

**OFFICIAL PROCEEDINGS
BOARD OF CITY COMMISSIONERS
April 8, 2014 6:00 P.M.
CITY HALL WILLISTON, NORTH DAKOTA**

1. Roll Call of Commissioners

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

COMMISSIONERS ABSENT: None

OTHERS PRESENT: John Kautzman, Steven Kjergaard, Chief Lokken, Pete Furuseth, Jordan Evert, David Tuan, Denell Kallemeyn, Bob Hanson, Bill Tracy, Kent Jarcik, Shawn Wenko, and Donald Kress.

Mayor Koeser presented a quorum. There are a few changes to the Agenda. On the first page, item 2B(4), Taxi License - needs to move from the Consent Agenda to item 9A(2) on the third page. Then going to page three of the Agenda there will now be an item 9A(2) for Taxi License. There will also be an item 9D(7) which is a Change Order #1 from Improvement District 13-5. On the last page, item 11E, there is an issue that needs to be under Unfinished Business – Vanguard software costs. Under New Business add the item of a ‘thank you’ from Project Heat.

These are the issues under consideration for amendment to the Agenda.

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

UNANIMOUS BY VOICE VOTE

2. Consent Agenda

A. Reading and Approval of Minutes for:

- (1) Regular Meeting Dated: March 25th, 2014

B. Auditor

- (1) Accounts, Claims and Bills
- (2) Application for a Local Permit or Charity Local Permit
- a. Williston Area Chamber of Commerce – Raffle – Upper Missouri Valley Fairgrounds – July 4, 2014
- (3) Special Permit to Sell Alcoholic Beverages
- a. New Manager – Josh Holbrook – Heartbreakers
- b. Special Event - Outlaws Bar & Grill – Social for Mercy Hospital @ the ARC, April 9, 2014
- (4) Taxi License (moved to 9A(2))
- a. ~~Black Gold Taxi & Shuttle, LLC – Additional Vehicle: 2000 Ford Expedition – VIN #1FMPU18L7YLA05788 –~~
- b. ~~The Cab Dude – Additional Vehicles: 2001 Chevy Suburban – VIN #3GNGK26G51G217797 & 2002 Chevrolet Malibu – VIN #1G1ND512M5505522~~
- c. ~~Yellow Cab, Inc. – Additional Vehicle: 2009 Dodge Grand Caravan – VIN #2D4HN11E89R620329~~

- (5) Site Authorization
 - a. Moose Lodge #239 – Moose Lodge
 - b. Development Homes, Inc. – Whispers (amending current local gaming license from one blackjack table to two)
- (6) Application for Farmers' Market
 - a. Thomas Farrenkopf – Williston Downtowners' Farmers Market – February 15, 2014 thru February 14, 2015
- C. Building Official
 - (1) Master Mechanical
 - Robert Buck – Buck Plumbing & Air
 - Robert Daly – Daley Mechanical
 - Joshua Prati – Sunrise Heating & Cooling, LLC
 - Joseph LaFave – Lakeside Builders LTD
 - (2) Master Plumber
 - Kevin Zahn – Plumbology
 - Headley Anderson – Mechanical Innovation
 - Joseph Davis – A.G. Mechanical
 - Johnathan Roupe – Johnathan L. Roupe Plumbing
 - Harlan Dengel – Precise Mechanical
 - (3) Journeyman Plumber
 - Spencer Olson – Mechanical Innovation
 - Michael Hathorn – Mechanical Innovation
 - Mike Stephenson – Mechanical Innovation
 - George Starkey – Mechanical Innovation
 - Scott Morrisan – Mechanical Innovation
 - Tim Gosney – Precise Mechanical
 - David Biegel – Precise Mechanical
 - Jeffrey Geige – Precise Mechanical
 - Michael Kockman – Precise Mechanical
 - Tel Sterner – Precise Mechanical
 - Patrick Bon – Precise Mechanical
 - (4) Fuel and Gas Installer
 - Robert Buck – Buck Heating & Air
 - Dallas Bustad – Bustad Plumbing
 - Joshua Prati – Sunrise Heating & Cooling, LLC
 - Spencer Olson – Mechanical Innovation
 - Headley Anderson – Mechanical Innovation
 - Christopher Tennat – Mechanical Innovation
 - Nathan Gramm – Daley Enterprises
 - Marc Callahan – Daley Enterprises
 - Robert Daly – Daley Enterprises
 - Tim Gosney – Precise Mechanical
 - David Biegel – Precise Mechanical
 - Jeffrey Geige – Precise Mechanical
 - Michael Kochman – Precise Mechanical
 - Tel Sterner – Precise Mechanical
 - Michael Hathorn – Mechanical Innovation
 - Mike Stephenson – Mechanical Innovation
 - George Starkey – Mechanical Innovation

