
The Mandan City Commission met in regular session at 5:30 p.m. on May 5, 2009 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Jackson, Gangl and Serhienko. Department Heads present were Finance Director Welch, 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. Police Chief Bullinger was absent.

MINUTES:

1. *Consider approval of minutes from the following Board of City Commissioners meetings: April 7, 2009 and April 21, 2009.* Commissioner Serhienko moved to approve the minutes as presented for April 7, 2009 and April 21, 2009. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *A Public Hearing to receive input regarding the Drinking Water Quality Report for 2008.* Gary Zander, Waste Water Treatment Plant Manager, presented the 2008 Drinking Water Quality Annual Report. This report will be mailed to all Mandan City metered water user residents. It will also be on file with the Waste Water Treatment Plant, the County Health Offices, and the Morton-Mandan Library and on the City of Mandan’s website @ www.cityofmandan.com. Zander highlighted important points and EPA regulations outlined in the Annual Report for the Board members.

Kathy Spilman, a Mandan City resident came forward to comment. She voiced concern that this public hearing is being held before the information had been distributed to the public. She stated her expectations would include that this information should have been posted more than 20 minutes prior to the start of this meeting. However, she has reviewed the report and provided these comments: 1) there is no reference to parameters related to radioactivity being checked last year for radon; she stated there are some new upcoming radioactive requirements that will be presented in three tiers. The percentage of water storage capacity occurs underground which could mean additional contamination from underground sources. She stated that Bismarck stores their water in above the ground containers and that Mandan should take that into consideration. 2) The second item as far as parameters are concerned, the sampling point for the disinfection bioproducts is being sampled at the end of the line as required by law. There is no indication in the current report that that sampling is being done in that manner. Spilman reiterated (her) three points of concern: 1) The information regarding a public hearing should be available much sooner than 20 minutes prior to the start of the public hearing; 2) The radioactivity parameters in the drinking water needs to be revisited; 3) Modify the report to indicate that the biodegradation products are being sampled at the end of the line as required by law. Spilman asked that these three requests be considered and if possible, that they be provided for in the 2009 Annual Report.

Gary Zander responded to the comments made by Ms. Spilman. He stated that regarding the radioactivity, the City does use surface water and there is next to none in the surface

water. He stated that the regulations as set for the State are followed and that 2002 was probably the last time. (State law says once every 10 years). Regarding underground reservoir storage, the reservoirs underground are concrete lined and there is no infiltration from ground water. The notifications are published in the Mandan Newspaper. Zander indicated that next year he will include notification of the public hearing on the City's website prior to the Public Hearing. Zander noted that Ms. Spilman's requests for consideration will be taken under advisement.

Mayor Helbling stated that this is a public hearing and invited others to comment. Hearing none, this portion of the public hearing was closed. Commissioner Jackson moved to approve the Drinking Water Quality Report for 2008. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

2. *A Public Hearing to consider a change of zoning from RM to CB for the west half of Block 35 and the east half of Block 36, Mandan Proper.* Planner Sarah BaeHurst presented a request for a change of zoning from RM to CB for the west half of Block 35 and the east half of Block 36, Mandan Proper. The property is owned by the School District and is known as the CAB building. The School District is interested in selling the property. This zoning has been allowed in the residential area because it is a school use. The School District will be selling the building and it cannot continue to be used as commercial use or office use unless the zone changes. The homeowners in the area have been contacted and all are interested in the zone change. This was before the Planning and Zoning Commission (PZC) two weeks ago and at that meeting there were some neighbors that stated they had concerns with the zoning allowing restaurants and bars. Heavy Commercial does allow for those types of businesses. Because of those concerns the PZC recommended the zone change with restrictions eliminating bars and restaurants. BaeHurst recommended the zone change from RM to CB without restrictions.

Linda Johnson, a Mandan City resident came forward to comment. She requested that the zoning restrict night activity in that area. Commissioner Jackson inquired of Ms. BaeHurst as to pros and cons of restrictions vs. no restrictions regarding the salability of the building. BaeHurst responded that she does not recall that question in any of the discussions. Business Development Director Huber commented that it is her opinion that the most important point is that it be zoned commercial to allow for professional office use by the private sector in that facility. Huber agreed with BaeHurst that it is unlikely that a bar or restaurant might be interested in this location due to low traffic volume. She agreed that commercial zoning without restrictions would be considerations for future prospective business offices in this location. Mayor Helbling commented that consideration should be given to the recommendations presented by the Planning and Zoning Commission Board.

