
The Mandan City Commission met in regular session at 5:30 p.m. on July 5, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota.

1. *Ceremonial Swearing in of Mayor Helbling and Commissioner Davis.* City Attorney Brown requested Mayor Helbling, Commissioner Braun and Commissioner Davis stand and repeat the oath of offices for the duties of Mayor and City Commissioner, respectively, for the City of Mandan, North Dakota.
2. *Roll call of all City Commissioners:* Commissioners present were Helbling, Rohr, Braun, Davis, 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, Principal Planner Decker, Assessor Shaw, and Building Official Lalim.

Mayor Helbling extended a thank you to Mayor Van Beek for his 4 years of service and dedication to the City of Mandan. He also extended a thank you to Commissioner Tibke for her many years of service to the City of Mandan as City Commissioner. He extended a thank you for the successful 4th of July Celebration to the City staff including the Police Department, the Fire Department, City crews, Rodeo Committee, Art in the Park Committee - MPO, Road Race Committee, the Parade Committee and many more committees and people too numerous to mention.

B. APPROVAL OF AGENDA:

C. PUBLIC COMMUNICATIONS:

D. MINUTES:

1. *Consider for approval the minutes from the June 21, 2016 Board of City Commission regular meeting.* 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 approval of the following games of chance: (i) Catholic Foundation for the People of Bismarck Diocese games of chance at Prairie West Golf Course on July 18, 2016; (ii) Dakota Zoological Society at Prairie West Golf Course on August 5, 2016.*
2. *Consider for approval plat of Big Sky 6th Addition.*
3. *Consider approval of previously provided land acquisition support as local match for Flex PACE interest buy down for Family Wellness*
4. *Consider approval to auction Planning and Engineering Department’s 1996 GMC Yukon.*

5. *Consider employment contract between Board of City Commissioners & City Administrator.*

Commissioner Braun moved to approve the Consent Agenda as presented. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

H. OLD BUSINESS:

1. *Discussion regarding new home construction first \$75,000 exemption.* City Administrator Neubauer stated this item was discussed previously by the Commission on June 21st and it was requested to bring it back to this meeting for further discussion. In the previous discussion, these options were presented for consideration: (i) Continue with the exemption as it stands today; (ii) Discontinue the exemption; (iii) Set a cap by limiting the exemption to buyers that take the opportunity afforded by the First Time Home Buyers Program; (iv) Allow the exemption for homes with a purchase price of equal to or less than a determined dollar amount; and (v) Phase out the exemption over time. There have been discussions held with the Bismarck Mandan Home Builders Association. He said that Dot Frank, Executive Director of the Home Builders Association is present and is prepared to discuss this matter.

Commissioner Rohr stated that this issue has been discussed on several occasions including keeping in mind that the budget will need to be intact while having the funds available for 1st time homebuyers. He said that some of the homebuilders have reported that the exemption has made a difference to some home buyers to purchase a home. He commented on the pros and cons of the program and encouraged discussion by the City Commission as to how to address the exemption for future purposes.

Commissioner Laber stated that she views this matter as a subsidy rather than an exemption. She pointed out that the schools, the County and the City do not receive funds when those exemptions are given vs. a new restaurant incentive and other incentives that are a stronger push for the community. She recommended the program phase out by 2018 giving the home builders and others time to be aware of the program phasing out. She would rather re-prioritize community funding and move this program off the list.

Commissioner Davis commented that he is in favor of incentives for families who want to move to Mandan. He said that a budget review is in line to see where the City is for the upcoming year with regard to state distribution of funds.

Commissioner Braun stated that he utilized this program when he purchased his home and that the exemption provided the extra funds needed for him to move into his house. He was looking for clarification on how many new homes were built last year that utilized the exemption. Administrator Neubauer reported that in 2014 (which are the exemptions for 2015) there were 128 residential units and 8 condo units that benefited from the first \$75,000 exemption. For homes under \$200,000 there were 42; between \$200,000 - \$250,000 there were 83; between \$250,000 - \$300,000 there were 45;

between \$300,000 - \$350,000 there were 20; between \$350,000 - \$400,000 there were 11; and over \$400,000 there were 5. Commissioner Braun summarized that the data reported by Administrator Neubauer show that people are using this program and that it does bring people to Mandan. He said he would consider continuing the program and that he is leaning towards increasing the exemption amount. Mayor Helbling stated that he knows of residents that have utilized this exemption that have moved from Bismarck to Mandan who gave that as a reason for moving here. He said that to overcome what Bismarck has in place, the 1% tax for roadways, if it passes; Mandan will need to get over the obstacles and that the exemption should be left in place for now. He recommended that we give it another 6 months and see how the figures come out.