- Baudlair Doteur – Mechanical Innovation
 - Scott Morrison – Mechanical Innovation
 - Harlan Dengel – Precise Mechanical
 - Joseph LaFave – Lakeside Builders LTD
 - John Averson – Lakeside Builders LTD
- (5) Journeyman Mechanical
- Nathan Gramm – Daley Enterprises
 - Marc Callahan – Daley Enterprises
 - John Averson – Lakeside Builders LTD
- (6) Sign Hanger
- Travis Jordan – Sunrise Heating & Cooling, LLC
 - Earl's Electric Inc.
- D. City Planner
- (1) Request for a hearing at the May 27, 2014 City Commission meeting for the vacation of a road easement adjacent to a 282.5 X 545 foot parcel in the E1/2SW1/4SW1/4 Section 21, T154N, R101W, City of Williston
- E. Assessor
- (1) Abatement
- (2) Exemptions

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

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

3. Bid Openings

A. Street Light Improvement District 14-3

Move to hold until after the Public Protest Hearing by Common Consent from Mayor Koeser. Commissioners' consent given. The Bid Opening continued after the Public Hearing.

Mr. Hanson presented the following information:

As per the Commission Packet attachments, a single bid was received from Strata Corporation. The bid amount for Section One is \$134,810.00. We recommend awarding the bid to Strata.

MOTION BY CYMBALUK, SECONDED BY KLUG to approve the bid as presented in the amount of \$134,810.00.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

4. Public Hearings

A. Protest Hearing for Street Light Improvement District 14-3

Mayor Koester opened the Hearing. The following information was presented by Bob Hanson:

This is a Protest Hearing to recognize a written protest we have received for Street Light Improvement District 14-3. The project comes with two sections, the first section being the relocation of Street Lights on West Frontage Road. To date, we have received no protests regarding Section One.

Section Two is the installation of new street lights along 24th Street from 1st Avenue West going east. This section we did receive a single protest from the owners of the property of the south side of 21st Street. That ownership constitutes 50.8% of the entire district which is sufficient to bar us from continuing with Section Two.

Mayor Koester called for any public questions or verbal protests. Hearing none, a second call was made. Hearing none, a third and final call was made. Hearing none, the public hearing was closed.

Mr. Hanson asked that the Commission pass a Resolution finding that the Protests received are:

Insufficient to bar the construction of Section One of Street Light Improvement District 14-3; and sufficient to bar the construction of Section Two of Street Light Improvement District 14-3.

MOTION BY BEKKEDahl, SECONDED BY BROSTUEN with Resolution #14-018 that the Commission approve the Resolution as to protests on proposed improvements benefitting Street Light Improvement District 14-3 in that written protests have not been filed with the City by the owners of the majority of the area of property within Section One of the District and there was no one present to protest at the Public Hearing. Additionally, a written protest was filed with the City Auditor by a majority of the owners of the area of property within Section Two of the District within 30 days; therefore, the Board of Commissioners is barred to cause the improvement to be made and that Section Two of the District shall be disbanded by this Resolution.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koester

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

B. Public hearing for preliminary plat to be known as Cottonwood Hollow, a rearrangement of Lot 1, Block 5, Highland Heights 2nd Subdivision, SW1/4 of Section 25, T155N, R101W, City of Williston and proposed zone change from A: Agricultural to R-1: Single Family Residential for 3.45 acres, and from A:

Agricultural to R-3: Lowrise Multifamily and Townhouse Residential for 2.88 acres.

Mayor Koeser opened the hearing. Donald Kress from the Planning and Zoning Department presented the following information:

Staff would ask that the Commission table this item until the April 22nd meeting. Although Planning and Zoning did recommend approval at their March 17th meeting, we continue to work with the applicant to prepare a drainage study and some other documents that are necessary to present to you in order to have a complete project before you.

Mayor Koeser noted that a public hearing was advertised; therefore they would ask if there was anyone from the public who would wish to speak regarding the subject before tabling the item.