Mayor Helbling stated that this is a public hearing and asked for any additional comments. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke moved to approve changing of zoning from RM to CB for the west half of Block 35 and the east half of Block 36, Mandan Proper with the additional

restrictions eliminating bars and restaurants. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

3. *A Public Hearing to consider a change of zoning from R7 to MC for Lots 1-4 of Patti's Acres.* Planner Sarah BaeHurst presented a request for a change of zoning from R7 to MC for Lots 1-4 of Patti's Acres which came as a request from the Police Department. BaeHurst explained that the radio tower and water reservoir were on the property before current zoning requirements existed. The radio tower is non-conforming wherein a building permit cannot be obtained to improve the tower. The tower is used for emergency services and the police department would like to add about 20 feet to the existing tower. There was a public hearing before the Planning and Zoning Commission (PZC) who voted unanimously to approve the zone change with restrictions to allow only the radio tower and water reservoir. There were residents at the PCZ meeting voicing concern about limiting the number of vehicles in the area. Subsequent to the meeting BaeHurst did further checking and found that there is no specific regulation for that kind of a building, namely ambulances. BaeHurst stated she is hesitant to put on restrictions because it does not address concerns of the neighbors. Commissioner Jackson inquired if there was discussion at the PZC meeting regarding if the special permit is needed for a fire station. BaeHurst stated that it was not, but discussion ensued if a fire station or ambulance facility could exist on any one of the lots, which is just one of those things allowed in residential areas.

Commissioner Gangl moved to approve the change of zoning from R7 to MC for Lots 1-4 of Patti's Acres. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

BIDS:

CONSENT AGENDA:

1. *Consider approval for Site Authorizations for: i. American Foundation for Wildlife; ii. Abate of North Dakota; iii. Cystic Fibrosis Association of ND; iv. Mandan Hockey Club, Inc.* The Board approved of the site authorizations for: (i) American Foundation for Wildlife (ii) Abate of North Dakota (iii) Cystic Fibrosis Association of ND (iv) Mandan Hockey Club, Inc.
2. *Consider approval of annual Liquor License, Special B Liquor Permit and Special Sunday Permit for Dacotah Speedway.* The Board approved of the annual Liquor License, Special B Liquor Permit and Special Sunday Permit for Dacotah Speedway.
3. *Consider Grant Funding through Justice Assistance Recovery Act.* The Board approved of the Grant Funding through Justice Assistance Recovery Act.
4. *Consider approval for representation at International Council of Shopping Centers Exposition.* The Board approved of the representation at International Council of Shopping Centers Exposition.
5. *Consider approval for advertising for a request for qualifications for Engineering Services for the 2010 Sunset Drive NW Improvement project.* The Board approved advertising for a request for qualifications for Engineering Services for the 2010 Sunset Drive NW Improvement project.

6. *Consider games of chance for: i. The ND Conference of Social Welfare; ii. The ND Eligibility Workers Association.* The Board approved the games of chance for (i) The ND Conference of Social Welfare (ii) The ND Eligibility Workers Association.

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

OLD BUSINESS:

NEW BUSINESS:

1. Consider for approval, a number of requests submitted by the Musicians Association for activities of June 6 & 7 (Buggies-N-Blues). Vernon Cermak, Musicians Association and Co-Chair for the Buggies-N-Blues reviewed with the Board a letter outlining the requests for the event. Cermak stated that this is the 16th year of Buggies-N-Blues and the requests remain the same. He stated that approximately 25,000 people are expected to attend the 2-day schedule of events.

Commissioner Serhienko motioned to approve the requests submitted by the Musicians Association for activities of June 6 & 7 (Buggies-N-Blues) as outlined in their letter dated April, 2009. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

2. *Consider for approval the applications for beer gardens and street dance by the Mandan Progress Organization.* Del Wetsch, representing the Mandan Progress Organization reviewed a letter of request for street dance and beer garden activities planned for Buggies-N-Blues and All Class Reunion (June 6, 7 and July 3, 2009).

