

CITY COUNCIL PROCEEDINGS
PUBLISHED SUBJECT TO THE GOVERNING BODY'S REVIEW AND REVISION

A regular meeting of the Beach City Council was called to order by Mayor Henry Gerving on April 15, 2019, at 7:00 pm. Present when the meeting was called to order was City Council Tim Marman, Andy Zachmann, Bev Wolff, Jeanne Larson, Mark Benes, Wade Walworth, Public Works Superintendent Randy Dietz, City Auditor Kimberly Gaugler, Engineers Jasper Klein, Kenzie Robertson, and guests Walter Losinski, Carol Bartz, Tevin Dietz, Sydnee Steele, and Brandon Schulte.

The Pledge of Allegiance was recited.

Walworth request adding to the agenda - Transfer of Cedar Liquors Off Sale Beer and Liquor License to Walter Losinski. Mayor Gerving approved the addition of agenda item.

Roll call was taken. All members were present.

Minutes

Minutes of the meeting on April 1st were presented. Zachmann moved to approve the minutes, second by Wolff. Motion carried unanimously.

Transfer of Off Sale Beer and Liquor License

Wade Walworth representing Cedar Liquors stated there is no plan of re-opening the business. The Off Sale Beer and Liquor Licenses would expire June 30. They would like to transfer the remaining term of their licenses to 3rd Avenue Liquor. Marman moved to proceed to a Public Hearing on May 10th at 7 pm for comment on the transfer of licenses as is required by City Ordinance 10.0414, second by Zachmann. Motion carried unanimously.

PW Report

PWS Dietz reviewed his written report. Benes moved to approve a water main replacement project on 5th Street between Central Avenue and First Avenue SW and a lead service line replacement at Hanson Lumber on Central Avenue, second by Zachmann. Motion carried unanimously. Benes moved to approve the summer Street Repair Plan as presented by Dietz, second by Larson. Motion carried unanimously.

Auditor Report

Gaugler reviewed her written report. The Renaissance Zone will expire in August 2020. Walworth moved to re-apply for a five (5) year extension on the Renaissance Zone Plan, second by Larson. Motion carried unanimously. Benes moved to approve payment of \$29,945.53 to Bank of ND for the Infrastructure Loan on Street Improvement Project 2017-01, second by Walworth. Motion carried unanimously. Gaugler reviewed the financial report for the month of March. Benes moved to approve the financial report, second by Walworth. Motion carried unanimously.

Engineer Report

2019 Sanitary Sewer Project

Engineer Jasper Klein reported the project documents are awaiting City Attorney certification. The City can execute the Contract and Notice to Proceed. Walworth moved to approve the Notice to Proceed, second by Benes. Motion carried unanimously. Klein recommended applying for a cost overrun loan with USDA for \$120,000 only to be used if necessary. Larson moved to approve applying for the recommended cost over-run loan, second by Walworth. Motion carried unanimously.

Sheriff's Report

The Sheriff's Report for the month of March consisting of 13 calls, and 3 warnings and 6 citations was reviewed.

Committee Reports

Park Board

Zachmann reported the swimming pool filter system has been ordered. Sign up for t-ball is taking place. Fence is being installed/repared at the t-ball field.

Police Committee

Mayor Gerving inquired who is allowed to use the shooting range near the lagoon. Walworth explained this site was approved for use only by the Sheriff's Department.

Zoning Report

Gaugler reported one (1) Application for Building was approved.

Animal Control

Mayor Gerving request the Committee and PWS Dietz develop a plan of where animals will contained if captured.

Liason Committee

Mayor Gerving request the Committee identify properties that violate City Ordinance 12.0208 Dirt, Filth, Etc in Streets and Property and written notice be sent to the property owner.

Unfinished Business:

The City Council completed review of City Ordinance Chapter 10 – Business Regulations and Licenses. Suggested changes will be provided to legal counsel for review.

