

**OFFICIAL PROCEEDINGS  
BOARD OF CITY COMMISSIONERS  
DECEMBER 9, 2014 6:00 P.M.  
CITY HALL WILLISTON, NORTH DAKOTA**

1. Roll Call of Commissioners

COMMISSIONERS PRESENT: Deanette Piesik, Tate Cymbaluk, Chris Brostuen, Brad Bekkedahl and Howard Klug

COMMISSIONERS ABSENT: None

OTHERS PRESENT: John Kautzman, Chief Lokken, Jason Catrambone, Rachael Ressler, Samantha Neill, Pete Furuseth, Steve Kjergaard, Kent Jarcik, Donald Kress, Bob Hanson, Taylor Olson and Shawn Wenko

Mayor Klug presented a quorum.

CHANGES TO THE AGENDA:

**ADD**

8A Request for public participation

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

**UNANIMOUS BY VOICE VOTE**

2. Consent Agenda

- A. Reading and Approval of Minutes for:
  - (1) Regular Meeting Dated: 11/25/14
- B. Auditor
  - (1) Accounts, Claims and Bills
  - (2) Application for a Local Permit or Charity Local Permit
    - a. Williston Basin Chapter of API – local permit
  - (3) Special Permit to Sell Alcoholic Beverages
    - a. Outlaws – Chamber Event
    - b. Outlaws – Dakota Housing holiday party
    - c. Upper Missouri Valley Fair – 1<sup>st</sup> Annual Festival of Trees
  - (4) Taxi License
- C. Building Official
  - (1) Master Mechanical
    - a. Joel Lyford
    - b. Michael Dryke
  - (2) Master Plumber
    - a. Stanley Carter
    - b. Michael Dryke
    - c. Wayne Frisbie
  - (3) Journeyman Plumber
    - a. Joel Lyford
  - (4) Fuel and Gas Installer
    - a. Stanley Cater

- b. Joel Lyford
- (5) Journeyman Mechanical
  - a. Stanley Carter
- (6) Sign Hanger
  - a. Albrecht Sign Company
- D. City Planner
- E. Assessor
  - (1) Abatement
  - (2) Exemptions

**MOTION BY BEKKEDahl, SECONDED BY BROSTUEN, to approve consent agenda as presented to the commission.  
UNANIMOUS BY VOICE VOTE**

2. Bid Openings

Mike Manstrom, Dougherty Markets presented the following:

- A. Bond Sale Results Resolutions  
This is the results of the bond sale conducted this morning in the Bismarck office. This is the \$15,075,000 refunding improvement bonds of 2014. It's the second issue this year for the City of Williston. Bid results have been presented. Three bids were received. Hutchinson, Shockey, Erley & Co. out of Chicago bid a 3.122 net interest cost. FTN Financial Capital Markets bid a 3.189 and Robert W. Baird & Co., Inc. bid a 3.293. A resolution (14-064) has been prepared Issuing of improvement warrants and exchanging them for \$15,075,00 refunding improvement bonds, series 2014. If the resolution is passed it will lock in the interest rates and will transfer the money on December 22<sup>nd</sup>, 2014.

**MOTION BY BEKKEDahl, SECONDED BY CYMBALUK, to approve the resolution Issuing of Improvement warrants and exchanging them for \$15,075,000 refunding improvement bonds, Series 2014**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

Jason Catrambone, Fire Chief presented the following:

- B. Fire Apparatus Pumper and Aerial and Fire Dept. Staff Vehicles  
Request for proposals were put out for the Aerial and Pumper. Two bids were received. One from Spartan and one from Ferrara. Ferrara is one demo and one new build. Spartan came back with two options; the first \$1,120,900 and the second \$1,145,900. Ferrara came with a bid of \$1,462,126. With next year's budget the fire dept. is projecting a cost of almost \$1.8 million for these two pieces of apparatus. This will be a significant savings with a delivery time of 12 weeks where they can be put in to service. The recommendation is the second (alternate) bid from Spartan of \$1,145,900 with the addition of \$35,000 for options the fire department has requested, which include adding a light tower and some additional safety equipment into these apparatus.

**MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to approve the bid for \$1,145,900 plus the additional \$35,000 for the additional equipment as presented**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

Regarding staff vehicles; this is also a 12 week delivery time. Three bids were received; Select Ford, Ryan Chevrolet and Murphy Motors. Select Ford was the low bid, but the size of the SUV does not meet the size requirement for the command module that would go in the back of the vehicle. The Tahoe from Murphy Motors was the only vehicle that would meet these requirements. The total pricing difference between the two vehicles was \$3000. Murphy Motors was \$32,689 for the pick-up and \$35,324 for the Tahoe.

