

Official Proceedings
BOARD OF CITY COMMISSIONERS
January 14th, 2014 6:00 P.M.
CITY HALL WILLISTON, NORTH DAKOTA

1. Roll Call of Commissioners

COMMISSIONERS PRESENT: Brad Bekkedahl, Howard Klug, Tate Cymbaluk, Chris Brostuen and Ward Koeser

COMMISSIONERS ABSENT: None

OTHERS PRESENT: Tom Rolfstad, Chief Lokken, Chief Hanson, Amy Krueger, Bob Hanson, Steven Kjergaard, Rachel Ressler, Dave Tuan, Randy Donnelly, Jordan Evert

Mayor Koeser presented a quorum; the following are amendments to the agenda: 8 A(1) should be right after 6 C, they need to add 9 G(1) regarding discussion of the Williston Development Building, 9 H(1) has been withdrawn and 9 J(1)b is also being withdrawn.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to approve the amendments to the agenda.

CARRIED BY UNANIMOUS VOICE VOTE

2. Consent Agenda

- A. Reading and Approval of Minutes for:
 - (1) Regular Meeting Dated: 12/26/13
- B. Auditor
 - (1) Accounts, Claims and Bills
 - (2) Application for a Local Permit or Charity Local Permit
 - a. Blue Knights ND III – Calendar Raffle – Williston Law Enforcement Center – 05/05/14 thru 05/30/14
 - b. Mount Moriah 51 – Raffle – Mount Moriah Lodge – 01/15/14 thru 05/17/14
 - (3) Special Permit to Sell Alcoholic Beverages
 - (4) Local Site Authorization
 - a. Teton Booster Club, Inc. – Williston State College
 - (5) Taxi License
 - (6) Arborist License
 - a. Northern Lights Construction – Renewal
 - (7) Waste Haulers License
 - a. Dakota Dumpster, LLC - Renewal
 - (8) Bulk Storage & Handling of Inflammable Liquids License
 - a. Williston Jet Center – Transfer of Permit
 - (9) Pet Shop/Kennel License
 - a. Paw Prints & Fish Tails – Renewal
 - (10) Alcoholic Beverage License
 - a. Williston Basin Curling Club
- C. Building Official
- D. City Planner
- E. Assessor

- (1) Abatement
- (2) Exemptions

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to approve the Consent Agenda.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

3. Bid Openings

4. Public Hearings

- A. Public Hearing on a preliminary plat, to be known as Hawkeye Village Subdivision; proposed zone change from A: Agricultural to R-1: Single-Family Residential, R-2: Single and Two-Family Residential and Twin Homes, R-4: High-Rise Multi Family Residential, C-2: General Commercial, and P: Parks and Open Space; and an amendment to the future land use map to allow commercial and high-rise residential land use, located in the SE ¼ of Section 16, T154N, R101W—Bakken Housing Company, LLC/Hagen Family Partnership LLLP and American State Bank

Principal Planner, Donald Kress presented information on this preliminary plat.

The applicant, Bakken Housing Company LLC, proposes a 160 acre development in the southeast quarter of Section 16, T154N, R101W. Section 16 was recently annexed into the city. The proposed development includes:

- 13.34 acres zoned R-1: Single Family Residential (39 lots)
- 41.5 acres zoned R-2: Single-Family, Two-Family and Twin Home Residential (153 lots)
- 11.5 acres zoned R-3: Town House and Low-Rise Multifamily Residential (1 lot)
- 13.1 acres zoned R-4: High-Rise Multifamily Residential (1 lot)
- 30.4 acres zoned C-2: General Commercial (7 lots)
- 177.2 acres zoned P: Parks and Open Space

This project will take access from 32nd Avenue West, 11th Street West, and 26th Street West. Project sewer mains will connect to existing sewer mains in 32nd Avenue West; project water mains will connect to existing water mains in 32nd Avenue West.

An amendment to the future land use plan from Low/Medium Density Residential to Commercial for 30.4 acres and from Low/Medium Density Residential to High Density Residential for 13.1 acres is required to accommodate the proposed commercial development and high-rise multifamily development.

Extensive traffic analysis was done on this project, with the applicant's traffic study being reviewed by the Planning and Engineering Departments, the North Dakota Department of Transportation (NDDOT), and SRF, Inc., the city's traffic consultant. Some of the results of that traffic study analysis are:

- Limiting direct access for lots that face 32nd Avenue West

- Requiring the commercial lots to be accessed by reciprocal access easements within the project rather than having the commercial lots directly access 32nd Avenue West or 11th Street West.
- Future extension of 11th Street West across currently undeveloped property (known as the “Hagan-Slingsby property) to connect to Highway 2/85 west bypass (West Dakota Parkway)
- Streets within the project are configured to connect with future extensions of Bison Drive and 23rd Street West

Review of this project also included a land use plan for the full Section 16, to insure that this section is developed largely with single-family lots as was intended when this section was annexed. City staff has worked with the property owners and the developer to create this plan, although approval of this plan is not before the Commission at this time.

At the December 16, 2013 Planning and Zoning Commission meeting, the Commission heard the case as presented by staff and the applicant.

The applicant stated that:

- The estimated build-out of this project is seven years;
- The R-4: High Rise Multifamily zoned area to probably be developed first, with the twin home and single family coming later
- The C-2: Commercial zoned area will probably include some offices
- The public park west of 32nd Street is basically an open field that is the head of a trail system

The applicant was not in favor of staff’s requirement to depict reciprocal access easements in the commercial area, as the applicant was not certain who the tenants would be and what their access requirements would be. Later in the discussion, staff pointed out that for commercially-zoned areas, staff understands that some flexibility regarding the location of lot lines and reciprocal easements is necessary exactly because staff realizes that developers don’t have their tenants confirmed at the time of the preliminary plat. However, this does not prevent the developer from plotting a location for these easements.

There was considerable discussion between the applicant, staff, commissioners, city attorney, and the owners (the Hagan Family) of an adjacent property (portions of Section 15) about staff requirement that the applicant provide an agreement to acquire the necessary right of way to connect 11th Street West from the intersection of that street with 32nd Avenue West to West Dakota Parkway. The applicant requested that the commission “de-couple” the two issues of approval of the plat and zone change from the requirements to provide for the right of way for future extension of 11th Street West. He stated the traffic study did not require the 11th Street corridor to be built in order to facilitate the proposed seven year build out.

Staff made points that:

- It's the developers proposed development of this area that is triggering the need to have connectivity with the rest of the city.
- 11th Street is really more something that ties to the future land use amendment, and cited comprehensive plan standards requiring access to be considered as part of a future land use amendment
- The 11th Street corridor is mentioned in the traffic study as part of the overall connectivity of Section 16. Staff wants to insure that this connectivity is provided in the future, when the intensity of development will lead to the failure of the existing road system to handle traffic at reasonable levels of service.
- Extension of 11th Street is mentioned in the traffic study as part of the overall connectivity of the Section.
- The city engineer added that future development of 11th Street will require that the city look at some type of right of way agreement with the Hagan family, just like the city did for 32nd Avenue, and make a development agreement with them.

A major point of this discussion was the format of the agreement to acquire this right of way. The commission questioned whether the requirement to obtain an agreement for this right of way should be imposed on the applicant, as the applicant does not own the property across which this right of way is sought. The city attorney recommended that the commission exclude the language requiring the developer to obtain additional right of way for 11th Street from the current motions on this project, and direct staff, the applicant and the Hagan family to work diligently before the City Commission meeting at which this project will be scheduled to get a broad framework agreement regarding this right of way. If such an agreement is no reached by the time the project goes to the City Commission, or if that the commission is not satisfied with the agreement, then the City Commission can make the decision whether to reinstate that conditional language. The commission accepted the city attorney's recommendation and did not include the requirement that the developer provide an 11th Street right of way agreement in their motions of this project.

