

June 7, 2016

The Williams County Commission met in regular session this 7th day of June, 2016 beginning at 8:00 AM in the Memorial Room of the Williams County Courthouse.

Chairman Montgomery called the meeting to order. Innis took roll call: Ramberg-here, Aberle-here, Hanson-here, and Kalil-here.

There being a quorum, Chairman Montgomery proceeded.

Kalil moved Hanson seconded approval of the consent agenda except the Liquor/Beer license for Pilot Travel Centers LLC:

1. Abate-ments- 2015 Value Adjustment Kyle Hering Blacktail Twp Blacktail Dam Subdivision L240 B10; 2015 Homestead Credit Dorothy Nelson Westlawn 2nd Addition L17 Ex W 10' B29 in the City of Williston; 2015/2016 Value Adjustment Crystal Stomley Mobile Home 2014 Crest 16X76 located at SE ex Co Section 32 T156 R99 Marshall Township; 2015 Disabled Veteran Daniel Teske West Lawn Addition L9 B14 in the City of Williston; and 2014/2015 SD Adjustment Jaret Cvancara E2 L4 EX S 60' Stony Creek Township.
2. Bills to be paid June 8th and paid May 18th
3. 2016 County Highway 20216 Equipment Prices **(Copy included in minutes)**
4. Site Authorization- Williston College Foundation- 4 Mile Bar
5. Transfer order #280 \$600,000.00 from County Poor to Social Services
6. May Financials

Motion carried.

Ramberg moved Kalil seconded to table any action on the Pilot Travel Centers LLC Liquor/Beer Licenses due to Zoning Issues. Motion carried.

Dennis Nelson, County Highway Superintendent presented the following bids for Special Paving District Project 16-4-03:

	Engineers Estimate	Knife River	Northern Improvement
	\$161,700.00	\$164,805.00	\$168,974.51
Administrative Fee 5%		\$ 8,240.25	\$ 8,448.73
Total	\$161,700.00	\$173,045.25	\$177,423.24

Nelson recommended acceptance of the low bid from Knife River. Discussion was held on the past history of projects with Knife River not getting completed. Kalil moved Aberle seconded to accept the bids from Northern Improvement. Motion carried. **(Copy included in minutes)** Kalil requested that Tugi Shinezorig get the Special Assessment Committee together for a meeting.

Nelson presented the following bids for the County Road #42 Bridge Replacement and Widening: Engineers Estimate \$1,368,061.50; **JMAC Resources \$1,256,144.65**; Kanyon Specialty \$1,318,979.32; Central Specialties \$1,318,979.32; Knife River \$1,323,908.40; Rachel Construction \$1,393,498.00; Plote Construction n\$1,443,559.80; White Horse Construction \$1,503,789.00; and Selland Construction \$2,060,663.00. **** Denotes Low Bid** Nelson recommended acceptance of the low bid from JMAC Resources. Aberle moved Kalil seconded to accept the low bid from JMAC Resources. **(Copy included in minutes)**

Nelson presented the following bids for 52nd St Reconstruction:

	Engineers Estimate	Central Specialties	JMAC Resources	Plote Contracting
Base Bid	\$1,580,271.30	\$1,650,539.38	\$1,767,103.94	\$1,552,221.34
Alternate A	\$4,931,777.00	No bid	\$2,857,636.50	No bid
Alternate B	\$1,309,634.00	\$1,051,052.85	No bid	\$ 993,607.69
Summary: Base Bid & Alternate A (Concrete)	\$6,512,048.30	No bid	\$4,624,740.44	No bid
Base Bid & Alternate B (Double Chip Seal)	\$2,889,905.30	\$2,701,592.33	No bid	\$2,545,829.03

	Edward H Schwartz	Park Construction	Knife River	Selland Construction	VEIT & Company
Base Bid	\$1,311,591.64	\$2,385,830.31	\$1,862,944.42	\$1,747,555.01	\$1,535,123.57
Alternate A	No bid	\$2,385,770.90	\$2,834,435.00	\$2,407,099.00	\$2,652,840.75
Alternate B	\$1,069,838.19	\$ 892,787.10	\$1,009,031.10	\$ 867,596.20	\$ 985,923.85
Summary: Base Bid & Alternate A (Concrete)	No bid	\$4,771,601.21	\$4,697,379.42	\$4,154,654.01	\$4,187,964.32
Base Bid & Alternate B (Double Chip Seal)	\$2,381,429.83	\$3,278,617.41	\$2,871,975.52	\$2,615,151.21	\$2,251,047.42

**Denotes low bid

Discussion was held on the project. Williston has \$1M towards the project from the Frost Law Awards. Aberle stated that the remainder of the Frost Law money should be transferred into the General Fund to cover the cost of the double chip seal (asphalt). Kalil stated that he feels concrete is the way to go as it will last longer with less maintenance costs. Chairman Montgomery questioned that if the City of Williston annexes this area into the City will the County be responsible for the sewer/water costs. Kalil stated that the City of Williston is not interested in anymore annexations and if they did the laws require them to pay for the costs of the updates. Kalil moved Aberle seconded for Kristi Hanson (Finance Director) get funding put together and submit it to the Commission by June 14th for the project. Motion carried.

