#### I. <u>CALL TO ORDER</u>

President Scott Decker called the meeting to order at 4:30 PM

#### II. ROLL CALL

Present were:	President Scott Decker, Vice President John Odermann,	
	Commissioners Jason Fridrich, Suzi Sobolik and Robert Baer	
Telephone:	None	
Absent:	None	

#### 1. <u>PLEDGE OF ALLEGIANCE</u>

#### 2. ORDER OF BUSINESS

MOTION BY: Jason FridrichSECONDED BY: Suzi SobolikTo approve the August 1, 2023 Order of Business as presented.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

### 3. <u>CONSENT AGENDA</u>

MOTION BY: John OdermannSECONDED BY: Robert BaerA. Approval of Meeting Minutes dated July 18, 2023.

#### B. Approval of Accounts Payable, Commerce Bank and Checkbook

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

# 4. <u>ADMINISTRATION/FINANCE</u>

## A. Chapter 11 Code Amendment

City Attorney Christina Wenko presents a Chapter 11 code amendment which proposes simply to update the penalty and misdemeanor to be with the century code. There have been no changes from the first reading and the penalty is \$1,000.

MOTION BY: Robert Baer SECONDED BY: John Odermann To approve second reading and final passage of Ordinance No. 1779.

#### ORDINANCE NO. 1779

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 11.12.010 OF THE MUNICIPAL CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO FINES AND IMPRISONMENTS

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

#### **B.** Preliminary Budget Statement

Deputy City Administrator Linda Carlson presents a preliminary budget statement. She states according to the state statute the city needs to declare what is needed in dollars to levy for property taxes. This year is the amount since 2017 at \$5,724,000. There will be 4 mills dedicated to the library and 4 mills to the airport. The valuation has gone up by \$133,244,581. This is \$1,000 dollars per mill. The airport and library will each receive approximately \$532,978.32.

MOTION BY: Jason Fridrich To approve the Preliminary Budget Statement SECONDED BY: Suzi Sobolik

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

# C. ARPA Funding Projects

Deputy City Administrator Linda Carlson states the city received \$3.6 million dollars back in 2021-2022 ARPA funding. She reviews the options for using the funding. She reviews the spreadsheet of what the city does with the funds and the rules that need to be followed in order to spend the funding. She suggests the city give SW Art Gallery and Science Center \$500,000 – with \$125,000 each year for 4 years. Also \$250,000 to Park and Rec for the community center with \$50,000 in 2023; \$100,000 in 2024 and 2025. Also \$75,000 for a feasibility assessment study for a new fire station. Ms. Carlson states the only approval she is asking for is for 2023. Dept. City Administrator Carlson states the city will treat this like any other subsidy like SW Grant and Senior Grant.

Commissioner Robert Baer states the SW Art Gallery and Science Center states has not been in business for any amount of time as this is a newly formed non-profit. If the city goes with the planned \$125,000 for 2023 and they fail where does the money go to.

City Attorney Christina Wenko states the city would have the ability to reallocate those funds if that organization is no longer viable. It does not make sense to allocate funds to something that no longer exists.

Commissioner Robert Baer does believe in arts and science and would like to see them succeed but would like to make sure this is going to work. He is concerned about the dedication of money toward this project. There is not much information or facts. This organization used to be part of the Badlands Art Association over at the college. He states the information that has been presented is found to be untrustworthy and that is why he cannot support the funding as of date. There is money for the homeless shelter and he doesn't see any money allocated this year for the shelter.

Commissioner John Odermann feels the city has gotten more from SW Art Gallery and in due diligence then any other organization that the city has given money to. The art gallery has done a business plan and 5 year Performa. The CTE is the closest to the programming structure and the city gave them \$2.5 million dollars. Commissioner Odermann is supportive of this contribution.

President Scott Decker states this allocation is year to year and not going to give the money up front until the doors open. If they close then the funds would be allowed again.

Badlands Art Association Ruth Heile states this is not a local organization. She states Badlands Art Association is the art association for the city and invites the commissioners to view their webpage. She states Badlands Art Association has been a non profit since 1977 with over 200 members from ND and surrounding states. They do significant fund raising through membership, etc. Ms. Heile thanks all their donors. She questions what the reasoning is for the city to fund competition in a none for profit organization. She would like to see the application for ARPA funding.

Commissioner Jason Fridrich states the city does give to non-profit organizations. He feels this is a quality of life for the community.

Ruth Heile states this doesn't make it a fair playing field. Badlands Art Association is an established organization and the other one is a new start up. They are in the midst of planning process and they opted to separate to pursue the new path. She is not sure why they broke away. She states when \$500,000 is being offered to the competition and she states this doesn't make for a reasonable competition.

