
The Mandan City Commission met in regular session at 5:30 p.m. on March 17, 2009 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Jackson and Serhienko. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Planner Baehurst, Business Development Director Huber, Engineering Project Manager Bechtel, City Assessor Barta and Director of Public Works Wright. Commissioner Gangl was absent.

MINUTES:

- I. *Consider approval of minutes from the following meetings:*
 - i. *February 3, 2009*
 - ii. *February 10, 2009 Special Meeting*
 - iii. *February 17, 2009*
 - iv. *February 23, 2009 Joint Special Meeting: Mandan City Commission, Park Board & School Board.*
 - v. *February 27, 2009 Special Meeting*
 - vi. *March 3, 2009*

Commissioner Tibke moved to approve the minutes as presented for the following dates: February 3, 10, 17, 23, 27 and March 3, 2009. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

I. *Presentation of the Annual Storm Water Report.* Planner Baehurst reviewed with members the Annual MS4 Report required by the ND Department of Health and the EPA. For purposes of new commissioners and the audience, Baehurst provided an outline of what is required and what has been done over the last year. A summary of information included the following:

- Minimum Control Measures
- Public Education and Outreach
- Public participation
- Illicit discharge detection and elimination
- Construction Site Runoff Control
- Post Construction Management
- Good Housekeeping Measure

Commissioner Tibke commented that in order for information to be disseminated to the general public other than the website perhaps information could be included with the water bill. Leon Volk, a Mandan resident who resides at 8th and 2nd, voiced concern about citizens that have dead trees in the area. There is concern about a cottonwood tree that might fall down and cause damage to fences and power lines. Volk inquired if it would be possible to develop an ordinance that would make citizens remove trees and/or things that might be hazardous. Mayor Helbling asked that the City Forester be notified and investigate the situation as presented by Mr. Volk.

Susan Beehler, Mandan resident, inquired as to who should be contacted if there is construction on city property that affects a county resident? Baehurst replied that if the

construction is happening on city property the city should be contacted. Custer Health could also be contacted, if necessary.

Mayor Helbling advised that this is a public hearing and asked for further comments. Hearing none, this part of the public hearing was closed.

Commissioner Tibke moved to approve to accept the 2008 Annual Storm Water Report. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

BIDS:

1. *Consider the award of bids for Sidewalk Improvement Project 2009-03.* Project Engineer Bechtel presented a request for bids received for the 2009 sidewalk construction projects throughout the city. Three bids were received by closing at 3 pm on March 9, 2009. The low bid came in at \$277,555.00 which was below the engineer's estimate of \$285,130.00.

Commissioner Tibke moved to approve the bid award for the Sidewalk Improvement Project 2009-03 to Dakota RM Construction in the amount of \$277,555.00. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

CONSENT AGENDA:

1. *Consider fire department request to accept a 2009 Hazardous Materials Training Grant and budget amendment for the grant.* The Board approved the Fire Department request to accept a 2009 Hazardous Materials Training Grant and budget amendment for the grant.

2. *Consider approval of monthly bills.* The Board approved the monthly bills as submitted.

4. *Consider approval of personnel actions.* The Board approved of the personnel actions. The following is recommended for personnel increases:

Name	Title	Current	Proposed
1. Brad Schafer	Equip Op II	12-G \$34,860.80	13-F \$35,734.40 Reclass

Commissioner Serhienko requested Consent Agenda item No. 3 be removed for discussion.

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

3. *Consider for approval the Final Plat of the Replat of Lots 3 & 5, Block 1, West Bay Estates 2nd Addition.* Commissioner Serhienko inquired as to the purpose of the replatting of this property. Planner BaeHurst responded that the owner of Raging Rivers Water Park would like to sell the Water Park but would like to keep the mini golf and go-cart race track. BaeHurst stated that the plat itself is to help in the sale of the land. The

replatting would accomplish a clear cut plan of the property if it were to be bought or sold.

Cole Higlin, Mandan Park District Director, came forward to provide further explanation. He stated that the Park Board only purchased the Water Park portion of the land. This replatting will define the Park District property and the current owner's property as there is no property line between the two parcels. This is necessary for special assessments and taxation purposes for both the buyer and the seller.

Mayor Helbling commented that this matter was before the Planning and Zoning Commission and they granted approval of the replatting.

Susan Beehler, Mandan resident, inquired if Mr. Higlin could provide a map of the property stating that it was not provided at the Park Board public hearing meeting so the public did not know what the Park Board was purchasing. Beehler voiced concern that the packet of information provided to the Commission, contained information that the Planning and Zoning Commission had approved of the replatting, stating they met the prior evening. Another concern Beehler had was with the Raging Rivers in that it favors in the best interests of the seller rather than the buyer which is the taxpayers. Beehler stated that she does not feel the taxpayers are getting the best end of the deal.