New Business:

RESOLUTION 2019-11 A RESOLUTION ESTABLISHING BEACH COMPLETE COUNT COMMITTEE FOR 2020 CENSUS

WHEREAS, the Constitution of the United States of America requires an enumeration, or "census," of the population every 10 years; and

WHEREAS, the next decennial census of the population will be taken on April 1, 2020; and

WHEREAS, the decennial census data compiled in the 2020 Census will be used to determine the apportionment of seats in the State Legislature and the allocation of billions of dollars of federal, state and county funds for social and other programs for the next decade until the next decennial census is taken; and

WHEREAS, it is vitally important that every person in the City of Beach, North Dakota, is counted in the 2020 Census; and

WHEREAS, the City of Beach, North Dakota, will establish a Complete Count Committee that will develop and implement an awareness campaign that motivates residents to respond to the 2020 Census and encourages participation by population groups that are often undercounted; and

WHEREAS, the Mayor will have full authority to appoint government and community leaders to serve as members of the Complete Count Committee and to partner with the U.S. Census Bureau to provide training to the members of the Complete Count Committee;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Beach, North Dakota, as follows:

1. The Beach Complete Count Committee is hereby established to develop and implement an awareness campaign that motivates residents to respond to the 2020 Census and encourages participation by population groups that are often undercounted; and
2. The Mayor of the City of Beach, North Dakota, is hereby authorized to appoint government and community leaders to serve as members of the Beach Complete Count Committee, to partner with the U.S. Census Bureau to provide training to the members of the Beach Complete Count Committee, and to take all steps necessary to accomplish these purposes.
3. This Resolution shall go into effect upon approval and passage by the City Council.

Council Member Larson introduced the foregoing Resolution and moved for its adoption. The motion was duly seconded by Council Member Zachmann. Upon vote being taken thereon, the following Council Members voted "AYE": Marman, Zachmann, Wolff, Larson, Benes, and Walworth; and the following Council Members voted "NAY": none. Whereupon said motion was declared duly passed and adopted this 15th day of April, 2019.

Henry Gerving, Mayor

ATTEST:

Kimberly Gaugler, City Auditor

Marman moved to approve the Second and Final reading of Ordinance 385, second by Larson. Motion carried unanimously.

ORDINANCE NO. 385

AN ORDINANCE AMENDING AND RE-ENACTING PARTICULAR SECTIONS OF THE CITY CODE OF THE CITY OF BEACH, NORTH DAKOTA AS HEREINAFTER SET FORTH

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEACH, NORTH DAKOTA, AS FOLLOWS:

Section 1: Section 1.0102 entitled "Defining the City Limits" is hereby amended and re-enacted as follows:

1.0102 **DEFINING THE CITY LIMITS:** There shall be included with the municipal limits of the City of Beach, North Dakota, the following territory or land; all lots and blocks shall also include all streets, alleys, and public ways included within the area and adjacent thereto, which are defined as within the confines of the City Limits.

The Incorporated Limits of the City of Beach, Golden Valley County, North Dakota, includes those lands included in and shown on the official Boundary Map, which shall be on file in the office of the City Auditor. This map is hereby made a part of this Code. This map shall reflect the ordinances adopted prior to this date and all ordinances adopted after this date relating to the boundaries of the City. The City Auditor is authorized and directed to make the necessary changes upon the official Boundary Map in accordance with such ordinances as they are from time to time enacted. ~~tracts lying entirely within Section 23, 24, 25 and 26, Township 100 North, Range 106 West of the 5th Principal Meridian, more particularly described as follows, to wit:~~

~~COMMENCING At a point which is the southwest corner of Lot 15, Block 1 of Carlson's First Addition to the City of Beach, as said Carlson's First Addition is platted and surveyed in said Section 24, said point also being on the east property line of First Avenue East; thence in a southerly direction along the east property line of said First Avenue East to a point which is 66.0 feet due east of the southeast corner of Lot 7, Block 4 of Mrs. Richard's Addition to the City of beach, as said Mrs. Richard' Addition is platted and surveyed in said Section 24, said point also being 33.0 feet north of the south line of Section 24; thence in an easterly direction along a line 33.0 feet north of and parallel to the south line of Section 24, to a point which is 30.0 feet west of the southwest corner of Lot 7, Block 4 of Richard's Heights, as said Richard's Heights is platted and surveyed in said Section 24; thence in a northerly direction along a line parallel to the west property lines of Blocks 4 and 5 of said Richard's Heights to a point which is the southeast corner of Lot 13, Block 1 of Carlson's First Addition to the City of Beach; thence in a westerly direction along the south property line of Block 1 of said Carlson's First Addition, a distance of 331.0 feet to the POINT OF BEGINNING.~~

