

The Mandan City Commission met in regular session at 5:30 p.m. on January 20, 2009 in the Ed "Bosh" Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Gangl, Serhienko and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Planner Baehurst, Development Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta.

MINUTES:

1. *Consider approval of the minutes of December 16, 2008 meeting of the Board of City Commissioners.* Commissioner Tibke moved to approve the minutes of the December 16, 2008 meeting of the Board of City Commissioners. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Consider application for taxicab business by Roger Kroh and Joel Kroh, Metro Taxi, 2812 Memorial Highway.* Business Development Director Ellen Huber presented a request for application for taxicab service by Roger Kroh and Joel Kroh. The taxicab service will be called Metro Taxi and located at 2812 Memorial Highway. Joel Kroh came forward and stated that he and Joel have worked for the local taxi service for several years. It is their desire to start a taxi service in Mandan as the current taxi service is located in Bismarck. Mayor Helbling stated that this is a public hearing and asked for comments from the Commission or the public. Hearing none, this portion of the hearing was closed.

BIDS:

CONSENT AGENDA:

1. *Consider approval of the following abatements:*
 - i. *Cheryl Roehl – Blind Exemption*
 - ii. *Kevin Vannett – Blind Exemption*
 - iii. *Wallace & Bernice Schmidt – Homestead Credit*

The Board approved of the abatements for Cheryl Roehl, Kevin Vannett, Wallace and Bernice Schmidt.

2. *Consider transferring funds in Police Equipment Reserve account (2008 budget) into the 2009 budget.* The Board approved of the transferring funds in Police Equipment Reserve account (2008 budget) into the 2009 budget.
3. *Consider transferring matching grant funds in for the Fire Department from 2008 to 2009 budget.* The Board approved of the transferring matching grant funds in for the Fire Department from 2008 to 2009 budget.
4. *Consider approval of games of chance for Tenspot Lane Traveling Team (2/2/09 to 2/6/09).* The Board approved of games of chance for Tenspot Lane Traveling Team (2/2/09 to 2/6/09).
6. *Consider approval of monthly bills.* The Board approved of the monthly bills.

Commissioner Serhienko moved to approve Consent Agenda items numbered 1, 2, 3, 4, and 6 as presented. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

Commissioner Jackson requested Consent Agenda item No. 5 be removed for discussion:

5. *Consider entering into an agreement for design services with Interstate Engineering.* Commissioner Jackson stated that after speaking with Project Manager Bechtel, since the City of Mandan is without a City Engineer at this time, that for purposes of clarification – it is noted that we (City of Mandan) did not enter into an agreement with Interstate Engineering without submitting public bids. Interstate Engineering is doing this in the capacity as the City Engineer and also, under the request by the ND Department of Transportation – they were requesting designs, not just bids within a three week timeframe. It was noted that the City of Mandan is not trying to subvert any type of bidding process from competing engineering firms.

Commissioner Jackson moved to approve entering into an agreement for design services with Interstate Engineering. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINSS:

1. *Review of proposed amendments to proposed Ordinance 1048 an ordinance to repeal an initiated ordinance to the Mandan City Code relating to electric handicap accessible doors as adopted by the electorate on November 4, 2008, and to enact a new ordinance relating to handicap accessibility for buildings that accept public funds.*

Attorney Brown discussed with members that most recent there have been discussions as to amendments to the Ordinance. Pursuant to the requests and discussion at the last meeting, a section for Noncompliance has been added to this revised version. Attorney Brown stated as follows: “The citation to the ADA Standards for accessible design actually is different than what you have in front of you. That was an editing error on my part. It’s 28 CFR 36.104. The numbers were correct but it is not in the standards for ADA accessible design it’s in the Code of Federal Regulations which precede the standards for accessible design. It’s under Old Business but if the Commission wants to move to put it on the Agenda as modified for first reading, that would be the motion to make, if any motion is made at all.”

Commissioner Jackson moved to place the new revised version of Ordinance on the Agenda as a first reading at the next meeting. Commissioner Tibke seconded the motion.

