

AGENDA
Board of City Commissioners
July 14, 2020 - 6:00 pm
Williams County Commission Room
County Administrative Building – Williston, North Dakota

1. Roll Call of Board of Adjustments and Pledge of Allegiance
 - A. Appeal of a Planning & Zoning Decision to Grant a Special Use Permit for a Group Childcare Facility at Lot 17, Block 5, Stang Addition – 1106 13th Ave West
 - B. Adjourn Board of Adjustments

- 1a. Roll Call of Commissioners
2. Consent Agenda
 - A. Reading and Approval of Minutes
 - 1) Regular Meeting: June 23, 2020
 - 2) Special Meeting: June 24, 2020
 - B. Auditor and Finance
 - 1) Accounts, Claims and Bills
 - a. June 19 – July 9, 2020
 - 2) Business Licenses
 - C. Development Services
 - D. Engineering
 - E. Authorization to Bid
3. Public Hearings
4. Bid Openings
5. Ordinances
 - A. Ordinance 1113 – Outdoor Sidewalk Café (First Reading)
 - B. Ordinance 1114 – Eradication of Dangerous Trees or Shrubs (First Reading)
 - C. Ordinance 1115 – Airport Parking (First Reading)
 - D. Ordinance 1116 – MWEC Franchise (First Reading)
6. Petitions, Communications and Remonstrances
7. Report of Commissioners
 - A. President of the Board
 - B. Vice-President; Finance Commissioner
 - C. Street and Improvement, Sanitation, Cemetery and Public Works Commissioner
 - D. Fire, Police and Ambulance Commissioner
 - E. Water Works, Sewer, Airport, Building and Planning Commissioner
8. Report of Departments
 - A. Administration
 - 1) Emergency Services Communication Coordinator
 - 2) 16th Avenue and 42nd Street Project – Change Order 1
 - B. Finance
 - C. Attorney
 - D. Public Works
 - E. Engineering

- F. Fire Department
- G. Police Department
- H. Development Services
- I. Economic Development
- J. Airport
 - 1) Customer Facility Charge – Resolution 20-031
 - 2) Airport Revenue Forecast Study
- K. Convention and Visitor's Bureau
- L. Upper Missouri River Regional Dispatch Center
 - 1) SIRN 20/20 Circuit to New PSAP
- M. Williston Community Library
 - 1) 2019 Annual Report
- 9. Appointments and Consultations with Officers
- 10. Unfinished Business
- 11. New Business
- 12. Executive Session
- 13. Adjourn



DATE: July 9, 2020
TO: Board of Adjustments
FROM: Rachel Laqua, Principal Planner
RE: Appeal of Planning and Zoning Commission decision to grant a Special Use Permit for a 30 Child Childcare Facility at 1106 13th Ave W

On July 16, 2020, Planning and Zoning received a letter of appeal of the May 18, 2020 Planning and Zoning Commission decision to grant a Special Use Permit for a 30 child Childcare Facility at 1106 13th Ave W.

The SPU request was granted 5 to 2, with the following conditions:

- Recordation of SPU Findings
- All pick up and drop off to be located in the commercial alley east of the property for both this daycare and the existing daycare (this requires an amendment of the previous SPU for the current daycare)
- Meeting all Building, Fire, and Social Services Requirements

Separately from the motion, the Commission asked the applicant to work with the neighbor to the south (Eugene Nice) to put up a fence that would provide a better noise barrier than the current chain link fence. The applicant agreed to this. This was not put forth as a requirement.

The attached appeal letter is from Don and Ann Gudmunson of 1216 13th Ave W, and is signed by neighbors at:

1212 13th Ave W, 1220 11th St W, 1101 13th Ave W, 1302 12th St W, 1223 13th Ave W, 1227 13th Ave W, 1240 13th Ave W, 1228 13th Ave W, 1207 13th Ave W, 1215 13th Ave W, 1219 13th Ave W, 1236 13th Ave W, 1235 13th Ave W, 1211 13th Ave W, and 1208 13th Ave W

The letter of appeal is attached. The appeal letter posits that the SPU will adversely affect the public interest. It notes concerns for traffic, parking, neighborhood compatibility, and property values.

The applicant has also provided a packet of additional information. This includes a letter of rebuttal to the concerns listed in the letter of appeal, supporting information from the provider regarding drop off and pick up times, parent contracts, and provider certifications, plus letters of support from CHI, and Steve Kemp, County Commissioner. There are also numerous letters of support and a letter from a local realtor addressing the concern from neighbors over property values.

In addition, attached are:

1. P&Z Factsheet and draft Findings presented to P&Z Commission
2. P&Z Minutes
3. Letter from Glendon Olson, signed by numerous neighbors, in opposition to the original application
4. Letters of Support provided by the applicant for the original application
5. Application



Memo

To: Board of City Commissioners
From: Hercules Cummings, Finance Director
Date: July 14, 2020

Re: Consent Agenda

2A1 Regular Meeting Minutes Dated: June 23, 2020
2A2 Special Meeting Minutes Dated: June 24, 2020

2B1a Accounts, Claims and Bills

Accounts, claims and bills processed: June 19 – July 9, 2020

2B2 Business Licenses

Recommendation: Approval of all Consent Agenda items

Attachments:

a2A1
a2A2
a2B1



DATE: July 14, 2020
TO: City Commission
FROM: Taylor Olson, City Attorney
RE: Outdoor Sidewalk Cafe

Summary of agenda subject:

Good evening Commissioners and Department Heads:

I have proposed an ordinance for your consideration this evening after two meetings with the Liquor Committee. The committee decided to forward the ordinance for your consideration.