Badlands Art Association Manager Crystal Fahlsing states this is an already established art organization in the community and this new organization has been an issue and not to have two organizations. Why not make the funds available to all organizations.

Commissioner John Odermann states the city didn't offer money to the SW Art Gallery. They had approached the city with a business plan. Commissioner Odermann is curious as to what led to the breakup of the organizations.

Todd Winter states SW Art Gallery stated that the Badlands Art Association was dragging down the new organization. They transferred money through the earnest money which was not approved by the Board and put the organization in a bind with the IRS. Their activities are unethical.

MOTION BY: Jason FridrichSECONDED BY: John OdermannTo approve \$125,000 from ARPA funding for the support of SW Art Gallery and ScienceCenter; \$50,000 for Parks and Rec and \$75,000 for fire station feasibility study.

DISPOSITION: Roll call vote...Aye 4, Nay 1 (Baer), Absent 0 Motion declared duly passed

#### **D.** Half Cent Sales Tax Appropriation to Park and Rec

Deputy City Administrator Linda Carlson states the community center which is almost 20 years old needs some capital improvements. She states the community center is in need of carpet replacement, water slide repairs, HVAC system upgrade and roof repairs. Ms. Carlson states the half cent sales tax is dedicated to the construction of a public building and can be used for the purpose of an aquatic center, gymnasium and related uses. The tax is to fund operations, maintenance and repair expenses for the community center. Ms. Carlson states staff is recommending an amendment to the 2023 budget of additional \$500,000 in subsidy to the Dickinson Parks and Rec. She is also proposing for the 2024 budget a subsidy of \$950,000 plus \$325,000 for programming projects.

MOTION BY: Suzi SobolikSECONDED BY: Robert BaerTo approve \$500,000 from the half cent sales tax funds for the Parks and Rec for 2023.

DISPOSITION:	Roll call voteAye 5, Nay 0, Absent 0
	Motion declared duly passed

#### E. Fee Schedule Amendment

Deputy City Administrator presents an amendment to the fee schedule to include the Finance Committee Board members. Ms. Carlson states she had failed to bring forward the Finance Committee on the amendment last meeting. She states the committee will get paid the same as other board members of \$100.

MOTION BY: John Odermann Adopt Resolution No. 20-2023. SECONDED BY: Suzi Sobolik

### **<u>RESOLUTION NO.</u>** 20-2023 A RESOLUTION INCREASING COMPENSATION FOR CERTAIN CITY BOARD APPOINTMENTS

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

#### F. Dickinson Theodore Roosevelt Regional Airport Budget Presentation

Airport Manager Kelly Braun presents the 2024 budget for the airport. He presents the proposed airport expenses and revenues. He states they are able to carry over a small surplus for the projects. He states they will bring the final budget to the meeting in September. He states the airport will be receiving \$532,000 from the city mills. He updates the Commissioners on the airport expansion and asking for \$3 million dollars from the city. He is hoping to have all this in place in the opening of the new terminal at the same time the presidential library is going to open.

#### G. I-94 Speed Limit Discussion between Exits

City Administrator Dustin Dassinger presents a request from home owners to reduce the speed between exit 59 and exit 64. The homeowners along this highway are concerned about accidents, etc. Administrator Dassinger is asking the Commissioners to allow the city to work with NDDOT to initiate a study.

#### MOTION BY: Jason Fridrich

SECONDED BY: Suzi Sobolik To approve the discussion with NDDOT to review the changing of speeds between exist 59 and exit 64.

DISPOSITION:	Roll call voteAye 5, Nay 0, Absent 0
	Motion declared duly passed

#### H. Memorandum of Understanding with Bravera Bank

City Administrator Dustin Dassinger presents an MOU with Bravera Bank. Administrator Dassinger states Braver bank would like the south parking lot exclusively for Bravera bank employees and not allowing anyone else to use the lot. They would like the south parking lot dedicated to Bravera employee parking Monday through Friday from 7:30 a.m. to 5:00 p.m. The south lot would be available for public parking all other hours. Bravera will maintain the south parking lot. Administrator Dassinger states the Bravera have been excellent neighbors with Legacy Square. City staff does have concerns for the south parking lot being exclusively for Bravera bank employees. He states Bravera does have a certain number of spots dedicated to their employees. Other employees from other businesses are also parking in the area. Administrator Dassinger states the city has worked with Bravera and this is quite a change as to an exclusive use. Administrator Dassinger states it would be Bravera's responsibility to regulate who parks in the parking lot. They generally let the city set up for the Legacy Square at 5:00 p.m.

President Scott Decker suggests to table this item until the redesign and striping is complete.

