
The Mandan City Commission met in regular session at 5:30 p.m. on February 2, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Braun and Laber. Department Heads present were Finance Director Welch, Police Chief Ziegler, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: Commissioner Rohr.

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

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

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission of January 19, 2016 regular meeting.* Commissioner Tibke moved to approve the minutes as presented. Commissioner Laber 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 the following proclamations: (b) Proclaiming May 21, 2016 as National Kids to Parks Day in the City of Mandan.*

3. *Consider designating April 30-May 7, 2016 as “Spring Clean-Up Week” in the City of Mandan.*

4. *Consider moving forward with the Big Sky Sanitary Sewer Extension project and approve the advertisement for bids.*

5. *Consider moving forward with the Annual Water main Replacement project and approve the advertisement for bids.*

6. *Consider the following games of chance: (a) Our Place Motorcycle Club at HIT Inc. on March 19, 2016; (b) Ronald McDonald House at Signature Events on May 7, 2016.*

7. *Consider annual leave carryover for Engineering Project Manager, Kim Fettig.*

Commissioner Tibke requested that Consent Agenda Item No. 1(a) be removed and Commissioner Laber requested that Consent Agenda Item No. 2 be removed for discussion.

Commissioner Laber moved to approve Consent Agenda items No. 1(b) and No. 3 through No. 7. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Absent; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

1. Consider the following proclamations: (a) Proclaiming 2016 as the Year of “WE SUPPORT THE BADGE” in the City of Mandan. Commissioner Tibke requested that Mayor Van Beek read the proclamation and he proceeded to read it aloud. Commissioner Tibke stated that the City of Mandan, by supporting this proclamation, now has the opportunity to put words into action by providing the officers with a pension fund comparable to other cities to show support for all they do. It also shows support for public safety in Mandan by being able to retain and recruit the best officers.

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

2. Consider approval of a correction in 2015 True & Full Value for land owned by Mike & Gwen Brady (Lower Heart River Water Resource District). Commissioner Laber requested that City Assessor Shaw explain how this matter came up and how the issue was managed. She also wanted to let everyone know how these matters will be handled going forward, as well. Assessor Shaw stated that this land received just the standard vacant land increase that all the vacant land properties received starting back in 2013 and the value was applied in 2015. The records did not have information as to what this land was used for. It was listed as a vacant lot in the Assessing Office records. When the property owners received their tax statement in December they inquired why the huge increase and it was at that time they informed us it was part of the Lower Heart Drainage System. The City contacted Toman Engineering and asked if they had any records as to what this land was originally intended to be used for. She said that it is the responsibility of the property owners to provide information on what the property is used for.

Commissioner Laber stated that if this land is part of the Lower Heart Flood Water District Control Plans for the City, the City needs to be sure that any contiguous parcels of land that are part of this are recognized for their intended land use.

This is a serious issue because if this land owner wanted to bring in fill and blockade this and put up a 4-story building, (unless there is an easement or something in the records that says this land is needed for the greater area,) I don't know that with property rights that you can really control one person if it's part of a district for flood control. This is a huge issue for the community since the Heart River runs through our city. How do we manage it?

Ron Manchester from the Lower Heart Water Resource District came forward and pointed out the area where Mr. Brady's area is on the map. The shaded area represents the Auditors Lot A. The Lower Heart drainage storage area takes up that whole lot. This

is a plan from the Corp of Engineers Operational Maintenance Manual for the whole system so they could never build on this piece or haul fill in. It's part of an established drainage system.

Commissioner Laber asked whether without having any easements on the property, it would be like a taking? He said he would have to look back in the records stating that when all this internal drainage was developed, the Federal government required this on the property. Thus we have easements. It could not have been built without an easement. Mr. Manchester said he could look back on the documents. Mr. Brady is aware of the easement and that he can't build on it.

City Attorney Brown commented that in connection with doing work in approximately 1943 for the Lower Heart District, the City of Mandan basically required that all these easements be in place. He stated that he believes there is an existing easement on this property. Commissioner Laber recommended that the City have these water related easements in the records and that Assessor Shaw is aware of the location of those records. She requested that discussion be held with Morton County to insure the easements are recorded in the City's records due the importance of those records.

Commissioner Laber moved to approve the correction in 2015 True & Full Value for land owned by Mike & Gwen Brady (Lower Heart River Water Resource District).