The Outdoor Sidewalk Café ordinance allows those with a 3-37(b)(19) license to operate a sidewalk café, pursuant to all of the other rules. The committee has made the decision that we would like to accommodate the individuals with a beer/wine license as well, as there are other establishments with such a license. We have added a “curfew” to the ordinance providing the outdoor sidewalk cafes can only be in operation until 10:00pm. Lastly, we amended the phrase “directly adjacent to” to “adjacent to” in subsection a, which depicts the placement of the tables.

Please let me know if I can answer any questions for you.

I recommend a motion is made as follows:

- 1) Motion to pass the ordinance as written.**

Thank you for your time,

/s/Taylor D. Olson

Taylor D. Olson
City Attorney

ORDINANCE NO. 1113

AN ORDINANCE OF THE CITY OF WILLISTON ADDING TWO SECTIONS TO 20-2 OF THE WILLISTON CODE OF ORDINANCES IN ORDER TO ADD ADDITIONAL LANGUAGE.

WHEREAS, the City of Williston has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, The City of Williston has determined that the license holder of a 3-37(b)(17) alcohol license is an appropriate party to engage in running an outdoor sidewalk café in the Downtown area; and

WHEREAS, the Liquor Committee of the City of Williston has determined it is appropriate to have a curfew on the service of alcoholic beverages at the outdoor cae; and

WHEREAS, the board of city commissioners deems it necessary and appropriate to implement such language to effectuate the proposed changes to this ordinance.

THEREFORE, BE IT ORDAINED by the Board of City Commissioners of the City of Williston, North Dakota, that Section 20-2 be enacted as follows:

20-2 Permitted Uses of Streets, Sidewalks, Alleys or Public Grounds

- a. No person may own, set up or operate an outdoor sidewalk cafe without first obtaining a permit and meet the requirements and conditions laid out in Section 20-2. The Planning Director is authorized to issue a permit for an outdoor sidewalk cafe, with approval from the Building Official, City Engineer, and local North Dakota Department of Transportation office, if requested area is on an NDDOT right of way, and the City Alcohol Committee, if the outdoor sidewalk cafe will include alcohol. Food and beverages may be sold in outdoor sidewalk cafes on public sidewalks only pursuant to a permit issued by the Planning Director. An outdoor patio area may only be located adjacent to the business that has received the permit to operate the outdoor patio area.
- c. Outdoor sidewalk café permits which wish to sell alcohol may only be issued to businesses with liquor licenses as provided for in Section 3-37(b)(17) or b(19) of Chapter 3 of the Municipal Code of Ordinances. Permits may only be issued to restaurants which have indoor seating; outdoor sidewalk cafes are meant to be an extension of an indoor business.
- e. Permit holders for outdoor sidewalk cafes and their employees shall meet the following:

Sidewalk Café Noise Regulations

- i. The permit holder shall comply with all noise regulations set forth in the Williston City Code of Ordinances.
- ii. The permit holder shall not have on the premises any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.
- iii. The sidewalk café shall be allowed to operate until 10:00pm CST, regardless of the hours of the indoor seating.

This ordinance shall be in full force and effect upon its final passage and approval.

Commissioner _____ moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner _____. On roll call vote of the Commissioners vote "AYE": _____; and the following Commissioners vote "NAY": none. Absent and not voting: none.

WHEREUPON, the Motion was passed, and the Ordinance declared **adopted this ____ day of July, 2020.**

ATTEST:

Hercules Cummings, Director
Of Finance

Howard Klug, President
Board of City Commissioners

First Reading: July 14, 2020
Second Reading: July 28,
2020 Publish:



DATE: July 14, 2020
TO: City Commission
FROM: Taylor Olson, City Attorney
RE: Eradication of Dangerous Trees, etc.

Summary of agenda subject:

Good evening Commissioners and Department Heads:

I have proposed an ordinance for your consideration this evening after a meeting with the Code Compliance Department.

We have worked on this item for some time and had many meetings on formulating an ordinance for removal of dangerous trees, shrubs, and hedges.

This ordinance would come into play when a property owner has a dead or diseased tree, shrub or hedge that endangers the public. The code compliance department requested the ordinance after receiving many complaints regarding dead and diseased greenery in the city.

Please let me know if I can answer any questions for you.

I recommend a motion is made as follows:

- 1) Motion to pass the ordinance as written.**

Thank you for your time,

/s/Taylor D. Olson

Taylor D. Olson
City Attorney

ORDINANCE NO. 1114

AN ORDINANCE OF THE CITY OF WILLISTON CREATING 5-287 FOR CONTROL AND ERADICATION OF DANGEROUS TREES, HEDGES, OR SHRUBS.

WHEREAS, the City of Williston Commission has not previously addressed or included an ordinance on the removal of dangerous trees, hedges, or shrubs for the health and safety of City residents; and

WHEREAS, the City Commission desires to enact an ordinance governing the removal of any hazardous, dead, or diseased trees, hedges, or shrubs on private or public property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city and to eradicate dead or diseased trees, hedges and shrubs; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA:

Sec. 5-287. Control and Eradication of Dangerous Trees, Hedges, and Shrubs.

1. Purpose.

- a. The City has determined that the control of hazardous, dead, or diseased trees, hedges, or shrubs is necessary for the health and safety of City residents. The loss of trees, ill health of trees, or presence of hazardous trees on public and private property depreciates the value of property within the city and impairs the safety and general welfare of the public. The enforcement and maintenance of such program by the City of Williston fall within the Code Compliance Department duties.