**MOTION BY PIESIK, SECONDED BY CYMBALUK, to approve the purchase of the Tahoe from Murphy Motors for \$35,324**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

**MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to approve the purchase of the pick-up from Murphy Motors for \$32,689 as presented**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

### 3. Public Hearings

Rachel Ressler, Planning and Zoning presented the following:

- A. Preliminary plat and zone change for two lots from A: Agriculture to C-2: General Commercial, for proposed St. Joes Subdivision, an unplatted 36.154 parcel at the ND Intersection of 32<sup>nd</sup> Ave W and the 11<sup>th</sup> St W, City of Williston – Hagan Family Partnership/Sanderson Stewart  
This plat is for 48.733 acres in the SW ¼ and SE ¼ and the SW ¼ of Section 15. Property owner is Kathleen Hagan. The plat and zone change to be known as St. Joseph's Subdivision. It is located at the NE intersection of 11<sup>th</sup> and 32<sup>nd</sup>. There is only a zone change on 16.701 acres of the 48.733 acres. It is not currently annexed in to the city but is in the City's extraterritorial jurisdiction. The plat shows the dedication of Bison Dr. through the property, following alignment laid out by the comprehensive plan and the update AE2S did earlier this year. Lot 2 and Block 1 are intended to remain agricultural and eventually proposed to be donated to the St. Joseph's Catholic School. Lot 1 of Block 2 is also proposed to remain agricultural at the moment. A minor traffic study was conducted to ensure 11<sup>th</sup> St was capable of handling traffic from additional commercial properties. It appears that 11<sup>th</sup> St and 32<sup>nd</sup> St intersections are capable of handling the additional traffic. This was reviewed by SRF. It was also determined by engineering, planning and the applicant engineer

that the best option in order to move forward with the current plat was to create an alignment on the plat that would allow some flexibility in the eastern alignment of the road. The final plat will reflect this. The ad hoc recommendation is for approval of a zone change from A: agricultural to C-2: General commercial for 16.701 acres in the SW ¼ and SE ¼ of the SW ¼, Section 15, T154N R101W. and approval of a plat of 48.733 acres in the SW ¼ and SE ¼ of the SW ¼ Section 15, T154N, R101W; contingent on staff comments and a development agreement being recorded.

Mayor Klug opened the public hearing.

Larry Slingsby, adjoin neighbor asked who decides where the streets go, so if he wants to discuss this item. Mr. Slingsby stated when the creek is crossed it will be crossing an area with quick sand on his property. Mr. Slingsby feels this should be rethought due to the cost of getting a foundation etc. He also feels the traffic is a hazard. Mayor Klug stated the conversations between Mr. Slingsby and the engineer should continue and that when a consultant is brought in they would discuss the soils condition of Mr. Slingsby's land and traffic flow issues with him at that time.

Mayor Klug called for a second and third time for comments on the item.

Mayor Klug closed the public hearing.

**MOTION BY BROSTUEN, SECONDED BY CYMBALUK, to approve the zone change from A:Agricultural to C-2: General Commercial for 16.701 acres in the SW ¼ and SE ¼ of the SW ¼, Section 15, T154N R101W**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

**“AMMENDMENT” MOTION BY BROSTUEN, SECONDED BY CYMBALUK, to approve the zone change from A:Agricultural to C-2: General Commercial for 16.701 acres in the SW ¼ and SE ¼ of the SW ¼, Section 15, T154N R101W contingent on the final plat being approved**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

**MOTION BY BEKKEDAHL, SECONDED BY CYMBALUK, to approve the plat of 48.733 acres in the SW ¼ and SE ¼ of the SW ¼, Section 15, T154N R101W; contingent on staff comments and a development agreement being recorded**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

Donald Kress, Planning and Zoning presented the following:

- B. Annexation of approximately 37.34 acres described as Sublot 11, in the NE1/4 SE ¼ & SE1/4 NE ¼, section 34, T155N R101W – Oasis Petroleum (hearing was requested at the 10/28/14 City Commission Meeting)

This is an annexation follow up from the 10/28/14 meeting. Oasis Petroleum requests annexation of approximately 37.34 acres described as Sublot 11. This property is outside the City's Tier 1 growth area, however is within the City's extraterritorial jurisdiction and is currently zoned M-2: Heavy Industrial No zone change or platting is proposed. Three factors were considered in the annexation committee's evaluation of the annexation request. First adjacent Sublot 4 was zoned M-2: Heavy Industrial in April, 2007. The subject property, Sublot 11 was zoned M-2 in May, 2011. These properties were zoned and in operation prior to the current City Tier 1 Growth Area. The property is adjacent to the current City boundary. Oasis will be covering the cost to run water to their property. Considering the use is existing and adjacent to the existing City limits and no additional cost will be incurred by the City. Second, the land use is compatible with the Comprehensive Land Use Plan. Last, no additional land uses are proposed. Oasis is the only property involved in the annexation. No protests were received. Resolution 14-062 the annexation resolution was presented. The annexation Committee's recommendation is to adopt the resolution annexing approximately 37.34 acres described as Sublot 11, in the NE ¼ SE ¼ and SE ¼ NE ¼, Section 34, T155N R101W, owned by Oasis Petroleum, to the City of Williston.