Further discussion between city staff and the property owners (the Hagan family) from whom the right of way for the extension of 11th Street would need to be obtained has resulted between and understanding between the city and the property owners. This will be presented later in this agenda as item 9(D)(1).

By a vote of 6-0 with one commission seat vacant, the Planning and Zoning Commission recommend that the City Commission approve the preliminary plat SE1/4 Sec. 16, T154N, R101W, City of Williston, contingent on:

- Approval of the amendment to the future land use map from Low/Medium Density Residential to Commercial for 30.4 acres and from Low/Medium Density Residential to High Density Residential for 13.1 acres, contingent on the amendment not becoming effective until the final plat records.
- Approval of the zone change from A: Agricultural to R-1: Single-Family Residential; R-2: Single-Family, Two-Family, and Twin Home Residential; R-3: Town House and Low-Rise Multifamily

Residential; R-4: High-Rise Multifamily Residential; C-2: General Commercial; P: Parks and Open Space, contingent on the zone changes not becoming effective until the final plat records.

- Approval of the preliminary plat for the southeast quarter of Section 16, T154N, R101W, contingent on: Standard development agreement with project specific amendments, elimination of individual green space lots along streets, and addressing all staff comments.

The assistant city attorney, Jordan Everett, put together an agreement just as a starting point for stipulation and memorandum of understanding with respect to 11th Street. This was sent to the Engineering Department as well as the Planning and Zoning Department for their review. Mr. Everett stated that he tried to get in touch with the Hagan family's attorney but was unable to meet with him, but did forward it to him. He stated that this will be the starting point of discussion as far as resolving the issues of 11th Street and this development.

Mr. Kress clarified that the Bakken Housing Company does not own the property; the Hagan family is the owner of the property. He also stated that with this project, 11th Street must be extended.

The applicants John Sessions and George Kropinski were in attendance.

Mr. Sessions presented a power point presentation to the City Commission and also introduced the Hagan family. Mr. Sessions stated that the Hagan family owns Section 16 and they are in contract to buy that property. The City is an important player in the project as well as the Park Board. The Park Board is pleased with how much land is being dedicated to both open space and two specific parks. The only two issues that have come up in the meetings have to do with the easements in the commercial area and the possible linkage of this project to an extension of 11th Street to the east. Mr. Sessions said they are pleased with this project and the preservation of the open space and parks. The lots he believes are too small and would like to go to 10,000-12,000 feet a lot along the bridge line and probably to 8,000 feet in the smaller lots behind. The engineering calls for a drainage area down toward the coulee. Mr. Sessions presented a slide showing the proposed access points for the commercial area at the lower southeast corner. The idea of easements at this point, he feels, is premature. Until the occupants are identified for those particular commercial lots, it is very difficult to have easements that make sense. One of the major challenges faced in looking at this property was the existence of 57 kilovolt lines. He stated that they don't look like they are that important but they are extremely important to the grid of the city. They have been meeting with MDU, with a possible relocation of a sub-station. MDU has agreed to move the sub-station to the east side of 32nd, with that they would be allowed to remove the high voltage wires that cross the property. They were challenged by the Planning Department to find a solution to the current location of the sub-station and they believe they have. He would like to suggest that in 2014 the goal should be to annex Sections 15 and 22. Whether they go with a draft agreement or condition tonight is up the City Commission. Mr. Sessions presented an attachment of responses to the good points raised by the ad hoc committee.

Mr. Kress said he would like to make a suggestion regarding the 11th Street extension. He suggested that they table a few items until they here Bob Hanson's presentation about the 11th Street Extension. After that presentation, they could come back to this item.

Mayor Koeser stated that this is a public hearing with three issues: a preliminary plat, zone changes and also for a future land use map. Comments can be related to any three of those issues. Mayor Koeser opened up the hearing for public comment.

Dan Kalil from the public stated that there was no notice to residents on the western side and no discussion with the Williston Township whatsoever regarding this project. He stated that he was very upset and angry that nobody of the city's Planning and Zoning Department bothered to give them a notice to provide any input until the hearing tonight. An extension of 11th street will destroy the little quality of life the neighborhood has left.

Kevin Christensen stated that when this was first purposed it was single-family and in a very short time it changed to commercial and high density. There was opposition to the residential area because of the quality of life that would change. There was no regard for the township members and nobody notified them. Mr. Christensen stated that he highly opposes development of this project and the commercial and high density zones.

Mayor Koeser called a second and third time for public input; none was heard.

Mayor Koeser stated that staff has asked them to consider if they would want to even understand the 11th Street Right of way issue before this particular point before we act on this. They could table action until we get to that item or with consent of the commissioners we could move it up and do it at this time.

The commissioners were in agreement to do the 11th Street West Extension at this time.

Bob Hanson said that they had been in meetings with the Hagan family and they have come to a verbal agreement with the idea that the right of way would be made available to the city. They are currently working out the widths and the lengths as we speak. This corridor should be anywhere from 100' to 150' wide. Eventually the city would be able to extend 11th Street from the highway to at least 32nd Avenue through the development with a possible extension continuing west to 139th. The extension would continue all the way to the new truck route that is being built around the west side of town. It would eventually become a major important access road. Mr. Hanson stated that he is unsure of how much traffic it will generate. Funding from the state will not come until 2015 at the very earliest. There is no guarantee of when that would happen and it is also tied together with the second phase of the 11th Street intersection project at the highway where they need to some relocation of the Frontage Road. This is a state funded project that is scheduled for 2015 but he has not seen any final schedules. They hope to get funding from the state for the project but may have to use other funds as they become available.

Mr. Hanson stated that he had not had a chance to read through Mr. Evert's memorandum yet. If the Hagan family would like to have their property annexed that would be fine.

Mayor Koeser stated that if you are going to develop this quarter section, you need to look long term for 11th Street to get there as an east/west route. The city is not prepared to build a road there now but need a place to get across in the future. The agreement would be a document that they would be allowed to build a road there in the future when the city gets to that point.

Mayor Koeser stated that at his hearing they talked about a preliminary plat, a proposed zone change and an amendment to the future land use plan. We need to either act on these three or table. Tied to this, is a long term plan on how the city deals with 11th Street and making sure we have access.

Commissioner Cymbaluk stated he sat in on a couple of the meetings and feels like the concept is good and it fits the city's future growth but if we don't have 11th Street expanded it is going to be a big problem. There is going to be a lot of growth in this area. Unless the Hagan family agrees to give a certain amount of right of way in this short amount of time, we are going to have a problem.

Mr. Evert went over some of what was in the memorandum. They could take their word that they would grant this future right of way at some point or they could have a memorandum outlining some general terms that both the city and the Hagan family will feel comfortable with. They could also request that they grant this right of way in conjunction with this development. In the city's best interest it would be for them to give the right of way now but for both parties it would be better to come up with an agreement. The agreement is basically that the parties will work together and they both know the extension needs to be done at some point.

Mike Hagan stated that the Hagan family is in agreement with what has been said. They will open up access for an 11th Street extension, he just didn't want to put something together that was legal and binding on such short notice until they have the details.

Commissioner Cymbaluk asked Dr. Hagan if it was safe to say that he is comfortable with giving up some right of way, are you willing to tie that together with the necessary approval to keep moving forward that we can have an amicable agreement between you, the city and the developers prior to the final recording of the plat.

Dr. Hagan said that he couldn't answer that because he thinks the width of the right of way is in question along with the final planning. He did say that the right of way will be there.

Mayor Koeser said that he is hesitant to approve the memorandum until it has been approved by the Hagan family. He stated that these all tie together and if we don't act on the memorandum to night maybe we should table to entire thing for two weeks and give the Hagan family a chance to review the memorandum.

