
The Mandan City Commission met in regular session at 5:30 p.m. on April 15, 2014 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank and Braun. 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 and Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim.

B. APPROVAL OF AGENDA: Commissioner Braun motioned to approve the Agenda as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. PUBLIC COMMUNICATIONS: Mayor Van Beek invited anyone to come forward to address items on the Agenda. A second announcement was made to speak for or against items on the Agenda. Hearing none, this portion of the Public Communications forum was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held April 1, 2014.* Commissioner Rohr moved to approve the minutes as presented. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

1. *Consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 194 Project 2014-12(Developers West Acres, Ventures and Crown Point).* Planning & Engineering Director Froseth stated that this is an action to consider a resolution determining insufficiency of protests for street improvement district No. 194 for Developer’s West Acres, Ventures and Crown Point areas. On March 4, 2014, the City Commission approved the creation of the Street Improvement District No. 194 and approved Resolution of the Engineer’s Report and the Resolution of Necessity. On April 1, 2014, the City Commission approved the plans and specifications and the resolution directing advertisement for bids. There were 52.5% written protests, (168 out of 320 parcels received). Therefore, the project has enough protest to bar the project from moving forward. He reviewed some of the concerns of homeowners as noted on the letters of protest. He explained that Old Red Trail was one of the main inquiries as to why that is not included in the scope of this street improvement district and the reason for that is because it has been programmed in by the DOT to receive funding for reconstruction until 2016.

He also explained that the roads that are within the project are in the local area and even though they are not in really bad shape, the roads would benefit from a resurfacing project to prolong the life for another 15+ years. Many of the roads in this area are in a state of degradation and it would be in the City’s best interest to repair them before they become a state of being unsatisfactory.

Planning & Engineering Director Froseth reviewed the process for determining estimates for the project and explained that the final assessment amount will be determined based on fairness as outlined by the Special Assessment Commission. Finally he pointed out that if the streets get to a point where reconstruction is necessary, the cost amounts for the assessments will likely be much greater than the amount presented at this time. Based on the explanations given, he recommended denying the resolution determining sufficiency of protests for street improvement District No. 194, Project No. 2014-12 Developers West Acres, Ventures and Crown Point.

Mayor Van Beek stated this is a public hearing and invited anyone to come forward to speak for or against the request for approval of the Resolution of Insufficiency of Protest for Street Improvement District 194 Project 2014-12(Developers West Acres, Ventures and Crown Point).

Audrey Cody, Venture's Addition, came forward and stated she was asked by the landowners from that area to speak on their behalf. She indicated that she and two other residents went door-to-door to the people in that neighborhood and they could not find one person to say that the streets in that area need improvement. She mentioned that there is one small hole in a corner of LaSalle and Crown Point that has never been fixed while Old Red Trail remains to be a hazard. She provided photos of areas where the blade operators have damaged curbs and gutters in that area.

John Barnhard, Roughrider's Addition, came forward and said that he does not understand why the City does not put road restrictions on the roads to keep the heavy truck traffic to a minimum on Old Red Trail. Director of Public Works Wright stated that the City of Mandan follows the DOT and Morton County load restrictions they put on the roads. The only unrestricted streets in Mandan would be Main Street, Highway 1806 and the main arterials. Those roads are not restricted by the DOT thus there is no restriction in town. If they use any of those streets, the restrictions would be 6 tons per axle. He stated that at this time of year with the frost coming out of the ground, the load restrictions are placed because of the softness of the sub-base and the road has to give. He stated that there should be enforcement if trucks exceed the restriction.

Al Austad, Developer's West, came forward and stated that the roads in this area have degraded significantly because the city or a contractor has dug in or replaced sewer lines. Those are the worst areas of the roads, not something caused by traffic. He reminded the Commission that 50 years ago truck traffic was not allowed out there. The signs are gone and there are trucks going through the residential neighborhoods. He stated that regular maintenance is not being done on the road in front of his home giving the example that there is a 6-inch crack that has been there for a long time, unrepaired.

