
The Mandan City Commission met in regular session at 5:30 p.m. on April 7, 2015 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Rohr, Laber, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: Commissioner Tibke and Director of Public Works Wright.

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

C. PUBLIC COMMUNICATIONS:

D. MINUTES:

1. Consider approval of the following minutes from the Board of City Commission regular meeting held on March 17, 2015 and special meetings held on March 20, 2015 and March 24, 2015. Commissioner Laber 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:

F. BIDS:

G. CONSENT AGENDA

1. Consider Proposal from Eide Bailly for an Employer Health Reform Analysis for the City of Mandan.

2. Consider approval of replat of Lot 1, Block 2 Eastside Commercial Park and Parcel 6B-21 of the SE ¼ of Section 26, Township 139 North, Range 81 West.

3. Consider for approval plat of portion of Auditor’s Lot D of the SW ¼ Section 12, Township 138 North, Range 81 West.

4. Consider approval of out-of-state trade show representation for Business Development & Communications Director.

5. Consider approval of the 2015 Fire Hydrant Painting agreement with HIT Inc.

6. Consider Proclaiming April 7, 2015 as Mayors Day of Recognition for National Service in Mandan.

7. Consider for approval Amendment No. 1 to the Engineering Service agreements with AE2S for Water & Sewer System Assistance.

8. Consider Law Enforcement Center Building Improvement Requests.

9. Consider approval of proposal for video production.

10. Consider sales of outdated UV bulbs at the wastewater treatment plant.

12. Consider Complete Reassessment - Reduction in market value for Nijaz Seckanovic.

13. Consider proclaiming April 22, 2015 Earth Day in the City of Mandan.

Commissioner Laber moved to approve Consent Agenda items #1 through #10 and #12 and #13 as presented. Consent Agenda Item #11 was removed for discussion.

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

Mayor Van Beek read both the Mayors Day of Recognition for National Service and the Earth Day proclamations. He also mentioned that he assisted with delivering Meals on Wheels today and encouraged citizens to volunteer time to deliver meals if they can to help with this community event.

City Administrator mentioned that the Public Communications part was missed. Mayor Van Beek opened the floor at this time to anyone wishing to comment on any of the items on the Consent Agenda.

Leonard Leingang came forward to speak stating he is the owner/operator of Four Square Concrete. He said that earlier this year there were changes made to the City Ordinance that he was not aware of that affected changes with apron width. He said the City Engineer's office told him that they were changing the verbiage. The information he received was that they (the City) were going to go 36 ft. and allow 12 ft. for camper pads. He has customers that are saying they are not allowed to go 12 ft. further and that these projects were bid last year. There are 5 people that want to widen their apron and the Engineer's Department says we cannot do the 12 ft. for a camper pad anymore. They are allowing for the 36 ft. only and nothing for a camper pad. He stated he was not informed the 12 ft. camper pad was being removed. Mayor Van Beek replied that they could hear any further comments on this issue when that item is brought up under New Business.

Consent Agenda Item #11: Consider Fire Department request for out-of-state travel. Commissioner Laber asked Chief Nardello if he is comfortable with the conference as a whole indicating that several municipalities are holding back on sending their staff to Indianapolis for the conference. Chief Nardello said he has checked into the conference and said there are usually 20,000-30,000 firefighters in attendance and he is comfortable sending staff there stating there has been no drop in attendance. He stated two firefighters (Martin and Bitz) will be going to the Indianapolis Firefighter's Conference in April and he will be attending the International Association of Fire Chiefs Missouri Valley Conference in Sioux Falls, South Dakota in June.

Commissioner Laber moved to approve Consent Agenda Item #11 for Martin, Bitz and Nardello to attend Fire Department out of state conferences. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Update on Bismarck Mandan Development Association (BMDA) activities.* Brian Ritter, CEO of the Bismarck-Mandan Development Association presented an update on the ongoing project efforts of the BMDA. ICSC, the International Council of Shopping Centers, is one of the largest retail trade shows in the world. The BMDA and Business Development & Communications Director Huber will be attending that show with the express purpose of promoting Mandan as a destination for retailers and restaurant activity. He indicated that on a monthly basis the BMDA office has a coordinator that makes regular contacts with interested parties, but the ICSC is another avenue to promote that. He said that his office along with Ms. Huber will coordinate efforts promoting Mandan both before the event begins and subsequently after it is over. He stated he will be attending a conference with the Bismarck-Mandan Chamber of Commerce in Regina, Canada, for the Williston-Basin Conference to answer inquiries from oil companies for both blue collar and white collar businesses.

In other BMDA news, he stated that there are currently over 3,400 job openings in the Bismarck-Mandan Burleigh-Morton County area with expectations of over 4,000 job openings by this summer. Recently, the BMDA co-hosted with Job Service the multi-industry job fair wherein there were 56 exhibited employers and over 200 attendees. Of interest was the fact that over half of the 200 attendees stated they were unemployed and looking for work. There was good feedback received from employers and also from those seeking jobs.