2. Nuisance Defined.

- a. Any living or standing tree or part thereof located on public or private property which is infected to any degree with any disease, fungus or insect which is, in the judgment of the City of Williston Code Compliance Department and City Forester, harmful to said tree, other trees, or city residents.
- b. Any dead tree or part thereof, including logs, branches, stumps, firewood or any portion of a diseased or pest infested tree that has not been disposed of in accordance with the City of Williston ordinances.
- c. Any tree, shrub, or hedge or part thereof, growing upon public or private property, but overhanging or interfering with the use of any public walk, street or highway, park or public place within the City which, as in the opinion of the City of Williston Code Compliance Department, endangers the life, health, safety or property of the public.
- d. Trees, hedges, shrubs, and other vegetation which are located on private property and adjoin public property or public rights-of-way which interfere with travel on streets, avenues, alleys, and sidewalks.

- e. Planting of trees, shrubs, or hedges which are on the City's prohibited tree, shrub, or hedge list, as determined from time to time by the Board of City Commissioners, or the City Forester as agent of the City Commission, shall be prohibited for the purpose of preventing diseases or infestations. The City shall post a list of prohibited trees, shrubs, and hedges on an annual basis, or whenever the City deems it necessary to amend. For the interest of the general welfare of the City of Williston and citizens thereof, any elm tree within the City of Williston, which is infected with, or hereafter becomes infected with Dutch elm disease, is declared a public nuisance.

3. Maintaining a Nuisance is Unlawful.

- a. It shall be unlawful, within the city limits, for any person to willfully permit any nuisance, as defined in section 5-287(2) to remain on any premises owned or controlled by him/her within the City.

4. Eradication of Nuisance on Public Property.

- a. In eradicating the nuisance on the public property, alleys, boulevards, or public right of ways, the City shall cause the nuisance to be eradicated so as to be destroyed or otherwise effectively treated so as to destroy and prevent as fully as possible any tree disease, Fungus, or harmful insect in accordance with accepted tree care practices.
- b. In abating tree hazards on public property, the City of Williston Code Compliance Department shall cause such hazards to be removed and disposed on in accordance with tree care regulations of the forestry department, the cost of which shall be borne by the city.

5. Eradication of Nuisance on Private Property.

a. Inspections and Investigation of Nuisances on Private Property.

- i. The City of Williston Code Compliance Department shall inspect all premises and places within the City limits, which are reported as one maintaining a nuisance, as often as practicable to determine whether a nuisance, as described in section 5-287 exists.
- ii.
- iii. Whenever the city forester finds with reasonable certainty that any tree disease, fungus or harmful insect exists in any tree or wood located on private property, outside of any public way in the city, he shall notify the owner or person in control of such property on which the nuisance is found by registered or certified mail within forty eight (48) hours of receipt of the diagnosis. The city forester shall request that the tree be removed or effectively treated in a manner approved by the city forester within thirty (30) days after receipt of such notice. If such owner cannot be found, a copy of said notice shall be posted upon said infected tree and mailed to the address of record for the owner of the property according to the Williams County property tax records.

- iv. If said tree is not so removed and/or treated as specified within thirty (30) days after receipt of the notice in 6(a)(iii), or within thirty (30) days after posting of the notice if the owner cannot be found, the city forester shall notify the owner of the property of the intent to eradicate the nuisance and assess to the property tax. The assessment shall be considered a lien upon the property upon which the nuisance is found. The owner or person in charge also may be charged with a violation of this ordinance for maintaining a nuisance.
- v. If it is determined by the City Forester and the City of Williston Code Compliance Department that a nuisance as defined in 2(a)-(e) is a direct threat to the health and safety of the residents of the City of Williston, they shall immediately remove the nuisance after attempting to contact the owner of the property. In the case of an emergency, the 30 day notice in (iii) and (iv) is herein waived.
- vi. "Notice" as required in 6(a)(iii) shall be made either by sheriff's service or by publication in the county newspaper for one week.
- vii. Upon removal of the nuisance by the City of Williston, a lien shall be recorded against the property for the cost of removal. Once per year, this amount shall be assessed against the property as a special assessment.

6. Chemical and/or Biological Application to Eradicate Nuisance.

- a. Whenever a Code Compliance Department determines that any tree, shrub, or part thereof is infected with any tree disease or harmful insect, the City may cause all trees within a one mile radius to be treated as appropriate.
- b. The City may give up to 24 hours advance public notice in manner deemed appropriate by the City when conditions of eradication warrant such notice.
- c. When appropriate notice has been given and posted in accordance with subsection (b) hereof for any treatment conducted or contracted by the City, the city shall not allow any claim to damages to any vehicle, home, or other property resulting from treating operations.
- d. When trees on private property are to be treated, the City shall notify the owner of the property of the need for treatment and proceed in accordance with requirements of this section regardless whether the City itself or a commercial applicator does the work.

7. Assessment of Nuisance Eradication Costs.

The costs for the abatement of the public nuisances as defined in this article shall be borne as follows:

- a. For abatement where the nuisance occurs on public land or rights of ways, the cost will be borne by the City.
- b. For abatement where the nuisance occurs on private property, the cost shall be borne by the property owner.

- c. The cost of treating for abatement of nuisances shall be borne by the City when such nuisances are on public property or right of way and shall be borne by the private owner when such nuisances are on private land.
- d. The costs of removal of dead or hazardous trees on private property shall be borne by the property owner.
- e. The cost of planting trees and shrubs on right of ways following the abatement of a nuisance shall be the adjoining property owner's responsibility.
- f. If it is necessary for the City to remove a tree or trees from a right of way in connection with improvements of the portion of street or highway used for vehicular traffic, the city may replant the trees or replace them, provided that conditions permit, as determined appropriate by the City.

