

**CITY OF TIOGA**  
City Commission Meeting Minutes  
March 2, 2020

A meeting of the City Commission of the City of Tioga was called to order at 7:00 pm on March 2, 2020, at the Tioga City Hall, by the City Commissioner Drake McClelland.

**PRESENT:** Drake McClelland, Tim Christianson, Natalie Bugbee, Tim Sundhagen, Heather Weflen, Elizabeth Pendlay and Abby Salinas

**ABSENT:**

**GUEST:** Dan Larson, Jacob Orledge, Austin Rollag, Josh Reiner, Shawna Nelson, Shelly Gleave, Curtis Gleave, Dennis Rehak, Daryn Pederson, Ryan Davidson, Nate Raan, Rebecca Winkler, Janice Moore, Gary Wilburn, Steve Klevenberg, Lea Heiney, Kristi Gutierrez, Norman Knudson, Jennifer Knudson, Jon Hersel, Scott Bertsch, Jodie Sagaser, Sam Sagaser Sr, Richard Schmidt, Linda Schmidt, Corey Rohrbach, Jeff Larson, Jerilyn Campuzano, Wesley Johnson

**Sundhagen made a motion to approve the Commission Minutes of February 18, 2020 Public Hearing, second by Christianson. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

**Christianson made a motion to approve the Commission Minutes of February 18, 2020 Regular meeting, second by Sundhagen. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

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

**Commissioners Reports:**

Christianson: None

Bugbee: None

Sundhagen: None

Weflen: Advised Commission that the sweeper was sent in to fix and a quote was given in the amount of \$17,200. Discussions held.

**Weflen made a motion to approve up to \$18,000 to have the street sweeper fixed, second by Christianson. Roll Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

McClelland: None

**Modifications/Approval of Agenda:**

**Sundhagen made a motion to add to the agenda under new business agenda item #13 place for sale of fireworks, then approve agenda with the change made, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

**Old Business:**

1. Ordinance 2020-01 ETJ 2<sup>nd</sup> Reading – Salinas handed exhibit to Commission Board of Ordinance 2020-01 ETJ for their review and consideration. McClelland asked is there are any questions or comments, none made ordinance was read - AN ORDINANCE OF THE CITY OF TIOGA ORDINANCES ESTABLISHING THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TIOGA. WHEREAS, the City of Tioga desires to establish its extraterritorial jurisdiction, through this ordinance, pursuant to Section 40-47-01.1 of the North Dakota Century Code, for certain property located within Williams County, North Dakota, which is more particularly described on Exhibits "A" and "B" attached hereto and made a part hereof. WHEREAS, the boundaries of the City of Tioga have been expanding of late due to generalized growth and certain annexations that have transpired prior to the passage of this Ordinance; and WHEREAS, it is in the best interest of the City of Tioga and in the interest of the health, safety and general welfare of the citizens of City of Tioga to adopt this ordinance so as to maximize the potential growth and