Rick Setterlund, Crown Point Subdivision came forward and stated he has lived there since 1984. His concern is that the water table keeps rising. He inquired if anyone would know why that is happening. In August of every year, 36th Avenue has problems. He asked whether anyone has looked into that problem and mentioned that he had heard that Bismarck has the same issue and have put in a French drain in that situation. Planning &

Engineering Director Froseth stated that he has heard that the water tables have been rising. He said that along with this project, the consultants have been requested to look into possible ways to install a shallow drain which is similar to a French drain.

Mayor Van Beek again announced that this is a public hearing and invited anyone to come forward to speak for or against the project request. Hearing none, this portion of the hearing was closed.

Commissioner Frank questioned Planning & Engineering Director Froseth regarding what their “Plan B” is to ensure there is safe access and that it is as affordable as possible? Planning & Engineering Director Froseth stated that there are no plans this year to take this project forward again. However some options that are available would be changing the size of the districts and bringing the project forward again in 2015 with hopes of getting the street improvement project approved and to a level before the fix is greater than it is now. Commissioner Frank encouraged any community member who has ideas on how to address these issues to share that information with the City Commission. She stressed the importance of maintaining the streets is important as the costs will more than likely increase in future years.

Commissioner Rohr stated that the City has never had a really good plan for future improvement projects. He mentioned that the City is now taking a proactive approach to addressing immediate and future street projects. Mayor Van Beek concurred with Commissioner Rohr’s concern for improving the street maintenance project and indicated that the City is doing its best to minimize the cost to the taxpayers and homeowners in these developments. City Attorney Brown clarified there are no options to the proposed street improvement project at this time since it’s protested out.

Commissioner Frank moved to approve to deny the resolution determining sufficiency of protests for Street Improvement District 194 Project 2014-12(Developers West Acres, Ventures and Crown Point). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 195 Project 2014-13(Roughriders).* Planning & Engineering Director Froseth stated that this is an action to consider a resolution determining insufficiency of protests for street improvement district 195 Project 2014-13 (Roughriders). On March 4, 2014, the City Commission approved the creation of the Street Improvement District No. 195 and approved Resolution of the Engineer’s Report and the Resolution of Necessity. On April 1, 2014, the City Commission approved the plans and specifications and the resolution directing advertisement for bids. The scope of the project at that time was for street resurfacing and street lighting throughout the neighborhood. The streetlights were an option for this project. The project would be a mine and blend which would cost a little less than the mill and overlay. At that time there was an option for street lighting which was approved. The deadline for protests was April 8th. There were 66 out of 81 protests filed stating they would like to move forward

with the street project, but not the street lighting portion of the project. Director Froseth pointed out that all the roads in the Roughrider's area are deemed unsatisfactory. Based on that protest petition the Engineering Department's recommendation would be to approve the resolution of insufficiency with the street lighting portion of the project removed so this project can be completed this year.

Mayor Van Beek announced this is a public hearing to consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 195 Project 2014-13(Roughriders). He invited anyone to come forward to speak for or against the project.

Mark Landis, Roughrider's Addition came forward and respectfully urged the City Commission to approve the Engineer's recommendation to move ahead with the street improvement project without the street lights. He stated that the streets are badly in need of repair; however the street lights are not necessary.

Bill Schuh, Roughrider's Addition came forward and stated that he supports what Mark Landis presented and not only for the financial reasons. He provided a short background of the area in that it is a safe neighborhood. He referred to the character of the residents who lived there. They wanted to see the stars. He stated that he supports the motion/recommendation as presented.

James Renner, Roughrider's Addition came forward and inquired about the partial street lighting option and he wanted to know why that was eliminated. He said that it was discussed at the public input meeting. He said his biggest concern is the limited curb and gutter repair and he is wondering if that is necessary as part of this project.

