
The Mandan City Commission met in regular session at 5:30 p.m. on November 16, 2010 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Frank and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta. Director of Public Works Wright was absent.

MINUTES: *Consider approval of the minutes for November 2, 2010 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:

1. *Public Hearing on the Memorial Highway Corridor Study and Consideration to receive the study.* Bob Shannon, the project manager for Kadrmas, Lee and Jackson Engineering firm reviewed with commission members the Mandan Memorial Highway Corridor Study. Based on the input from the public received and the information available five areas were analyzed:

- i. Market Study Update (from 2003)
- ii. Land Use
- iii. Environmental
- iv. Drainage
- v. Traffic Operations and Access

Shannon stated that the Market Analysis does not appear to support big box retail and that continued mixed use development appears to be the best alternative. There were 21 zoning recommendations. The Zoning Review included review of: Eliminating over zoning; Revise existing Gateway and Memorial Highway Overlay District; Rezone Twin City Estates from light industrial to mobile home residential. He stated that he believes that the most beneficial part that came out of the study involved the recommendations for managing land use transitions by staying within the zoning “like” zoning perimeters of heavy industrial > light industrial; heavy commercial > light commercial; multi-family > single family.

He further explained that the environmental review focused on equitable distribution of burdens and benefits to groups such as minorities and economically disabled areas. The Drainage Analysis includes a recommendation for an underground storm system and to provide for a clean up of the ditch by having proper drainage.

Shannon stated that the Memorial Highway plan outlines a 5-lane roadway, 2-mile route that includes highway road improvements, walking and biking pathways and traffic flow improvements. He said that the plan allows for a reduction of driveways from 100 down to 76 along that route. Roundabouts were considered but ruled out due to public comment being against putting in roundabouts. However one roundabout recommendation is part of this plan to be at 3rd Street and 24th Avenue where it will assist with the flow of traffic

after events. A roundabout is a self-maintaining alternative as an aid to eliminating traffic lights or stop signs. A part of the plan addresses how permanent easements and temporary construction easements will be needed to realign roadways. Shannon reviewed the results of a recent Messenger Poll that went out to residents with a recent water billing: *Do you generally agree or disagree with the recommendations for the reconstruction of Memorial Highway?* The poll showed that 37% were in agreement and 54% disagreed. Shannon reviewed a projected cost update for the project. He stated that the costs for Memorial Highway have not changed, but additional costs for elements in the corridor study are costs that they didn't have before. Examples of those costs would be for Robin Trail extension; Twin City Estates sidewalk; Ft. Lincoln Trolley extension (a private operation and highly unlikely to be financially feasible).

Shannon outlined the project schedule:

- Mandan City Commission receive the Corridor Study Report
- BMMPO Policy Board consider receiving final Corridor Study Report (12/21/10)

Written questions or comments are to be submitted by 12/1/10 to: Bob Shannon, KL&J, 128 Soo Line Drive, Bismarck, ND 58501 or bob.shannon@kljeng.com or www.mandanmemorialhighway.com.

Mayor Helbling opened the floor for public comments.

Dwayne Wahl, a Mandan resident and a family-owned business owner for 28 years came forward to speak. He stated that he is currently paying @ \$37,000 in special assessments for improvements on his property. He expressed his concern that he and other business owners in that area will possibly consider re-locating their businesses due to future costs of this project if it goes through. He indicated he would not be in favor of the expenses connected to walking or biking tracks simply because the businesses in this area bring in vehicle traffic, not biking or walking clientele.

Scott Berger, a Mandan resident and property owner came forward to speak. He concurred with the remarks brought forward by Dwayne Wahl. He questioned if it would be possible to put together a cost analysis of what costs will be assessed and how they will be assessed.

Alan Thompson, from Central Dakota Cyclists came forward to speak and stated that he was the one who provided some written comments previously to KL&J. He is in favor of looking at the aspect of providing a safer highway. He agreed with the proposed outline of the plan to keep commuters away from traffic and that there is also a path for the slower people.

Bob Shannon provided one additional comment that he neglected to point out during his presentation. He stated that before the commencement of the project, there will have to be environmental clearances, in the form of public hearing and public input comments. In addition the City will have to look at plans for funding this project. In short, there are a lot of activities that the City will have to start doing over the next several years before

any kind of engineering project will begin. He indicated that with the expectations that transportation money will become available, it would be advisable to start financial planning in advance of the decisions that will be eventually needed to be made regarding this project.

