
The Mandan City Commission met in regular session at 5:30 p.m. on August 4, 2009 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Jackson, Gangl and Serhienko. Department Heads present were City Administrator Neubauer, Police Chief Bullinger, City Attorney Brown, Engineering Project Manager Bechtel, Fire Chief Nardello, Business Development Director Huber, City Assessor Barta, Finance Director Welch and Director of Public Works Wright. Absent: Commissioner Tibke.

1. MINUTES: *Consider approval of the minutes from the July 21, 2009 meeting of the Board of City Commission.* Commissioner Jackson moved to approve the minutes from the July 21, 2009 Board of City Commission meeting as presented. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

CONSENT AGENDA:

1. *Consider approval of a Homestead Credit Exemption for J. Hoffman (2008).* The Board approved the Homestead Credit Exemption for J. Hoffman (2008).
2. *Consider games of chance for North Dakota State Rally Inc. for Sept. 21-Sept. 23, 2009.* The Board approved the games of chance for North Dakota State Rally Inc. for Sept. 21-Sept. 23, 2009.
3. *Consider approval for a beer garden and street dance application.* The Board approved a beer garden and street dance application for Westside Bar and Grill for August 14th and 15th.
4. *Consider for approval, a request by Kevin Allan to close a portion of 4th Avenue NE on August 16th, 2009.* The Board approved a request by Kevin Allan to close a portion of 4th Avenue NE on August 16th, 2009.
5. *This item was removed from the Agenda: Consider entering into an Engineering Services Agreement with Houston engineering for the 2010 Sunset Drive Reconstruction Project.*

Commissioner Serhienko moved to approve the Consent Agenda as presented. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider final report and recommendations from downtown parking study.* Business Development Director Huber introduced John Revell of Rich & Associates to review the final report and recommendation on the downtown parking study. Revell reviewed the following documentation with the Board:

- Review of project approach

- Information gathered
- Field Observations
- Surveys
- Operating Recommendations
- Potential New Parking

An Analysis-Recap included information related to the parking supply, land use, utilization and user surveys. He stated that the surveys conducted showed there was a very good response and was very helpful in this process. The results of the survey assisted in determining the parking needs of the community. Assisting in the study results was information collected related to Turnover and Occupancy; Calculating Parking Demand (defined the parking stalls needed for current, 5-year and 10-year projection); surplus deficit was recorded on a block by block basis. Revel reported that currently, overall, there is a surplus of parking. The recommendations Revel outlined:

- Stripe all on-street parking which is in progress now
- Enforce on-street parking limits
- Work with businesses to create shared parking
- Discourage new parking lots in core downtown areas

Phase 1 - Recommendations included: Slowing traffic down on main street; improving crosswalks and adding bicycle racks; advertise parking in the downtown area; establish rules for snow removal; establish residential permits for downtown parking; eliminate leased parking; consider the Library lot for RV/truck and trailer parking; promote pedestrian walking and offer free parking; purchase hand-held units for parking enforcement actions; consider graduating fine rates for repeat offenders; consider partnering with the County.

Phase 2 - Long term recommendations included: Consider storing unused city vehicles elsewhere to free up parking spaces; consider alley improvements for certain blocks and encourage pedestrian enhancements and lighting improvements; install pedestrian countdown timers. Consider sign program in the downtown area such as symbols indicating parking areas.

Phase 3 – Plan for a new parking deck. Can be used as a public parking source; can be combined with new parking developments;

Revel stated that in a nutshell, parking is very expensive. He stated that delaying the new structure for a period of time can be offset by implementing the interim actions as outlined. Revel reviewed the new parking locations proposed. Revel summarized the parking study as follows:

- Recommendations cover many aspects of parking that can be done right away
- Range from low-cost short term to high cost new parking
- Helps delay new parking structure

Commissioner Serhienko commented that the study was very well organized in depth and in detail. Mayor Helbling concurred with Commissioner Serhienko's comments regarding the results provided from the parking study and stated that although the parking structure is not an immediate need, it will be in the future and the information from this parking study will be very helpful as a guide to future budgeting.