8. Certification of Nuisance Eradication Costs as a Special Assessment

- a. If a property owner is billed by the City for eradication of a nuisance on that property owner's property, and the bill is unpaid after the City's established time period, the City may assess the cost against the property upon which the nuisance was abated.
- b. When the City has affected the eradication, abatement and control of above-named nuisances, the actual cost thereof including allowable City administrative expenses and any penalties approved by the City Commission, if not paid by the owner, must be charged and assessed against the property upon which the nuisances were eradicated, cut or controlled. The Code Compliance Department shall prepare and the Board shall approve an assessment list showing the costs against each lot or tract to be assessed. The assessment list shall be forwarded to the Board of City Commissioners for official action. All procedures under State law for certification, appeal, payment and collection of special assessments shall apply. Assessment may be payable in installments with approval of the City Commission.

9. Nuisance Abatement Notice and Appeal Procedures.

- a. The Code Compliance Department shall cause a notice of the requirements of this article to be published in the official newspaper of the City once per year. These publications shall serve as notice to all landowners, occupants, or persons in charge of maintaining any parcel of land within the City limits to comply with the requirements of this article. These publications shall also serve as the official notice to property owners to cut, maintain, and abate all nuisances. Other methods of notification, such as the media and the City's website, may also be used to notify landowners, occupants, or persons in charge to control such nuisances.
- b. If the Code Compliance Department determines that land within the City jurisdiction contains such nuisances, the Code Compliance Department may serve upon the landowner notice, by mailing to the address of record for the owner of the property according to the Williams County Property tax records, requiring the landowner to control the such nuisances within the time period

prescribed by the Code Compliance Department in the notice. The notice shall contain at least the following items:

- i. The minimum remedial requirements.
 - ii. The time frame within which the landowner must meet the minimum remedial requirements.
 - iii. That the landowner may be subject to penalties provided under state law and city ordinance if the landowner fails to comply with the remedial requirements.
 - iv. A statement delineating the process the Code Compliance Department will follow regarding the eradication and the date upon which the eradication will occur.
 - v. A Statement of costs if the landowner fails to control the trees, hedges, or shrubs.
 - vi. That the landowner may challenge the notice of the Code Compliance Department by submitting to the City in writing within three (3) days of the date of the notice a request that a review be completed by the Department Head for the Department of Building Safety.
- c. The Code Compliance Department may delegate all or some of the duties required under this section to other City staff. The City may contract with any person or company to perform services for the City in the control of such nuisances.

10. Interference Prohibited.

- a. It shall be unlawful for any person, firm, or corporation to prevent, delay or interfere with the city forester, its designated employees, or agents while they are engaged in the performance of the duties imposed by this article.

11. City Inspect, Remove, and Burn diseased Dutch elm trees.

- a. The City of Williston Code Compliance Department is hereby authorized, directed and empowered to inspect any tree within the City of Williston, in conjunction with the City forester, whether on public or private property, reported or supposed to be infected with Dutch elm disease; and if upon such inspection it is determined that such tree is so infected that the Board is hereby authorized, directed, and empowered to immediately remove and burn same in such manner as to prevent as fully as possible the spread of such disease if said tree is located on public property and not less than five (5) days after serving notice to the owner if said tree is located on private property. If such owner cannot be found, a copy of said notice shall be posted upon said infected tree and the five-day period shall commence at the time of such posting. The owner of the property may waive said five-day notice. The cost shall be borne by the property owner.

12. Nonliability of city for removal of trees or shrubs.

- a. The city shall not be liable to any property owner or other individual, firm or corporation for damages or costs for the removal or destruction of any tree, shrub or other vegetable growth located on any street, avenue, alley, boulevard, or other public way.

13. Penalties and Fees.

- a. The violation for any provision of 5-287 is an infraction punishable in accordance with provisions 5-288 and 1-11 of the Williston Municipal Code. Each day the violation exists shall be deemed to be a separate infraction.
- b. The City of Williston shall set administrative fees by resolution once per year, or as often as they deem necessary.

Commissioner _____ moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner _____. On roll call vote of the Commissioners vote "AYE":

_____, and the following Commissioners vote "NAY":
_____. Absent and not voting:
_____.

WHEREUPON, the Motion was passed and the Ordinance declared adopted this _____ day of _____, 201__.

Howard Klug, President
Board of City Commissioners

ATTEST:

Hercules Cummings, Director of Finance

First Reading:

Second Reading:

Published:

Adopted the _____ day of _____, 202__.



DATE: July 14, 2020
TO: City Commission
FROM: Taylor Olson, City Attorney
RE: Airport Parking

Summary of agenda subject:

Good evening Commissioners and Department Heads:

I have proposed an ordinance for your consideration this evening after a meeting with the Williston Police Department.

This is an ordinance to add a section to the chapter on Airport Parking, to make it illegal to park in the passenger drop off lane in front of the airport. With the distance from the city, it takes too long to get a towing company out to the airport. The best resolution to improper parking is a simple parking ticket.

I also have a resolution to make the parking ticket violation a \$50 fine.

Additionally, I went through and changed "Sloulin Field" to "XWA" since I was amending the ordinance anyway.

Please let me know if I can answer any questions for you.

I recommend a motion is made as follows:

- 1) Motion to pass the ordinance as written.**

Thank you for your time,

/s/Taylor D. Olson

Taylor D. Olson
City Attorney

ORDINANCE NO. 1115

AN ORDINANCE OF THE CITY OF WILLISTON ADDING TWO SECTIONS TO 2.5-8 OF THE WILLISTON CODE OF ORDINANCES IN ORDER TO ADD ADDITIONAL DEFINITIONS AND PROHIBITIONS.