~~Beginning at a point which is the northwest corner of said Section 26; thence in a southerly direction along the west line of said Section 26, to a point which is the southwest corner of the~~

Northwest Quarter of said Section 26, said point also being the southwest corner of the Resurvey of Near's Addition to the City of Beach, as said Resurvey is platted and surveyed in said Section 26; thence in an easterly direction along the south line of the northwest quarter of said Section 26 and along the south line of Lot A of said Resurvey of Near's Addition, to a point which is the southeast corner of the Northwest Quarter of said Section 26; thence in a southerly direction along the west line of Southeast Quarter of said Section 26, to a point which is the southeast corner of the Southeast Quarter of said Section 26; thence in an easterly direction along the south line of the Southeast Quarter of Section 26, to a point which is the southeast corner of the Southeast Quarter of said Section 26; thence continuing in an easterly direction along the south line of the Southwest Quarter of Section 25, to a point which is the southeast corner of the Southwest Quarter of said Section 25; thence in a northerly direction along the east line of the Southwest Quarter of said Section 25, to a point which is the northeast corner of the Southwest Quarter of said Section 25, said point also being 33.0 feet east of the southeast corner of Lot 1, Block 7 of Hunter's Addition to the City of Beach, as said Hunter's Addition is platted and surveyed in said Section 25; thence in an easterly direction along the south line of the Northeast Quarter of said Section 25 and also to and along the south property line of Block 1 of Potter's Addition to the City of Beach, as said Potter's Addition is platted and surveyed in said Section 25, and also to and along the south property lines of Blocks 26, 27, 28, and 29 of Glenhaven Park Addition to the City of Beach, as said Glenhaven Park Addition is platted and surveyed in said Section 25, to a point which is the southeast corner of the Northeast Quarter of said Section 25; thence in a northerly direction along the east line of the Northeast Quarter of said Section 25 to a point which is the northeast corner of the Northeast Quarter of Section 25; thence in a westerly direction along the north line of the Northeast Quarter of said Section 25, said line also being the centerline of 4th Avenue North, to a point which is the northwest corner of the Northeast Quarter of Section 25; thence in a northerly direction along the east line of the Southwest Quarter of Section 24, to a point which is the northeast corner of the South Half of the Southwest Quarter of said Section 24; thence in a westerly direction along the north line of the South Half of the Southwest Quarter of said Section 24, to a point which is the northwest corner of Lot 1, Block 3 of Carlson's Addition to the City of Beach, as said Carlson's Addition is platted and surveyed in said Section 24, said point also being on the east line of Mrs. Richard's Addition to the City of Beach, as said Mrs. Richard's Addition is platted and surveyed in said Section 24; thence in a northerly direction along the east line of said Mrs. Richard's Addition, to a point which is the northeast corner of said Mrs. Richard's Addition; thence in a westerly direction along the north line of said Mrs. Richard's Addition, a distance of 400.0 feet to a point which is the northwest corner of said Mrs. Richard's Addition; thence in a southerly direction along the west line of said Mrs. Richard's Addition to a point which is the northeast corner of McLaren's 2nd Addition to the City of Beach, as said McLaren's 2nd Addition is platted and surveyed in said Section 24; thence in a westerly direction along the north line of said McLaren's 1st Addition and to and along the north line of Johnstone's 1st Addition to the City of Beach, as said Johnstone's 1st Addition is platted and surveyed in said Section 24, extended to the west line of said Section 24, a distance of 125.0 feet, said west line of Section 24 also being the centerline of First Street; thence in a northerly direction along the west line of said Section 24, to a point which is 90.0 feet west of the southwest corner of Carlson's Third Addition to the City of Beach, as said Carlson's Third Addition is platted and surveyed in said Section 24; thence in an easterly direction to and along the south line of said Carlson's Third Addition, a distance of 330.0 feet to the southeast corner of said Carlson's Third Addition; thence in a northerly direction along the east line of said