Commissioner Serhienko moved to approve acceptance of the final report of the Parking Study. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

2. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for, and authorize the call for bids on Street Improvement District No. 159, Project No. 2009-13 (Terra Vallee).* Engineering Project Manager Bechtel reviewed with the Board the street improvement projects on Street Improvement District No. 159, Project No. 2009-13, Terra Vallee. This project includes the streets of 9th Avenue NW through 12th Avenue NW and also 24th Street NW – there will be a total of five streets included in this project. He said the project estimate is @ \$543,750. There are 8 lots along 8th Avenue that will not benefit from the improvements on 27th Street with the stimulus money or from any of the work that will be done within this project so they were removed from the district. The property to the east of 8th Avenue has recently been sold and that will most likely dictate the reconstruction of 8th Avenue for sometime in the future.

Jeff Feichert, a resident who resides on 12th Avenue Northwest, came forward to speak. He inquired as to the dollar amount that would be allotted towards the undeveloped area, if it would be around \$40,000? Bechtel responded that 4 of the larger lots in the district are the school district lots, there are two lots that are to the west of 12th Avenue, and there is the Dennis Maier lot to the south. Those will have assessments ranging approximately from \$10,000 per lot to \$43,000 per lot so those four lots would make up approximately \$100,000 of the \$500,000 and the other approximate 100 lots would make up the difference. The stimulus money is going to be used towards 27th Street.

Leroy Volk, a resident who resides on 8th and 2nd came forward. He stated that two years ago he had the water and sewer done on 8th. He stated that when the street sweeper goes by, he will pull chunks out of the streets along 2nd and on 8th. He inquired if the holes could be filled in. He stated his concern is that before the construction work began on those streets, there was not much damage. Volk agreed that the streets in that area need repair; however, he did not agree that the special assessments of \$2,400 to \$5,000 per lot are fair. Mayor Helbling pointed out that it has been 30 years since repairs have been done in that area. Bechtel clarified that Mr. Volk does not live within the Terra Vallee subdivision and that his issue is with the Collin's Avenue project. He commented that special assessments are set to make it as even as possible and the resident receives the benefit of the street next to the homeowner. A corner lot would pay basically the same as everyone else. Commissioner Gangl concurred that the streets in the Terra Vallee area need to be repaired and if the city wants streets in that area, it will have to repair them.

Commissioner Jackson moved to approve the creation of, to approve of the feasibility report and to approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for, and authorize the call for bids on Street Improvement District No. 159, Project No. 2009-13 (Terra Vallee). Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

3. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for and authorize the call for bids on Street Improvement District No. 160, Project No. 2009-14 (Lincoln Ridge 5th).* Engineering Project Manager Bechtel stated that the City has received a request from Steve Thilmony to continue to develop this area. The district includes approximately 9 lots of which 8 are affected. Water and Sewer is being installed. The specials are estimated to be around \$14,000 per lot. Mr. Thilmony is aware of the special assessments. The estimated cost of the project is \$110,959.88.

Commissioner Serhienko moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for and authorize the call for bids on Street Improvement District No. 160, Project No. 2009-14 (Lincoln Ridge 5th). Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

4. *Consider approval of the feasibility report, approve the plans and specifications, and authorize the call for bids on Sanitary Sewer Improvement Project 2009-15.* Engineering Project Manager Bechtel stated that while putting the project together, the Public Works Department brought a concern forward regarding a lift station in that area, a force main had breaks of which there have been five in the past 20 years, four within the last 8 years. There have been numerous other problems over the past few years. With 27th being done as part of the stimulus project and other streets in that area of which the main is part of, it would be a good time to repair that main so that down the road the new street will not have to be dug up. The estimated cost is \$231,250. There are some funds in the Water and Sewer Utility Fund that may be allocated for this project.

Finance Director Welch stated that in preparation of the 2010 budget, as projected today, in 2010 the Water and Sewer Utility Fund should have an ending capital improvement fund allocation of approximately \$957,000 that would be available. Of that, \$665,000 is dedicated to water main replacement projects throughout the City which was at the recommendation of the consultant Engineering firm. The item before this Board requires funds to be expended out of the Water and Sewer Utility Fund. Both projects are sewer related. New Business No. 4 and No. 5 address this. At this time we are looking at a call for bids for this project. Bechtel and Welch recommended use of the Water and Sewer Utility Funds to fund this project.