Ed Hagan stated that as far as a time line is concerned it is whenever the city is ready.

Mr. Sessions is recommending moving forward contingent on getting the memorandum agreed upon within 60 days.

MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to approve the amendment to the future land use map from Low Medium Density Residential to Commercial for 30 acres and from Low Medium Density Residential to High Density Residential for 13 acres contingent on the amendment not being effective until final plat is recorded and letter of memorandum regarding the acquisition of 11th Street is agreed upon between the city, Hagan family and the developers within 60 days.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve the zone change from A: Agriculture to R: 1 Single Family Residential, R: 2 Single Family, Two Family and Twin Home Residential, R: 3 Town House and Low Rise Multifamily Residential, R: 4 High Rise Multifamily Residential, C: 2 General Commercial and P: Parks and Open Space contingent on the zone changes not becoming effective until the final plat records and the memorandum of understanding regarding the acquisition of 11th Street is agreed upon between the city, Hagan family and the developers within 60 days.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve the plat for the SE ¼ of Section 16, T154N, R101W contingent on standard development agreement with project specific amendments, elimination of individual green space lots along streets, addressing all staff comments and securing a letter of memorandum of understanding regarding the acquisition of 11th Street between the city, Hagan family and the developers within 60 days.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- B. Public Hearing on a proposed zone change from C-3: Restricted Commercial to R-4: High Rise Multifamily, Lot 6, Block 7, University Commons Subdivision, City of Williston – University Commons, LLC

The applicant requested that this item be removed from the January 14, 2014 City Commission Agenda.

Mayor Koeser said he would open the hearing up for discussion if anyone from the public came regarding this item. It appeared nobody from the public was in attendance for this matter so it was tabled.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to table this item.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- C. Public Hearing on proposed zone change A: Agriculture to C-2 for a 127.63 X 275 TRACT IN E2NESE (Parcel 3); 75 X 200 IN N2NESE (PARCEL #1); 75 X 160 IN NESE (PARCEL #2) Northern Annexation, Great Northern Trucking

The applicant requested that this item be removed from the January 14, 2014 City Commission Agenda.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to remove this item from the agenda.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

CARRIED: 5-0

- D. Annexation of approximately 217 acres located in portions of Sections 17 and 20, T154N, R100W. Applicant: Jason Everett/New Frontier Group. Property owners: Neil Falk, Martin Reiger, Mark and Linda Barstad

Mayor Koeser opened this hearing.

Principal Planner, Donald Kress stated that at the December 16, 2013, City Commission Meeting, the Commission approved Resolution 13-140. This resolution allowed for the annexation request to be advertised in preparation for a public hearing before the City Commission on January 14, 2014, as recommended by the annexation committee.

The public hearing has been so advertised. No protests were received.

The applicant, Jason Everett/New Frontier Group, requests the annexation of this undeveloped property to the City of Williston on behalf of the property owners, Neil Falk, Martin Rieger and Mark and Linda Barstad. This area located north of North Dakota State Highway 1804 and west of 133rd Avenue NW, is currently within the extra-territorial jurisdiction of the city of Williston. This area includes approximately 17.59 acres owned by the U.S. Army Corps of Engineers. The annexation area extends to the west side of the 33-foot statutory right of way for 133rd Avenue NW, a section line road.

The property is not currently served by public sewer and water.

This area would be developed as a part of the East Valley Rail project, a proposed freight transloading facility. The applicant has submitted a request to rezone this property to M-2: Heavy Industrial as well as a preliminary plat for this

project, which are expected to be presented to the Planning and Zoning Commission at their January 27, 2014 meeting.

The Annexation Committee recommended annexation of the property consisting of approximately 217 acres located in portions of Section 17, and 20, T154N, R101W.

Mayor Koeser opened the hearing up for public input.

Dan Brown from the public spoke stating that there was no notice given to them as a Township of this annexation. There hasn't been very much discussion regarding the annexation amongst the Township because of this. Mr. Brown stated that this annexation will affect his property. He also stated that this will affect his quality of life and property value. Mr. Brown's property overlooks the valley and no buffer is going to be able to help with the noise. He stated that with the noise, his family will not be able to sleep and this will affect his entire family's health. Mr. Brown said he is personally against the annexation for these particular reasons.

Mayor Koeser asked Mr. Brown to be sure and come to the public hearings regarding the zone changes as well because that goes more with the issues he has with this annexation.

Jim Brude from the public has property south of Mr. Brown on the east side of 133rd. Stoney Creek winds its way through the entire property and he would like to know who is going to grant the authority to re-channel Stoney Creek.

Mayor Koeser and Mr. Kress said that the Army Corps of Engineers is responsible for that and they are in the process of getting that taken care of, although the creek will not be directly affected.

Mr. Brude also stated concern about the noise level from the trains and the truck traffic from Highway 1804.

Brian from the public, who lives on 133rd stated concern about the traffic and the noise this traffic has been creating.

It was explained that there would not be any loud access or usage on 133rd from this development.

Julie Palmer from the public said she did not want to be part of the annexation, that she didn't ask to be involved and why did they choose that route. She asked if they were going to take their land to go with the annexation.

It was shown that the main access going in and out will not affect the road that the public is expressing concern about. The only access on that road is for emergency use, such as a fire. The emergency access does not allow traffic in and out. Mr. Kress assured Mrs. Palmer that her property was in no way involved in the annexation.

Mayor Koeser wanted to remind everyone that the city did not request this annexation. This annexation was requested by the developers and the owners.

This annexation was originally proposed to go across 133rd but the public did bring up concerns so the developers and the property owners decided not to go across of 133rd.

Mayor Koeser called a second time for public input.

Darwin Stevens from the Williston Volunteer Fire Department said they would be unable to serve that area and there is also no water to support any service in that area. Mr. Stevens said they need to look at the volunteer fire department that takes care of the community before they start doing more annexation.

Mayor Koeser said they have looked into this and that they are coming to a time where a volunteer fire department will no longer suffice.

Mayor Koeser called a third time for public input; no more input was heard and Mayor Koeser closed the hearing.

Mayor Koeser stated that there was no official protest because all the property coming to the city is requesting to be annexed. He explained that they take input from other people but officially the criteria are being met that it could be annexed by the city.

Commissioner Cymbaluk asked if they had to put in fire hydrants before they could create any infrastructure.

Mayor Koeser explained that some areas that were annexed have not been supported by fire flow infrastructure. Rural water has never provided for fire flow.

Commissioner Cymbaluk asked if the annexation could be tied to approval of the plat and having a document that identifies not being able to access 133rd. He also asked if it could be made project specific to the loading facility itself.

Mr. Evert said with the annexation in and of itself he does not know if it would be appropriate to do at this time. However, you could make a note with the motion to approve the annexation if that is what the commission decided, if these are issues that need to be resolved and contingent on no access to 133rd. He stated that the question needs to be, "are you for it or are you not?" Then as it develops out, it would then become relevant. Right now the focus needs to be whether or not the annexation should be approved or not. He stated that a note could be made in the minutes with this concern so when it comes time to develop there is record of the concern.