WHEREAS, the City of Williston has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, The XWA Airport for the City of Williston has a passenger drop off area, which will be properly depicted by signs, specifically for the quick drop off and pick up of passengers to the airport terminal; and

WHEREAS, there have recently been numerous reports of individuals parking and leaving their unattended vehicles in the passenger drop off lane; and

WHEREAS, the board of city commissioners deems it necessary and appropriate to implement such language to disallow parking and unattended vehicles in the passenger drop of lane.

THEREFORE, BE IT ORDAINED by the Board of City Commissioners of the City of Williston, North Dakota, that Sections 2.5-1, 2.5-6, 2.5-7 and 2.5-8 be enacted as follows:

2.5-1. Legislative Intent.

The City of Williston owns and operates XWA International Airport. Increased air activity and use of such airport have necessitated continued improvements and expenditures of money by the city to provide the required services demanded by the users of the airport, including passengers, tenants, visitors, the general public, and all other parties using such airport for whatever purpose. The governing body desires to establish fees to be paid by users of the airport to help defray all the costs and expenses incurred by the city. The governing body hereby establishes the following uniform guidelines in the establishment of landing fees and charges for the use of XWA International Airport by commercial operators providing air transportation.

2.5-2. Definitions.

As used in this article:

- (1) *Based operators* shall include those operators who have an established base of operations at XWA International Airport, including offices, hangar space, and permanent facilities, who conduct business with the general public.
- (2) *Non-based operators* shall include those operators who use the airport on a continuing basis, but not on a daily basis, for the transportation of persons or property, but who do not have permanent facilities located at the airport. Such non-based operators do not make frequent use of the airport but make an occasional landing. Such non-based operators generally do not solicit customers from the

general public for purposes that include the use of XWA International Airport on a regular basis.

2.5-6. Title.

This article shall be known and cited as "The XWA International Airport Parking Ordinance."

2.5-7 Definitions.

(9) *Passenger Drop Off Lane* is defined as the parking lane directly adjacent to the front entrance of the airport terminal. This Lane shall be properly noticed via signs or street markings.

(10) *Unattended vehicle* shall be defined as one without a driver.

2.5-8. Parking Rules and Regulations.

(2) The City may enter into a private agreement for the general operation and management of parking of motor vehicles at certain parking facilities serving the XWA International Airport as long as the agreement is approved by a majority of the Board of City Commissioners. The document must be kept on file for review at XWA International Airport.

(7) It shall be unlawful to park in the "Passenger Drop-Off Lane" directly adjacent to the front entrance of the airport terminal.

(8) It shall be unlawful to leave an unattended vehicle in the "Passenger Drop-Off Lane" directly adjacent to the front entrance of the airport terminal.

This ordinance shall be in full force and effect upon its final passage and approval.

Commissioner _____ moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner _____. On roll call vote of the Commissioners vote "AYE": _____; and the following Commissioners vote "NAY": none. Absent and not voting: none.

WHEREUPON, the Motion was passed, and the Ordinance declared **adopted this _____ day of July, 2020.**

ATTEST:

Hercules Cummings, Director
Of Finance

Howard Klug, President
Board of City Commissioners

First Reading: July 14, 2020
Second Reading: July 28, 2020
Publish:



DATE: July 14, 2020

TO: City Commission

FROM: Jordon Evert, City Attorney

RE: Ordinances – Mountrail Williams Electric Cooperative Franchise Ordinance

5D Amendment to Mountrail Williams Electric Cooperative Franchise Ordinance

Summary of agenda subject:

Background

In October of 2004, the Board of City Commissioners for the City of Williston adopted Ordinance 877, which is an ordinance granting a non-exclusive franchise agreement to Mountrail Williams Electric Cooperative for the construction and operation of an electrical distribution system within the City of Williston. The other electrical franchisee who provides electrical services in the City of Williston is Montana Dakota Utilities Company. See Article V. Electrical Distribution System of Appendix D Franchises.

Ordinance 877 specifically identified the service areas in which MWEC provided Williston residents electrical services. MDU's electrical franchise ordinance does not identify or limit jurisdictional service areas.

Due to the rapid growth and expansion of the City of Williston caused by the oil and gas boom, MWEC, upon discussions and agreement with MDU, began providing electrical services outside of its designated services areas despite Ordinance 877 limiting MWEC's service areas. North Dakota Century Code provisions permit electrical providers to enter into service agreements for the purpose of establishing service areas and designating the service locations to be served by each electric provider. The designated service locations may include all or any portion of the service locations within a service area that are being served by the electric providers at the time of the agreement, or that could be economically served by the then existing facilities of the electric providers, or by reasonable and economic extensions of such existing facilities. Given the fact MWEC and MDU can enter into a service agreement, it is not necessary for the City of Williston to require MWEC and/or MDU to lay-out their service areas in the applicable franchise ordinances.

Because the provisions of the franchise ordinances for MWEC and MDU slightly differ, MWEC has sought the permission of the City of Williston to amend its electrical franchise ordinance to align with the provisions of the MDU's franchise ordinance, as the latter ordinance provides more flexibility.

After receipt of MWEC's request, the City's Franchise Committee met with MWEC to discuss the amendment. The Committee was in agreement to allow MWEC to amend its electrical franchise ordinance to align with the provisions of MDU's electrical franchise ordinance. Further, the Committee recommended that in the near future the Committee, MWEC, and MDU begin reviewing to determine whether the current language suffices or if new language needs to be proposed when the ordinances lapse.

