

---

The Mandan City Commission met in regular session at 5:30 p.m. on April 5, 2011 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Rohr, Frank, and Jackson. Department Heads present were Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Kim Fettig for Engineering Project Manager Bechtel, and City Assessor Barta. Absent: Commissioner Tibke, Engineering Project Manager Bechtel, Finance Director Welch.

MINUTES: *Consider approval of the minutes for March 15, 2011, meeting of the Board of City Commissioners.* Commissioner Jackson moved to approve the minutes as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

1. *Consider the award of bids for Sidewalk Improvement Project for 2011.* Kim Fettig from the Engineering Department, in the absence of Dave Bechtel, reported that two bids were received with the lowest bid being from Dakota RM Construction at \$280,860. The Engineer’s office recommends approval of the bid to Dakota RM Construction.

Commissioner Rohr moved to approve the award of bids for Sidewalk Improvement Project for 2011 to Dakota RM Construction in the amount of \$280,860. Commissioner Jackson seconded the motion. Commissioner Frank noted that on the bid comparison sheet between the two bidders, there appears to be areas of the bid that indicate a price difference when comparing the line items of services. She suggested that future bid processes consider breaking down some bid line items in order to take advantage of differences in (lower) pricing. Mayor Helbling stated that Commissioner Frank’s suggestion would be taken under advisement and discussed with the Engineering Department for future considerations.

Roll call vote: Commissioner Rohr: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. Commissioner Tibke: Absent. The motion passed.

CONSENT AGENDA:

1. *Consider the following proclamations:*  
*(i) Designating May 16-20, 2011 as Bike-To-Work Week in the City of Mandan, and (ii) Designating May 21, 2011 as National Kids to Parks Day in the City of Mandan.* The Board approved of the following proclamations: (i) Designating May 16-20, 2011 as Bike-To-Work Week in the City of Mandan, and (ii) Designating May 21, 2011 as National Kids to Parks Day in the City of Mandan.

- 
2. *Consider for approval Sunday openings for the Moscow for April 3rd through June 26, 2011.* The Board approved of the Sunday openings for the Moscow for April 3rd through June 26, 2011.
  3. This item removed per the request of Commissioner Frank for discussion.
  4. *Confirmation of special assessments for various projects.* The Board approved of the special assessments for various projects.
  5. *Consider approval of the Replat of Lot 1, Block 4 of Lakewood Harbor 4<sup>th</sup> Addition.* The Board approved of the Replat of Lot 1, Block 4 of Lakewood Harbor 4<sup>th</sup> Addition.
  6. *Consider for approval Sunday openings for Dean's Steak House for April 10, 2011 – June 26, 2011.* The Board approved of the Sunday openings for Dean's Steak House for April 10, 2011 – June 26, 2011.

Commissioner Jackson moved to approve the Consent Agenda items No. 1, 2, 4, 5 and 6 as presented and amended. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

3. *Consider approval of a variance – Robert Weigel.* City Assessor Barta stated that Mr. Weigel would like to tear down his existing garage and replace it with a building that is larger. Mr. Weigel is asking for a variance for lot coverage and also distance from the alley. The requirement is recommended at 5' but Weigel is requesting 3'. The existing garage is built on the alley. Barta mentioned that Weigel wants to improve the condition and size of the current building structure. Commissioner Rohr stated that he viewed the existing garage and its location. He said that it would be to the city's advantage to move it away from the alley as it currently sits right now. A newly constructed building would be an improvement to the property as well as advantageous in moving it away from the alley boundary line. Commissioner Frank commented that if the newly constructed garage is larger in size @ 20'x36' than it is now, the lot coverage would increase to 54.9% and it would look "full". The current lot coverage allowance of RM zone guidelines allows a 40% lot coverage. She asked if a new standard sized garage was built @ 12' x 22', would he be able to follow the current ordinances which are 5' set back and a 40% lot coverage; or is it the proposed plan for building a double garage that is putting him over the top? Barta stated that the current garage is 12' x 22' and that with the request to enlarge the new garage @ 20' x 36', he would be able to accomplish that. Barta stated that in order to consider a setback/lot coverage variance for new garage construction the planning commission and the board shall not approve variances unless the evidence presented in each specific case supports the following:

- (1) Strict compliance with the requirements of these regulations would result in extraordinary hardship to the sub divider, as distinguished from a mere inconvenience, because of the particular physical surroundings, shape or topographical conditions of the specific property involved or because of other conditions not caused by the action of the sub-divider. The current request meets these criteria.
- (2) The granting of the variance would not have the effect of reducing the traffic capacity of any major or secondary street. *The current request does not meet these criteria.*

- 
- (3) The granting of the variance would be beneficial to the public safety, health or welfare and not injurious to other property located adjacent to the proposed modifications. *The current request does not meet these criteria.*
- (4) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and not applicable generally to the other property. *The current request does not meet these criteria.*
- (5) The variance is consistent with provisions of the zoning ordinance, comprehensive plan and proper development of the area. *The current request does not meet these criteria.*

Barta indicated that the criteria under No. (1) meets the request for an approval of the variance by Mr. Weigel. Mayor Helbling commented that he also viewed the location of the property and the request presented and that he agrees that this would be an improvement to the area. He didn't think it would have a negative effect on the neighborhood nor a negative impact to the City. Commissioner Frank commented that it is her opinion that the homeowner build a single stall garage rather than a double stall garage in order to comply with the ordinances in place. Commissioner Jackson asked Mr. Weigel if he had considered the construction of a single stall garage. Mr. Weigel stated that constructing a single stall garage would be a possibility. He did mention that that he owns two vehicles and that it is a single lane driveway. He explained the inconvenience he is experiencing with the existing (single stall) garage set-up versus the construction of a double stall garage and how that would improve the vehicle parking situation. Barta stated that the lot size is 3500 sq. ft. and the standard size of a double garage is 24' x 24'.

Commissioner Jackson moved to approve a variance request by Robert Weigel for 3' set-back from the side and for a 20' x 30' newly constructed garage. Commissioner Rohr seconded the motion. Commissioner Frank inquired if the reduction of 6' would have impact on the lot coverage. Mr. Barta stated that it would be at 51.48%

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider recommendation from the Pension Committee related to fund changes within the plan.* City Administrator Neubauer stated that the Pension Committee met recently with a representative from Edward Jones to perform the annual review of investment funds. Two meetings have been held with employees that were well attended. Neubauer stated that Edward Jones is recommending two changes: (1) Remove American Funds Capital Inc Bldr R4 and replace it with Mutual Global Discovery R.; and (2) Remove Columbia Value & Restructuring A and replace it with Prudential Jennison Equity Income A. Neubauer stated that the Pension Committee was advised that the funds in these two areas have a higher risk and the replacement funds are a lower

---

risk with comparable returns. This change will have no impact to the City of Mandan. The recommendation comes from the Pension Committee and there were no employee comments received on the recommended changes.

Commissioner Frank motioned to approve the recommended changes as presented from the Pension Committee related to fund changes within the City of Mandan's Retirement Plan investment options. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Presentation regarding the economic impact of the Mandan Airport.*

Jim Lawler, Manager of the Mandan Municipal Airport and Mason Short, CM of Kadrmas, Lee and Jackson presented information related to the economic impact of aviation in North Dakota and the Mandan Municipal Airport. The Mandan Municipal Airport is a general aviation airport located approximately four miles south of Mandan. This study consisted of collecting data from the airports within the state and there was 100% participation along with government and visitor data. The North Dakota Aeronautics Commission sponsors an aviation impact study for North Dakota for information and use by government agencies. The economic impacts for Mandan Municipal Airport include employment, payroll and output (goods and services provided). The impacts are broken down: (1) First Round Impact includes both on-airport and visitor impacts. On-airport impacts are those benefits associated with on-airport businesses and government tenants. Visitor impacts generally take place off-airport and are attributable to visitor spending. (2) Secondary impacts consist of induced impacts which are those benefits that result from the re-circulation and re-spending of on-airport and visitors impacts within the economy. This recirculation is generally referred to as the "multiplier effect". (3) Total impacts are the combination of first round and second round impacts.