Mayor Helbling asked for comments from the Commission. Commissioner Gangl stated that as he stated at the last meeting, he would like to see it restricted to Retail A and Service A types of businesses rather than any and all businesses. He stated that the ordinance is a great idea but there needs to be common sense taken into consideration when making application. Commissioner Serhienko commented that he agrees with Commissioner Gangl, further commenting that this is basically just putting it back on the Agenda for the next meeting.

The motion received unanimous approval of the members present.

NEW BUSINESS:

1. *Introduction of new employees:*
 - i. *Police Department*
 - a. *Jessica Doolin*
 - b. *Kyle Taylor*

Police Chief Bullinger introduced Jessica Doolin stating she has been with the County since 2004 and is currently enrolled in the Police Academy in Bismarck. Kyle Taylor is a 2006 University of Mary graduate with Criminal Justice Degree. He has graduated from the Lake Region Law Enforcement Training Academy in Devils Lake. He is starting the Field Training Program with the Mandan Police Department. Mayor Helbling welcomed both employees to the City of Mandan Police Force.

2. *Consider entering into a cost participation, construction, and maintenance agreement (CPM) for the construction of the Sunset Drive & Old Red Trail Signalization Project.* Project Engineer Bechtel stated that the DOT would like an agreement that spells out the funding received, usually an 80/20 project. \$647,440 dollars has been received for funding. The total cost of the project is \$1,290,000. The City will need to come up with \$642,560 to fund this project. As part of that, funding has been looked at to pay the additional costs. Funding alternatives include a possible special assessment district and through Sales Tax. This will come back in the future for approval. The agreement requested today is for the funding that they have provided us and for the maintenance and construction agreement. Mayor Helbling commented that it is a \$1.3 million project for installing signal lights - can it be put off for awhile? Mayor Helbling stated that because the delineation and new markings have been put in, things are smoother now and that no complaints have been received. If there is a delay, could it defray a portion of the funding? Bechtel stated that the only drawback in delay could be that of construction prices increasing of which less than 5% would be saved by delaying.

Commissioner Tibke moved to approve entering into a cost participation, construction, and maintenance agreement (CPM) for the construction of the Sunset Drive & Old Red Trail Signalization Project. Commissioner Gangl seconded the motion. Commissioner Serhienko voted nay; the motion received approval of the remaining members. The motion passed.

3. *Consider for approval the addition of projects for use on the proposed federal stimulus package funding.* Bechtel stated that in November 8, 2008, five projects were presented as consideration for this project. Those five projects were: 1) Mandan Avenue, 2) Main Street, 3) 10th Avenue SW, 4) Longspur Drive SE, 5) Old Red Trail NW. Four additional projects are now being considered: 1) 27th Street NW (Terra Vallee), 2) Division Street NE (Diane's Addition), 3) 14th Street NE/3rd Avenue NE (Diane's Addition), 4) 14th Street NW (Collins Avenue West to 6th Avenue NW). Bechtel stated that these streets are under consideration for a possible street rehab project that needs to be done. The Special Assessments would be reduced. The additional projects will need to be approved by the Commission. Commissioner Jackson inquired as to what the street rehab consists of? Bechtel stated that they are asphalt and overlay and that the total cost of the additional projects would be between \$500,000. Commissioner

Jackson asked how much would be assessed residents? Bechtel said that has not been determined stating that right now all these projects are 100% federally funded. The projects will have to be under contract within the next two months and done within the year. The concern is the number of contractors in town and the amount of work that needs to be done, thus approval is needed to move forward.

Commissioner Tibke moved to approve the addition of projects for use on the proposed federal stimulus package funding. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

4. *Update on Market Street Community visioning plan for 2009.*

Kelvin Hullet, President of the Bismarck-Mandan Chamber of Commerce was present to update the Commission on the Strategic Plan. Hullet gave a brief history of past activity regarding the visioning plan. He stated that the firm "Market Street" will be assisting in this project. Hullet reviewed the Proposed Timeline of Events with the Board stating the intent is to have the project completed by May 27, 2009. The total project cost is \$116,000 with contributions mainly from the private sector. The City of Mandan has committed \$27,000 toward this project. Hullet stated that this is a project that looks at the community activities over the next 5-10 years while moving the community forward.