Planning & Engineering Director Froseth stated that at the public input meeting some of the residents mentioned they would like street lights in certain areas such as access to the development area, the park, the mailboxes and bus stops. He indicated that the Engineering department had considered that. In order to do that, wiring would still have to be run throughout and there would be less than 50% coverage for an approximate figure of 30% less cost. Seeing the value of safety throughout and that the numbers did not make it as feasible to lessen the amount of light coverage while still realizing 30% less cost. With regard to the curb and gutter, there is 820 lineal ft. of curb and gutter, (out of about 4,600), that has been spotted and deemed necessary to remove and replace. Wenck and Associates had 3 categories looking at the curb and gutter and the 1st category "need to repair" is when it is not functioning as it should be in order to channel water properly; 2nd category "broken and damaged and still functional" and 3rd category is strictly "superficial". He said residents can call the City Engineer's office if they have questions on the project.

Mayor Van Beek again announced this is a public hearing to consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 195 Project 2014-13 (Roughriders). He invited anyone to come forward to speak for or against the project. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke moved to approve the Resolution of Insufficiency of Protest for Street Improvement District 195 Project 2014-13 (Roughriders) with the street lighting option being removed from the project. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 196 Project 2014-14(Mandan Industrial Park).* Planning & Engineering Director Froseth stated that this is an action to consider a resolution determining insufficiency of protests for Street Improvement District 196 Project 2014-13 (Mandan Industrial Park). On March 4, 2014, the City Commission approved the creation of the Street Improvement District No. 196 and approved the Resolution of the Engineer's Report and the Resolution of Necessity. The Resolution for the approval of plans and specifications or a Resolution to advertise for bids has not been brought forward due to a reconstruction requiring more intense planning. This project is located within an industrial park with nearly all properties being industrial zoning. The plan is to reconstruct with concrete allowing for double the lifetime as opposed to a regular pavement project. The Engineers office has received 47.33% written protests therefore the project has insufficient amount of protests. He reviewed some of the concerns raised in the protest letters. Because the insufficiencies received were less than 50% the Engineer's Department recommends moving forward with the project at this time. The final assessment amount will be determined based on fairness perceived by the City Assessment Committee.

Mayor Van Beek announced this is a public hearing to consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 196 Project 2014-13 (Mandan Industrial Park). He invited anyone to come forward to speak for or against the project.

Robert Johnson, a representative from the First Church of the Nazarene on Old Red Trail, came forward to speak and stated that he has a parcel of land within the Mandan Industrial Park. He said that they are opposed to this project because (1) The work on 34th and 37th Streets account for about 85% of the project cost; (2) Their parcel is on 30th Avenue NW and will receive no benefit done on those streets; (3) The assignment of cost has been inequitably distributed because the primary benefit goes to those on 34th and 37th Streets with no benefit to those on 30th Avenue where they will be paying the same price per square foot than those benefiting directly. Finally, this area has been paying special assessments for a long time already and they do not want to see another assessment especially since they will not be benefiting from the project. Commissioner Rohr asked about the location of the church's property. Johnson indicated that the land that they own on 30th is a vacant piece of property that is not in use at this time. The access to the church is off Old Red Trail.

Engineering Director Froseth stated that even though the property on 30th Avenue is vacant at this time, there is potential for a business in that area at some time. The City

Engineer's Department attempts to be as fair as possible when creating assessment districts for projects such as these.

Carl Jacobsen, Monte Drive, came forward and inquired about the zoning in this area. Is it industrial? Is it residential? Housing? Multi-residential? The reply was it is Industrial and you cannot put a home on it.

Mayor Van Beek announced once again that this is a public hearing to consider the approval of the Resolution of Insufficiency of Protest for Street Improvement District 196 Project 2014-13(Mandan Industrial Park). He invited anyone to come forward to speak for or against the project. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr requested clarification that the two major streets being discussed are 30th and 34th for this project? Engineering Director Froseth replied that the project consists of 34th and 37th Streets (east-west) and 30th Avenue (north-south). 34th and 37th needing major repairs that will be concrete and 30th Avenue will be a mill and asphalt overlay project. This will be one full assessment district wherein property owners will pay equal proportions per square foot. Finance Director Welch commented that a previous meeting because of the concrete option in certain locations within this district, the overall cost, and consideration is being given to have a 20-year assessment versus 15-year assessment to help with the principal and interest costs for this project. The City will be considering this if this district would be approved and the construction would go forward as a means to provide some relief.

