



MEETING OF THE BOARD OF CITY COMMISSIONERS

3/10/2026 - MINUTES

CALL TO ORDER

The Board of City Commissioners met on March 10, 2026, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioners Risch, Zenker, Connelly, Cleary, and Mayor Schmitz were present.

FUTURE COMMISSION MEETINGS

March 24, 2026
April 14, 2026 & April 28, 2026
May 12, 2026 & May 26, 2026

MISSION STATEMENT

Together, we deliver exceptional public service.

MEETING OF THE BOARD OF CITY COMMISSION

1. PUBLIC COMMENT

Restricted to items on the Consent Agenda, Regular Agenda, or the Prior City Commission Agenda excluding public hearing items.

Landon Niemiller with Swenson, Hagen & Co., presented information on Regular Agenda Item 3.E.

2. CONSENT AGENDA

Commissioner Risch requested to have Consent Agenda Item I.2 pulled for discussion.

Commissioner Zenker moved to approve the Consent Agenda excluding Item I.2., and Commissioner Risch seconded. Upon a roll call vote, all voted aye. M/C.

Discussion

- Commissioner Risch requested that Item I.2. be pulled for discussion as it deals with lead pipe issue that the City is trying to address and asked Michael Mart, Public Works Utility Operations Director, to further explain.
- Director Mart explained that the City is using federal and state funds to help homeowners replace lead service lines from the curb to their homes. The current funding allows homeowners to be reimbursed up to 80% of the replacement costs,

including restoration, concrete, and sprinkler repairs. Homeowners can contact the City's Utility Operations Department to get information and assistance.

Commissioner Cleary moved to approve Consent Agenda Item I.2. 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: 1130983-1131220.

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

- 1. Gaming site authorization renewal.
- 2. Contract Amendment with Ubl Design Group for the Bismarck Event Center.
- 3. **Provide a letter of support to the North Dakota Opportunity Fund Loan Program for applicant Eclipse Venue, LLC.**

- E. Consider the request for approval from the Engineering Department for the following:

- 1. Dedication and acceptance of Sidewalk and Utility Easements as part of Streetlight and Traffic Signal Project SV 85.
- 2. Resolutions approving plans and specifications, directing the advertisement of bids, and receiving bids for Street Improvement District SI 596.
- 3. Resolutions approving plans and specifications, directing the advertisement of bids, and receiving bids for Street Improvement District SI 597.

4. Resolutions for declaring petitions have been received, creating the district, ordering the preparation of the engineer's report, approving the engineer's report, and directing the preparation of the plans and specifications for Street Improvement District No. SI 599.

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

1. Soul source purchase of high resolution, measurable oblique and orthogonal imagery annually for 2026, 2027 and 2028.
2. Applications for Abatements.
3. Introduction of and call for a public hearing on Ordinance 6658 to amend the 2025 budget.

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

1. Time extension with Purvis Systems until June 1, 2026, for the Station Alerting contract.

H. Consider the request for approval from the Planning Department for the following:

1. Introduction of and call for a public hearing on Ordinance 6657, an annexation of part of the South ½ of Section 19, T139N-R80W/Hay Creek Township pursuant to Document #975320 and Auditor's Lot B1 of the West ½ of Section 20, T139N-R80W/Hay Creek Township pursuant to Document #727447, where the Planning and Zoning Commission recommends approval.
2. Permission for the City to partner with the State Historic Preservation Office to enforce the historic covenants for Bismarck Federal Building.
3. Final consideration of the minor subdivision final plat for Daybreak Third Addition, where the Planning and Zoning Commission recommends approval.

4. Consideration of the minor subdivision final plat for Prairie Hills Seventh Addition, where the Planning and Zoning Commission recommends approval.
 5. Release a 14-foot utility easement, being 7 feet on each side of the lot line common to Lots 1 and 2, less the north 10 feet adjacent to and parallel with the north lot lines of said Lots 1 and 2, Block 1, High Meadows Fourth Addition.
 6. Results of the Title VI Plan and Program Monitoring Review for City of Bismarck and Bis-ManTransit for calendar year 2025.
- I. Consider the request for approval from the Public Works - Utility Operations Department for the following:
 1. Agreement for Cost-Share Reimbursement with the North Dakota State Water Commission for the WU149 watermain project.
 2. Revisions to City of Bismarck Policies on Residential Water Service Lines.
 - J. Consider the request for approval from the Bismarck-Burleigh Public Health Department for the following:
 1. Permission to apply for Trust for Public Land's on Common Ground grant funds.

3. **REGULAR AGENDA**

- A. Public hearing on Ordinance 6656 to amend Sections 9-07-02 and 9-08-02 of the City of Bismarck Code of Ordinances relating to the City Employee Pension Plan and the Police Pension Plan.

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

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

- B. Consider the request for resolutions receiving bids, ordering the engineer's statements and awarding contracts for Street Improvement District SI 594-Part A and Street Improvement District SI 594-Part B.

Linda Oster, Assistant City Engineer, presented the bid results for Street Improvement District SI 594 and recommended awarding the contract to the lowest bidder, Northern

Improvement Company, in the amount of \$4,064,372.90 for Part A and \$3,374,712.20 for Part B.

- [Bid Results](#)

Commissioner Zenker moved to approve SI 594 Part A to Northern Improvement Company for \$4,064,372.90 as presented, and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

Commissioner Risch moved to approve SI 594 Part B to Northern Improvement Company for \$3,374,712.20 as presented, and Commissioner Cleary Seconded, Upon a roll call vote, all voted aye. M/C.

- C. Consider the request to hear the insufficiency of protests on the Resolution of Necessity for Street Improvement District SI 595.

Linda Oster, Assistant City Engineer, presented the lack of sufficient protests for Street Improvement SI 595.

