

## ORDINANCE NO. 406

AN ORDINANCE ANNEXING INTO THE CITY LIMITS OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA A TRACT OF LAND DESCRIBED HEREIN AND AMENDING THE ZONING DISTRICT MAP TO THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA TO REFLECT THE RE-PLAT OF SAID TRACT OF LAND TO "THE NORTH DAKOTA 3 SUBDIVISION TO THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA" AND AMENDING THE CURRENT ZONING DESIGNATION OF SAID TRACT OF LAND FROM THAT OF COUNTY COMMERCIAL TO THAT OF HIGHWAY COMMERCIAL DISTRICT (C-2).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

1. ANNEXATION - That on May 21, 2013, Phil Culler, Managing Member for North Dakota 3, LLC, filed with the City Auditor's Office for the City of Beulah a Petition for Annexation and for Approval of Subdivision Plat for North Dakota 3 Subdivision - After the required Notice of Hearing being published in the Beulah Beacon on May 23, 2013, a hearing was held before the Beulah City Zoning Commission to hear any protests to said Petition. There being no protests to said Petition, the Beulah City Zoning Commission made its recommendation to the Beulah City Council to approve the aforementioned Petition.

A hearing on said Petition was scheduled before the Beulah City Council on July 15, 2013 and notice of said hearing was published in the Beulah Beacon on June 20, 2013. At said July 15, 2013 hearing, there were no protests to said Petition and the Beulah City Council was in favor of approving the aforementioned Petition.

THEREFORE, it is hereby ordained by the City Council of the City of Beulah, Mercer County, North Dakota, as follows, to-wit:

That the below described tracts, parcels, or parts described herein be and the same are hereby annexed into the city limits of the City of Beulah, Mercer County, North Dakota and that they are now a part of said City of Beulah, Mercer County, North Dakota, and that this ordinance becomes effective immediately upon its final passage and approval.

2. AMENDMENT OF ZONING DISTRICT MAP TO REFLECT THE "NORTH DAKOTA 3 SUBDIVISION" - The Zoning District Map of the City of Beulah, Mercer County, North Dakota is hereby amended to reflect the re-plat of the following described property, to-wit:

### **OLD DESCRIPTION**

A tract of land located in the Southwest Quarter (SW1/4) of Section 24, Township 144 North, Range 88 West, of the Fifth Principal Meridian, Mercer County, North Dakota more particularly described as follows:

Commencing at the quarter corner common to Sections 23 and 24, thence South 04°28'30" East a distance of 1199.66' to the Point of Beginning:

Thence North 13°09'47" East a distance of 337.43'; Thence South 79°41'42" East a distance of 312.64'; Thence along a curve turning to the right for 338.31', said curve having a radius of 3709.83', a delta of 5°13'30", a chord bearing of South 15°32'04" West, and a chord length of 338.20'; Thence North 79°44'18" West a distance of 298.64', to the Point of Beginning.

### NEW DESCRIPTION

Lots One (1) and Two (2), of Block One (1) of North Dakota 3 Subdivision to the City of Beulah, Mercer County, North Dakota.

Further, the Zoning District Map of the City of Beulah, Mercer County, North Dakota is further amended to reflect the requested re-zoning of the above described North Dakota 3 Subdivision from its current zoning designation of County Commercial to that of Highway Commercial District (C-2).

3. That the above annexation and amendments to the Zoning District Map of the City of Beulah shall become effective upon the final passage and approval of this Ordinance and shall thereafter be so indicated on the Zoning District Map of the City of Beulah.

DATED this 5<sup>th</sup> day of August, 2013.

  
DARRELL R. BJERKE, Mayor

ATTEST:

  
HEATHER FEREBEE, City Auditor

Introduction and First Reading: July 15, 2013

Second Reading: August 5, 2013

Final Passage: August 5, 2013

## CERTIFICATE

I, Darrell R. Bjerke, the duly elected, qualified, and acting Mayor of the City of Beulah, Mercer County, North Dakota, hereby certify that there is attached hereto a true and correct copy of Ordinance No. 406, of said City of Beulah, Mercer County, North Dakota, which said Ordinance annexed a parcel of land described therein, to the City of Beulah, and I further certify that there is attached hereto an accurate map and plat of said parcel which is hereby annexed to the City of Beulah, and I certify that the same is a true and correct map of said annexed addition.

