence N39°24'00"E a distance of 273.75 feet to the Southerly right of way line of an existing Burlington Northern Railroad Line; thence N58°29'11"W along said right of way line a distance of 77.53 feet; thence continuing along said railroad right of way line along a simple curve to the right with a radius of 632.24 feet and a delta angle of 7°52'24" for an arc distance of 86.88 feet; thence continuing along said right of way line N50°36'00"W a distance of 8.93 to the POINT OF BEGINNING; thence S39°24'00"W a distance of 72.61 feet; thence N52°53'56"W a distance of 4.00 feet thence S39°24'00"W a distance of 272.28 feet to the Northerly right of way of U.S. # 2; thence N44°30'19"W along said Highway right of way line a distance of 1405.26 feet; thence N39°24'00"E a distance of 175.98 feet to the Southerly right of way line of Burlington Northern Railroad; thence S50°36'00"E along said Railroad right of way line a distance of 750.00 feet; thence N39°24'00"E along said right of way line a distance of 20.00 feet; thence continuing along said railroad right of way line S50°36'00"E a distance of 651.31 feet to the point of beginning. Said parcel of land contains 8.3 acres, more or less. As recorded in the office of the Ramsey County Recorder as Document 248941; And Less the following: A parcel of land containing portions of vacated Blocks 148 and 151, together with parts of vacated 8th Avenue West and vacated 9th Street West and a vacated County Highway, all situated in parts of the SE¼ of the NE¼ of Section 33 and the SW¼ of the NW¼ of Section 34, T154N R64W of the 5th Principal Meridian, within the City of Devils Lake, Ramsey County, North Dakota and is more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 34; thence Northerly along the West line of said Section 34 a distance of 465.00 feet to the point of intersection with the northerly Right of Way line of a vacated County Road; thence S65°35'00"E along said right of way line a distance of 28.56 feet to a point where said right of Way line intersects the East line of the vacated Block 151; thence S53°46'56"E a distance of 6.08 feet; thence N39°24'00"E a distance of 273.75 feet to the Southerly right of way line of an existing Burlington Northern Railroad Line; thence N58°29'11"W along said right of way line a distance of 77.53 feet; thence continuing along said railroad right of way line along a simple curve to the right with a radius of 632.24 feet and a delta angle of 7°52'24" for an arc distance of 86.88 feet; thence continuing along said right of way line N50°36'00"W a distance of 8.93 feet to the Point of Beginning; thence S39°24'00"W a distance of 72.61 feet; thence N52°53'56"W a distance of 4.00 feet; thence S39°24'00"W a distance of 272.28 feet to the Northerly right of way line of U.S. Highway #2; thence N44°30'19"W along said Highway

right of way line a distance of 50.00 feet; thence N39°24'00"E a distance of 339.75 feet to the Southerly right of way line of the Burlington Northern Railroad; thence S50°36'00"E along said railroad right of way line a distance of 53.71 feet to the point of beginning. Said parcel of land contains 0.4 acres, more or less. No record of easements researched. As recorded in the office of the Ramsey County Recorder as Document 254932. Owner is Lake Ready Mix Inc.; as recommended by the City Engineer. The motion was seconded by Commissioner Volk, and the motion carried unanimously.

Commissioner Robbins moved to deny forgiving the sewer usage over the average usage for utility account #8276. President Johnson called for a second to the motion three times. The motion died for the lack of a second.

President Johnson called for a motion to approve relief on utility account #8276. President Johnson called for a motion three times. Account stands as is for the lack of a motion.

Commissioner Hamre moved to approve the 2018 funding request to Midstate Volunteer Program in the amount of \$5,100.00. The motion was seconded by Commissioner Volk. On roll call, all Commissioners voted aye, and the motion carried.

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

President Johnson acknowledged the following report:
2017 Audit.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 6:40 P.M.

**LINDA LYBECK
CITY AUDITOR**

**RICHARD S. JOHNSON
PRESIDENT**