

The Mandan City Commission met in regular session at 5:30 p.m. on November 3, 2009 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Jackson, Gangl, and Serhienko. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development Director Huber, Engineering Project Manager Bechtel and City Assessor Barta. Absent: Commissioner Tibke.

MINUTES: *Consider approval of the minutes for October 20, 2009 meeting of the Board of City Commissioners.* Commissioner Jackson moved to approve the minutes as presented. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Consider 5-Year Ad Valorem Tax Exemption for Tim Ell/Turbo Spa Inc.* City Assessor Barta presented a request for consideration of granting a 5-year tax exemption for a commercial structure, a 5-Stall Car Wash with 4 self service bays and one drive through high speed touchless bay. The owner is Tim Ell and the location of the business will be at 1801 Eastside Court, Southeast, Mandan. Barta stated that there have been no protests in opposition received.

Mayor Helbling announced this is a public hearing and asked for comments from the public. Hearing none, this portion of the public hearing was closed.

Commissioner Jackson moved to approve granting a 5-Year Ad Valorem Tax Exemption for Tim Ell/Turbo Spa Inc. Commissioner Gangl seconded the motion. Mayor Helbling asked for a roll call vote: Commissioner Gangl: Yes; Commissioner Serhienko: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

BIDS:

CONSENT AGENDA:

1. *Consider approval of the revised Capital Assets Policy.* The Board approved of the revised Capital Assets Policy.

2. *Consider approval of the following abatements:*
- i. *Nancie Pierce – Homestead Credit Exemption*
 - ii. *Gaylord Williams – Homestead Credit Exemption*

The Board approved the abatements as listed above.

3. *Consider approval of the Revised Building Permit Fee Schedule.* The Board approved of the Revised Building Permit Fee Schedule.

4. *Consider approval of the proposals to the Consulting and Services Agreement for payroll and human resource services with CBI Business Services.* The Board approved of the proposals to the Consulting and Services Agreement for payroll and human resource services with CBI Business Services.

5. *Consider a Morton County Commission request for an appointee to a Recovery Zone Bond committee.* The Board approved of the Morton County Commission request for an appointee to a Recovery Zone Bond committee.
6. *Consider entering into an Engineering Agreement with Interstate Engineering for the project of rehabilitation of 3rd Street SW.* The Board approved of entering into an Engineering Agreement with Interstate Engineering for the project of rehabilitation of 3rd Street SW.
7. *Consider a request for street closure by Saint Joseph's Church.* The Board approved the request for a street closure by Saint Joseph's Church for a Veteran's Week celebration.

Commissioner Serhienko moved to approve the Consent Agenda as presented.

Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

1. *Consider approval of request by Larry Goetzfridt for an electronic door waiver.* City Assessor Barta presented a request to consider waiving Ordinance No. 1048 requiring the installation of an electronic door for this project. Mr. Barta provided photographs that depicted the problems surrounding attempts to install an electronic door on the property. Previously, Mr. Goetzfridt requested public funds in the form of the Storefront Improvement Program and had requested that he not be required to install an electronic door due to the location of the existing door frame and also due to the cost of the installation of the electronic door. Barta explained that the measurements of the door opening vs. installation of the door would cost approximately \$37,500 which would create an undue burden on the applicant. The sidewalk is setting 4 ½ inches below the door threshold. The header above the door would have to be modified in order for the electronic door to be installed. Mayor Helbling asked for comments from the public. There were no comments.

Business Development Director Huber stated that the project has been both a storefront project and a renovation project, of the exterior and interior of the building. There is an automatic door on the front of the building which is anticipated to be retail space that is available for lease. The unit in question is on the avenue side of the building and sits on the corner of Main Street and 2nd Avenue Northwest. The \$10,000 funds cannot be allotted unless the waiver provides for the automatic door exemption. Commissioner Jackson inquired as to the cost of an automatic door. Huber stated that normally it's about \$1200 to \$1400; but for this project, it is estimated to be double the cost. It was noted that Mr. Goetzfridt has complied with the requirements set forth in an attempt to install the electronic door; however, it was also noted that it would not be cost effective to proceed with the installation for the benefit of one person who would be using it.