MOTION BY KLUG, SECONDED BY CYMBALUK, to approve the annexation of approximately 217 acres located in portions of Sections 17 and 20, T154N, R100W.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

5. Accounts, Claims and Bills Not Approved in the Consent Agenda
6. Ordinances

- A. Ordinance No. 984 – Cable Television Ordinance – Second Reading

Ordinance 984 – Cable Television Ordinance was brought for consideration. This is an ordinance granting to Nemont Communications, Inc., (“Nemont”) the nonexclusive franchise, right and privilege, upon certain conditions, to use the streets, alleys and other public places of the City of Williston, North Dakota, for the purpose of providing a data, video and cable system.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve the second reading of Ordinance No. 984 – Cable Television Ordinance.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- B. Ordinance No. 985 – Temporary Emergency Homeless Shelter Policy – Second Reading

Ordinance No. 985 was brought for consideration. This is an ordinance of the City of Williston amending Chapter 15 “Planning and Development” of the Williston Code of Ordinances, adding article IV, Sections 15-42 to 15-45: Emergency Temporary Homes Shelters.

This is an issue that a number of organizations, (churches, Salvation Army, etc.), have been working on for quite some time to find emergency shelter for people in the bitter cold of winter. The group, known as “Project Heat”, got together and followed a template from Dickinson to work with agencies and churches to find facilities for emergency shelter use. Mayor Koeser contacted the governor’s office for direction and asked if the armory could be used. The governor’s office thought that could happen providing that armed security was present. However, there are times when the armory could not be used, such as during guard duty weekend and blood drives, so a combination of the armory and other options from Project Heat would be necessary.

The armory could be used until April 1st. During the months of February and March there would be restricted times, as previously mentioned. The armory is a City facility, so there would be no cost as far as that goes; however, armed security would cost about \$450 per night. Project Heat would look at fund drives with Salvation Army to raise funds to cover the cost of the armed security. It is recommended that if this Ordinance is to move forward that both Project Heat and the armory would be considered as a joint effort.

Questions and concerns were called for from the public. It was asked if a two week extension would be added to the final wording. To clarify, yes, the ability to add a two week extension to the time frame if, for example, there were blizzard conditions or other hazardous weather situation, the option to extend shelter for an additional two weeks would need to be worked in.

The current program closely follows the one that Dickinson has in place. So has the program been successful in Dickinson? Chris Swarthout responded that the number of churches involved has increased and they have seen success in the first year.

Procedurally, the Ordinance would need to be passed and then another motion brought for the use of the armory.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve the second reading of Ordinance No. 985 – Temporary Emergency Homeless Shelter Policy – Second Reading with two week extension provision.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

7. Petitions, Communications and Remonstrance's
A. Crow Fly High Lease

This item was tabled due to the City Attorney not attending this evening's meeting.

- B. Proposed Amendment by Upper Missouri District Health Unit to Sec. 12-70-72 – Regarding Electronic Cigarettes

Chelsea Bryant, a tobacco Prevention Specialist, representing the Upper Missouri Health Unit asked the Commission to amend sections 12-70 through 12-72 of Williston City Ordinances, specifically to amend the purchase of electronic cigarettes for over 18 years old purchase. Currently, there is no state law or city ordinance prohibiting any elementary, middle school or high school student from purchasing electronic cigarettes.

The call for questions was made. The e-cigarette language from the Fargo example is what would be appropriately put into the Williston ordinance sections, or is that something the Upper Missouri Health Unit is asking our City Attorney to do? Yes, the Unit does not have a proposed ordinance. They would like to work with the City Attorney to find a way to fit that in. They did not know how the City wanted to fit it in, but they would like to find a way to do that. If this were to go through, the Upper Missouri District Health Unit would send out a letter or work with all the suppliers or sellers of tobacco products to make them aware of the new amendment. Currently, there is no other training program offered by the Unit for retailers.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to direct the attorney's office to draft appropriate language restricting access to e-cigarette products and devises in our current ordinances for tobacco products and bring it back for consideration of the Commission for ordinance.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None
CARRIED: 5-0

C. AE2S Program Management Update

- (1) A request from AE2S to better inform the Commission about program management services.

First, program management services would offer, in part, consulting on the myriad of projects the City currently has and will accrue going forward.

Second, is the issue of the ramp up of employees needed to handle the current and future growth of needs within the various departments of the City. There can be a huge demand of services, particularly in inspection and enforcement with what's happening. At some point that load is going to decline again and we will be back to a stabilization point and then what does the City do if we've hired all those personnel? Do we hire short term contracts? Do we go to the private sector and hire like a program like this could do? So we're not in the position of laying employees off like we had to do after the last oil boom bust cycle in the '80's.

Thirdly, we've had discussion with the department heads about this and asked – how can we use this as a coordination device with department heads and consultants already in place? In other words, it's not meant to bring in management to tell people what to do, it's meant to assist with coordination of all the activities. No one is trying to supplant the departments with their authority.

Charlie Vein, from AE2S, was asked to be here tonight to go over this. His request is would the City Commission be available to have a Commission meeting as a Special Commission meeting to go over this type of a format? There has been considerable discussion already, but we feel this would be beneficial.

Charlie Vein stated he has had a number of discussions with various departments. One of the first steps, and one of the important parts of this, is to put something together that we can defend for the governor's office and the legislature as far as obtaining additional dollars to do the many projects that are going to need to be done to deal with the City's growth. It's a process that involves heavily on the planning, finance, engineering and public works departments. We're looking at managing the process and developing some good road maps for going forward from a project perspective, from a finance perspective, and from an execution perspective. As we discussed this last week with the finance committee, and Commissioner Bekkedahl, we basically came to a point where we need to make some decisions about what this should look like because there are a number of options that could be followed. We want to get the open discussion in front of the commissioners and get something ready so that we can come back on the meeting of the 28th with an agreement

for you to consider at that time. As we delay, it's less time to get things ready for the governor's budget and the next legislative session.

Mayor Koeser noted that that becomes an issue – there's an urgency. The governor's made it clear and justifiable that as we go into the next session, we have our ducks in a row – here's what we need and why we need it – for all communities, not just Williston.

The Commission appreciates Charlie bringing up the governor's budget. One of the things that we've found every year with the legislative session is that they demand another higher degree of sophistication with more explanation and more justification and that's part of what we're trying to do here. The more we can get submitted to the governor's budget for consideration prior to the session, and the more, hopefully, he incorporates into his budget, that becomes the budget blueprint that the legislature uses. It seems to be easier for us to secure the opportunity for funding if it's in place before the session starts up. And that's the degree of sophistication that we are trying to get to.

Questions for Commissioner Bekkedahl were: What justification do we have to only involve this specific company? Is it because we've worked with them in the last two sessions?

Bekkedahl responded stating: We don't have any justification other than we have had consistency with them doing the program with us for the last two years, similar with what Dickinson has done with KLJ – they've always used KLJ for their planning and the same process with the state. We don't have any obligation beyond the point of looking at what the presentation is and saying if we like it or we don't like it. I don't think we have any obligation beyond looking at what they scope out and saying 'could we bid this out?' I'm not advocating that, but it certainly is part of the process.

Call of Special Meeting by KOESER. Item moved to Special Meeting of the Commission Tuesday, January 21, 2014 at 6:00 p.m., the Auditor's office to notify the media that the meeting is open to the public.

8. Report of Commissioners
 - A. President of the Board
 - (1) Consideration of the New Armory for use as a Temporary Winter Emergency Homeless Shelter

The issue of possible use of the armory as a Temporary Emergency Homeless shelter was brought by Koeser. There are pros and cons involved with it. The pros are that the fact that you're out of most rural areas/neighborhoods. The senior citizens that are down there have concerns with the use of it. They have expressed their concerns to Commissioner Klug and he can speak to that.

This is a bare necessity, sleeping room only facility with restrooms. The hours of operation would be about 9 p.m. to 6:00 a.m. It could go into operation approximately February 1st through the end of March with the two-week extension in effect.

Mayor Koeser called for questions. Would the number of people accommodated at the armory match the largest number that could be accommodated at New Hope and the Salvation Army? We believe so. Project Heat will be deciding this at their next meeting to come up with a manageable number of people who could be accommodated.