Yana Ness, Senior Planner presented Planning/Zoning items.

Waiver of conditional approval presented for Jackson Family Trust/Wayne Crow (present) regarding paving of the roads. The owners are platting three lots at this time. One of the conditions is to pave all the offsite roadways along 142nd Ave NW, which he is requesting to be waived. Aberle moved Ramberg seconded to approve the waiver located in the SE4 Section 35 T154 R102 Judson Township. Motion carried. (Jackson Family Trust/Wayne Crow)

Zone change to heavy industrial, conditional use permit, and a major Comprehensive Plan Amendment presented for Dennis Duffy/Meadowlark Midstream Company LLC (Tracey Jensen present) for a 400 bbl oil relief tank which will be used if the Hess Facility in Tioga shuts down and pressure builds in the line. Hanson noted that Champion Township gave no recommendation. Jensen stated that she spoke with the Township and they did give their approval. Included in the packet was a letter regarding Duane Binde, where Nathan Brady, a landman for Summit and Dean Blikre, Construction met with him to inspect the condition of the R/O/W (T157 R97 Section 34) and discuss areas that need further reclamation work and cleanup. Summit agrees that there is additional work to be done and will work with Binde to return the land into an acceptable condition. Kalil moved Hanson seconded to follow the recommendation of Planning/Zoning of approval located in SW4 Section 34 T157 R97 Champion Township with conditions to provide and maintain trackout pad, obtain approval from Water Resources District, and provide civil plans for review. Motion carried. (Dennis Duffy/Meadowlark Midstream Company LLC)

Minor Subdivision, a variance to allow less than 40 acres in Agricultural Zone, and a Variance to allow reduced setback from the ingress/egress easement presented of Donna Mae Dragseth/Ed Rintamaki (present). There is an existing driveway, which will be documented by this plat. Existing structures do not comply with the setback requirements of 75 feet from non-public easement, therefore a variance is required. Rintamaki stated that this will affect the grain bins and financing. Kalil moved Hanson seconded to follow the recommendation of Planning/Zoning of approval located in NW4NE4 and NE4NW4 Section 34 T159 R100 Blue Ridge Township with conditions to adhere to NDCC and Williams County Ordinance, approval and recording of a minor subdivision, and building permits, inspections are required for all new structures. Motion carried. (Donna Mae Dragseth/Ed Rintamaki)

Variance to allow creation of a parcel less than 40 acres in agriculture zone for a single family house presented for Rodric Belgarde/Brent Jensen (present). Ramberg moved Kalil seconded to follow the recommendation of Planning/Zoning of approval located in E2E2SE2SW4 and SW4SE4 EX DD PT Section 29 T155 R100 Pherrin Township with conditions to adhere to NDCC and Williams County Ordinance, approval and recording of a minor subdivision plat, building permits, inspections are required for all structures, and comments from the Township to provide better description of the area, plat, and acreage to be subdivided to the Township. Motion carried. (Rodric Belgarde/Brent Jensen)

Conditional use permit for storage of containers and other equipment for commercial business in fenced area presented for Austin Ellingson (present). An 8' fence will be constructed to park the 18 Conex box containers belonging to Bradley Mabeus for a period of one year. There will be no heavy traffic as Mabeus has moved his business to town. The fencing will be put up before anything is moved. There will be no storage of chemicals. Some of the items in the conditions were discussed. Mabeus in attendance spoke to the Commission. Chairman Montgomery questioned as to whether the containers are not allowed in Little Muddy Estates, which they are not allowed. Ellingson stated that they are an eye sore and that is what the neighbors are complaining about and there are no neighbors behind his residence where they are planning on putting them, besides the area will be fenced before they are moved in with an 8' fence. The containers will not be seen and will only be for a period of one year. Neighbor Randy Vogel stated that he will be able to see them. Kameron Hymer, Code Enforcement Officer stated his concerns that the containers were to be moved by June 15th and if this is approved what is he going to do with the remainder of them. Connie Block, neighbor pointed out that there are more things that need to be moved besides the containers, so what is to happen with them. There was no mention of them being removed. She also questioned whether it would go from storage to a business. Mabeus stated that if business turns around he will be looking for some commercial property if this is not approved today. He is going to try to keep two on his property for his own personal storage.