Mayor Klug opened the public hearing. Mayor Klug called for a second and third time for public comments.

Mayor Klug closed the public hearing.

**MOTION BY CYMBALUK, SECONDED BY BEKKEDAH, to adopt Resolution 14-062 annexing approximately 37.34 acres described as Sublot 11, in the NE ¼ SE ¼ and SE ¼ NE ¼, Section 34, T155N R101W, owned by Oasis Petroleum, to the City of Williston**  
**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**  
**NAY: NONE**  
**ABSENT AND NOT VOTING: NONE**  
**CARRIED: 5-0**

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

Samantha Neill, Planning and Zoning presented the following:

- A. Ordinance 1007- Landscaping-first reading  
The original 1983 Landscaping Ordinance required that landscaping be installed within 12 months of the Certificate of Occupancy. On October 9, 2012 Ordinance 959 was adopted allowing the developer portions of two consecutive growing seasons to install required landscaping (May 4 to September 28-inclusive). It also allowed for the City to back charge the properties in violation through special assessments. On September 16, 2013 staff presented another amendment to the planning commission to allow for additional enforcement remedy which

allows the applicant to post a performance bond which would enable the City to utilize such allocated funds to complete the required landscaping if the applicant defaults. This was tabled and it was suggested staff further evaluate the possibility of including paving as part of the performance bond requirement and the possibility of adding flexibility in the enforcement language which allows the applicant to be notified in advance upon an upcoming deadline. Following this meeting the Building dept. and the Planning Dept. agreed the Building Official would have the ability to enforce the landscaping requirement and administer any potential fines. A new installation timeline was discussed as well as the installation of boulevard trees (synonymous with street trees in this ordinance). The topic of paving was also discussed, as requested and will be integrated into the building inspection process. Proposed Ordinance 1007 seeks to require that existing lots maintain their existing landscaping, redefines the installation timeline, deletes the previous performance bond requirement and allows for the Building Official to have the power to administer stricter penalties as outlined in Chapter 5 "Buildings and Building Regulations" Article XII- "Violations" of Williston Code of Ordinances. The installation timeline will implement a cutoff date of July 31<sup>st</sup>, and any Conditional Certificate of Occupancy issued on or after that date, the developer has until July 21<sup>st</sup> of the following calendar year to install the required landscaping. This ordinance further clarifies that the installation of boulevard trees shall be the responsibility of the builder/contractor at the time of construction on existing property. With regard to new subdivisions and development agreements, boulevard trees shall be installed on arterial streets and perimeter subdivision streets at the time of street construction or completion of the curb and gutter by the developer. The ordinance also adds an exemption to the requirement of boulevard trees when an existing construction is built in such a way as to preclude any ability to provide landscaping on the property. The Planning and Zoning Department may make that determination. The building Official will retain the ability to enforce this requirement and administer fines, including the ability to revoke a Certificate of Occupancy. The Planning Commission recommends approval of Ordinance 1007. Discussion was held regarding some flexibility in this ordinance should the landscaping need to be held off longer than stated in the ordinance due to developing issues. It was decided new language would be added to add that flexibility. Mr. Kautzman, stated since this was the first reading it is a possibility to bring any changes back at the second reading.

**MOTION BY CYMBALUK, SECONDED BY PIESIK, to approve the first reading of Ordinance 1007**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

7. Petitions, Communications and Remonstrance's
8. Report of Commissioners

Mayor Klug, President of the Commission presented the following:

- A. President of the Board  
Mayor Klug is requesting public participation in legislation hearings to represent City of Williston and support for various bills that would help the City of Williston. The first meeting will be January 16<sup>th</sup>, 2015; the introduction to what is being called surge funding.
- B. Vice-President; Finance Commissioner
- C. Street and Improvement, Sanitation, Cemetery and Public Works Commissioner
- D. Fire, Police, and Ambulance Commissioner
- E. Water Works, Sewer, Airport, Building and Planning Commissioner

9. Report of Department Heads

John Kautzman, City Auditor presented the following:

- A. City Auditor
  - (1) Bad Debt Recap  
A memo has been presented of a recap of the bad debt. The memo recaps a fairly large toll; \$655,056.11. Two major components to this number are Ambulance and Municipal Court making up most of this dollar amount. Ambulance is normal to experience potentially up to a 45% bad debt with normal conditions. Williston is experiencing 51%. This has been turned over to collection and collection efforts will continue.

