

November 18, 2019

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

The city council of the city of Grand Forks, North Dakota met in the council chambers in City Hall on Monday, November 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, Sande, Vein-7; absent: None.

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.

MAYOR'S ANNOUNCEMENT

Mayor Brown commented on the following:

- Thanked Public Works for their work in the leaf collection program and noted that so far they have collected 800 tons of leaves.
- Invited all to attend the annual Holidazzle Festival in downtown Grand Forks this Sunday
- Congratulated UND athletics teams for the wins over the past weekend
- Sent a greeting to the UND presidential candidates that are visiting this week.

RECOGNITION OF MICHAEL DULITZ – TRAILBLAZER AWARD

Mayor Brown recognized Michael Dulitz, Opiate Response Project Coordinator, on recently receiving the Trailblazer Award from Governor and First Lady Burgum at the Recovery Reinvented Conference held last week in Bismarck. The award recognizes the impact that his work in the community has had on the perception of addiction and recovery. Dulitz expressed appreciation for the award and the support of the community which made it possible for him to receive the award.

**PROCLAMATION – EMPIRE ARTS CENTER DAY,
NOVEMBER 10, 2019**

Mayor Brown read a proclamation designating November 10, 2019 as Empire Arts Center Day in recognition of their 100 year anniversary.

**APPROVE CLASS 3 (OFF- AND/OR ON-SALE BEER & WINE)
ALCOHOLIC BEVERAGE LICENSE FOR NORTHERN AIR
FAMILY FUN CENTER, INC.**

The staff report from the finance director relating to an application for a Class 3 (Off- and/or On-Sale Beer & Wine) Alcoholic Beverage License from Northern Air Family Fun Center, Inc., dba Northern Air Family Fun Center, with a recommendation to review the application and if approved, approval should be subject to final review and approval of various city departments and payment of appropriate fees.

Mayor Brown made a statement of support for the project and the commitment and investment that the business owner is making which will provide an amenity to the community that is currently not available. He thanked Mr. Lee for his willingness to answer questions and provide information to the City Council and citizens.

November 18, 2019

Council Member Sande stated that based on the information that has been provided, he believes that this application does meet the requirements of City Code and noted that this is a local family owned business that is looking to make a substantial investment to diversify their business and believes that we should support that.

It was moved by Council Member Sande and seconded by Council Member Weigel that the application be approved.

Council Member Marshall inquired whether the City Council is required to issue the license if it meets City Code. Howard Swanson, City Attorney, stated that liquor is different from other types of licenses and issuance is not mandatory, but that City Council has discretion in issuance. He continued that issuance of the alcohol licenses cannot be delegated under both state and city law; that an approval can impose restrictions or conditions. He stated that City Council can consider whether this is their primary business, a restaurant designation has a definition listed in City Code in that meals must be prepared and served on site, and the amount of food needs to be equal or more than the sales of alcohol. He noted that renewals of licenses can be delegated and have historically been approved administratively.

Julie Rygg, Executive Director of the Greater Grand Forks Visitors Bureau, stated that this is a locally owned and operated business expanding in the community and adding more amenities that now appeal to new ages and supports this as it does add to the activities that visitors to the community as well as residents can enjoy.

Mark Guy, 2165 44th Ave S, stated that he has visited the website and looked at the activities available. He expressed support of maintaining an alcohol free area for families to enjoy, as that is lacking in the community. He also suggested that perhaps there was a way to separate the ax throwing and alcohol area from the rest of the facility.

Cynthia Schabb, 2418 West Fallcreek Court, commented against issuance of the license, citing the alcohol use statistics for the community and other information that has been provided by organizations working with substance abuse in the community. If City Council did decide to grant the license, she suggested perhaps restricting the hours and areas where alcohol could be served.

Barry Wilfhart, President of The Chamber, spoke in support of the license approval, that the investment of businesses within the community is important to the growth and vitality of the community, as they attract visitors and having more amenities encourages longer stays within the community. He added that having amenities available also attracts and retains community members.

Council Member Vein commented that it is good to see a local business expanding, that they have been a gem in the community and a great place for youth and other ages to find recreation. He continued that the addition of the restaurant will be good for the business, and while he would normally be opposed to this item, he also understands the need for a business to be profitable and grow. He suggested that perhaps a compromise such as adding a half wall for separation of the restaurant area on the main level. He also had a concern of youth in the upstairs lounge area near the ax throwing. Brian Lee, owner of Northern Air Family Fun Center, provided information regarding his policies, that youth 8 and up will only be allowed upstairs in the throwing area if they are accompanied by a parent and are actually throwing and will be required to leave once their throwing is completed. He provided information to the Council regarding other similar facilities, that of the 128 affiliates nationwide he contacted, all allow minors and

November 18, 2019

alcohol at their facility either hold their own alcohol license or allow patrons to bring in their alcohol. The 25 entities that don't currently hold an alcohol license are in the process of obtaining one.

