

COMMITTEE OF THE WHOLE

August 1, 2018

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Members Present:

Sipma (Mayor), Jantzer, Olson, Pitner, Podrygula, 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 Wednesday, August 1, 2018:

1. **The City Council approve the relocation of the single family residence, from 1709 3rd Ave NE, Berthold, ND 58718, to 605 11th Ave SE, Minot, ND 58701, also known as, S/D Lot 6 Sec 24-155-83, Lot 7 Block 3 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 mechanical, electrical, plumbing, building permits for all new proposed construction.
 3. Coordinate all relocation activities with public utilities and traffic authorities.
 4. An approved foundation design in compliance with City of Minot building codes.
 5. If required: plumbing, electrical and HVAC systems must be brought into compliance with current code requirements of the City of Minot.
 6. All work at the new location must be in compliance with City of Minot building codes and zoning ordinances.
 7. The exterior of the structure must be one consistent color arrangement of colors after relocation.
 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 Olson, seconded by Alderman Podrygula, and carried by the following roll call vote: ayes: Jantzer, Olson, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: none.

2. **The request to apply for and, if awarded, accept the North Dakota Department of Emergency Services (NDDES) FY 2018 State Homeland Security Program (SHSP) was withdrawn prior to the meeting.**

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3. **The City Council approve the request from Valhalla Bar and Grill, LLC dba Valhalla for a Supper Club License operating at 2315 N. Broadway, subject to approval by the Police Chief, Building Official and Fire Marshal.**

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

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4. The City Council approve the Development (Plat) Agreement between the City and the Developer, Moure Equipment, LLC and authorize the Mayor to sign the agreement.

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

Alderman Wolsky asked about the process behind this request and whether it is appropriate to approve the Development Agreement before the zone change takes place. He suggested it be considered in its entirety.

The City Engineer stated, the first reading of the zone change took place in 2015. Now, the developer would like to complete it and in order to do so, the Developer's Agreement needs to be approved and the plat needs to be recorded. Subsequently, all of the improvements have already been completed such as turning lanes and street lighting and all that is left to do is develop it. Mr. Meyer explained, before the second reading of the zone change can be approved, the plat needs to be recorded. It ensures that a zone change does not occur on a parcel that doesn't exist.

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

5. The City Council award the bid for the Carnegie Center Structural Improvements to Craft Builders in the amount of \$560,200.00 and authorize the Mayor to sign the contracts on behalf of the City. It is also recommended additional funding in the amount of \$84,000.00 be allocated from sales tax improvements reserves and approve an ordinance for the budget amendment.

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Alderman Wolsky moved the Committee of the Whole forward the request to City Council without recommendation. Motion seconded by Alderman Olson.

Alderman Wolsky stated, because there was no bid information provided, the request can be discussed at the Council meeting.

The Public Works Director explained, the bid opening took place and he provided a recommendation for award to the City Clerk. It was mistakenly omitted from the amended agenda, but he described the recommendation. He said, there was one bid submitted from Craft Builders in the amount of \$560,200 and there is about \$84,000 in additional funds that may be needed, \$44,000 of which is for contingencies because it is an old building and there are a lot of unknowns. He said, his memo requested the bid be awarded to Craft Builders in the amount of \$560,200 and a budget amendment be approved to set aside \$84,000 in sales tax reserves.

Alderman Wolsky withdrew his motion and Alderman Olson withdrew her second.

Alderman Olson moved to award the bid for the Carnegie Center Structural Improvements to Craft Builders in the amount of \$560,200.00; authorize the Mayor to sign the contracts on behalf of the City;

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also pass an ordinance approving a budget amendment for additional funding in the amount of \$84,000 allocated from sales tax improvements reserves. Motion seconded by Alderman Pitner.

Alderman Straight asked about the Community Facilities funds approved for the project. The Finance Director stated, all of the funds in Community Facilities were allocated and the money was repurposed for flood control. There may be more available if other projects come in under budget or if recipients fail to raise the matching fund requirements. For this project, the attached budget amendment uses sales tax infrastructure reserves that is available for projects such as this.

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

6. The City Council enter into an agreement to allow Daniel Schuler, 304 17th Street SE the right to use City owned property at 1612 3rd Ave. SE in exchange for him maintaining the property.

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

Alderman Wolsky commented, the agreement was not provided for their review.

Mayor Sipma asked why the property was acquired, to which Mr. Jonasson said, it was a blighted property purchased after the flood.

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: Jantzer, Olson, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: none.

7. The City Council approve the sale of a 1999 Elgin Pelican street sweeper to the City of Surrey for \$5,000.00.

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

Alderman Wolsky asked if there was a policy on equipment. Mr. Jonasson said, when equipment is past its useful age, it is usually advertised for sale. Initially, when an item is put out for bid, we look for a trade in value. In this instance, the companies who bid said it did not have any value. The town of Surrey was interested in it and made an offer. In the past, other City equipment has been donated to the Park District which gave them the ability to perform their own work and freed up our resources. /he continued by saying, if equipment is still usable it can be repurposed. Some of the packers and trucks were turned into water trucks or added a box and hoist for the street department. If nothing can be done with a piece of equipment, it eventually goes to auction.