Cole Higlin referred to a map of the property. He stated that the property was divided into 7 acres - the Park District purchased 7 acres. Higlin pointed out the property line separating the two parcels. He stated that the property line that Beehler is talking about is about a cross reference parking or a parking easement that shows the area when entering the parking lot. Higlin stated that the only thing that he could speak to as to why the seller wants the cross parking is so that he is able to get the square footage to get the 7 acres for a future sale or whatever may happen with the south property. Higlin stated that this was not part of the negotiations of the property. It came into negotiations at one point between the seller and the Park District that this area can be nothing other than parking.

Whatever development happens to the south, there is an easement associated with the driveway along with the utility easement. Any permanent structure that might be part of a future plan was discussed at the Planning and Zoning meeting that there would have to be parking requirements associated with those buildings. A representative of the Aspen Group is available to answer questions on behalf of the seller. As far as the Park District, the Board did approve of the replatting. The issue at hand is the cross parking in the parking lot and that was a negotiation piece between the seller and the Park District.

Mayor Helbling requested City Administrator Neubauer provide an explanation as to the process for preparing and distributing the meeting packets. City Administrator Neubauer stated that the packets are distributed on Friday afternoons before a City Commission meeting. He stated that if the Planning and Zoning has an item before them and they meet on a Monday, generally those items are approved on that Monday and they go to the City Commission on Tuesday. If there is a question from Planning and Zoning of an agenda item and it does not receive approval, that item will be pulled off the agenda for

that Tuesday meeting. Neubauer stated that a review of the agenda packet will be made and the information that is provided on Friday will be noted as proposed to the Planning and Zoning Commission and pursuant to their approval will come to this Board for consideration.

Susan Beehler inquired of the (Water Park) design in that the seller is getting most of the frontage road which is the front entrance to the park. Beehler voiced concern that the map was not shown at the Park District meeting. She also voiced concern that the “circle” has been set up to accommodate vendors. With the division of the property line at that point it does not seem it will be possible to utilize the circle for what it was designed for.

Commissioner Jackson interrupted calling a point of order. He stated that this matter is about replatting a piece of property, not what the Park District has planned for the use of the property.

Beehler stated that no one is willing to listen to a taxpayer concern – the Park District did not show the map. The Planning and Zoning Commission said they do not do anything with that. Beehler’s concern is that someone needs to protect the interest of the Mandan taxpayers.

Mayor Helbling stated that this matter was discussed at Planning and Zoning and there was a lengthy discussion about it and it was felt that Planning and Zoning should not be putting restrictions on the property owners. They will deal with the plat only and if the Park District is comfortable and the seller is comfortable, that is what is important. The Park District is a public entity; they agreed to the purchase, they agreed to all the property lines.

Commissioner Jackson moved to approve the Final Plat of the Replat of Lots 3 & 5, Block 1, West Bay Estates 2nd Addition. Commissioner Tibke seconded the motion.

Commissioner Jackson commented that he agrees with Mayor Helbling in that the City Commission should not be interfering with a business transaction of two entities. The Park District approved a sale and the City should not get in the way of what they have determined.

The motion received unanimous approval of the members present.

OLD BUSINESS:

1. *Fireworks Committee:* (This item was added for consideration at the beginning of this meeting.) Commissioner Jackson announced that the Fireworks Committee is in need of additional members such as distributors or someone of that nature. He stated that the Fireworks Committee will be meeting on March 19, 2009, at 4:00 pm at the Fire Hall. It is a public meeting and the public is invited to attend.

NEW BUSINESS:

1. *Consider engineering agreements for expansion for Design Residuals Management Facility upgrade.* Gary Zander, WTP Superintendent reviewed with the Board the City of Mandan's Water System Update. Zander stated that the projects are running a little behind by about a year or so. He provided the members with a slide presentation of the Prioritized Plan of Capital Improvements Water Treatment Plant and Water Distribution System. The current project going on is the construction of the new reservoir which was moved up because of the condition of the Collins avenue steel reservoir. He reviewed the upcoming plans for the Residuals Management Facility stating that the project will need to address matters such as limited capacity, lack of redundancy, equipment at or nearing end of its service life as most of the equipment had been installed in 1985. He spoke of the costs associated with the repairs and that some of the equipment cannot be repaired anymore. Brett Jochim, Advanced Engineering was present and reviewed the Residuals Management Facility Prioritized Plans for Capital Improvements provided to the members. He explained that Residuals Management Facility is a fancy term for "sludge plant". Jochim explained the differences in the dewatering equipment between the 1985 model of the existing Belt Press in comparison to the current recommendation of the proposed Plate and Frame press. The major advantage of the Plate and Frame press is that the units require no additional polymer (chemicals) after the Thickener. Jochim concurred with Zander that the current system is near its service life stating that it is important to have the proper equipment in place in order to manage sludge in order to put water back in to the head of the plant. Jochim reviewed the fiscal impact of how it will affect an average user within the city. He reviewed the data extracted when this project started (2006) outlining the projected monthly base fees and water rate fees through the year 2030. Jochim reviewed the regional water rate comparison data for 2008 and 2009 showing cost increases for Mandan as well as other cities of similar population. Zander approached the commission asking for approval to move ahead with proceeding with the project as planned and to enter into an agreement with AE2S for the design and construction services related to the Residuals Management Facility. Mayor Helbling stated that the Waste Water Treatment Plant is a separate project from the Residuals Management Facility. Jochim concurred stating that this plan is for the Water Utility only. Commissioner Jackson inquired if there are alternatives to this? Jochim replied an alternative would be a centrifuge which is something that is started up and it starts spinning and will keep the solids on the center and spin the water through a membrane. Those systems are actually more costly to run because high energy usage. Mayor Helbling commented that the city needs to consider keeping the water and sewer rates in close proximity to Bismarck costs as well as the overall costs of debt load for the city. Commissioners Tibke and Serhienko commented that it is their belief that if the matters are not addressed and taken care of at this time, that the future will bear higher costs. Tibke stated that due to previous lack of attention to these matters has resulted in decisions being made now to correct and improve the systems for the present time as well as the future.

