

**CITY OF TIOGA**  
City Commission Meeting Minutes  
July 6, 2020

A meeting of the City Commission of the City of Tioga was called to order at 7:00 pm on July 6, 2020, at the Tioga City Hall, by the City Commissioner Drake McClelland.

PRESENT: Drake McClelland, Tim Christianson, Natalie Bugbee, Tim Sundhagen, Larry Maize, Elizabeth Pendlay and Abby Salinas

ABSENT:

GUEST: Jacob Orledge, Josh Reiner, Brooke Cebulla, Mike Cebulla, Josh Nelson, Shawna Nelson, Heather Weflen

**Christianson made a motion to approve the Commission Minutes of June 15, 2020 Regular Meeting, second by Maize. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

**Christianson made a motion to approve the Commission Minutes of June 25, 2020 Special Meeting, second by Bugbee. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

**Commissioners Reports:**

Bugbee: Advised Commission Board that the Community Center has re-opened and there are some great up-coming events planned in the future.

Christianson: Advised Commission Board that he will be adding a work barge to the agenda.

Maize: Advised Commission that he did walks on the Simons construction area for the final punch list items which will be complied by Moore Engineering.

Sundhagen: Advised the Commission Board he wanted to add to the agenda two 1% County applications and 2 promotions of Police Officers.

McClelland: Advised Commission Board that he wanted to add to the agenda appointment of Engineering Firm for the City of Tioga.

**Modifications/Approval of Agenda:**

**Christianson made a motion to add under new business agenda item #8 Water Department Work Barge, #9 1% County Grant Applications, #10 Employee Promotions, #11 Appointment of Engineering Firm and approve application with changes made, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

**Old Business:**

1. Legal – Elizabeth Pendlay – Advised the Commission Board that the Crew Housing Ordinance has been completed and was given to the City Auditor.
2. Moore Engineering: Josh Reiner – Advised Commission Board of updates on the NE Reconstruction and handed exhibit to Commission Board of Pay Application #1 from BEK Construction in the amount of \$430,958.47

**Sundhagen made a motion to approve pay application #1 from BEK Construction in the amount of \$430,958.47 for the work completed on the NE Reconstruction Project, second by Christianson. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

Reiner also advised the Commission Board of the substantial completion for Simons Addition Phase II Project, effective 06-26-2020. Reiner advised Commission Board on findings of walk though of Simons Project and Liquidated Damages that amount to \$127,000.00, CC Steele owner Mike Cebulla stated that work was completed according to plans from Ackerman Estvold and although the project was not completed on time due to weather his crew has come back to Tioga to finish the project, Cebulla also stated that he feels that no late fees should be charged by the City unless it's to pay the new engineering firm Moore for taking over when Ackerman Estvold left as City Engineer. Cebulla feels that

it has been a typical cost incurred and he would be willing to pay that. Reiner stated that after reviewing all paper work there are still some areas of concern. McClelland advised that if the City agrees to the substantial completion would CC Steele be willing to write a 3-year warranty on the areas of concern, Cebulla agreed. Discussions continued regarding liquidated damages.

**Bugbee made a motion to charge CC Steele \$53,000 in liquidated damages up to the date of substantial completion from May 4, 2020 to June 26, 2020, second by Christianson. Call: Ayes; Christianson, Bugbee, Maize Nays; Sundhagen**

**Sundhagen made a motion to not add incurred engineer fees for the Simons Project, second by Christianson. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

Reiner also advised Commission Board that there are also late fees from substantial completion to actual completion for the Simons project from CC Steele.

**Bugbee made a motion to table Liquidated Damage fees from Substantial Completion to the date of completion till the project is complete, second by Sundhagen. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

Reiner handed pay application #2 in the amount of \$225,742.33 from CC Steele for work completed on Simons Addition Phase II Project. Reiner recommends that if the Commission Board is satisfied with the work completed, they can approve to lower the retainage of the project to 5% and pay amount of \$364,575.83.

**Sundhagen made a motion to lower the retainage sum of Simons Project to 5% and pay application #2 from CC Steele for the work completed on the Simons Project in the amount of \$364,575.83, second by Christianson. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

Reiner also discussed liquidated damages for the TAP 2018 Project, McClelland Directed Reiner to get an estimate of cost to fix the sidewalk that was left unusable on the TAP 2018 Project. Reiner handed exhibit to Commission Board of estimate for the TAP 2019 Project for their review and consideration.

**Sundhagen made a motion to accept the estimate and continue with the TAP 2019 Project, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

3. FCI Construction- Salinas advised the Commission Board that FCI did not attend the Commission meeting because they have no new updates to present for now.
4. Community Center – Salinas handed exhibit to Commission Board of an estimate from Pro Finish Concrete to grind and seal the ice-skating rink at the Community Center in the amount of \$18,062.50 for their review and consideration.