Commissioner Serhienko motioned to approve the applications for beer gardens and street dances by the Mandan Progress Organization. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

3. *Western Edge Development update regarding plans for city-owned property at Collins Avenue and Main Street.* Geris Hopfauf, representing Hopfauf Custom Builders reviewed with the Board an update from Western Edge Developments, LLP on the status of plans for the redevelopment of city-owned parcels at the corner of Main Street and Collins Avenue and 116 East Main Street. Hopfauf reviewed the timeline of events that have transpired since the fall of 2008. Due to the stock market crash and economical problems of the country, she stated that despite all those problems, they went forward with the plans, however, at a much slower pace than anticipated. She said that one of the most critical drawbacks has been that people that were interested in committing to a purchase have since backed down until the economy picks up. She stated that the main floor of the complex will be for commercial use while the second and third floors will house condominiums. In support of the project, Hopfauf invited the following people to provide updates to the Board on this project:

- Eddie Bachmeier, Century 21 Landmark Realty, Inc. provided information regarding the condominium units including the marketing of the units and she provided a snapshot of the contents of how the building layout and parking structures aligned with each other. Bachmeier concurred with Hopfauf in that the economy has slowed down this project; however, she is confident that things will bounce back.
- George Yineman, Aspen Group Real Estate Services provided information regarding the commercial aspect of this development project. He stated that they will be in contact with national, regional and local entities in order to attract an anchor tenant for the complex. They will also be focusing on a major tenant and due to confidentiality, he cannot disclose information at this time. Once the anchor tenant is launched, other secondary tenants will follow.
- Geris Hopfauf commented that the teams of individuals assigned to this project are working very hard in all areas. Based on the information provided by Hopfauf, Bachmeier and Yineman, the project is in full swing. Due to stock market and economy difficulties causing delay in securing tenants, Hopfauf requested the Board extend the project deadline until December 31, 2009.

Mayor Helbling commented that the matter currently before the Board is merely an update for purposes of reviewing the project's progress. He recommended that Ms. Hopfauf's request for a deadline extension, for agenda purposes notification to the public, that request can be reviewed separately at an upcoming Commission meeting.

Commissioner Serhienko commented that he is pleased with the project thus far.

4. *Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the construction of Richard M. Longfellow Veteran's Park.* Project Engineer Bechtel presented information regarding a Cost Participation and Maintenance Agreement with the NDDOT for the construction project of the Richard M. Longfellow Veteran's Park. Bechtel stated that the Commission approved in February, 2008, \$145,000 for the City's share of the park costs. The cost has now increased to \$151,417 of which the City is being requested to contribute \$6,427 additional funds as part of the agreement. Mayor Helbling commented that it would be in the interests of the City to lock in on the dollar amount so that the costs to the City do not continue to increase. Bechtel stated that in his discussions with the NDDOT regarding the increases, the explanation he was given is that the State has been tweaking the costs of the initial estimates given. City Attorney Brown stated that at the February 2008 meeting the City of Mandan agreed to contribute \$145,000 towards this project. Brown clarified that before the Commission tonight is a contract with the NDDOT wherein the City will be contributing \$151,417 to the cost of the project. Brown stated that if this contract is signed, it will limit the City's exposure. Finance Director Welch stated that the funds are available in the Visitor's Fund budget.

Commissioner Serhienko moved to approve entering into a Cost Participation and Maintenance Agreement with the NDDOT for the construction of Richard M. Longfellow

Veteran's Park with the amount of \$151,417, taken from the Visitor's Fund, designated as funds contributed by the City of Mandan. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

5. *Consider the addition of projects to the NDDOT Urban Roads Project List.* Project Engineer Bechtel reviewed with the Board two additional projects to be included in the NDDOT Urban Roads Project List. Bechtel stated that he has developed a street maintenance map indicating the upkeep for the next five years. Of the Stimulus funds received, the money for the road maintenance has come from the Urban Roads Project List. Bechtel stated that there are two additional roads that should be added to the project. Bechtel recommended that 6th Avenue NE and 14th Street NW be added to the existing URP list for the years indicated of 2010-2013. Under the URP project requirements, the City would be responsible for 20% of the maintenance cost vs. 100% of the cost. This would reduce the burden of special assessments to residents in these areas.

Commissioner Serhienko moved to approve the addition of 6th Avenue NE and 14th Street NW to the projects on the NDDOT Urban Roads Project List for the appropriate years. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

6. *Consider placement of pylon sign for Messiah Lutheran Church.* Neal Schmidt from Bacon Signs, Minot, presented a request for placement of a Pylon sign for Messiah Lutheran Church. The sign would be placed on the northwest corner of the intersection at Boundary St. NW and Sunset Drive NW. The current policy states that there is to be 155 feet between signs when it is off premise signage. The request comes from Messiah Lutheran Church because there is lack of visibility from the corner. Schmidt stated that the Church has an agreement with the owner of the land to place the sign in the suggested location. The sign would be within 44 feet of the Fried's Family Restaurant sign.