Commissioner Jason Fridrich stated the intention was that the city traded lots with them that the east half of the south lot was to use exclusively for them. They have worked well with the city and they are asking for the parking lot for their intent.

City Attorney Christina Wenko state it is probably not a bad idea to set out if the intent is to use the parking lot for Legacy Square events. The agreement may change after 15 years and different commissioners on the board. She states Bravera has been excellent in that respect of the square.

MOTION BY: Robert Baer SECONDED BY: Suzi Sobolik To table the Bravera parking lot discussion until the next meeting.

DISPOSITION:

Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

5. PUBLIC WORKS A. Reports: None

#### 6. **PUBLIC SAFETY**

A. Fire Department

#### **Monthly Fire Department Report:**

Fire Chief Jeremy Presnell updates the commission on the June Fire Department report. Chief Presnell states there were 162 calls for June. Most call types were EMS calls and then false alarm or good intent calls. He states Station #1 sees most calls in the area at 57%. The response times for June were very good. There were 1,265 hours of training which puts the department just under 8,000 hours of training for the year. Chief Presnell states the reason for the improvement in response times is that the firefighters are getting into their vehicles quicker and making sure they are getting on the road.

# 7. <u>COMMUNITY DEVELOPMENT SERVICES</u>

A. Special Use Permit – 849 16<sup>th</sup> Avenue East

City Planner Matthew Galibert presents a special use permit for 849 16<sup>th</sup> Avenue East. He states this is for a home based business for dog grooms. Planner Galibert reads the conditions for this permit. He states there were no public comments at the Planning and Zoning meeting.

City/County Planner Steven Josephson states that in her application she would only take six dogs per day. He states there are special conditions with this special use permit. Planner Josephson states they have asked the applicant to draft a business plan as part of their proposal for the special use permit. He states if the city does get complaints then they would inspect the property.

Commissioner Suzi Sobolik states that six dogs per day would not impede the neighbors. She states this condition is good to have in the application.

MOTION BY: Jason Fridrich Adopt Resolution No. 21-2023.

SECONDED BY: Robert Baer

# RESOLUTION NO. 21-2023

A RESOLUTION APPROVING A SPECIAL USE PERMIT TO THE BARKING LOT FOR A DOG GROOMING FACILITY LOCATED AT 849 16<sup>th</sup> AVE EAST, DICKINSON, ND

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

#### **B.Rezone Request – Riverview Addition Subdivision**

City/County Planner Steven Josephson presents a rezone request for Riverview Addition Subdivision and Lots 15-20, Block 2 of Fischer's Addition Subdivision. This consists of 2.08 acres. He states this is the second reading and no changes from the first reading.

MOTION BY: Suzi SobolikSECONDED BY: Jason FridrichTo approve second reading and final passage of Ordinance No. 1780.

#### ORDINANCE NO. 1780

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

#### C. Rezone Request – District Addition Subdivision

City/County Planner Steven Josephson presents a rezoning request for a property legally described as Lot 4, Block 1 of the District Addition Subdivision. This site consists of 5.47 acres. There are no changes from the first reading. This development would have limited commercial usages.

MOTION BY: Robert BaerSECONDED BY: Suzi SobolikTo approve second reading and final passage of Ordinance No. 1781.

# ORDINANCE NO. 1781

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR

# TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

#### D. Sundance Coves Bid Award SID

Engineering and Community Development Director Josh Skluzacek presents a bid for Sundance Coves special improvement district. The bids were open on July 19, 2023 and the city received 3 bids. The low bid was for \$378,500 from Denny's Electric. The engineering estimate is \$466,000. Director Skluzacek reviews the information and recommends approval.

MOTION BY: Robert BaerSECONDED BY: Suzi SobolikTo approve the bid award to Denny's Electric for Sundance Coves SID.

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

### 8. <u>PUBLIC HEARING AND PUBLIC COMMENTS NOT ON AGENDA – 5:00 P.M.</u> A. TC Energy and Marathon Presentation

TC Energy Representative Ms. Tayla Snapp and Marathon Representative Ms. Kate Klossner provided information on the proposed hydrogen plant which would be a low carbon project in the ETZ of the city. This proposed project would be just north of Marathon at the former BOE terminal. There will be a community open forum on August 23, 2023 at 4:00 p.m. at the BAC. This project is funded through clean sustainability fund. They have also applied to the Department of Energy for hydrogen funding. This project is in the early stages at this time. They state this is a business friendly state. She states hydrogen is new to the county. There are multiple uses for hydrogen which include semis, tractors, combines, etc. They state there is a lot of different pieces of this project that are still in the works.

Mr. Dean Burwick would like to know what the hydrogen is going to be used for, where is going to be shipped to and where it is going to be stored. Mr. Burwick has many questions in regards to the new project.