Commissioner Jackson moved to approve the feasibility report, approve the plans and specifications, and authorize the call for bids on Sanitary Sewer Improvement Project 2009-15. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

5. *Consider approval of the feasibility report, approve the plans and specifications, and authorize the call for bids on Sanitary Sewer Improvement Project 2009-16.*

Commissioner Jackson moved to approve the plans and specifications, and authorize the call for bids on Sanitary Sewer Improvement Project 2009-16. Commissioner Gangl seconded the motion. Commissioner Gangl commented that it is not unusual to do the repair, just that where the funds are coming from is different. The motion received unanimous approval of the members present.

6. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for, and authorize the call for bids on Storm Sewer Improvement District No. 30, Project No. 2009-04 (Terra Vallee).* Engineering Project Manager Bechtel reviewed with members another storm sewer project on 27th Street NW from 8th Avenue NW to 11th Avenue NW. This project would allow for taking ground water and surface water to the underground and take it to the north of the subdivision. The cost of the project is approximately \$280,000 and it would be a special assessment project in that area. The estimated cost per residential lot would be about \$1,500.00. Mayor Helbling stated that Commissioner Gangl and Mr. Feichert should be asked for input if whether or not, due to costs involved, this is something that should be done in that neighborhood. Commissioner Gangl stated that this is something that will be separate from the street project and residents can say yes or no to either one separately. Commissioner Jackson inquired if there is a cost estimate known of how much, if not adding the storm sewer, it would diminish the life span of those streets. Bechtel replied there is really no way to make that determination.

Mr. Feichert stated that 11th Street is one of the worst streets in that area of the streets that runs north and south. He stated that in the long run a storm sewer would make sense. Bechtel stated that the liner that is being considered will be a strength rated pipe that is available at 100psi strength. If it would be used in the project that will take care of the inadequacy of the pipe that is there.

Mayor Helbling inquired of Bechtel that if these projects are all approved, will they be completed yet this year? Bechtel replied that the storm sewer project may hold the projects up. The 27th Street stimulus job was given a later completion date knowing the storm sewer may be put in. Bechtel stated there should not be much of an impact to the streets. Mayor Helbling commented that it will be up to the people in the area if they want the streets done. Commissioner Gangl inquired if the storm sewer is not put in, would the drain tile be done? Bechtel stated that a different method will have to be looked at and perhaps the drain tile would be put in and easements considered doing the drain tile to take care of the ground water. If this project is to be protested out, a different method will be looked at.

Commissioner Serhienko moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for, and authorize the call for bids on Storm Sewer Improvement District No. 30, Project No. 2009-04 (Terra Vallee). Commissioner Jackson seconded the motion. Mayor Helbling called for a roll call vote: Commissioner Gangl: Yes;

Commissioner Tibke: (Absent); Commissioner Serhienko: Yes; Commissioner Jackson: Yes; Commissioner Helbling: No. The motion passed on the majority of the votes in favor.

7. *Consider approval of re-assessment abatement for Irwin & Marci Silrum.*

City Assessor Barta presented a request for abatement for Irwin and Marci Silrum. Barta stated that the Silrum's are requesting a reduction in their 2008 value from \$326,100 to \$200,000. Barta stated that it is his opinion that the home's value is \$326,000. To support that, he stated that the home sold for more than that amount in 2006. Barta stated that if the reduction is made, it would be unfair for some of the other residents in that area. Barta has requested additional monies be transferred into his departmental budget so that additional staff can be hired to start reassessments of properties in Mandan yet this year. Barta estimates that it will take about four years to complete a reassessment of the entire city properties.