The Council discussed with Mr. Lee the proposed hours of operation, whether there could be alcohol free times. Mr. Lee stated that he does not have plans to set aside designated hours for no alcohol service at this time, but could, just concerned that isn't requested of other licenseholders and if someone wanted to rent the facility and have no alcohol service during their rental would accommodate that. Lee continued that he is aware of the effects of alcohol, taught at a residential treatment facility for 10 years, has foster kids, and started this business to give kids an outlet and is now trying to do the same for adults with this expansion. He stated that he does not believe that alcohol will be a large source of revenue, but there are some that will want that available to come to the facility.

Council Member Weigel stated that he feels like City Council is trying to tell Mr. Lee how to run his business and that we are talking about being more restrictive for this business than other similar businesses, that Mr. Lee is taking a risk by adding alcohol and the ax throwing, and that he supports approval of this item.

It was moved by Council Member Vein to amend the motion on the floor to require a half wall be constructed to separate the restaurant area. Council Member Marshall seconded the motion. When asked, Mr. Lee stated that adding that would not be a hardship. Upon call for the question, the motion to amend passed 5-2, with Council Members Weigel and Dachtler dissenting.

Upon call for the question on the motion as amended, motion passed 6-1, with Council Member Dachtler dissenting.

INTRODUCE ORDINANCE TO AMEND CITY CODE RELATING TO FOOD LICENSES

The staff report from the health department relating to food license code updates, with a recommendation to introduce and give preliminary approval of an ordinance to update food code to include licenses for soup kitchens, food pantries, and childcare facilities, which will bring our code in line with the state licensing requirements, to set the fees for these new types of license at zero, and to modify the requirements to qualify as a mobile food unit.

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

Council Member Sande introduced an ordinance entitled "An ordinance amending Section 21-0701 of the Grand Forks City Code relating to regulation of food and drink establishments; Section 21-0711 of the Grand Forks City Code relating to special requirements; and Section 21-0712 of the Grand Forks City Code relating to regulation regarding temporary restaurants", which was presented, read and passed on first reading.

November 18, 2019

**APPROVE REAPPOINTMENT TO GREATER
GRAND FORKS VISITOR'S BUREAU BOARD**

The staff report from the mayor relating to reappointment to the Greater Grand Forks Visitor's Bureau Board, with a recommendation to reappoint Shawn Clapp to a three-year term on the board expiring December 31, 2022.

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

APPROVE BUDGET AMENDMENT – POLICE DEPARTMENT

The staff report from the police department relating to a Budget Amendment for narcotics Task Force HIDTA Grant 59318, with a recommendation to approve the Budget Amendment in the amount of \$103,220.00 to bring expense and revenue funding into the 2019 budget.

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

**CONCUR IN AWARD CONTRACT FOR PROJECT NO. 7974,
WASHINGTON CONCRETE PAVEMENT REPAIR
8TH AVE N TO 4 MILES N OF GATEWAY DR**

The staff report from the engineering department relating to bids for Project No. 7974, Concrete Pavement Repair on North Washington Street from 8th Avenue North to Gateway Drive and Over the English Coulee Diversion, with a recommendation to concur in the award of contract to low bidder, Opp Construction, LLC, in the amount of \$1,400,730.90, contingent upon approval of NDDOT.

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

**APPROVE PRELIMINARY ENGINEERING SERVICES AGREEMENT
FOR PROJECT NO. 8059, PAVING N COLUMBIA ROAD FROM
UNIVERSITY AVENUE TO OVERPASS**

The staff report from the engineering department relating to a Preliminary Engineering Services Agreement for Project No. 8059, Paving N Columbia Road from University Avenue to Overpass, with a recommendation to approve the agreement with KLJ for preliminary engineering services in the amount of \$266,409 and approve any necessary budget amendments.

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

November 18, 2019

APPROVE AMENDMENT NO. 1 TO ENGINEERING
SERVICES AGREEMENT WITH WFW FOR PROJECT
NO. 7540, DISTRICT NO. 567

The staff report from the engineering department relating to Amendment No. 1 to Engineering Services Agreement with Webster, Foster & Weston Consulting Engineers, Inc. (WFW) for Project No. 7540, District No. 567, Oscarville Storm Sewer, Storm Pond, Pump Station, and Discharge Ditch, with a recommendation to approve the amendment with WFW for construction Administration Services in the amount of \$339,595.

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

APPROVE FEDERAL FUNDING REQUEST,
HIGHWAY SAFETY IMPROVEMENT PROGRAM

The staff report from the engineering department relating to the Federal Funding Request – Highway Safety Improvement Program, with a recommendation to approve the 2022 Highway Safety Improvement Program project funding request and direct staff to submit the approved project to the Grand Forks – East Grand Forks Metropolitan Planning Organization for submission to the North Dakota Department of Transportation. The project to be submitted is Right Turn Lanes at the intersection of 32nd Ave S and S 20th Street with an estimated cost of \$578,000.00.

