
The Mandan City Commission met in regular session at 5:00 p.m. on January 17, 2012 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta. Absent: Public Works Director Wright.

MINUTES: *Consider approval of the minutes for January 3, 2012, regular meeting.* Commissioner Jackson moved to approve the minutes of January 3, 2012. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

BIDS:

CONSENT AGENDA:

1. *Consider approval of monthly bills.* The Board approved of the monthly bills.
2. *Consider approval of the pledge of securities reports as required by NDCC 21-04.* The Board approved of the pledge of securities reports as required by NDCC 21-04.
3. *Consider the designation of depositories for the City’s public funds as required by NDCC 21-04.* The Board approved of the designation of depositories for the City’s public funds as required by NDCC 21-04.

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

OLD BUSINESS:

1. *Consider the abatement request by Mr. Wayne Papke for a reduction in property value at 1612 River Dr. NE on Lot 5, Block 1, Riverbend 1st Addition, parcel 5558.* City Assessor Barta once again reviewed with the Board the request from Wayne Papke for a reduction in property value at 1612 River Drive Northeast for the year 2011 from \$277,600 to \$252,659 because of damages caused by flood waters in 2011. Mr. Barta recommended denying the request because he does not believe \$24,941 is an accurate amount presented by Mr. Papke as the cost to cure (repair) and that a recent current market analysis was done and the value showed an increase in property value.

Commissioner Jackson stated that Assessor Barta was able to make contact with Mr. Carpenter; however, he said that he has not been successful in contacting Mr. Carpenter to discuss this matter. Commissioner Jackson stated that he is aware that Mr. Papke was concerned about the comparables that were used.

Wayne Papke, Mandan City resident, came forward to speak. He questioned how a comparable could be made between a 2002 and a 2010 new development construction to

a 1994 construction indicating that there must be better comparables available. He stated that he believes that the \$24,941 would be a direct deduction on the sale price of his home (if he were to sell it today) because those things just need to be fixed as disclosed on the MSL form. He indicated that he firmly believes that is a valid argument in a reduction in the value of his property stating that his facts are solid. He requested the Board consider the \$24,941 reduction as presented. Mr. Papke said he has the construction cost estimates readily available for review by the Board should they choose to review them. Mr. Papke requested the Board review the process Assessor Barta has used to provide his recommendation because Barta has used different valuation recommendations and it is unclear what process is being used to determine the property valuation.

Commissioner Jackson commented that as a City Commission it is their duty to make sure the valuations on properties are as correct as they can be and that property valuations should be within 95% of their actual value thereby the property owner can “up” selling prices approximately 5% above the City’s value when they go to sell it. Based on that, it appears the City’s value is within the market value range on Mr. Papke’s home. Mr. Papke concurred with Commissioner Jackson that in February 2011 his property was valued at \$277,000 which is within the 95% valuation of his home. He pointed out that if the City installs new sidewalks in front of his house, and they cost Mr. Papke \$10,000, the City will immediately assess the property an additional \$9,300. Mr. Papke stated that he believes his home in its current condition is unmarketable and that the market value could actually be a lot less than has been determined. Mr. Papke reiterated that he has “documented direct damages” against his home. Assessor Barta stated that the cost to cure does not affect value-to-value and that is what he has been trying to explain to Mr. Papke.

In summary, Assessor Barta concluded that what Mr. Papke is requesting is outside the practice of the City Assessor’s normal process for determining the valuation of home values. He stated that Mr. Papke has been the only owner of flood-related property that has requested an abatement. Mayor Helbling asked Commissioner Jackson for more details regarding his research into this matter. Commissioner Jackson stated that he has met several times with Mr. Papke and Assessor Barta. However, he has never been in contact with Mr. Carpenter (Papke’s realtor). He stated that the goal is to give a correct market value to the home. He said that he has been in Mr. Papke’s home and believes that if the home were on the market today that it would most likely sell for the assessed value of the home as determined by the City Assessor’s office. He indicated that he believes Assessor Barta has put a lot of time into this matter and that he has used the best available information using comparables to determine the valuation of the property.