**MOTION BY BEKKEDAHL, SECONDED BY BROSTUEN, to approve the 2014 \$655,056.11 for the bad debt write off with the caveat that we continue to pursue the bad debt collection**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

Taylor Olson, City Attorney presented the following:

- B. Attorney
  - (1) Liquor License Review  
There were five specific violations in the affidavit presented to the city attorney. Those five are Section 3-17, 3-19, 3-73, 3-75 and 3-81. Section 3-17 and 3-19 pertains to minor in the licensed premise and serving alcohol to a minor. 3-73 is the sale or use of alcohol on a street. 3-75 is acts prohibited on licensed premise. 3-81 is sale to overly intoxicated individuals. The last hearing on these two establishments was April 23, 2013. At that time the hearing was held on 3-73, 3-75 and 3-71. This time #17 and #19 have been added. It has been 595 days since the last hearing. At the time of the first hearing there were 120 calls (tallied from the previous three years) for police to respond to calls to Heartbreakers and Whisper areas combined. At that time breakdown was not done on specific calls and what they pertained to. This time the total number of calls is 189 calls in 595 days which is roughly calls 69 more calls in half the amount of time. After the last hearing the calls have not gone down and have in

fact gone up. Of the 189 calls, 101 calls were to respond to incidents at Whispers. 31 of the 101 of those were for welfare checks, six of those 101 were calls that did not necessarily have to do with Whispers, but the business named was brought up in passing and so it brought them up in the search for calls. 20 of the 101 were for fights and of those 20 calls for fights, six people were transferred by ambulance to Mercy Medical and one of those people was detoxed. There were eight other arrests such as DUI, disorderly conduct, resisting arrest etc. There were seven traffic calls which include parking or minor traffic accidents. There were four vandalism calls and all pertained to slashed tires. There were 14 unruly patron calls including calls such as cab owners calling with problems from patrons that had been picked up from the mentioned establishments. Two times a search warrant was executed. There was one lost wallet, one fake ID, three hit and runs, two stolen vehicles and one junk ordinance. Of the 101 calls, 88 pertained to Heartbreakers. Six were welfare checks, 13 were calls that did not pertain to something specific to Heartbreakers, just mentioned the name. 21 calls for a fight. Five other arrests, seven stolen property, three hit and runs 15 unruly patrons, one junk ordinance, one vandalism, one lost phone, one reposed car, six false alarms and eight traffic calls. There were more fights in front of Heartbreakers than Whispers and a lot of these calls showed over intoxicated.

Detective Dave Peterson, Williston Police Dept. presented the following:

The following incidents are stemming from April 23, 2014 through today December 9, 2014. An incident on August 8, 2014 happened outside of Whispers which caused the death of one individual. Two brothers were kicked out of Whispers after causing a disturbance in the bar. These individuals were seen on video outside of the establishment. The video details the progression of the incident. The victim for all intents and purposes was an innocent by-standard in the dispute between one brother and Whispers. The concerning thing in this case were the actions of the bouncer of Whispers. When the victim and his brother were asked to leave the establishment they stood on the sidewalk yelling at the bouncer. The bouncer and the brother had some words. At this point the bouncer is on the curb and he is doing a motion like "bring it on" as seen on the surveillance video. The brother then punched the bouncer and the fight began, The bouncer pursued the brother out into main street. When the fight was over the other brother was running to the aid of his brother and he ended up laying lifeless after being struck by a former bouncer of Whispers causing him to fall and strike his head on construction material. Neither Whispers bouncers nor Whispers patrons called 911. Patrons from the No Place Bar called 911. In fact the bouncer involved in the "bring it on" motion was seen on video, actually shook hands with the assailant along with shaking hands of the assailant and the bouncers for Whispers as the individual lay lifeless on Main St. On September 14, 2014 an investigation involving Joshua Clement occurred outside of Whispers and Heartbreakers. All the individuals involved were intoxicated. They were in consuming alcoholic beverages in Whispers and became intoxicated doing body shots off of a female patron. An altercation took place inside the establishment and continued out to the sidewalk. Joshua C was pushed and struck his head and it caused severe brain damage where a part of his skull actually had to be removed and caused permanent brain damage. Only one establishment had video surveillance and the aggressor is still being sought by