The Impact Measures consist of (1) Employment (2) Payroll (3) Economic activity. North Dakota's total annual economic benefit from aviation: Total jobs: 15,480; Total Payroll: \$589 million; Total Output: \$1.6 billion and is defined as the total amount expended; consumed or sold on airports; amount of capital investment and to some degree the payroll that was calculated. In short, if there was money changing hands or any economic activity is what was used to quantify, such as visitors coming to the area and spending. Mandan Airport Statistics: 3<sup>rd</sup> largest general aviation airport in North Dakota. Short reviewed the current statistics and upcoming projects scheduled and the total economic impacts for the airport: \$2.3 million on-airport impacts; \$329,000 visitor impacts; \$1.7 million multiplier impacts. The airport has 31 employees associated with the airport with a payroll of \$1 million with an output of \$4.4 million. The state and local sales tax impact is \$117,900.

Larry Taborsky, Aeronautics Commission Director extended a thank-you to the City of Mandan for supporting the Aeronautics Aviation Commission. He commended Mandan for its interest in growing the Mandan Airport functions and services over the past 15 years.

3. *Consider fire service line for south portion of 300 block of West Main.*

Business Development and Communications Director Huber presented a request to approve paying expenses to install a fire service line for the south portion of the 300 block of West Main Street. She stated that fire code requires a fire sprinkler system in public buildings that exceed occupancy above 100. The water line needed to serve these systems is larger than that installed in buildings on Main Street. Some buildings are required to have sprinkler systems and more will need them in the future. City personnel have met and researched options and costs to bring a fire service line from the water main on Main Street to the middle of the sidewalk. The line under the sidewalk would be the city's responsibility for future maintenance. It would then be up to each property owner to get the line from the middle of the sidewalk into their respective buildings and to pay for those costs. Funding for the city's share of the costs is estimated to be \$22,000 and would come from the Sales Tax Fund and the Growth Fund.

Commissioner Frank motioned to approve that the City of Mandan pay expenses not to exceed \$22,000 for the project to provide a fire service line to the south portion of the 300 block of West Main. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

**RESOLUTIONS & ORDINANCES:**

1. *Consider second and final reading of Ordinance No. 1093 an ordinance to create a new section to the Mandan Code of Ordinances to create a section dealing with initiative and referendum.* City Attorney Brown explained that Supreme Court cases initiatives and referendums contained in a Home Rule Charter, which Mandan has; in order for that to become fully effective, it should be implemented by Ordinance. That issue was not involved in the Noise Ordinance litigation but in reviewing the Ordinances since the City of Mandan adopted the Home Rule Charter, there was no ordinance found that would directly address the issue and referendum. In other words the Home Rule Charter is one document and the Ordinances are the implementation of many things, including the Home Rule Charter. Brown thought that it would be best to implement the initiatives and referendum portion of the Home Rule Charter by Ordinance and that is what is outlined in Ordinance No. 1093.

Commissioner Jackson moved to approve the second and final reading of Ordinance No. 1093 an ordinance to create a new section to the Mandan Code of Ordinances to create a section dealing with initiative and referendum. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

**ORDINANCE NO. 1093**

**INITIATIVE AND REFERENDUM**

An Ordinance to create a new section to the Mandan Code of Ordinances to create a section dealing with initiative and referendum.

---

BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, as follows:

**1-01-12. INITIATIVE AND REFERENDUM.** Ordinances may be initiated or referred pursuant to Article 4 of the Home Rule Charter for the City of Mandan.