Project Heat will be responsible for the armed guards or the security of the building? Is it their limited responsibility? What if we need to double the janitorial staff? Will they reimburse the City for the expense?

The volunteers would take care of any additional janitorial tasks that would be needed and would put away the cots in the morning and so forth. At this time there is an estimate of 30 volunteers so far.

Commissioner Klug stated that the concerns of the senior citizens are that they will be impacted by this project at the armory. We rent them the kitchen of the armory. Kitchen preparation can start as early as 6:00 in the morning so there might be some conflicts.

Would it be possible to try the armory project for a trial period of time? The state wanted to work with us to come up with permanent solution. Mayor Koeser responded that a permanent solution requires a permanent building which we don't have and then the maintenance of the facility.

A question was posed to Commissioner Klug as to whether any of the senior citizens be interested in working with the committee? Commissioner Klug will take the question back to them.

Would security stay beyond the 6:00 a.m. time frame for people using the facility to be out? Klug responded security would be there a half hour before and after the 9 p.m. to 6 a.m. time frame, in other words, the security shift would be from 8:30 p.m. to 6:30 a.m.. Is the biggest concern from the senior citizens is that people would be accessing the facility through the kitchen or their presence outside of where the senior citizens are? Klug stated that he believes the biggest are of concern is the general thought that even though the people using the facility are leaving at 6 o'clock, where are they going to go? There may only be 15 of them, but what's their next step? Where are they going to go from that area. There is a concern that they may congregate in front of the area during day time hours. They are concerned about whether they will be in the building outside of the proposed time frames and who there is going to tell them they can't stay?

Is there a way that Project Heat could mitigate the encumbrances that the seniors are worried about? It was pointed out there has to some education about the respect needed for the situation. Pastor Chris agreed

that this is vital. This shelter is not a permanent situation. People using the facility must understand that they need to be engaged in finding permanent solutions to their situation – finding gainful employment, finding other housing situations, whatever the case may be. If there is a situation of a party abusing the privilege, would there be some repercussion to bad behavior? Yes, those people would be denied the service. Not all people who don't have a warm place to be at night are jobless. Some people have jobs, but are sleeping in their cars during negative degree temperatures. This project is meant to prevent people from freezing to death.

Dennis Jenson noted he lived in Fargo for over 30 years. Fargo has had a similar program in place for 4 years. It has been a very positive effect in Fargo and Bismark, as well, and this can be a very positive thing for Williston.

If something did go wrong, could the Commission pull the plug on the program without there being any obligations? As far as the armory is concerned, that could happen. The Ordinance is a separate thing.

This is unknown territory, the City has never done this before, so discussion should be encouraged. Mayor Koeser called again for public input. There being none, Mayor Koeser called for motions on the request.

MOTION BY KLUG to deny the request to use the new armory as a temporary emergency shelter.

A call was made for support. Hearing none, a second call for support was made. Hearing none,

MOTION DIES for lack of a second.

Mayor Koeser called for any other motions.

MOTION BY BEKKADAH, SECONDED BY CYMBALUK that the City Commission grant consideration of the use of the new armory for a temporary winter emergency homeless shelter with provisions for safety and security to be provided by the Project Heat Organization; that we have a liability insurance considerations taken care of per the City Attorney's review; and also that the City reserves the right to rescind use of the facility if there are any management or behavioral issues relative to that.

AYE: Bekkedahl, Cymbaluk, Brostuen and Koeser

NAY: Klug

ABSENT AND NOT VOTING: None

CARRIED: 4-1

- B. Vice-President; Finance Commissioner
 - C. Street and Improvement, Sanitation, Cemetery and Public Works Commissioner
 - D. Fire, Police, and Ambulance Commissioner
- (1) Chief Alan Hanson Resignation Letter

**MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to accept the letter of resignation by Chief Hanson along with 122 hours of comp time due, which has been provided to the City Auditor for approval.
AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser
NAY: None
ABSENT AND NOT VOTING: None
CARRIED: 5-0**

9. E. Water Works, Sewer, Airport, Building and Planning Commissioner
Report of Department Heads

A. City Auditor

(1) Resolution 14-001 – Ambulance Rate Resolution

Resolution amending resolution No. 13-001 establishing fees pertaining to the Williston fire department ambulance service. The resolution will increase of rates by 3.5%, following the rate increase of Blue Cross Blue Shield.

**MOTION BY CYMBALUK, SECONDED BY BEKKADAH, to accept Resolution No. 13-001 with a rate increase of 3.5%.
AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser
NAY: None
ABSENT AND NOT VOTING: None
CARRIED: 5-0**

B. Attorney

C. Director of Public Works

David Tuan presented the following information:

(1) Used Compost Turner Approval

The first item is a used equipment purchase approval. Unfortunately the first two items were sold before we had a chance to contact them, so this item is irrelevant now.

(2) Bid Results

a. Motor Grader with Roller Packer

Two bids were received on new equipment that were very close in purchase price, they differ by only \$835. When they looked at the 5 year buy-back plan, the John Deere equipment from RDO was cheaper, it came back with a higher buy-back price. However, we do have other considerations when we look at this beyond cost. We like to keep our equipment of the same type, not only for maintenance and parts supplying, but also for training. The John Deere has opposite controls of the CAT, so when our new operators are on there, things have a tendency to go upside down, and mail boxes can get hit easier, and sprinkler heads, etc. We would to get a little more direction from the

Commission on whether we can justifiably go with the slightly more expensive CAT equipment, which is the recommendation.

Discussion from the Commission points to the fact that we don't have the personnel on staff to do the additional cross-training necessary to handle different types of equipment. Down the road when we have the staff, we can take the low bid and do the training necessary; but at this point it becomes a difficult, and ultimate costly, in the sense of our existing personnel, burden.

MOTION BY CYMBALUK, SECONDED BY KLUG, to approve the bid of T & E Equipment for the Caterpillar 140M2.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

b. Truck Type Street Sweeper

We received only one bid for this item. Our 2014 budget was \$215,000 and the bid came in at \$187,752.50 so we recommend approval to award that bid to Sanitation Products.

Discussion from the Commission points out that some of the documentation from Sanitation Products notes a bid price of \$189,752.50.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve the bid of up to \$189,752.50, with clarification on the final price, to Sanitation Products for the Elgin Badger truck type sweeper.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(3) AE2S/WWTP SCADA Software Contract with Wonderware

This third item is a contract elimination item. Currently we have Skada software for our interim waste water treatment plant. This is the plant that was built over the last year and a half. It is currently in operations and the Skada software was the last portion of the contract under Magney Construction. It was a line item for \$50,000. AE2S actually purchased the software for \$45,745 and Magney has agreed to delete it from our contract, so we would be paying AE2S for the software instead of Magney saving about \$4,200. We are looking for approval to pay AE2S at the end of the month rather than Magney and Magney will remove it from our contract.

MOTION BY BROSTUEN, SECONDED BY BEKKADAHL, to approve payment of \$45,745 for the Skada software to AE2S.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None
CARRIED: 5-0

(4) New Cell Phone Use Rules for Commercial Vehicles

This last item is for an information point. We've been made aware of a new cell phone use rule for all commercial vehicles. This affects all vehicles that require a CDL to operate. For us, it affects garbage trucks, blades and loaders. It does not affect anyone driving a pickup truck or passenger vehicle. Essentially, the new rule put out by the Department of Transportation, says that with daily usage there is to be no texting, browsing, etc. while driving. Additionally, there are penalties of up to \$2,750 for drivers and up to \$11,000 for employers who allow or require drivers to use hand-held communications device for texting while driving. We would like to amend the public works safety policy to include this new rule. As the rule may apply to other city departments, it is also being brought up as a point of discussion.

