



MEETING OF THE BOARD OF CITY COMMISSIONERS

11/12/2024 - Minutes

CALL TO ORDER

The Board of City Commissioners met on November 12, 2024, 2024, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioner Connelly, Commissioner Risch, Commissioner Zenker, Commissioner Cleary and Mayor Schmitz were present.

FUTURE COMMISSION MEETINGS

November 26, 2024

December 17, 2024

January 14, 2025 & January 28, 2025

MISSION STATEMENT

To provide high-quality public services in partnership with our community to enhance our quality of life.

MEETING OF THE BOARD OF CITY COMMISSION

1. PUBLIC COMMENT

Restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items

Trevor Vannett and Susan Dingle both provided comments on Regular Agenda Items 3.G. and 3.I.

- [Susan Dingle Public Comment](#)

2. CONSENT AGENDA

Commissioner Zenker motioned to approve the consent agenda as presented and Commissioner Risch seconded. Upon a roll call vote, all voted aye. M/C.

- A. Consider approval of minutes

B. Consider approval of personnel actions

C. Consider approval of expenditures

Vouchers: 1121070-1121507.

D. Consider the request for approval from the Administration Department for the following:

1. Revised meeting schedule for the 2025 Board of City Commissioners meetings.
2. Gaming site authorization for Bismarck Hockey Boosters, Inc. at Capital Ice Complex, 1504 Wichita Drive.
3. Gaming site authorization for Furry Friends Rockin' Rescue, Inc. to conduct gaming at Broadway Grill & Tavern, LLC, 100 West Broadway Avenue.
4. Resignation of Human Relations Committee member Jason Grueneich.
5. Letter of Support for EJ Jones Holdings, LLC.
6. Letter of Support for JKRX Inc.
7. Letter of Support for Plainview Truck Center, LLC.
8. Letter of Support for Wolf Family Properties, LLC.
9. Review and approve the revised Vision Fund Committee policy.

E. Consider the request for approval from the Bismarck Airport for the following:

1. Extension of current Air Service Development Contract with Volaire Aviation.

2. Purchase of two vehicles using North Dakota State Bid and approve the disposal of two airport vehicles.
 3. Permission to dispose of Boss Plow via trade-in.
- F. Consider the request for approval from the Bismarck-Burleigh Public Health Department for the following:
1. Permission for Bismarck-Burleigh Public Health to accept donations for the Women's Way program.
- G. Consider the request for approval from the Bismarck Event Center for the following:
1. Contract amendment with UBL Design Group to provide a Capital Improvement Plan for the Bismarck Event Center.
- H. Consider the request for approval from the Community Development Department for the following:
1. Annual review of the Growth Phasing Plan for 2024.
 2. Amend the original declaration of restrictive covenants for Burleigh County Housing Addition.
 3. Future Land Use Plan (FLUP) Amendment from the Urban Reserve Mid-term (URA) designation to the Industrial Flex (IF) designation for part of Lincoln Township, Section 22, T138N-R80W
 4. Memorandum of Agreement for access to Class 1 Inventory GIS data.
 5. Permission for the Bismarck-Mandan MPO, on behalf of Bis-Man Transit, to purchase four (4) replacement paratransit cutaway buses

I. Consider the request for approval from the Engineering Department for the following:

1. Resolution approving contracts and bonds for previously awarded special assessment projects.
2. North Dakota Department of Transportation (NDDOT) Preliminary Engineering Reimbursement Agreement for 9th Street microsurfacing project NHU-1-083(148)900, PCN 24402 HC 179.
3. North Dakota Department of Transportation (NDDOT) Preliminary Engineering Reimbursement Agreement for Bismarck Expressway microsurfacing project NHU-1-094(245)928, PCN 24403; NHU-1-810(034)003, PCN 24404; HC 180.

J. Consider the request for approval from the Finance Department for the following:

1. Applications for abatement.
2. Receive the resignation of Special Assessment Commissioner Mason Sisk.

K. Consider the request for approval from the Fire Department for the following:

1. Permission to accept a donation of \$2,000 to be used for public educational materials.
2. Change order No. 3 with Dakota West Contracting, Inc. for time extension.

