Committee Members:

Chairperson
☑ Damian Huettl, Citizen
Term: 2013-2016

Vice Chairperson
☑ Laurie Leingang, Citizen
Term: 2013-2016

☑ Tammy Lapp-Harris, Citizen
Term: 2015-2018

☑ Amy Schmidt, Citizen
Term: 2015-2018

☐ Dale Schwindt, Citizen
Term: 2013-2015

☑ Brian Dehnert, Citizen
Term: 2015-2015

☑ Jim Neubauer, Administration

☑ Doug Lalim, 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, April 9, 2015
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 ☑. Program Coordinator Krista Harju, Sgt. David Mills and City Planner Bob Decker were also in attendance.

B. Consider minutes from meeting on March 12, 2015

Laurie Leingang moved to approve the minutes from the March 12, 2015 meeting. Amy Schmidt seconded. The motion passed unanimously.

C. Report on proposed garbage container ordinance

Ellen Huber provided an update. City staff will provide City Attorney Malcolm Brown with the committee's recommendations. Brown will put the information into ordinance form.

D. Report on proposed graffiti ordinance.

Jim presented the proposed ordinance as prepared by Brown. The ordinance is based upon the Billings, MT, example as recommended by the committee at the March 12, 2015 meeting. Decker, Leingang and Huettl reviewed a draft and provided comments prior to the meeting.

17-05-01

The committee agreed to the following changes to Section 17-05-01(a detailed description follows):

Property or owner responsibility. It is unlawful for any person who is the owner or responsible party of property to permit property that is defaced with graffiti to remain defaced for a period of ten days ~~after service by first class mail~~ from the date of written notice of the defacement. Notice under this article is sufficient if served upon the owner or responsible person personally or mailed regular mail to the last known address of the owner or responsible person or the last address of the owner shown on the tax rolls of the county. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding; and

(3) A statement that the graffiti must be removed within ten days after receipt of the notice and that if the graffiti is not abated within that time the city ~~will declare the property to be a public nuisance, subject to the abatement procedures in section 17-05-06; and~~ shall cause the graffiti

to be removed and the cost thereof shall be assessed against the non-complying real property. In addition, an administrative cost equal to twenty-five percent (25%) of the cost of removal and a twenty-five dollar ($25.00) penalty or $100, whichever is greater, shall be assessed against the non-complying real property.

~~***(4) An information sheet identifying any graffiti removal assistance programs available through the city and private graffiti removal contractors.***~~

Leingang suggested changing the language in the first paragraph to reflect the committee's recommendation regarding the 10-day timeframe. The committee agreed to include language stating the 10-day period begins from the date of written notice. Huettl noted that different language was used throughout the proposed ordinance. One part said service, one said receipt and one said date of service. He recommended making sure the language was consistent.

Leingang also questioned if the property owner was given a second chance. Sgt. Mills said the current procedure is to send a letter and then follow-up if the property owner does not respond. Property owners can contact the appropriate City official if they can't afford to correct the problem and an agreement can be made. If the property owner is noncompliant, staff will file a complaint with the court. He said it usually doesn't escalate to that level.

17-05-02
The committee agreed to the following changes to Section 17-05-02 (a detailed description follows):

Upon ~~first~~ failure neglect or refusal to remove the graffiti during the prescribed period: ~~the city shall give notice to the non-complying owner, agent or occupant thereof. Such notice shall provide as a minimum:~~

~~***(1) That the non-complying owner, or agent thereof, is allowed ten days from the date of notice of non-compliance to remove;***~~

(2) ~~That upon failure to comply~~ The city may, by its own work forces or by contract, cause the graffiti to be removed and the cost thereof shall be assessed against the non-complying real property ~~together with an additional~~ In addition, an administrative cost equal to twenty-five percent (25%) of the cost of removal and a twenty-five dollar ($25.00) penalty or $100, whichever is greater, shall be assessed against the non-complying real property.

(3) If the owner or agent of the property continues to neglect to maintain the property free from graffiti, the city may, at its sole discretion, remove the graffiti again as needed without additional notice of any kind. Charges as in subsection (2), including penalty, will be assessed for each time the city removes the graffiti;

(4) The assessed amount together with costs and penalties shall constitute a lien on the non-complying real property and will be taxed as a special assessment against the real property.

(5) Appeal. The owner or agent may appeal any determination that they have failed to comply with the requirements of any order to the City Commission ~~director of the city-county planning department.~~

~~***(6) Notice. Notice under this article is sufficient if served upon the owner or responsible person personally or mailed regular mail to the last known address owner or responsible person or the last address of the owner shown on the tax rolls of the county. Upon mailing, the city clerk shall execute an affidavit of mailing. Notice shall be deemed given when deposited in a United States Postal Service receptacle.***~~

(7) Any person who willfully fails to comply with the provisions of this article is guilty of an offense.

