
The Mandan City Commission met in regular session at 5:30 p.m. on July 7, 2015 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota.

Commissioners present were Van Beek, Tibke (via teleconference), Rohr, Laber, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, and Building Official Lalim. Absent: City Attorney Brown and Assessor Shaw.

B. APPROVAL OF AGENDA: Commissioner Rohr moved to approve the Agenda as presented. 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 to come forward to speak. 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 June 16, 2015 regular meeting; June 22, 2015 – Joint Mtg. w/Park Board; June 22, 2015 – Working Session; June 30, 2015 – Special Meeting.* Commissioner Braun 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:

1. *Consider request to vacate portion of 42nd St. NW:* Planner Decker stated this is a request to vacate an undeveloped right-of-way parcel that is a dead end. The applicants who border on this right-of-way have requested that it be vacated. There is an existing small service sewer line in this right-of-way and the City would create a 30 ft. utility easement over that sewer line in replacement of the right-of-way.

Mayor Van Beek invited anyone interested to speak for or against the request to vacate portion of 42nd St. NW to come forward. A second announcement was made to come forward to speak. Hearing none, this portion of the public hearing was closed.

Commissioner Laber commented that she has a concern with vacating a street that has been established and knowing that we have infrastructure in this right-of-way. However, after viewing the project, she said she agrees with Mr. Decker’s assessment noting that it would not easily join or serve anyone and that consideration should be given to the request.

F. BIDS:

G. CONSENT AGENDA

1. *Consider for approval Lakewood Commercial Park Fourth Replat.*
2. *Consider plat for West Hills Estates Fourth Addition.*
4. *Consider agreements with Lewis and Clark Regional Development Council for origination and servicing of loans associated with Bank of North Dakota PACE and Flex PACE interest buy-downs: (i) Developers, LLC (Memorial Square Shopping Center) (ii) National Information Solutions Cooperative (iii) E-C ND Investments, LLC (Malloy Electric).*
5. *Consider request from Jay Perkins, Water Meter Maintenance Supervisor, to carryover 30.38 hours of annual leave for six months.*
6. *Consider approval of change order for extension of completion deadline for Water Treatment Plant Phase II Optimization.*
7. *Consider Proclaiming July, 2015 as Bis-Man Transit Public & Personal Transit Appreciation Month in the City of Mandan.*
8. *Consider approval of replat of Lot 9, Block 1, Macedonia Hills.*
9. *Consider Change Order for time extension on Water Meter Improvement Project to August 31, 2015.*
10. *Consider waiver of bid irregularity for Northern Pacific “Beanery” – Preservation Improvements.*

Commissioner Laber moved to approve Consent Agenda 1 thru 10, excluding No. 3 that was removed. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Consider request to de-annex County Parcel No. 65-5784300.* Planner Decker stated that this parcel was originally annexed in 2007. The record shows that there was some discussion about needing this parcel for installation of a sewer lift station. Staff comments indicated that further evaluation indicated it was no longer needed. A Public hearing was held and the Ordinance was adopted at two subsequent meetings. The motion at the Public Hearing was to exclude this property but when the Ordinance was adopted, it included it. The property owner has requested that it be de-annexed. A question arises because it is in the flood plain of the Heart River. This property is mostly in the flood plain and some is even in the flood way which brought up the question if this should be continued because of future issues with the flood plain.

Commissioner Laber asked if there is water within close proximity of this parcel. Planner Decker stated that since it is in the flood plain it is highly unlikely that the majority of this would be developed. The history of this matter is that the applicant was originally the developer who developed the parcels to the south. The City added additional parcels and noticed this annexation was allowed a protest because the original one was expanded. It went through several steps which added this parcel then they discussed whether they needed it or not. It stayed in the Ordinance and the actual

property description was not changed. It was left in even though the motion at the end of the hearing was to leave it out. Now the question is should it be taken back out?

Commissioner Rohr commented that the taxes have increased and perhaps there should be a minimal tax for the parcel of land that would not be such an increase. Planner Decker mentioned that the primary issue is that the taxes have been lifted for various years. Commissioner Rohr stated he would like to see the taxes at a low level because of the situation rather than solve the problem by de-annexation. This is primarily a flood plain. Commissioner Laber stated that “buildable” is in the imagination of the developer and she has a hard time with “not able to be developed” unless there is an easement on it. If it was a water way easement that would permanently restrict building on it. Otherwise there is a potential to use it. The tax increase of \$160 has happened. She stated that she struggles with an action that happened in 2007. If it was a recent error and it was brought to the City’s attention that would be fair. However, 8 years later is a long time to not address it if it were a concern all these years.