development of the City and to create economical, orderly, and safe final zoning rules and regulations, which will require time, study and consideration before such other and further zoning regulations can be effectively and efficiently imposed. Chapter/Section 5 of Article 4 of the City of Tioga Ordinances is hereby amended and supplemented as follows: NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TIOGA, NORTH DAKOTA, AS FOLLOWS: INTERIM ZONING DISTRICT PREAMBLE The City of Tioga's jurisdiction extends to all persons, places and property within its boundaries and such extraterritorial jurisdiction as is granted to the City pursuant to applicable provisions of the laws of the State of North Dakota; it was the decision of the Board of Commissioners for the City of Tioga to avail itself of the authority granted to municipalities under Section 40-47-01.1 of the North Dakota Century Code; and The City of Tioga has a population of less 5,000 people according to the last federal census; The City of Tioga has a Planning and Zoning Commission, together with a retained engineer who have engaged in preliminary research and study that supports and suggests extraterritorial establishment is in the best interests of the City of Tioga due to the acquisition and inclusion of various properties by annexation and the growth of the City at large, which have expanded the boundaries of the City of Tioga; The City of Tioga notified the zoning board or boards of all political subdivisions losing their partial zoning authority fourteen days prior to the City's adoption of this ordinance in accordance with Section 40-47-01.1 of the North Dakota Century Code; such zoning transition meeting(s) was held on the 9th day of January, 2020, allowing the parties affected to address and review the existing rules, regulations and restrictions currently in place for the territory to be zoned and a plan was decided for the property for its orderly transition; The Zoning Commission has submitted its recommendations to the Board of City Commissioners in the form of a preliminary and final report after holding public meetings thereon recommending the expansion of the City's extraterritorial jurisdiction for exclusive jurisdiction as provided in Subsection 1(a)(1) of Section 40-47-01.1, N.D.D.C., and The land to be zoned and controlled by the City of Tioga is a large area where extensive planning of this magnitude necessitates intensive study of long duration before final zoning regulations can be imposed, and It is the intent of the City Commission that this interim zone classification be in all respects a zone classification no less than the other classifications heretofore enacted by this body within the Ordinance No. 2014-5, also known as Planning and Zoning 5-0401, with all amendments thereto, and Sec. 15-37. Extend the Area Covered by the Zoning Regulations. The City of Tioga hereby extends the application of its zoning regulations to include the following-described property in Williams County, North Dakota, more particularly described in the attached Exhibits "A" and "B." Exhibits "A" and "B" depict a full one-mile extraterritorial area lying beyond the corporate limits of the City. However, while the extraterritorial area described in the said Exhibits depicts a one-mile extraterritorial area in total, the City shall have primary and exclusive jurisdiction for zoning regulations only within the first one-half (1/2) mile of the larger one-mile extraterritorial area described therein, meaning that such primary and exclusive jurisdiction in the City shall exist with respect the area of land commencing at the corporate limits of the City outward a distance of one-half mile. Williams County and the City of Tioga shall have joint jurisdiction within the second one-half (1/2) mile, which means that Williams County shall have and maintain primary jurisdiction within the second one-half (1/2) mile, subject to all statutory process and relief available to the City under the North Dakota Century Code and subject to any future joint powers agreement which may ultimately arise between the City and Williams County. This ordinance shall be in full force and effect upon its final passage and approval. Discussions held. PB Johnson handed exhibit to Commission Board for their review of a petition to stop second reading of extraterritorial annexation. City Attorney Pendlay asked Commission if they wanted to proceed with a joint power's agreement of the second half mile, Commission Board agreed that at this time it is okay as ordinance reads for only the half.

**Bugbee made a motion to approve the second reading of Ordinance 2020-01 ETJ, second by Christianson. Roll Call: Ayes; Christianson, Bugbee, Weflen Nays; Sundhagen**

2. Legal – Elizabeth Pendlay – Advised Commission Board of the items she is currently working on ordinances and some contracts for the City of Tioga and she advised the Commission Board that it is

important to have an emergency action plan in case there is an out break of the corona virus in this area.

3. Moore Engineering: Reiner – Advised Commission Board on updates of work being completed on the Northeast reconstruction and stated plans 75% to 80% complete. Reiner stated he will be seeking authorization on March 16, 2020 to go out to bid and publish it in the paper starting March 25, 2020.
4. FCI Construction- Austin Rollag – Advised the Commission Board of the status for the Police Station and Museum construction.
5. Community Center – None

**New Business:**

6. Update from County Assessor – Lea Heiney – Handed exhibit to Commission Board of apartments in Tioga area, rent rates and how many of those apartment owners have returned their income statements. Heiney advised Commission Board that she needed to know which method they would like her to use when assessing the apartment complexes in Tioga, the replacement cost or the Gross rent multiplier. Discussions held.

**Sundhagen made a motion to approve Heiney to use the Gross Rent Multiplier (GRM), second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

