

I. CALL TO ORDER

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

II. ROLL CALL

Present were: President Scott Decker, Vice President Robert Baer,
Commissioners Jason Fridrich, John Odermann and Joe Ridl

Telephone: None

Absent: None

1. PLEDGE OF ALLEGIANCE**2. ORDER OF BUSINESS**

MOTION BY: Jason Fridrich

SECONDED BY: John Odermann

To approve the August 20, 2024 meeting as presented.

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

3. CONSENT AGENDA

MOTION BY: Robert Baer

SECONDED BY: John Odermann

A. Approval of Meeting Minutes dated August 6, 2024

B. Approval of Accounts Payable, Commerce Bank and Checkbook

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

4. ADMINISTRATION/FINANCE**A. Storage Area Network (SAN) Replica RFP**

IT Director Aaron Meyer states the City of Dickinson was notified that the City was awarded grants to build out a Storage Area Network (SAN) Replica. The Grand award amount allows us to utilize \$104,000 of Federal funding and \$5,915 of State funding to apply towards with project. In July 2024, we advertised the bid project and received a single bid from Vaske Computer Inc for a total project cost of \$149,900. IT staff is requesting that the City Commission approve the bid award to Vaske Computer Inc allowing the City to move forward with the project where we will utilize approximately \$40,000 of our IT Capital dollars as the local match.

MOTION BY: Jason Fridrich

SECONDED BY: Robert Baer

To approve the Storage Area Network Replica RFP bid of Vaske Computer Inc. for \$149,900.

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

B. Public Hearing – Chapter 29 Code Amendment – Drug and Alcohol

Risk Management Specialist Greg Beck presents a Chapter 29 code update in regards to the Drug and Alcohol policy. He states he has not received any comments and there have been no changes from the first reading.

MOTION BY: John Odermann
To approve second reading and final passage of Ordinance 1805.

SECONDED BY: Joe Ridl

ORDINANCE NO. 1805

AN ORDINANCE AMENDING AND RE-ENACTING SECTION TWENTY-NINE (29) OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING THE CITY'S DRUG AND ALCOHOL POLICY

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

C. Public Hearing – Chapter 29 Code Amendment – Probationary Period

HR Coordinator Shelly Nameniuk presents a Chapter 29 code amendment that pertains to the probationary period. She states this is the second reading with no changes from the first reading.

MOTION BY: Robert Baer
To approve second reading and final passage of Ordinance 1806.

SECONDED BY: Joe Ridl

ORDINANCE NO. 1806

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 29.08.04060 – 15.22 OF CHAPTER 29 OF THE MUNICIPAL CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO PROBATIONARY PERIOD FOR EMPLOYEES

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

D. Class A Liquor License Transfer for DYC

Police Chief Joe Cianni presents a liquor license transfer which includes tobacco and gaming license associated with the Rock Bar. He states the sale is in progress but it is not completed. The Rock has a Class A liquor license, gaming and tobacco. Chief Cianni states a background has been completed with no issues. He states Dickinson Youth Activities Charities has broken up into different DYAs, holding and operating. The gaming side of this license will be operating through Dickinson Youth Activities, the building will be handled through holding, license is tobacco and alcohol through operating. Local ownership. Dickinson youth activities operating at a class A limited liquor license.

Commissioner John Odermann states he understands the structure is the same board and representations for all the board and activities. Commissioner Odermann has heartburn as the landlord is the tenant and owner and who is the watchman. Potentially opening big can of worms allowing gaming entity to buy a bar. If the Dickinson Youth Activities board is the same board that is being organized to operate the other two entities. Commissioner Odermann question does the City have a situation going through transfer ownership and accepting new owners every year because of board members and do background every year.

Police Chief Cianni states yes. They will have to apply and renewal each year and doing that background regardless.

Commissioner John Odermann states this is not a transfer but we have more owners coming and going. Concern I have is from a market standard competitive of allowing this type of entity and compete to buy bars against a private bar owner how are you going to outbid a bar that has a gaming revenue. Impact on a free market and bar business and how this looks going forward if we approve this. If the City allows this what prevents charities from other municipalities buying bars and owning bars. And what prevents setting up other operating entities under conglomerate. DYA has been a positive good operator in Dickinson and a great background and isn't about them what prevents a charity from setting up other entities to skirt around the limit of 2 liquor licenses. We need a statute to prevent this or could a gaming entity set up several LLC and buy basically every bar in the community and pushing out other gaming entities and securing the turf and impossible to have any others entering into the playing field. Nothing about DYA Commissioner Odermann feels they have been a good actor a great advocate for Dickinson sports but I really worry about what kind of precedence this sets and how this impacts Dickinson business activity.