Jason Krebsbach, President of the Mandan Architectural Review Commission, came forward to comment. He stated that several meetings have occurred with Mr. Schmidt and the Messiah Lutheran Church regarding this matter. Krebsbach stated that the current regulations on Pylon signs are that they have to be spaced 155 feet apart. In circumstances where there are multiple businesses, recommendations are for those businesses to consider sharing one Pylon sign. That way when businesses come and go, the panels can be changed while the sign structure itself remains intact. Krebsbach stated that the ARC denied Messiah Lutheran Church's request to place a sign on the lot in the current proposed location. Krebsbach requested the Commission to uphold their decision based on the sign policy requirements that are in place of which Messiah Lutheran Church would not be complying with. Vern Hoggarth, a Messiah Lutheran Church member came forward and spoke in support of the projects taken on by the church which included spending \$700,000 within the last year. His position is that this advertising is necessary and it is one which encompasses that of a church rather than a business entity.

Geris Hopfauf, Member of the Mandan Architectural Review Commission commented that if the Board of City Commissioners chooses to allow the Pylon sign in the location as requested by the Church, the Board will be setting precedence for similar future requests. Commissioner Tibke commented that there is no way to predict what developments may or may not happen on the west side of the road or in that area as referred to in this matter.

Commissioner Tibke moved to deny the request of Neal Schmidt relative to the placing of a Pylon sign for Messiah Lutheran Church on the northwest corner of the intersection at Boundary St. NW and Sunset Drive NW as it would be within 155 feet of another sign which is not in compliance with the current sign policy. Commissioner Gangl seconded the motion. Mayor Helbling called for a roll call vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Absent; Commissioner Serhienko: No; Commissioner Helbling: Yes. The motion passed.

7. *Update on the south side reservoir construction project and 14th Ave SE.* Mayor Helbling stated that this item is being brought for discussion at his request. He stated the City is looking at installing a new water transmission line. What makes this project different is that the City is not only putting the road back as it originally was, it is being improved by using funds from the Water and Sewer Utility to improve this road. What complicates this further is that some of the parcels are County and some of them are City parcels. The concern is using Water Utility monies to improve the road when a block over the City has asked citizens to pay for the road in front of their house as well as the water and sewer and pavement on 19th Street. Another concern, if this road is paved, what are the chances of getting street lights, curb, gutter and sidewalks on this property? Another concern, if we let this road go in with just pavement, no street lights, curb, gutter or sidewalks, will the City let the development to the south of it go in with no curb, gutter, street lights, etc.? Of most importance, there are county lots in this area that are not being asked to contribute anything. Mayor Helbling commented that it does not seem justifiable to use City money to pay for County property lots. Commissioner Serhienko concurred with Mayor Helbling that it is unfair that the City is paying for County property lots. He agreed that the area should be cost assessed accordingly. Russ Sorenson, from A2S, a Consulting Engineer on the water utility, provided some insight to the subject matter. He stated they were tasked with finding an alternative reservoir site for the steel Collins reservoir which had to go offline as soon as possible. In looking at the routes for the pipeline which is a large 20 inch main that will connect to the Collins reservoir site and the water treatment plant directly, this is the most direct route and it avoided many property owners in the area that were against giving up their land. The stipulation with the County was that if the county engineer approved of the requirements, he asked for it to be minimally paved to keep a dust problem down and he would assume the maintenance of the snow removal and asphalt. \$100,000 was budgeted to take it to an asphalt overlay. There were some meetings, and then it came to this Board for approval, and it was approved. If it is pulled now, we may be in trouble of not getting the reservoir on line. There is an agreement signed with the County. Sorenson stated that they are willing to work with whatever the City wishes. He said that the County signed off on this project using their portion of the public right of way in consideration for maintenance. Commissioner Serhienko commented that perhaps it would be best to allow the project to

continue in the best interests of the citizens of Mandan and residents of Morton County. Mayor Helbling requested City Attorney Brown review the Agreement and provide an update to the Commission. The agreement is a form that Morton County uses for Utility Occupancy Application and Permit. It has been signed by the City Administrator and the County Road Superintendent on March 6, 2008. It permits the City of Mandan to locate a 20 inch water transmission main on 14th Avenue Southeast. It is a contract between the City and the County for use of their portion of the right of way. Some rights of ways are under county jurisdiction and some are under city jurisdiction. City Attorney Brown indicated that under the terms of the contract, if the City would want to change its mind, the repercussions may be greater than if the project were to not continue.