Hearing none, a second call for public input was made. Hearing none, a third and final call was made. Hearing none, the public hearing was closed.

MOTION BY CYMBALUK, SECONDED BY BOSTUEN to table the request as presented until April 22nd.

UNANIMOUS BY VOICE VOTE

- C. Public hearing for preliminary plat, to be known as East Valley Rail Subdivision and proposed zone change from A: Agricultural to M-2: Heavy Industrial on approximately 306 acres of land located west of 133rd Avenue and north of ND Hwy 1804, containing portions within Sections 17 and 20, City of Williston.

Mayor Koeser opened the hearing. Mr. Kress handed out a second memo to the Commission to clarify the memo in the Commission Packet and presented the following information:

To clarify, the project will take access from Highway 1804. There is a piece that was included in the Annexation. It is Corp of Engineers property – a little over 17 acres – and is not included in the project site. There is another corner that was not taken into Annexation so it remains in the extraterritorial jurisdiction, but not within the City limit.

Another clarification is with regard to the map included in the Packet. It depicts a Lot 1 of Block 1 that is a separate parcel that does not need to be included. It was a platting question resolved with the County Surveyor. There are other lots that are zoned agricultural that had to be re-platted to satisfy the minimum requirement of a 10 acre lot.

Based on this, the applicant, New Frontier, requests a preliminary plat and zone change for approximately 242 acres, not 306, located west of 133rd Avenue and north of ND Hwy 1804, along the east side of the BNSF rail line. A significant portion of this project was annexed to the City from extraterritorial jurisdiction on January 14, 2014.

Mr. Kress read a communication from NDDOT that outlined concerns to the Commission.

Both the applicant and the project engineer are present tonight and are available to address the Commission.

General discussion addressed the emergency access, DOT concerns, temporary closure issues, water and sewer issues, and possible easements that may need to be obtained.

Mayor Koeser noted that there were two issues before them – the preliminary plat and the proposed zone change. He called for public input to both issues.

Dan Brown addressed the Commission expressing concern regarding protection for his family and property from 24 hour noises and vibrations due to heavy equipment. Additionally, the frac sands that will be in the area can be carcinogenic. He stated that the project would devalue his property and would be devastating to his quality of life. He would be unable to sleep at night. There are also high concerns about flooding, water diversion and major traffic issues.

Alan Clark addressed the Commission regarding the safety on the road. It's a two lane highway with no shoulder. The trucks trying to get up the hill have to accelerate to make it, making it very dangerous. He asked the Commission to consider what are the benefits to the City as a whole? Would it improve the quality of life? He felt that there was no real necessity to approve the project.

Jim Borud asked: will the access portion be finished before the rail construction begins?

There hasn't been any discussion on requirements from the DOT or anybody on scheduling. Typically, access gets modified prior to construction.

Mr. Borud also expressed concerns about drainage and emergency access in the area.

A drainage study has been done and submitted to the DOT, the Army Corps of Engineers and to the City. It is currently being reviewed. Regardless of the findings of the study, whatever they require us to do, we will do. We will address your concerns, but right now the details are not in front of us.

Mayor Koeser called a second time for public input. Hearing none, he called a third and final time for public input. Hearing none, the hearing was closed.

There are two matters before the Commission. One is the preliminary plat of the subdivision. The other is the zone change. The Planning and Zoning Commission has brought the items before the Commission recommending approval for both.

The Commission and involved parties continued with further discussion regarding the drainage issue; noise; dust solutions; and traffic issues, including the possibility of lowering the speed limit in the area.

MOTION BY CYMBALUK, SECONDED BY BROSTUEN to table both the preliminary plat and the proposed zone change issues in order to obtain more information before making a decision.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, 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 Amending the Adopted State Building Code

Bill Tracy from the Building Department presented the following information:

January 1st the State implemented 2012 IRC IRB Building Code with amendments. There is verbiage incorporated within the State amendments that allow municipalities to amend the amendments to fit their particular needs. There are roughly 100 amendments that the State made to the Building Code. After my technical staff and I reviewed the amendments, we determined that we felt that it would be in the best interests of the City and the citizens that live here for us to amend five of the commercial amendments and six of the residential amendments. That is what is brought before you tonight. The memo presented to the Commission outlines the details of the particular amends sought.