Police Chief Cianni did do some review and AG's Office does not show any thing prohibit activities. Minot facilities have been purchased by charities. He feels DYA are trying to separate the building, liquor and activities but all points are concern but fox in charge of the hen house.

Commissioner John Odermann states there no intent either but a really slippery slope in terms the rest of the alcohol. DYA has sites at other bars but this makes them not a partner but competitor. Unfair competitor and use gaming funds for operations. Taking into consideration heavily. They can use up to 60% of gaming funds for operations.

President Scott Decker states the challenge is what the state allows.

City Attorney Christina Wenko states there is new legislation that went into effect 2023 limits municipalities require proceeds that remain in community. Home rule discretion that liquor licenses that are going to allow. Requirements of license applicants that ordinance provides. Noting that says you have to and nothing that says you can't. Decision on what you think is appropriate. License are based on requirements in that section. All

background has completed and passed. Whether you chose to approve it that is your decision.

Commissioner Robert Baer feels they should not own an establishment that a minor cannot go into, a private organization gaming for youth activities. Adult organization that is for children owning a bar and going gambling and selling cigarettes, morally wrong message to sending children. That is why they took cigarette and beer ads out of sports. But we are having a youth activity. What prevents the Boy Scouts or Girl Scouts own a bar. I think there are other means that are to raise money other than buying a bar. Church group from buying the bar. Wrong message to send our youth. Not morally right.

President Scott Decker does agree with what you are getting at. These organizations will openly take gambling money. There are tons of organizations that take gambling money. There are 20 organizations that are willing to take DYA gambling funds. I understand why they have to do what they are doing. Not the last one we are going to see. If individuals are looking to deny, what basis does it violate the law.

Commissioner John Odermann states this is the first one and this is a precedence setting decision on how many more we see. Totally see the reason behind it. This is precedence setting decision that sets the standards of our economy for Dickinson to come. No basis to deny.

City Attorney Christina Wenko states take a look at what the code requires and application requires. Commission has not denied a license in her tenure. May revoke a license. Should you proceed with granting this license and some reason there is a concern or violation or report from gaming division of a violation. That could bring that before us for revocation. She states the entity is responsible for the license and not compliance and license.

President Scott Decker states this would be like Walmart and Cash Wise.

Commissioner John Odermann states those entities do not own a gaming license.

Commissioner Jason Fridrich states this is good conversation. He is struggling with this idea as well. Personally, he has sat on board for Dickinson Youth, Hockey Club, seller of the bar very well. This is just a tough one for Commissioner Fridrich because if the City goes down the road of approving this opens the door. He states if the City denies then they kill a sale for local business. Really struggling with this one a lot. He doesn't like where this is going. He states as a previous bar owner, they were charity in my bar and great people and operators. Commissioner Fridrich doesn't know if he feels comfortable with charities owning a bar. Struggle with this one. If this was happening in his bar days, he would worry for bar rent for tables then they could have a competitive advantage bar. They don't need the money to run bar as they have gaming and use the gaming to keep the lights on. Struggle for me to get behind this one. Commissioner Fridrich sates is it okay for Minot to come to Dickinson and then take back all the money back to Minot.

Police Chief Joe Cianni states in previous liquor license taking action, back in oil boom when the City had a lot of calls for service certain bars and visit location during renewal and if continued issues with bars, then this was noted.

Mr. Terry Dvorak who is a board member for DYA for a couple of different times and gaming side. Going into this as sitting on the board. He states what the Commission is not seeing is other charitable gaming are starting up all the time. Trying to protect our own investment. He states DYA are trying to protect has been in place and helped out 20 organizations. We know what this can turn into. It is happening in other towns. DYA are trying to protect what we give these children continually. We understand and looked at this ultimately to protect this investment. Mr. Dvorak states Dickinson Youth Activities has 6 sites at this time.

Commissioner John Odermann does understand what Dickinson Youth Actives are doing is to protect that investment and now maybe put other sites at risk when open up outside entities to purchase bar and move into that bar and that opens up that possibility. What prevents us to stand on to prevent other charities in other community to do the same thing.

Ms. Roxanne Ficek states that 40% has to go to trust. There are 30 bars in state of ND have boughten bars. They are trying to protect the community. People have been intown looking at bars. Others are coming and we are just trying to protect community. Director of gaming stated to Ms. Ficek that if you want to be standing in five years you want to buy bars. Dickinson Youth Activities are not in the bar business to be in the bar business but to protect their charity.