Upon questioning by Alderman Podrygula, the City Attorney stated, there is an ordinance describing the sale of surplus personal property. It has provisions relating the value and can be found in Chapter 2-4.

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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: Jantzer, Olson, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: none.

8. The City Council award the storm sewer crane truck bid to Westlie Motors in the amount of \$102,168.00.

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

Alderman Wolsky suggested that a request to advertise for this purchase should have been brought to the Council before the bidding process took place.

The Public Works Director explained, budgeted capital items are approved during the budget process and therefore haven't come before the Council again to make the request. If the Council would like to follow a different process, that can be arranged as well.

Alderman Jantzer said, it would be redundant to bring every purchase through the Council. By vetting through the budget process, the Council authorizes approval to continue the bid process.

Alderman Straight said, economic conditions may change from the time the budget is approved and they need to be mindful of authorizing purchases.

The Finance Director said, changing the process would add another layer for purchases but ultimately the Council has final authority to accept or reject the bids. When things change drastically in the economy, oftentimes staff is given direction to make changes which are addressed behind the scenes. If staff felt it was no longer a piece of critical equipment that was needed and something had changed in the budget then it would be evaluated before going to bid.

Alderman Podrygula said he is concerned that decisions are made "behind the scenes" without the transparency of coming before the Council.

Mayor Sipma stated, the discussion is teeter tottering on micromanagement. The Council approves the budget process and is now developing long term strategies for the budget. Understandably, City staff will look at budget expenditures throughout the years and as things substantially change they will be brought to the Council's attention. He said, he is not inclined to micromanage areas and believes the staff will bring items forward as necessary. If this was not a prudent piece of equipment, it would not have been brought forward for approval and they are able to reject the bids if desired.

Alderman Wolsky mentioned, there could be a discussion in the future to determine a dollar threshold to bring to the Council for approval. He then asked for the details of the purchase and the need for an additional crane truck.

The Public Works Director said, this truck is needed in the storm sewer department to accommodate the additional storm pump stations and flood protection work. The truck that will replace the 1960's model will be in the 2019 budget because it will require a larger amount than what was budgeted this year.

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

9. The City Council approve the request from S-CORP dba The Putt District for a Specialty Restaurant Beer & Wine License operating at 17 South Main Street, Suite A, subject to approval by the Police Chief, Building Official and Fire Marshal.

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

Upon questioning by Alderman Wolsky, the City Clerk said, The Putt District did not plan to serve food when they initially opened but now they have added a snack bar and ice cream sales in the area downstairs. They have indicated they will be able to meet the food sales required to serve alcohol.

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: Jantzer, Olson, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: none.

10. The City Council approve the request from Artistic Ambiance, Inc. dba Flower Box for a Retail Beer & Wine License operating at 301 W. Burdick Expy, subject to approval by the Police Chief, Building Official and Fire Marshal.

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

Alderman Wolsky asked for clarification on the license for Artistic Ambiance, to which the City Clerk responded by saying, the license would be used to sell bottles of beer and wine in gift baskets. They also intend to have classes in an area of the building designated for 21 and over, where they will be able to serve wine.

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: Jantzer, Olson, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: none.

11. The City Council approve the attached ordinance amending Section 18-205 to eliminate inconsistency and update the numbering of the section relating to adult entertainment centers and/or sexually oriented business.

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

Upon questioning by Alderman Olson, the City Attorney confirmed, there were no substantial changes to the ordinance relating to adult entertainment centers. She explained, when the zoning code was amended, the section was renumbered from 15-5 to 15-7. The Minot Code of Ordinances was not updated to reflect those changes so it is being done now

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

12. The City Council amend and reenact the attached ordinance revision to Section 7-27 of the City of Minot Code of Ordinances relating to dangerous dogs. In addition, the current ordinance will be provided at the City Council meeting and the second reading of the ordinance, if approved on first reading, will take place at the October 1st City Council meeting.

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

Alderman Wolsky explained, he wants to ensure the second reading is considered after the special Council meetings discussing the budget take place.

Chief Olson came forward to explain the changes made in the ordinance at the request of Animal Ordinance ad hoc Committee and Council. He stated, it does not lift the ban on pit bulls but rather incorporates aspects of the Fargo ordinance to give options to the Municipal Judge. The previous ordinance listed behaviors an animal could exhibit to be declared a nuisance. Section 7-28 which referred to Nuisance Animals is repealed and Section 7-25 now lists prohibited behaviors. Section 7-30 includes language from the Fargo ordinance and contains a list of penalties the court is authorized to order.