MOTION BY CYMBALUK, SECONDED BY KLUG to approve the first reading as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- B. Ordinance No. 992 – Regarding Hospitality Tax – Second Reading

Joe Dora, General Manager of Main Stay Suites, remarked to the Commission that traditionally when you see a Hospitality Tax it is to fund something in the local area that will attract people to that area – that will go out and go to restaurants and go to local areas. Right now the 2% tax is there to fund the Convention and Visitors Bureau. The Convention and Visitors Bureau's task is to go out and bring more people to the area that will benefit everybody in the area. This tax is looking at putting a 1% tax on hotel rooms, food and beverage, restaurants and bars to fund a parking garage. Mr. Dora stated he had a couple of issues with this. He feels that he has never had an issue parking downtown. He is concerned about building a parking lot when there are parking lots not being used. Why aren't we taxing the businesses on Main Street that will be using it to fund what is benefitting Main Street?

Commissioner response is that there have been studies for the past year and a half about the parking problems downtown. He appreciates Mr. Dora's confidence that there isn't a parking problem downtown, but there are quite a few

people who would disagree. However, he does agree about the issue of convention center facilities which this would help fund.

Jeremy Wright remarked that they are working on a draft for a convention center near the fairgrounds and provided a brief description of the floor plans thus far. He further stated that they have committed to a company to help with the plan and they would like to be included in the conversations regarding use of funds.

A question was asked of the City Attorney regarding the language in the proposed Ordinance Section Two – that does not preclude use for convention facilities, does it? It is broad enough to include other uses, as well? Mr. Furuseth responded, yes – he thought we could.

MOTION BY BEKKEDahl, SECONDED BY BROSTUEN to approve the second reading of the Ordinance 992 for an Ordinance to create and enact an Article X (ten) of Chapter 9 of the Code of Ordinances of the City of Williston, North Dakota, relating to city lodging and restaurant tax.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

7. Petitions, Communications and Remonstrance's
 - A. Cab Related Concerns and Requests

Candice Wisdom with Basin Cab addressed the Commission stating that the main concern for coming here is that I would like to have some sort of regulatory committee for the taxi service throughout Williston. We have been having a lot of different chaos between the companies, and whether or not everyone is doing what they should according to the City guidelines. We have several companies coming into the City of Williston, getting the taxi licenses and maybe not following the Ordinances. What I'm asking is that we have some kind of committee to regulate the taxi companies here.

Joe Uzdavinis, the former owner of The Cab Dude, addressed the Commission expressing concern with the lack of oversight for taxi regulations. Of particular concern is the issue of taxies operating without appropriate insurance coverage, for the taxi company and the City. He feels there is a potential liability for the City if a cab without proper insurance should get into an accident. Mr. Uzdavinis cited personal anecdotes of his knowledge of a taxi company operating without proper insurances on multiple vehicles within Williston. In conclusion, he is also supportive of establishing a committee to regulate the taxi companies and is willing to work with them, as well.

Bevin Brooks owner of Black Gold Taxi addressed the Commission, speaking on behalf of her husband, Aaron Brooks. She expressed concerns over the aspect of public safety and personal risk that drivers incur when, unbeknownst to the drivers, the taxi company does not have insurance on their vehicles. Ms. Brooks

also cited personal anecdotes of her knowledge of a taxi company operating without proper insurances within Williston.

Mayor Koeser noted that while this evening wasn't a public hearing, the purpose was to gather some input. There was enough input at this point to recognize that the issue needs to be reviewed. He asked Commissioner Klug if he would be willing to assemble a committee to review the recent issues that had been raised and corresponding guidelines.

Mr. Klug agreed that this is an area of concern and offered to assemble a committee to look into the matter.

8. Report of Commissioners
 - A. President of the Board
 - B. Vice-President; Finance Commissioner
 - C. Street and Improvement, Sanitation, Cemetery and Public Works Commissioner
 - D. Fire, Police, and Ambulance Commissioner
 - (1) 2014 Osage Travois Type II Chevrolet G3500 Proposal

Commissioner Cymbaluk requested approval to put out a bid for a new ambulance. We did put a proposal together, but it did not go out for bids. Because it was over \$25,000, I am requesting permission to do so. We also have two ambulances that we would like to put up for bids and get rid of them instead of rebuilding them because of the cost.