Commissioner Laber commented that the risk for that recommendation is that a budget needs to be developed for 2017 so if it is not reviewed for 6 months, we need to budget for it. Mayor Helbling clarified that the big picture needs to be reviewed, not just this one line item on the budget. He said he would like further information before making a decision now on this matter.

Dot Frank, Bismarck Mandan Home Builders Association (BMHBA) came forward and stated that with the options available, the BMHBA would like to see the option as allowed by the state, be increased to \$150,000. She stated that the \$75,000 currently in place goes back to the 1990's and at that time the price of a new home was about \$75,000. She provided stats from 1992 wherein the average price of a new home was \$54,000 and now in 2016 the average price of a new home is \$236,000. The incentive remains the same at \$75,000. She stated that housing should be treated as a high priority pointing out that housing is what fills the schools, restaurants and businesses with ongoing business. She encouraged the Commissioners to think of this program not as a budgetary item but rather as an opportunity to grow the City of Mandan. Commissioner Laber said that if this matter is delayed past the budgetary cycle, she would be comfortable delaying further discussion until the January 17, 2017 City Commission meeting.

Commissioner Laber moved to table this item until the January 17, 2017, City Commission meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

I. NEW BUSINESS:

1. *Consider approval of amendment to the Dakota Central Communications Joint Powers Agreement.* Fire Chief Nardello presented a request to consider an amendment to the Central Dakota Communications Center (CenCom) current Joint Powers Agreement (JPA). He said that a large portion of funding needed for operations of CenCom comes from the \$1 dollar 9-1-1 fee collected from cellular and landline telephone users. For every \$1 dollar collected and of that, 15% is retained by the ND Association of Counties (NDAC). The 9-1-1 Strategic Technology Planning Subcommittee met on April 20, 2016 and voted to reduce the NDAC obligation of 9-1-1 fees from 15% to 10%, which will result in an additional 5% allocation of 9-1-1 fees toward the CenCom operational budget. The current CenCom JPA provides 15% of 9-1-1 fees to be allocated to the

NDAC and the JPA needs to change to reflect the proposed 10% allocation effective January 1, 2017. He explained that the additional funding towards the CenCom operational budget should reduce the general fund obligation for the City of Mandan. Chief Nardello recommended approval of the proposed amendment to the CenCom JPA of 10% rather than 15% to the ND Association of Counties.

Commissioner Rohr moved to approve the proposed amendment to the CenCom JPA changing NDAC contribution from 15% to 10%. Commissioner Braun seconded the motion. Mike Dannenfelzer, Communications Director of CenCom, explained that instead of paying the Association of Counties to the Statewide Wireless contract the money is kept locally. This is an agreement to use that 5% towards the operating budget.

Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Presentation for information on Bis-Man Transit revised routes.* Justin Froseth, Planning and Engineering Director informed the Commission of the proposed route and other changes to the Bis-Man Transit System. The Bis-Man Transit believes there is a need for revisions to increase ridership and to make the system more economically viable for its customers. Roy Rickert, Bis-Man Transit Director, has spearheaded this effort and will present the proposed changes and why the changes are necessary.

Roy Rickert, Executive Director of the Bismarck-Mandan and Capital Area Transit Systems, came forward to inform the Commission of the proposed changes for consideration, noting that the City of Mandan is a major stakeholder in the system. He explained that there are two systems, but with separate services. The Paratransit System is a per ride basis and the Capital Area Transit (CAT) is the fixed route which runs whether there is one person or 20 people. He provided statistics as to data on use of the systems and provided comparisons that have been done with cities of same population for ridership counts. The goal is to refinance funding and put resources where they are needed. More money has been put into the Paratransit System than the fixed route system. The need for revisions are due to federal and state funding cuts over the past year and that concern has been expressed about the sustainability of the public transportation systems provided by Bis-Man Transit. These concerns have prompted the organization to take a look at its structure and at how resources are dedicated in that structure. These also included capital expenses stating that the life of the buses has passed 60% of their life expectancy according to the FTA and need to be replaced. Changes are expected to be made over the next four years due to the cutback in funds that were received in the past from state and federal sources. Those funds will not be received in the near future. The size of the geographical footprint of the routes will be reduced as well. Mr. Rickert provided a brief summary of the provisions for the following categories:

- (1) *Fixed Route System Changes (Overview of Fixed-Route Service)*
- (2) *Route Examination – Black, Blue, Green, Red, Brown, Purple*
- (3) *Demand Response System Changes (Overview of Paratransit Service)*

-
- (4) *Overview of Extended and Sunday Services*
 - (5) *Proposed Revisions Addendum*
 - (6) *Review vs. Expense Projection*

Commissioner Davis requested clarification on the funding and ADA eligibility qualifications. Mr. Rickert explained the yearly formula funding cycle and that they might get it for 2015. But that they probably wouldn't get it in the future. The ADA Federal eligibility is intended for those who ride the Paratransit System who are physically or mentally incapable of independently riding the fixed route service. It's not to make it convenient or easier. It is intended for those who really need the service because they have no other way. Commissioner Laber recommended that those who have questions or concerns attend the Bismarck City Commission meeting on July 12th where there will be a Public Hearing on these changes.