**Bugbee made a motion to accept the estimate from Pro Finish Concrete in the amount of \$18,062.50, second by Sundhagen. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

New Business:

5. Ordinance 2020-04 Crew Housing 1<sup>st</sup> Reading - ORDINANCE NO. 2020-04 AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 5 (“ZONING –LAND USE PLANNING”), OF THE CITY OF TIOGA ORDINANCES; AN ORDINANCE GOVERNING TEMPORARY CREW HOUSING FACILITIES BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TIOGA, NORTH DAKOTA, AS FOLLOWS: Article 11 – Crew Housing Facilities 5.1101 - Purpose and Findings The City Commission finds and declares that it is necessary and desirable for the purposes of maintaining and bettering the community preservation and improvement that Chapter 5 (“Zoning – Land Use Planning”) be supplemented with the following regulations pertaining to conditional use permitting of and the operations surrounding temporary crew housing facilities within the City of Tioga and its extraterritorial zone. Except as expressly supplanted, modified or repealed in this supplemental Article 12 of Chapter 5, the regulations contained in said Chapter 5 remain in full force and effect. 5.1114 – Penalty In addition to the suspension or revocation provisions contained herein, a violation of the provisions of this ordinance may result in the imposition of a civil fine of up to \$500.00 per day, for each and every day a violation of this ordinance may occur. (A copy of the full ordinance can be obtained at City Hall Mon-Fri, 8am-5pm)

**Bugbee made a motion to accept the 1<sup>st</sup> Reading of Ordinance 2020-04 Crew Housing, second by Christianson. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

6. Ordinance 2020-05 Infrastructure Sales Tax Continuance 1<sup>st</sup> Reading – ORDINANCE NO. 2020-05 AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF TIOGA. BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TIOGA, WILLIAMS COUNTY, NORTH DAKOTA: SALES, USE, AND GROSS RECEIPTS TAX Definitions. All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including any future amendments, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly. Note: In order to include the language “including any future amendments”, the city’s home rule charter would need to allow for this. Collection and Administration. Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter “Tax Commissioner”) of the taxes imposed by this Ordinance. Sales Tax Imposed. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of 1 percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the of the city of Tioga, North Dakota. Use Tax Imposed. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the city of Tioga, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of 1 percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the city of Tioga, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of 1 percent of the fair market value of the property at the time it was brought into this City. With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3, the tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance. Gross Receipts of Alcoholic Beverages. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of 1 percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of 1 percent. Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of 1 percent is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of 1 percent. Exemptions. This Ordinance does not provide for any additional exemptions from imposition and computation of the city sales and use tax other than those provided by state law. Sales to contractors that are exempt pursuant to subsection 15 of N.D.C.C. § 57-39.2-04 shall be exempt from any city sales tax, but contractors shall be subject to the city use tax on those items used within the city that would be taxed pursuant to N.D.C.C. § 57-40.2-03.3 on which the city sales tax has not previously been paid. Contract with Tax Commissioner. The Tioga City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax Commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner. Dedication of Tax Proceeds 1 percent of all revenues collected

under this ordinance shall be dedicated to a special fund for infrastructure purposes. Effective Date. This Ordinance shall take effect after its passage, approval, and publication, but not prior to December 31, 2020.

**Sundhagen made a motion to accept the 1<sup>st</sup> Reading of Ordinance 2020-05 Infrastructure Sales Tax Continuance, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

7. Planning and Zoning Vacant Seat – Salinas handed an exhibit of a Letter of Resignation from the Planning and Zoning Board from Tyler Judkins and a Letter of Interest for the vacant Planning and Zoning seat from Desiree Hanson for their review and consideration.

**Sundhagen made a motion to accept the letter of resignation from Tyler Judkins from the Planning and Zoning Board, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

**Bugbee made a motion to appoint Desiree Hanson for the Planning and Zoning vacant seat, second by Maize. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

8. Water Department Work Barge – Christianson stated that the Water Department found a work barge to use in the waste water treatment plant lagoons, lowest estimate was \$12,000.

**Christianson made a motion to purchase the work barge for the waste water treatment plant for up to \$12,000, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

9. 1% County Grant Applications – Sundhagen handed exhibit to Commission Board of application to apply for a 1% County Grant for the purchase of all new radios in the amount of \$118,873.24 for their review and consideration. Sundhagen stated that this will be needed because the State of ND is changing all radio equipment that is utilized.

**Sundhagen made a motion to apply for the 1% County Grant in the amount of \$118,873.24 to purchase all new radio systems, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

Sundhagen handed exhibit to Commission Board of application to apply for a 1% County Grant for the purchase of all new Tasers in the amount of \$16,991.