By: /s/ Timothy A. Helbling  
President, Board of City  
Commissioners

ATTEST:

/s/ James Neubauer  
City Administrator

First Reading: March 15, 2011  
Second Reading and Final Passage: April 5, 2011

2. *Consider second and final reading of Ordinance No. 1094 an ordinance to amend Section 2-01-04 of the Mandan Code of Ordinances relating to passage of ordinances.* City Attorney Brown stated that this has to do with the full reading vs. reading of the title of ordinances in that all ordinances shall be “considered” twice and the second consideration shall not be had in less than one week after the first consideration. And after such consideration before their final passage, such ordinances may be amended and shall then be put upon their second consideration and final passage.

Commissioner Jackson moved to approve the second and final reading of Ordinance No. 1094 an ordinance to amend Section 2-01-04 of the Mandan Code of Ordinances relating to passage of ordinances. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

## **ORDINANCE NO. 1094**

An Ordinance to Amend  
Section 2-01-04 of the Mandan Code of Ordinances  
Relating to Passage of Ordinances

Be it Ordained by the Board of City Commissioners as follows:

Section 2-01-04 of the Mandan Code of Ordinances is hereby amended to read as follows:

Section 2-01-04. Passage of Ordinances.

---

All ordinances shall be considered twice, and the second consideration shall not be had in less than one week after the first consideration; and after such consideration, before their final passage, such ordinances may be amended and shall then be put upon their second consideration and final passage; and, if passed by the governing body, shall be signed by the president of the governing body and attested by the city auditor.

By:

/s/ Timothy A. Helbling

President, Board of City  
Commissioners

Attest:

/s/ James Neubauer

City Administrator

First Reading:

March 15, 2011

Second Reading and Final Passage:

April 5, 2011

3. *Consider correction on introduction and first reading of Ordinance 1091 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.* City Attorney Brown stated that this is to approve the mistake in the title only from a previous reading. Commissioner Rohr moved to approve the correction on introduction and first reading of Ordinance 1091 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Consider introduction and first reading of Ordinance No. 1092 an ordinance to amend and reenact sections 7-01-01 and 7-01-07 of the Mandan Code of Ordinances, relating to adoption of a Uniform Fire Code and amendments to the International Fire Code and to provide an effective date.* Fire Chief Nardello stated that the Fire Department uses the International Fire Code to enforce the prevention of fire in the City of Mandan and every three years the International Fire Code updates their codes. The request is to switch from the 2006-2009 Fire Code and within that code there are two amendments and those changes should not affect any of the existing buildings or businesses within the City of Mandan. With regard to the two amendment requests, one

---

is regarding emergency planning. The Fire Code requests that we have crowd managers for events in excess of 250 people and this would affect both indoor and outdoor events. The recommendation is to delete this section 403.3 from code. The other amendment is to recommend deleting No. 4 of section 903.2.7 having to do with a requirement that any mercantile building, regardless of size or occupancy that sells or displays upholstered furniture to sprinkler the entire building. Chief Nardello stated that these amendments are similar to the City of Bismarck's Uniform Fire Code and Amendments.

Commissioner Frank moved to approve the introduction and first reading of Ordinance No. 1092 an ordinance to amend and reenact sections 7-01-01 and 7-01-07 of the Mandan Code of Ordinances, relating to adoption of a Uniform Fire Code and amendments to the International Fire Code and to provide an effective date as amended. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

OTHER BUSINESS:

1. *2011 City Wide Spring Cleanup:* Jeff Wright, Director of Public Works, provided the following information related to the upcoming spring cleanup schedule: April 11<sup>th</sup> is the official start of spring cleanup week. However, on Saturday, April 9<sup>th</sup>, and again on Saturday, April 16 the Landfill will be open from 8 am to 5 pm both days. The disposal of items will be free of charge to City of Mandan residents. City crews will be picking up additional garbage items on regularly scheduled pickup days. There are certain items that will not be allowed such as carpets and tires. Those items can be taken to the landfill by the residents. There is no charge for disposing of them. The street sweeping cleanup will be scheduled the week after spring cleanup.

There being no further actions to come before the Board, Commissioner Frank moved to adjourn the meeting at 6:32 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

/s/ James Neubauer

James Neubauer,  
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,  
President, Board of City  
Commissioners