MOTION BY CYMBALUK, SECONDED BY BROSTUEN to approve the request as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- E. Water Works, Sewer, Airport, Building and Planning Commissioner
9. Report of Department Heads
 - A. City Auditor
 - (1) Requirements for Taxis

John Kautzman, City Auditor provided the following information:

I have a proposed Ordinance that we've had on the books for quite some time, but it has never moved forward. With the Committee that Howard is forming, maybe we could defer this back to that committee and make sure they are comfortable with the kind of things that are in here. We talked about things such as everyone being required to have a taxi meter; that the rates must be on some type of displayed sheet inside the cab; a picture ID of the driver must be displayed, and so forth. So you will see some of the things that you see in a larger city cab service. With all that has been said this evening, I think this should be deferred back to what Howard puts together and they can evaluate whether we keep the things we have or maybe even add to it.

MOTION BY BEKKEDAH, SECONDED BY Klug to refer the issue to the Taxi Committee.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (2) Taxi License (moved from Consent Agenda)
- a. Black Gold Taxi & Shuttle, LLC – Additional Vehicle: 2000 Ford Expedition – VIN #1FMPU18L7YLA05788
 - b. The Cab Dude – Additional Vehicles: 2001 Chevy Suburban – VIN #3GNGK26G51G217797 & 2002 Chevrolet Malibu – VIN #1G1ND512M5505522
 - c. Yellow Cab, Inc. – Additional Vehicle: 2009 Dodge Grand Caravan – VIN #2D4HN11E89R620329

Commission agreed to hold these items pending Committee feedback.

B. Attorney

- (1) Agreement for Extending 11th Street from U.S. Highway 2 & 85 to 139th Ave NW

Jordan Evert with the City Attorney's office presented the following information:

We have been working diligently with the Hagan family and the Hagan Family Partnership. They are fine with what we have been working on. You should have gotten a copy of the Agreement and memo of what we are looking at, in particular Section 7 and 8 of the Agreement where it references deferring certain special assessments until the property is developed and/or the Hagan's become developers of the property. This would be consistent with previous agreements when the Hagan's have granted right-of-way or an easement.

The other provision is that there would be some discussion on whether it's going to be a grant of a formal dedicated right-of-way or an easement, contingent on whether the property is formally annexed into the City. At this time, it is a sort of doughnut hole and it has not been annexed within the City.

Those are the two major concerns that I wanted to bring to your attention. If you have any questions about the Agreement for me you would like to ask, please feel free; there are some representatives of the Hawkeye Subdivision here if you had any questions for them, as well.

General discussion focused on the assessments that would be assigned if the Hagen's became developers, or if the property was sold.

This agreement could be adopted with modifications and taken back to the Hagans and the Partnership. The length of the deferrals could also be capped if that is what the Commission would want.

MOTION BY BEKKEDahl, SECONDED BY KLUG to approve the Stipulation and Memorandum of Understanding Agreement as presented by the Attorney's office.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

Mayor Koeser called for a five minute recess and then called the meeting back to order.

C. Director of Public Works

David Tuan presented the following information in correlation with attachments in the Commission Packet:

- (1) Ad for Bids:
a. Street Striping Projects

This is an advertisement for bids for Street Striping Project #1. We are requesting approval to advertise this project.

MOTION BY BEKKEDahl, SECONDED BY CYMBALUK to approve the advertisement of the bids as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

The Commission would also like to point out they would like to see more of this as they receive a lot of comments from the public in general about the need for striping on our roadways.

- b. $\frac{3}{4}$ Ton Crew Cab Pickup – Roads and Streets
c. $\frac{3}{4}$ Ton Crew Cab Pickup – Sewer Collection

Items 'b' and 'c' go together. We are asking approval to advertise for bids for two pickup trucks. We have budgeted \$40,000.00 for each unit.

MOTION BY CYMBALUK, SECONDED BY KLUG to approve the advertisement for bids as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (2) AE2S Program Management Update

This is a summary of the work that has been done to date on the capital improvements plan, the concept plan and the financial plan. Bob Molberg will do a brief analysis of the summary.

Mr. Molberg presented the following information:

Since this contract was authorized about a month ago, a schedule has been established. We intend on providing updates to the Commission at the first meeting of each month going forward. We've also established a schedule for meeting with department heads. At the first Commission meeting in May we anticipate having a six year land use concept and a six year capital improvements concept prepared for discussion and your consideration. We also anticipate that we will be moving into some of the operational analysis that is part of this contract, as well. I don't know that we will necessarily have a lot of information in that particular area in May, but it will certainly be coming forthwith. With that, I will take any questions you may have.

