
The Mandan City Commission met in regular session at 5:30 p.m. on February 7, 2012 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr and Frank. 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, Engineering Project Manager Bechtel, and City Assessor Barta. Absent: Commissioner Jackson.

MINUTES: *Consider approval of the minutes for January 17, 2012, regular meeting.* Commissioner Tibke moved to approve the minutes of January 17, 2012. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

1. *A Public Hearing to consider for approval the resolution to vacate a 10’ utility easement on the south property line of Lot 3, Block 1, Replat of Lot 1, Block 1 of Ripples 4th Addition.* Engineering Project Manager Bechtel reviewed with members a request to vacate a 10’ utility easement along the south property line. All the utility companies have approved of the request to vacate and the homeowners within 300 feet of the property have been notified. There have been no opposition or comments received. Bechtel stated that the engineer’s office has no problems with the request.

Mayor Helbling stated that this is a public hearing and asked for any comments from the audience regarding the request to vacate the 10’ utility easement. A second request for comment was requested. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke moved to approve the resolution to vacate a 10’ utility easement on the south property line of Lot 3, Block 1, Replat of Lot 1, Block 1 of Ripples 4th Addition. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed.

2. *A Public Hearing to consider an Ad Valorem tax exemption for Summit Housing Group, Inc.* City Assessor Barta reviewed with members a request from Summit Housing Group for a 5-year tax exemption for a multi-unit housing complex located at 4402 Shoal Loop Southeast, Mandan. They are planning on constructing a 48-unit apartment complex with an estimated cost of \$5 million. The Mandan Growth Fund (MGF) recommended a 2-year 100% tax exemption for Summit Housing Group in accordance with the policy adopted by the Commission. Assessor Barta stated he supports the MGF 2-year exemption recommendation.

Assessor Barta stated that there was one letter in opposition received that was signed by Kautzmann Management and Investments, Mosbrucker Apartments, Landmark Management & KSB Properties.

Mayor Helbling stated that this is a public hearing and invited comments from the audience regarding the request for the Ad Valorem tax exemption for Summit Housing Group, Inc.

Mark Bitz from KSB Properties, Inc. came forward to speak. Mr. Bitz who was one of the four individuals who signed the letter of opposition reminded the members about the meeting that was held in Glen Ullin with representation from the City stating that there was a handoff for recommendation not to give tax exemptions because they are not necessary any longer. In summary, apartments sell themselves and they will be filled up in a matter of months. He stated that he would encourage the Board to consider the requests outlined in the letter of opposition and to vote “no” on this matter.

Scott Keiper from Summit Housing Group came forward to speak in favor of the request for the Ad Valorem tax exemption, stating that he is here to request a 2-year tax exemption for affordable housing. He commented that in response to the opposition letter that was submitted regarding the transferring to a third party in which he stated that is not the intent whatsoever. He indicated that the application with the North Dakota Housing Finance Agency is under the partnership name of Crown Butte Apartments of which the general partner of that entity will be BHL Development and they are under the same ownership group as Summit Housing.

Mayor Helbling asked if there were any additional comments from the audience and, hearing none, this portion of the hearing was closed. He stated that the School District, the Park District, and Morton County have all been contacted with notice of the request on January 4, 2012 and again on February 2, 2012, and there were no objections from any of these entities.

BIDS:

CONSENT AGENDA:

1. *Consider appointments to the Mayors Committee for People with Disabilities.* The Board approved of the appointments to the Mayors Committee for People with Disabilities.
2. *Consider the execution of a 3-way agreement for the installation of water & sewer in Lakewood Commercial Park 4th Addition (Water & Sewer Imp Project #2011-07).* The Board approved of the execution of a 3-way agreement for the installation of water & sewer in Lakewood Commercial Park 4th Addition (Water & Sewer Imp Project #2011-07).
3. *Consider out-of-state travel for representation at U.S. Treasury Small Business Credit Initiative conference.* The Board approved of the out-of-state travel for representation at U.S. Treasury Small Business Credit Initiative conference.
4. *Consider for approval change order G-2 for the South Side Pump Station.* The Board approve of the change order G-2 for the South Side Pump Station.
5. *Consider the following abatements: i. Jamie Beutler –partial tax exemption;*

ii. John Hartman – tax exemption; iii. Paul Keidel – Keidel Family Limited Partnership – tax exemption. The Board approved of the abatements for Beutler, Hartman, and Keidel as requested.

