

Committee Members:

Chairperson

Damian Huettl, Citizen
Term: 2013-2016

Vice Chairperson

Laurie Leingang, Citizen
Term: 2013-2016

Tammy Lapp-Harris, Citizen
Term: 2013-2014

Amy Schmidt, Citizen
Term: 2013-2014

Dale Schwindt, Citizen
Term: 2013-2015

Jason Steffenhagen, Citizen
Term: 2013-2015

Jim Neubauer,
Administration

Doug Lalim, Assessing &
Building Inspection

Ellen Huber, Business
Development &
Communications

Keith Johnson, Custer
Health

Steve Nardello, Fire

Justin Froseth, Planning &
Engineering

Dennis Bullinger, Police

Jeff Wright, Public Works

Mandan Community Beautification Committee

Thursday, October 9, 2014

7:30 a.m.

Mandan City Hall

205 Second Avenue NW

A. Roll Call:

1. Roll call of committee members and liaisons
Chairman Damian Huettl called the meeting to order. Members present are indicated with a . City Planner Bob Decker and Program Coordinator Krista Harju were also in attendance.

B. Consider minutes from meeting on Sept. 11, 2014

Jim Neubauer moved to approve the minutes as presented. Tammy Lapp-Harris seconded. Motion passed unanimously.

C. Receive update on proposed landscaping ordinance from Planner Robert Decker

Decker provided a draft of the proposed ordinance that he will present to the Planning and Zoning Commission on Oct. 27, 2014. Decker revisited the topic of requiring planting of a tree on every residential property. Decker said wasn't aware of other communities that require a tree be planted in noncommercial areas. He added that it could be difficult to enforce and suggested offering an incentive program as an alternative. Neubauer agreed and recommended encouraging the planting of trees. Keith Johnson said there is no reason to include it in the ordinance if it doesn't create a requirement. Decker agreed to draft language and send it to committee members.

Doug Lalim recommended removing the language pertaining to watering and fertilizing in subsections 2a and 2b from the ordinance. Neubauer agreed, noting some people choose not to water their yard, often due to financial reasons. Froseth said it's an issue of enforcement, especially during a dry year. Laurie Leingang also recommended striking the language. Decker will make the recommended changes.

Huettl asked if the landscaping ordinance should cover waterside vegetation, such as cattails. Lalim noted some lakefront properties are part of an association that maintains waterfront areas. Neubauer said property owners in some areas, such as Marina Bay, are responsible for their own property. Johnson suggested ignoring it, as those areas intersect with the Corps of Engineers responsibility. Huber suggested it goes beyond the initial goals of the landscaping ordinance.

Huber voiced concern about the language in subsection 4e, "per the requirements administered by the Mandan Architectural Review Commission (MARC)." She suggested instead referencing

that section of municipal code. Huber also recommended updating Section 6 to Section 5, as only five sections are included in the ordinance. Decker will update the language.

Lalim voiced concern about the percentages regarding landscaping requirements listed in Section 4. He provided the example of Lakewood properties that extend into the river, noting those properties probably wouldn't meet the percentages. Justin Froseth suggested changing the language from "total lot area" to "buildable lot area." Lalim agreed. Johnson asked if setbacks were included and suggested providing a definition for buildable area. Decker agreed and will make the changes.

The documentation will go before MARC on Oct. 14 prior to going to Planning and Zoning.

- D. Revisit sections of draft property maintenance code (from Overland Park, KS example)
1. Section 17-05-18 regarding Custer Health input on private sewer system requirements
 2. Section 17-05-19 Hard surfacing, walkways and driveways

17-05-18 Private Sewer Systems

Johnson recommended changing the language to include "properly permitted private sewage." Leingang referred to an e-mail correspondence, noting the committee had previously decided to adjust the language, "Temporary sanitary facilities are restricted to construction projects and recreational activities for which approval has been granted," by striking the last six words. Johnson questioned if there was a need to define temporary sanitary facilities and recommended changing the language to portable or vault toilets.

17-05-19 Hard Surfaces, Walkways and Driveways

Decker checked with Muni Code and found out similar restrictions are enforced on private property in other communities. Huber recalled discussion about removing reference to "safety hazards" from the language. Leingang recollected a discussion about taking out the last sentence, "There shall be a presumed violation of this section if there have been actual incidences of physical injury or property damage as a result of deterioration as described above." Decker suggested it could be a private insurance issue and recommended taking it out. Huber recommended the whole section be reviewed by the staff attorney given concerns expressed as well as Muni Code for possible redundancy with existing code. Leingang noted Title 10 addresses streets and sidewalks. A committee member questioned if you could presume a violation has occurred if there hasn't been any incidence of injury. Leingang said the walkway or driveway would be broken, heaved or collapsed. Lalim questioned if the ordinance was enforceable and said it could be costly for those on a fixed income. Decker asked if it would be intruding on private property. Lalim recommended striking the entire section, because the City shouldn't be involved in private property.