7. Ordinance 2020-03 Correction of Clerical Error in Tioga Ordinances 18 and 19 – Salinas handed exhibit of Ordinance 2020-03 Correction of Clerical Error in Tioga Ordinances 18 and 19 for their review and consideration. AN ORDINANCE MAKING CORRECTION OF CLERICAL ERRORS EXISTING WITHIN CHAPTERS 18 AND 19 OF THE ORDINANCES OF THE CITY OF TIOGA (TIOGA FUND TAX, LODGING TAX, TIOGA MEDICAL CENTER FUND/TAX AND INFRASTRUCTURE FUND/TAX). BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TIOGA, NORTH DAKOTA, AS FOLLOWS: The City of Tioga (the “City”), having become aware of certain clerical errors existing within Chapters 18 and 19 of the City of Tioga Ordinances, which inaccurately characterize and affect the expiration date of various taxes that exists within the City, herein sets forth and corrects such deficiencies in the interests of ensuring that such Ordinances correctly and accurately described such taxes and their respective expiration dates in accordance with the prior elections, resolutions and appropriate actions of the citizens and City in connection with the passage and maintenance of the same. The following provisions are intended to correct, amend, and supplant the contents of certain Sections of Chapters 18 and 19 such that these corrected and amended Sections shall comport with the ballot measures, resolutions and official actions giving rise to and defining the same. The historical record of various taxes that exist within the City of Tioga are summarized as follows: In 1994, a one percent (1%) sales tax is established within the City for the funding and maintenance of the “Tioga Fund,” which, at its inception, was designated and deemed to end in 1999, subject to subsequent extension. Thereafter, to follow the 1994 establishment of the one percent (1%) sales tax for the Tioga Fund, a special election was conducted, which resulted in the said one percent (1%) sales tax continuing in perpetuity, subject to future action. Presently, the one percent (1%) sales tax remains unencumbered by a definitive termination or expiration date, a reality not clearly conveyed and memorialized by the controlling Ordinance which exists prior to the passage of the instant corrective Ordinance given here. Thereafter, on June 6, 2012, Tioga’s proposed one percent (1%) Infrastructure Tax/Fund was established and provided a termination/expiration date of December 31, 2020. Also, in 2012, a Lodging Tax and Tioga Medical Center Tax was established, both of which passed and which contained no definitive termination/expiration date. Thus, such Lodging Tax and Tioga Medical Center Tax were passed in perpetuity, subject to subsequent action. Finally, in 2017, action was successfully undertaken to remove the then-existing tax cap. To follow this series of events described above, the drafting of various Sections pertinent to these events erroneously failed to designate the distinctions among the respective termination/expiration dates of the aforementioned taxes. Specifically, in error, the said Sections of the pertinent Ordinances inadvertently grouped together various taxes, and provided that the same should cease on December 31, 2020, which was a termination designated only for the June 6, 2012 Infrastructure Tax described above. The result

creates an ambiguity and clerical error which misstates the end dates for other taxes for which no definitive expiration/termination date actually existed at their respective passages. The Ordinance Sections at issue should have properly memorialized that the Infrastructure Tax would terminate on December 31, 2020, and should not have included direct or indirect reference to the Tioga Fund Sales Tax, Lodging Tax, or Tioga Medical Center Tax. This corrective Ordinance is given to clarify and correct the inadvertent drafting and clerical errors that exists within the City of Tioga Ordinances to that end. NOW THEREFORE, the City of Tioga herein revises, corrects, and amends the following Sections of Chapters 18 and 19 to properly describe and memorialize the provisions of the prior Ordinance, which were drafted and passed in error as described above: 18.0103 Powers of City 7. Any other transaction exempted from imposition of the state sales tax or use tax pursuant to state law. a. One percent (1%) of sales tax revenues raised and collected under this chapter shall be dedicated only to “The Tioga Fund” established hereinafter, and shall not be used for any other purpose than those specifically described herein. This revenue shall be maintained in the fund separate and apart from all other funds, except as provided by this section. d. The Tioga Fund shall be administered by the City Commission of the City of Tioga, with assistance of a five (5) member advisory committee appointed by the Tioga City Commission. This advisory committee shall receive, review and make recommendations to the City Commission on all applications for the said funds. The final decision for the distribution of funds shall remain under the discretion of the Tioga City Commission. 19.0108 Dedication of Tax Proceeds One percent (1%) of all revenue raised and collected under this ordinance shall be dedicated to business retention, expansion or recruitment, property tax relief, recreation, parks and community improvements. This shall be maintained in the fund to be known as “The Tioga Fund” separate and apart from all other funds. One-half percent (0.50%) of all revenues raised and collected under this ordinance shall be dedicated to Tioga Medical Center for the purpose of capital improvement. One percent (1%) of all revenues raised and collected under this ordinance shall be dedicated to repair and replacement of the City infrastructure; including streets, water distribution, sewer collection and disposal. This shall be maintained in the fund known as “Infrastructure Fund” separate and apart from all other funds. 19.0109 Termination The one percent (1%) Infrastructure Tax/Fund referred to in Section 19.0108 imposed herein shall terminate on December 31, 2020. Scope of Correction/Modification/Amendment: Except as expressly corrected, modified and amended herein, the provisions of Chapters 18 and 19 of the City of Tioga Ordinances shall remain in full force and effect.

