

## COMMITTEE OF THE WHOLE

March 28, 2018

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### Members Present:

Barney (Mayor), Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky

### Members Absent:

None

To the Honorable Mayor and All Aldermen:

Following are the recommendations of the **Committee of the Whole** meeting called to order at 4:15 p.m. on March 28, 2018:

1. **The City Council approve the relocation of the detached garage from 2220 24th Ave SE, Minot ND, 58701 also known as Brookview 4th Addition Lot 1, to 1016 39th St SE, Minot, ND 58701, also known as Peach Addition, Block 1, Lot 1, subject to the following conditions:**
  1. A ten-thousand dollar completion bond must be posted with the City of Minot prior to issuance of any permits for this work.
  2. Application and approval of building permits for all proposed construction.
  3. An approved foundation design in compliance with City of Minot building codes.
  4. If required: plumbing, electrical and HVAC systems must be brought into compliance with current code requirements of the City of Minot.
  5. All work at the new location must be in compliance with City of Minot building codes and zoning ordinances.
    - a. Proposed location of garage has two existing accessory buildings; one will need to be removed per zoning code, Chapter 5 Section 5-4 (a)
  6. The exterior of the structure must be one consistent color arrangement of colors after relocation.
  7. Applicant must obtain all necessary permits, and coordinate all relocation activities with public utilities and traffic authorities.
  8. The property must be provided with proper site drainage, and must be landscaped in a manner similar to surrounding properties.

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The above motion by Alderman Sipma, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

2. **The City Council approve entering into an advertising agreement with First International Bank and Trust to advertise on the sides and rear of one transit bus and authorize the Mayor to sign the agreement. (3687)**

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The above motion by Alderman Sipma, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

3. **The City Council approve the request from Expedition League, Inc. dba Corbett Field, for a Specialty Restaurant Beer and Wine license operating at 1124 E Burdick Expressway**

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**subject to receipt of all documentation and approval by the Police Chief, Building Official and Fire Marshal.**

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The above motion by Alderman Sipma, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

- 4. The City Council award the bid for 2018 Nuisance Abatement to Dig It Up Backhoe Service, Inc. in the amount of \$24,975.00 and pass an ordinance to amend the 2018 annual budget to increase demolition expenditures and transfer of funds for \$22,000 from cash reserves. (4347)**

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The above motion by Alderman Sipma, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

- 5. The City Council award the bid for 2018 Pavement Markings to West River Striping Co. in the amount of \$159,985.00. (4343)**

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The above motion by Alderman Sipma, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

- 6. The City Council approve the purchase of 416 NW 2nd Ave.**

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The above motion by Alderman Sipma, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

- 7. The City Council award the bid for 2018 Street Improvement District to the lowest total bid of \$1,821,288.80 from Bechtold Paving, Inc. (4308)**

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The above motion by Alderman Wolsky, seconded by Alderman Straight.

Alderman Wolsky said he noticed a few places where dollars have not been spent wisely. He mentioned an area where ADA curb and gutter was added to a street that is being removed in the future and where pavement markings were done on a road that was later reconstructed. He requested those areas be analyzed more thoroughly.

Whereupon a vote was taken on the above motion by Alderman Wolsky, seconded by Alderman Straight and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

- 8. The City Council grant approval to add \$120,585.25 to the CDBG-NDR contribution to the Park South multi-family rental rehabilitation project.**

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The above motion by Alderman Olson, seconded by Alderman Sipma.

Alderman Wolsky requested clarification on the change order including the contingency fund and other funding sources mentioned in staff's memo. Mr. Zakian explained, a contingency fund is typically included for projects in case situations occur that make the cost more than one could reasonable anticipate. It is not unusual for a grantee to fully fund the cost of change orders, however, since the City was responsible for a cost share of the project, it was his opinion the change orders should apply the same cost share percentage as the rest of the project. The developer is aware the remaining funds will either be covered by them or by the State who is also a contributing partner. He stated, all prospective work has been vetted and reviewed by the subject matter experts at CDM Smith and the costs have been found appropriate and necessary.

Alderman Straight commented that he spoke with Mr. Walker and understands that it is an old building and there were issues when retrofitting the improvements.

Whereupon a vote was taken on the above motion by Alderman Olson, seconded by Alderman Sipma and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

### **9. The City Council authorize staff to issue bid for relocation of Home Sweet Home structure across the street.**

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The above motion by Alderman Wolsky, seconded by Alderman Olson.

Alderman Wolsky asked if the historically significant windows would be kept intact after the building is moved.

