

**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, May 14, 2015**

**7:30 a.m.**

**Mandan City Hall**

**205 Second Avenue NW**

**A. Roll Call:**

1. Roll call of committee members and liaisons

*Vice Chairperson Laurie Leingang called the meeting to order. Members present are indicated with a . Code Enforcement Officer Joe Camisa, City Planner Bob Decker and resident Mary Himmelspach were also in attendance. Himmelspach attended the meeting to determine if she would have an interest in serving on the committee. The next committee opening will be in January 2015.*

*Camisa introduced himself. He is originally from Queens, New York City. Before joining the City, he worked as a licensed insurance producer and title examiner. He previously worked for the U.S. National Park Service and U.S. Department of Defense. He has lived in North Dakota for more than seven years.*

**B. Consider minutes from meeting on April 9, 2015**

*Amy Schmidt moved to approve the minutes from the April 9, 2015 meeting. Justin Froseth seconded. The motion passed unanimously.*

**C. Continue discussion on proposed graffiti ordinance, beginning with 17-05-05.**

**17-05-05**

*Jim Neubauer noted that Section 17-05-05 is the vehicle that allows the City to special assess the cost of clean-up. Special assessments are submitted to the county once a year in September or October. Neubauer said the language is reasonable. The committee agreed.*

*Leingang indicated that it appeared some changes made in the April meeting aren't reflected in the document provided today, such as the "date of written notice." She inquired about the overhead document that Mr. Neubauer used at the last meeting where he typed the changes during discussions.*

**17-05-02**

*Leingang raised concern over Subsection 3 in Section 17-05-02, noting there had been discussion about it at the previous meeting. Damian Huettl had suggested striking Subsection 3, as it allows the City to assess the property without giving the property owner notice. Huettl had 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."*

Leingang noted that there had been some discontent regarding the subsection, and many committee members felt there should be some form of notice. Keith Johnson noted that any form of correspondence needs to be provable, meaning a phone call is not an option. Neubauer said he didn't believe the language was referring to a separate incident, because it used the language, "without additional notice of any kind." He doesn't believe the City would go in and remediate without first notifying the property owner and giving them an opportunity to comply. Dennis Bullinger said the only exception would be if graffiti was being added to graffiti and the City was waiting to start cleaning. If the City is cleaning, it should clean all graffiti, not only the graffiti that was there at the time of the first notice.

Schmidt said it is confusing and recommended changing the language to something similar to, "If the owner or agent of the property does not address the issue the City warned them on, the City will take action." Johnson agreed. He said the language should speak specifically to the issue. He recommended changing the language to, "If additional graffiti is added to the property before cleaning but after notice, the City shall remove all graffiti without additional notice to the owner." Neubauer said, while he doesn't disagree with the Johnson's recommendations, he doesn't know how well it would stand up. If the property owner isn't given enough notice and opportunity to clean up graffiti as it appears and the City takes care of it, it could lead to complaints. He asked if graffiti appears on the south wall of a property after the owner is given notice to clean graffiti on the north wall, should the City have to provide notice before cleaning the south wall? Bullinger recommended notifying the property owner that new graffiti has appeared and will be cleaned and special assessed along with the other existing graffiti. Johnson said it may be as simple as calling the property owner, alerting them of the new graffiti and asking them if the City can clean up both instances at the same time.

Neubauer suggested sending the information to Malcolm for his recommendation. The committee agreed.

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~~ from the date of written 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 regarding the ten day timeframe for notice in Subsection 3 to match the language in the first paragraph. Neubauer said it should just be notice, not receipt of notice, because a person could refuse to pick up his certified mail.

17-05-06

Camisa felt the provisions of Section 17-05-06 go beyond enforcement. Froseth felt it is unnecessary for the City to determine the color of the paint. Neubauer recommended striking the last line of Subsection A. Johnson said it doesn't look like it is accomplishing anything, and the entire section seems unnecessary. The utilities staff will paint it an appropriate color. The committee agreed to strike Section 17-05-06.

17-05-07

The committee agreed to the following changes to Section 17-05-07 (a detailed description follows):

Section 17-05-04 ~~Section 17-05-07~~. Prevention provisions.