The BMDA and the Bismarck-Mandan Chamber of Commerce recently launched the “Make Your Mark” Talent Attraction Campaign. He explained this is a 16 week effort primarily using social media trying to attract talent in five (5) specific occupations: Nursing, Engineering, CDL, Diesel Mechanics and Trades. He explained those five specialties were selected because those are the most common skill sets that Job Service North Dakota said had the most openings. Taking it one step further, ten (10) states were identified to advertise in and the states chosen were the ones where there is high concentration of North Dakota alumni and with a similar climate.

On Wednesday, April 22, 2015, the BMDA and Business Development & Communications Director Huber will serve as staff liaisons for Mandan Tomorrow’s Economic and Prosperity Committee and will be hosting a Mandan Opportunity Sessions at HIT Incorporated. This will be an opportunity for community residents to learn about what’s happening in Mandan’s three commercial districts.

2. *The Mandan Hidatsa Arikara (MHA) Tribe Boys and Girls club has established a Chapter in Mandan. This Chapter is under the National Boys and Girls Club of America.* Shannon Nash, Acting Branch Manager of Boys & Girls Clubs of the Three Affiliated Tribes provided information that a Club Chapter has now been established in Mandan located in the North Dakota Teen Challenge Building at 1406 2nd Street NW at Door #1. She stated that the program provides after school services and summer youth programs for ages 5 to 18 years. The services provided include tutoring, homework help, cultural activities, crafts, languages, alcohol and drug prevention and recreational activities. She

encouraged volunteers to come forward to help out. The program opened on April 1, 2015 and there are 89 participants enrolled with expectations to serve about 100 children every day.

3. *Consider for approval plat of Volochenko Addition.* Planner Decker stated this project was presented to the Planning and Zoning Commission and they spent 2 months discussing it. Their recommendation was to move forward with the project. He mentioned that this is a 2-step process in which there is a plat requirement followed by a re-zoning that would occur at the next meeting. He stated that the plan is to plat this parcel into 5 lots. He explained that he is currently working on a Developer's Agreement which is a new step in the planning process so that the City has a written agreement with the developer before finalizing the various actions. The Planning and Zoning Commission recommended proceeding with this process. Discussion has occurred with City Attorney Brown and it was recommended passing the Developer's Agreement so it is in place and then act on the plat and the re-zoning activity at the next meeting. He explained the plan is to have it as a limited zoning parcel and not an open zoning parcel. There are several parties interested in the property. Commissioner Laber suggested tabling this matter until an agreement is reached. Planner Decker stated he has been working with Dave Patience, Swenson, Hagen & Co., on this and they are close to finalization and should be ready to go by the next meeting. Commissioner Laber stated that if the written agreement is not final by the next meeting she would like to have the Police Chief and Fire Chief involved assisting with resolving some of the on-going issues.

Commissioner Laber moved to table this matter until the next scheduled meeting. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider negotiating with KLJ for Old Red Trail reconstruction engineering services.* Planning & Engineering Director Froseth stated this project is located between Highland Road on the east and 47th Street on the west. A request was presented to advertise for an engineer for the plan and pre-bid services. Eleven (11) proposals were received and four (4) were interviewed. On March 26th interviews were conducted and it was found that KLJ was the best choice in understanding the issues of this project. The request before the Commission is to request moving forward to enter into negotiations with KLJ to provide this service and that the agreement will be presented at the next meeting.

Commissioner Rohr moved to approve negotiating with KLJ for Old Red Trail reconstruction engineering services. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Acting as the Board of Adjustment, consider for approval driveway apron width variance for 1605 Ridge Dr. SE.* Planning & Engineering Director Froseth stated this is a

variance request from the property owner to widen the driveway apron and construct a straight in approach to the parking pad. Ordinance 1197 was recently adopted. Part of that Ordinance was to limit the driveway width to a maximum of 36 ft. and in this case, the apron flare would add an additional 4 ft. on each side so it would be a total of 44 ft. He said the Ordinance changed the driveway width because it was virtually unlimited as it was tied to the width of the garage plus 12 ft. for a camper pad. Due to an increase of wider driveway widths (up to 4-stall garages) we are reducing the ability to on-street parking. The increasing width of aprons has decreased the amount of boulevard available for snow removal. In a moderate to heavy snow year the loss of boulevard space would contribute to inefficiency in snow removal as well as poor visibility for motorists because of high snow banks. The City was recently informed that some homeowners had planned last year to finish their driveways this year. Under those circumstances, there is at least one homeowner present to request a variance to go wider than 36 ft. which would add another 12 ft. A case like this would still be allowed under the new rules. Or to have the camper pad as wide as possible on the homeowner's property. It's just the apron space requirement will stay at the 36 ft. The applicant is available to speak to his hardship as he sees it from his perspective.