**Sundhagen made a motion to apply for the 1% County Grant in the amount of \$16,991 to purchase all new Tasers, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

10. Employee Promotion – Sundhagen handed exhibits to the Commission Board of promotion and raise recommendations for Sergeant Josh Nelson and Officer Jared Attanasio for their review and consideration.

**Sundhagen made a motion to approve Sergeant Josh Nelson’s promotion recommendation to a Lieutenant at \$30.22 per hour effective July 16, 2020, second by Bugbee. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

**Sundhagen made a motion to approve Officer Jared Attanasio’s promotion recommendation to a Corporal at \$26.24 per hour effective July 16, 2020, second by Bugbee. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

11. Appointment of Engineer Firm – McClelland advised Commissioner Board that a decision needs to be made whether to appoint current engineer until next election June 2022 or go out for bids for a new engineering firm.

**Bugbee made a motion to appoint Moore Engineering as the City Engineer Firm until the next re-organization meeting that will take place in June of 2022, second by Christianson. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

Consent Approval:

12. Pledge Holdings as of 06-15-2020 and Pledge Holdings as of 06-16-2020
13. Special Liquor License Application from Model Tavern for event at Community Center on August 22, 2020
14. Local Charity Permit Application for Tioga Golf and & County Club raffles until August 6, 2020
15. Payroll 06-22-2020
16. Bills for June 2020 - Total Bills \$230,788.70 Ackerman \$230.00; ACME \$508.76; Advance Business Methods \$280.63; Amazon \$338.22; Ameripride \$57.92; Boss \$336.12; C&G \$2,989.50; Circle

Sanitation \$25,445.50; Computech \$434.49; DEQ Chemistry Lab \$105.93; Dirty Diesel \$450.00; EAPC \$264.44; Embroidme \$109.61; Envirotech \$7,282.24; Esterholm \$1,142.50; FED EX \$4.31; Ferguson 1,620.00; First District Health \$75.00; Green Carpet Lawn \$600.00; Heck Built \$3,107.00; Hunter Firearms \$1,998.00; Info Tech \$135.25; Kim Henneberry \$115.00; Lexis Nexis \$77.81; Magic City \$699.50; Menards \$106.95; Minot Daily News \$208.00; Minot Plumbing & Heating \$2,373.47; MDU \$8,078.08; Moore \$60,183.20; Mountrail Williams Electric \$1,040.10; Native Energy \$7.78; ND Dept of Enviro Qty \$15.00; ND League of Cities \$1,346.00; ND One Call \$54.00; NDACO \$54.00; NCC \$1,375.08; Office Dept \$46.46; Pendlay Law \$4,040.00; Pinnacle \$1,996.20; Pitney Bowes \$320.99; Praxair \$26.85; Preble Medical \$357.50; R&T \$81,902.66; Ralphs Plumbing \$137.00; RC Sports \$613.52; Ruach \$149.12; Share Corp \$1,583.90; Swanton \$1,040.00; Tioga Hardware \$964.09; Tioga Hotel Suites \$250.00; Tioga Parts Supply \$304.61; Tioga Tire \$123.51; Tioga Tribune \$1,241.34; ULINE \$773.33; Verizon \$921.59; Visa \$1887.30; Wanda Bagley \$600.00; Weise County Green House \$667.24; Williams County Hwy Dept \$7,592.10

17. Salinas handed exhibits to Commission Board of Pledge Holdings as of 06-15-2020 and Pledge Holdings as of 06-16-2020, Special Liquor License Application from Model Tavern for event at Community Center on August 22, 2020, Local Charity Permit Application for Tioga Golf and & County Club raffles until August 6, 2020, Payroll 06-22-2020, Bills for June 2020 for their review and approval.

**Bugbee made a motion to approve Pledge Holdings as of 06-15-2020 and Pledge Holdings as of 06-16-2020, Special Liquor License Application from Model Tavern for event at Community Center on August 22, 2020, Local Charity Permit Application for Tioga Golf and & County Club raffles until August 6, 2020, Payroll 06-22-2020, Bills for June 2020, second by Sundhagen. Call: Ayes; Christianson, Bugbee, Sundhagen, Maize**

**With no further business, the meeting of the Tioga City Commission was adjourned by unanimous vote moved by Bugbee, second by Sundhagen at 9:31p.m. call: Ayes; Christianson, Bugbee, Sundhagen, Maize, McClelland**

The next meeting of the City of Tioga Commission Meeting is scheduled for Monday July 20, 2020 at 7:00 p.m., to be held at the Tioga City Hall.

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Drake McClelland, City Commission President

ATTEST:

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Abby Salinas, City Auditor