The City Attorney's office sees no issue with the City Commission granting MWEC's request by adopting the attached draft ordinance.

THEREFORE, I recommend a motion is made as follows:

Move to approve the first reading of Ordinance No. 1116, as presented.

Attachments

a5D

ARTICLE IX. ELECTRICAL DISTRIBUTION SYSTEM

Ordinance No. 1116

AN ORDINANCE GRANTING TO MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, A COOPERATIVE ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONTRUCT, MAINTAIN AND OPERATE WHITIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE CITY OF WILLISTON, NORTH DAKOTA, AN ELECTRICAL DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING ELECTRIC ENERGY FOR PUBLIC AND PRIVATE USE.

WHEREAS, pursuant to law the City has the power to grant a non-exclusive franchise for a term of no more than twenty (20) years; and,

WHEREAS, pursuant to city ordinance the City may grant a franchise by ordinance; and,

WHEREAS, it is in the public interest that a franchise be granted to Mountrail-Williams Electric Cooperative, for construction, operation and maintenance of an electric distribution system.

NOW THEREFORE, BE IT ORDAINED by the Board of City Commissioners of the City of Williston, North Dakota:

Section I.

Definitions.

As used herein, the following words and terms are defined as follows:

1. "City" means the City of Williston, North Dakota.
2. "Franchise" means all of the rights and obligations extended by City to Grantee herein.
3. "Grantee" means Mountrail-Williams Electric Cooperative

Section II.

Grant of Authority.

There is hereby granted by the City to the Grantee, subject to the conditions and limitations contained herein, the right and privilege to occupy and use the streets, alleys and public grounds of the City as now, or hereafter constituted, for the purposed of constructing, maintaining and operating, within, upon, in and under the same, an electric distribution system for transmitting and distributing electric energy for public and private use.

To encourage harmony and operational efficiency in the provision of electric distribution service in the City of Williston, to promote safety and discourage unreasonable duplication of electric facilities, to assure adequate and reliable electric service for all consumers within the City of Williston, , the authority granted by this Franchise to Grantee is limited to the use of the City's streets, alleys and public grounds of the purpose of distribution electric energy for public an private use within the service areas and to the service location of the Grantee as designated and agreed to between the Grantee and other electric franchise grantees and accepted by the City, or in the absence of such agreement, designated by the City. The Grantee shall have all the rights, privileges, and obligations to provide electric distribution service within such service areas and to such service locations as agreed upon. This limitation shall not restrict the Grantee's right to occupy and use the streets, alleys and public grounds of the City anywhere within the City to construct, operate, and maintain transmission and distribution line facilities for the purpose of providing adequate electric service within the service areas and to the service locations of the Grantee.

Section III.

Grantee's Obligations.

Grantee shall maintain an efficient distribution system for furnishing electric energy for public and private use at reasonable rates and under such orders, rules or regulations as may be issued by a federal or state agency having jurisdiction thereof.

Section IV.

Non-Exclusive Grant.

This Franchise shall not be exclusive and shall not be construed to prevent the City from granting to any other party the right to use the streets, alleys and public ground of the City for like purposes.

Section V.

Compliance With Laws and Ordinances.

Grantee shall at all times during the life of this Franchise comply with all applicable laws and ordinance of the City.

Section VI.

Reservation of Rights.

City reserves any right it may have, under its police power, or otherwise, to control or regulate the use of the streets, alleys and public grounds by Grantee, and to enact all ordinances necessary and proper in the exercise of that power. City also reserves the right pursuant to state laws of the State of North Dakota and the City ordinances as such ordinance may be amended from time to time, to impose, by ordinance, a reasonable franchise tax for revenue purposes applicable to all franchise of like kind.

Section VII.

Conditions on Street Occupancy.

1. All transmission and distribution structures, lines and equipment erected by the grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or public ways and places. Grantee will coordinate with the City to construct new lines, and evaluate existing lines whenever the facilities are modernized, upgraded or extensively rehabilitated in order to cause minimum interference with the landscape or appearance of the City.
2. In case of any disturbance of pavement, sidewalk, driveway or other surfacing by the Grantee, the Grantee shall, at its own costs and expense and in a manner approved by the City Engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition during the length of this Agreement.
3. In the event that at any time during the period of the Franchise, the City shall lawfully elect to alter, or change the grade of any street, alley or other public way, the Grantee upon reasonable notice by the City, shall remove, relay and relocate, at its own expense, its poles, wires, cables, underground conduits, manholes and other fixtures that may interfere with the alteration or change.
4. The Grantee shall not place poles or other fixtures where the same will interfere with any electric light, water hydrant or water main, or in such a manner as to interfere with the usual travel on said streets, alley and public ways.
5. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

_____, on this ____ day of _____, 20__.

Attested By:

(Cooperative Name)



DATE: July 14, 2020

TO: City Commission

FROM: David Tuan, City Administrator

RE: Report of Departments – City Administrator

A handwritten signature in blue ink, appearing to read "David Tuan", is written over the "FROM:" line of the email header.

8A1 Emergency Services Communication System Coordinator

The City of Williston is requesting approval for the Upper Missouri River Dispatch Center to assume the duties of the Emergency Services Communications System Coordinator as identified under Chapter 57-40.6 of the North Dakota Century Code. This will not come at an additional cost. These duties include:

- Ensure that address and mapping data is updated in the database
- Provide an annual review of the land line database
- Maintain the emergency services response boundaries for the public safety answering point of service
- Ensure that the dispatch protocols and emergency service notifications are documented and communicated with emergency services

I recommend approval for the Upper Missouri River Regional Dispatch Center staff to assume the duties as the City of Williston Emergency Services Communication System Coordinator.