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

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Consider approval of the Resolution creating district, Resolution approving Engineer's Feasibility Report, Resolution approving of Plans and Specifications, Resolution determining sufficiency of petition, and Resolution directing advertisement for bids for Street Improvement District No. 204, Project No. 2016-06 (Lakewood 9th Addition).* Planning & Engineering Director Froseth presented a request for a resolution to approve the Lakewood 9th Addition Street Improvement District. This property is located near the recently approved Lakewood 8th Addition area east of Prairie West Golf Course and 40th Avenue SE on the east side. The Engineer's estimate for the construction of the project would be \$2,218,183 and the engineering and administration costs will add \$776,357 for a total cost of the project at approximately \$2,994,520. This would be special assessed to the benefitting properties within the district. This assessment district has commercial, mixed family and residential parcels within this district. An approximate specials cost is \$17,300 with the mixed use and commercial lots receiving more units of cost. Director Froseth recommended moving forward with the project.

Commissioner Laber moved to approve the Resolution creating district, Resolution approving Engineer's Feasibility Report, Resolution approving of Plans and

Specifications, Resolution determining sufficiency of petition, and Resolution directing advertisement for bids for Street. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Absent; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider approving the Feasibility Report and to approve of the Resolutions creating the district, approving Engineer's Report, approving Plans and Specifications, and Resolution of Necessity for Street Improvement District No. 205, Project No. 2015-06 (Old Red Trail Reconstruction).* Planning & Engineering Director Froseth stated these are the necessary resolutions required to create and allow the assessments of specials related to, and authorize the required paperwork for this project. This particular project came before this Board in October 2015 as a decision document to help decide some components that would be part of this project. For example, the west limit of 40th Avenue instead of the original 47th Avenue. There was a decision on the water main, regarding an expansion from 6" to 12" to help our future system. This matter was also discussed in January with regard to the reluctance of the NDDOT to allow bidding as to asphalt vs. concrete options. Thus, it was determined to go with the concrete option. The project is before the NDDOT for review and it is within their bid letting system to be bid on March 18, 2016. These are the necessary resolutions to create the street improvement district. The ND DOT has capped the project at \$3.2 million which leaves \$3.4 million at local funds with total project costs being estimated at \$6.63 million.

Director Froseth stated that the special assessment district will cover the costs for more than \$1.5 million of which there will be approximately 900 lots in Mandan assessed if property owners do not protest it. A hearing about sufficiency of protests will be held at 5:30 p.m. on March 15, 2016. The proposed district boundary extends north to city limits - north of Old Red Trail Elementary, south to Interstate 94, west to city limits at Roughrider Estates and east to NISC. Director Froseth explained how the special assessments will affect the properties within the boundaries running approximately \$1,250 to \$1,750 per lot. Residential lots that benefit, but are not located immediately next to the road, will pay approximately \$500 to \$1,000. Commercial properties can expect to pay approximately \$1,500 to \$2,500 because commercial properties generate more vehicle use. The scope of the project involves widening the two lane rural road to three lanes and will include adding a curb and gutter to help eliminate a sharp ditch. The State Department of Transportation will contribute \$3.2 million of federal funding for the project, and a City-wide property tax will pay \$662,795 and an additional \$662,795 will come from the City Sales Tax Fund. Approximately \$600,000 of the project will involve a water main upgrade that increases water main measurements from 6" to 12" inches that will allow water to reach the north side of the City. These costs will either be covered by HUB funds or City Water Utility Funds.

City Administrator Neubauer said that the management team will be meeting on February 3rd to review projects that were selected for HUB City funding. Those recommendations will come back to the City Commission at the first meeting in March. There are approximately 7 or 8 projects that will have to be prioritized to see where they fall within the list of projects waiting to be completed. In correspondence with Senator Cook, the

question was asked if Mandan City HUB City funds were in jeopardy and his answer was “not likely”, but possible. Thus, the reason for reviewing the project list is to make sure the City has funds for the projects that are determined to move forward. Finance Director Welch stated that the City of Mandan has received close to \$1 million dollars already that is in the bank for HUB City funding. Commissioner Tibke commented that when she looked into the matter, there was indication that this may be affected by the percentage of employees in Mandan related to the oil and gas industry. She commented that the City needs to set its priorities and make sure there is buffer room for this type of impact and how it will affect the budget. There will be more on this matter in March.

Commissioner Laber stated that the oversizing of the line is what affects the HUB City funds. So if that is not addressed there, it will go into the Assessment District. Finance Director Welch explained that the default with the oversizing utilities would then require funds from the City Water and Sewer Utility fund because anything that is oversized is the responsibility of the City so that portion would not be assessed. He said that the Capital Reserve Fund would have funds available to absorb that cost in the event that the oversizing would have to come out of the Utility Fund. Commissioner Tibke suggested reviewing this matter in March if there are funds set aside for that purpose but there are no funds set aside for the expansion of Public Works, a new Fire Station, and other ticket items.