Commissioner Jason Fridrich states the City has a chance to stop it and we set policy not to allow it.

Ms. Ficek states that the gaming sites did not see that the last law that got passed. Anyone can be considered local if they have an office in your town.

Commissioner John Odermann states that the City denied an application not long ago because they did not do anything for Dickinson.

Commissioner Jason Fridrich states this is bad, bad precedence.

Commissioner John Odermann questions why did you chose to go down this road instead of building a separate entity to buy the bar. It is conglomerate and separate entity it is the same board members. Not as arm's length.

Mr. Dvorak states the board members are are elected. They have sat down and talked to the other bar owners. He states they are not going to be in competition with them. Protecting current investment that the Dickinson Youth Activities have.

Engineer and Community Development Director Joshua Skluzacek presents a Renaissance Zone request for new construction of Block 40 which is near the Prairie Hills Mall. He states Pizza Hut is purchasing a 1.2-acre lot to develop with a new restaurant. The total project investment is \$1.5 million dollars and the current City of Dickinson Assessor true and full value is \$180,000 for the lot. Ultimately use the exemption for up to 8 years of property taxes. This would be a dine in restaurant and possibly an outdoor mini golf.

MOTION BY: John Odermann
Adopt Resolution No. 36-2024.

SECONDED BY: Robert Baer

RESOLUTION NO. 36-2024
A RESOLUTION APPROVING A RENAISSANCE ZONE
APPLICATION BY SEVEN K HUTS LLC DBA PIZZA HUT

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

E. Rezoning Request – Wood Acres Subdivision

Engineer and Community Development Director Joshua Skluzacek presents a 20-acre lot located in the ETZ for rezoning from AG to RR. This was approved by P&Z. The intentions of this rezone are to split the 20 acres into 5 acre lots. Adjacent lots to this area are also RR therefore not introducing anything unique to this area.

MOTION BY: Joe Ridl

SECONDED BY: Jason Fridrich

To approve second reading and final passage of Ordinance 1799.

ORDINANCE NO. 1799
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

F. Final Plat – Wood Acres Subdivision

Engineer and Community Development Director Joshua Skluzacek presents a Woods Acres Subdivision final plat. The applicant is requesting that the City consider a final major subdivision plat of the Wood Acres Subdivision located within the City of Dickinson's Extra Territorial Zone. The applicant intends to subdivide the existing parcel into three lots for residential purposes. The final plat shall include a note that the proposed North/South Right-of-Way shall be dedicated to the City for 25 years; After 25 years, the

property owners within the subdivision may request a vacation of the Right-of-Way; and the above referenced Right-of-Way is reduced from 50 feet to 33 feet.

MOTION BY: Robert Baer
Adopt Resolution No. 37-2023.

SECONDED BY: Joe Ridl

RESOLUTION NO. 37-2023
A RESOLUTION APPROVING FINAL PLAT ENTITLED
WOOD MAJOR SUBDIVISION
STARK COUNTY, NORTH DAKOTA

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

G. Engineering and Community Development Monthly Report

Engineer and Community Development Director Joshua Skluzacek presents his monthly Engineering and Community Development report. He discusses the onboarding of the new City Planner. There were 32 pre-application meetings in 2024. The September Planning and Zoning meeting includes 7 agenda items. Planner Skluzacek reviews the ongoing projects and progress of those projects. Mr. Skluzacek states the work on the 15th Street is being worked on getting on the subcontractor for the pavement. He states there is nothing definitive as of date but hopefully mid-September.

8. PUBLIC HEARING AND PUBLIC COMMENTS NOT ON AGENDA – 5:00 P.M.

A. Public Transit Grant

Executive Director Colleen Rodakowski of Public Transit states she received a State Grant of \$200,000 with a \$50,000-dollar matching fund. She states that she would like to use this money for an architectural drawing of an expansion of 9,000 square feet of the Public Transit building. She is asking the City to approve \$50,000 dollars support for the architect drawing. She states her #1 trip is employment for work. She states the architectural drawing would be for 9,000 square feet to include auto storage, wash bay, training room, break room and others.

Deputy City Administrator Linda Carlson states funding could either come from the 30% of the 1% sales tax as this is economic development or from the interest revenue funding source from the cash accounts. She would go with the interest revenue.

MOTION BY: Joe Ridl
SECONDED BY: John Odermann
To approve the \$50,000 towards the architectural drawing for the Public Transit Building and use the interest revenue funding source from cash accounts to pay for the \$50,000.