8A2 16th Avenue and 42nd Street Project – Change Order 1

Change order 1 has been submitted for the 16th Avenue and 42nd Street project in the amount of (\$68,721.31) reducing the total contract amount for the project from \$8,690,396.60 to \$8,621,675.29. These changes include:

- Reduce 42nd Street Water Main from 14" DIP to 12" PVC and various changes to storm water, water and sewer
- Adjustment for the culvert crossing at 16th Avenue
- 16th Avenue soft spot repair
- Relocate fire hydrant and raise water valves along 32nd Avenue
- Install 6" irrigation water line across 32nd Avenue and across 16th Avenue
- 16th Avenue trail light pole adjustment
- TX-160 grid substitution
- Sewer manhole #30 adjustment
- Barrow area import material

I recommend the City of Williston approve Change Order 1 in the amount of (\$68,721.31) for the 16th Avenue and 42nd Street project reducing the total contact amount to \$8,621,675.29.

Attachments

a8A

a8B



DATE: Tuesday, July 14, 2020
TO: City Commission
FROM: Anthony Dudas, Airport Director
RE: Memo to Commissioners – Airport Department

8J1: Customer Facility Charge Resolution 20-031

The City Commission approved implementing a customer facility charge (CFC) on rental car transaction days in 2014. CFC's are currently charged at \$4.50 per transaction day for each car rental for a maximum of 30 days. If you were to rent a car for 5 days at XWA, you will see a CFC fee associated with that rental for \$22.50.

These funds were utilized to construct the rental car wash facility and will continue to be collected and utilized to fund management, operation, and maintenance of the new XWA rental car facilities including the wash bay, parking areas, and terminal office spaces.

Upon review, the City has not created a formal resolution detailing the process for collection of the CFC. This resolution details that process. The full resolution can be found in your commission packet.

I recommend approval of resolution 20-031.

8J2: Airport Revenue Forecast Study

The COVID-19 impact on airports and all tenants has been significant. Now that the Airport relief funds have been finalized through the CARES Act, understanding the impacts occurring in the industry and forecasting what could transpire between the current situation and the point when the rebound is substantially complete is the only way to accurately assess the real impact and the risks that exist for our airport.

Our tenants have already requested deferrals or abatements of rents and/or concession fees and the FAA has publicly stated airports should do all they can to reduce impacts to tenants and businesses which rely on our airport with the CARES Act funding we received.

We have used Landrum & Brown, formerly Trillion Aviation, for several years for air service development as well as our primary guiding documents currently in place at XWA. The effort

proposed today will provide a financial model and supporting documentation which will be integral in future budgetary planning for our airport. Finance Director Hercules Cummings reviewed this scope of work and agrees this proposal will produce valuable information to have as we move forward.

This effort more specifically will provide the following:

1. Passenger traffic projections through 2023
2. Review of current tenant leases for future rate updates.
3. Review airport's current financial obligations and operational costs.
4. Review passenger facility charge schedule which is currently allocated towards \$7.1M of the terminal construction cost.
5. Review customer facility charge collections and provide recommendations on any changes.
6. Review air carrier rates and charges and provide recommended updates for future forecasted activity and costs.
7. Review non-aeronautical revenues like concessions and car rentals to determine if any adjustments can be recommended.
8. Identify how the CARES Act funding received can best be utilized to cover operational costs at XWA and maximize the value of this funding to support tenants if possible.

I recommend approval of the contract to Landrum & Brown for airport revenue forecasting in the amount of \$25,000.00.

Attachments

a8J1: CFC Resolution

a8J2: CARES Assessment Study

RESOLUTION 20-031

RESOLUTION ESTABLISHING CUSTOMER FACILITY CHARGES FOR CAR RENTAL FACILITIES LOCATED AND OPERATING AT THE WILLISTON BASIN INTERNATIONAL AIRPORT, WILLIAMS COUNTY, NORTH DAKOTA.

WHEREAS, the City of Williston owns and operates the Williston Basin International Airport, known as XWA Airport;

WHEREAS, the City of Williston, by resolution and pursuant to N.D.C.C. § 2-06-02, elected to exercise any or all powers granted to airport authorities in Ch. 2-06, N.D.C.C.;

WHEREAS, the City of Williston is empowered to enact resolutions for the management, governance, and use of the XWA Airport and its facilities;

WHEREAS, the collection of customer facility charges is a common approach for funding car rental facilities in airports;

WHEREAS, since 2015 the City of Williston has collected customer facility charges and desires to formalize those charges by written resolution;

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA HEREBY ADOPTS AND IMPLEMENTS A CUSTOMER FACILITY CHARGE UNDER THE FOLLOWING TERMS AND CONDITIONS:

SECTION I. Definitions.

As used in this resolution, the following definitions apply:

1.1 "Airport" shall mean the Williston Basin International Airport.

1.2 "City" shall mean the City of Williston, a North Dakota municipal corporation.

1.3 "Car Rental Company" means a rental car company having executed a Vehicle Rental Concession Agreement for the operation of rental car services at the Airport. Both On-airport and Off-airport car rental companies serving the Airport are equally obligated under this resolution.

1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided in Section 3 .1 of this resolution.

1.5 "Customer Facility Charge" or "CFC" shall mean the charge imposed by the City, which is collected and remitted by the rental car companies, upon a car rental customer arriving at the Airport and renting a vehicle. The CFC shall be collected by the rental car companies for the benefit of the Airport, pursuant to Section III of this resolution.