The public works safety policy applies only to public works as it exists right now in the City Employee Policy Manual.

The question was asked: If there is ever a penalty levied on an employee for violating the rule, what is going to be our protection in the face of the law that our employee has been informed of this policy? In other words, will there be a sign-off in writing, or a session to inform the employee?

David Tuan responded: The current Public Works mechanism for that is that employees are required to read the policy, and sign an acknowledgement of the policy and penalties for the violation of such. The signed form goes on file in the employee's record.

MOTION BY BROSTUEN, SECONDED BY BEKKEDAHL, to approve David Tuan to set up a committee with other department heads regarding the issue of the new cell phone use rule. The purpose of the committee will be to create a policy that covers all City departments and employees.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

D. Director of Engineering

Bob Hanson presented the following information:

(1) Water, Sewer & Street Improvement District 14-2

This is a resurrection of Water, Sewer, Storm Sewer and Street Improvement District 13-10 Phase II that was rejected last summer after the construction bids came in unacceptably high. Specifically, this is a request to replace that rejection with a resolution to create a Water, Sewer and Street Improvement District 14-2 of the City of Williston.

To create this district, we ask approval of the associated resolutions that are included in the Commissioner's Packet.

MOTION BY BEKKEDAH, SECONDED BYCYMBALUK, to approve all Water, Sewer and Street Improvement District 14-2 resolutions necessary to complete this project.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (2) 11th Street West Right of Way Acquisition

This item was moved to 4(A)

- (3) NDDOT Right of Way Acquisition

The ND Highway Department is planning to build a separation of the 18th Street Bison Drive Underpass. NDDOT needs to acquire right of way property of two lots from the City of Williston to construct it. They are Lot 1, Block 13 and Lot 1, Block 22 of the Knollcrest Addition. NDDOT has given us four options:

- The City can donate the property to NDDOT.
- The City can accept a minimum payment of \$150 for both pieces of property.
- The City can accept the value of the property as determined by NDDOT's Appraiser.

NDDOT's appraised value for the two lots is \$123,335 (+/- \$10.85 per Square Foot) plus damages in the amount of \$2,574 for the chain link fence on the south side of Lot, Block 13 for a total of \$125,909.

- Or the City can ask a third party to appraise the value of the property. This is the first step in the condemnation proceedings.

That money comes out of the funds that they use to build these projects. The more that gets taken out of those funds, the less money is left for them to use to build projects for the City.

One good thing about this project is since the 1980's there has been discussion about the benefit to having an overpass and now the state is paying for it. The project is estimated at approximately \$18,000,000.

Commissioner Klug stated: In the last three years our relationship with NDDOT has been such that we've become partners in a lot of projects in the City of Williston. This is one case where I realize that it's \$123,000, but it's something that we need and I believe we can donate this property as a share to this project.

Further discussion continued, noting: There is a related item to this – another decision document was received in the mail on Friday. This involves some traffic signal work on the 9th Avenue intersection. The original part of the project was to do some re-striping at that intersection and add a left turn arrow. Last year we wound up with sidewalks on both sides of 9th Avenue and we suggested that they add a second pedestrian crossing across the bypass. We have one on the north side, and they would add one on the south side. They have asked in the decision document whether or not the City wants to have that signal installed. It's a build or no build decision and if there are no objections, approval can simply be relayed to them without a motion.

No objections noted on the subject.

MOTION BY KLUG, SECONDED BY BEKKEDAHL, to donate the City property that is required to complete the 18th Street to Bison Drive Underpass Project to the North Dakota Department of Transportation.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(4) 2013 Water Main Replacement Project Change Order #2

Change order for \$43,920.22 to cover extra items. We typically repair frostboil soft areas on asphalt as we lay new pavement. We repair sidewalks, curbs and gutters that have settled due to water main breaks. The engineer working on this project did not include all of these types of items in the original bid. We usually have those as line items that we pay. We also added in some video-taping on the 3rd Avenue East sewer line that runs underneath the law enforcement center parking lot. That was originally part of the Downtown Street Reconstruction Project, but we did not want to tear up a brand new parking lot. We can possibly reline that sewer – there is a relining component to this Water Main Replacement Project. But these are the items in this Change Order.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve Change Order #2 of the Water Main Replacement Project in the amount of \$43,920.22.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(5) District 12-10 50th Street Change Order #2

This is for 50th Street along the north side of the Williston Park subdivision that extends over into the Renaissance Heights subdivision. There are several work items in this that were added to the project; most notably the water and sewer service stubs north into two pieces of property that are in the trailer court that are privately held, but had been planned to be developed as part of the trailer court expansion. These costs are going to be charged directly to those properties.

Also, due to right of way issues on 16th Avenue – the opposite side of 16th Avenue at 50th Street, we moved the intersection north a little ways after some work was done. We also connected three residences along 50th Street, previously on the old rural water system to our new water system. This allowed us to abandon several hundred feet of rural water line. Approval is requested in the amount of \$51,036.87 for the extra work.

MOTION BY BROSTUEN, SECONDED BY BEKKEDAHL, to approve the District 12-10 50th Street Change Order #2 in the amount of \$51,036.87.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(6) District 13-10 42nd Street & University Avenue Change Order #1

When it comes to new water customers as we build new water systems along the old rural systems, we will connect those people into the new water system and attempt to abandon those portions of the old rural system as much as possible. We frequently find situations where our projects aren't coming close enough to do a lot of work, and then there are abandonment issues where we end up with very long stretches of line left in service. 42nd Street going west from Walmart is a good example. We could be able to abandon approximately a mile and a half of rural water line; however, we will need to leave a portion that can service Industrial Equipment. We could abandon that half-mile of line if we could get that Industrial Equipment hooked into the City water system. Our water main is on the south side of 42nd Street. We would need to bore a new water line underneath 42nd Street to make the connection. It would have a roughly estimated cost of \$10,000-15,000.

A guidance policy is needed on how to address these situations. Also, it is requested that the City Commission appoint a committee to provide engineering or some direction from Public Works on how to deal with these issues.

City Commission agrees that a committee would be beneficial and names Brostuen and Bekkedahl, along with other department staff yet to be named, to sit on the committee.

With regard to Water District 13-10 phase one, 42nd Street and University Avenue Change Order #1, these are work items for 42nd Street going east along 2nd Avenue. We ran into some really soft soils along the 2nd Street portion that has been completed. That was addressed by sub-cutting, geotextile fabric and extra aggregate geo-base. The cost was approximately \$120,000. We asked the contractor for paved transitions so we didn't have 150 foot ramps that were not paved after construction was completed. The contractors asked for approximately \$10,000 to install that pavement. The final item is the storm sewers will discharge in the low lands, and in the core property, that was filling up with water. At some point someone opened up the culvert that drained all that water away. When that happened, the water washed away all the gravel off of the parking lot at the end of 26th Street and the Little Muddy River. We had Knife

River remove that at a cost of approximately \$1,700. Those are the major items. The total cost recommended for approval of the Change Order is \$156,462.55.

MOTION BY KLUG, SECONDED BY BROSTUEN, to approve District 13-10 42nd Street & University Avenue Change Order #1 in the amount of \$156,462.55.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

E. Fire Chief

The following information was provided by Alan Hanson:

(1) Request to Pass Through Donated Funds for Purchase of EMS Equipment

We received two donations. Donations that come to the Fire Department typically go to the volunteers. In this case, one of the donations (for \$5,000) was given to the Ambulance Department. What we would like to use this money for something that was not in the budget: to purchase a specialized 'stair chair'. This is a powered stair chair that would be able to move patients weighing up to 500 pounds up stairs, which is unusual. It would give our staff an advantage when moving patients out of basements and those types of situations without putting strain on their back.

