

JAMESTOWN CITY COUNCIL
REGULAR MEETING, MARCH 5, 2007
OFFICIAL MINUTES

The regular meeting of the City Council was called to order by Mayor Liechty at 5:00 P.M.

Roll Call showed the following members present: Mayor Liechty, Council Members Heinrich, Grabinger and Parisien, City Engineer Horgan, and City Administrator Fuchs. Absent: Council Member Schulz and City Attorney Dalsted.

Council Member Heinrich moved to approve the minutes of the following meetings:

- A. Minutes of the special committee meeting, February 5, 2007
- B. Minutes of the regular council meeting, February 5, 2007
- C. Minutes of the special council meeting, February 15, 2007
- D. Minutes of the monthly committee meetings, February 20, 21 & 22, 2007
(With correction: February 20th meeting, 1st Street West Bridge motion, Liechty moved the motion and was seconded by Heinrich.)

Seconded by Council Member Parisien. Unanimous aye vote. Carried.

Council Member Grabinger moved to approve the following consent items:

- A. Resolution to approve the following performance bonds of Butler Machinery Company:
 - 1) For the guaranteed delivery of a 2007 Caterpillar, Model 950H, Loader for the Solid Waste Department, in the amount of \$195,656.00; and
 - 2) For the guaranteed buyback of the loader in the amount of \$98,000.00, after 5 years or 7500 hours, whichever occurs first.
- B. Resolution to approve the request from DuraTech Industries, Inc., for Economic Development Funds to provide \$125,000.00 in PACE match funding and \$60,000.00 in a New Jobs Training Fund Loan, with the City Share to be \$92,500.00, and paid from the City Sales Tax Fund.
- C. Resolution to approve the request of Stutsman County for Economic Development Funds in the amount of \$26,612.00, to fund the annual dues for the South Central Dakota Regional Council, with the City Share to be \$16,765.56, and paid from the City Sales Tax Fund.
- D. Resolution to de-obligate \$20,000.00 in Economic Development Funds for Jamestown Marble, with the City Share to be \$18,000.00
- E. Resolution to deny the request for an abatement from T. R. Trowbridge on Lots 20 & 21, Block 24, McGinnis 2nd Addition (517 3rd St. SE), for a reduction in True & Full Value, for the year 2005, from \$42,600.00 to \$20,000.00.
- F. Resolution to reject the offer from Jordahl Custom Homes to purchase Lot 2, Leonard's Addition (1918 11th Ave. NE), in the amount of \$2,500.00.
- G. Resolution to approve the request from the Rocky Mountain Elk Foundation Minn-Dak, Inc., for a gaming site authorization at the Knights of Columbus on March 31, 2007.
- H. Resolution to approve the request from Kirk Rosin and to waive the city fee for mowing on property he owns at 520 3rd Ave SW.
- I. Resolution to approve the application from the Buffalo City Grille, L.L.C., for an On Sale, Class D, alcoholic beverage license at 103 1st Avenue South.
- J. Resolution to authorize the City Attorney to begin discussions and negotiations with certain property owners along 25th Street SW for additional right-of-way needs and easements, to include possible sidewalk, for the potential Walmart project.
- K. Resolution to reject the bid for the sale of a 2002 John Deere Motor Grader from Iron Planet as the bid did not include the required bid bond in a separate envelope attached to the outside of the bid envelope.
- L. Resolution to award the bid for the purchase of a New Motor Grader to RDO Equipment Co., in the amount of \$183,250.00 with a trade-in of \$110,000.00 for the 2002 John Deere, for a net cost of \$73,250.00, and with a guaranteed buyback in the amount of \$119,144.00, and guaranteed maximum repairs 3000 hours or 5 years.
- M. To create 2007 Sidewalk and Curb & Gutter District #07-11 and adopt the following Resolutions:

- 1) To set up and establish the district.
- 2) To direct the City Engineer to prepare plans and specifications for the district.
- 3) To accept and approve the plans and specifications, as prepared by the City Engineer.
- 4) To direct the City Administrator to advertise for bids for the construction of the district.