ATTEST:

  
HEATHER FEREBEE  
City Auditor

  
DARRELL R. BJERKE  
Mayor

MORTGAGEE  
MORTGAGOR  
INDEXED ✓

STATE OF NORTH DAKOTA  
COUNTY OF MERCER

202756  
OFFICE OF  
COUNTY RECORDER

I hereby certify that the within instrument was filed in this office for record this 8/22/2013 at 9:44 AM, and was duly recorded as Book 196 MISC on Page 101 Fee: \$16.00

County Recorder 

By Deputy

Return To: SOLEM LAW OFFICE, PO BOX 249  
BEULAH, ND 58523



**PETITION FOR ANNEXATION AND FOR APPROVAL OF  
SUBDIVISION PLAT FOR NORTH DAKOTA 3 SUBDIVISION**

PHIL CULLER, managing member for NORTH DAKOTA 3, LLC, hereby petitions the City Council of the City of Beulah, Mercer County, North Dakota, to annex into the City of Beulah, the following described property, which is adjacent to the city limits of the City of Beulah in Mercer County, North Dakota:

A tract of land located in the Southwest Quarter (SW1/4) of Section 24, Township 144 North, Range 88 West, of the Fifth Principal Meridian, Mercer County, North Dakota, more particularly described as follows:

Commencing at the quarter corner common to Sections 23 and 24, thence South 04°28'30" East a distance of 1199.66' to the Point of Beginning:

Thence North 13°09'47" East a distance of 337.43'; Thence South 79°41'42" East a distance of 312.64'; Thence along a curve turning to the right for 338.31', said curve having a radius of 3709.83', a delta of 5°13'30", a chord bearing of South 15°32'04" West, and a chord length of 338.20'; Thence North 79°44'18" West a distance of 298.64', to the Point of Beginning.

In support of this Petition, Petitioner states:

1. The property to be annexed is contiguous to the limits of the City of Beulah on its east boundary.
2. Petitioner is the sole owner of the property to be annexed.
3. Upon filing of this Petition, and the setting of a notice of hearing thereon, Petitioner will publish the notice of hearing once in the Beulah Beacon to give all interested parties notice of the time and place that the Beulah City Council will consider this Petition.
4. Further, Petitioner submits with this Petition its subdivision plat for Lots One (1) and Two (2), of Block One (1) of North Dakota 3 Subdivision to the City of Beulah, Mercer County, North Dakota, and respectfully requests that the City Council of the City of Beulah approve the subdivision plat of the above described property from its current legal description to that of

Lots One (1) and Two (2), of Block One (1) of North Dakota 3 Subdivision to the City of Beulah, Mercer County, North Dakota and that the current zoning designation of County Commercial be amended to that of Highway Commercial District (C-2).

DATED this 21 day of May, 2013.

  
PHIL CULLER

STATE OF CALIFORNIA )  
COUNTY OF Orange )

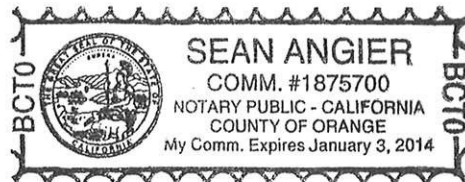
On this 21 day of May, 2013 before me, Sean Angier, a Notary Public, personally appeared PHIL CULLER, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SEAL)

  
NOTARY PUBLIC



# PUBLIC NOTICES

## NOTICE OF PERMIT APPLICATION

You are hereby notified that the City of Beulah has made application to the North Dakota Department of Health for a permit renewal for a solid waste management facility. The facility includes a transfer station for compacting and preparing municipal waste for a transfer to a landfill. The facility is also utilized for storing recyclable items and a potential for occasional burning of wood.

The facility is located on the following property, to wit:

Lot Nine (9), Block One (1), Industrial Park to the City of Beulah, Mercer County, North Dakota.

Those interested persons may inquire at the North Dakota Department of Health, Bismarck, North Dakota (328-5166) for further information.

Dated this 13th day of May, 2013.  
LINDA WIEDRICH  
CITY AUDITOR, CITY OF BEULAH  
(5-16-13) (5-23-13)

## NOTICE OF HEARING ON PETITION FOR TEMPORARY CLOSING OF SECTION LINE ROADS

PLEASE TAKE NOTICE that a Petition by The Coteau Properties Company, 204 County Road 15, Beulah, North Dakota 58523-9475, has been filed with the Board of Mercer County Commissioners requesting that the following section line roads be temporarily closed for the purpose of conducting surface coal mining and reclamation operations:

The section line road between the SW¼ of Section 3 and the SE¼ of Section 4, Township 144 North, Range 88 West located north of the railroad;

The section line road between the NW¼ of Section 4, Township 144 North, Range 88 West and the SE¼ of Section 35, Township 145 North, Range 88 West;

The section line road between Section 27 and Section 34, Township 145 North, Range 88 West.