Mayor Helbling extended a thank you to Mr. Rickert for the Bis-Man Transit transportation presentation and directed any comments from the public to call Mr. Rickert at his office for additional information. This is an informational item only wherein no action is required by the Commission at this time.

3. *Consider approval of Engineering Service Agreement with AE2S for Sunset Booster Station and Distribution Control Improvements.* Justin Froseth, Planning and Engineering Director presented a request for consideration to enter into an Engineering Service Agreement with AE2S for Sunset Booster Station and Distribution Control Improvements. He stated that this project has two main components and that these components have enough relatability to warrant one project and take advantage of economics in bidding one larger project. In summary, he explained the two parts:

(1) The Sunset Booster Pump Station is located just off of Old Red Trail near 37th St. NW and serves the northwest area of Mandan. This area of the city is experiencing rapid growth increasing demands on the water system. There are periods of time when the pumps see high demands, and it was determined that an upgrade to the system will ensure demands are met. Phase I will allow the pump station to meet all current peak flow demands for the new growth areas.

(2) The growth in the Mandan system has resulted in new demands being placed on the distribution system. To provide better operational data and meet the growing service needs, the Instrumentation and Controls (I&C) system needs to be upgraded to match I&C upgrades that have been done in the Water Treatment Facility improvements. The water system demand increases have created the need for the pump stations, meters and check points to operate in a more complex manner in order to accurately monitor and adjust system variables. The five remote pump stations and reservoir sites currently in place are not properly equipped to handle the new system challenges. This project will upgrade the current I&C equipment and integrate it into the overall system.

Director Froseth said that AE2S is already familiar with our facility and systems needs that will be addressed within this project. They were also instrumental in applying for and receiving a State Water Commission (SWC) grant for this project at 60%. AE2S was selected earlier this year as the water system consultant for the next three years. Because

of that selection process and because of their familiarity with the project the Engineer's Office recommends selecting AE2S for this effort without another selection process. In assessing what the City may need as part of the project, AE2S has increased the preliminary estimate from what was initially discussed. In 2015 an estimate was used to submit to the State Water Commission (SWC) for the grant request that the City was successful in getting. Because of this increase, city staff is recommending that we agree to preliminary engineering design at this time. The agreement would be adjusted later when there is a final design and the bidding process has been completed. The agreement for the preliminary design services for this project estimates the cost to be \$32,600. The City will pay AE2S hourly up to that amount. If necessary, this matter will come back to the City Commission for approval if the amount is expected to exceed that. The State Water Commission grant assumes the funding responsibility for 35% of design and 65% for construction. The city's share based on this estimate would be $\$32,600 \times 65\%$ which comes out to approximately \$21,190 for this agreement. This amount is currently budgeted for and will come out of the utility fund. It was recommended to enter into an agreement with AE2S.

Commissioner Laber inquired about I&C upgrade, which usually consists of a new computer that is attached to the pumps for regulation purposes. Director Froseth explained that this project is separated into two parts and the Sunset Booster pump is the larger of the two parts which is separate from the I&C part of the project. More of the planning and construction would be in the Sunset booster pump part of the project. The second component is the instrument and implementation controls portion of the project and that is the overall system implementation of I&C. AE2S will help the City with this part of the design. The preliminary assessment will make sure that the City is covering the growth seen over the last several years in its pace of growth. The 2007 Master Plan was used previously and will probably not meet the needs going forward.

Commissioner Braun moved to approve the Preliminary Design Engineering Services Agreement with AE2S for the Sunset Booster Station and Distribution Control Improvements project. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Consider commission portfolio and committee assignments.* City Administrator Neubauer presented the portfolio and committee assignments for the Board of City Commissioners. One additional assignment was made and inserted in the Amended report, (the Finance Committee), and it will be assigned to Mayor Helbling. Mayor Helbling will be assigned the Mandan Progress Organization for now and that can be reviewed at a later time if necessary.

Commissioner Braun moved to approve the portfolio and committee assignments as discussed. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

5. *Consider Reappointment of Sue Balcom & Cameo Skager to the Dakota Media Access Board of Directors.* City Administrator Neubauer presented for reappointment a Mandan and a Morton County resident to the Dakota Media Access (DMA) Board of Directors. DMA serves both Bismarck and Mandan and is represented on their Board of Directors by residents from both communities. DMA President, Jack McDonald, is requesting Morton County resident Sue Balcom, and Mandan resident Cameo Skager, be reappointed to the DMA Board as Mandan representatives to a term ending July 1, 2020.

