

March 18, 2019

**PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF GRAND FORKS, NORTH DAKOTA
March 18, 2019**

The city council of the city of Grand Forks, North Dakota met in the council chambers in City Hall on Monday, March 18, 2019 at the hour of 5:30 o'clock p.m. with Mayor Brown presiding. Present at roll call were Council Members Weigel, Dachtler, Weber, Mock, Marshall, Vein - 6; absent: Sande - 1.

Mayor Brown announced that anyone wishing to speak to any item may do so by being recognized prior to a vote being taken on the matter, and that the meeting is being televised.

**PROCLAMATION – NEUROMYELITIS OPTICA
AWARENESS MONTH MARCH 2019**

Mayor Brown read a proclamation designating March 2019 as Neromyelitis Optica Awareness Month.

EMPLOYEE RECOGNITION

Mayor Brown recognized the following city employees for their years of service:

- Get from john

LEGISLATIVE UPDATE

Council Member Weber shared information from the National League of Cities conference including a national economic overview, impacts of the federal shutdown, topics covered in meetings with our congressional delegation, and funding updates on a variety of programs. Mayor Brown commented on the surface transportation funding package and reauthorization of the FAST act possibly this summer, with Sen Kramer in a key position to assist us with transportation needs. Council Member Vein provided information on the federal Opportunity Zone Program and also gave updates on various bills that we are tracking and providing information on for the State Legislature.

FLOOD ACTION PLAN UPDATE

Al Grasser, City Engineer, provided information on planning and preparation for the anticipated flood event. Current predictions are 50% chance of a 50.6' crest which would be major flood event. 1997 crest was 54.6. He provided information on various impacts as the river rises and associated closures that will occur. A flood emergency will be declared soon and there have been conversations that FEMA will back date the emergency event to include the snow events which would make them eligible for reimbursement. General overview is the city is prepared and other than potential bridge and trail closures should not have concerns.

**PUBLIC HEARING AND APPROVE 2018 CONSOLIDATED
ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)**

The staff report from the community development department relating to the 2018 Consolidated Annual Performance and Evaluation Report (CAPER) with a recommendation to hold a public hearing and authorize staff to submit the report to Housing and Urban Development (HUD).

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Mayor Brown opened the public hearing, there were no comments and the public hearing was closed. Motion by Council Member Vein, second by Council Member Weigel, that the report be approved and direct staff to submit the report to HUD. Motion carried unanimously.

ADOPT ORDINANCE NO. 4701 AMENDING THE ZONING MAP TO REZONE
AND INCLUDE WITHIN THE COLUMBIA PARK WEST PUD (PLANNED UNIT
DEVELOPMENT), CONCEPT DEVELOPMENT PLAN, AMENDMENT NO. 6,
LOT 3, BLOCK 1, OPPORTUNITY PARK FIRST RESUBDIVISION

An ordinance entitled “An ordinance to amend the zoning map to rezone and exclude from the Columbia Park West PUD (Planned Unit Development), Concept Development Plan, Amendment No. 5 and to include within the Columbia Park West PUD (Planned Unit Development), Concept Development Plan, Amendment No. 6, Lot 3, Block 1, Opportunity Park First Resubdivision to the City of Grand Forks, ND, located at South 42nd Street and 36th Avenue South”, which had been introduced and passed on its first reading February 19, 2019, and upon which public hearing was set for this evening, was presented and read for consideration on second reading.

Mayor Brown opened the public hearing, there were no comments and the public hearing was closed.

The staff report from the planning department relating to final approval of Columbia Park West PUD Amendment No. 6, as it relates to hard surface requirements, with a recommendation to give final approval of an ordinance to amend the zoning map to rezone and exclude from Columbia Park West PUD (Planned Unit Development), Concept Development Plan, Amendment No. 5 and to include within the Columbia Park West PUD (Planned Unit Development), Concept Development Plan, Amendment No. 6, Lot 3, Block 1, Opportunity Park First Resubdivision.

It was moved by Council Member Weber and seconded by Council Member Marshall that this recommendation be approved. Motion carried unanimously.