Commissioner Laber moved to deny the request to de-annex County Parcel No. 65-5784300. Commissioner Tibke seconded the motion. Commissioner Rohr inquired if the landowner went through any assessment of the value procedures or did they just say this is too high? Planner Decker replied that he is not aware of any action. He said that it is a legitimate action and they could have it reviewed. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *First consideration of Ordinance No. 1208 rezoning Lakewood 8th Addition.* Planner Decker stated that this is the next phase of the Lakewood Project. This is a rezoning to add more residential lots which is consistent with the plan for this subdivision. Commissioner Braun moved to approve the First consideration of Ordinance No. 1208 rezoning Lakewood 8th Addition. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.
2. *Second consideration and final passage of Ordinance No. 1209 rezoning Lots 1-7, Block 1, Heart Ridge 2nd Addition.* Commissioner Laber moved to approve the Second consideration and final passage of Ordinance No. 1209 rezoning Lots 1-7, Block 1, Heart Ridge 2nd Addition. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.
3. *First consideration of Ordinance No. 1211 de-annexing County Parcel No. 65-5784300.* This was denied in previous discussion.
4. *Consider resolution vacating portion of 42nd St. NW.* Commissioner Rohr moved to approve the resolution vacating a portion of 42nd St. NW

and that the applicant file a plat adjusting the property boundaries and creating utility easement. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider Introduction and First Consideration of Ordinance No. 1212; An Ordinance to Amend and Re-enact Section 20-14-23(7) of the Mandan Code of Ordinances Relating to Parking of Certain Vehicles and Unattached Trailers Restricted.* Police Chief Bullinger presented this request stating that this is the first consideration of a proposed amendment to Section 20-14-23(7) of the Mandan Municipal Code of Ordinances which relates to parked vehicles and unattached trailers. The current ordinance says there is a 12 hr. limit for loading and unloading those vehicles. Chief Bullinger stated that he has visited with the Bismarck Police Department. He said that this request is to designate the period of time between May 15 and September 15 that would allow a trailer or vehicle to be parked on a street for a period not to exceed 72 hrs. On September 15 the ordinance would revert back to the 12 hr. limit until May 15 of the next year. Bismarck has an Ordinance from May 1 thru October 1, wherein these types of vehicles can be parked on the street for 48 hrs. and then October 1 to May 1 they cannot be on the street at all.

Commissioner Tibke stated a resident contacted her about parking his camper on a Thursday who was concerned that they run into problems because of the 12 hr. limit. So it makes sense to allow the additional time of either 48 hrs. or 72 hrs. Mayor Van Beek inquired if during the September 15 through May 15 period that residents could park on the street for the 12 hr. period and the rest of the time it would be extended to 48 or 72 hours? Mayor Van Beek inquired if that is something Mandan should consider for snow removal purposes? Chief Bullinger stated that it could be a consideration and he stated that the violation fee is \$10 in Mandan and \$20 in Bismarck. Mayor Bullinger said that increasing Mandan's violation fee could also be looked at. Commissioner Laber voiced concern about making sure safety issues are taken into consideration; in particular, if there is view obstruction caused by any parked vehicle. Commissioner Braun commented that he is concerned about enforcement of parking violations and how that would be handled.

Commissioner Laber moved to approve the Introduction and First Consideration of Ordinance No. 1212; An Ordinance to Amend and Re-enact Section 20-14-23(7) of the Mandan Code of Ordinances Relating to Parking of Certain Vehicles and Unattached Trailers Restricted to 72 hrs. Commissioner Tibke seconded the motion.

Tom Kopp, 2412 8th Avenue Southeast, Mandan, came forward to speak. He identified himself as the resident that had called Commissioner Tibke on this matter. He stated that with regard to May 15 to September 15, he would like to do away with it all together because there are City residents that have no place else to put these vehicles. He mentioned that he worked with another Mandan resident that let him put a camper pad on his property. Kopp said that on his property he has a light pole on one side and a fire hydrant on the other side. There were 2 trees on the boulevard when he purchased his

house. Just to get permission to cut the tree down he was able to get a hold of Kaiden and that was taken care of. In order to back his camper in he has to go around the fire hydrant. There is an ordinance in place with regard to how far away you have to be from fire hydrants. In essence, he complained that there is no allowance for him to put a parking pad on his property.

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

K. OTHER BUSINESS:

Mayor Van Beek extended a thank you to everyone who came out for the recent 4th of July festivities.

There being no further actions to come before the Board of City Commissioners, Commissioner Braun moved to adjourn the meeting at 6:05 p.m. Commissioner Laber 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