Commissioner Laber moved to approve the Feasibility Report and to approve of the Resolutions creating the district, approving Engineer’s Report, approving Plans and Specifications, and Resolution of Necessity for Street Improvement District No. 205, Project No. 2015-06 (Old Red Trail Reconstruction). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Absent; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider various recycling items.* Director of Public Works Wright stated that the recycling program has been in effect for approximately 1 month. As of January 29th the Mandan residents recycled 96 tons and kept that material out of the landfill. There is about 50% participation and that is expected to continue to rise. Along with the success of the program, there have also been concerns brought forward about the program. A list was compiled of the problems and was provided to the Commission. These problems were from about 2 to 2½% of the number of people doing the recycling. The City website has been updated with new material for residents. The February Messenger will also include the latest updates and try to address issues that come up. There have been about 115 complaints received. Director Wright recommended encouraging participation and monitoring the calls and then to provide to the Commission an updated report in June. Director Wright gave some details of what has transpired regarding the project. The recommendation is to not collect any of those totes until June. Some people want to share a tote. Most of these are coming from residents who live in duplexes or multi-family housing units. If we continue to encourage recycling, we could make arrangements to share totes for certain properties. A plan would be put together and reviewed with Dakota Sanitation. Another concern is that some residents want smaller

totes. We have had requests for additional totes. In addition there are those who are elderly and/or physically disabled and are unable to get the totes to the curb. Dakota Sanitation is looking into special needs requests and if a special arrangement is needed, they are requesting that a resident provide a physician's note stating the disability. This would then be handled by Dakota Sanitation. Dakota Sanitation will assist with problems that residents have with getting their totes to the curb or if they only have alley access. These are the main concerns that are on the list and Director Wright suggested addressing what can be taken care of tonight. Mayor Van Beek reviewed the first couple items on the list provided by Director Wright.

Commissioner Laber commented that Director Wright should have flexibility in working with the residents and Dakota Sanitation to encourage recycling. He should be allowed to use his judgment to resolve the questions that come up on this and that it would be appropriate for him to give an updated report on the outlined issues in June. Rick Anderson, Dakota Sanitation, came forward and commented that as time goes on recycling becomes more and more popular with residents. What normally happens in these situations is that residents end up getting smaller garbage dumpsters and larger recycling totes. He suggested giving the program time to develop rather than collecting the totes from residents who say they do not want them.

Commissioner Braun motioned to approve Public Works Director Wright's presentation of implementing the recommendations to address the concerns noted, and that this matter be brought back before the City Commission in June with updates to the various concerns of either Director Wright or of the Mandan City residents. Commissioner Laber seconded the motion. Mayor Van Beek extended congratulations to the citizens of Mandan for their participation in the recycling project thus far. Roll call vote: Commissioner Rohr: Absent; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Second Consideration and Final Passage of Ordinance 1233 related to water meter installation.* Commissioner Tibke moved to approve the Second Consideration and Final Passage of Ordinance 1233 related to water meter installation. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Absent; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Second Consideration and Final Passage of Ordinance 1234 An Ordinance to Amend and Re-enact Sections 4-1-3, 4-2-20(c) and 4-2-20(d)(2) of the Code of Ordinances of the City of Mandan relating to hours of alcohol sales.* Commissioner Laber moved to approve the Second Consideration and Final Passage of Ordinance 1234 An Ordinance to Amend and Re-enact Sections 4-1-3, 4-2-20(c) and 4-2-20(d)(2) of the Code of Ordinances of the City of Mandan relating to hours of alcohol sales. Commissioner Tibke seconded the motion.

Commissioner Braun voiced concern about the timeframe of the hours in that he would prefer keeping the opening time at noon rather than 11 a.m. He is in favor of going with the 1 a.m. closing time to be on board with Bismarck. Commissioner Braun motioned to amend the motion to go from noon to 1:00 rather than 11:00 to 1:00. The motion died for lack of a second.

Roll call vote on the original motion: Commissioner Tibke: Yes; Commissioner Braun: No; Commissioner Laber: Yes; Commissioner Van Beek: Yes. Commissioner Rohr: Absent. The motion passed.

K. OTHER BUSINESS:

There being no further actions to come before the Board of City Commissioners, Commissioner Braun moved to adjourn the meeting at 6:27 p.m. Commissioner Tibke 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