Jim Silrum, residing at 1701 River Drive Northeast, came forward to speak in support of his request for abatement for his residential property. Mr. Silrum stated that in May of 2008, he appeared before the Tax Equalization Board for the City of Mandan. At that time, the City Commission asked Mr. Barta to reassess the property. At that time, Barta did a reassessment and dropped the valuation approximately \$10,000. Silrum stated that they did not discover that they did not receive this abatement at that time until they received a letter this year stating that their property valuation would increase more than 20%, for the 2nd year in a row. Silrum stated that over this period of time he has done his own research and after doing that research he and his wife are of the opinion that the City Assessor's office is not doing their job efficiently. Silrum said that after his discussions with the state, he was told that it is not legal to just assess those properties that sell. Silrum stated that perhaps that is not being done because they do not have the staff to do all of the assessing that is necessary but that cannot be the sole way to assess all the properties. Silrum reviewed the spreadsheet he prepared that was distributed to all Board members. The spreadsheet depicts properties located (in his neighborhood) at River Drive Northeast. Silrum presented a Power Point presentation of his home as well as homes in his residential district, the lake side homes in both the Marina Bay development and Harbor Drive development, which presentation included the true assessed values on file with the Tax Equalization Office for comparison purposes of his tax value vs. those homes located on the river. After viewing photographs of the residential properties, Silrum submitted a proposal for a plan of what could be done to address this matter fairly:

- Do a complete reevaluation of the homes in the City of Mandan
- Divide water-area homes into two categories – those with river fronts and those that do not have river fronts
- Consider the abatement (Silrum's) request based on fairly assessing the homes in their neighborhood
- Fix the problem so all homes are assessed fairly when paying property taxes

Silrum stated that he purchased his home in April of 2007. After purchasing the home, the City Assessor came out and assessed his home at a higher valuation than when purchased due to the previous owner finishing the basement resulting in a tax valuation

increase of approximately \$90,000. In summary, Silrum pointed out that there are other Mandan residents paying more than their fair share of city property taxes; that this presentation is for the benefit of other residents; that the City should honor his request for abatement based on the presentation outlining the existing inequality and that he has followed the process for his request.

In reviewing the spreadsheet, Commissioner Jackson inquired of Mr. Barta, two aberrations, one at 1701 (\$74,000) and the other at 1709 (\$80,000), which both jumped significantly from 2007 to 2008. Barta explained that at 1709, it entails the 2-year county property tax exemption added on. At 1701, it was because of the finishing of the basement and the quality and condition of the house. It was not graded correctly and when graded correctly, that created a lot of it. Barta stated that the area factors were changed in 2009 taking into consideration water front areas and non-water front areas. Mayor Helbling requested Barta submit a current valuation of the homes listed in Silrum's presentation that will take into consideration the revised area factor that was effective in 2009. Barta stated that he feels that generally, most areas in the city will increase in valuation. Mayor Helbling suggested that consideration be given to place a cap on percentage increases should there be a significant tax increase. Commissioner Gangl inquired if any other (North Dakota) cities are conducting a reassessment such as this. Barta replied that Dickinson and Valley City have gone through reassessments and that Minot and other smaller communities are in the process.

Wayne Papke, a neighbor to Silrum's, came forward to speak. He commented that based on the figures that have been provided within his (and the Silrum's) neighborhood, there is definitely a (valuation) discrepancy referring to the home that recently sold for \$600,000. Barta commented that he recalled that they (the \$600,000 homeowners) took out a building permit before they sold the property. Commissioner Jackson suggested that this matter be tabled to research what can/should legally be done to grant an abatement in this matter. Mayor Helbling concurred with Commissioner Jackson to table the matter until the area factors are considered from the reassessments of the other properties in the neighborhood. Mayor Helbling requested Barta prepare a similar document as presented by Silrum and in addition, that Barta contact the State to find out how the City is to go about reassessing the property owners. In particular, if the property were to increase 50% in value based on what is determined; can a 10% cap be put on per year to get to that value? Commissioner Jackson suggested obtaining written recommendations (from the State) as to what options are available to the City.

Commissioner Jackson motioned to table the request for the re-assessment abatement for Irwin & Marci Silrum until the next meeting. Commissioner Serhienko seconded the motion.

Wayne Papke came forward and stated that it is his opinion that it does not have to be an all or nothing type of action, clarifying that a compromise can be reached based on the values. Commissioner Serhienko suggested that this area of the City should be prioritized first in the reassessment process. He commented that not just one of the homes should be reassessed but the whole area (River Drive Northeast). Mayor Helbling

stated that based on the Silrum’s protest of their property taxes, the City does have the right to reassess this one property.

Leroy Volk approached the podium and commented on the value of the homes in his neighborhood and he also gave a comparison of what he pays for taxes in Mandan vs. what his brother and sister pay in Bismarck for homes that are considered higher value of which they pay less in taxes.