Commissioner Rohr moved to approve the Consent Agenda as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider Growth Fund Committee recommendation on property tax exemption application by Summit Housing Group.* Commissioner Rohr commented that he has mixed feelings with these requests in which a larger apartment complex may be granted a tax exemption while at the same time, a smaller unit would perhaps not qualify for an exemption. And with the (growing) economic times of today things are going to happen regardless and when considering providing a 2-year tax exemption in this instance, he stated he has a hard time justifying it in this case.

Commissioner Tibke requested Scott Keiper from Summit Housing Group to define what affordable housing entails. Keiper explained that the difference between a market rate complex and affordable housing is that with affordable housing an application is completed for the state for low income housing tax credits. The tax credits allow the capital structure to be 65% to 70% equity and 25% to 30% debt and that allows you to have lower debt service on that project which in turn allows you to be able to lower the rents. In order to have an allocation of credits from the state you have to commit to those lower rents and those lower rents are committed to a 30-year period minimum under Section 42 of the Internal Revenue Code. A market rate would be financed at 80% debt and 20% equity, typically, so you would have to charge higher rents in order to maintain operations at the same ratio.

Commissioner Tibke commented that with regard to sales tax on a project such as this as well as other projects that come into the community, it is not about the sales tax. It's about the population, including car counts and increased sales from people moving into the community. Commissioner Frank commented that this request is similar to the request that was before this Commission in August 2011 wherein Commissioner Jackson voiced concern at that time regarding tax exemptions and she has the same concerns as brought forward by Commissioner Rohr today. She stated that Mandan is in competition with Bismarck which makes this a difficult decision. She also reminded the Commission of the policy that was put into place in 2010 regarding requests for exemptions, stating that the Board should stick to that policy. She mentioned she was impressed with the Mandan Growth Fund recommendation of just a 2-year tax exemption as opposed to the tiered 5-year tax exemption of which this is a part under that exemption policy. The 2-year exemption jives with the residential construction and the tax abatement on new construction. However with that there is the limit up to \$75,000. If there are future discussions about this policy and how it relates to residential, she would suggest that we

consider that relationship to residential. Commissioner Frank indicated that Mandan is in need of affordable housing and she would support this request.

Mayor Helbling commented that in 2010 after the development of the policy there was an increase in the number of apartment complexes that were constructed in Mandan. The goal was to utilize the properties in useable fashion and, if the policy was not developed, it would have been likely that single family housing would have been developed on those properties. The larger complexes are better for the City because they require fewer infrastructures. Another consideration is the tax structure for the community and in the meantime the developers may have to be enticed with 2-year exemptions. If we intend to deviate from the policy the Growth Fund Committee should be made aware this. If the Commission wishes to change the policy, it should be placed on the Agenda for discussion and proper resolution. Commissioner Frank commented that the Commission should be cognizant to the current (economic) times and if changes need to be made to adapt to current needs, then it should be handled in that fashion.

Mark Bitz commented on two matters: This can be looked at as to what might generate down the road at a gas station or grocery store or wherever because the tax exemption is for this building and not those businesses who can get tax exemptions via other means. He stated they are not asking the City to change the policy because this request does not meet the qualifications.

Commissioner Frank moved to approve the 2-year 100% exemption for Summit Housing Group, Inc. for a 48 unit affordable housing project in accordance with the recommendation from the Mandan Growth Fund Committee due to meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and also under state statute subject to a repayment agreement if the facility were to be sold to a tax exempt entity within 5 years of expiration of the exemption period. Commissioner Tibke seconded the motion.

Commissioner Frank asked that Business Development Director Huber or other city staff prepare a list of those entities that have applied for and have been approved for these types of exemption requests in order to engage in the responses that are submitted and to determine if there is a need to taper off. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed.