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

B. Public Hearing – Rezone Request – Russ Heiser

City/County Steven Josephson presents a rezoning request for Russ Heiser. He states this property would be rezoned from medium density residential to general commercial. The adjacent properties are all general commercial. Planning and Zoning along with City staff recommend approval of the proposed rezoning request. He states Mr. Heiser visited about storage units, shop condos, etc.

President Scott Decker opens the public hearing at 5:34 p.m. Hearing no public comments, he closes the public hearing at 5:36 p.m. and the following motion is made.

MOTION BY: Jason Fridrich

SECONDED BY: John Odermann

To approve first reading of Ordinance 1807.

ORDINANCE NO. 1807

AN ORDINANCE AMENDING THE DISTRICT ZONING MAP FOR REZONING AND RECLASSIFYING DESIGNATED LOTS, BLOCKS OR TRACTS OF LAND WITHIN THE EXTRATERRITORIAL 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 39 – Zoning Text Amendment - Fence Permit

Building Inspector Blaine Dukart presents a Chapter 39 zoning text amendment to obtain a fence permit. He states this is to add a section that a fence permit is required in order to erect any size fence in the City of Dickinson. He states the Building Department is generally in charge of the fence permits and regulations. Inspector Dukart states some of the verbiage was missing in the code. P&Z Commission along with City staff recommend approval.

City Attorney Christina Wenko states the City has required a fence permit for some time but nothing identified in the code that there was a fence permit required. The permit is required so the City can monitor when fences go up. She states this was a policy prior and not in the code. The point of these changes is for the public to easily understand that these exist.

President Scott Decker states fences are put up without a permit and then they obscure people’s views while they are driving

Commissioner John Odermann states that in practice the City required a fence permit but the requirement of a fence permit was not in the code. Commissioner Odermann states that the current code does not require a fence permit. He states the City is telling residence that they need a permit to erect a fence but our code does not state that. He is questioning why we would be telling residence this and it’s not in the code. He does not know how the City can enforce an unwritten policy.

Commissioner Jason Fridrich states the City has been requiring fence permits for years.

Commissioner Robert Baer states that all of a sudden, a fence is erected. Do residents go out and get fences and larger complexes you all of sudden see a fence around them. Does this code get enforced? He states people go to Menards and purchase a fenced and up it goes.

Building Inspector Dukart states this is regulated by Code Enforcement so it meets safety requirements, etc.

City Attorney Wenko states the City is trying to correct this. She states it is probably in the fee schedule to get a permit. She states the issue was recognized and the issue is being addressed.

President Scott Decker opens the public hearing up at 5:43 p.m.

Mr. David Steinbach states that he has lived at his residence for more than 40 year and there is a fourth neighbor that moved next door to him and has put up a fence. He states this fence has destroyed his yard. The neighbor put up a solid fence and now he doesn't get any air in his backyard and this fence is truly a snow fence. He states he lives at the bottom of the hill and when the water runs it comes into his back yard. He states no one considers what will happen once they put up a fence. He states that when a dog is fenced into a backyard and can't see out, he begins to bark. He states he used to get along with his neighbors but now that there is a solid backyard fence, he doesn't even know his neighbors.

Mr. David Schwartz states he put up a fence two years ago and he is wondering if he needed a fence permit. He did obtain one but truly didn't need one.

City Attorney Christina Wenko states getting a fence permit is a matter of policy. The City wants to do the right thing in the end. Ms. Wenko thanks Mr. Schwartz for doing the right thing in getting a fence permit prior to erecting one.

Mr. David Schwartz states he has a corner lot and has restricted heights because of the view in the front yard. He is wondering if this change to the ordinance will change anything he has currently.

President Scott Decker closes the public hearing at 5:50 p.m.

Commissioner John Odermann states that the City staff should not be telling citizens that something is required if the code does not require it. If there is a fee or price for the permit. It is not in the code then don't say it is required.

City/County Planner Steven Josephson states that in 2012 people were building fences 6' high and then people couldn't see others riding bike and backing up. He states the code

states 4' in the front yard and shorter in a triangle. He states at that time the City Planner did go to the City Commission and ask for them to create a fence permit and a fee for it. He states the City would need to go back and review the minutes for this implementation. Mr. Josephson's recollection states the employees did bring this before the City Commission and that the city was going to implement a fence permit.

Commissioner John Odermann states all he is saying up to this point this permit was not required so we need to make sure that something is required and up to date in the code.

Planner Josephson states if a permit is adopted you should amend the zoning ordinance. We put a fence up and our contractors were aware that we needed a fence permit.