Mayor Van Beek inquired why 30th Avenue Northwest will be an asphalt project rather than concrete. Planning & Engineering Director Froseth stated that is because that road is newer on the north end and the south end is in better shape and it does not have the heavy traffic 34th and 37th Streets have. The Engineering department recommends this improvement even though it is not in as bad as shape as the other roads in that area.

Commissioner Tibke moved to approve the Resolution of Insufficiency of Protest for Street Improvement District 196 Project 2014-13 (Mandan Industrial Park).

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of monthly bills.* MONTANA-DAKOTA UTILITIES - 25,740.60; NELSON AUTO CENTER - 52,582.00; KUPPER CHEVROLET INC - 53,644.00; WELLS FARGO COMMERCIAL C - 219,370.21; POST BOARD - 155.00; ADVANCED ENGINEERING SVC - 27,108.94; BULLINGER TREE SERVICE - 3,650.00; CBI BUSINESS SERVICES - 300.00; CENTRAL DAKOTA FORENSIC - 160.00; DELUXE BUSINESS CHECKS & - 51.22; EDLING ELECTRIC INC - 19,539.90; ETHANOL PRODUCTS - 1,428.86; HDR

ENGINEERING, INC - 835.81; HIMMELSPACH/STEVE - 808.44; HUB INTERNATIONAL OF ND - 594.00; ISAKSON/CHARLES - 100.00; KADRMAS, LEE & JACKSON, - 4,514.94; MANDAN PARK BOARD - 400.00; MINI COMPUTER SRVICES, L - 892.50; MORTON COUNTY AUDITOR - 10,050.74; MUNICIPAL CODE CORPORATI - 3,285.00; MUNICIPAL GOVERNMENT ACA - 30.00; NDACO RESOURCES GROUP - 1,110.74; NDSU - 280.00; SCHLOSSER EXCAVATING INC - 1,750.00; SRF CONSULTING GROUP - 1,748.40; ST. ALEXIUS MEDICAL CENT - 225.00; STANDARD & POOR'S - 100.00; STARION BOND SERVICES - 5,521,121.12; NELSON LEASING INC DBA - 84,800.00; MONTANA-DAKOTA UTILITIES - 30,911.30; AT & T - 696.53; MONTANA-DAKOTA UTILITIES - 11,419.57; NORTHERN PLAINS EQUIP CO - 12,762.18; BALABAN LAW OFFICE - 1,500.00; BJORND AHL/DAVID - 84.00; COMPANION LIFE - 10.00; COMPUTER PROFESS UNLIMIT - 89.00; CURTIS/JEREMY - 194.82; DAKOTA MEDIA ACCESS - 8,332.25; EILER/CHAD J - 900.00; FETZER ELECTRIC, LLC - 140.00; FORT DEARBORN LIFE - 455.21; GLASS/THOMAS J. - 1,500.00; GOSCOMA - 100.00; HDR ENGINEERING, INC - 1,543.00; HEWLETT-PACKARD COMPANY - 8,281.00; INTERSTATE ENGINEERING - 5,624.00; KELSCH KELSCH RUFF & KRA - 4,000.00; MANDAN PARK BOARD - 1,000.00; ND PERS - 93,804.32; NELSON LEASING INC DBA - 84,800.00; NORTHERN IMPROVEMENT CO - 58,502.00; PRESORT PLUS - 2,863.55; ROSEN/BRANDON - 84.00; SCHLOSSER EXCAVATING INC - 1,470.00; SRF CONSULTING GROUP - 680.84; BARBEE/JAMES - 100.00; BENZ/L JON - 67.50; BIS MAN DEVELOPMENT ASSO - 25,000.00; BIS-MAN CONVTN & VISITOR - 3,099.72; BIS-MDN TRANSIT BOARD - 910.72; BOWERS EXCAVATING, LLC - 3,900.00; BULLINGER TREE SERVICE - 2,600.00; CBI BUSINESS SERVICES - 7,083.50; CROWLEY FLECK PLLP - 5,175.00; CUSTER DISTRICT HEALTH U - 1,060.45; ENTZEL TRUCKING - 1,045.00; GEORGE STROH TRUCKING IN - 1,045.00; GERHARDT STORAGE - 270.00; INFORMATION TECHNOLOGY D - 1,220.13; INTERGOVERNMENTAL SHOP - 14,731.70; LALIM/DOUG - 67.50; MANDAN AIRPORT AUTHORITY - 1,821.63; MANDAN MUNICIPAL COURT - 1,730.00; MANDAN PARK BOARD - 200.00; MISSOURI WEST WATER SYST - 50.35; MORTON COUNTY AUDITOR - 11,273.55; MORTON COUNTY RECORDER - 13.00; MORTON MANDAN PUBLIC LIB - 16,530.36; ND STATE DEPT OF HEALTH - 320.00; ONE CALL CONCEPT INC - 66.00; ROE/STEVE - 67.50; SWANSTON EQUIPMENT CORPO - 268,890.00; TWIN CITY ROOFING INC - 421.00; WEHRI/RADEANNA - 750.00;