Commissioner Jackson pointed out that one of the concerns would be that if this abatement were to be granted on this property, precedence would be set in handling future requests of this same nature, keeping in mind that several hundred homes were damaged by the flood in 2011. Mr. Papke commented that this is found at NDCC 57-23-04 under Taxes and Abatements when they should be done, and one of them says specifically “...damaged or destroyed by floods. . . and other disasters”. It discusses how

the abatement will be granted for just that partial or remaining year. This is a process that is in place for a specific event. Based on that, Mr. Papke does not think this should be considered as “setting precedence” in his case. Commissioner Jackson clarified that he agreed with Mr. Papke’s statement. However, during the presentation Mr. Papke would comment “it only amounts to ‘x’ number of dollars”.

Mayor Helbling stated that Assessor Barta was requested to bring comparables and he has done that and he has also provided his recommendation and it has stayed the same. Mr. Papke has the right to appeal to the Morton County Commissioners. The facts have been presented by both Mr. Papke and Assessor Barta and that Commissioner Jackson has also spent a considerable amount of time on this matter with the parties.

Commissioner Jackson motioned to deny the abatement requested by Wayne Papke for a reduction in property value at 1612 River Dr. NE on Lot 5, Block 1, Riverbend 1st Addition, parcel 5558 for the year 2011. Commissioner Frank seconded the motion.

Commissioner Frank stated that this matter serves as a lesson for all of us - Commissioners, constituents, as well as our department heads - that better preparation by all of us, particularly by communicating numbers and by having true and accurate numbers available. We do hold the departments to high standards in the work they do and one example in this case would be the use of comparables pointing out that the City does try to be as equitable as possible.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Mayor Helbling extended an apology to Mr. Papke for the length of time it has taken to resolve this matter.

NEW BUSINESS:

I. Consider Growth Fund Committee recommendations: Business Development and Communications Director Huber reviewed the following requests with the Board:

(i) Retail incentive application for Brea women’s clothing boutique, 906 Second Street NW: This is a request presented by Eve Kostelecky for a retail women’s clothing boutique at 906 Second Street Northwest. She has worked with the Small Business Development Center on financial projections for the business. She is not seeking any other incentives. Ms. Huber stated that the building is no longer eligible for the Storefront Improvement Program because it received funding by a previous occupant. The Mandan Growth Fund met on January 5, 2012 and unanimously voted to approve the application and recommended an incentive of \$3.75 per sq ft totaling \$6,187.50 in assistance over the first 12 months of operation. There is \$40,000 available in the MGF to fund this request. Mayor Helbling stated that there were two letters of protest received by the Board in opposition to the application request from Ms. Deb Holter and Ms. Susan Beehler.

Eve Kostelecky came forward and spoke in support of her application request indicating she and her husband are eager to get started after doing considerable research for this new business. They expressed interest in starting their business in the City of Mandan.

Commissioner Frank commented on the strong points outlined in the Business Plan that will lead to successful business within the community. Commissioner Frank stated that it is also encouraging to see that Ms. Kostelecky is teaming up with another business owner, Baby Mod, and how well those businesses will enhance the community's retail business. Commissioner Jackson commented that in addition to that there is consideration for a big box store and those stores may be what is needed in the community to attract larger companies. Commissioner Rohr concurred with what Commissioner Jackson outlined stating that this will increase employment in the City as well. Commissioner Rohr asked Ms. Huber if there is accountability built into the progression of how the business develops over the next several months. Ms. Huber indicated that there are claw back provisions in the contract in the event the business does not remain open, or moves to another location. She said that quarterly reports are required to be submitted which indicate part time and full time employment data as part of the contract.

Susan Beehler, Mandan City resident, approached the podium. Mayor Helbling stated that this is not a public hearing, thus no testimony would be taken. Ms. Beehler inquired if her civil rights were being denied indicating that she has a right to speak at a public meeting. Mayor Helbling stated that the Board has received her email correspondence regarding this matter. Ms. Beehler replied that she wants to make the public aware that criteria were not followed.

Commissioner Frank moved to approve \$6,187.50 as an incentive for Brea Women's Clothing Boutique, 906 Second Street NW, in 12 equal installments following each month of operations. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

(ii) Appointment of committee members: City Administrator Neubauer reviewed with Board members for their consideration the appointment of a new member to the Mandan Growth Fund Committee. Neubauer stated that the MGF was seeking an individual with a background in banking. He stated that three individuals expressed interest. After review and discussion of the applications, the MGF recommended that Mark Weide be appointed for a 3-year term based on his many years of business and banking experience.