2. *Introduction of new Police Officer Nickolas Pynnonen.* Police Chief Bullinger introduced Officer Pynnonen as a 2010 graduate of Hibbing Community College, Hibbing, Minnesota, where he completed the Law Enforcement Officer Education Program. He is scheduled in the Field Training Program for the next three months.

3. *Consider Renaissance Zone Committee recommendations:*

Business Development and Communications Director Huber reviewed the following actions and recommendations from the Mandan Renaissance Zone Committee meeting held January 31, 2012:

i. Rehabilitation of 116 E Main St by Scott Johnson: This is a \$109,275 investment in improvements to the 2-story building. The improvements include a new roof which has been substantially completed and that had state approval prior to completing Renaissance application process because it was leaking. Other improvements include replacement of windows, doors, fire escape and general renovation of first and second floors to include handicap restroom; new suspended ceiling, floor covering, new heat duct system and painting. This building has been approved for matching funds under the Store Front Improvement Program. This building is subject to a Business Incentive Agreement as part of the previous acquisition from the City for less than market value. The Business Incentive Agreement stipulates an investment in improvements of at least \$100,000 with a deadline for completion of renovations of June 30, 2012. The building is currently vacant and will be made available to the market. The intended lease rate will be \$1,000 per month for 2,000 sq. ft. The assessing department's value of the property will increase to \$145,000 on the building only. The property taxes will be \$2,922 annually for a 5-year tax exemption savings of \$14,610. The MFG recommended approval of the application with a 5-year state and property tax exemptions. The project is subject to approval of the Mandan Architectural Review Committee. Commissioner Rohr stated that this building and overall project had been before the Commission a number of times and it will be good to fix up the building.

Commissioner Rohr moved to approve the rehabilitation of 116 E Main St by Scott Johnson as a Renaissance Zone project with the 5-year 100% property and state income tax exemptions. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed.

ii. Amendment of Project 36, new construction at 200 W Main St by CRT Investments. This is a request to finalize the new construction of a four-story mixed-use building. The original application was for about 6,000 sq. ft. of commercial space at street level with approximately 30 apartments above. The number of apartments was reduced by two because of concern of snow on the roof dropping on adjacent buildings. The building was subsequently completed on July 29, 2010. The issue before the Board is to determine if the project is sufficiently complete to allow the Renaissance Zone tax exemption period to begin. The developer is requesting to finalize the project as a Renaissance Zone Project using a completion date of July 29, 2010, to allow the approved 100% 5-year property and state income tax exemptions to begin. The developer reports that the 28 market-rate apartments are fully leased with a waiting list. They are now working with a local real estate agency to market the commercial space. An informal report on construction costs puts that total at \$2.6 million for an average per square foot of \$62.90. That's even without build-out of the commercial space and exceeds the Renaissance Zone's minimum requirement of \$55 per square foot for new construction

projects. The market value of the building for 2011 was \$1,921,800 with property taxes of \$39,336. The original application was approved with an estimated property tax benefit of \$63,750 per year. By permitting finalization of the building project as a Renaissance Zone project prior to build-out of the commercial space, the fiscal impact to the City would be reduced. The property owner would not be maximizing the exemption or capturing full value of the building within the 5-year window for exemption. The RZC voted 5-1 to recommend approval of the request to finalize the construction of 200 West Main as a Renaissance Zone Project.

Commissioner Tibke moved to approve the request from CRT Investments, LLC to finalize the construction at 200 West Main as a Renaissance Zone Project. Commissioner Rohr seconded the motion. Commissioner Frank stated that she was the lone dissenter at the RZC meeting due to a commitment of completing the lower level of the building which was the commercial investment. She indicated that one thing of concern, while the City benefits by giving out less of a property tax exemption, it is losing out because the business portion is not complete. The project intent was \$3 million and it is valued at nearly \$2 million. The developer is getting immediate tax relief without completing the project.