Mr. Zakian explained, there is an agreement between the City of Minot and the State Historic Preservation Office (SHPO) that any move has to preserve the historic value of the building. It was estimated the cost will be approximately \$600,000 mostly due to the need to keep the exterior the same as it currently stands. He continued by saying, it has been reviewed by a subcontractor of CDM Smith with an architectural engineering background, who has found the structure is not as weak as originally believed. They will be diligent when moving the building. He also clarified, although the house is included in an agreement with SHPO, it is not listed on any historical register as being historically significant. Once it is moved, it is not eligible for any historic tax credits that could be used to rehab or rebuild it.

Mr. Zakian responded to further questioning by saying, after the building is moved, it will be put back together in the same manner it sits today. It is owned by the City but once it is placed on the new foundation, the City's obligation to SHPO is concluded and it is up to the City to determine the best possible use for the building. From a HUD standpoint, this is part of the environmental review required for these projects. One of the components of the environmental review includes checking with SHPO, who found this house needed to be saved. Once it is back in the form it was in prior to the move, it is up to the City how to move forward.

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The City Manager stated, the intention after it is relocated is to immediately sell the building and avoid any costs of rehabilitating to comply with ADA or building standards. He said, it makes no sense as a public building.

Alderman Jantzer asked what justification SHPO has for considering it a historical building. Mr. Zakian responded by saying, it was believed the Elizabethan architectural appearance warranted preservation.

Alderman Straight asked if the City would be given the opportunity to provide feedback to HUD since this seems like a wasteful use of funds. Mr. Zakian said, there will be an opportunity to debrief HUD at the end of the grant period. He is already working on communicating with HUD to make changes or amendments based on our experience.

The City Manager added, the opportunity to oppose the decision has closed. SHPO has to be consulted on all projects and this decision was made in conjunction with a number of other agreements. The State Historic Preservation Office has been contacted to reconsider so we don't have to spend hundreds of thousands of dollars to relocate a building with no registered historical value but we were unsuccessful. Since the issue is tied into agreements with NDR and flood control it looked like if the issue was pressed any farther they could reopen the environmental review and delay the flood control project.

Whereupon a vote was taken on the above motion by Alderman Wolsky, seconded by Alderman Olson, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

### **10. The City Council approve the plans and specifications for the Odor Control Improvements project and authorize a call for bids. (4305)**

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The above motion by Alderman Sipma, seconded by Alderman Podrygula.

Alderman Wolsky asked if citizens have requested a need for odor control improvements, to which Mr. Jonasson replied by saying, yes, they have. Most odor concerns come from the Master Lift Station, which is downstream from the Roosevelt station. We have to inject the chemicals upstream to treat it before it gets to the Master Lift Station, which handles 75%-80% of the sewage in Minot. There have been continued concerns from the residents and the businesses located there about odors. He also explained, they have seen an increase in H<sub>2</sub>S gases as a result of water preservation methods that create higher concentrations that are not diluted enough. He said, the tin roof is being eaten up and concrete manholes are being dissolved.

The Mayor asked about the funding for these improvements. Mr. Jonasson said, the chemical costs for sewage treatment after it is constructed were included in the 2018 sewage treatment budget but funding for the construction is coming out of 2017 sanitary sewer rehab funds. He explained, it could have been included in the 2018 budget but there were funds leftover from 2017 that can be utilized for this project. The chemical cost will continue to be included annually in the budget.

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Whereupon a vote was taken on the above motion by Alderman Sipma, seconded by Alderman Podrygula, and carried by the following roll call vote: ayes: Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: Barney.

**11. The City Council approve the contract amendment with CPS Engineering in the amount, up to and not to exceed, of \$129,326.00 for the landfill siting and cost analysis and authorize the Mayor to sign the agreement. (4306)**

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The above motion by Alderman Wolsky, seconded by Alderman Straight.

Alderman Wolsky commented on the concerns expressed by the neighborhood near the landfill and said he is glad the City is making the effort to analyze alternatives and avoid making any mistakes even if there is a \$130,000 cost.

Whereupon a vote was taken on the above motion by Alderman Straight, seconded by Alderman Sipma, and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

**12. The City Council select Apex Engineering Group to perform all consulting engineering for the 31<sup>st</sup> Ave SE Reconstruction Broadway to 13<sup>th</sup> St SE; Authorize the City Engineer to negotiate a scope and fee for services; Authorize the Mayor to sign the contract and adopt a resolution authorizing the use of general obligation bonds for the project's cost share.**

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The above motion by Alderman Sipma, seconded by Alderman Olson.