Commissioner Tibke moved to approve the appointment of Mark Weide to the Mandan Growth Fund for the term ending December 31, 2014. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

Commissioner Frank commented that when reviewing the documentation provided regarding the appointments to the MGF, several members have served 3, 4, or 5 consecutive terms, thus pointing out that there are opportunities available for citizens to

serve on committees such as this. Administrator Neubauer commented that there are 3 or 4 positions that term in December 2012.

2. *Consider new Liquor License for Jerry Stryker at 1005 E Main Street formerly Kupper Chevrolet on Main Street.* City Administrator Neubauer stated that there is one Class A liquor license available and that Jerry Stryker has applied for that license. He stated that background checks have been completed and no problems have been found. Jerry Stryker came forward to speak and stated that the plans for the building are to set up one-half of the building as an on-sale and the other half as off-sale.

Commissioner Frank moved to approve the new Liquor License for Jerry Stryker at 1005 E Main Street formerly Kupper Chevrolet on Main Street contingent upon the establishment meeting all fire codes, health and safety codes, building inspection codes and all property taxes and fees paid. Commissioner Rohr seconded the motion.

Commissioner Jackson voiced concern that this is the last liquor license the City has available and by creating the license, the City sets the number of these. Thus, this is creating a situation where the license could be much more valuable than what the City is charging for it. He recommended that before granting the last license available that one of two things needs to be determined: Make it contingent that it is used within the next 60 days and, if not, then it comes back to the City; or consideration be given to looking at giving out more Class A licenses. Mayor Helbling stated that the liquor licenses become due July 1st and, if this one is not used by then there is an option not to grant a new request. He concurred with Commissioner Jackson that consideration should be given to adding more Class A licenses for availability. He recommended that this matter be discussed further at a later time.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *Consider approval of the project scoping worksheet and enter into a future Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Memorial Highway.* Engineering Project Manager Bechtel reviewed with Board members for their consideration the approval of the project scoping worksheet and entering into a future cost participation and maintenance agreement with the ND DOT for the maintenance of Memorial Highway. Bechtel stated that this is a DOT project that will be located along the portion (asphalt) of Memorial Highway which is approximately 2.18 miles. The City's cost would be approximately \$38,000.

Bechtel stated that he discussed this matter with Finance Director Welch indicating that these funds normally come out of the Sales Tax Fund and there currently are sufficient funds available to fund this project.

Commissioner Jackson moved to approve the project scoping worksheet and entering into a future cost participation and maintenance agreement with the ND DOT for the maintenance of Memorial Highway. Commissioner Frank seconded the motion.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

RESOLUTIONS & ORDINANCES:

1. *Consider first 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 stated that the committee decided that due to lack of historical architectural elements on structures located on Blocks 1 and 2, Mandan Proper, it has been determined that these properties should be removed from the core district and placed in the Fringe District.

Commissioner Jackson moved to approve the first 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 Tibke seconded the motion.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

OTHER BUSINESS:

1. *Special Meeting of the Board of City Commissioners – Discuss Future Infrastructure Projects.* City Administrator Neubauer stated that January 31, 2012, 5:00 p.m. is the date and time set for a working session to discuss future infrastructure/street projects. The location of the meeting has not yet been determined. Mayor Helbling requested “Liquor License” discussion be added to the Agenda.

Commissioner Jackson motioned to hold a working session meeting on January 31, 2012, 5:00 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

2. *Mandan Tomorrow Committee events:* Business Development and Communications Director Huber elaborated on the following upcoming events hosted by the Mandan Tomorrow Committee:

(i) Monday, January 30, 2012, 5:30 p.m. The Mandan Tomorrow Sub-committee will be providing reports from their 2011 accomplishments and 2012 goals. This meeting will be held in the Mandan City Hall and it will be televised by Dakota Media Access.

(ii) Tuesday, January 31, 2012, 7:00 p.m. An informational session will be held for citizens who may be interested in serving in open positions in local offices in 2012 and what they need to know regarding serving in those positions.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the meeting at 6:04 p.m. Commissioner Jackson 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