Chief Olson further explained, the list of penalties are not in order of severity but the Judge will have the authority to choose how to penalize the action. He said, this ordinance ensures violations are brought before the judge after being issued a citation. The Judge lists a bond schedule for violations under City ordinances. If no other penalty is listed then it is treated under Section 1-8 for a B Misdemeanor which the Judge has set at a \$200 minimum bond. The maximum penalty is \$1,500 and 30 days in jail.

Upon questioning by the Council, the Police Chief explained, the Fargo ordinance is written as a substitute for a pit bull ban. Since Minot has the ban in place, it is not necessary to address the sections of their ordinance for “potentially dangerous” animals. The recommended changes give a judge the authority to determine penalties rather than the ordinance.

When asked if the City has enough staff, Chief Olson said, the changes do not increase the workload. There are currently two Animal Control Officers and when they are not on shift Patrol Officers take their calls.

Alderman Podrygula listed areas of the proposed ordinance he would like to see clarified. Section 7-27 (a) (2) states “an apparent attitude of attack,” which he suggested should be explained using examples. The Committee discussed the requirement for liability insurance and whether \$300,000 was high enough. Mayor Sipma suggested something closer to \$500,000 or \$1,000,000. Alderman Podrygula also said, Section 7-30 (b) (9) be more specific about the type of training required and should list a legitimate class.

Animal Control Officer, Bobby Roberts responded to questions about animals acting aggressively on their own property. He said the ACO’s are granted some leeway but the ordinance says, it does not apply to individuals if they enter a property uninvited or if the animal is restrained.

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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: Jantzer, Olson, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: none.

13. The City Council direct the Souris River Joint Board modify the Mouse River Enhanced Flood Protection Project to add a new 8' opening at the Anne Street Bridge and narrow the openings at the Broadway opening from 16' on each side to 8' for an additional cost of \$7,800.00 paid for using sales tax dollars for flood control.

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

Alderman Podrygula asked if the plans currently provide an opening at the Anne Street Bridge. Alderman Wolsky responded by saying, the nearest opening is three blocks away.

Alderman Jantzer reminded, the discussion that took place last year included comments that another opening in the flood wall affects the integrity of flood protection and adds additional time to install the closures. On the other hand, it is a tradeoff to the neighborhood who use the Anne Street Bridge.

Alderman Podrygula mentioned the flood wall exercise that took place in the spring and how it revealed some of the manufactured pieces were engineered incorrectly and did not fit. He was concerned that another opening is another opportunity to run into issues.

Ryan Ackerman, Administrator for the SRJB, explained, those pieces were for the other side of the river and the field test identified the problem. The contractor provided the wrong pieces and are fixing the issue at their expense. All of the pieces will be interchangeable.

Alderman Wolsky said, when adding the opening at Anne Street Bridge, they will decrease the size of the openings at Broadway which will result in less closures to place in case of an emergency. Vertical uprights are required every eight feet so by reducing the openings from sixteen feet to eight feet, it will reduce the number of pieces.

Mr. Jonasson said, even though the opening will be narrower, there will be no time savings. Staff still need to clear another opening and mobilize equipment to lift the pieces.

Mr. Ackerman confirmed for the Council, the proposed costs explained in the memo are accurate and are under contract.

Mayor Sipma commented, there were 40 years between the flood in the 1970's and 2011. Even if the Anne Street Bridge is no longer there, the neighborhood will still have access to the greenspace at that entrance. Alderman Straight also mentioned the balance between flood protection and livability and said the opening will improve resiliency.

Alderman Olson asked if there was a reason the openings at Broadway were going to be sixteen feet, such as maneuvering equipment. Mr. Jonasson responded by saying, it was an aesthetic feature and is not

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necessary for equipment. Alderman Olson brought up the pedestrian walkways included on Broadway Bridge and said she is not fond of the Anne Street Bridge.

Alderman Wolsky said, he provided the comment cards to the City Council from a public input meeting held in the neighborhood. He also said, the additional three blocks it takes to travel to the next closest opening would add about seven minutes to a person's route and if another action was taken to add seven minutes to someone's commute, they would be furious. The cost of the opening is minimal compared to the total project.

The Public Works Director requested the staff have flexibility to offset the opening from the bridge for visibility reasons and the safety of pedestrians. The Council agreed and stated, that was the accommodation in the motion by Council last year.

The Finance Director requested clarification on a funding source since the additional costs would not be eligible for State Water Commission funds.

Alderman Wolsky amended his motion to include the funding source be allocated from sales tax revenue for flood control. Alderman Straight amended his second.

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: Jantzer, Pitner, Podrygula, Sipma, Straight, Wolsky. nays: Olson.

There being no further business, the meeting was adjourned at 5:55 pm.

Respectfully Submitted,
Kelly Matalka,
City Clerk