Commissioner Serhienko moved to approve the request by Larry Goetzfridt for an electronic door waiver. Commissioner Gangl seconded the motion. Commissioner Serhienko and Mayor Helbling commented that based on the circumstances of the installation of an electronic door in this part of the building, a waiver in this matter is

justifiable in this case. Commissioner Jackson suggested that a guideline for these types of situations could be set by a percentage of the project for consideration of what is considered as exempt. In this case, the installation of an electronic door would double the cost of the project and it does not seem feasible to require the door under this type of circumstance. The motion received unanimous approval of the members present.

2. *Update on storm & sanitary sewer discharge pipes.* City Administrator Neubauer provided a brief background of the sanitary sewer discharge pipe concern that was discussed at the last meeting. He reviewed photos that showed the rocks dislodged and the cutting away of the bank of the Borden Harbor area. Neubauer stated that corrective action has been taken and that about 1,000 lbs. of rock have been hauled in and placed in the area where the rocks dislodged. He stated that approximately \$80,000 has been spent over the last couple months to correct the problem. He stated that Director of Public Works Wright has visited with the State Water Commission and the Corps of Engineers. He said there may also be erosion occurring on the south side of Borden Harbor. Neubauer stated that, as of today, the area has been stabilized on the bank where those two pipes are flowing into the Missouri River. The State Water Commission has been approached to assist with funding for this project. The area will be inspected daily.

NEW BUSINESS:

1. *Consider approval of the 2009 Architectural Review Commission Sign Policy Revisions.* Jason Krebsbach, President of the Mandan Architectural Review Commission, presented updates and changes to the Mandan Sign Policy regarding electronic signs – those added and the changes made to the definition section; and also implemented two new sections: (1) Monument Signs & (2) Post & Panel Signs. The other revision was to the Electronic Sign Policy. Krebsbach commented that the primary concern with electronic signs are those that flash that are a distraction to drivers. Krebsbach stated that the goal is to come up with the same or similar policies for Mandan and Bismarck to follow the same guidelines so that it will make it easier for business owners and vendors to follow. Krebsbach recommended adopting the policies outlined by Bismarck so that there aren't two different standards to follow. He stated that after January 1, 2010, a requirement will be in place that all flashing signs will have to have an automatic dimming feature.

Commissioner Serhienko moved to approve the 2009 Architectural Review Commission Sign Policy Revisions as presented. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

2. *Consider Community Center Operating Agreement for the period beginning January 1, 2010 thru June 30, 2010.* City Administrator Neubauer presented a request for consideration of entering into a Community Center Operating Agreement from January 1, 2010, to June 30, 2010, which outlines cooperation between the three entities involved: The Mandan School District, the Park District and the City of Mandan. Regarding the Long Term Maintenance Fund – Neubauer outlined changes to the previous Agreement as follows: Reduce from \$5,000 to \$2,500 and add a paragraph

which dissolves this fund and any amount remaining will be divided equally and returned to the three entities. Each entity can determine what to do with their share.

Commissioner Gangl moved to approve the changes as presented and to approve the *Community Center Operating Agreement for the period beginning January 1, 2010 thru June 30, 2010*. Commissioner Jackson seconded the motion. Commissioners Gangl, Jackson, Helbling voted in favor of the motion. Commissioner Serhienko voted against the motion.

3. *Consider appointment of Commissioner Serhienko to the Morton County Planning & Zoning Commission.* Administrator Neubauer presented a request for the appointment of Commissioner Serhienko to replace Commissioner Tibke on the Morton County Planning & Zoning Commission. He stated that Commissioner Tibke stepped down due to scheduling conflicts and that Commissioner Serhienko would accept the appointment to the position if approved by the Commission.