N. Resolution to approve and establish a rental fee for rear-loader dump containers at \$1.25 per day or \$25.00 per month.

O. Resolution to concur with the letter of February 15, 2007, from the NDDOT relating to the responsibility for engineering costs related to the US281 and 25th Street intersection re-design with the intent of the City to seek reimbursement for these costs as part of the Developer's Agreement with Walmart.

P. Resolution to suggest to the NDDOT that the speed limit on the west end of 17th Street SW, be increased to 45 MPH.

Q. Resolution to approve Estimate No. 2 (Partial), to L.T.P. Enterprises, Inc., for construction on Phase I, Part A, Water Well Replacement, DWSRF No. 4700498-02, in the amount of \$51,322.50.

R. Resolution to allow Payment No. 7, to Advanced Engineering and Environmental Services, Inc., for services on the Wastewater Cost of Service and Rate Design Study, in the amount of \$6,527.75.

S. Motion to accept the reports of the Municipal Judge, Police Department, Fire Department, Public Works Departments, Inspection Department, Forestry Department, Promotion and Tourism Center, Central Valley Health Unit, Jamestown Safe Community Task Force, and financial status.

T. Resolution to allow the February indebtedness in the amount of \$1,607,723.51 consisting of \$356,755.37 payroll and \$1,250,968.14 general obligations.

Seconded by Council Member Heinrich. Consent Roll Call No. 1 showed: 4 ayes, 0 nays, 1 absent. Carried.

Mayor Liechty declared a conflict of interest relative to the Garden Hills Living Center Project, as she currently owns several rental properties within the city.

Council Member Grabinger moved to allow Mayor Liechty to discuss and vote on the Garden Hills Living Center issue. Seconded by Council Member Heinrich. Voice vote showed: 3 ayes (Liechty, Grabinger and Heinrich), 1 nay (Parisien), 1 absent. Carried.

Duane Barth, 919 3rd Avenue SE, spoke in opposition to the proposed valuation of \$1,240,000.00 on the Garden Hills Living Center project.

After discussion, Council Member Heinrich moved a Resolution to approve the property valuation of \$1,240,000.00 for the Garden Hills Living Center as established by the City Assessor. Seconded by Council Member Parisien. Roll Call No. 2 showed: 2 ayes (Heinrich and Parisien), 2 nays (Liechty and Grabinger), 1 absent. Not Carried.

Mayor Liechty moved a Resolution to approve the property valuation of \$2,240,170.00 for the Garden Hills Living Center. Motion died for lack of a second.

Council Member Heinrich moved a Resolution to table the Garden Hills Living Center matter to the April Council meeting. Seconded by Council Member Parisien. Roll Call No. 3 showed: 2 ayes (Parisien and Heinrich), 2 nays (Grabinger and Liechty), 1 absent. Not Carried.

The Council declared an impasse on the issue and moved on.

City Administrator Fuchs reported that City Attorney Dalsted received an email from the attorney for Northern Plains Electric to withdraw their request for a limited franchise at this time.

Mayor Liechty moved to remove from the agenda the request of Northern Plains Electric for a limited franchise to provide electricity to the proposed Wal-Mart project. Seconded by Council Member Parisien. Unanimous aye vote. Carried.

Council Member Grabinger moved a Resolution to deny the request for an abatement from Bernard & Mary Walicki on Unit #204, Hillcrest Condominiums, Solien & DeNault Hi-Acres 5th Addition (1511 3rd St SE), for a reduction in True & Full Value, for years 2005 & 2006 as follows: Year 2005 - Reduction from \$145,000.00 to \$142,000.00; and Year 2006 - Reduction from \$154,000.00 to \$151,500.00. Seconded by Council Member Heinrich. Roll Call No. 4 showed: 3 ayes (Heinrich, Grabinger and Parisien), 1 nay (Liechty), 1 absent. Carried.