Committee members discussed the penalties as outlined in the proposed graffiti ordinance. Doug Lalim suggested creating a generic guideline, as each case is going to be different. Huber suggested mimicking the ordinance regarding tall grass and weeds. In addition to paying for the cost of removal, Justin Froseth recommended requiring the property owner to pay a $100 penalty and an administrative fee of 25 percent of the cost of removal. Huber suggested requiring only the $100 penalty. Tammy Lapp-Harris said the City shouldn't have to do the work without compensation. Froseth suggested changing the language to read, "An administrative cost equal to twenty-five percent (25%) of the cost of removal or one hundred dollars ($100) minimum, whichever is greater." Leingang felt a $100 fine was not a large enough fine to encourage action. Huber moved to approve Froseth's recommendation. Leingang seconded. The motion passed unanimously.

Huber recommended striking Subsection 1. The committee reached consensus.

Lapp-Harris asked if there was any language in the proposed ordinance requiring the concealment of graffiti containing bad language or defamation prior to removal.

Leingang noted that section 17-05-01 states the information that will be included in the notice. She suggested combining the language from Section 17-05-02 regarding noncompliance with the language in Section 17-05-01. Huettl agreed, noting that 17-05-01 should include all information that needs to be including in the notice. The committee reached consensus.

Neubauer said if property owners don't comply, the City will clean up the graffiti and special assess the property for the cost. The property owner would have to pay within one year.

Huber noted that the language in Subsection 5 needs to be changed. It states that appeals would be taken to the director of the city-county planning department, a position that does not exist in the community. Neubauer asked the committee if they wanted to allow for an appeals process or if they wanted it to go directly to court. Sgt. Mills recommended having a department head who could help ensure that people are being treated fairly. Neubauer suggested adjusting the language to guide appeals to the City Commission. The committee reached consensus.

Leingang suggested striking Subsection 6, as Sgt. Mills doesn't see the need for a second notice. Huettl agreed. Decker suggested striking the last two sentences and moving the first sentence to 17-05-01. The committee reached consensus to move the first sentence to the first paragraph of 17-05-01.

Huettl suggested striking Subsection 3, noting it allows for the City to assess the property without giving the property owner notice. Huber noted that a typical property owner would report vandalism. This subsection would provide options for City to take action against those who neglect their property. Froseth suggested including the language, but being mindful on how it is enforced. Heuttl noted that property owners have no protection to prevent the City from taking immediate action. Decker agreed the City should offer some form of notification. He recommended giving notice 24-48 hours before the City takes action. Lapp-Harris suggested striking the words, "without additional notice of any kind." Huettl suggested drafting language similar to --- "Once you've received notice that your property is susceptible to graffiti, you have ten days to appeal to the City Commission. If your property is determined to be particularly susceptible to graffiti, the notice requirements no longer apply."

The committee also agreed to strike Sections 17-05-03 and 17-05-04.

The committee agreed to table discussion until the next meeting. Huber noted that there is an expectation for the ordinance to appear before the City Commission at the April 21 meeting. Neubauer will give a report to the City Commission on the status of the ordinance and present recommendations to Brown prior to the next CBC meeting. The committee will review it further at the next meeting.

E. Review and discuss memo to City Commission related to changes proposed to property maintenance code, including penalty provisions
Time constraints did not allow for discussion of this agenda item.

F. Discuss outdoor storage for industrial, commercial and potentially residential properties.
Time constraints did not allow for discussion of this agenda item.

G. Planning for May 2 "Keep Mandan Beautiful" Community Clean-Up Day
Huber provided an update. Volunteers are needed to assist in both facilitation and community clean-up. Del Wetsch will be on vacation. Leingang, Lapp-Harris and Huettl volunteered to help. Leingang and Lapp-Harris will assist with flyers and attend the event. Huettl cannot attend the event but will help distribute flyers. Hot dogs and brats will be provided by Cloverdale Foods. A drawing for prizes may be held to encourage volunteers. Live entertainment will also be provided following clean-up activities. The goal is to recruit between 50 and 100 volunteers to participate in clean-up activities.

H. Other Business

I. Future Meetings
1. Thursday, May 14, 2015 7:30 a.m
2. Thursday, June 11, 2015 7:30 a.m.

J. Adjourn
Neubauer movedto adjourn. Lapp-Harris seconded. The motion passed unanimously.

FUTURE 2014-15 AGENDA ITEMS:
1. *Consider signage to discourage littering*

Items for follow-up prior to next meeting
• *City staff will provide City Attorney Malcolm Brown with the committee's recommendations on the proposed garbage container ordinance. Brown will put the information into ordinance form.*