A hearing on the Petition will be held by the Board of Mercer County Commissioners in the Mercer County Courthouse at Stanton, North Dakota, on the 19th day of June, 2013, at 10:30 a.m. CST, for the purpose of receiving testimony and evidence bearing upon the above request by the Petitioner. Statements may be made orally or in writing at the time of the public hearing. The Petition for closing said section line roads is on file in the office of the County Auditor, and may be viewed by interested persons during regular office hours.

By order of the Board of Mercer County Commissioners.  
(5-23-13) (5-30-13)

## City of Beulah Regular Meeting Minutes May 6, 2013

The regular Beulah City Council meeting of May 6, 2013 was called to order at 7:00 pm at City Hall by Mayor Darrell Bjerke.

Present: Robert Schutt, Clyde Schulz, Kirby Morgenstern, Larry Hruby, Kathy Kelsch, Alan Kok, Brant Keller  
Absent: Roger Gazur

Also Present: City Attorney Scott Solem, City Engineer Loren Daede, City Coordinator Russell Duppong, Public Works Foreman Kenny Yeager, Water Plant Foreman Gary Neuberger, Economic Development-John Phillips, Kevin Flaagan, Eric Pressnall, Craig Muri

Pledge of Allegiance

Hruby made a motion seconded by Schutt to dispense with the reading of the minutes of the regular meeting on April 15, the special meeting on April 23 and the Board of Equalization meeting on April 29 and approve as furnished to the Council by email. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Flaagan commented on the City Pension Plan. He requested the removal of Cindy Johnson as trustee and to add Heather Ferebee and Colette Schilling as trustees. Kelsch made a motion seconded by Schulz to remove Cindy Johnson and add Heather Ferebee and Colette Schilling as trustees to the plan. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Bjerke introduced Phil Culler and Ruth Julson to the Council.

Craig Muri presented a map of the lot he purchased and explained his plan. Muri stated he didn't build a garage, but he did build a structure, although he did not get a building permit for the structure. Bjerke commented it should have been a more substantial building. Kelsch commented Muri and Rueb brought in letters to a Council meeting a while back stating they were going to build garages on the lots. That might have played a part in selling the lots

to them. Bjerke stated at the time of purchase there were more restrictions in place for the lower price. Hruby commented others have been turned away for the same reason. Hruby stated the documentation shows intent to build garages and that is why the lots were sold to them. Muri explained his take on the contract. Kok commented he left Muri and Rueb were going to build garages. Schulz commented on the sequence of events, stating Muri was going to build a garage and he would have found out the measurements needed for a garage versus a garden shed if he would have come in to apply for a permit. Schulz stated Muri is in default of the contract. Muri questioned if the lot could be sold for the current price. Kelsch stated it is an unfortunate situation and maybe the Council would entertain selling it at the difference in cost, but Rueb's would need to be in agreement. Muri stated the contracts are separate. Keller stated it is not beneficial to receive the half lot back and not the full lot. Duppong stated Rueb's are looking at possibly turning the half lot back. Bjerke suggested Muri work with Rueb's. Hruby suggested one person buy both the full lot and the half lot.

Phil Culler of Global Markets commented on the possible design of a hotel on the west side of the City and maybe some housing and apartments. Culler commented on the possible revitalization of the RV park and possible housing during construction. Hruby stated they have listened to other developers and nothing happened. Culler stated he understands. Culler described the hotel they have designed with 83 rooms, indoor pool and media room. He commented on the progress of construction. Daede commented on Energy Infrastructure and the progress of grant applications. There is one to finish the south lagoon project, one to upgrade the water plant, one is for the motel situation, and one to cover the cost of the comprehensive building plan. Daede explained some water looping. Keller made a motion seconded by Schutt to approve the application as presented by Loren Daede to the Oil Impact Grant Office. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor. Daede commented on steel in the recycle pile. He talked to Fisher Sand & Gravel today and they are looking at this. Hruby would like it resolved.

Solem had no report.  
Yeager commented crews have worked on gravel roads, signs, patched potholes, hauled sand and ash to the mine property, changed oil on the pickup, sweeper and garden strip, want through the banner and flags, and have been sweeping. Michael Schutt is done on May 10th. They will continue to sweep streets, put up the flags and banner, take a load of recycle to Bismarck, pick up garbage along the roads to the transfer station, and do some moving.