Council Member Grabinger moved to approve the following Resolutions:

- A. To approve the application of Brian A. & Barbara A. Lunde for

Renaissance Zone incentives on a new condominium unit to include a five (5) year property tax exemption and a five (5) year North Dakota State income tax exemption for the property on the N.80' of Lots 9 through 12, Block 32, Original Addition, (100 1st Street East, Unit #1), subject to the filing with the City of an affidavit from the applicant which states that this property is intended to be the primary residence of the applicant.

- B. To approve the application of Eric T. Kehr for Renaissance Zone incentives on a new condominium unit to include a five (5) year property tax exemption and a five (5) year North Dakota State income tax exemption for the property on the N. 80' of Lots 9 through 12, Block 32, Original Addition, (100 1st Street East, Unit #4), subject to the filing with the City of an affidavit from the applicant which states that this property is intended to be the primary residence of the applicant.

Seconded by Council Member Heinrich. Roll Call No. 5 showed: 4 ayes, 0 nays, 1 absent. Carried.

Council Member Heinrich moved a Resolution to approve and adopt Option C of the Water Utility Rate Study to establish water rates as follows:

Business:	\$14.02 for the first 400 Cubic Feet of water used per month plus \$1.50/100 CF for all water used in excess of 400 CF
Residential:	\$14.02 for the first 400 Cubic Feet of water used per month, plus \$1.50/100 CF for all water used in excess of 400 CF
Commercial (Multiple Residential):	\$7.01 per living unit for the first 200 Cubic Feet of water used per living unit per month, plus \$1.50/100 CF for all water used in excess of 200 CF per living unit.
Mobile Home Courts:	\$7.01 per living unit for the first 200 Cubic Feet of water used per living unit per month, plus \$1.50/100 CF for all water used in excess of 200 CF per living unit

Seconded by Council Member Parisien. Roll Call No. 6 showed: 3 ayes (Heinrich, Grabinger and Parisien), 1 nay (Liechty), 1 absent. Carried.

Council Member Grabinger moved a Resolution to approve the 2007 City of Jamestown Standard Specifications, as amended by the City Engineering Department. Seconded by Council Member Parisien. Roll Call No. 7 showed: 4 ayes, 0 nays, 1 absent. Carried.

A public hearing was held concerning the special assessments on the 2006 Sidewalk, Curb & Gutter District #06-11. No one appeared to object and no written protests were received. The hearing was closed.

Council Member Parisien moved a Resolution to approve the special assessments on the 2006 Sidewalk, Curb & Gutter District #06-11, in the amount of \$132,699.55. Seconded by Council Member Heinrich. Roll Call No. 8 showed: 4 ayes, 0 nays, 1 absent. Carried.

A public hearing was held concerning special assessments for Seal Coat, Patching, Construction & Reconstruction District #06-41. No one appeared to object and no written protests were received. The hearing was closed.

Council Member Parisien moved a Resolution to accept and approve the special assessments for Seal Coat, Patching, Construction & Reconstruction District #06-41, as submitted by the Special Assessment Commission, in the amount of \$1,520,000.00, with the City Share to be \$145,555.17, and with a balance to assess against benefited properties in the amount of \$1,374,444.83. Seconded by Council Member Heinrich. Roll Call No. 9 showed: 4 ayes, 0 nays, 1 absent. Carried.

Council Member Heinrich moved to table to the April Council meeting the request of the Homeless Coalition relative to the study of homelessness within the city. Seconded by Council Member Grabinger. Unanimous aye vote. Carried.

Council Member Heinrich moved a Resolution to approve the request of Bart Davis for the City to deed back to him an approximate 40' by 202' strip of land which he had previously deeded to the City for use as a roadway on 10th Avenue SW between 25th and 28th Street. Seconded by Council Member Parisien. Roll Call No. 10 showed: 4 ayes, 0 nays, 1 absent. Carried.

