
The Mandan City Commission met in regular session at 4:00 p.m. on November 2, 2010 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta. City Attorney Brown was absent.

EMPLOYEE SERVICE AWARDS:

The following employees were acknowledged with service awards:

30 Years of Service

Paul Leingang, Deputy Policy Chief
Richard Schaaf, Police Lieutenant
David Auch, Utility Maintenance Superintendent

25 Years of Service

Duane Friesz, Water Plant Assistant Superintendent

20 Years of Service

Mary Fahlsing, Administrative Assistant
Francis Hopfauf, Volunteer Firefighter
William Stepp, Police Sergeant

15 Years of Service

Jay Perkins, Water Meter Maintenance Supervisor
Sheila Berreth, Bookmobile Outreach Service Coordinator
Kelly Steckler, Library Director

10 Years of Service

Jim Neubauer, City Administrator
Michael Bird, Cemetery Superintendent
Jay Gruebele, Police Sergeant – CID
Daryn Gullickson, Wastewater Assistant Superintendent
Jamie Rath, Water Plant Lab Tech I
Kenneth Albrecht, Water Plant Operator II

5 Years of Service

Kim Fettig, Engineering Technician
Kim Laske, Building and Grounds Worker
Terry Walch, Volunteer Firefighter
Nicole Eckroth, Children’s Assistant/Circulation I
Vicki Fleck, Clerk of Court
Brian Dirk, Equipment Operator I
Jamie Scott, Utility Operator I
David Gross, Wastewater Plan Operator I

MINUTES: Consider approval of the minutes for October 19, 2010 meeting of the Board of City Commissioners. Commissioner Jackson moved to approve the minutes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing to consider a five-year Ad Valorem tax exemption for Windriver Properties.* City Assessor Barta presented a request to consider a 5-year tax exemption for a commercial structure pursuant to North Dakota Century Code 40-57.1. The property location is at 4518 Memorial Highway. The only opposition to the tax exemption came as a letter of opposition dated November 1, 2010, from Deborah Holter, a Mandan City resident and business owner. The request has been recommended for approval by the Mandan Growth Fund. Commissioner Rohr inquired if restrictions can be placed on what products a business can sell. Assessor Barta stated that his understanding of the law it is solely up to the Commission if they want to grant with or without stipulations. Commissioner Jackson asked Assessor Barta whether he had spoken to City Attorney Brown prior to this objection. Barta stated he did not speak with Attorney Brown and that he just received the protest notice this afternoon. Commissioner Jackson clarified: Prior to this protest, no one objected and Attorney Brown did not have any problem granting the ad valorem tax exemption? Barta replied that is correct and that he has not spoken with Attorney Brown since the protest has been received.

Mayor Helbling invited the public to speak.

Pat Wachter, Windriver Properties, came forward and stated he is here to answer any questions regarding the ad valorem tax exemption request. The tax exemption is intended to attract tenants and that he will pass the tax exemption in the form of a lower lease rate. This project has been in progress for about 3 years, however due to the slow down in the economy, this project slowed down also. He stated that construction is planned for the spring of 2011.

Mayor Helbling asked for further comments from the public and hearing none, this portion of the public hearing was closed.

Commissioner Jackson inquired if the School Board, County and Park District were given notification. Assessor Barta stated that they were given notification of this exemption on September 23, 2010, and October 26, 2010. There were no objections from any of those entities.

Commissioner Tibke commented that through the survey process, the residents of Mandan have asked for help to facilitate expanding the retail services in the community and this would help fulfill that request.

Commissioner Tibke moved to approve the request for a five-year Ad Valorem tax exemption for Windriver Properties for a newly constructed commercial building due to meeting all criteria under North Dakota Century Code 40-57.1. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

BIDS:

CONSENT AGENDA:

1. *Consider authorization for fire department to purchase hydraulic hose and couplings.* The Board approved of the authorization for the fire department to purchase hydraulic hose and couplings.
2. *Consider approval of TSM Investments Addition.* The Board approved of the TSM Investments Addition.
3. *Consider appointment to Civil Service Commission.* The Board approved the re-appointment of Rita Lindgren to the Civil Service Commission.