Chairman Montgomery stated that if business doesn't get better in one year then what. Mabeus stated that he is saving money to buy some property and if he doesn't have enough money he will try and find a place to rent. Chairman Montgomery stated that there is no guarantee to the Board or the neighbors if within a year they will be moved from Ellingson property. Lisa Johnson not in attendance wrote an email in objection to the application today. Charles Cartier thinks that if approved today that the Commission is opening up a can of worms. There should not be a commercial activity within a residential area, this is also a violation of the covenants of Little Muddy Estates. He feels this is a big mistake for the Commission to allow this. Mabeus stated that he has enough funds to move the containers one time, hopefully to the Ellingson property. He also stated that there are other containers in the subdivision used for storage. The use of the containers on oilfield sites is to help prevent spills of oilfield chemicals. Kalil asked that if it is approved today will the burden would lie on Ellingson if they are not removed in one year. Hymer replied that the burden lies with the property owner first then the user. Hanson moved Aberle seconded to deny the application located as Tract A E 544.23' in SW4 Section 17 T155 R100 Pherrin Township. Roll call vote: Ramberg-no, Aberle-yes, Montgomery-yes, Hanson-yes, and Kalil-yes. Motion carried. (Austin Ellingson)

Conditional use permit for a chiropractic business (home occupation) presented for Lyndon Oyloe/Eric Kummer (present). Kummer questioned one of the conditions of Planning/Zoning of paving the driveway and parking area. Hanson questioned as to whether this is an approved use. Ness stated that that a CUP for a home occupation is valid in either agriculture or residential zoning. Hanson moved Aberle seconded to follow the recommendation of Planning/Zoning of approval striking the paving requirement located S2SW4NW4 Section 9 T154 R103 Round Prairie Township with conditions that building permits, inspections are required for all new structures, provide plot and grading plan, and obtain approach permit if needed. Motion carried. (Lyndon Oyloe/Eric Kummer)

Discussion items presented by Ness.

Clarification of Zoning presented for Northern States Completions with Kevin Johnson present. The problem lies with the City of Williston Extra Territorial Jurisdiction where they have zoned the property as rural residential. Johnson gave the history of them owing the property and a letter from Jill Edson, former Planning/Zoning Director stating that the property was zoned industrial. Johnson would like clarification from the Commission, which the City of Williston will follow. Kalil stated that since he received a letter from Edson the Commission needs to honor that. Kalil moved Aberle seconded that the zoning of property described as L2R, a rearrangement of Sublot 10 in L 1, 5 Section 30 T154 R101 Williston Township as Industrial as recommended by Planning/Zoning. Motion carried. (Northern States Completions)

Acknowledgement of caretaker quarters presented for Concrete Jungle LLC/Bob Horab/Mary Denise Horab. A conditional use permit was given for this use, but since it is in the City of Williston Extra Territorial Jurisdiction the Commission needs to ratify the action taken. No one in attendance. Kalil moved Hanson seconded to follow the recommendation of Planning/Zoning of ratification located as Sublot 11 and Sublot 9 in S2SE4 Section 19 T154 R101 Williston Township. Motion carried. (Concrete Jungle LLC/Bob Horab/Mary Denise Horab)

Katie Lima, Development Services Director/Building Official presented the revocation of Permit #2582 for a 100 room hotel (Sky Watch Inn), Lot 1 Block 2 of Rearrangement of Lots 1, 2, and 3 Block 1 and Lot 1 Block 2 South Park Addition and Lots 2, 3, 4 and 5 Block 2 Amended Plat South Park Subdivision to the City of Ray. Lima gave a history of the correspondence to Rycal Group and her letter stating that Building Permit #25822 for a 100 room hotel located at 507 Railroad Ave Ray ND was revoked as of May