Commissioner Laber moved to approve the reappointment of Sue Balcom and Cameo Skager to the DMA Board of Directors to a term ending July 1, 2020. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration of Ordinance 1244 annexing property at 2300 14th Ave. SE.* Principal Planner Decker said that as brought forward at the last meeting, this is a request by the property owners to be annexed into the City of Mandan so they can obtain water and sewer services from the City. Commissioner Laber moved to approve the Second consideration of Ordinance 1244 annexing property at 2300 14th Ave. SE.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

2. *First consideration of Ordinance 1246 rezoning Lot 3, Block 1 of Sylvester's Industrial Park 3rd Addition.* Principal Planner Decker presented a request to review a previous action of restricted uses allowed in this CC zoning district. This proposed ordinance removes those restrictions. In 2008 restrictions were placed on the uses that could be developed in this area. The intent was to limit uses to less intense commercial uses, rather than more intense industrial uses. The categories of uses that were excluded were so broad that commercial uses that were considered appropriate for the area were excluded. In 2013 the use restrictions were removed from the adjoining properties in order to allow commercial uses. This request is to remove the use restrictions from this property in order to allow development of a national chain tire sales and auto repair store.

This use is part of Service Group B. This is an allowed use in the CC district and will be a business located within the building. Business Development and Communications Director Huber has discussed this proposed development with the developer and stated she is in favor of this rezoning. The use is compatible with neighboring uses. The Land Use and Transportation Plan recommended that this area be developed with commercial uses and this is a commercial use. It was recommended to approve this Ordinance by the Planning and Zoning Commission.

Commissioner Laber moved to approve the First consideration of Ordinance 1246 rezoning Lot 3, Block 1 of Sylvester's Industrial Park 3rd Addition. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner

Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

3. *First consideration of Ordinance 1247 amending and reenacting Sections 18-2-2 through 18-2-5 of the Mandan Municipal Code related to juvenile curfew.* Principal Planner Decker presented a request to revise the language within this code. The violation statements contained in 18-2-4 have been moved to 18-2-2. The current language only applies to 18-2-4 and is meaningless; Also, 18-2-5 has been renumbered to 18-2; and the word offense has been replaced with violation explaining that an offense is a type of violation.

Commissioner Braun moved to approve the First consideration of Ordinance 1247 amending and reenacting Sections 18-2-2 through 18-2-5 of the Mandan Municipal Code related to juvenile curfew. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

4. *First consideration of Ordinance 1248 adding and enacting Chapter 26 of the Mandan Municipal Code related to code enforcement.* Planner Decker explained that this proposed ordinance establishes uniform procedures for enforcing the code. Code enforcement currently involves working with several department directors. Duties will expand over time to include additional departments. It is appropriate to create a separate code enforcement chapter that establishes uniform procedures for dealing with violations of the municipal code in order to manage it better. Joseph A. Camisa Jr., City Code Enforcement Officer came forward and explained how the process works stating that the individuals that comply are typically cleared up in a very short time. Those who do not comply are taken through Municipal Court process. This provision will impose a fine of \$500 for repeat offenders. Any property that receives a \$500 fine or less would be assessed against the property.

The last component will create an appeals court. Residents will have 5 days to contact the code officer or correct the problem. If not corrected within the 5 days, another 5 days is given to correct. Extensions are granted if the request is reasonable. This does not eliminate the process of a legal court action. The ultimate goal is to achieve compliance with the code. City Attorney Brown commented that the work done on this revision is appropriate. It is designed to keep cases out of the court system and resolved in a timely fashion through an administrative process. If it does not work through the Code Officer, the issues would come before the City Commission which is an administrative body. Commissioner Laber requested that a determination be made as to the number of members appointed to this group, that it be determined to be either 3 or 5, and that the decision be made soon so it is in place.

Commissioner Braun moved to approve the First consideration of Ordinance 1248 adding and enacting Chapter 26 of the Mandan Municipal Code related to code enforcement.

Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

K. OTHER BUSINESS:

1. Mayor Helbling extended a thank you to Del Wetsch and the Mandan Progress Organization for their hard work during the 4th of July weekend festivities. Chief Nardello reported that there were approximately 5 grass fires and 1 structure fire during the 4th of July weekend, so that it was a fairly quiet weekend for the 4th of July.

There being no further actions to come before the Board of City Commissioners, Commissioner Braun moved to adjourn the meeting at 7:00 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/ Timothy A. Helbling

Timothy A. Helbling,
President, Board of City
Commissioners