- 1.6 "CFC Fund" shall mean the special Airport fund set up to maintain CFC receipts collected by the rental car companies and provided to the Airport for expenditure on car rental facilities improvements.
- 1.7 "Director" shall mean the Director of the Williston Basin International Airport.
- 1.8 "On-airport" shall mean a RAC that is located at, upon or within the Williston Basin International Airport.
- 1.9 "Off-airport" shall mean a car rental company that is not located at Williston Basin International Airport but which does business at the Airport.
- 1.10 "Rental Car Facilities" or "RAC Facilities" shall mean any facilities used by rental car companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.
- 1.11 "Transaction Day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first Transaction Day, and any portion of one or more additional twenty-four hour period(s) for each Transaction Day thereafter. If a RAC imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

SECTION II. Purpose.

- 2.1 It is in the Airport's best economic interest, and likewise in the interest of the car rental customers and rental car companies, that the Airport adopt a CFC program as identified in this resolution to maintain, improve and further expand the RAC Facilities of the Airport; and
- 2.2 In establishing and implementing the CFC program, the car rental customers using the Airport should contribute to a greater degree toward the development and improvement of rental car facilities.

SECTION III. Car Rental Customer Facility Charge.

- 3.1 A CFC in the amount of \$4.50 per Transaction Day shall be imposed on each rental car transaction at the Williston International Airport.
- 3.2 The CFC authorized by this resolution shall continue until terminated by separate action of the City.
- 3.3 The Airport Director is authorized to execute the necessary documents for implementation of the CFC program on behalf of the City and Airport.
- 3.4 The CFC shall be used to pay, or reimburse the Airport, for the costs associated with the RAC Facilities, and to include all costs, fees, and expenses associated with the

rental car program; with the financing, planning, designing, constructing and equipping of Car Rental Facilities; or for any other rental car program related purpose the Director deems appropriate. Eligible costs for the related facilities and equipment shall include operating and maintenance costs in addition to the foregoing costs. Nothing herein shall be construed to make fees or costs incurred in tenant improvements for space exclusively used by a RAC ineligible.

3.5 The rental car companies shall be entitled to no compensation for collection of the CFC.

3.6 The rental car companies shall collect the CFC from each car rental customer at the time payment is first made under any agreement with the customer. The rental car companies shall collect the CFC fee for each qualifying rental car Transaction Day, as defined herein. rental car companies shall remit all CFC's on a monthly basis to the Airport together with the monthly statement of transactions and Transaction Days, regardless of whether or not the full amount of the CFC was actually collected from the car rental customer. The CFC's shall be remitted by the last day of the month following the month the CFC's were collected. Failure to strictly comply with this subparagraph shall be considered a material breach of the rental car companies' authorization to do business at the Airport.

3.7 In the event any RAC violates any term or condition of this resolution, the Airport may exercise any rights or remedies allowed by law or equity.

ON A ROLL CALL VOTE, THE following Commissioners voted "AYE": _____ . The following Commissioners voted "NAY": _____ . The following Commissioners voted "ABSTAIN": _____ . THEREUPON, the Resolution was declared adopted and carried. Approved this ____ day of July, 2020.

Howard Klug, President
Board of City Commissioners

ATTEST:

Hercules Cummings, City Finance Director
& City Auditor



DATE: 07/14/2020

TO: City Commission

FROM: Derrick Walker, Director

RE: Purchase Approval

Installation of Circuits for a new Public Safety Core Network and for the SIRN 20/20 Radio Network at the New PSAP Location (Old Airport)

As part of the City & County's verbal agreement to share in the cost of the development of a new Public Safety Answering Point (PSAP), the Upper Missouri River Regional Dispatch Center is requesting to purchase the Information Technology networks required for the new primary PSAP to be located at the old Sloulin Field terminal.

The cost is for the construction of the networks that is considered public safety grade, to accomplish 99.999% reliability (5.39 minutes of downtime per year). NDIT is requiring an approval date of no later than July 17th to facilitate construction to meet the opening date of the new PSAP in 2021. Projects will be invoiced upon completion and acceptance testing of the new circuits by the UMRRDC.

- \$161,000.00 – State of North Dakota Information Technology – SIRN 20/20 Network
- \$350,000.00 - State of North Dakota Information Technology – STAGEnet Redundancy

I recommend approval to purchase the above listed technology networks including installation and configuration for the new primary PSAP to be located at the old Sloulin Field terminal in the amount of \$511,000.00.

Attachments:

ND IT Estimate for the UMRRDC SIRN 20/20 Network

ND IT Estimate for the UMRRDC New Core Network

Design of the UMRRDC new Core Network Design



DATE: Tuesday, July 14, 2020

TO: City Commission

A handwritten signature in blue ink that reads "Andrea Placher".

FROM: Andrea Placher, Library Director

RE: Report of Departments – 2019 North Dakota Public Library Annual Report

8M1 Williston Community Library 2019 North Dakota Public Library Annual Report

In accordance with **NDCC 40-38-09. Annual Report of board of directors – Contents – To whom made.** The board of directors shall make a report on July first of each year to the governing body of the city or board of county commissioners, as the case may be, stating:

1. The condition of the library and property.
2. The various sums of money received from all sources.
3. How much money has been expended and for what purpose.
4. The number of books and periodicals on hand.
5. The number of books and periodicals added by purchase or gift during the year and the number thereof lost or loaned out.
6. The character and kind of books contained in the library.
7. Such other statistics, information, and suggestions as the board may deem of general interest or as many be required by the state library.

Copies of the report shall be filed with the governing body of the political subdivision and with the state library.

Attachments

Williston Community Library 2019 Year in Review

Williston Community Library 2019 Annual Report