Alderman Wolsky said, while considering RFQ's he hopes the staff is tracking the performance versus the expectations of the professional service companies.

Whereupon a vote was taken on the above motion by Alderman Sipma, seconded by Alderman Olson and carried by the following roll call vote: ayes: Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: Barney.

**13. The City Engineer presented the City's GIS Construction Information Map.**

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Mr. Meyer explained, last year's budget included funding for new software from ESRI, that is much more user friendly than our current system. He demonstrated the simplicity of the new system by showing a preview which had fire station response time maps, construction projects, load restrictions, and road closures. It will be useful for first responders and for the general public. He also said, the software can be used to collect and display data on crime statistics and fires which can be analyzed to improve the efficiency of City departments.

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Upon questioning by Alderman Sipma, Mr. Meyer said, when the information is updated, flood maps will also be available on the website. FEMA created their flood maps with the same software so we have the same abilities.

Alderman Podrygula expressed his enthusiasm for the new system and commented on the overwhelming amount of information it will provide to the public.

The City Manager commended the City Engineer for his work in implementing the new system. He said, it is a major administrative initiative and will provide a platform in which data is easily accessible. They have also discussed its expanded use for deployment of staff resources such as identifying where to deploy police officers. He also cautioned that although being a data informed organization is extremely beneficial, it takes resources, like software upgrades.

Alderman Sipma asked if the software could work compatibly with the map used to track snow removal. Mr. Meyer said, their software is based on the same mapping technology but is probably proprietary to their equipment.

In response to comments by Alderman Wolsky, Mr. Meyer said, the City tried to partner with the County but because the City is on an enterprise version and the County is on a smaller online platform we were unable to do so. Also, because the City and the County are separate political subdivisions, the organization structure with ESRI would not allow the contract to be combined.

### **14. IEDC Follow-Up**

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The NDR Program Manager emphasized the significance of the designation of a census tract opportunity zone means for the downtown. The U.S. Treasury recognizing downtown Minot census tract as eligible for the opportunity zone opens up opportunities to be eligible for Federal programs including the new market tax program, which is equivalent on the business side to a low income housing tax credit program. It creates opportunities for new investments in downtown and makes us eligible for our banking partners to invest in downtown and receive grants from the federal government for investments made downtown. If we move forward and create a non-profit economic development organization we have the ability to have that organization become a community development financial institution, which could become a lender and access grants from the U.S. Treasury to capitalize revolving loan funds.

Mr. Zakian continued by saying, the next step after we are recognized by the U.S. Treasury Department, is to create a Community Development Entity (CDE), which is a 501c3 non-profit corporation to be the beneficiary of any and all investments that are stimulated by the opportunity zone program. Investors, businesses and financial institutions who invest in a capital project in downtown Minot will get exemptions on capital gains and related taxes as an inducement for investing in the downtown, which opens up the opportunity for public private partnerships.

Mr. Zakian stated, the final report from IEDC will be delivered in June but he has three initiatives to continue to move forward. Firstly, he would like to take a look at the MAGIC Fund to find a way to use it more effectively. He also wants to take a look at MADC and what their role is with the MAGIC Fund and as an economic development entity in the city. Secondly, he said, the Renaissance Zone has been

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underutilized. We are allowed to designate 42 blocks but we only have 26. The third piece involves data driven destiny. He said, the population of the city is getting younger. What that means is we need to focus attention on a younger population and what drives them. He referenced ESRI as a platform for collecting data. There are modules we can buy from ESRI to collect nationwide data we can use to make us more responsive.

In response to comments by the Council, Mr. Zakian said, the IEDC is aware that they need to deliver action items for the City to move forward. Their report will explicitly identify areas of strengths, weaknesses, and opportunities.

### **15. The City Council consider the Technical Review Committee's recommendation to not accept either of the two responses to the NDR Single Family Home Buildable Lot RFP.**

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Mr. Zakian stated, the respondents of the RFP were permitted the opportunity to present an appeal to the Technical Review Committees decision. Both respondents have submitted an appeal. He explained, the RFP states, the City always has the right to not award for reasons unrelated to the RFP. In this instance the project was identified in 2015, prior to his employment with the City. When the Action Plan was written there was a robust housing market. It had also been contemplated that the funding that would be made available for the acquisition of properties with NDR would be \$20 million in NDR funds and \$60 million in state funds which would create a significant [potential client base to move into single family homes. At the time the RFP was issued, it was possible the market would improve but at this point the market could not sustain new single family home construction. We also will not be getting the \$60 million dollars from the state during the NDR time period. For those reasons, it is his recommendation the City not award the RFP for the NDR Single Family Home Buildable Lots.