There are two quotes for stair chairs that we are considering. Both are from the same company, because they are the only company building them. The first quote is for a demonstrator unit that they take around to the different shows, so there is a little bit better price and there are more options to it. The second quote is for a brand new one. There are enough funds in our budget to fill the gap of approximately \$1,500 between the donation and the asking price of the demo model chair, which we are recommending for approval.

The question was posed: when you go out on calls, how do you know if you are going to need this chair or not? Hanson responded that they sometimes have to go back and get one. They keep the current chair they have at the station house because they can't afford to put a chair on every ambulance. They also have a stretcher that can hold up to 900 pounds that they keep at the station.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve Request to Pass Through Donated Funds for Purchase of EMS Equipment – Demo Model 59-T Stair Chair.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

F. Chief of Police

G. Building Official

Bill Tracy presented the following information:

(1) Williston Development Center

The Commissioners are aware the Commission has terminated the agreement with the construction management firm that was initially retained to bid the Williston Development Building. My understanding is that from the original City Selection Committee of the firms that applied, they were ranked 1 through however many we had. The number two ranked firm would have been J E Dunn. I have given you, for review, copies of the original submittals to the Selection Committee. I would like to ask if the Commission would like to move forward with the number 2 ranked construction management firm.

Bekkedahl remarked: The department heads, Mr. Klug and I have been involved in several meetings on this and we agree that the Commission should not accept the guaranteed maximum price. To move forward, we either have to go to the number two firm and offer that out to have them bring us back another guaranteed maximum price which we do or don't have to accept. Or go to a total design bid fill process where it's traditional that we take architects drawings that we have, put them out on the construction schedule and get contracts for general construction as well as the subs for mechanical and electrical. The Committee/group felt that we needed to try and move forward with this in this construction, we couldn't do that. We needed to start getting the information out there. So in the process what we have before us tonight is a proposal that we've drafted that would allow J E Dunn as the number two, to put together guaranteed maximum price and bring it back to the Commission for review, again, to accept or not accept at that point because we're not under any obligation that way. If we do not accept, at that point, I think the Committee's recommendation is go to a threshold design bid bill. Put it on the exchanges and see if we can get any better pricing through that process.

MOTION BY BEKKEDAHL, SECONDED BY KLUG, to authorize J E Dunn to act on behalf of the City and solicit bids for a guaranteed maximum price consideration on a memorandum of understanding.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

H. City Planner

- (1) ~~A proposed preliminary plat, to known as Cottonwood Subdivision, Government Lot 4, Section 2, T154N, R101W, City of Williston — Dennis D. and Kimberly A. Visser~~ **Withdrawn**

Donald Kress presented the following information:

- (2) A proposed rearrangement of Lots 1R, 2R and 3R, Block 1 and Lots 1-4, Block 2 of Chandler Field Subdivision, City of Williston – North by Northwest Investors

This project of Chandler Field is located along US Highway 2. There are currently 4 or 5 lots there, and this is a proposal to rearrange them into 16 lots. The project site is zoned C2 general commercial. No zone change is proposed. The lots to the west side of Chandler Blvd are going to take their primary access off of a reciprocal access easement. That will be their primary access. That's where their main entrance will be. The developer indicated the other lots may have a service or delivery entrance off there, we don't know for sure yet.

At the Planning and Zoning Commission meeting, December 16th, the Commission was generally in favor of that. They did ask one question about access off Highway 2. You'll note that no lots take access off of Highway 2. Buildings to be built here will probably have some signage on the rear. We call it 360 Degree Architecture.

The Planning Commission, by a vote of 6 to 0 with one Commission seat vacant, recommended approval of the preliminary plat for lots 1R, 2R, 3R, Block 1, and lots 1 – 4, and Block 2 Chandler Field subdivision, contingent of a development agreement with project specific amendments addressing all the staff comments noted in the memo and any necessary amendments to the existing Chandler Field subdivision development agreement.

Most of Chandler Field is built out – the water and sewer is there, the roads are there. But we may have to amend the development agreement to account for the change configuration and put something in there about the reciprocal access easement and some other things related to this development. So it is the recommendation of the Planning Commission to approve the preliminary plat.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve a proposed rearrangement of Lots 1R, 2R and 3R, Block 1 and Lots 1-4, Block 2 of Chandler Field Subdivision, City of Williston as presented.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (3) A proposed rearrangement of Lot 1, Block 1, Bakken Industrial Park, City of Williston (Value Place Motel) – Advanced Engineering and Environmental Solutions/Bakken Park, LLC

This project is the Value Place Hotel which is on the east side of Highway 2. This is a proposal to subdivide that lot. It is currently one lot. The motel sits on one lot. As you go north out of it onto Well Street, there are two smaller areas that are grassy. It looks like three lots now, but it's not. There's going to be one lot where the hotel is and then two smaller lots, one on either side of the driveway going north. Those will be individual lots. This has to be a subdivision because they are not allowed to take access directly from Well Street. They will be taking access from the driveway into the Value Place lot. An easement is required, so it has to be a subdivision under our process.

On December 16th, the Planning and Zoning Commission held a hearing on this project. There was no public comment. By a vote of 6 to 0 with one Commission seat vacant, the Planning and Zoning Commission recommended the City Commission approval of the preliminary plat for Lot 1, Block 1 Bakken Industrial Park subdivision, Value Place Motel, contingent of addressing all staff comments below. That is our recommendation.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve a proposed rearrangement of Lot 1, Block 1, Bakken Industrial Park, City of Williston (Value Place Motel) as presented with all staff comments.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (4) A proposed preliminary plat on rearrangement of ~~Lot 1, Block 2~~, Lot 2, Block 1 Whitlock Industrial Park, City of Williston (Landmark Motel) – Craig Whitlock Partnership

The following information was presented by Rachel Ressler:

This is the lot where the new Landmark Hotel is located. It is currently one lot. They are looking to split it into five. We have brought a preliminary plat of this property to you before; however they withdrew it after submitting it and rearranged a couple of things.

The current lot configuration consists of five lots between 1.27 acres and 2.76 acres. There are two lots with access to 139th Lane, but there is only one access into the subdivision which is over 300 feet from the intersection of 139th Lane and Highway 2/85. This was decided upon by the Planning and Engineering Departments, along with the applicants in order to relieve any stacking issues. Reciprocal access and utility easements are shown on the plats in order to provide access to the rest of the lots, per City Ordinance 948, and those will be private accesses. They will need to go through a separate process in order to fully record those.

There is also a 50 foot utility easement on the south side of the proposed subdivision that is proposed to be abandoned with this plat that will also need to go through a separate process. An adjacent 30 feet along the southern lot lines will be given a utility easement. There is a 65 foot storm water retention pond easement of the eastern edge of the subdivision to address drainage on the site; and a 15 foot utility easement that is located along the western edge of the subdivision.

We do not need a development agreement for this plat as water, sewer and access roads are already installed. Any other development standards will be required to be met at time of building. All parking for the hotel does fit on the proposed lot for the hotel.

At ad hoc, committee members discussed reiterating a requirement for a restaurant on this location, which was a provision of changing the zone to C-2

over a year ago. In addition, all fire department needs will need to be met with appropriate hydrant locations and large enough accesses.

The Planning and Zoning Commission recommendation was to approve the preliminary plat for the rearrangement of Lot 2, Block 1 of the Whitlock subdivision, contingent on properly abandoning the 50 foot utility easement proposed to be abandoned, Lot 1R fully containing all parking required by the existing hotel, any separate reciprocal access easements filed following Ordinance 948, and addressing all staff comments.