MOTION BY: John Odermann
To approve first reading of Ordinance 1808.

SECONDED BY: Jason Fridrich

ORDINANCE NO. 1808

AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 39.07.005 OF ARTICLE 39, RELATING TO FENCING REGULATIONS

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

D. Public Hearing – Chapter 39 – Zoning Text Amendment – Accessory Structures
Building Inspector Blaine Dukart presents a zoning text amendment in regard to accessory detached structures. This change was approved by the Planning and Zoning. This change is for allowable accessory buildings shall be limited to a maximum of one thousand eight hundred feet (1,800) and for a maximum of three (3) detached structures for the first one acre or less. The total area of all accessory buildings may be increased by seventy feet 70' for each additional tenth (.10) acre of land above one acre.

President Scott Decker opens the public hearing at 5:56 p.m. Hearing no public comments, the hearing is closed at 5:57 p.m. and the following motion is made.

MOTION BY: Robert Baer
To approve first reading of Ordinance 1809.

SECONDED BY: Jason Fridrich

ORDINANCE NO. 1809

AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 39.04.005 OF ARTICLE 39, RELATING TO DEVELOPMENT REGULATIONS

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

E. Public Comments not on Agenda

Mr. Seth Helgeson has many questions for City Attorney Christina Wenko. He asks if the City of Dickinson is a Home Rule Charter and President Scott Decker answer yes, the City of Dickinson is Home Rule charter. Mr. Helgeson asks if we follow the home rule charter. Ms. Wenko answers yes. Mr. Helgeson states three commissioners were recalled and the Home Rule Charter states there is a need of 15% of signatures for a recall.

City Attorney Christina Wenko states in conjunction of AG's office and Secretary of State is determined to have different requirements for recall petition. The AG's office is determining which rule would apply AG office raised the question home rule city has constitutional authority to change constitution authority for recall election. Ms. Wenko has asked for an AG's opinion. If AG gives opinion that cannot amend constitution requirement the city is not required to proceed. Hoping to get an expedited response but if the AG's office tells us this the case and the city cannot do that situation could call this entire process. Discussion with the AG's Office and Secretary of State she made the determination we needed to follow Secretary of State of requirement of ND century code. She states if the City cannot meet those filing requirement in order to be in compliance with century code the City need to meet remanent. The City is not changing to be in compliance to meet necessary requirement we are going to follow the century code.

President Scott Decker states Ms. Wenko is basing her decision upon century code.

Mr. Helgeson states why not have home rule charter if you are not going to follow it.

Commissioner John Odermann states the City might follow the 15% but awaiting AG's office of 25%.

Mr. Robert Tuttle states the City is the only one in conflict is state statute. If not state in home rule charter, fall back on AG's office opinion. He states Ms. Wenko wants this issue to go to court. He states the City of Dickinson cannot restrict, hinder to make it more difficult to make this process. He states the City is raising the bar to make it more difficult. He states there are two violations and Ms. Wenko knows that and Mr. Tuttle knows that.

Ms. Wenko states it is the recommendation came from the AG's office. The AG's office raised the question can home rule city amend the requirement. This is an issue to all municipalities for the state. The City is seeking clarification from AG to make sure the City is in compliance. In discussion with AG office, they suggested that there could be a constitutional issue that should be addressed. Ms. Wenko contacted them to make sure we were in compliance.

Mr. Helgeson states the City is just picking and choosing the codes you want to follow.

Mr. David Steinbach states that in the June meeting he had a couple of questions ad he is asking if we advertise and he does not see the minutes in the paper copy of the newspaper on Wednesdays. He states that he cannot read the online minutes as he does not have a

computer. Mr. Steinbach also asks the Commissioners if they like paying double taxes for the same thing. He states the street replacement and repair curb and gutter and these are the property owner's responsibility. He states curb and gutter are part of the street. He states his property is within the sidewalk. He states every time he fills gas, he pays for road repair. The city gets revenue from state for roads. If he has to pay for curb and gutter it should be part of the City as they are getting paid for road repaired. You can calculate how much for the street, curb and gutter and sidewalk, every set of plots drawing you have all the detail. Why does a person have to pay double taxation for something?

President Scott Decker states gas tax does not necessarily come back to fix street. The funds are spread out for the city for roadway.

9. **COMMISSION**

No comments.

ADJOURNMENT

MOTION BY: John Odermann

SECONDED BY: Joe Ridl

Adjournment of the meeting was at 7:05 P.M.

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: September 3, 2024