There being none, the Commission moved on to the next topic.

D. City Engineer

Bob Hanson presented the following information in correlation to the documents included in the Commission Packet:

(1) Request to Advertise for Bids for Project 234 – 2014 Water Main Replacement

This is a half-million dollar project to replace waterlines along a number of roads. We request approval to advertise this project.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK to approve the request to advertise for bids for the 2014 Water Main Replacement Project.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

This is an area that did not qualify for the State Water Commission. The State considers this to be a maintenance existing water system that is not cost eligible. This is for an overlay of the surface, as opposed to full replacement.

(2) Engineering Services Agreement for Street Light Improvement District 14-3 – Prairie Engineering

We regularly use Prairie Engineering for consulting work on our street light projects. They are an electrical consultant. We recommend approval of the engineering services.

MOTION BY KLUG, SECONDED BY CYMBALUK to approve the engineering services as presented, not to exceed \$9500.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (3) Amendment #1 to Ulteig Engineering's Engineering Services Agreement for Preliminary Design of 16th Avenue West

This is an amendment to an existing engineering agreement that we have with Ulteig Engineering. We would like to extend the design about a half mile to the north, alongside the Oasis Property. Oasis has offered to install a waterline for the City coming down 16th Ave. There are some right-of-way disputes between us and McCaulkie. To resolve those, it would be easier to annex the Oasis Property into the City. Ulteig is offering to do the work for \$171,600.00, not to exceed that amount. It would carry us through a full set of design plans ready for bids and bids advertisement.

We still need to go from 45th Street North to 50th Street. It will be bid as asphalt or concrete.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN to accept Ulteig's Amendment #1, not to exceed \$171,600.00 to complete the 16th Avenue design work north of 50th Street.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (4) ~~Change Order #1 for Street Improvement District 13-5-(moved to D(7))~~
- (5) NDDOT Cost Participation Agreement for Project SS-9-999(292) ADA Ramps on ND Highway 1804 Truck Route

The State Highway Department is planning on replacing the existing curb ramps along the 1804 Truck Route. This is basically Main Street going east. Everything going west has been taken care of. The estimated cost of the project is \$400,000.00. This project would come with the 10% local cost share as permitted, right now at \$40,000.00.

We did not ask for this project. The State requires that we comply with ADA facility requirements. It is a phased project.

MOTION BY BROSTUEN, SECONDED BY CYMBALUK to approve the Agreement as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (6) Revised NDDOT Utility Relocation Agreement for Project SOIA-7-085(088)180 U.S. Highway 85 Four Lane Project

This project is going to conflict with the number of water lines and sewer lines that we have associated with our water plant on one side of the Highway, and the sludge disposal ponds on the other side of the Highway. The agreement that we had previously looked at indicated that the State would pay 100% of the relocation costs. They have come back and said they provided us with the wrong form. They are now asking us to enter into a Relocation Agreement in which we agree to relocate the water and sewer lines. The State will pay for relocation costs underneath right-of-way that they have required specifically for this project. The water and sewer lines that are underneath existing right-of-way is something that the City is responsible for relocating.

It looks to be approximately a \$500,000.00 project. Mr. Molberg with AE2S has been working on this for us and believes it to be closer to \$600,000.00. We are not sure on how the costs will be split – we just don't know yet.

We can do two things. The Agreement asks for a specific dollar amounts in the table attached to the Agreement. We don't know what those costs are. I did speak with Arden Streiful, with the State. He indicated that it is normal for people to use cost estimates and then whatever the actual costs are, they are dealt with at a later date. So we can use a cost estimate.

Or we can wait until we get a better estimate, recognizing, of course, that it will still be an estimate.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL to table the item and bring it back in two weeks.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- (7) Change Order #1 from Improvement District 13-5. (added)

This will be constructed by Northern Improvement. This starts at 9th Ave and comes east to University Ave. We will be going through the traffic detector loops at the 2nd Ave West intersection. We will have to replace those. Northern Improvement offers to do that work for \$10,125.00. I recommend that we accept that change order.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALIK to approve as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

E. Fire Chief

F. Chief of Police

Chief Lokken presented the following information:

(1) Request to Purchase Additional Dispatch Radio System

About two years ago we bid out this process. Zeetron put in our radio system for two dispatchers. This is a computer aided system that works very well. The reason I'm bringing this before you is that Kotana got the original bid and if we want to buy another station it will cost us \$20,310.00. There are times we need three dispatchers. I am asking for approval to purchase the radio system.