Mayor Helbling commented that it did not work out as planned but Mr. Ritterman is actively marketing the property as is the City Business Development Office and BMDA. If there was a prospective tenant available thus far, it would have been filled. Commissioner Rohr stated that on behalf of Commissioner Jackson, the developer has been very cooperative to work with throughout this project and when he had inquired about office space in the building. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed.

RESOLUTIONS & ORDINANCES:

1. *Consider second and final consideration of Ordinance 1107 to amend Ordinance 1013 Relating to Downtown Core & Fringe Districts - An Ordinance to Amend Sections 21-04-17.1 and 21-04-17.2 of Ordinance 1013 of the Mandan Code of Ordinances relating to Establishment of Downtown Core and Fringe Districts.* City Assessor Barta reviewed the request with the Board and stated that it was recommended by the Mandan Architectural Review Commission (MARC) to remove Blocks 1 and 2 out of the core district and put it in the fringe because the restrictions on construction are a little bit less.

Commissioner Tibke moved to approve the second and final consideration of Ordinance 1107 to amend Ordinance 1013 Relating to Downtown Core & Fringe Districts - An Ordinance to Amend Sections 21-04-17.1 and 21-04-17.2 of Ordinance 1013 of the Mandan Code of Ordinances relating to Establishment of Downtown Core and Fringe Districts. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed. A copy of the resolution is on file and open for public inspection during regular business hours in the Office of the City Administrator.

2. *Consider first consideration of Ordinance 1108 - An Ordinance to Amend Section 21-03-10 of the Mandan Code of Ordinances Relating to Automobile Parking.* Engineering Project Manager Bechtel reviewed proposed changes having to do with automobile parking specifically in a CA or CB commercial district of one space for each four hundred square feet of floor area on the ground floor, plus one space for each four hundred square feet of floor area in a basement or any story above the ground floor. Bechtel stated that this was a recommendation from the Downtown Parking Study that was done approximately two years ago.

Commissioner Rohr moved to approve the first consideration of Ordinance 1108 - An Ordinance to Amend Section 21-03-10 of the Mandan Code of Ordinances Relating to Automobile Parking. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed.

3. *Consider first consideration of Ordinance 1109 – An Ordinance to Create and Enact Section 20-09-38 of the Mandan Code of Ordinances Relating to Use of An Electronic Communication Device By Minor Prohibited.* Police Chief Bullinger reviewed the proposed ordinance relating to the restrictions of use of an electronic communication device by a minor that would be prohibited. He stated that the reason for this request is to have those violations sent to Municipal Court, (rather than District Court).

Commissioner Frank moved to approve the first consideration of Ordinance 1109 – An Ordinance to Create and Enact Section 20-09-38 of the Mandan Code of Ordinances Relating to Use of An Electronic Communication Device By Minor Prohibited. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Absent. The motion passed

OTHER BUSINESS:

1. Commissioner Frank encouraged the Commission to look at Measure 2 and what impact it may have on the City of Mandan. In particular to draw upon each department to run some scenarios. Kind of an “if this passes what can we do now?” situation. Because there are some impacts that we will have to deal with immediately if this measure passes. It would be best to be prepared. It also will serve as an educational opportunity for the departments and the Commissioners to learn what the measure means and what it could do to the City. If this measure passes, it will be retroactive to January 1, 2012. Mayor Helbling commented that the School District, Park District and the County have had some discussions of Measure 2 and the effects that it could have. He concurred with Commissioner Frank that it will be beneficial to be prepared regarding the effects it would have on the city. A retreat may be the best venue for this matter. They have a few items of discussion already for a retreat agenda. Perhaps the commission should look at having another retreat even though they had one several weeks ago which was very productive. Mayor Helbling requested Administrator Neubauer put together a retreat date. Some potential agenda items could include Measure 2 and the 2-year property tax

exemption. Commissioner Frank also suggested including having information regarding property tax assessments. That information might include handling these requests for abatements as well as with the continuing inquiries regarding property tax particularly when we roll out the city-wide reassessments.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the meeting at 6:19 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,
President, Board of City
Commissioners