4, 2016 in accordance with the ND Building Code as adopted by Williams County: 2012 International Building Code (IBC) "Administration" Chapter 1 Section 105.6. In 2014 a stop order was issued due to no inspections, November 2014 the building permit was cancelled, December 2014 a fine was issued, January 2015 they did the foundation, June 2015 last inspection, and July 2015 the project was abandoned with no movement or progress. Development Services representative went to the City of Ray meeting to get the building plans in January 2016, which were unacceptable and there has been no contact since January 2016 with the developers. The site is unsafe and there is water in the foundation. Lima met with Karen Prout, Special Assistant States Attorney to send a letter with a deadline of June 15th to bring back the site to its original state. Rycal Group is appealing from having to tearing everything out that has been done so far to date. Lima recommended that they re-apply for a new building permit as recommended by the City of Ray for them to present a new developmental plan. Developer shall provide financial security in favor of Williams County for site abatement including (but not limited to): structure removal, backfill and site restoration and any fines the County elects to impose in the event the developer does not obtain a new building permit by February 28, 2017. Financial security shall remain in place a minimum of 18 months after a new building permit is provided to assure timely construction completion of the private building and public infrastructure. The developer shall submit a detailed estimate of sit abatement costs for City/County review and comment to assure costs are reasonable and comprehensive. Developer shall, in good faith, negotiate and execute a development agreement at least 30 days prior to building permit application. Lonnie Fleck, City of Ray Engineer stated that they have not inspected and there are mosquito problems. The site needs to be pumped down and kept dry. Chairman Montgomery questioned as to whether we are just delaying the inevitable. Discussion was held on that and it was determined to give the developer more time to get their ducks in order and do more than abandon the site. Kalil moved Ramberg seconded to follow the request of the City of Ray and change the date to October 1, 2021, provide mosquito control and get the area pumped out immediately and keep dry. Motion carried.

Kameron Hymer, Code Enforcement Officer in attendance to present the appeal request for Gadeco. Hymer gave a history of the violations. They are appealing the decision made to remove their temporary housing units off their Alexander site. Hymer sent a letter to Gadeco April 27, 2016 stating that there are occupied skid shacks located at NENW NWNE Section 26 T155 R99 which is zoned agriculture. Hymer enclosed photos in his packet of information. On February 25, 2016 he gave Mr. Martinez (from Gadeco LLC) 60 days to remove the temporary housing off the property. Following a site visit on April 26 it was apparent that the occupied skid units are still on location. This use is not permitted use in agricultural zoned land. This is a violation under Chapter 3-8 of the Williams County Zoning Ordinance. Gadeco believes they fall under the old ordinances. Hymer stated that there are many complaints from neighbors and numerous violations. A letter was received from Vogel Law Firm on behalf of Gadeco. They are requesting to stay until July 15, 2016 to complete monitoring of the well site and a caretaker residence on the property for security reasons. It was questioned as to why they need security on the property when no other sites have security. Monte Rogneby, Vogel Law Firm in attendance. Prout stated that the Commission needs to back up the decision made by Hymer. Tim Knutson, neighbor stated that Gadeco has been on location since April 2011 and seven wells have been drilled and no place else is there a residence on the well sites to test the well flow back procedure. Ness stated that a caretaker residence is permitted in a commercial zoned area. So if the Commission is going to approve this appeal they will need to have a zone change to allow the residence and temporary housing. They will have to apply for an application for this action, but all other applications with this request have been denied. Kalil moved Hanson seconded to deny the appeal from Gadeco. Roll call vote: Aberle-yes, Montgomery-yes, Hanson-yes, Kalil-yes, and Ramberg-yes. Motion carried.

Laverne Vance in attendance to discuss his efforts to get a building permit. Vance stated that he will need a variance before applying for the permit as the garage will be too close to the Township road. Hanson stated that the Commission has given variances in the past and cited an example. Hanson moved Ramberg seconded to grant the variance. Kalil stated that we will set precedence and he needs to go through the process. Lima questioned as to whether a variance is needed. Vance stated that he called in and found out what the setbacks were. Lima stated that he needs to go through the building application process. Roll call vote: Montgomery-no, Hanson-yes, Kalil-no, Ramberg-no and Aberle-no. Motion denied. Vance needs to go through the building application process.

The Commission took a break at 9:55 AM.

The Commission reconvened at 10:07 AM.

Aberle moved Kalil seconded to give clarification to Ray Pacheco for the Epping Landfill project, regarding the delineation of easements. Motion carried. Discussion was held to allow the plat to go through with no requirements to delineate every easement, to follow the State regulations for landfills and do a lot line adjustment. Nelson stated that an easement could be given but not to obstruct drainage. Pacheco questioned the denial for the variance request and how do they show easements that are not there. Ramberg state that there needs to be some protection to the water that flows into Epping/Springbrook Dam. Nelson stated that he spoke with Major Barker III and he didn't feel it was an issue. A Committee consisting of Ramberg, Aberle, Nelson, Pacheco, and Mayor Barker III was set up to come up with a resolution to the issue and bring it back to the Commission at the June 21st meeting.