L. Consider the request for approval from the Human Resources Department for the following:

1. Reclassify the Bismarck-Burleigh Public Health Department Medical Billing Specialist position to Administrative Assistant (grade 12).

2. Permission for the Police Department to offer an experienced officer candidate up to 40 hours of Incentive Time upon hire.

M. Consider the request for approval from the Legal Department for the following:

1. Introduction of and call for a public hearing on Ordinance 6593 to amend the Resisting Arrest Ordinance.
2. Introduction of and call for a public hearing on Ordinance 6594 to amend the Bismarck Human Relations Committee Ordinance.
3. Introduction of and call for a public hearing on Ordinance 6595 to amend the appeal process for City employees.
4. Introduction and call for a public hearing on Ordinance 6596 to amend Persons Under the Influence of Intoxicating Liquor or Any Other Drugs or Substances Not to Operate Vehicle; Penalty.

N. Consider the request for approval from the Public Works - Service Operations Department for the following:

1. Permission to dismantle and dispose of the Biomass Heating Sytem located at the landfill in the Household Hazardous Waste Facility.
2. Permission to sell or dispose of City Assets at a Public Auction or Online Auction for the Solid Waste Division and the Roads and Streets Division.
3. Change Order No. 2 Time Extension with Wegner Roofing for the Convention and Visitors Bureau (CVB) Roofing Project to June 15, 2025.

O. Consider the request for approval from the Public Works - Utility Operations Department for the following:

1. Amendment No. 1 to Task Order No. 5 with Apex Engineering Group for the Hay Creek Lift Station Project.
2. Award the bid for lime product hauling and disposal services for the water treatment plant.
3. Award the bid for utility billing fulfillment services.
4. Permanent and temporary sanitary sewer easements associated with the Hay Creek Lift Station (SU96).
5. Retain the services of Howard Swanson, Swanson & Warcup, LTD, to proceed with a joint powers agreement for the Western ND pH Stabilizer Storage Facility.

3. **REGULAR AGENDA**

- A. Consider the request to receive an update and discuss the Bismarck Arts and Culture Master Plan project.

Lauren Oster, Community Development Planner, and Jasmine Metcalf, representative of Designing Local, presented an update on the Bismarck Arts and Culture Master Plan Project.

The Commission received the report.

- B. Consider the recommendation from the Vision Fund Committee to support a PACE program interest buy-down for Eat Thai Cafe Corporation.

Nathan Schneider, Vice President of the Bismarck Mandan Chamber EDC, presented information on the application from Eat Thai Cafe Corporation for a Vision Fund PACE program interest buy-down loan.

Commissioner Connelly noted that he would not support the project because it could be successful without the assistance.

Commissioner Cleary motioned to approve the request from the Vision Fund Committee to support a PACE program interest buy-down for Eat Thai Cafe Corporation structured as a loan for \$111,606.79 and Commissioner Zenker seconded. Upon a roll call vote, Commissioners Cleary, Risch, Zenker and Mayor Schmitz voted aye. Commissioner Connelly voted nay. M/C.

- C. Public hearing on a request for a new Class F-1 - Restaurant - Alcoholic Beverages License for Berry Investments Four, LLC (dba) Rock'n 50's Cafe at 2700 State Street.

Mayor Schmitz opened the public hearing. No public comment was received.

Commissioner Zenker motioned to approve the item as presented and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- D. Public hearing on a request for a new Class F-1 - Restaurant - Alcoholic Beverages License for One Lodging Management, LLC (dba) Courtyard Bismarck at 3319 North 14th Street.

Mayor Schmitz opened the public hearing. No public comment was received.

Commissioner Cleary motioned to approve the item as presented and Commissioner Risch seconded. Upon a roll call vote, all voted aye. M/C.

- E. Introduction of and call for a public hearing on a request for a new Class F-1 - Restaurant - Alcoholic Beverages License for Salty Steak of North Dakota, LLC (dba) Fogão Gaúcho of Bismarck at 4510 Skyline Crossings.