He added, there are two things that could happen to change the situation which would cause us to revisit this concept. The State could decide in next year's biennium session to give Minot more money. The market could continue to uptick to a point where the financial and real estate communities are comfortable with us becoming actively involved in an investment of single family housing. He believes it would be imprudent at this point for the City to invest significant funding in new construction. It would not serve the City or the private sector market. The Gap Financing project is satisfying a need in the community for families to buy existing housing outside the flood plain.

Mr. Zakian acknowledged the letter submitted by one respondent of the RFP, Silverleaf Capital Group, which identified technical merits for rejecting the proposal. He said, those errors are not the primary reason he is recommending no award. He emphasized, the decision in no way reflects the quality of the developers. The review done by the Technical Review Committee found flaws which prevented either proposal from meeting the requirements of the RFP and did not reach the point of reviewing the veracity of the proposals. The letter suggested the City hire an outside engineer to independently review the proposal but Mr. Zakian stated, there were a number of City departments as well as CDM Smith, engaged in the review and he is satisfied with their qualifications to make a decision.

Alderman Wolsky moved the Committee advance the discussion to the City Council without a recommendation. Motion seconded by Alderman Podrygula.

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The City Manager stated, for the benefit of the applicants, he agrees with the decision to take more time to review the appeals that were submitted.

Mr. Zakian clarified, he sent multiple communications to the respondents of the RFP explaining the process and directing them to submit their appeal to the City Clerk. He then said the Council is not restricted to any time frame to make a decision.

Joel Feist, of Skyport Developers, LLC came forward with a letter of appeal, which he read aloud.

Mr. Zakian then clarified the difference between this project and trying to serve LMI individuals in the buyout area. He said, NDR funds must directly impact individuals in the flood zone as opposed to Allocation 1 which could benefit any LMI individual.

Alderman Podrygula requested a response to the allegation by Silverleaf that this was not a fair review. Mr. Zakian said, he understands the reaction but a process was followed and a rigid review was done by multiple people. All requirements must meet the minimum standards and the proposals did not meet those standards. He said, he appreciates the time and effort put into the proposals however, his recommendation remains the same.

The members of the Council shared their initial opinions on the issue.

Whereupon a vote was taken on the above motion by Alderman Wolsky, seconded by Alderman Podrygula and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

### **16. Discussion: Heidrich Homes Complaints**

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Mr. Barry shared a letter that was sent certified mail to Mr. Newman, one of the homeowners in the Heidrich Homes neighborhood. He recalled, the issue was brought up at the February 5<sup>th</sup> and March 5<sup>th</sup> City Council meetings where they addressed issues with the quality and construction of the homes built by the developer. A staff meeting was held with the members of the neighborhood for the residents to share their complaints. Mr. Newman presented several requests on behalf of their community on March 5<sup>th</sup>. Staff has reviewed the requests, consulted with experts, and have referred them back to their contractor for the quality concerns that were raised and have informed them the City will not be taking any further action.

Tracy Danielson, of 3611 13<sup>th</sup> St NE came forward as a member of the affected neighborhood. She said her concern is with the quality of the homes constructed around 2010 and the inspections done on those homes. The developer presented plans but the contractor made changes that were not approved. With all the construction that took place after 2011, there may be houses in the City that were built up to code but not built to the specifications in the developer's plans. She said, there is no way to get money back from the contractor and she believes the City should be concerned with the inspections.

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**17. The City Council approve EAPC as consultants for the design and Construction engineering on the Carnegie Building; authorize the Public Works Director to negotiate fees for the work and authorize the Mayor to sign the agreement on behalf of the City**

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The above motion by Alderman Wolsky, seconded by Alderman Olson.

Upon questioning by Alderman Wolsky, the Public Works Director stated, there was about \$6,000 previously approved to have EAPC do a preliminary analysis of what needed to be done at the Carnegie Center. They used that information to submit the application for Community Facility funding. The amount approved from the fund should be enough to make the improvements.

Whereupon a vote was taken on the above motion by Alderman Wolsky, seconded by Alderman Olson and carried by the following roll call vote: ayes: Barney, Jantzer, Olson, Podrygula, Sipma, Straight, Wolsky. nays: none.

There being no further business, the meeting was adjourned at 6:13 pm.

Respectfully Submitted,  
Kelly Matalka,  
City Clerk