Lynn Welker, XTO Community Relations and Support met with the Commission to explain her role and urged the Commission to contact her if any issues arise where she can assist them.

Dennis Lindahl, Tioga Economic Development Director present today is requesting a letter of support from the Commission regarding the proposed Renaissance Zone within the City of Tioga, which is a requirement of the State. The Renaissance Zone consists of 27 contiguous blocks with tax abatements for a period of five years. Ramberg stated that they need help as one half of south main street is vacant and this will help businesses. Kalil moved Ramberg seconded for Melody Mileur, Communications Director to write a letter on behalf of the Commission in support of the Renaissance Zone within the City of Tioga. Motion carried.

Prout brought back to the Commission the access/utility easement on Barnhart Subdivision. The Sheriff's Department went out to the area in question. In attendance is Michael Carpenter, the individual who is supposedly blocking the easement. Carpenter stated and showed pictures that he is not blocking the easement, but the area blocked in on his property. He closed off the area on his property and the other individual needs to build his own access to his property. Carpenter went off the original pins on his property when he fenced off the area. When the new owners bought the property to the south of his property he told them that he was going to fence off his property. Prout stated that this is not a Commission issue. No further action will be taken by the Commission.

Prout updated the Commission on the Dunn County Law Suit regarding oil waste treatment facilities. District Court ruled in favor of the ND Oil Commission has the exclusive rights to oil waste treatment facilities. Dunn County has filed an appeal to the Supreme Court. Prout wants to know how the Commission wants her to proceed. Kalil moved Hanson seconded for her to file an amicus brief on behalf of the County to assist the Dunn County States Attorney to assist with this appeal. Motion carried.

Nelson reported to the Commission that he has received the Road Maintenance Agreement concerning the Lindahl Wind Farm Project. He stated that there still some corrections that need to be made to the agreement which they still be working on. Nelson thanked Prout for all of her help with the agreement. Prout stated that we need approval of the plans before the Road Agreement is given to them along with a \$100,000.00 cash bond with the County for repairs. Aberle moved Ramberg seconded authorizing the Chairman to sign the Road Maintenance Agreement when completed. Motion carried.

Nelson presented the Notice to Proceed and Agreements for the Double Chip Phase II for County Roads #8, #15 and #42 to be paid with surge money.

Nelson stated that the \$1.00 per year program is no longer available for tractor leasing. Nelson presented bids for a new purchase of a John Deere \$94,082.00 and Case IH \$89,000.00 or \$30.00/hour rent with a roll over every two years. Nelson recommended the purchase of the Case IH. Kalil moved Hanson seconded to follow the recommendation of Nelson and purchase the Case IH. Motion carried.

Nelson reported that County Road #42 from 72nd St to Highway #50 is plan ready and if we overlay it this year it can be paid 100% if we can get the surge money to pay for it. Aberle moved Ramberg seconded to proceed with the project with 100% funding from surge funding. Motion carried.

Nelson reported on the bridge replacement with box culverts south of Epping on County Road #42. The project is scheduled to begin after Buffalo Trails Days in Epping which is July 11th. After that the repairs should begin on the Epping/Springbrook Dam.

Discussion was held on the Epping Ranch Subdivision delay of work. The shoulders of the roads are not done, cut outs and paving, no turning lanes. With the non-paving the weeds are out of hand and need to be sprayed. The developers have filed bankruptcy and the work will not get completed as promised. No bond was collected and the value to complete is approximately \$175,000.00 to \$200,000.00. Prout does not think we can out a lien on the property. Nelson questioned to whether we should proceed along the County Road. Nelson will take care of getting the weeds sprayed.

Nelson brought up a strip of land that was given back to the County by the State on Highway 1804 near Buford. Adjacent owners Jerry Zimmerman and Art Anderson want to purchase the land. Kalil moved Hanson seconded to vacate the land and give back to the adjacent owners and reserve the mineral. Motion carried.

Nelson presented his 2015 Annual Report.

Kalil moved Hanson seconded approval of the open positions report submitted by Helen Askim, HR Director. Motion carried. (Copy included in minutes)

Askim gave an update on the Development Services office. Yana Ness, Senior Planner has given her notice of resignation.

Askim reported that she is preparing her annual budget materials for the departments.

Kalil moved Ramberg seconded to table any action on the Emergency Services trailer until Smith has a discussion with the City of Williston on cost participation. Motion carried.

The Commission authorized Innis to make reservations at the Ramkota in Bismarck for the upcoming NDACo conference in October.

Innis reminded the Commission of the NDACo President's Tour to be held Thursday July 7th beginning at 11:00 AM.

There being no further business, the meeting recessed at 11:12 AM.