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

APPROVE FEDERAL FUNDING REQUEST
TRANSPORTATION ALTERNATIVES

The staff report from the engineering department relating to the Federal Funding Request – Transportation Alternatives Program, with a recommendation to approve the 2022 Transportation Alternatives project funding request and direct staff to submit the approved project to the Grand Forks – East Grand Forks Metropolitan Planning Organization for submission to the North Dakota Department of Transportation. The project being submitted for consideration is 32nd Ave S (S 42nd St to S 48th St) Shared Use Path 2022 with an estimated cost of \$302,000.00.

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

ACCEPT PETITION TO VACATE PART OF THE 10-FOOT
WIDE STORM SEWER EASEMENT WITHIN
LOT 2, BLOCK 4, LECLERC'S ADDITION

The staff report from the planning department relating to vacation of a part of the 10 foot wide storm sewer easement within Lot 2, Block 4, LeClerc's Addition, located at 5509 Charlie Ray Drive, with a recommendation to approve the request from Kimberly Miller and set a public hearing for January 6, 2020.

November 18, 2019

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

INTRODUCE ORDINANCE TO AMEND CITY CODE
RELATING TO GRAVEL ALLOWANCES IN HEAVY
INDUSTRIAL AREAS

The staff report from the planning department relating to an ordinance amending Sections 18-0204(2) Rules & Definitions; 18-0219(9) I-2 Heavy Industrial District side yard requirements; 18-0302(12) Off-street Parking & Loading; 18-0309(4) Landscaping sections of the Grand Forks City Code for the purpose of establishing allowances for gravel, and requirements for curb and gutter, landscaping in I-2 districts, with a recommendation that City Council introduce and give preliminary approval of the ordinance.

Council Member Vein stated that he liked the ordinance as presented, but asked for history. Brad Gengler, city planner, explained that frequently requests for variances of this requirement are coming either to the Board of Appeals or Planning and Zoning Commission (P&Z), staff noted a pattern to the requests which was discussed at P&Z and determined that it seemed reasonable to amend the City Code for areas not in a corridor overlay district. The ordinance lightens the restrictions to allow for use of gravel in industrial areas. Vein asked whether there was a concern with mud or aesthetic issues. Gengler explained that there are restrictions such as that the area separated by drive aisle and the first 50' has to be paved to help dislodge debris. When asked how many would be affected by this, Gengler stated that it seems to be cyclical, but could review and provide more information, but sees this being more for new development in the industrial area.

It was moved by Council Member Sande and seconded by Council Member Marshall to approve the recommendation. Motion carried unanimously.

Council Member Sande introduced an ordinance entitled "An ordinance amending Section 18-0204 Subsection (2) of the Grand Forks City Code relating to definitions; Section 18-0219 Subsection (9) of the Grand Forks City Code relating to side yard requirements in I-2 Heavy Industrial District; Section 18-0302 Subsection (12) of the Grand Forks City Code relating to construction and maintenance in off street parking and loading; and Section 18-0309 Subsection (4) of the Grand Forks City Code relating to special requirements in Industrial Districts I-1 and I-2 of landscaping", which was presented, read and passed on its first reading.

INFORMATION ITEMS

The following items were presented for City Council's information:

- Statement of Changes in Cash Balances as of September 30, 2019
- Investment Portfolio Summary as of October 31, 2019

APPROVE BILL LISTING

Vendor Payment Listing 19-22, dated November 18, 2019 totaling \$837,273.83 was presented and read.

It was moved by Council Member Dachtler and seconded by Council Member Mock that these bills be allowed and that the city auditor be authorized to issue warrants in payment of the same. Upon roll call

November 18, 2019

the following voted “aye”: Council Members Weigel, Dachtler, Weber, Mock, Marshall, Sande, Vein – 7; voting “nay”: none. Mayor Brown declared the motion carried and the bills ordered paid.

APPROVE MINUTES OF AUGUST 5 AND 19, 2019

Typewritten copies of the minutes of the city council held on August 5 and 19, 2019, were presented and read. It was moved by Council Member Weber and seconded by Council Member Dachtler that the minutes be approved as read. Motion carried unanimously.

MAYOR AND COUNCIL MEMBER COMMENTS

Council Member Dachtler thanked all teachers and school staff for the work they do as a kick off to National Education Week.

Council Member Mock congratulated Mr. Dulitz on his award and thanked him for all his work in the community.

Council Member Vein gave a brief update on the proposal being considered by the Legislative Committee regarding legacy fund earnings which would provide low interest loans to communities. He stated that we will need to monitor this issue closely, as if approved could provide substantial benefit to Grand Forks.

ADJOURN

It was moved by Council Member Sande and seconded by Council Member Marshall that we adjourn at 5:55 p.m. Motion carried unanimously.

Respectfully submitted,

Maureen Storstad
City Auditor

Approved:

Michael R. Brown, Mayor

November 18, 2019

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