Commissioner Tibke inquired as to how the process would work if the plan were to move ahead and cost adjustments had to be made under certain circumstances. Shannon addressed this question stating that the cost estimate table does split out costs as funded under individual items. The plan will include the project being done in different phases as it moves forward. Additionally, enhancements have been separated out from the project costs that will be mandated. Shannon stated that some improvements included within the plan are flexible and can be tailored to work within the City's budget. Shannon explained that by "receiving" this plan the City is not bound to any commitment at this time. It merely is allowing the City an opportunity to review the plan and decide what may or may not be best for the community.

Commissioner Frank commented that she is pleased with the draft plan outline and that it provides alternatives and opportunity for growth development for Mandan. She is in agreement with "receiving" the plan at this time rather than "adopting" it.

Mayor Helbling asked for any additional comments from the public or commission members. Hearing none, this part of the public hearing was closed.

Mayor Helbling commented that it would be to the City's advantage to consider setting aside money for the Memorial Highway Corridor Project. Memorial Highway is a state highway therefore the state is responsible for its maintenance. However, we need to plan for that part of the project and how it will affect the City of Mandan. He reiterated the importance of taking into consideration the input provided by business owners. Mayor Helbling commended the people involved in putting this plan together and now the City Commission can begin digesting the plan and move forward with how it will best suit the needs of the residents, business owners and taxpayers.

Commissioner Jackson moved to receive the Mandan Memorial Highway Corridor Report as presented. Commissioner Rohr seconded the motion.

Commissioner Jackson stated that he has a conflict of interest with the firm of Kadrmas, Lee and Jackson, (the preparers of the report), because of a relative who worked on the report and that he personally knows some of the employees within that firm. However, he does not have any financial interest related to the plan. Mayor Helbling stated that taking into consideration the conflict of interest as outlined, Commissioner Jackson is allowed to vote on the subject matter.

Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

BIDS:

CONSENT AGENDA:

1. *Consider closing Administrative offices the day after Thanksgiving.* The Board approved closing Administrative offices the day after Thanksgiving.
2. *Consider approval of monthly bills.* The Board approved of the monthly bills.
3. *Consider games of chance for Mandan FFA Alumni-WIC Fundraising for November 20th to November 21st, 2010.* The Board approved of games of chance for Mandan FFA Alumni-WIC Fundraising for November 20th to November 21st, 2010.
4. *Consider a request for a street closure on November 27th for Santa's Arrival.* The Board approved of the request for a street closure on November 27th for Santa's Arrival.
5. *Consider approval of TSM Investments Addition Zone Change. (First reading of Ordinance 1087.)* The Board approved of the TSM Investments Addition Zone Change. (First reading of Ordinance 1087.)
6. *Consider for approval the Abstract of Votes cast by the Voters of City of Mandan in the Consolidated General Election held the 2nd day of November A.D. 2010.* The Board approved of the Abstract of Votes cast by the Voters of City of Mandan in the Consolidated General Election held the 2nd day of November A.D. 2010.
7. *Acceptance of a PSIC Grant in purchasing six (6) Mobile Radio's for the Mandan Police Department.* The Board approved of a PSIC Grant in purchasing six (6) Mobile Radio's for the Mandan Police Department.

9. *Consider proclaiming the week of November 14-20, 2010 as Hunger and Homelessness Awareness Week.* The Board approved proclaiming the week of November 14-20, 2010 as Hunger and Homelessness Awareness Week.

Commissioner Jackson moved to approve the Consent Agenda items 1 through 7 and item No. 9 as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

City Assessor Barta requested Consent Agenda No. 8 be removed for discussion:

8. *Consider the following abatements:*
 - i. *Sylvester Foote – Disabled Veteran Exemption:* The fiscal impact should be \$1,341 – the form indicated \$2,556, listed as \$137,200 which would be \$72,000 and improvements that were made is \$65,200 because they only get the exemption up to the first \$120,000. The other one was calculated incorrectly. This is the only correction that needs to be made.
 - ii. *Marlene Gomke – Wheelchair Exemption*
 - iii. *Brandon Leingang – Reevaluation*
 - iv. *Gary Weiler – New Construction*
 - v. *Joe & Agnes Wingerter – Blind Exemption*
 - vi. *Zachary Brown – Disabled Veteran*

Commissioner Frank commented as follows: One of the properties that was re-evaluated was purchased at a price that was less than it currently was assessed at. She requested Assessor Barta explain the difference between the value of the home and the sale price of the home and how that is figured into assessments. Barta stated: “Basically when

somebody questions our value, the first thing we always do is go back through the individual's house and make sure our data is correct. After that we turn around and use our program and we run if there is any information that has changed, we run the program and we come up with a value. If they purchase the property for \$310,000 the end value came out to \$320,000 and since it was fairly close we stay with the \$310,000." For clarification purposes, Commissioner Frank indicated that we try to stay within 95% of the market value of the home when we assess it. Barta stated that her clarification is correct. However, if a home is purchased at a "steal price" that does not necessarily mean that is the valuation placed on the home. If there is an appraisal on the home, we review the appraisal but that does not mean we are going to accept it. In summary, it is based on the market value of the home and we try to be as accurate and consistent as possible to reflect that amount.