the Williston Police Department. On September 29, 2014 an incident occurred outside Whispers bar. The individual got into an altercation. He was a minor and fell and broke his leg. He had been consuming alcoholic beverages in Whispers. On October 5, 2014 an incident occurred which led to an investigation. The individual was subsequently arrested for various charges. Among those were minor in a license premise, minor in consumption of alcohol. He had been drinking at both Whispers and Heartbreakers. The incidents on September 29 and October 5 led to an investigation on underage drinking. Six individuals (employees) were charged; four from Heartbreakers and two from Whispers. During the investigation, Management of the establishments had been less than forthcoming from both establishments which is taking valuable and needed resources from other areas in the community. When video is requested they sometimes refuse to provide it; respond with profanities and make the PD seek out judicial search warrants to take the video surveillance. Other incidences, specifically Whispers; it has taken four investigators to recover video from the establishment. At all times two investigators are sent together. On January 23, 2014 both establishments were cited under the junk ordinance for garbage, bottles, building materials and other various garbage items behind the buildings in the alley. They had both received numerous warnings prior. Each continually blames the other for the garbage rather than clean it up. The former code compliance officer states Heartbreakers is the worst in dealing with in regards to the garbage. Lastly it has been the practice for the Williston PD to station officers on foot patrol down by the two establishments to try to protect some of the community that frequents these two establishments, but this is not the responsibility of the department to provide personal security and the PD has too many other calls to provide full time presence on S Main. Mayor Klug asked Detective Peterson if he could tell of any times or observance of lap dances or any contact between the patrons and the dancers. Detective Peterson said yes. It was reviewed on video where there were several instances of dancers and patrons touching and putting their faces on the women's upper chest. Whispers has guaranteed Detective Peterson that they could get him video of dancers engaging in sexual activities and vice versa. Taylor Olson stated she did receive a video at her firm about a year ago anonymously of a hidden video at heartbreakers showing inappropriate conduct and things not allowed by City ordinances. Commissioner Cymbaluk stated it is clear the two establishments has violated several areas of the law; given an opportunity a couple years ago to clean up and that they did for some level for a period of time, but have fallen to the same level again. Commissioner Cymbaluk stated it is absurd that the police officers are put at risk to patrol down at the establishments. No other establishments have these issues. Mayor Klug stated it is not a public hearing but he wanted to hear all sides.

Greg Hennessey, Attorney representing Heartbreakers presented the following:

Greg Hennessey representing Heartbreakers stated that when Commissioner Cymbaluk stated the evidence is clear; from an attorney stand point, he does not agree at all. The first problem is under 3-145 which says they should have been given specific information. That was not done until Detective Peterson laid it out at the meeting. The notice the establishments received stated they would be told what had been done wrong at the hearing and merely stating the codes without any fact background does not allow them to prepare. Mr. Hennessey stated

even though Heartbreakers has been sucker punched by the one minor in possession, Heartbreakers has been smeared along with Whispers for acts which have nothing to do with Heartbreakers other than the fact they are next door. None of the evil that happened in the street is a result of Heartbreakers. Heartbreakers only has one minor in possession. Heartbreakers has a software program that runs any kind of digital ID that is presented and it is run every time they go out the door. Mr. Hennessey stated there is no foundation of the video received by Ms. Olson. Whispers is an entirely separate business from Heartbreakers. Heartbreakers has a better bouncer system and have also assisted in arrests, which has not been brought to the system. Security has been upgraded. Any suggestions they are open to them. Mr. Hennessey stated that Heartbreakers has nothing to do with any of the incidents brought up in the affidavit. Mr. Hennessey stated Heartbreakers provided everything including the cameras to the PD and had to buy new cameras for security because the PD still has the cameras.

Commissioner Bekkedahl asked if both establishments have used profanities at the police. Detective Peterson stated yes from general management, but specifically in the recent from Whispers. Mayor Klug asked what the time frame that over serving has happened. Detective Peterson responded that over serving complaints happen in all establishments and have to be addressed on a case by case basis. He stated both establishments has a severe issue with this. In the last three weeks, Detective Peterson had contact with a male patron who had become intoxicated from Heartbreakers. He was so intoxicated that he made it on to the tracks and was run over by a train, amputating his leg. Ms. Olson stated the last time an investigation was done for over intoxication at Heartbreakers was 11/15/14 and Whispers was 11/27/14. Mayor Klug stated he has spoken with both owners and discussed specifically the problem of over serving and he was assured this would not happen. This discussion took place in July or August of 2014. Commissioner Cymbaluk asked what the commission's options were. Ms. Olson stated the same as last time; can choose to not do anything, choose to suspend liquor license for a specific time frame or revoke the license completely.