Alan Fettig, a resident on Ridge Drive Southeast, Mandan, came forward and commented that 2 years ago he entered into a contract to move the house 10 feet one way (southeast). He said that the documentation Planning and Engineering Director Froseth has is completely backward. He explained the 3 phases he had planned for the home: (i) A cement slab was poured behind the home for a hot tub; (ii) To the left, a landscaping wall was built; and (iii) Is the park-pad. This year, when it was time to put the apron pad on, he said he was notified by Four Square Concrete that it wasn't obtainable anymore. He said he did not move his house 10 feet one way by accident. This 3-phase plan has been in process for two years. He stated that thus far, he has invested over \$50,000 in landscaping and if the Ordinance change would have been in effect prior to this, he said he would not be here requesting the variance. His concern is now he cannot finish his landscaping project because of the Ordinance change that occurred in January 2015. He restated that his request is to cut the curb another 11 feet and put the apron in, which was part of his original 3-phase plan that he started 2 years ago.

Commissioner Rohr questioned whether this is a case that would qualify to be grandfathered in based on the facts of the situation of what was the plan and then the Ordinance changed in how things are administered which is beyond the homeowner's control.

J.R. Carter from Canyon Road, a subdivision south of the property being discussed stated that he has a similar situation but he came tonight to support Mr. Fettig. He stated that he also did not know about this Ordinance change and he will be attending another meeting to address his situation.

Lori Carter came forward and stated she lives at the household with J.R. Carter. She comment that when they moved to their house they got approved by the development to add on a garage next to the house and have a driveway similar to his (Adam Fettig)

situation for parking. She said they too have completed their landscaping and put a concrete pad in the back with plans to add the garage and pad on the side in which they have purchased 2 permits. They have been working on getting the yard put in and concrete poured. The weather and other efforts have delayed the progress of their projects that were approved; however, the Ordinance change will affect their plans now.

Cody Stern, another Canyon Road resident came forward and stated he is in the same situation. He said he purchased his home last year and he bought his permit to pour cement but did not get the camper pad done with plans to do it this spring. He is concerned that the change in the Ordinance prevents him from completing his plans. He requested a variance to finish his apron plans as was planned last year.

Mayor Van Beek stated that it appears some of these residents had their permits in 2014 and now with Ordinance changes that went into effect 2015 – the City may have to make some exceptions to grandfather them in. It appears the City should work with them if they can prove they had their permits and their project was in process in 2014 and due to weather situations the projects were not completed - that a variance should be allowed for these citizens.

Director Froseth stated that it is possible that a variance can be facilitated by the Engineer's Office if that is what the Commission wishes. Mayor Van Beek suggested that if the circumstances allow for a variance that a timeframe be given to have the project completed in 2015 season.

City Attorney Brown commented that there is an Ordinance in effect that can be enforced. On tonight's agenda there is a variance to be acted on tonight. He suggested that a better procedure would be for those who are affected by the Ordinance because they had planned it for last year that they each apply for a variance. The Commission would then act on it when Director Froseth has been provided the required information.

Commissioner Rohr moved to approve the driveway apron width variance at 1605 Ridge Drive Southeast, Mandan with construction to be completed in 2015. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Mayor Van Beek encouraged the homeowners affected by the Ordinance to also apply for a variance on their property. Commissioner Laber commented that her concern is that the concrete slabs do not take away from the greenspace of the property.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance 1198 changing the name of a portion of 40th Avenue SE.* Commissioner Rohr moved to approve the Second consideration and final passage of Ordinance 1198 changing the name of a portion of 40th Avenue SE. Commissioner Laber seconded the motion. Roll call vote:

Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes;
Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider Resolution Authorizing Issuance of \$4,405,000 Refunding Improvement Bonds of 2015, Series A.* Finance Director Welch stated this is the final Resolution that is required to complete the bond refinancing that was approved by the Board two weeks ago. This is for authorizing the issuance of a \$4,405,000 refunding improvement bond of 2015, Series A, for the purpose of refunding the refunded bonds of 2007, Series B. Director Welch recommended approving the Resolution as presented. Commissioner Laber moved to approve the Resolution Authorizing Issuance of \$4,405,000 Refunding Improvement Bonds of 2015, Series A. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider approval of revisions to construction specifications and standard details relating to sidewalk and driveway construction.* Planning & Engineering Director Froeth stated this is somewhat related to the variance request but there were some problems found last summer when drafting the specifications and details to make sidewalk and driveway construction use a better product. Many of the changes have to do with quality control and some have to do with more specific details of the way the sidewalks and driveways are constructed.

Commissioner Laber moved to approve the revisions to construction specifications and standard details relating to sidewalk and driveway construction. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: 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 Rohr moved to adjourn the meeting at 6:43 p.m. Commissioner Braun 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