Upon call for the question of adoption of the ordinance and upon roll call vote, the following voted “aye”: Weigel, Dachtler, Weber, Mock, Marshall, Vein – 6; those voting “nay”: none. Mayor Brown declared the ordinance adopted.

INTRODUCE ORDINANCE RELATING TO NUMBER OF
GAMING SITE ALLOWED

The staff report from the finance department relating to consideration of an amendment to City Code Chapter IX, Article 4, Section 9-0404(1) relating to Gaming – General Provisions, Number of locations, with a recommendation to review the request from Listen, Inc. and consider increasing the number of allowed gaming sites from 7 to 10.

It was moved by Council Member Mock and seconded by Council Member Weber to recuse Council Member Marshall from voting on this item. Motion carried unanimously.

It was moved by Council Member Mock and seconded by Council Member Weber to give preliminary approval of an ordinance to increase the number of gaming sites an organization is allowed to have from 7 to 10 sites. Motion carried 5 votes affirmative, with Council Member Marshall recused.

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Council Member Vein introduced an ordinance entitled “An ordinance amending Section 9-0404(1) and 9-0404(3) of the Grand Forks City Code relating to Gaming General Provisions”, which was presented, read, and passed on its first reading.

INTRODUCE ORDINANCE AMENDING SECTION 21-0205
RELATING TO DOMESTIC DISTILLERIES

The staff report from the finance department relating to a request from Red Pine Distillery for creation of a Class 12 Domestic Distillery license, with recommendation to review the request and if approved, introduce an ordinance amending city code to create the license.

Howard Swanson, City Attorney, commented that following the committee meeting he had been contacted regarding the amount of samples allowed, which in the draft is listed as 6 oz. samples, which is what is listed for some other licenses for beer and wine, but that may be too high given the concentration of alcohol in hard liquor. He will research this and bring additional information on this to City Council for their information prior to final action on this item.

It was moved by Council Member Weigel and seconded by Council Member Dachtler to introduce an ordinance amending Section 21-0205 of city code to include a Class 12 Domestic Distillery License. Motion carried 5 -1, with Council Member Weber dissenting.

Council Member Vein introduced an ordinance entitled “An ordinance amending Section 21-0205 of the Grand Forks City Code relating to Domestic Distilleries”, which was presented, read and passed on its first reading.

INTRODUCE ORDINANCE RELATING TO DOOR-TO-DOOR SALES

The staff report from the finance department relating to introduction of an ordinance to amend City Code to repeal Article 12 of Chapter XXI relating to Transient Merchants and re-enact Article 12 of Chapter XXI relating to Door-to-Door Sales and Solicitation, with a recommendation to give preliminary approval of the ordinance.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved. Motion carried unanimously.

Council Member Vein introduced an ordinance entitled “An ordinance repealing Article 12 of Chapter XXI relating to Transient Merchants and re-enacting Article 12 of Chapter XXI of the Grand Forks City Code relating to Door-to-Door Sales and Solicitations”, which was presented, read and passed on its first reading.

INTRODUCE ORDINANCE RELATING TO VIOLATIONS, PENALTIES,
NOTICE, AND APPEAL OF TOBACCO LICENSING VIOLATIONS

The staff report from the city attorney relating to an ordinance amending Section 21-2808 relating to violations, penalties, notice, appeal of tobacco licensing violations, with a recommendation to give preliminary approval of the ordinance.

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It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved. Motion carried unanimously.

Council Member Vein introduced an ordinance entitled “An ordinance amending Section 21-2808 of the Grand Forks City Code relating to violations, penalties, notice, appeal of tobacco licensing violations”, which was presented, read and passed on its first reading.

INTRODUCE ORDINANCE RELATING TO HEARING ON ALLEGED VIOLATIONS OF ALCOHOLIC BEVERAGE ORDINANCES

The staff report from the city attorney relating to an ordinance amending Section 21-0234 relating to hearing on alleged violations for violation of alcoholic beverage ordinances, with recommendation to give preliminary approval of the ordinance.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved. Motion carried unanimously.