Council Member Heinrich moved a Resolution to approve the concurrence of the City to award the bid for the US 281 Project to Northern Improvement Company, in the amount of \$8,137,232.06, with the City Share estimated to be \$297,283.55. Seconded by Council Member Grabinger. Roll Call No. 11 showed: 4 ayes, 0 nays, 1 absent. Carried.

A public hearing was held concerning the request to annex Block 13, Lowry's

Subdivision; except Lots 1-3, Docktor Subdivision; and except Lots 1-3, Glinz 2nd Addition, and part of the SW Quarter of Section 2, T139N, R64W.

A letter of protest to the annexation was received from Brian & Laurie Markegard, owners of Lots 1 through 3, Docktor Subdivision.

Brian and Laurie Markegard, 8253 37th Street SE, appeared before the City Council to reiterate their letter of protest.

The hearing was closed.

Council Member Heinrich moved to table to the March Finance & Legal Committee Ordinance No. 1317 pertaining to the annexation of Block 13, Lowry's Subdivision; except Lots 1-3, Docktor Subdivision; and except Lots 1-3, Glinz 2nd Addition, and part of the SW Quarter of Section 2, T139N, R64W. Seconded by Council Member Grabinger. Voice vote showed: 3 ayes (Heinrich, Grabinger and Parisien), 1 nay (Liechty), 1 absent. Carried.

A public hearing was held concerning an ordinance to amend and re-enact Ordinance No. 329 of the City Code by amending the District Map to change the zoning of Block 13, Lowry's Subdivision; except Lots 1-3, Docktor Subdivision; and except Lots 1-3, Glinz 2nd Addition, and part of the SW Quarter of Section 2, T139N, R64W, from A-1 (Agricultural District) to C-2 (General Commercial District).

Sean Smith, Wal-Mart legal counsel, appeared before the Council with general questions on the zoning process.

The hearing was closed.

Council Member Heinrich moved to table to the March Finance & Legal Committee meeting Ordinance No. 1318 pertaining to amending and re-enacting Ordinance No. 329 of the City Code by amending the District Map to change the zoning of Block 13, Lowry's Subdivision; except Lots 1-3, Docktor Subdivision; and except Lots 1-3, Glinz 2nd Addition, and part of the SW Quarter of Section 2, T139N, R64W, from A-1 Agricultural District) to C-2 (General Commercial District). Seconded by Council Member Parisien. Unanimous aye vote. Carried.

Mayor Liechty moved to appoint Dwaine Heinrich to serve as the City Council representative and John Gletne to serve as the City employee representative on the Pension Committee for terms of one (1) year to expire March 2008. Seconded by Council Member Grabinger. Unanimous aye vote. Carried.

Council Member Grabinger moved a Resolution to approve the request from the Buffalo City Gobblers, ND, to be recognized as an other public spirited organization, and to issue a permit to conduct a raffle on March 31, 2007. Seconded by Council Member Heinrich.

Council Member Heinrich moved to amend the motion to include a site authorization based on approval of paperwork by the City Administrator and City Attorney. Seconded by Council Member Grabinger. Unanimous aye vote. Carried.

Roll Call No. 12 on the Resolution, as amended, showed: 4 ayes, 0 nays, 1 absent. Carried.

Council Member Grabinger moved a Resolution to approve the request from the Jamestown Rural Fire Department, to be recognized as an other public spirited organization, and to issue a permit to conduct a raffle on June 2, 2007. Seconded by Council Member Heinrich. Roll Call No. 13 showed: 4 ayes, 0 nays, 1 absent. Carried.

Council Member Heinrich moved to approve a Resolution of Support to the Patriotic Council for a Veterans Wall Monument in the parking lot north of Schuberts. Seconded by Council Member Grabinger. Roll Call No. 14 showed: 4 ayes, 0 nays, 1 absent. Carried.

Council Member Grabinger moved to adjourn. Seconded by Council Member Parisien. Unanimous aye vote. Carried.

ATTEST:

APPROVED:

JEFF FUCHS, City Administrator

CLARICE LIECHTY, Mayor