Commissioner Serhienko motioned to allow the project to continue under the current plan (to resurface the road pursuant to the Agreement that was entered into between the City and Morton County). Commissioner Gangl seconded the motion.

Commissioner Gangl stated that when the discussions occurred in February, it was his understanding that the County would not pass on any of the costs. Mayor Helbling stated that he expects questions will come up when some of the residents are assessed costs for this project and others across the street are not. Project Engineer Bechtel stated that no special assessments have been assessed as yet and if they have not been assessed at this point, they will not be. Mayor Helbling commented that he would recommend that the road be graveled and/or brought up to City standards. Commissioner Jackson commented that the City is legally bound and under the best case scenario, the County could be contacted to pick up the cost. Mayor Helbling stated that his concern is that this is setting precedence for another developer. Commissioner Serhienko concurred with Commissioner Jackson and would like to see the project continue with a request to the County to pick up the costs. Commissioner Jackson reiterated that under the contract the City is legally bound and the best thing that the City could do is ask for the County Commissioner's help at this point. Mayor Helbling suggested that we ask the County, that if the City does not pay, what will it do to the project? Commissioner Tibke concurred with the concerns as set out by Mayor Helbling, however, she stated that the City Commission did approve the project and it is her opinion that the City should follow through with the contractual agreement.

Mayor Helbling stated that there is a motion and second on the floor. Commissioner Jackson asked for clarification on the motion. The motion was to resurface the road as spelled out in the contract.

He asked for a roll call vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Serhienko: Yes; Commissioner Jackson: Yes; Commissioner Helbling: No.

RESOLUTIONS AND ORDINANCES:

1. *Consider second and final reading of Ordinance 1051 An Ordinance To Amend*

Section 7-01-07(5) of the Mandan Municipal Code Relating To Fireworks. City Attorney Brown reviewed the Commission's action from the last meeting wherein the Ordinance would permit fireworks, not including bottle rockets, between the hours of 12:00 PM and 12:00 AM on July 2 and 3 and from the hours of 12:00 PM on July 4 to 2:00 AM on July 5 of each year. It would have removed the misdemeanor charge and added two penalties of which No. 1, would include a fine in the amount of \$75 and, No. 2, would incorporate for a violation shall be deemed to be charged with a non-criminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing or hearing as is provided for non criminal traffic offenses pursuant to the provisions of chapter 20-20 of the Mandan Municipal Code. Brown stated that this amendment was recommended by Chief Bullinger on the basis if an officer witnesses a violation, the officer can simply write a ticket, etc. as simple as minor traffic offenses. The thought process was that if you are going to permit fireworks, then it should be easier to enforce the Ordinance if there is a violation of the restrictions. Brown's recommendation would be to approve the Ordinance with the amendments. He said that from an enforcement view, this would make it more practicable.

Commissioner Serhienko moved to approve the second and final reading of Ordinance 1051 An Ordinance to Amend Section 7-01-07(5) of the Mandan Municipal Code Relating to Fireworks with the amendments outlined by City Attorney Brown. Commissioner Tibke seconded the motion.

ORDINANCE NO. 1051

AN ORDINANCE TO AMEND SECTION 7-01-07(5) OF THE MANDAN MUNICIPAL CODE RELATING TO FIREWORKS

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. Section 7-01-07(5) of the Mandan Municipal Code is hereby amended and re-enacted to read as follows:

5. **3301.1.3 Fireworks.** The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits.

Exceptions:

1. Storage and handling of fireworks as permitted in Section 3304 shall not qualify as an exception to the prohibition of storage and handling of fireworks within the city limits.
2. Manufacture, assembly and testing of fireworks as permitted in Section 3305 shall not qualify as an exception to the prohibition of manufacture, assembly and testing of fireworks within the city limits.

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3. The use of fireworks for display as permitted in Section 3308, is an exception to the prohibition of use of fireworks in the city, provided the requirements of sections 3301.2.3 and 3301.2.4 are met. The possession, use, discharge, or explosion of fireworks, as defined by § 23-15-01, N.D.C.C., not including bottle rockets, is permitted between the hours of 12:00 p.m. and 12:00 a.m. on July 2 and 3, and from the hours of 12:00 p.m. on July 4 to 2:00 a.m. on July 5 of each year.