Council Member Vein introduced an ordinance entitled “An ordinance amending Section 21-0234 of the Grand Forks City Code relating to hearing on alleged violations”, which was presented, read, and passed on its first reading.

INTRODUCE ORDINANCE RELATING TO NONSUBSTANTIVE CORRECTIONS OF ORDINANCES AND CITY CODE REVISIONS

The staff report from the city attorney relating to an ordinance adopting Section 3-0402 relating to nonsubstantive corrections or ordinances and city code revisions, with a recommendation to give preliminary approval of the ordinance. An amended copy of the ordinance was presented including revisions approved at the Committee of the Whole meeting to remove the phrase “including but not limited to”, and further that the City Attorney will provide a semi-annual report to City Council of any such changes made.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved.

Council Member Vein introduced an ordinance entitled “An ordinance adopting Section 3-0402 of the Grand Forks City Code relating to nonsubstantive corrections of ordinances and city code provisions”, which was presented, read, and passed on its first reading.

APPROVE NOISE VARIANCE AND REQUEST FOR CO-MINGLING FROM BRICK & BARLEY FOR HUGO’S SUMMER CONCERT SERIES

The staff report from the public information center relating to a noise variance and request for co-mingling during the Hugo’s Concert Series/Brick & Barley Third Street Concerts, scheduled for May 11, June 15, July 13, July 25, and August 24, 2019, with a recommendation to approve the request subject to final review and approval of city departments.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved. Motion carried unanimously.

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**ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS
FOR PROJECT NO. 8042, DISTRICT NO. 738**

The city engineer's estimate of total cost of the construction of paving for University Avenue Reconstruction (Coulee to Columbia) and medians and street lights (Coulee to 42nd Street), in the amount of \$13,270,416.00 was presented and read.

The staff report from the engineering department relating to plans and specifications for Project No. 8042, District No. 738, University Avenue Reconstruction (Coulee to Columbia) and Medians & Street Lights (Coulee to 42nd Street), with a recommendation to approve the plans and specifications.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved and a resolution approving the plans and specifications be adopted. Motion carried unanimously.

(Please note: For tracking purposes only, the watermain replacement portion of this project is being tracked under Project No. 8025.1. All costs associated with that project are being accounted for under the main Project No. 8042.)

**ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS
FOR PROJECT NO. 7903, DISTRICT, NO. 552; PROJECT NO. 7904,
DISTRICT NO. 338; AND PROJECT NO. 7905, DISTRICT NO. 553**

The city engineer's estimate of total cost of the construction of sanitary sewer, watermain and storm sewer to serve Opportunity Park 1st Resubdivision, in the amount of \$\$571,887.36, \$298,241.82, and \$89,628.44, respectively, for a total cost of \$959,757.62 was presented and read.

The staff report from the engineering department relating to plans and specifications for Project No. 7903, District No. 552; Project No. 7904, District No. 338; and Project No. 7905, District No. 553, Sanitary Sewer, Watermain, and Storm Sewer for Opportunity Park 1st Resubdivision, with a recommendation to approve the plans and specifications.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved and a resolution approving the plans and specifications be adopted. Motion carried unanimously.

**RECEIVE TABULATION OF BIDS, ESTIMATE OF TOTAL COST
AND AWARD CONTRACT, STORM SEWER AND PAVING/STREET
LIGHTING FOR PROJECT NO. 7963, DISTRICT NO. 221
AND PROJECT NO. 7977, DISTRICT NO. 733**

The city auditor presented and read tabulation of bids which had been received and opened on March 4, 2019, for storm sewer Project No. 7963, District No. 221 and paving/street light Project No. 7977, District No. 733, indicating that Paras Contracting, Inc. was the low bidder in the amount of \$229,696.55 and \$860,748.15, respectively, for a total bid of \$1,090,444.70.

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The city engineer's estimate of total cost for Project No. 7963, District No. 221, in the amount of \$284,285.00, and Project No. 7977, District No. 733, in the amount of \$1,067,328.15, was presented and read.