Carlson's Third Addition, a distance of 250.0 feet to a point which is the northeast corner of said Carlson's Third Addition; thence in a westerly direction along the north line of said Carlson's Third Addition, extended to the west line of said Section 24, a distance of 330.0 feet, said west line of Section 24 also being the centerline of First Avenue; thence in a northerly direction along the west line of said Section 24 to a point which is on a bearing of S65°49'E of the northeasterly corner of Carlson's 2nd Addition to the City of Beach, as said Carlson's 2nd Addition is platted across said Section 24; thence in a northwesterly direction on a bearing of N65°49'W to a point which is on the east line of said Carlson's 2nd Addition; thence continuing on a bearing of N65°49'W along the northerly boundary of said Carlson's 2nd Addition, a distance of 657.98 feet; thence in a westerly direction along the north line of said Carlson's 2nd Addition, a distance of 399.8 feet to the northwest corner of said Carlson's 2nd Addition; thence in a southerly direction, along the west line of said Carlson's 2nd Addition a distance of 1645.4 feet to the north line of the Southeast Quarter of Section 23, said point also being 33.0 feet south of the southwest corner of Block 2 of said Carlson's 2nd Addition; thence in an easterly direction along the north line of the Southeast Quarter of said Section 23, to a point which is 33.0 feet north and 33.0 feet west of the northwest corner of Lot 8, Block 8 of Woodhull's First Addition to the City of Beach, as said Woodhull's First Addition is platted and surveyed in said Section 23, said point also being the intersection of the centerline of 3rd Street West and 11th Avenue North; thence in a southerly direction along the centerline of said 3rd Street West to a point which is the centerline of said 3rd Street West to a point which is the intersection of the centerline of said 3rd Street West and 10th Avenue North; thence in a westerly direction along the centerline of said 10th Avenue North and paralleling the north line of the Southeast Quarter of said Section 23, to a point which is 33.0 feet north and 33.0 feet west of the northwest corner of Lot 7, Block 22 of Woodhull's 2nd Addition to the City of Beach, as said Woodhull's 2nd Addition is platted and surveyed in said Section 23, said point also being the intersection of the centerline of 6th Street West and 10th Avenue North; thence in a southerly direction along the centerline of said 6th Street West to a point which is the intersection of the centerline of 6th Street West and 6th Avenue North, said point also being 33.0 feet west and 33.0 feet south of the southwest corner of Lot 12, Block 9 of said Woodhull's 2nd Addition; thence in a westerly direction along the centerline of 6th Avenue North to the west line of the Southeast Quarter of said Section 23, said point also being 33.0 feet north and 33.0 feet west of the northwest corner of Lot 10, Block 24 of Woodhull's 1st Addition to the City of Beach; thence in a southerly direction along the west line of the Southeast Quarter of said Section 23 to the southwest corner of the Southeast Quarter of said Section 23; thence in a westerly direction along the south line of the Southwest Quarter of said Section 23, to a point which is the southwest corner of the Southwest Quarter of said Section 23, said point also being the northwest corner of the Northwest Quarter of said Section 26, and the POINT OF BEGINNING.

EXCLUDED From the above described incorporated limits is the following tract:

A tract of land lying in the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section 24, Township 140 North, Range 106 West of the 5th P.M., Golden Valley County, North Dakota, more particularly described as follows, to-wit:

Beginning at a point 693 feet east of the South Quarter corner of said Section 24; thence in an easterly direction on an azimuth bearing of 090°16', a distance of 400.0 feet along the previously

~~incorporated city limits; thence in a northerly direction on an azimuth bearing of 360°00', a distance of 427.0 feet; thence in a westerly direction on an azimuth bearing of 270°16', a distance of 400.0 feet; thence in a southerly direction on an azimuth bearing of 180°00', a distance of 427.0 feet to the POINT OF BEGINNING.~~

~~Tract contains 3.9 acres, according to the above description. The south 400.0 feet of the west 750.0 feet of the east 1550.0 feet of the Southeast Quarter of Section 24, Township 140 North, Range 106 West, 5th P.M., Golden Valley County, North Dakota. Containing 6.88 acres.~~

Section 2: Section 1.0103 entitled "Division of the City into Precincts" is hereby amended and re-enacted as follows:

1.0103 DIVISION OF THE CITY INTO PRECINCTS: There shall be one precinct within the City of Beach to be designated as "The City of Beach." The precinct shall consist of all that part of the City of Beach hereinabove set forth. The polling place for said precinct shall be located at the ~~Beach High School~~ Beach Community Center or other legally designated location.