5. *Consider application for taxicab business by Roger Kroh and Joel Kroh, Metro Taxi, 2812 Memorial Highway.* Attorney Brown commented that he has visited with the City Attorney in Bismarck and the Bismarck ordinance is basically identical to that of Mandan. Brown stated that after discussing the Ordinance with Bismarck, it is apparent the Mandan Ordinance needs updating. Attorney Brown recommended moving to approve the application for taxicab business by Roger Kroh and Joel Kroh, Metro Taxi.

Commissioner Tibke moved to approve the application for taxicab business by Roger Kroh and Joel Kroh, Metro Taxi, 2812 Memorial Highway subject to all provisions of municipal code. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

6. *Consider permission to go out for bids a 20" transmission line to the south side water reservoir. In addition provide an update on water and waste water utility projects.*

Russell Sorenson, PE, Operations Manager for Advanced Engineering and Environmental Services was present to provide a project update on the 20-inch Transmission Main. Sorenson reviewed a spreadsheet for Commission review that outlined the costs involved in the project. He stated that \$14.6 million is the cost for the whole project and we are at \$12.8 million for the actual costs. This includes the \$2.4 million for the transmission main. Sorenson pointed out that in 2009 there will be items in the project that will need to be revisited: 1) Eliminate cross connections at the WWTP and 2) address pressure problems. These will be brought back in the future in the form of change orders along with resolutions to resolve those two issues; 3) A concern of the South Side Pump Station – the second stage of addressing pressure issues in that area and, 4) WTP Lime Sludge which both be brought back in the future. Sorenson stated that the action he is requesting tonight is to allow advertising for the 20 inch project

which is the portion that ties the existing transmission line to the south reservoir and to the 16 inch that is in the ground that would back feed the Marina Bay area and Lakewood area. If approved tonight, advertising would be scheduled on January 30, February 6th and February 13th with a bid date of February 23rd with an award at the March 3rd City of Mandan Commission Board meeting. Sorenson said that by that time an update would be provided along with recommendations of the other projects mentioned above. Finance Director Welch stated that the rate structure is in place for the dollars that are currently secured which would be the \$14.6 million dollars.

Commissioner Serhienko moved to approve granting permission to go out for bids a 20" transmission line to the south side water reservoir. In addition provide an update on water and waste water utility projects. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

RESOLUTIONS AND ORDINANCES:

1. *Consider second and final reading of Ordinance 1049 to enact a new ordinance relating to weed control.* Commissioner Tibke moved to approve the second and final reading of Ordinance 1049 to enact a new ordinance relating to weed control. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

ORDINANCE NO. 1049

An Ordinance to Repeal Chapter 17-04 to the Mandan City Code
Relating to Noxious Weeds and to Enact a New Ordinance
Relating to Weed Control

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

SECTION 1. Chapter 17-04 of the Mandan City Code, Noxious Weeds is hereby repealed.

SECTION 2. A new Chapter 17-04 of the Mandan City Code, Weed Control is hereby enacted as follows:

17-04-01. Authority.

1. The City Weed Officer shall have the duties and authority as provided by this section.
2. All noxious weeds, tall grasses and any other unhealthy vegetation exceeding six inches in height growing within the limits of the city are hereby declared to be a public nuisance and it shall be the duty of every person owning, occupying, or in charge of any premises, lot or parcel of land in the city to keep that premises, parcel or lot, including the adjacent

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- rights-of-way, one half of street or road, berms, and boulevards free from all weeds and long grasses by cutting, eradicating, or controlling them at all times during the growing season. Medians separating street sections shall not be included in the requirements of this section.
3. “Weeds” as used in this chapter shall include all weeds contained in North Dakota Administrative Code Section 7-06-01-02 as it defines “noxious weeds”.
 4. “Tall grasses” shall mean all weeds not contained in North Dakota Administrative Code Section 7-06-01-02 in excess of six inches in height and all grasses in excess of six inches in height.

17-04-02. Control/Duty.

