
The Mandan City Commission met in regular session at 5:30 p.m. on June 4, 2013 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, and Frank. Department Heads present were Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Fettig, and Building Official Lalim. Absent: Commissioner Braun, Finance Director Welch, and Director of Public Works Wright.

B. APPROVAL OF AGENDA: Commissioner Rohr motioned to approve the Agenda as presented. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

C. PUBLIC COMMUNICATIONS:

(1) Susan Beehler, Mandan City Resident, came forward and commented on the minutes for the Board of Equalization meeting dated April 30, 2013. She mentioned she had posed a question to the Assessing Department, Mr. Barta, and she said she has not received an answer. “Mr. Barta stated that 30% of the commercial property is exempt from property tax in our City”. Of that amount Beehler stated she would like to know what is contributed to the discretionary tax exemption that the City Commission grants and what percentage is attributed to government and non-profit buildings not required to pay that tax. Beehler asked for clarification on this question that was brought up at that meeting: Are the exempt properties added into the property valuations when determining the mill levy? Because if they are, according to Miss Marcy Dickerson from the State Tax Department, (Property Tax Division), she said that most county auditors do this. She said when this happens then the rest of the properties that are not exempt are paying the property tax for those that are exempt.

Beehler stated she has been attending the City Commission meetings beginning in 2005 and have disagreed with the liberal policy of property tax exemptions. She looked back on the budgets from 2006 compared to the 2013 budget and she has found that all the growth in our City has only brought in a little over \$500,000 more in property tax revenue. A 20% increase in revenue yet our taxable value from 2006 to 2012 was over \$30 million to almost \$47 million and it was about a 57% increase yet we have only achieved a 20% increase. What is the cause that we’re not growing the property tax revenue but the property tax valuations are growing? From 2006 to 2013 the Police Department has had a 28% increase in their budget yet the Auditor’s Office had a 96% increase and the Building Inspections had 158% increase and the Assessor’s Office had a 37% increase and Planning and Zoning went up 74%? She would like to know where our property tax dollars are going and why they are not going to provide for the safety of our residents. Tonight the City will be looking at annexing in several parcels of land. Back in 2006 it was also looked at being done at that time. She is of the opinion that the current safety needs for residents are not being looked at and she wanted to provide her comments in regards to those matters.

Commissioner Rohr commented that it is not correct to compare one department to another explaining there is a rationale behind it and one has to understand the dynamics and what you are comparing.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission meetings held on (i) April 30, 2013 – Board of Equalization and (ii) May 21, 2013 – Regular Board Meeting.* Commissioner Tibke moved to approve the minutes from the Board of City Commission meetings of (i) April 30, 2013 – Board of Equalization and (ii) May 21, 2013 – Regular Board Meeting. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

1. *Public Hearing to consider a two-year tax exemption for JDS Holding, LLP.* Building Official Lalim presented an application from JDS Holding, LLP for the construction of a new 42-unit apartment building tax exemption. The notices to competitors were published in the Mandan News on May 3rd and May 10th. There has been no opposition to the request. Notices were sent to Morton County, Mandan Park District and Mandan School District and there was no opposition received from those entities.

Mayor Van Beek announced this is a public hearing for consideration for a two-year tax exemption for JDS Holding, LLP. He invited anyone for or against the request to come forward.

Susan Beehler, a Mandan resident, came forward and stated she objects to the tax exemption for JDS Holding, LLP. This is not any kind of a special apartment building need for the City of Mandan. She inquired as to when our economy will be at a point where we do not have to subsidize businesses with property tax exemptions. She stated that every dollar that is given as a tax exemption is one less dollar she has for her family or her business. She recommended that if the City Commission is compelled to give a tax exemption that only the City portion is given.

Mayor Van Beek provided a second announcement to come forward to speak for or against the request for property tax exemption for JDS Holding, LLP. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke asked if a representative from JDS Holding was available to answer any questions. James Moen from Minot came forward. Commissioner Tibke questioned the annual expenses on the application. She inquired if the property tax amount is a part of the expenses. Moen replied that yes, an estimated property tax is included.