The staff report from the engineering department relating to consideration of bids for Project No. 7963, District No. 221 and Project No. 7977, District No. 733, storm sewer and paving/street lighting for Kings View 7th Resubdivision, with recommendation to award the contract to low bidder, Paras Contracting, Inc. in the amount of \$229,696.55 and \$860,748.15, respectively, for a total bid of \$1,090,444.70.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved and a resolution awarding the contract to Paras Contracting, Inc. be adopted. Upon roll call vote, those voting "aye": Weigel, Dachtler, Weber, Mock, Marshall, Vein – 6; those voting "nay": none. Mayor Brown declared the resolution adopted and the contract awarded.

REJECT BIDS FOR PROJECT NO. 7922, DISTRICT NO. 556

The city auditor presented and read tabulation of bids which had been received and opened on March 4, 2019, for storm sewer Project No. 7922, District No. 556, indicating that Northcat Excavating, LLC was the low bidder in the amount of \$40,956.00.

The staff report from the engineering department relating to consideration of bids for Project No. 7922, District No. 556, storm sewer for Intersection of 12th Ave N & North 53rd Street, with recommendation to reject all bids and direct staff to continue work on the project and bring back a revised engineer's report at a future date.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved. Motion carried unanimously.

APPROVE SOLE SOURCE PURCHASE OF TRANSPORT TUBE FOR WASTEWATER TREATMENT PLANT

The staff report from the water works department relating to a transport tube replacement part at wastewater treatment plant, with a recommendation to approve the sole source purchase of parts to replace the transport tube at the Wastewater Treatment Plant.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved. Motion carried unanimously.

ACCEPT PETITION TO VACATE PORTION OF CORNELL STREET LYING BETWEEN BLOCKS 1 AND 2, UNIVERSITY PLACE ADDITION

The staff report from the planning and zoning commission relating to a request from the University of North Dakota for approval to vacate the portion of Cornell Street lying between Blocks 1 and 2, University Place Addition, excepting and reserving the westerly half for use as a utility easement and to set a public hearing as prescribed by law, with recommendation to give preliminary approval of the vacation and set a public hearing.

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It was moved by Council Member Marshall and seconded by Council Member Vein that the recommendation be approved and to set public hearing for May 6, 2019. Motion carried unanimously.

ACCEPT PETITION TO VACATE PORTION OF
OXFORD STREET LYING BETWEEN BLOCKS
12 AND 13, UNIVERSITY PLACE ADDITION

The staff report from the planning and zoning commission relating to a request from the University of North Dakota for approval to vacate the portion of Oxford Street lying between Blocks 12 and 13, University Place Addition, excepting and reserving a utility easement and to set a public hearing as prescribed by law, with recommendation to give preliminary approval of the vacation and set a public hearing.

It was moved by Council Member Marshall and seconded by Council Member Vein that the recommendation be approved and to set public hearing for May 6, 2019. Motion carried unanimously.

PRELIMINARY APPROVAL OF PLAT AND
INTRODUCE ORDINANCE TO AMEND STREET
AND HIGHWAY PLAN TO INCLUDE R/W
SHOWN AS DEDICATED ON THE PLAT OF
UNIVERSITY PLACE FIRST RESUBDIVISION

The staff report from the planning and zoning commission relating to a request from the University of North Dakota for preliminary approval of the plat of University Place First Resubdivision to the City of Grand Forks, North Dakota, located between 5th Avenue North and University Avenue, with a recommendation to give preliminary approval to the request, subject to the conditions shown on or attached to the review copy, also to include preliminary approval of the Street and Highway Ordinance, and set a public hearing for April 15, 2019.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved and a public hearing set for April 15, 2019. Motion carried unanimously.

Council Member Vein introduced an ordinance entitled “An ordinance to amend the Street and Highway Plan of the City of Grand Forks, North Dakota, to include the public rights-of-way shown as dedicated on the plat of University Place First Resubdivision to the City of Grand Forks, North Dakota”, which was presented, read, and passed on its first reading.