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

OLD BUSINESS:

NEW BUSINESS:

RESOLUTIONS & ORDINANCES:

1. *Consider second and final reading of Ordinance No. 1086 Zone Change for Highland 3rd Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the second and final reading of Ordinance No. 1066 Zone Change for Highland 3rd Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Commissioner Jackson moved to Amend the motion to state Ordinance No. 1086 (not 1066). Commissioner Frank seconded the Amended motion. The motion to amend the motion received unanimous approval of the members present. Mayor Helbling repeated the original motion to approve the second and final reading of Ordinance No. 1086 was made by Commissioner Jackson and seconded by Commissioner Tibke. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

OTHER BUSINESS:

1. *Discussion regarding texting while driving.* Commissioner Frank stated that the Commission should take note of the efforts made by the Bismarck City Commission who passed an ordinance that has banned texting while driving. Commissioner Frank encouraged the Commission to discuss the possibility of considering the same type of ordinance for Mandan. Mayor Helbling commented that if any kind of an ordinance is put into place, it should be determined if the police department can actually enforce the ordinance. He stated he is of the opinion that it will be virtually impossible to enforce and that it should be a state-wide ordinance rather than community by community. He suggested that the Commission refer this matter to the legislature for consideration at the

state level. Chief Bullinger commented that he spoke with Senator Cook this morning who stated that he would be surprised if there wasn't a bill before this session addressing that. He recommended that the City of Mandan wait to see what bills will be brought before the legislative session. Mayor Helbling suggested that a letter be sent from this Commission to Senator Cook to ask him to sponsor a bill. If the legislature does not address it, it can be brought back before this Commission for further discussion. Commissioner Frank gave an example that a community in California who enacted the law, seen a 70% decrease in texting while driving stating that sometimes just by enacting a law holds people to a moral standard. She clarified that she would like to support the legislature in a state-wide law and simultaneously promote an ordinance within the City of Mandan for a ban on texting while driving.

Mayor Helbling directed Chief Bullinger to draft a letter to Senator Cook outlining the City Commission's recommendation on pursuing a state-wide ban on texting while driving and to bring that letter back before this Commission for review.

2. *Public Hearing Property Tax Exemption Hearing - City Assessor Barta* approached the Commission and stated that the notification that was published in the newspaper stated that the public hearing on the property tax exemption that was discussed earlier in this meeting was at 5:30 (not 4:00). It is his understanding that pursuant to state statute that the Commission will have to be available at 5:30 p.m. Mayor Helbling asked for procedural guidance from City Administrator Neubauer who stated that the public hearing could be re-opened if Ms. Holter would like to make comments into the record and then close the hearing. He stated that the best option would be to re-advertise for the next City Commission meeting. He stated that the City will check the legal status of publishing two notices and move forward. Mayor Helbling reiterated that the City Administrator will get some legal research on the matter and bring it back to the next meeting. If it needs to be re-advertised, it will be re-advertised. City Administrator Neubauer will review with City Attorney Brown the necessary steps that need to be taken to handle this matter properly. Mayor Helbling stated that it will be put on the Agenda.

3. Terry Wetch came forward and stated the following: That he sold property to Vick Fleck and that Dave knows about this matter. There are some zoning issues and he is wondering what is going on. Mayor Helbling requested Dave Bechtel, Engineering Project Manager, provide insight. Dave Bechtel came forward and provided the following: Mr. Wetch has visited with the City Engineer's office. Back in 1975, there was a City ordinance that allowed property to be taken into the one mile jurisdiction at that time. The City did change an ordinance to change zoning with the properties that were affected within that one mile extra-territorial jurisdiction. That ordinance changed about 30 different properties the zoning of those to take the county's current zoning and to make it reflect as close as they could to the city's zoning at that time. Their (Wetch) property was part of that as well as the Kahl's. Now there is some question as to when that ordinance went through the Planning and Zoning and City Commission levels and was approved but the ordinance was never filed with the Register of Deeds in the county which at this point means it did not happen. The City's maps reflect what would have

been correct for that ordinance. The County's do not. So there is some discrepancy as to what the county is showing on record for those zonings different from the City's. Now that there have been some sales on these properties, the zoning problems are coming to light. Bechtel stated that he discussed this matter with City Attorney Brown and they have the minutes from all the meetings that showed what happened. He was the mayor at the time so he has some insight as to what happened. The action being taken now is to discuss with the County what properties are affected and their zonings and once the discrepancies are determined, then a plan will have to be designed with Attorney Brown as to what direction to go. Mr. Wetch stated this is affecting the sale of the property. Mayor Helbling requested this matter be expedited and if necessary, a Special Meeting will be called.

4. *Agenda Items deadline:* Commissioner Tibke inquired as to what the deadline is for Agenda items. Administrator Neubauer replied that the deadline is 5:00 p.m. the Wednesday preceding a meeting date. However, if items come in on Thursday or Friday, efforts are made to accommodate the request. However, it is not always possible to honor it due to copying and notifications, etc.

Commissioner Tibke inquired if it would be possible to impose a deadline of Friday so that if there is information to be disseminated that it is done so in a timely manner.

Mayor Helbling commented that there will be times that urgent (Agenda) items warrant discussion, thus last minute items may be added to the Agenda.

There being no further actions to come before the Board, Commissioner Jackson moved to adjourn the meeting at 4:40 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the Board members present and the meeting adjourned.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,
President, Board of City
Commissioners