#### B. Public Hearing – Rezoning Request – Lot 1, Block 6, Pinecrest Subdivision

City Planner Matthew Galibert presents a rezoning request for Pinecrest Subdivision. He states this request is from AG to High Density Residential. He states initially the applicant wanted to go to GC. The future land use map was different so the applicant decided to go to R3. This would be a better fit the access road. The entire lot is zoned AG and they are asking to be rezone to R3. There have been no public comments.

City Attorney Christina Wenko states this particular area had to some vacation of plats and then the city deannexed some of the parcels. This is a highly active area.

Ms. Toni Haider who owns this property since 2012 states there are two parcels in one lot. They have been taking taxes and they are trying to sell the lot. The recorder would like to have a better boundary. There would like to have a crystal clear idea of who owns this property and the boundary lines. She states they would like to put the land for sale.

President Scott Decker opens the public hearing at 5:23 p.m. Hearing no public comments, the hearing is closed at 5:24 p.m. and the following motion is made.

MOTION BY: Robert Baer To approve first reading of Ordinance 1782 SECONDED BY: Suzi Sobolik

# ORDINANCE NO. 1782

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE ZONING JURISDICTION OF THE CITY OF DICKINSON, NORTH DAKOTA.

#### DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

#### C. Public Hearing – Chapter 23 Code Amendment

City Attorney Christina Wenko presents a Chapter 23 amendment. She states every legislative session the city goes in and check on the updated codes. There were quite a few changes to the criminal statutes. There are additional changes needed to the current city code. She explains there are changes to seat belts, you can now be stopped for not wearing a seatbelt. The only way you would not have to wear a seatbelt is if there was a medical condition and you would need a doctor's excuse on why you are not wearing a seatbelt. There are also changes to child restraints, stop signs, road closures, rotary traffic islands, windshield and tint, registration of vehicles, and DUI laws. She states this clarification will help officers to enforce violations.

Police Chief Joe Cianni does not believe this covers the side windows other then the two front side windows. The front windshield on the top of the window and the front left and right side windows. He states the language in this specific code for window tint was not clear and not it is cleaned up.

President Scott Decker opens the public hearing at 5:35 p.m. Hearing no public comments, the hearing is closed at 5:36 p.m. and the following motion is made.

MOTION BY: John Odermann To approve first reading of Ordinance No. 1783. SECONDED BY: Jason Fridrich

ORDINANCE NO. 1783

AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 23.68.015, 23.68.020, 23.32.020, 23.36.175 AND ENACTING SECTIONS 23.36.125, 23.68.060, 23.76.170, AND 23.76.015 OF THE MUNICIPAL CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO CHAPTER 23 MOTOR VEHICLES AND TRAFFIC

DISPOSITION: Roll call vote...Aye 5, Nay 0, Absent 0 Motion declared duly passed

**D. Public Comments not on Agenda** None

# 9. <u>COMMISSION</u>

Commissioner Robert Baer discusses the last commission meeting where a business came into to strong arm the city to have their event on the pavement during Legacy Square events. He states the vendor who bid on the liquor license placed \$10,000 dollars for the bid and 20% of the profits and now there is someone trying to sabotage the situation. He states that this business who came in states that the city is preventing them from feeding their family. Commissioner Baer states that when he goes to events he sees intimidation going on from this business. He states commissioners need to protect whomever bids on the liquor license for Legacy Square as no one may bid again on this project. He feels if this business would like to open up at 6 p.m. they should give the city 20% of their profits. He states right now this business is giving the city nothing and is taking away from the vendor who bid on the square. He has a concern of what he is seeing taking place.

President Scott Decker appreciates Commissioner Baer's point. President Decker feels the tactics could have been done in a different manner. He has been checking this business to see if they have their sidewalk opened earlier and he doesn't think the current awardee has anything to be afraid of. President Decker states he has not seen any intimidation on the square property. He feels the business in question is gathering information to see if they would like to bid next year. He states Legacy Square has had some successful nights. He states geotherm shows that the city has had 1300 to 1500 people per night.

City Administrator Dustin Dassinger states that Marketing Director Joel Walters will be having a report on the Legacy Square next meeting.

# **ADJOURNMENT**

MOTION BY: Suzi Sobolik Adjournment of the meeting was at 6:35 P.M. SECONDED BY: Jason Fridrich

DISPOSITION: Roll call vote... Aye 5, Nay 0, Absent 0 Motion declared duly passed.

OFFICIAL MINUTES PREPARED BY:

Rita Binstock, Assistant to City Administrator

APPROVED BY:

Dustin Dassinger, City Administrator

Scott Decker, President Board of City Commissioners

Date: August 15, 2023