**Christianson made a motion to approve the first reading Ordinance 2020-03 Correction of Clerical Error in Tioga Ordinances 18 and 19, second by Sundhagen. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

8. Planning & Zoning – Janice Moore – Handed Exhibit to Commission Board of variance and Commission Notes approved in 2009 where the City allowed the Moore’s to build a garage on City Lines however notes contradict the fact and in order to sell the property, the right to build on easement will have to be recorded correctly so the lending company can approve loan for potential new owners. Discussions held.

**Sundhagen made a motion to approve City Attorney Pendlay to handle any forms or legal action that will need to be taken in order for the sale to go through as long as it states the life expectancy of the garage in question on the property at 106 North Gilbertson Street, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

9. Equipment upgrade for Community Director - Salinas handed exhibit to Commission Board of quote for new computer for Larson’s office in the amount of \$1,734.92 for their review and consideration.

**Christianson made a motion to approve the quote for a new computer upgrade in the amount of \$1,734.92, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen, McClelland**

10. Audit 2019 – Salinas handed exhibit to Commission Board of Tioga City Audit for 2019 for their review and consideration.

**Sundhagen made a motion to approve Tioga City Audit for 2019, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

11. Payroll – Salinas handed exhibit of payroll for 02-21-2020 for their review and consideration.  
**Sundhagen made a motion to approve payroll for 02-21-2020, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**
12. Bills - Salinas handed exhibit to Commission Board of City of Tioga Bills for February 2020 for their review and consideration. TOTAL \$158,944.58: Ackerman \$4,858.21; Amazon \$11.77; Ameripride \$145.07; Balco \$15.00; BOSS \$153.40; BSN \$1,203.10; Central Door \$113.39; Circle \$26,426.00; Computech \$2,510.75; Computer Projects \$500.00; Dell \$18.33; Demco \$83.63; Dirty Diesel \$250.00; Dragonfly \$227.82; Enthalpy \$897.60; Ferguson \$11,123.30; Fiesel Law \$600.00; First District Health \$75.00; Galls \$199.35; Info Tech \$144.50; Lees Electric \$360.33; MDU \$9,990.57; MWEC \$1,637.49; NDBOA \$245.00; ND One Call \$19.85; NRG \$54.00; NCC \$1,489.34; Office Depot \$112.73; Office of State Auditors \$300.00; On Time Sports \$245.00; Pendlay Law \$4,465.00; Pinnacle \$3,853.42; Pitney Bowes \$582.47; Postmaster \$275.10; Praxair \$27.33; R&T \$62,738.31; Rath & Mehrer \$8,800.00; T&T Tire; Tioga Chamber \$140.00; Tioga Hardware \$160.93; Tioga Machine Shop \$158.40; Tioga Medical Center \$50.00; Tioga Parks \$5,315.99; Tioga Parts Supply \$1,328.99; Tioga Tire \$412.16; Tioga Tribune \$12.07; Uline \$239.88; USA Central Station Alarm Corp \$90.00; Verizon \$842.95; Visa \$3,737.46; Wanda Bagley \$700.00; Williams County Sheriffs Dept \$533.86; WW Auto \$269.73  
**Weflen made a motion to approve Bills for February 2020, second by Christianson. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**
13. City Lot for Rent for Fire Work Sales - Craig Ketelsen – Advised Commission Board that he is looking for a space available to be able to sell fireworks during the month of July. Discussions held.  
**Sundhagen made a motion to table until 03-16-2020, second by Bugbee. Call: Ayes; Christianson, Bugbee, Sundhagen, Weflen**

**With no further business, the meeting of the Tioga City Commission was adjourned by unanimous vote moved by Bugbee, second by Weflen at 9:36 p.m. call: Ayes; Christianson, Bugbee, Sundhagen, Weflen, McClelland**

The next meeting of the City of Tioga Commission Meeting is scheduled for Monday March 16, 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