Eric Grant, Attorney representing Whispers presented the following:

Mr. Grant stated there are two sides. Mr. Grant stated the individual that hit the victim in August that died, was actually a past employee of Whispers and was not in any way representing Whispers. Whispers staff did go through the video with PD and provide names and phone numbers of some of the people shown on the video during that incident. Warrants have never been required to get Whispers video surveillance. Whispers cameras are used around the clock and can provide transparency to PD for Whispers. Mr. Grant concedes Joshua Clement was at Whispers the night of the incident but stated he may have been at other bars also. Whispers has incorporated the black light stamp that cannot be transferred rather than the wrist band method along with the enhanced ID system. Mr. Grants denies that any security camera video requested has ever been denied. Commissioner Cymbaluk asked if Whispers has broken any City ordinances since the last time the liquor license was suspended. Mr. Grant stated yes.

Commissioner Bekkedahl asked Chief Lokken if it was his opinion that there are more issues with these two establishments than any other in the community. Chief Lokken said the two establishments probably causes about 80% of PD's calls. Commissioner Brostuen is concerned other calls to PD may be being neglected or put off due to the volume of calls being responded to at Whispers and Heartbreakers. Mayor Klug asked about doing a breathalyzer on patrons coming in to the establishments. Ms. Olson stated this may not be an effective tool. Commissioner Bekkedahl asked about any fatalities at any other establishments in Williston. Detective Peterson responded there was a hit and run outside of J Dubs.

**MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to suspend the liquor license at both Whispers and Heartbreakers starting at 12:00 AM December 9<sup>th</sup>, 2014 for 60 days**  
**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**  
**NAY: NONE**  
**ABSENT AND NOT VOTING: NONE**  
**CARRIED: 5-0**

Mayor Klug called a five minute recess.  
Mayor Klug reconvened the meeting.

David Tuan, Public Works presented the following:

- C. Director of Public Works
  - (1) Bakken Industrial Park Roadway Improvement Task Order  
Presented in the packet is a proposal from Ackerman Estvold for engineering services. This is Bakken Industrial Park where considerable resources has been spent on roadway maintenance and dust control. It is proposed to do an improvised street service. It is the goal to reclaim the existing roadways of Energy St and 56<sup>th</sup> St NW. It is requested to authorize and approve an engineering services contract for the design and construction services other the roadway improvement project in the amount of \$63,900. Commissioner Cymbaluk asked when this would start and Mr. Tuan stated in the spring. Mr. Kautzman asked if the intent would be to special assess any of this project or if the City would absorb the cost. Mr. Tuan deferred the question due to not being at the project cost yet.

**MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to approve as presented**  
**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**  
**NAY: NONE**  
**ABSENT AND NOT VOTING: NONE**  
**CARRIED: 5-0**

Bob Moberg, AE2S presented the following:

- (2) Program Management Monthly Update  
The steering committee has met three times since the contract was authorized in mid-November and have worked through a list of recommendations that AE2S put together back in September. Reference was made to a table presented in the commissioner's packet. Two specific things brought forward by the committee were conducting a study about the options as far as forms of

government for the city and what it would mean going forward and the other item was the topic of looking at conducting rate studies on both sanitary sewer and the water main facilities. Mayor Klug asked if these two items should be discussed at the commission meeting or back with the steering committee. Commissioner Brostuen stated he was looking for direction from Mayor Klug what direction to go on the item of city governance options. Mayor Klug stated he would take it under advisement. Mr. Kautzman stated that rate studies have been done but the commission has not always implemented what the studies have called for. Mr. Kautzman suggested if the commission were to go through the expense of a rate study they may want to follow what the study says. Discussion regarding current rates, current rate plans and what studies have been done were had. Mayor Klug would like this item to be brought back to the commission at the first meeting in January. How to prioritize the items was also discussed. Mr. Moberg suggested that if the utility rate studies were going to be done, the commission should have that decided by the budgeting process for 2016.

### C. City Engineer

Bob Hanson, City Engineer presented the following:

- (1) Civil Science Agreement  
This agreement is for the design of water and sewer improvements associated with 11<sup>th</sup> St phase 2 intersection with HWY 2 and 85 improvement project as being constructed by NDDOT this summer. The state will take care of the bulk of the surface work, but the water and sewer lines fall to the City to pay for. Civil Science has proposed to do this design work on an hourly basis not to exceed \$72,452. Recommend award the contract to Civil Science.

**MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve the contract not to exceed \$72,452 to Civil Science**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

- (2) Hagan Slingsby Change Order  
This is a change order to the Hagan Slingsby storm sewer project. Veidt has substantially completed the project. There are a couple outstanding claims for extra costs that were suffered the first part of the project. Last year WBI took so long to lower their gas mains that it delayed the Veidt from completing the project last fall and they had to remobilize crews and equipment this spring. Veidt also encountered grade conflicts with gas and electric lines this summer which also delayed completion of the project. Veidt is claiming order extra costs in the amount of \$22,637.50 for the remobilization and construction delays. Approval of change order #2 is recommended.

**MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve as presented****AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug****NAY: NONE****ABSENT AND NOT VOTING: NONE****CARRIED: 5-0**

- (3) ~~Ackerman Service Agreement~~ Alliance Engineering Service Agreement  
The city has received a petition for the installation of a sewer system along 4<sup>th</sup> Ave E between 38<sup>th</sup> and 42<sup>nd</sup> St. which is located in Wegley Green Acres neighborhood. This would be the first of what Engineering envisions as several water, sewer, storm sewer and street projects in this area. Alliance has previously prepared a preliminary drainage plan for this area and is offering to continue the design effort for this particular sewer project and the planning effort needed for the infrastructure in the Wegley Green Acres area. Approval of Alliance Engineering's proposed Engineering Services Agreement is recommended. Mr. Kautzman asked if it would be the intention to set this project up with special assessments. Mr. Hanson stated yes,

**MOTION BY BROSTUEN, SECONDED BY PIESIK, to approve the agreement with Alliance as presented****AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug****NAY: NONE****ABSENT AND NOT VOTING: NONE****CARRIED: 5-0**

- E. Fire Chief
- F. Chief of Police
- G. Building Official
- H. City Planner

Rachel Ressler, Planning and Zoning presented the following:

- (1) Final plat of Code Estates, proposed 57 lot single-family duplex and townhouse subdivision on 11.08 acres located at 917 42<sup>nd</sup> St E, City of Williston-Code Estates, LLC/Sanderson Stewart  
Rachel presented areas on the map included in the commission packet. Snow removal was the discussion at the Ad HOC meeting. The alley will be signed no parking and if snow removal in the alley will not fit in the 8 ft. to the west of the townhomes, then the Homeowners Association will have to remove it. The development agreement and CC&R's reflect this. The storm water detention pond will need to be a separate lot owned by the Homeowners Association, and will need to be screened according to the storm water ordinance. This is stated in the CC&R's. The development agreement will need language that allows the City to collect trash from the alley and does not hold the City responsible for any damage. Public Works clarified that the alley will need to be cleared by the HOA, and that if it is not, trash will not be cleared. This is stated in the CC&R's. A park dedication fee will need to be paid. The HOA has been set up. Buffering will be required behind the private street on the west side of the development agreement. Anna Lane has been changed to Gracie Way. The development agreement states the usual items as well as information about the detention basins and how those need to be screened. Also added was information that was specific to the property that reflect

the previous discussion. The roadway widths re clarified. A list of no parking streets is listed in the development agreement along with townhome structures being required to incorporate attractive structural progressions and recesses and mixes of color and material into each grouping of townhomes. Recommendation to approve the plat of 11.97 acres in the SE ¼ of Section 1, T154N R101W, contingent on staff comments, CC&R's and Homeowner Association documents being reviewed prior to filing, right of way dedication for 45<sup>th</sup> St. being documented and recorded and a development agreement being recorded.

**MOTION BY CYMBALUK, SECONDED BY BEKKEDAHL, to approve the final plat of 11.97 acres in the Se ¼ corner of Section 1, T154n R101W contingent on staff comments as presented and as stated in the developer packets being addressed, CC&R's and HOA documents being reviewed prior to filing, right of way dedication for 45<sup>th</sup> St being documented and recorded and a development agreement being recorded**  
**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**  
**NAY: NONE**  
**ABSENT AND NOT VOTING: NONE**  
**CARRIED: 5-0**

Donald Kress, Planning and Zoning presented the following:

- (2) Final plat of Lot 10, Block 14, Fairhills Subdivision (east side of 27<sup>th</sup> Ave north of 27<sup>th</sup> St, City of Williston) – Darrell Dyer/Ames Engineering  
1.48 acre lot. 11/17/14 the Planning Commissioner approved the final plat for the Dyer Subdivision to create four lots. The lot is zoned R-3:Lowrise Multifamily and Townhouse Residential. Development of these lots will be subject to the Fairhills Subdivision Development Agreement. The applicant is submitting a driveway agreement to address ownership and maintenance of the shared driveways between lots 1&2 and Lots 3&4 and an updated title opinion. Recommendation to approve the final plat for Dyer Subdivision, Lot 10, Block 14 of the Fairhills Subdivision, contingent on final staff review of plat and related documents.