Commissioner Rohr moved to approve the abatements as corrected in No. 8(i) and 8(ii-vi) as listed. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

OLD BUSINESS:

1. *Consider letter to be sent to legislators regarding texting and driving.* Pursuant to a previous directive from this Board, Police Chief Bullinger provided a draft copy of a letter addressed to the Mandan legislators for District 30, proposing a state ban on texting while driving.

Mayor Helbling stated that he is supportive of the letter as drafted by Chief Bullinger and that he suggests, that if in agreement by all members, that a letter in support also be sent on behalf of the City Commission.

Commissioner Tibke stated that she does not agree with Chief Bullinger's letter. It is her opinion that she would favor a proposal to initiate a statewide use of a "hands-free" wireless device (i.e. blue tooth) thereby eliminating cell phone dialing actions as well and not just limit the proposal to texting while driving. Commissioner Rohr concurred that the dialing action and texting both require a certain amount of distraction and the general populous would have to get used to that technology.

Mayor Helbling commented that it is important that consistency (with the Bismarck ordinance) in fines and enforcement is a key factor for consideration so that the citizens traveling between the two cities and within the state are held to the same/similar standard. He stated that he would not be in favor of Mandan attempting to create an ordinance that would be something different than what Bismarck has enacted. He stated that this subject is one that should be referred to the Morton Burleigh Bismarck Mandan (MBBM) Committee for discussion and possible resolution.

Commissioner Tibke stated she would be in agreement with forwarding this matter to the MBBM and the local legislators if the Commission determines they want to move forward with pursuing this matter.

Commissioner Frank mentioned that the National Safety Council recommends refraining from phone usage at all times while driving. She believes this matter is serious enough to continue discussion and resolution either at the city or state level or both.

Commissioner Jackson motioned to table sending the letter to legislators on texting while driving in order to allow Commissioner Tibke the opportunity to present a proposal to the MBBM Committee. Commissioner Rohr seconded the motion.

Commissioner Jackson stated that his recommendation to refer this matter to the MBBM comes from the suggestion that was presented tonight to ban all use of cell phones while driving rather than just limiting the ban to texting while driving; and to suggest the use of a hands free device while driving. The motion received unanimous approval of the members present.

NEW BUSINESS:

1. *Consider recommendation from the Selection Committee reviewing proposals for regarding former Mandan Jr. High.* Jim Neubauer, City Administrator, reported that the Mandan School Board recently rejected the proposals from CommunityWorks North Dakota and from Erling Haugland to purchase the former junior high building. The School Board will be keeping the facility until a determination is made on enrollment.

Commissioner Jackson moved to approve the recommendations from the Selection Committee rejecting all the proposals regarding the former Mandan Jr. High. Commissioner Tibke seconded the motion. Commissioners Rohr, Tibke, Jackson and Helbling voted in favor of the motion. Commissioner Frank voted in opposition of the motion. The motion passed.

RESOLUTIONS & ORDINANCES:

1. *Consider first reading of Ordinance No. 1087 Zone Change for TSM Investments Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the first reading of Ordinance No. 1087 Zone Change for TSM Investments Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

OTHER BUSINESS:

1. *Consent Agenda Item No. 9: Consider proclaiming the week of November 14-20, 2010 as Hunger and Homelessness Awareness Week.* Commissioner Tibke stated that there was an event held today at the State Capitol Building regarding the Ruth Meiers Hospitality House. She stated that she would like people in this region to be aware that in Region 7, every night 142 children and 229 adults are homeless. The Ruth Meiers house is in a pinch financially because of increased demands with this issue. She asked the

community to contribute appropriately. Commissioner Rohr said Community Aid is trying to help with this problem as well.

There being no further actions to come before the Board, Commissioner Tibke moved to adjourn the meeting at 6:42 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the Board members present and the meeting adjourned.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,
President, Board of City
Commissioners