Duppong stated Planning and Zoning has reviewed a variance for Eric Pressnall and it was approved. Bjerke clarified the setback was just using a larger percentage of the property. Schulz made a motion seconded by Hruby to approve the variance approved by Planning and Zoning for Eric Pressnall. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Duppong commented on transfer boxes and a large dumpster on Connie Boe's property and explained the problem. Planning and Zoning gave a temporary permit for the storage boxes until 8/15/13. Schulz questioned what would happen if it wasn't removed by the date. Duppong stated there would be legal action. Hruby questioned if there could be a penalty clause. Schulz made a motion seconded by Keller to approve the recommendation from Planning and Zoning to allow a variance until 8/15/13 with a penalty clause. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Duppong stated Interstate Engineering came to P&Z to explain the Comprehensive Land Use Plan they are looking at and he gave an update on it. Duppong reported on the Contract Building Inspector, they are just waiting for insurance paperwork. The other position has a potential individual also. Extraterritorial limits were discussed at the P&Z meeting with Scott Solem. Duppong stated the Emergency Action Plan for the Dry Dam is complete. Names for emergency contacts were discussed and the Mayor, Auditor and Water Portfolio will be included. Bjerke stated they could come to a regular Council meeting for their presentation. Schulz questioned the cost and time frame for the Comprehensive Land Use Plan. Duppong stated Daede will get that information to us and let us know if part could be covered by a grant.

Wiedrich presented three raffle permits: 4-H Leaders' Council for the Annual Cow Pie Bingo at the Mercer County Fair on 6/22/13, Knife River Pheasants Forever Raffle on 10/18/13 at the Grandview and Zion Lutheran Quilters' Raffle on 6/8/13. Schulz made a motion seconded by Schutt to approve the three raffle permits as presented. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Wiedrich presented a Special Alcohol Permit for the Grandview Steakhouse to be open on Mother's Day, May 12, 2013. Kelsch made a motion seconded by Schulz to approve the Special Alcohol Permit to the Grandview Steakhouse. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Wiedrich presented a Site Authorization for the Beulah CVB for their Buck Contest on January 11, 2013. Hruby made a motion seconded by Schulz to approve the site authorization permit to the Beulah CVB. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Wiedrich presented a Peddler's Permit for Vivint to sell security systems for seven days. Schutt made a motion seconded by Kok to approve the Peddler's Permit for Vivint. Roll call vote found Schutt, Schulz, Morgenstern, Kelsch, Kok, Keller in favor. Hruby opposed. Motion passed.

Phillips presented handouts and reported on flex pace to help rural com-

munity attract business. Phillips also presented the SSBC quarterly report. Beulah participates through Lewis & Clark Regional Development Council. Phillips stated ND Housing came through legislative very well, which helps with affordable housing. Phillips gave an update on the changes to their website. Phillips commented on marketing materials Beulah, JDA, Chamber and Beulah CVB are looking at using jointly.

Bjerke gave an update on the Sales Tax monthly statement. He commented on feedback from the Tax Equalization Meeting.

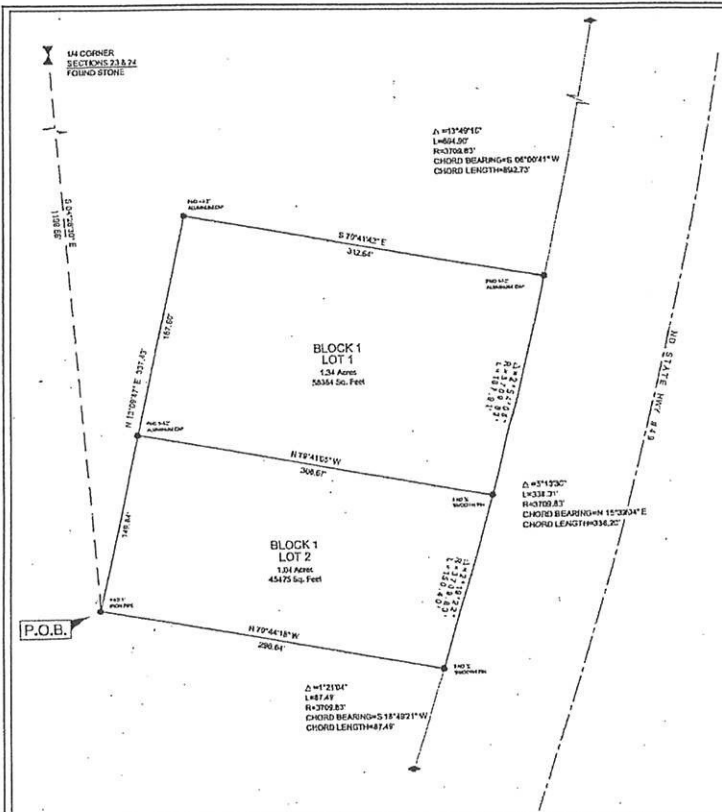
Morgenstern gave a report on Clean-up Week. The schools have been contacted. People will meet at the Transfer Station at 4:00 pm on Monday, May 13. A meal will follow at the Civic Center.