Neubauer asked if walkways to private property should be in good repair. Decker noted walkways are not required by the City and suggested making it a requirement to maintain hard surfaces required by the City in good repair. Decker suggested specifying areas in the front yard. Lalim said the City may have to follow up on complaints if the language was put in ordinance. Leingang recommended including a percentage of the walkway or surface that is cracked or broken. Froseth and Lalim said it was not easily quantifiable. Neubauer said the purpose of the proposed section is to establish a standard by defining what a safety hazard is, in

this case broken, heaved, collapsed or missing to the degree that vehicles that use and service it are at risk or pedestrians are at risk of injury.

Johnson moved to strike the last line of the section, which reads “There shall be a presumed violation of this section if there have been actual incidences of physical injury or property damage as a result of deterioration as described above.” Leingang seconded.

Lalim noted he prefers to make ordinances that are enforceable and do not cause financial hardship. Decker agreed. Lalim said property owners would have to hire someone to complete the repairs. Bullinger said there are driveways and hard surfaces that are not being maintained and weeds and trees are growing in the cracks. Decker recommended referring to the weed ordinance in those situations. Huber noted that trees are different than weeds. Decker asked if it was an intrusion on private property. Neubauer pointed out that the Mandan Architectural Review Committee is trying to set a community standard and is placing requirements upon private property owners. He doesn't consider this ordinance any different. It establishes a community standard that safety hazards should be addressed, regardless of whether it is on private or public property. Johnson said the definition of safety hazard included in the proposed ordinance is very low and it opens up the City's liability. Lalim recommended removing the entire section, because the City shouldn't be involved if someone trips on private property. He said if there is an ordinance in place, the City will likely be involved and could face a lawsuit.

Huber moved to table action on the motion until the city attorney reviews the section in question. Johnson seconded. Motion passed unanimously.

Neubauer will send section 17-05-19 to City Attorney Malcolm Brown for review to determine if there are legal concerns or liability risks.

E. Continue review of draft property maintenance code (Overland Park, KS example) beginning with MCO 17-05-21 – Outdoor storage – other property

17-05-21

Leingang recommended striking MCO 17-05-21- Outdoor storage – Other Property. Decker suggested including the section, but leaving out “other property” to address outdoor storage as a whole. Johnson said the section needs to be rewritten or removed. Huber said it would be a good idea to have standards for storage on commercial properties, but this section is convoluted. She suggested researching best practices in outdoor storage requirements from other communities to replace this section. Bullinger asked how it would affect agricultural properties within the city limits. Leingang recommended looking at Title 17 regarding public nuisances to make sure the information is incorporated in the appropriate place. Neubauer wondered if there might be a section of the International Property Maintenance Code that addresses outdoor storage. Decker said sticking requirements in different sections of municipal code can confuse people. Neubauer recommended taking it to Muni Code and asking for references of outdoor storage in other cities. Decker will research it further to see if there are examples of overall outdoor storage requirements

17-05-22 Trash and Refuse.

Huber questioned if the topic was already addressed in the existing Mandan Title 17 nuisance code. Leingang asked if the intent was to replace Mandan existing Title 17. Huber said she thought the goal was to amend the existing code, not replace it. Leingang noted the need to review Title 17 to be certain of what is covered and not covered to be sure the new proposal is not duplicative or in conflict. Title 17 should be brought to the next meeting for comparison. Johnson noted the last three sections (20-22) may not be necessary.

F. Report on presentation to Mandan Progress Organization – City Administrator Jim Neubauer
Neubauer provided an update about Community Beautification Committee priorities and progress to the MPO at an Oct. 1 meeting. He provided information on the history of the committee, who the members are and the work it has been doing.

Neubauer also mentioned that the University of Mary is holding a Day of Caring on Oct. 22 and is seeking project suggestions for Mandan.

G. Other Business

H. Future Meetings

1. Thursday, November 13, 2014; 7:30 a.m.
2. Thursday, December 11, 2014; 7:30 a.m.

I. Adjourn

Johnson moved to adjourn. Bullinger seconded. Motion passed unanimously.

FUTURE 2014-15 AGENDA ITEMS:

1. Review to-date suggested changes to proposed property maintenance code
2. Consider signage to discourage littering
3. Plan for 2015 Community Cleanup Event
4. Discuss Commercial/Residential Trash Containers

Items for follow-up prior to and at next meeting

- *Bob Decker to provide revised draft of the landscaping ordinance with changes requested at today's meeting and to have draft reviewed by the Mandan Architectural Review Commission as well as the Planning and Zoning Commission.*
- *Jim Neubauer to ask City Attorney Malcolm Brown to review the Hard Surfaces, Walkways and Driveways section 17-05-19 from the Overland Park, KS, example to determine if there are any legal concerns or liability risks in adopting it.*
- *Decker to check with Muni Code and/or otherwise research best practices in requirements or limitations for outdoor storage of all types (commercial and residential)*
- *Mandan Municipal Code Title 17 – Public Nuisance to be included in November meeting materials for comparison with sections of the Overland Park, KS, example.*