It is the duty of every person owning, occupying or in charge of any premises, lot, or parcel of land to cut, eradicate, or control any weeds, tall grasses, or any other unhealthy vegetation exceeding six inches in height to prevent them from becoming a public nuisance and or unsightly.

17-04-03. Notice by Publication of Ordinance.

It shall be the duty of the City Weed Officer to cause a notice of the contents of this chapter to be published in the official newspaper of the city once within three days of April 15, May 15, June 15, July 15 and August 15. These publications shall serve as notice to all landowners, occupants, or persons in charge of maintaining any parcel of land within the city limits to comply with the requirements of this chapter. These publications shall also serve as the official notice to property owners to cut weeds and tall grass other methods of notification, such as the media and the City of Mandan’s website may also be used to notify landowner, occupants, or persons in charge to control tall grass and weeds.

17-04-04. Eradicating, Cutting, or Control of Weeds and Tall Grasses by the City Weed Officer.

At a minimum, all property shall be mowed by May 1, June 1, July 1, August 1, and September 1 of each year. The City Weed Officer may order more frequent cuttings, eradication, or controlling of noxious weeds, tall grasses, and any other unhealthy vegetation if necessary for compliance with this chapter and such notice may be given in person, via telephone or by letter.

1. Whenever any person, firm or corporation owning, occupying or in charge of any premises, lot, or parcel of land within the city, shall fail, neglect, or refuse to mow the property at least once by May 1, June 1, July 1, August 1, and September 1 of each year in accordance with the provisions of this section or shall fail to eradicate, cut or control weeds, tall grasses or any other unhealthy vegetation exceeding six inches in height within seven days of receipt of notice from the City Weed Officer, the City Weed Officer shall order the nuisance to be abated by eradicating, cutting or controlling the weeds, tall grasses or any other unhealthy vegetation exceeding six inches in height in a manner as specified by the City Weed Officer, if the City Weed Officer has first complied with the notice requirements of Section 17-04-03.

A person, firm, or corporation notified of impending city action may cause the eradication, cutting, or control of weeds, tall grasses, or any other unhealthy vegetation exceeding six inches in height at any time before the City Weed Officer takes action due to noncompliance with this chapter.

17-04-05. Costs Assessed Against Property.

When the city has effected the eradication, cutting or control of weeds, tall grasses or any other unhealthy vegetation exceeding six inches in height. The actual cost thereof, if not paid by the owner, must be charged and assessed against the property upon which the weeds, tall grasses, or any other unhealthy vegetation exceeding six inches in height were eradicated, cut or controlled. An assessment list showing the costs against each lot or tracts to be assessed shall be prepared as are other special assessment lists and shall be approved by the Board of City Commissioners. All procedures under state law for certification, appeal, payment, and collection of special assessments shall apply.

17-04-06. Cooperation.

Nothing in this chapter shall in any way affect the city's ability to levy for weed and tall grass control or prevent the city from contracting with or cooperating with any other board or jurisdiction for the control of weeds, tall grasses or any other unhealthy vegetation exceeding six inches in height. The weed control officer may delegate all or some of the duties required under this section to a member or members of the Fire Department.

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

Attest:

/s/ Jim Neubauer
City Administrator

First Reading: January 6, 2009
Second Reading and Final Passage: January 20, 2009
Publication Date: _____

2. *Consider first reading of Ordinance 1050 an Ordinance to Amend and Re-enact Section 4-06-10(7) of the Mandan City Code relating to administration of salary plan.* Commissioner Gangl moved to approve the first reading of Ordinance 1050 an Ordinance to Amend and Re-enact Section 4-06-10(7) of the Mandan City Code relating to administration of salary plan. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

OTHER BUSINESS:

Mayor Helbling commended the Public Works Department, Fire Department and Police Department for the snow removal that has been occurring throughout the winter months.

There being no further actions to come before the Board, Commissioner Jackson moved to adjourn the meeting at 6:10 p.m. Commissioner Serhienko seconded the motion. Upon roll call vote, the motion received unanimous approval of the Board and the meeting adjourned.

/s/ James Neubauer
James Neubauer,
City Administrator

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