Kelsch commented on a development agreement for Terry Bunk with Copper Ridge. Solem commented on the plan and when ownership is to be transferred. He stated some terminology should be changed. Kelsch questioned how soon we could get this done. Bjerke questioned if it could be approved tonight. Phillips explained the order should be rearranged chronologically, and that it does need to be reviewed by an engineer for compliance with City code. Kelsch would like the developer to have assurance that the City is willing to sell the property after the changes. Schulz questioned if approved, where would it go. It would go to the developer's attorney. Solem stated the changes would be to define the project plans, infrastructure

plan, plat, and grading plan. Kelsch made a motion seconded by Kok to approve this plan with the changes Solem summarized for presentation to Copper Ridge. Hruby clarified the changes. Schulz stated a spelling correction. Roll call vote found Schutt, Schulz, Morgenstern, Hruby, Kelsch, Kok, Keller in favor.

Kelsch presented a letter of intent to develop from Nadir Torres of Terra Nova Developments, LLC on his plans to develop the extension of 3rd Ave N between 16th and 19th Street. Phillips stated the area is R5 and it would need to be rezoned as R1 for family homes. The plans already exist, but it would need infrastructure. Kelsch stated these lots would be for sale. Duppong stated there are very low lots left to sell. Kelsch questioned any difference in the development agreement. Solem stated the format would be very close. Kelsch questioned when it could be ready and if there should be a special meeting to get this going. Phillips stated this individual already has financing in place and we should get moving on it right away. A special meeting is set for Friday, May 10 at 4:30 pm.

Kok stated Will Elmore started as a new Police Officer. The spot to help out Katie in the police department is posted. Kok commented on the storage area of Sun Valley Court. Kok questioned if Culler would be willing to drop the number to 50 to make the spots bigger and to add showers and restroom facilities. Culler stated they did have a plan in mind to add those facilities. Kok stated the



## NOTICE OF HEARING ON PETITION FOR ANNEXATION AND FOR APPROVAL OF SUBDIVISION PLAT FOR NORTH DAKOTA 3 SUBDIVISION

Notice of hearing petition for annexation and for approval of subdivision plat for North Dakota 3 Subdivision requesting the annexation of the property described herein and allowing for the amendment of the District Zoning Map for the City of Beulah to include and reflect thereon the North Dakota 3 Subdivision to the City of Beulah, Mercer County, North Dakota, described as follows to-wit:

**OLD DESCRIPTION**  
A tract of land located in the Southwest Quarter (SW1/4) of Section 24, Township 144 North, Range 88 West, of the Fifth Principal Meridian, Mercer County, North Dakota more particularly described as follows:

Commencing at the quarter corner common to Sections 23 and 24, thence South 04°28'30\"

1199.66' to the Point of Beginning; Thence North 13°09'47\"

**NEW DESCRIPTION**  
Lots One (1) and Two (2), of Block One (1) of North Dakota 3 Subdivision to the City of Beulah, Mercer County, North Dakota.

In addition to the above referenced annexation and re-platting of the above described property, Petitioner has requested that the current zoning designation of County Commercial be amended to that of Highway Commercial District (C-2).

WHEREAS, said Petition has been received by the Beulah City Auditor's Office and the public is hereby noti-

fied pursuant to Chapter IX, Article 20, Section 20.5 of the Beulah City Ordinances, and Section 40-48-21 of the North Dakota Century Code, that the Beulah City Zoning Commission will consider said Petition and hear all protests against said Petition, if any, at the City Hall in the City of Beulah, Mercer County, North Dakota, on the 13<sup>th</sup> day of June, 2013, at 7:00 p.m. (CT), and will at that time make its recommendation concerning the requested annexation and proposed amendment to the District Zoning Map for the City of Beulah for the requested subdivision approval to the City Council of the City of Beulah for their decision.

That the above referenced Petition is made by North Dakota 3, LLC. DATED This 21<sup>st</sup> day of May, 2013. WESLIE GUNSON, CHAIRMAN  
BEULAH ZONING COMMISSION  
City of Beulah, Mercer County, North Dakota  
(5-23-13)