Commissioner Gangl moved to approve the appointment of Commissioner Serhienko to the Morton County Planning & Zoning Commission. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

RESOLUTIONS & ORDINANCES:

1. *Consider second and final reading of Ordinance No. 1063 – an ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code Relating to District Boundaries and Zoning Map.* Commissioner Gangl moved to approve the second and final reading of Ordinance No. 1063 – an ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code Relating to District Boundaries and Zoning Map. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

ORDINANCE NO. 1063

**AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE
MANDAN MUNICIPAL CODE RELATING TO DISTRICT
BOUNDARIES AND ZONING MAP.**

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

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is amended to read as follows:

The following described property located within the 2-mile jurisdiction of the City of Mandan shall be excluded from the R3.2 Two-Family Residential District and shall be included in the RM Multi-Family Residential District, restricted to a tri-plex namely;

Lot 1, Blk 84, NP 1st Addition in Section 27, Township 139N, Range 81W
in Mandan, Morton County, North Dakota

and as so amended said section is hereby reenacted. The purpose of the zone change is to comply with the existing use. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

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

Attest:

/s/ Jim Neubauer
City Administrator

Publication Dates:	<u>October 9 & 16, 2009</u>
Public Hearing:	<u>October 20, 2009</u>
First Reading:	<u>October 20, 2009</u>
Second Reading:	<u>November 3, 2009</u>
Publication Date:	<u>November 13, 2009</u>
Recording Date:	_____

OTHER BUSINESS:

1. *Consider approval for a change order on Projects 2008-19 (16" water main) & 2008-20 (10" sanitary force main). Engineering Project Manager Bechtel presented this request on behalf of Russ Sorenson. Bechtel stated that this change order is for work completed on Project 2008-19 (16" water main) and Project 2008-20 (10" water main). In June/July of this year, the Commission approved \$80,000 for the valve installation. The Commission will need to approve of the additional monies projected to fix an emergency leak in the amount of an additional \$8,000 to the project. The change order request brings the total project cost to \$93,144.62. Bechtel stated that there will be no other change orders on this project.*

Commissioner Serhienko moved to approve the change order on Projects 2008-19 (16" water main) & 2008-20 (10" sanitary force main) for an additional \$13,144.62 for a total amount of \$93,144.62 to finalize the project. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

2. *Consider an MPO request for Closure of Main Street on 300 & 400 Blocks on November 28, 2009 from 1:00 to 3:00 p.m. for Santa's arrival. Del Wetsch, President of the MPO, requested having the certain streets blocked off on November 28, 2009, from 1:00 to 3:00 p.m. for the Shop-Hop festivities planned for downtown Mandan.*

Commissioner Serhienko moved to approve the request for Closure of Main Street on 300 & 400 Blocks on November 28, 2009 from 1:00 to 3:00 p.m. for Shop-Hop activities

in downtown Mandan. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

3. *Update on remediation project, Leggette, Brashears & Graham Inc.*

Tim Kenyon, Legette, Brashears and Graham provided an update on the Remediation Diesel Project. He stated that the wells are working just the way they are supposed to be working. He said that due to recent rains, the water table has risen about 2 feet. Of note, is that in the southwest part of the project, the maximum thickness of free product is less than two feet. He said that's the first time that it has been that way since about 1958 when the railroad started using diesel. The footprint of the free product is diminishing and that's what we are trying to accomplish. Recovery over the last month in terms of gallons, vapor bioremediation free product – there has been recovery of about 3,300 gallons, with a total cumulative recovery of 231,000 gallons. There is not much methane left – only 128 lbs. were extracted last month for a total of 93,000 lbs. of methane that has been taken out of the ground. When adding it all up and doing the conversions, it comes to 1.7 million pounds of hydrocarbons extracted out of the subsurface.

Kenyon reported other developments:

- There was a preconstruction meeting at the Law Enforcement Center. That project will be started around December 1st and will take about 30 days. It should be completed the first part of January 2010.
- Of the wells under Main Street, five of the seven have product in them. There is not much product under Main Street. He noted that there has been about a million pounds of diesel fuel taken out of the ground since the commencement of this project.

4. *Update on the Noise Committee:* Commissioner Jackson stated that he does not have anything to report at this time. He said that the next meeting is tentatively scheduled for 5:30 p.m. on Thursday, November 12, 2009, in the Ed Bosh Froehlich Meeting Room, (pending notification of availability of all the members). The meeting is open to the public.

There being no further actions to come before the Board, Commissioner Serhienko moved to adjourn the meeting at 6:13 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