PRELIMINARY APPROVAL OF PLAT AND
INTRODUCE ORDINANCE TO AMEND STREET
AND HIGHWAY PLAN TO INCLUDE R/W
SHOWN AS DEDICATED ON THE PLAT OF
SHANNAHAN FIRST ADDITION

The staff report from the planning and zoning commission relating to a request from MinnKota Power Cooperative, on behalf of Guy Useldinger, LLLP, for preliminary of the plat os Shannahan First Addition to the City of Grand Forks, North Dakota, located in the 2900 Block of 62nd Ave S, west of South Columbia Road, subject to the conditions shown on or attached to the review copy, to include preliminary

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approval of the Street and Highway Ordinance and approval of a variance to the Subdivision Regulations relating to level 4 access control, and to set a public hearing for April 15, 2019.

Brad Gengler, City Planner, reviewed the request which would construct an electrical substation on the property, as a joint project with NoDak Electric Cooperative. The substation is needed due to the growth in the southend of Grand Forks and will increase the stability of the electrical service. Brian Hoffarth, MinnKota, was joined by Jay Bushy and Steve Breidenbach, NoDak, to provide more details on the development plan. They have obtained permission from the property owner for construction of the project and shared design plans for landscaping and screening that will make the property aesthetically pleasing. Construction timeframe for the project is to begin this fall with completion June 2020.

It was moved by Council Member Weigel and seconded by Council Member Mock that the recommendation be approved and a public hearing set for April 15, 2019. Motion carried unanimously.

Council Member Vein introduced an ordinance entitled “An ordinance to amend the Street and Highway Plan of the City of Grand Forks, North Dakota, to include the public rights-of-way shown as dedicated on the plat of Shannahan First Addition of the City of Grand Forks, North Dakota”, which was presented, read, and passed on its first reading.

INTRODUCE ORDINANCE TO AMEND TEXT OF THE
LAND DEVELOPMENT CODE, CHAPTER XVIII OF THE
GRAND FORKS CITY CODE, RELATING TO PERMITTED
SIGNS IN RESIDENTIAL ZONING DISTRICTS

The staff report from the planning and zoning commission relating to a request from the planning department, on behalf of the City of Grand Forks, for preliminary approval of an ordinance to amend the text of the Land Development Code, Chapter XVIII of the Grand Forks City Code of 1987, as amended, amending Article 3, Rules and Regulations; Section 18-0301 Signs, relating to signs in residential zoning districts, with a recommendation to give preliminary approval of the ordinance and set a public hearing for April 15, 2019.

It was moved by Council Member Marshall and seconded by Council Member Vein that this recommendation be approved and a public hearing set for April 15, 2019. Motion carried unanimously.

Council Member Vein introduced an ordinance entitled “An ordinance amending Chapter XVIII, Article 3, Section 18-0204 Rules and Definitions and Section 18-0301 Signs of the Grand Forks City Code relating to signs in the R-1, R-2, R-3, R-4, R-5, and R-M Districts”, which was presented, read, and passed on its first reading.

INFORMATION ITEMS

The Investment Portfolio Summary as of January 31, 2019 was presented for council’s information.

APPROVE BILL LISTING

Vendor Payment Listing 19-6, dated February 19, 2019 totaling \$4,622,167.17, was presented and read.

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It was moved by Council Member Marshall and seconded by Council Member Vein that these bills be allowed and that the city auditor be authorized to issue warrants in payment of the same. Upon roll call the following voted “aye”: Council Members Weigel, Dachtler, Weber, Mock, Marshall, Vein – 6; voting “nay”: none. Mayor Brown declared the motion carried and the bills ordered paid.

APPROVE MINTUES OF JANUARY 22,
FEBRUARY 4 AND 22, 2019 MEETINGS

The minutes of the January 22, February 4 and February 22, 2019 City Council meeting were presented and read.

It was moved by Council Member Weber and seconded by Council Member Dachtler that the minutes be approved. Motion carried unanimously.

ADJOURN

It was moved by Council Member Vein and seconded by Council Member Marshall that we adjourn at 7:15 p.m. Carried 6 votes affirmative.

Respectfully submitted,

Maureen Storstad
City Auditor

Approved:

Michael R. Brown, Mayor

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