MOTION BY BROSTUEN, SECONDED BY BEKKEDAHL to approve the purchase of an additional dispatch radio system as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, and Klug

NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING: Koeser

CARRIED: 4-1

(2) Permission to Bid:

a. 911 Equipment

I would seek approval for permission to bid out for 911 equipment. We need to upgrade to the next generation of 911 equipment so we can receive text messages along with phone calls. Our current equipment is not upgradable. It's also getting old and it's reaching the point where we are not going to be able to handle the volume of calls we get. Bids would open May 8th at 2:00. I will bring it back before you on May 13th. This radio work station, the 911 equipment and the next item for the radio tower is all under an oil impact grant that I have received the money for.

MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL to approve as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

b. Radio Towers & Repeaters

I would like approval to advertise for bids for proposals for a repeater system, receiver system, a point-to-point link; and also upgrades to our water tower as far as our antenna system. There are certain localities where the current system goes out, leaving dead air space and leaves our officers at risk when they get out of their vehicles. I have received grant money for this, as well.

MOTION BY CYMBALUK, SECONDED BY BROSTUEN to approve as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

c. Towing Services

I would like to bid this out. Jordan, from the Attorney's office asked that I table this until he can fine-tune the wording on the proposal in the event that something were to happen to the first one, we can move on to the second one without having to rebid. We are towing up to 500 vehicles a year. There is a constant complaint among operators that we are not giving them enough calls, even though we use a rotation system. Some of them, in my opinion, are charging us way too much. So if it was bid out, I think it would lower those costs. We currently get billed anywhere from \$100 to \$600.

MOTION BY KLUG, SECONDED BY CYMBALUK to table the item.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

G. Building Official

(1) Sick Leave Donation Requests

Bill Tracy requested approval to ask for sick leave donations from other City employees for a staff member who will have to leave us for about two months to have some treatments done.

MOTION BY KLUG, SECONDED BY BEKKEDAHL to approve the request as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

H. City Planner

Donald Kress presented the following information:

- (1) Preliminary plat, rearrangement of Lots 4 and 5, Block 1, Hi-Land Heights 2nd Subdivision, SW1/4 of Section 25, T155N, R101W, City of Williston – Terry Ness/Jay Mikolinski

Staff requests that this item be tabled until the April 22nd meeting. This item is related to item 4-B, which were Commission Tabled earlier in the evening.

MOTION BY KLUG, SECONDED BY BEKKEDAHL to table the item until April 22nd.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(2) Resolution for Adoption of the Downtown Plan

Rachel Ressler presented the following information correlated with documentation included in the Commission Packet:

The Downtown Plan was approved at the last meeting. We had the public hearing on it, but we did not have a Resolution at that time. The Resolution is before you tonight and we ask that you approve it.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN to adopt Resolution 14-020 for the Downtown Plan 2014 as an amendment to the Williston Comprehensive Plan 2010.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

I. Economic Development

Shawn Wenko presented the following information correlated with documentation included in the Commission Packet:

(1) STAR Fund Program
a. Mini-Match Guideline Revisions

We have some guidelines in front of you tonight. The sheet highlights the changes that were made. We seek approval for the changes to the guidelines.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK to approve the attached revised guidelines and changes to the STAR Fund Mini-Match Program.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

b. Flex PACE Guideline Revisions

This is also some guideline changes to our Flex PACE Interest Buy-Down Program. There is a sheet with yellow highlights that indicate the changes that were made. We seek approval for the changes to the guidelines.

MOTION BY CYMBALUK, SECONDED BY BROSTUEN to approve the attached guidelines and changes to the Flex PACE Interest Buy-Down Program

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(2) Mini-Match

a. Russon's (18 2nd St. E)

The name on this has changed. It will now be Lucy Lou's Restaurant owned by Jason Esperum. He is seeking a Mini-Match of up to \$10,000.00. His match is \$20,000.00. The project is mostly exterior – changing out the windows and some exterior improvements to the facility.