Mayor Schmitz opened the public hearing. No public comment was received.

Commissioner Risch motioned to approve the item as presented and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

- F. Consider the request to Continue Discussion on the Garbage Collection Survey Results and Next Steps.

Steve Salwei, Public Works Service Operation Director, presented options for the Commission to consider regarding future practices for garbage collection in the City of Bismarck. The recommended option would be to implement option E from the initial survey as stated below.

Implement Option E. No longer accept extra garbage that is beside the 96-gallon can. Instead, allow residents the following options:

- a. Purchase extra bags from Public Works for \$2.00 each (cash or check) and place these special bags beside their 96-gallon can for collection. These bags will have a maximum weight limit of 30 pounds. If the weight is over 30 pounds, Waste Collectors can tag the bags for excess weight and not collect them. (Note: Anything placed in the 96-gallon can does not need to be placed in one of these special bags.)
- b. Pay for a 2nd 96-gallon can. There would be a one-time delivery/service fee of \$50.00 per each extra 96-gallon can, plus a monthly fee of ½ the rate of their monthly trash collection fee. (Excluding the curbside collection recycling fee.) The second can will also require a minimum of a 12-month commitment. Note: There will continue to be no charge delivery/service fee for the main 96-gallon can for normal collection.
- c. Take any extra garbage they may have directly to the landfill. Normal landfill fees will apply.

The Commissioners discussed the three options, with the general consensus being that option a. was not favorable due to drivers needing to exit the vehicle, elevating potential safety risks, and increased time restraints.

Commissioner Cleary motioned to implement Option E with the removal of item a. and Commissioner Risch seconded. Upon a roll call vote, Commissioners Cleary, Risch, and Mayor Schmitz voted aye. Commissioners Zenker and Connelly voted nay. M/C.

- G. Consider the request for approval of the Selection Committee recommendation for the Bismarck Event Center Management & Operations RFP

Jason Tomanek, City Administrator, presented the recommendation from the Bismarck Event Center Management & Operations Selection Committee. The committee recommended selecting the consulting firm Jones Lang LaSalle America Inc. (JLL), with a project budget of \$50,000.

Commissioner Zenker motioned to approve the item as presented and Commissioner Cleary seconded. Upon a roll call vote, Commissioners Risch, Zenker, Cleary, and Mayor Schmitz voted aye. Commissioner Connelly voted nay. M/C.

- H. Consider the request from the Legal Department to receive guidance on the Social Media for Public Officials matters.

Jannelle Combs, City Attorney, provided guidance on Social Media for Public Officials.

The Commission received the report.

- I. Consider the request to discuss the results of Bismarck Measure #1.

Jannelle Combs, City Attorney, addressed the Commission about the next steps required now that Measure No. 1 was approved by resident vote at the November 5, 2024, election. The Legal Department has prepared an ordinance to enact the voter approved Home Rule Charter change to be heard at the December 17, 2024, City Commission Meeting.

The general consensus of the Commission is to hold future discussions regarding the allocation of the funds collected from the 1/2-cent sales tax.

- J. Consider the request from the Engineering Department to enter an Executive Session under North Dakota Century Code Section 44-04-19.2 regarding contract negotiation/negotiation strategy under NDCC Section 44-04-19.1(9).

Commissioner Zenker motioned to enter into Executive Session at 6:44 PM, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

The Commission reconvened at 7:06 PM with all members present. Commissioner Zenker motioned to direct staff to move forward with the negotiation strategy agreed upon during the executive session, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

4. **OTHER BUSINESS**

- Commissioner Connelly reminded the Commission that the Bismarck Human Relations Committee is hosting its Community Conversations Forum on November 14, 2024, at the Bismarck Veterans Memorial Public Library at 6:00 PM.

- Commissioner Risch noted that there are a number of board and committee vacancies that can be applied for until November 30, 2024.

ADJOURN

There being no further business to discuss, the meeting adjourned at 7:11 PM.