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

- D. Consider an appeal from Henry and Lisa Gerving of a denial of a variance from Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses)(Accessory Uses and Buildings) to increase the area of accessory buildings from 1,200 square feet to 1,320 square feet at 602 Mehrer Drive (Clear Sky Addition, Block 2, Lots 7-8).

Jenny Wollmuth, Senior Planner, presented information on an appeal from Henry and Lisa Gerving of a denial of a variance from Section 14-03-06(1)(b)(4) of the City Code of Ordinances.

Henry Gerving addressed the Commission, explaining that he has a 125-foot submersible well on his property and is seeking permission to build a 10'x12' structure over it so he can install a water filtration system to deal with hard water. The building would protect the filtration equipment and match the other buildings on the property.

Commissioner Connelly moved to overturn the denial of the Board of Adjustment due to the lot's size, shape, and topography of the environment, and Commissioner Risch seconded.

Ms. Wollmuth explained that variances must meet North Dakota Century Code and local ordinance requirements. She noted that the property lot is square and flat, which would exclude property of having a topography or shape hardship.

Julie Mees, City Attorney, noted that all required criteria must be met to approve a variance and that the current proposed findings are difficult to justify.

Discussion:

- Commissioner Cleary discussed the hardship being financial because the property owner has a well that requires equipment that must be protected. She believes it is unreasonable to force the owner to modify the existing 1200 sq ft building by 100 sq ft to allow for the small outbuilding and suggested that the variance would avoid unnecessary construction changes.
- Mayor Schmitz questioned whether financial hardship can legally justify a variance, which staff replied it can not. He then emphasized that a valid non-financial reason must be determined in order to approve the variance.
- Commissioner Risch noted that most hardships involve financial aspects, so excluding a financial hardship would be difficult. He questioned the lot makeup and asked if leaving the property as two separate lots might have allowed for more building space.
- Commissioner Zenker noted that the Commission's decision would set a precedent for future variances and expressed that allowing financial hardship could pose problems in the future for projects that might run out of funding to finish the project.
- Commissioner Connelly suggested that safety or fire protection could be a possible hardship justification because the property has access to well water during dry years. He noted that variances have been granted before in other situations and challenged the strict interpretation of a hardship.

Commissioner Connelly withdrew his motion as discussion provided that there was not a clear size, shape and topographical hardship.

Continued discussion:

- Commissioner Zenker stated that the main hardship could be the property's hard water and the need for a filtration system. He noted that covering the well and pump could prevent accidents or tampering but struggled with whether the situation meets the special circumstances requirement for granting a variance. He suggested changing the land development code to allow small structures to cover wells might be a better solution than approving the variance.
- Commissioner Cleary argued that the special circumstance is the existence of a private well on the property, which is not common among neighboring properties. She also believes that the hardship and special circumstances are related to the well and hard water.
- Commissioner Connelly noted an inconsistency in city policy, stating that the city sometimes denies buildings due to lack of water pressure for fire suppression, yet this project could help maintain property safety and irrigation but may still be denied due to code restrictions.
- Mayor Schmitz expressed concern that the board may not have satisfied the required criteria for approving the variance and supported the idea of revising the code instead of granting a variance.

Daniel Nairn, Planning Director, explained that variances require proving hardship because they allow one property owner to bypass rules that apply to everyone else. Director Nairn suggested that if the commissioners believe the rule itself should change, they can modify the land development code instead of granting the variance. He also noted that certain structures such as gazebos and playhouses are already exempt from square-footage limits and a similar exemption could potentially be created for well covers.

Commissioner Cleary moved to uphold the Board of Adjustment's denial of the variance, and Commissioner Zenker seconded. Upon a roll call vote, Commissioners Zenker, Cleary, and Mayor Schmitz voted aye. Commissioners Risch and Connelly voted nay. M/C.

- E. Consider an appeal from Heather Jones and Loren Fischer of the February 25, 2026, decision of the Planning and Zoning Commission to deny a zoning change from the A – Agricultural zoning district to the RR – Residential zoning district, a major subdivision final plat titled JFP Foxhaven Subdivision, and an accompanying Major Street Plan amendment.

Isak Johnson, City Planner, presented information on an appeal from Heather Jones and Loren Fischer of the February 25, 2026, decision of the Planning and Zoning Commission to deny a zoning change from the A – Agricultural zoning district to the RR – Residential zoning district, a major subdivision final plat titled JFP Foxhaven Subdivision, and an accompanying Major Street Plan amendment.

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

- F. **Consider the request to receive an update on the Land Development Code project.**

Jenny Baker, with Clarion Associates, presented an update on the Bismarck Land Development Code project, including an open house scheduled for March 11, 2026, to introduce the full draft to the public and provide an opportunity to ask questions and give comments.

The Commission directed staff to allow well coverings to be listed under buildings that are allowed to not be considered a part of the total lot coverage, with the restriction that the structure be small enough to not require a building permit and have possible height restrictions as well.

4. **OTHER BUSINESS**

- A. Commissioner Risch noted that the weather has allowed for street sweepers to be present in the community.
- B. Commissioner Zenker asked why Oak View Group (OVG) was conducting business at the Event Center this week without having a contract signed.
 - o Mayor Schmitz provided an update on the meetings with OVG, and reminded the Commission that OVG would be coming to Bismarck during other business at the February 24, 2026, meeting.
 - o Administrator Tomanek provided an overview of the meetings and tasks that OVG conducted during their visit and noted that OVG was not being paid for the time spent in Bismarck for this visit.
- C. Commissioner Connelly mentioned a survey that MPO has available the City's website and Facebook page.

ADJOURN

There being no further business to discuss, the meeting was adjourned at 6:39 PM.