Section 3: Section 1.0207 entitled "Salaries" is hereby amended and re-enacted as follows:

1.0207 SALARIES: The salary of the Mayor of the governing body of the City of Beach shall be the sum of ~~Three Thousand Six Hundred DOLLARS (\$3,600.00)~~ Five Thousand Four Hundred Dollars (\$5,400.00) per year. The salary of other members of the city council of the City of Beach shall be the sum of Three Thousand Six Hundred DOLLARS(\$3,600.00)-~~(\$3,000.00)~~ per person per year

Section 4: Section 1.0209 entitled "Voting" is hereby amended and re-enacted as follows:

1.0209 VOTING: Unless otherwise specifically provided by law, all votes of whatever kind taken at a council meeting must be open public votes, and all non-procedural votes must be recorded roll call votes with the votes of each member being made public at the open meeting. The minutes shall show the results of every vote taken and shall show the recorded votes of each member of every recorded roll call vote. Each ~~councilman~~ council member present is obligated to vote on a measure presented to the City Council. A pass vote is to be considered as a vote with the remaining majority if a quorum is present. If a member of the council for reason or cause does not wish to act or participate in a matter before the council, he or she shall cause same to be entered on the record of the proceedings and the council shall then proceed, as if said member or members were absent.

Section 5: Section 1.0210 entitled "City Council" is hereby amended and re-enacted as follows:

1.0210 CITY COUNCIL: The governing body of the City shall be the City Council which shall be composed of the mayor and council members. ~~aldermen.~~

Section 6: Section 1.0211 entitled “Members of Council~~men~~ – Qualifications – Election of ~~Alderman~~ Councilmen – Term of Office – Compensation of ~~Aldermen~~ Councilmen – Authority” is hereby amended and re-enacted as follows:

1.0211 MEMBERS OF COUNCIL – QUALIFICATIONS – ELECTION of COUNCIL~~MEN~~ MEMBERS – TERM OF OFFICE – COMPENSATION OF COUNCIL~~MEN~~ MEMBERS– AUTHORITY: The number of council members, ~~councilmen~~, the election of council members ~~councilmen~~ and the mayor, the qualifications of the mayor and council members, ~~councilmen~~, the term of office of the council member~~se~~~~councilmen~~ and the mayor, the authority and restrictions on council member~~se~~~~councilmen~~, shall be governed by the provisions pertaining thereto in Chapter 40-08 of NDCC as now appears or may be hereinafter amended.

Section 7: Subsection (B) of Section 1.0212 entitled “Rules of Procedure Generally” is hereby repealed.

Section 8: Section 1.0213 entitled “President and Vice-President—Election of, Authority” is hereby amended and re-enacted as follows:

1.0213 PRESIDENT AND VICE-PRESIDENT--ELECTION OF, AUTHORITY: At the organization meeting in each even-numbered year, ~~the council members shall elect one of their members a president and one a vice president to hold~~ the council members shall elect one member as president and one as vice president to hold office until their successors are elected. The president of the city council shall be the presiding officer of the council in the absence or temporary disability of the mayor. In the absence or disability of the mayor and president of the city council, the vice-president shall be the presiding officer.

Section 9: Section 1.0214 entitled “Vacancy in the Office of a Council Member” is hereby amended and re-enacted as follows:

1.0214 VACANCY IN THE OFFICE OF A COUNCIL MEMBER: If a vacancy shall occur in the office of mayor or council member ~~councilmen~~, such vacancy shall be filled pursuant to the rules and procedures set forth in Chapter 40-08 NDCC as the same now appears or may hereinafter be amended.