Commissioner Frank asked whether there would be a commitment to affordable housing within this project and if they have such a plan in this complex. Moen indicated that affordable housing is not a part of this plan. The rents are expected to run between \$1,000 and \$1,100 per month. Commissioner Frank inquired about any green space in

the apartment complex plan. Moen replied that green space will be taken into account in the space available to meet the requirements. Moen stated that the green space allotted for this project will be according to the ordinances and that any space not used for buildings will be used as green space. Commissioner Frank referred to the application under Business Competition at line item #25, (“Is any similar business being conducted by other operators in municipality?”) “No” was checked for the question. Moen stated that it has been updated to where there are various other businesses of similar nature. Commissioner Frank questioned Moen as to his thoughts on including affordable housing. Moen replied he thought that is something that could be incorporated into the plan. Commissioner Frank suggested using a percentage of the City’s commitment to the project (dollar-wise). The percent could be designated to the overall investment in the building. In this case it would be about 3% buy-in from the City. Would Moen designate 3% of his units to affordable housing? Moen replied that they could do that.

Commissioner Tibke asked Moen if he would commit to designating 3% of affordable housing to this project. Moen replied that yes, he would be comfortable with that.

Commissioner Frank stated that the City’s investment would be 3.5% which would equate to 1.5 units. She would suggest using the chart referred to as Median Family Incomes which is a chart that puts the rent between \$600 and \$1,000 per month. Those details could be outlined in the exemption contract.

Commissioner Frank moved to approve the two-year tax exemption for JDS Holding, LLP at 100% including the commitment to designate 3% of the build-out for affordable housing to be defined.

Moen clarified that the 3% would equal 1.5 units and he proposed making it 2 units committed to affordable housing. Commissioner Tibke seconded the motion.

Commissioner Rohr stated that the property tax exemption for retail has been one of the biggest conflicts in terms of decision making as a commissioner. He recommended that the City Commission revisit the policy for property tax exemptions and determine if a more conservative method should be adhered to or what future direction the City should be taking while considering the best interests of the City and its residents. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

Commissioner Tibke requested the Board set a date to revisit the property tax exemption policy review. July 8th has already been set aside. However, Tibke suggested moving the date sooner rather than later. Dates suggested were Tuesday, June 18th before the regular meeting, or Thursday, June 20th. Thursday, June 20th, 6:00 p.m. was tentatively set pending schedules being checked and Commissioner Braun’s availability.

F. BIDS:

1. *Consider award of bid for Street Improvement District No. 176, Project 2012-20(McKenzie Drive SE, Genoa Court SE & 34th Avenue SE). (See Resolution No. 4).*

Engineering Project Manager Fettig reviewed with members the bids that were received on May 28, 2013 and that Northern Improvement Company was the low bidder for the project in the amount of \$1,240,657.70. The engineer's estimate was \$1,422,246.00. The project will be paid for by special assessments from the benefiting properties within the district. A preliminary assessment was provided and calculated by units and per unit it would cost \$15,704.53.

Commissioner Rohr moved to approve the award of bid for Street Improvement District No. 176, Project 2012-20(McKenzie Drive SE, Genoa Court SE & 34th Avenue SE) to the low bidder, Northern Improvement Company in the amount of \$1,240,657.70. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

2. *Consider awarding the Roughrider Estates Collection System Extension project to Kvamsdal Construction, Inc.* City Administrator Neubauer stated that bids were received for the replacement of the Roughrider Estates lagoon system, with plans to replace it with a regional lift station. Two bids were received with the low bidder (including the leveling of the existing pond dikes Alternative No. 1) being Kvamsdal Construction for \$822,422. The total budget for this project was \$743,000. Public Works and Planning & Zoning recommended awarding the bid to Kvamsdal Construction for \$822,422.