MOTION BY CYMBALUK, SECONDED BY KLUG to approve the request as presented.

MOTION TO AMEND THE PRIOR MOTION BY CYMBALUK to include the stipulation that he is current with Tri-County.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

b. Tarpon 1, LLC (1411 W Dakota Parkway)

This is for a sign on the Landmark Building on West Dakota Parkway. Their match will be \$27,690.00. They are asking for a Mini-Match of up to \$10,000.00. The sign application is still in process, so the Commission may want to put a stipulation in pending approval of the permit.

MOTION BY KLUG, SECONDED BY BEKKEDAHL to approve the Mini-Match with the approval of the sign permit from Planning and Zoning.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(3) Flex PACE

a. Walt's Market (922 University Ave.)

This will be a sale of the facility to a new owner. They are looking for a Flex PACE Buy Down in the amount of \$34,500.00. The first year payout will be \$6,800.00

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK to approve as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

J. Airport

Steven Kjergaard presented the following information:

(1) Advertising Lease – Kyle Tennessen

This is a digital lease that is month to month. It is \$400, and I recommend approval.

MOTION BY BROSTUEN, SECONDED BY CYMBALUK to approve as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

(2) Airport Taxi Lease – Black Gold Taxi & Shuttle

This is for \$4,000 and I recommend approval. It's a taxi and basically an advertising lease with the airport.

MOTION BY BROSTUEN, SECONDED BY CYMBALUK to approve as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- K. Assessor
- L. Convention and Visitor's Bureau
- 10. Appointments and Consultations with Officers
- 11. Unfinished Business

A. Landfill Scale House Expansion

David Tuan informed the Commission that we are still soliciting proposals on this and would like to remove it from the Agenda until we are ready.

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

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- B. General Off-Sale Beer License Application for 2nd Avenue Sinclair

John Kautzman informed the Commission that the Committee met. There are still some concerns as to the proposed layout they are working on. It is okay with the State, but locally there are still some concerns. He would ask to continue to table the Agenda for now.

Commission agrees to Hold the item.

- C. Rescission of Non-Protest Agreement

Commission agrees to Hold the item.

- D. 70th Street Cost Recapture Agreement

Bob Hanson reviewed the cost information detailed in the Commission Packet and recommended the final Agreements with the Developers as outlined; namely water cost of \$366,668.59 and street cost of \$692,099.29 payable to The Meadows Development; and sewer cost of \$115,601.91 payable to SRK Hospitality. We will also hold 5% of the base amounts as retainage until after project completion. There will be a 15 year Sunset Clause.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN to approve as recommended.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

Additionally, I ask that the Commission approve the calculations included in the Commissioner Packet.

MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN to approve as recommended, acknowledging a 15 year Sunset Clause.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

- E. Vanguard software costs (added)

The following information was presented by Denell Kallemeyn:

Vanguard Appraisals came this last year, 2014, and they appraised all the commercial properties in the County and the City. It was a little more expensive than we thought. We went into agreement in 2011. If you open your books – on the first page is what I'm referring to. The highlighted amount of \$66,915.00 is what I'm requesting that the City would help pay in those costs to the County.

I talked about this a month ago. This is just carrying over from that meeting. We met with the Budget Committee with the Mayor, Commissioner Bekkedahl and John Kautzman. As I explained then, they didn't start until 2013. That's when we had the actual bid and then the difference of the amounts of the properties that were assessed is how much we grew in that period of time in the City and the County. I recommend that a motion be made to approve the request for the amount of \$66,915.00.

To clarify, the number of parcels for the City increased as sections were annexed from the County. The original bid, based on parcels, would not have been reflective of these changes. This is why the final cost is higher now for the City.

MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK to approve payment of revised costs for Vanguard as presented.

AYE: Cymbaluk, Brostuen, Bekkedahl, Klug, and Koeser

NAY: None

ABSENT AND NOT VOTING: None

CARRIED: 5-0

12. New Business

A. Thank you from Project Heat (added)

Mayor Koeser acknowledged Peter Aberlie with Aeries Building Systems for his work in providing rooms at the crew camp for those people in need over the cold winter months.

13. Executive Session

14. Adjourn

**MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK to adjourn the meeting.
UNANIMOUS BY VOICE VOTE.**

E. Ward Koeser, President
Board of City Commissioners

John Kautzman, City Auditor