Mayor Helbling commented that when coming up with a reassessment plan, the City will need to consult with the School District, the Park District and Morton County, and explain that because the home values are going up will not mean that the taxes will go up.

For budgeting purposes, the City will try to keep the tax dollars the same without increasing the mill levies. Mayor Helbling asked for a roll call vote on the motion. Commissioner Gangl: Yes; Commissioner Tibke: (Absent); Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed. This matter will be tabled and brought back at a future meeting.

RESOLUTIONS AND ORDINANCES:

1. *Consider second and final reading of Ordinance No. 1060 – An ordinance to amend Section 10-05-01 of the Mandan Municipal Code relating to the Definition of a Driveway.* Commissioner Jackson moved to approve the second and final reading of Ordinance No. 1060 – An ordinance to amend Section 10-05-01 of the Mandan Municipal Code Relating to the Definition of a Driveway. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

ORDINANCE NO. 1060

An Ordinance to Amend
Section 10-05-01 of the Mandan Municipal Code
Relating to the Definition of a Driveway

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

1. Section 10-05-01 of the Mandan Municipal Code is hereby amended to read as follows:

Section 10-05-01. Driveway Defined.

- a) “Driveway” - A privately maintained access to residential, commercial or industrial properties used to provide access from a public way to a building and is owned and maintained by an individual or group. “Driveway” also includes the area between the

property line and any garage or area used or to be used for the parking, driving or storage of vehicles.

- b) “Driveway Apron” - The sloping transition from the public street to a private driveway which falls between the street and the sidewalk at the front of the property (a/k/a driveway approach). All driveways must be constructed in conformance with the provisions of this chapter.

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

Attest:

/s/ Jim Neubauer
City Administrator

First Reading: July 21, 2009
Second Reading and Final Passage: August 4, 2009

2. *Consider a proclamation regarding the 2010 Census Partnership.* City Administrator Neubauer reviewed with the Board a *2010 Census Partner Proclamation*. The U.S. Constitution requires the federal government to conduct a national census every 10 years. The next census will be conducted in April 2010. The Census Bureau requested local governments to establish “Complete Count Committees” whose role will be to encourage local residents to participate in the census. Neubauer said the city staff will provide support to the Complete Count Committee.

Commissioner Serhienko moved to approve a proclamation regarding the 2010 Census Partnership. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

OTHER BUSINESS:

1. *Consider Change Order for Mandan WTP Optimization Project.* Gary Zander, Water Treatment Plant Superintendent presented a request for a contract change order for a Mandan WTP Optimization Project. He stated that due to unforeseen delays in equipment delivery there is a need to change the completion date from July 30, 2009 to October 16, 2009, for final payment on November 16, 2009. This will not cause any added expense or inconvenience to the City.

Commissioner Serhienko moved to approve the Change Order for Mandan WTP Optimization Project. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

2. *Consider games of chance for Mandan Baseball Booster for August 1, 2009 – October 31, 2009.* City Administrator Neubauer presented a request from the Mandan Baseball Boosters for a permit for a calendar raffle.

Commissioner Jackson moved to approve the games of chance for Mandan Baseball Booster for August 1, 2009 – October 31, 2009. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

3. Mayor Helbling extended a thank you to Del Wetsch, Mandan Progress Organization Director and the Musician’s Association, for a job well done in the organization of the rescheduling of the Buggies-N-Blues Take 2 festivities that were held the weekend of July 25-26, 2009.

4. Mayor Helbling stated that he is still receiving calls regarding 19th Street - where they put the water lines – that there has not been any patching done or attempts to fill in the hole. Russ Sorenson came forward and reported that they poured the concrete and the new asphalt today, and the street will be patched on Monday. This will be on 14th and 19th and the bottom of the hill where there was some drilling.

5. Leroy Volk, Mandan City resident, came forward and inquired about patching the streets and if there will be more tar on the cracks on 7th and 8th Streets? Mayor Helbling directed Mr. Volk to work with Mr. Wright who will address his concerns.

There being no further actions to come before the Board, Commissioner Serhienko moved to adjourn the meeting at 7:31 p.m. Commissioner Jackson 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