**MOTION BY BROSTUEN, SECONDED BY PIESIK, to approve the final plat for the Dyer Subdivision Lot 10, Block 14 of the Fairhills Subdivision, contingent on final staff review of plat and related documents**  
**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**  
**NAY: NONE**  
**ABSENT AND NOT VOTING: NONE**  
**CARRIED: 5-0**

- (3) Request for hearing for annexation of portions of the West ½ and Sublot 4 in the East ½ of section 9, T154N, R101W  
Resolution 14-063 Request for Hearing for Annexation. Annexation of the west half of Section 9 T154N R101W excepting 34.5 acres in the SW ¼ NW ¼ Section 9 already annexed and the East 33 ft. of Section 8 T154N R101W; and Sublot 4 in the SE ¼ Section 9, comprising of approximately 300 total acres. Property currently zoned A:Agricultural. The Erickson property in the NW ¼ is not platted. The SW ¼ plus Sublot 4 in the SE ¼ are entirely included in the National Guard Subdivision, currently in the preliminary plat stage. Recommend adoption of Resolution 14-063 to schedule a public hearing at the January 13, 2015 City Commission meeting to consider the proposed annexation of the west half of Section 9 T154N R101W

excepting 34.5 acres in the SW ¼ NW ¼ Section 9 already annexed and the East 33 ft. of Section 8 T154N R101W; and Sublot 4 in the SE ¼ Section 9 T154N R101W, comprising of approximately 300 total acres.

**MOTION BY BEKKEDahl, SECONDED BY CYMBALUK, to approve Resolution 14-063 as presented by staff**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

Shawn Wenko, Economic Development presented the following:

- I. Economic Development
  - (1) Mini-Match – Cornerstone FBC  
Cornerstone FBC is looking to open a child care center starting with 28 kids. They are seeking a Mini-Match of \$10,000.

**MOTION BY BEKKEDahl, SECONDED BY BROSTUEN, to approve Mini-Match of \$10,000 to Cornerstone FBC as presented by staff**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**NAY: NONE**

**ABSENT AND NOT VOTING: NONE**

**CARRIED: 5-0**

Steven Kjergaard, Airport Manager presented the following:

- J. Airport
  - (1) Settlement Agreement with KLJ (airport marking error)  
KLJ had an error in their GIS data and as a result there was some paint that needed to be fixed. KLJ is reimbursing the City \$3,354.75 if the City agrees to the settlement. The city attorney has looked over it and finds it acceptable.

**MOTION BY BROSTUEN, SECONDED BY BEKKEDahl, to approve as presented**

**AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug**

**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. Zone Change from M-1: Light Industrial to A: Agricultural for Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston – GO Aggregate, LLC/R&R Engineers, Becky Hogan
    - (1) Legal opinion – impact fee and sales tax
    - (2) Planning Commission – zone change and SPU resultsMayor Klug would like a motion to take this item off the agenda until brought back by planning and the applicant.

**MOTION BY BEKKEDahl, SECONDED BY CYMBALUK, to remove item from agenda  
UNANIMOUS BY VOICE VOTE**

- B. Larry Grondahl – MDU Utility Pole  
A follow up meeting is scheduled for the week of December 9<sup>th</sup>.  
Due to scheduling conflict no meeting was held this week.  
**HOLD**
- C. Williston Public School District #1 Letter
- D. Special Assessment Agreement – Williston Public School #1 Budget Committee  
Items C & D are in the hands of the school district.  
**HOLD**
- E. Liaison Committee – County 911 Fee/Sales Tax Agreement  
Forms have been presented to consider approval. Discussion was had with the county  
on the 911 Fee and presented to the commission.

**MOTION BY CYMBALUK, SECONDED BY BEKKEDahl, to approve as presented  
AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug  
NAY: NONE  
ABSENT AND NOT VOTING: NONE  
CARRIED: 5-0**

- F. Taxi Committee – Ordinance and Rates Review  
**HOLD**
- G. AE2S – Task Order #5  
(1) Scope of work - Steering Committee  
This item has been dealt with and will be brought back when the committee is ready to  
report.

**MOTION BY CYMBALUK, SECONDED BY BEKKEDahl, to remove item from agenda  
UNANIMOUS BY VOICE VOTE**

- H. Proposed Resolution 14-060 – Granting the City Commission all powers to act as an  
Airport Authority  
Resolution 14-060 was presented in the commission packet.

**MOTION BY CYMBALUK, SECONDED BY BROSTUEN, to approve Resolution 14-060 as  
presented  
AYE: Piesik, Cymbaluk, Brostuen, Bekkedahl, Klug  
NAY: NONE  
ABSENT AND NOT VOTING: NONE  
CARRIED: 5-0**

- 12. New Business  
Jerry Rustad, a previous City Attorney passed away last week. He did a good job and he will be  
missed. The funeral is Friday 12/12/14 at 11:00am.



- 13. Executive Session
- 14. Adjourn

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

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Howard Klug, President  
Board of City Commissioners

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John Kautzman, City Auditor