*Retro-fit existing graffiti-attracting surfaces; non-residential structures. The following provisions may be incorporated in a graffiti eradication order:*

- (1) *At owner's expense. Any surface of a structure on a parcel of land used for non-residential purposes that has been defaced with graffiti more than five times in twelve months shall be declared a public nuisance and **may be** required to be retro-fitted, at the cost of the property owner, with features or qualities as may be established by the city as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti. In exercising the authority hereunder, the city may not impose a cost on the property owner of greater than three thousand dollars (\$3,000.00).*
- ~~(2) — At city's cost. If the property owner or responsibility party of property used for non-residential purposes on which is located a surface of a structure that has been defaced with graffiti more than five times in twelve months lacks the financial ability to make modifications, the owner or responsible party shall permit the city to enter the property and, at the city's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti.~~
- (2) ~~(3)~~ *Appeal. The owner or agent may appeal any determination that they are required to retro-fit the property with features or **qualities qualifies** necessary to reduce the attractiveness of the surface for graffiti or to permit more convenient or efficient removal of graffiti to the **City Commission Board of Adjustment**.*

Neubauer explained that Section 17-05-07 allows the City to require owners of frequently tagged commercial properties to retro-fit them to make it convenient to remove graffiti. Schmidt asked why owners of residential properties shouldn't be expected to follow the same guidelines. Johnson said it could be perceived as government intrusion into private affairs. Steve Nardello recommended changing the language in the first sentence of Subsection 1 to include "may be required," because the City may not require all structures to be retro-fitted. Decker agreed, saying the change would protect the City from being criticized for being selective in its enforcement. As written, the City would have to act on every instance in a timely manner. The committee agreed to the language change.

*The committee discussed Subsection 2, which relates to the financial ability of a property owner. Johnson expressed concern over Subsection 2. Leingang recommended removing the subsection. The committee agreed.*

*Johnson recommended changing the following language substitutions in Subsection 3: “qualifies” changed to “qualities” and “Board of Adjustment” changed to “City Commission.” The committee agreed.*

*Camisa recommended including information regarding designation of an enforcement entity. Enforcement of Chapter 17 is under the police department. Johnson recommended including the information in the job description, not in the ordinance. The committee agreed.*

*City staff will make changes and bring back the draft graffiti ordinance back to the committee at the June meeting for final approval.*

D. Report on proposed garbage container ordinance

*Neubauer provided an update. City Attorney Malcolm Brown is updating the ordinance. It will be available for the committee’s review at June meeting.*

E. Discuss outdoor storage for industrial, commercial and potentially residential properties.

*The committee reviewed Bismarck’s ordinance regarding outdoor storage. The committee would like to see language drafted regarding outdoor storage. Decker will review the Bismarck and Grand Forks ordinances related to outdoor storage and bring back a proposed ordinance to the June meeting.*

F. Review and discuss memo to City Commission related to changes proposed to property maintenance code, including penalty provisions

*Neubauer presented the proposed changes. Ellen Huber has begun drafting a memo to the City Commission. It is still a work in progress. . Johnson noted that at a previous meeting, the committee didn’t approve of the use of percentages for upkeep requirements.*

*It will come back before the committee one more time for review before being submitted to the City Commission.*

G. Report on May 2 “Keep Mandan Beautiful” Community Cleanup Day

*Schmidt provided a report on the May 2 “Keep Mandan Beautiful” Community Cleanup Day. About 120 people volunteered, and 310 bags of garbage were collected. Volunteers enjoyed the complimentary lunch and music. Bullinger commented that it was nice to see young people and families participate. Leingang suggests earlier preparation of a news release next year to assure timely information can be included in the school district’s Bulletin Board publication that goes home with elementary students. Lapp-Harris suggests that participants should be required to sign a release form of responsibility for accidents and hazardous materials.*

H. Other Business

I. Future Meetings

1. Thursday, June 11, 2015 7:30 a.m.
2. Thursday, July 9, 2015 7:30 a.m

J. Adjourn

*Jim moved to adjourn. Johnson seconded. Motion passed unanimously.*

*FUTURE 2014-15 AGENDA ITEMS:*

- 1. Consider signage to discourage littering*