Commissioner Frank motioned to award the base contract along with Alternate No. 1 to Kvamsdal Construction, Inc. for \$822,422 contingent upon approval from the North Dakota Department of Health and upon constructing the lift station outside the proposed beltway corridor. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

G. CONSENT AGENDA

1. *Consider for approval the final plat of the Replat of Lot 3, Block 1, Lakewood Commercial Park 2nd Addition.*
2. *Consider for approval the final plat of Meadows 7th Addition.*
3. *Consider for approval the final plat of River Garden Addition.*
4. *Consider for approval a variance request for Lots 11 & 12, Block 1, Terra Vallee 6th Addition.*
5. *Consider approval of site authorization for Mandan Baseball Club, Inc. at Westside Bar & Grill/Mulligans from July 1, 2013 through June 30, 2014.*
6. *Consider approval of a Homestead Credit Exemption for Lorraine Glasser.*
7. *Consider to waive the competitive bidding requirement for the replacement of air handling unit at the Memorial Building (City Hall).*

Commissioner Tibke moved to approve the Consent Agenda as presented. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner

Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

1. *Consider a two-year tax exemption for Zueger Properties, Goldstar Properties, and Verity Homes.* Commissioner Rohr stated that this matter was discussed at the last meeting and at that time he had excused himself because of a conflict of interest. He again excused himself for this portion of the meeting. City Administrator Neubauer stated that at the last meeting there was a motion to consider the request by the entity because they were requested to consider some low income or affordable housing for this project. The developer was requested to research that possibility and to come back with an answer in order for the Board to make a definitive motion on whether to grant or not grant the exemption request.

Jeff Zueger came forward and stated that he and his business partner did look into what it would take to have these units potentially qualify for low income housing. Zueger asked for clarification from Commissioner Frank of the request because he indicated it may have some effect on his business plan. Commissioner Frank explained that the request was to provide some affordable housing under this public/private partnership. According to most people, affordable housing is spending no more than 30% of income on housing expenses. For the extremely low income, which is earning 0-30% of the median family income, their rent affordability is \$408.00 per month. For very low income, (31-50% of the median family income), they should spend no more than \$681.00 per month. Then there is the low income group who shouldn't spend more than \$1,089.00 per month. (These are based on the median housing income in Mandan which is \$54,492.) For term, the two year tax exemption period would be the time frame and then when that two-year period expires the business would be on the tax rolls.

Zueger questioned whether there is an inflationary element to that so that if the project is constructed in late 2014 there would be some other element to this? Commissioner Frank deferred to City Administrator Neubauer and City Attorney Brown to establish that language. Commissioner Frank stated in summary, it would be a two-year commitment from Zueger Properties to the City for affordable housing for this project. She stated that the percentage would equate to 1.06 units at the 3.5%. Zueger replied that 3% building costs is not quite the same as the 3.5% property tax exemption. He explained that the property tax exemption is important to their business venture and is one of the reasons they want to build in Mandan. He stated that they are not in a position at this time to commit to the affordable housing request but they will consider it as they move forward with their business plan. The rates for his units will average \$1000 per month. He stated that if a contingency would be in place if a qualified renter for this unit could not be found, that it could be rented out under normal rental rates. Commissioner Frank replied that should be acceptable.

Commissioner Frank motioned to approve a two-year tax exemption for Zueger Properties, Goldstar Properties, and Verity Homes including a requirement that one unit be designated for affordable housing based on finding a qualified rental (low-income)

candidate, based on the median family income for the City of Mandan and affordable housing rates to be more specifically stated in an agreement drafted by the City Attorney.

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

I. NEW BUSINESS:

1. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 185, Project No. 2013-19 (Heart Ridge 2nd Addition). (See Resolution No. 5).* Engineering Project Manager Fettig reviewed with the Board a request from the developers that the City allow the special assessment of street costs to the benefitting properties for the development of Heart Ridge 2nd Addition. The costs of the project would be \$1,048,816.55. Engineering and administration will add \$262,204.14 bringing the total to \$1,311,020.69. This would be special assessed to the benefitting properties. There are 78 lots within the special assessment district which will come out to \$16,808 per lot in specials.