Commissioner Serhienko moved to approve the engineering agreements for expansion for Design Residuals Management Facility upgrade. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

2. *Bismarck-Mandan Development Association 2008 Business Retention and Expansion Report.* Brian Ritter, Bismarck-Mandan Development Association (BMDA) was present to report findings from BMDA's visits to 100 primary sector businesses in the Bismarck/Mandan area for the year 2008. Ritter provided information as to past history and what is currently being conducted regarding this matter. Ritter briefed the commission with a short overview of the BMDA's purpose: "To focus on the Three Rs – Recruit, Relocate and Retain top businesses with quality employment for our citizens." The BMDA addresses the recruitment and retention of top businesses, the retention of those businesses already in Bismarck/Mandan is addressed through the Business Retention and Expansion (BRE) Program. Ritter stated that in the year 2008 the BMDA met its goal of conducting 101 visits for a total number of 506 BRE visits conducted from 2004-2008. Ritter reviewed the BMDA accomplishments through the use of the BRE Program. Ritter provided a PowerPoint presentation that outlined the following key factors to this study:

- Industry Vitality (Products/Service Life Cycle; Emerging Technology)
- Market Conditions (Total Company Sales; Market Share; Production Capacity; Expansion in next 3 years)
- Business Environment (Management Change; Bis-Man Expansion Comparison; Workforce; Community Services)
- Strengths and Weaknesses

Ritter stated that this program has 2 goals:

- 1) To address the business goals of the community
- 2) To identify and assist the companies who have said yes to this question: Do you plan to expand your business in the community over the next 3 years?

Moving into 2009 – the plan with the City of Mandan will increase the visits from 20 to 25 CRT visits. Per the feedback received from city staff – the convention and tourism businesses will be considered. At the end of 2009 a determination will be made to adjust or expand the program. At that time, an updated report will be provided.

The businesses picked to be interviewed are selected by focusing on the primary and service sector involvement with the BMDA. Some of the businesses interviewed in Mandan include the following Cloverdale, NSIC, MDU, Engineering Companies, Banking Businesses, KTM Cycle Hut, Cin-City Designs.

3. *Consider a May 1 application deadline for the Storefront Improvement Program.* Ellen Huber, Development Director presented a request to revise the March 1, 2009 deadline to a May 1, 2009 application deadline for the Storefront Improvement Program. Huber stated that the 2009 budget included \$50,000 for the program. At the end of 2008, unallocated storefront funds were \$10,000. In December 2008 the Commission approved moving the \$10,000 to 2009 making a total of \$60,000 available in 2009 with \$30,000 allotted to the March 1st deadline. Huber stated that no applications were received by the March 1, 2009 deadline. Huber stated there are prospective businesses interested in applying, however, due to pending matters those businesses were unable to meet the March 1st deadline. Huber anticipates the extension of time will allow businesses to move forward with the application process.

Commissioner Serhienko moved to approve the May 1 application deadline for the Storefront Improvement Program as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

4. *Consider having Commissioner Jackson assigned as the sole holder of the Business Development Portfolio.* Mayor Helbling stated that this matter comes before the Commission as a result of a meeting with the ND League of Cities and the ND Attorney General's office.

Commissioner Tibke moved to approve the appointment of Commissioner Jackson assigned as the sole holder of the Business Development Portfolio. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

RESOLUTIONS AND ORDINANCES:

OTHER BUSINESS:

1. *Bismarck-Mandan Development Association Annual Report & Financial Review.* Richard Mauer, BMDA, provided information regarding the BMDA Annual Report & Financial Review for the calendar year of 2008. He stated that meetings were had with the City staff as well as the portfolio holders of the business development section to put together the scope of work for 2009. Mauer outlined plans for 2009 as follows:

- Increase the amount of communication between BMDA and the City of Mandan
- Regularly circulate copies of minutes to the portfolio holder
- Publish weekly newsletter disseminated via internet and hard copy to businesses
- Identify potential business sites

2. *Special Assessments:* Mayor Helbling commented that several commissioners have received letters regarding Special Assessments. Mayor Helbling requested City Administrator Neubauer review the letter(s) and come up with a unified response.

There being no further actions to come before the Board, Commissioner Tibke moved to adjourn the meeting at 6:57 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