Penalty:

1. Any person who violates the provisions of this section shall, upon conviction, be guilty of an ordinance violation, punishable by a fine of Seventy-five Dollars (\$75.00).
2. Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 20-20 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

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

Attest:

/s/ Jim Neubauer
City Administrator

First Reading: April 21, 2009
Second Reading and Final Passage: May 5, 2009
Publication Date: _____

Commissioner Jackson commented that he has a couple concerns with this matter. One of the concerns relates to Mandan City residents who were not in favor of banning the fireworks, however, they voiced concern that they did not like the fireworks going off so

late in the evening hours, thus he is opposed to the 2 AM on July 5th. He stated that to his recollection it was revised to an infraction which was up to a \$500 fine. He stated he still prefers the violation be considered as an infraction because it then gives discretion to the judge. There is no penalty provided for multiple violations to which he stated he felt that the more violations that occur per individual, the penalty should increase. Jackson stated that he still sees this as an infraction. He stated he is not in favor of the amendments as proposed. He believes that the penalty violations should be left up to the judge.

Commissioner Serhienko commented that Commissioner Jackson's point is well taken. Serhienko stated that he is confident that the police department when dealing with the violations will have the know-how to handle a violation matter when it comes upon one. He feels that the revisions to the Ordinance have been scaled down from the initial ordinance to a compromise that is doable for the public and law enforcement personnel. Attorney Brown stated that there have never been any misdemeanor charges against any one for fireworks violations and by handling the fireworks violations in a similar enforcement fashion in comparison to those of traffic violations, provides for an easier enforcement tool for the Police Department. Mayor Helbling commented that in respect to the \$75 fine, that by setting a specific dollar amount, it will make it easier for the Police Department to enforce. He noted that the City will advertise that if you violate this Ordinance, the violator will receive a fine. Commissioner Jackson again reiterated he believes that the best thing is to be in the hands of the judge to determine the violation and fine assessments. Further, he believes that if it is advertised that the fine could result in a fine up to \$500 will be a better enforcement tool. Commission Jackson voiced his opinion that the Ordinance should be left as it was.

City Attorney Brown clarified the difference between the infraction vs. the Police Department issuing a ticket, would mean a different bonding process and an appearance before the Court.

Mayor Helbling stated there is a motion and second on the floor. The vote indicated three commissioners in favor of the motion and one commissioner opposed. The motion passed.

OTHER BUSINESS:

1. *Consider budget amendment to increase Water Plant Budget to hire part time help.* Gary Zander, Water Treatment Plant Manager, requested an amendment to increase the Water Plant Budget to hire part time help. He stated that there is a lot of work that needs to be completed due to recent water problems with the 2009 flood waters. Administrator Neubauer stated that the summer funds budgeted for under the Water Plant Budget was moved to the Utility Maintenance Budget. If the WTP is in need of additional funds, the funds could be moved back from the Utility Budget to the WTP. Finance Director Welch stated that there are sufficient funds in the Utility Budget to move back to the WTP fund. Welch recommended that if that is the route the commission wishes to take, he would advise that the transition of funds be completed now as the season is just starting and workload adjustments could be made to that position. Welch stated there are funds available elsewhere, however, it would be

advisable to take it from the WTP Budget/Utility Maintenance budgets accordingly. Zander stated that previously with the exception of last year when the Utility Maintenance did the lawn work, the WTP did all their own lawn care at the main plant and booster stations. Mayor Helbling stated that in order to consolidate work force and budgetary concerns, the Public Works Department was given the duty of providing lawn care to all departments. Welch explained that there was \$6,200 taken out of the WTP budget and given to Utility Maintenance. Part of the \$6,200 was to go towards WTP maintenance. Inadvertently the full \$6,200 was transferred over to Utility Maintenance. It is early enough in the season, that if the dollars were to be transferred back to the WTP budget, the Utility Maintenance Budget would have to scale back on their hours for part time summer help.

Commissioner Jackson motioned to increase the budget to the WTP by \$2,200 and remove it from the Utility Maintenance budget. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

There being no further actions to come before the Board, Commissioner Serhienko moved to adjourn the meeting at 7:32 p.m. Commissioner Gangl seconded the motion. Upon roll call vote, the motion received unanimous approval of the Board and the meeting adjourned.

/s/ Jim Neubauer
James Neubauer,
City Administrator

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