Commissioner Rohr moved to approve the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 185, Project No. 2013-19 (Heart Ridge 2nd Addition).

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

2. *Consider mill and overlay projects on 46th Ave SE and 2nd Street NW.* City Administrator Neubauer reviewed with the Board that it was discussed at the May 21st meeting that the City of Mandan received funds from the State of North Dakota for street repair and maintenance projects. Two projects were selected with the Board's concurrence. One project is to take care of problems on Second Street (Collins Avenue to 6th Avenue) for milling, patching and overlay chip and seal. Two bids were received with Northern Improvement Company as the low bidder in the amount of \$112,723. There also is a Part 2 on 46th Avenue SE (29th Street to South Bay Drive). There are some repairs that need to be done due to all the truck traffic created during the flood of 2011. The low bid was from Northern Improvement for \$103,995. Neubauer requested change orders to these projects to the Diane's Addition Street Maintenance Project. These will be paid in full via the additional funding received and there will be no cost to the residents for these two projects. The total bid amount would be to Northern Improvement for \$103,995. This will include a mill overlay and chip seal.

Commissioner Frank inquired if the funds will cover the project costs and no assessments to homeowners? Administrator Neubauer replied that is correct; there would be no special assessments for these two projects.

Commissioner Rohr moved to approve the mill and overlay projects on 46th Ave SE and 2nd Street NW to Northern Improvement for \$216,718, and to allow a change order on Diane's Addition project. Commissioner Frank seconded the motion.

Commissioner Rohr commented that Second Street has been in need of repair for a long time and to repair any sewer or water lines would create astronomical costs to the property owners in that area. Although this is not the best approach to resolving the street repairs at this at this time, it is an affordable one that can be done at the present time.

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

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance No. 1150, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of Section 3, Township 138 North, Range 81 West).* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No. 1150, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of Section 3, Township 138 North, Range 81 West).

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

2. *Second consideration and final passage of Ordinance No.1151 Zone Change for parts of Meadow Ridge 3rd Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No.1151 Zone Change for parts of Meadow Ridge 3rd Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

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

3. *Second consideration and final passage of Ordinance No.1152 Zone Change for School District 5th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No.1152 Zone Change for School District 5th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

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

4. *Consider Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 176, Project 2012-20(McKenzie Drive SE, Genoa Court SE & 34th Avenue SE).* Commissioner Frank moved to approve the Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 176, Project 2012-20(McKenzie Drive SE, Genoa Court SE & 34th Avenue SE).

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

5. *Consider the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 185, Project No. 2013-19 (Heart Ridge 2nd Addition).* Commissioner Rohr moved to approve the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 185, Project No. 2013-19 (Heart Ridge 2nd Addition).

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

6. *Consider Resolution annexing certain lands adjoining the City of Mandan.* City Administrator Neubauer stated that at the May 21st meeting, staff including both City Attorney Brown and himself were directed to come up with a Resolution annexing certain lands adjoin the City of Mandan. As stated earlier by Ms. Beehler, the City attempted an annexation in north Mandan in 2006/2007; however, that effort was not successful. There are 70-80 acres that have been purchased to the north and 500-600 acres to the northwest have or will be requesting to have City infrastructure installed. We can start to plan and service this area more effectively and efficiently with the annexation of the land. Between 100 and 110 property owners in this area will be notified and there will be an opportunity for protest with the 30 days from Friday if this Resolution is approved and a public hearing will be held July 16.

Commissioner Tibke moved to approve and cause publication of the Resolution annexation of certain lands adjoining the City of Mandan as described in the Resolution. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS

1. Buggies-n-Blues weekend is scheduled for June 8th and June 9th. Commissioners and the public were all encouraged to attend the events scheduled.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the meeting at 6:25 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