Section 10: Section 1.0502 entitled “Procedure” is hereby amended and re-enacted as follows:

1.502 PROCEDURE: All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed [Fifty Thousand] ~~Five Thousand~~ DOLLARS (\$50,000.00), shall be purchased from the lowest responsible bidder after due notice inviting proposals. All sales or dispositions of obsolete or unusable property when the estimated values shall exceed Twenty thousand ~~five hundred~~ DOLLARS (\$20,0~~500~~00.00), shall be sold upon

resolution by the city council authorizing the public sale of said property, a notice containing a description of the property to be sold and designating the place where and the day and the hour when the sale will be held shall be published in the City's official newspaper as provided in Section 40-01-09 NDCC once each week for two consecutive weeks with the last publication being at least ten (10) days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the city council. The property advertised shall be sold to the highest bidder if his bid is deemed sufficient by the majority of the members of the city council. The lowest responsible bidder, or the highest responsible bidder, shall be the bidder who in addition to price has the best ability, capacity and skill to perform the contract to provide the service required, promptly or within the specified time without delay or interference. There shall also be considered character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of the performance of previous contracts, sufficiency or financial resources, and previous and existing compliance with state laws and city ordinances.

Section 11: Section 2.0105 entitled "Ordinance Book Required" is hereby amended and re-enacted as follows:

2.0105 ORDINANCE BOOK REQUIRED: The city auditor shall record in an ordinance book all ordinances finally passed and approved, and when any ordinance has been published, he or she shall record therein the Affidavit of Publication or Posting. The ordinance book, or copies of ordinances as recorded therein, certified by the city auditor, shall be received as evidence without further proof. If the ordinances of a municipality have been printed in a book or pamphlet form by authority of the city council, such book or pamphlet shall be received as evidence of the existence of the ordinances therein contained.

Section 12: Section 2.0108 entitled "Confinement as Payment of Cost" is hereby repealed.

Section 13: Section 2.0109 entitled "Labor in Lieu of Fine" is hereby repealed.

Section 14: Section 2.0110 entitled "Refusal to Work" is hereby repealed.

Section 15: Section 2.0111 entitled "Deferring or Suspending Sentence" is hereby repealed.

Section 16: Section 2.0112 entitled "Fines and Forfeitures for Violations of Ordinances Paid into City Treasury" is hereby amended and re-enacted as follows:

2.0112 FINES AND FORFEITURES FOR VIOLATION OF ORDINANCES PAID INTO CITY TREASURY: All fines, penalties, and forfeitures collected for offenses against the ordinances of the city shall be paid into its treasury at the end of the month in which it is forfeited or collected ~~along with the municipal judge's monthly report.~~

Section 17: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 18: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Ordinance shall continue in full force and effect.

Section 19: Effective Date: This Ordinance shall be in full force and effect from and after final passage.

Henry Gerving, Mayor

ATTEST:

Kimberly Gaugler, City Auditor

First Reading: April 1, 2019
Second Reading: April 15, 2019
Final Passage: April 15, 2019

An Application for License to Sell Fireworks submitted by Gary VanVleet & Tonia Glass was reviewed. Walworth moved to approve the application, second by Zachmann. Motion carried unanimously.

An Application for Raffle submitted by Friends of Bill Curtis was reviewed. Marman moved to approve the raffle, second by Zachmann. Motion carried unanimously.

An Application for Raffle submitted by FBLA was reviewed. Walworth moved to approve the raffle, second by Zachmann. Motion carried unanimously.

Sydnee Steele representing FBLA stated the organization qualified to attend the National FBLA Convention in San Antonio, TX in July. FBLA is seeking financial support from City. Marman moved to donate \$1,000 from the Community Enhancement Fund, second by Walworth. Motion carries unanimously.

Correspondence from ND Insurance Reserve Fund regarding the Annual Meeting was read.

No other business was brought forward. Walworth moved to adjourn, second by Zachmann. Motion carried unanimously. Meeting adjourned at 8:50 p.m.

ATTEST:

Henry Gerving, Mayor

Kimberly Gaugler, City Auditor