2. *Consider the following games of chance (ii) ND Mounted Shooters Association at Dean's Steak House from Apr. 15, 2014 to Oct. 7, 2014 (ii) Pearl Larson Benefit at the Stage Stop on April 26, 2014.*

3. *Consider approval of annual Liquor License, Special B Liquor Permit and Special Sunday Permit for Dacotah Speedway from May 1, 2014 through October 30, 2014.*

4. *Consider proclaiming April 22, 2014 Earth Day in the City of Mandan.*

5. *Consider entering into a professional services agreement with Hepper Olson Architects for services related to the Depot and Beanery.*

6. *Consider approval of the following Site Authorizations: (i) American Foundation for Wildlife at The Lakewood Bar and Grill from July 1, 2014 through June 30, 2015*

(ii) *American Foundation for Wildlife at the Last Call Bar from July 1, 2014 through June 30, 2015.*

7. *Consider advertising for construction engineering services related to safe routes to school grant.*

Commissioner Tibke moved to approve Consent Agenda as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Consider approval of 2014 Budget Amendment – Mandan Fire Department.*

Fire Chief Nardello presented a request to amend the 2014 Fire Department Budget for the purchase of ergonomic office equipment. He provided a brief background that the 2014 Budget included the purchase for new training chairs. The chairs currently in use do not meet ergonomic standards. Subsequently he found out that the ND WSI has an ergonomic grant program available with a 25% local match which was applied for and approved. Subsequently, they sent out an occupational professional who evaluated our office furniture. Based on this, a budget amendment is being requested of \$7,281.12 and that 75% would be reimbursed to the City so \$1,820.28 would come from the Equipment Reserve Fund.

Commissioner Tibke moved to approve to amend the Mandan Fire Department 2014 Budget to include \$7,281.12 for the purchase of six office chairs, six sit to stand work stations, six document holders, six wireless mouse and keyboards. The 75% ND WSI grant reimbursement shall be placed back into the Fire Department Equipment Reserve Account. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance 1181 related to Shared Leave Policy.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance 1181 related to Shared Leave Policy. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Second consideration and final passage of Ordinance 1182 annexing Collins Substation property.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance 1182 annexing Collins Substation property.

Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider Resolution establishing rates and charges for services from the Street Light Utility Fund.* Finance Director Welch stated that this change in the Resolutions for street light utility charges is before the Commission due to the result of the conversion from our current utility billing software to the City's new utility billing software which should be up and running the first week in May. There is wording in Section 4 of the existing street light utility resolution that is not compatible with the base programming of the new software. Analyzing what it would take to correct this, there would be a cost to reprogram the proposed software that the City is migrating to. It is recommended to eliminate the wording in Section 4 that says up to a maximum of 3 units. There are 22 utility accounts that would be impacted by this Resolution change and there are currently 80 units that are not being charged and they would then pay the additional \$1.00 per month. This will align with other multi-unit billing requirements for residential properties and trailer parks that are being charged and not a limit like the commercial properties are being charged.

Commissioner Frank moved to approve the Resolution establishing rates and charges for services from the Street Light Utility Fund. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the meeting at 6:36 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/Arlyn Van Beek

Arlyn Van Beek,
President, Board of City
Commissioners