Comments and Questions:

This is the one that was going to build a restaurant on the property? Yes. He is still working on it. It comes back to the fact that most of the people we've talked to have said that they have a really difficult time getting financing or separate commercial properties into a property if they don't have a separate lot for that property because of financing. So he's saying one of the ways to do it and we are trying to work with him on it.

What was the last comment? This is just one of the ways to do it? Ressler: This is one of the ways for them to attract a commercial property – is that they can provide its own lot for it, in order for the restaurant, or whatever, to gain financing.

That's what he's telling you? Ressler: That's what we hear with pretty much everything when we're talking with people about condo's, or hearing that they can't get financing for condominiums – they can only get financing for things that have their own separate lots. We've heard it through pretty much every subdivision, since I've been here, at least.

Commissioner remarks: I think with those duplexes they want to have twin homes and townhouse lots.

Commissioner remarks: I would agree it makes the property more marketable from that standpoint, but a financial institution could tie up all the property for one entity.

Commissioner question: How are we going to be assured that a restaurant is going to be built on this property? Ressler: We didn't have a way to do it before, because we can't put it in a development agreement.

General discussion: That actually is a separate improvement. It was recorded so it would carry over. What was the time on that? Wasn't a liquor license involved with that? I don't recall. I would imagine that a liquor license went with the hotel if he wanted that. I just wanted to bring it up so that we made sure we remembered that.

MOTION BY BROSTUEN, SECONDED BY CYMBALUK, to approve proposed preliminary plat on rearrangement of Lot 2, Block 1 Whitlock Industrial Park, City of Williston (Landmark Motel) as presented, with the preliminary contingencies discussed by Planning staff.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser
NAY: None
ABSENT AND NOT VOTING: None
CARRIED: 5-0

I. Economic Development

The following information was presented by Tom Rolfstad:

- (1) Flex PACE
a. Nortana Music, Inc.

This is an existing business. The owner is retiring. It's being bought. It's an entertainment business – they provide dart boards, pool tables and other amusement devices for all the bars and restaurants, etc. Keith Olson worked with this. The second to last sheet shows the way he scored it to come up with numbers that we could do to help with this. Basically, a Flex PACE for \$24,999 and then we could kick it up another \$7,500 because of benefits that it would bring to us. The size of the project is about \$1.8 million. The request is for a Flex PACE not to exceed \$32,500 to Nortana Music.

Discussion: There are jobs tied to this funding that will be increased in this process.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve a Flex PACE to Nortana Music, Inc. not to exceed \$32,500 for the purchase of the business.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- b. Typhoon Excavation, Inc.

This would be for a new building for Typhoon Excavation, but it would have new owners of the business. They provide hydraulic, underground utilities – water and sewer, skid steer and bollards services. They have seven full-time and four part-time positions. Keith Olson is recommending this Flex PACE for \$45,000 based on the size of the project, the potential increase in employment, and jobs at the project end. Plus the regular Flex PACE, that's where he comes up with the \$45,000 towards the project as a Flex PACE.

Discussion: For clarification of the tape and the record, when Keith – or Keith Olson, is mentioned he's talking about the Small Business Development Center.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to approve a Flex PACE to Typhoon Excavation not to exceed

\$45,000 for purchase of a new shop to conduct business in Williston.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

c. Crosby Blue Line Club

We're excited about the new rec center. They've gone to task and built a big community facility. Phase one has been completed and includes a hockey rink, curling club, meeting rooms and community kitchen. They passed a one cent sales tax to help support the recreation centers. It's a \$6 million dollar project, in total, which is a big thing. We've gone for many years where Crosby didn't have much of anything happening. Their request to us is \$50,000 as a Flex PACE Community Build grant for their final phase of construction of the community recreational facility.

MOTION BY KLUG, SECONDED BY CYMBALUK, to approve a Flex PACE Community Build grant as presented not to exceed \$50,000 for Crosby Blue Line Club.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(2) Community Build

a. M-T Saddle Club

This is a request from the M-T Saddle Club that operates out at the fairgrounds. There is a photo in the Commissioner's packet of the building, about the size of a two-car garage. It looks like it was built about 30 years ago and has not been fixed up. The way they raise money is to run their Saddle Club and they've seen an increase in people interested in horsemanship and that type of thing. Their request is for \$24,000 from Community Build grant to upgrade their snack shack because that's their source of funds to keep the activity growing. You can see in the photo's the building needs some kind of upgrade.

Discussion: \$24,000 gives them a new roof, siding, windows, doors, whatever. It's fairly major. Also, their building is designed to be moved, so if it needed to be moved to accommodate a different plan as they go forward, they have flexibility with it. They were receptive if they could get hooked into sewer.

MOTION BY KLUG, SECONDED BY CYMBALUK, to approve a Community Build Grant at \$24,000 to the M-T Saddle Club as the request is submitted.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

J. Airport

Steven Kjergaard presented the following information:

- (1) Airport Advertising Lease
 - a. Bison Management

This is a wall advertising lease agreement with Bison Management Group. It is for one year at \$8,000 and I recommend approval.

MOTION BY BROSTUEN, SECONDED BY BEKKEDAHL, to approve a wall advertising lease agreement for one year with Bison Management Group for \$8000.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- b. ~~Concrete Company~~ **Withdrawn**

- (2) Airport Hanger Lease
 - a. Marburger

This one is for Aero Spraying, not with Marburger. It is a company that he owns. His previous lease had a two year extension, but for some reason he asked to terminate that lease after the normal extension and instead do this one year agreement. I said that was okay because after this I will have some space and we'll discuss it then. This term gets us from October 1, 2014 to September 2015. He does do the mosquito spraying and it is \$1,200 for the smaller City hanger that we do share space with him; and I recommend approval.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to approve the Aero Spraying lease agreement.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

K. Assessor

L. Convention and Visitor's Bureau

The following information was presented by Amy Krueger:

- (1) Request to Add Sales Director Position

We are requesting to add a Sales Director position to our budget. When I was hired, I was originally hired as a Sales Director then I moved into the Executive Director role. That dedicated Sales Director position has never been refilled. I

have worn multiple hats through this whole process in growth. We have gone from seven hotel properties to 23 hotel properties inside City limits. That's going from 607 rooms to just under 2,000 rooms inside City limits, with another two hotel properties right outside the City limits equaling about 500 rooms. So we've expanded what we're marketing. We've expanded everything in the City of Williston, as has everyone, and we need that dedicated Sales position to get out there and bring things to Williston. Occupancy is about 69% right now.

This would come out of our existing funds. We're not asking for any City funding for this. It would just change our budget for the year.

MOTION BY KLUG, SECONDED BY BEKKEDAHL, to approve the request to add a Sales Director position, as presented.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

10. Appointments and Consultations with Officers

A. Appointment to CEAD Committee

This is an appointment on the CEAD Committee. Louie Abdilnour is unable to complete his term on the Committee. Janelle Olson has agreed to complete that, which would end April 30, 2016, representing North Dakota Advocacy and Protection Agency and we would recommend that we approve that appointment.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to approve the appointment to CEAD Committee, as presented.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

11. Unfinished Business

A. 911 Vote – Timeline Vote on Rate Increase

Commissioner remarks: There have been discussions with Sheriff Busching, Chief Lokken and Mike Hallesy, and it's time to sit with Mr. Kautzman and put a plan together.

We will leave this on the Agenda as a Tabled item.

B. Weatherford Option

Commissioner remarks:

The meeting is set for tomorrow morning at 8:00.

C. WBIP Proposal

Commissioner remarks: We haven't got anything back for it. Suggested that we take it off the Agenda until such time as we have more information.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to remove item from agenda.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

12. New Business
13. Executive Session
14. Adjourn

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to adjourn Board of City Commission meeting.

AYE: Bekkedahl, Klug, Cymbaluk, Brostuen and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0