
The Mandan City Commission met in regular session at 5:30 p.m. on March 4, 2014 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank and Braun. 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, Planning & Engineering Director Froseth, Planner Decker, Engineering Project Manager Fettig, Assessor Shaw, and Building Official Lalim.

B. APPROVAL OF AGENDA: Commissioner Rohr motioned to approve the Agenda as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

Mayor Van Beek announced that there is a “Learn About Local Elected Office Opportunities” informational meeting scheduled on March 11, 2014. This is an informational session for people exploring the possibility of running for local, elected leadership positions and will be held Tuesday, March 11th from 7 to 8 p.m. at the Braves Center, 901 Division Street Northwest. Everyone is invited to attend. There is no fee for the session. Advance Registration is encouraged via the City of Mandan website at www.cityofmandan.com or by contacting Laurie Leingang at 400-8631 or leingangl@bis.midco.net. The session is sponsored by Mandan Tomorrow Leadership, Pride and Image Committee. Positions up for election in 2014 include 2 seats on Mandan City Commission, 2 seats on Morton County Commission, 3 seats on Mandan Park Board and 4 seats on the Mandan School Board including 1 rural position. The deadline to file is April 7th.

C. PUBLIC COMMUNICATIONS: Mayor Van Beek invited anyone to come forward to address items on the Agenda.

Mike Aubol, the County Engineer from Morton County, came forward to comment on New Business Item No. 5: *Consider the creation of, approval of the feasibility report for, approve the engineer’s report and approve the resolution of necessity for Street Improvement District 196 Project 2014-14(Mandan Industrial Park)*. Mr. Aubol stated that he received literature on the proposed streets. He drove around and viewed 34th and 37th streets. He indicated that if the project were to go through with concrete, the cost would be in excess of \$400,000. He commented that 30th Avenue appears to be in good condition with no major issues. That is proposed to have a \$320,000 mill and overlay. Thirty-seventh Street, west of 30th is also proposed for approximately \$125,000 mill and overlay. There are parts of 37th Street which run past the Morton County Shop and other businesses that have some areas that do need repair, as there are on 34th. But the majority of the roadway is in good condition. The 37th Street repairs are estimated at \$793,000 with 34th Street repairs estimated at \$993,000. The two worst riding areas on 37th Street appeared last year when utilities were tied in on 37th Street. He recommended that the Commission and the City of Mandan consider the feasibility of doing a dig out patch and repair project rather than a mill and overlay.

Scott Porsborg came forward and commented on the proposed Industrial Park street improvement project. He stated he owns the lot located at 3609 Old Red Trail that abuts to 37th Street which is part of this assessment district. What is being proposed as part of this district is square footage assessment as opposed to foot frontage which is what's usually done which means a higher assessment for the larger lots. City staff has estimated a special assessment on the lot he owns to be about \$108,000. The other smaller lots will also have a significant assessment. He expects if the project is approved to go forward, it will be protested out by the landowners. He suggested that the City consider looking at other alternatives.

A second announcement was made to speak for or against items on the Agenda. 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 regular meeting held February 18, 2014 and Special Board Meeting of February 24, 2014.* Commissioner Frank moved to approve the minutes as presented. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

1. *Consider award of bid for LWT Floating Dredge.* Justin Froseth, Planning & Engineering Director stated this request is for approval of the award of bid for the LWT Floating Dredge to Spinpro, Inc., in the amount of \$15,000.00. This is a piece of equipment that is no longer needed at the Wastewater Treatment Plant and was declared surplus. One bid was received from Spinpro, Inc. The bid price was determined to be fair and reasonable. The bidder will be responsible for its removal from the Wastewater Treatment Plant and it will have to be removed within the timeframe designated in the bid instructions.

Commissioner Tibke moved to approve the award of bid for LWT Floating Dredge to Spinpro, Inc. in the amount of \$15,000.00. Commissioner Rohr seconded the motion. . The motion received unanimous approval of the members present. The motion passed.

2. *Consider award of bid for Municipal Sidewalk Improvement Project 2014-11 (See Resolution No. 3).* Kim Fettig, Engineering Project Manager, presented a request to award a contract for bids received for the 2014 Municipal Sidewalk repairs throughout the city. She stated that five (5) bids were received. It was recommended that the award be given to the low bidder, Knife River Corporation in the amount of \$32,832.75 which was 13% lower than the engineer's estimate for this project.

Commissioner Frank moved to approve the bid award for Municipal Sidewalk Improvement Project 2014-11 to Knife River Corporation in the amount of \$32,832.75.

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

G. CONSENT AGENDA

1. *Consider designating April 26-May 3, 2014 as “Spring Clean-Up Week in the City of Mandan.*
2. *Consider approval of site authorization for Mandan Baseball Club at Station West from April 1, 2014 through June 30, 2014.*
4. *Consider reductions in the structure value for the 2013 year due to reassessments.*
5. *Consider approval of Missed Property Tax Incentives for Silver Lake Apt., LLC - Assessor Error.*

Commissioner Frank moved to approve Consent Agenda items No. 1, 2, 4, 5. She requested pulling No. 3 for discussion. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider entering into professional services contract with Municode for recodification of our Municipal Code.* Commissioner Frank questioned City Administrator Neubauer as to whether Municode had communicated with the City of Mandan how we have some civic engagement and involvement in how this is re-codified? Administrator Neubauer stated that any new ordinances proposed would have to come in to the City Commission for review and approval. Commissioner Frank clarified that adequate time for preparation be given for any proposed changes to the code and wanted to make that point clear up front and to be transparent with anything that may come up in the future. Administrator Neubauer stated that the process with Municode is that they will review the entire code and prepare a Memorandum of changes they would suggest to bring a code into compliance with state law and anything subsequently to the attention of City staff and the City Commission. He assured the Commission that if anything of substance comes back the Commission will be informed.

Commissioner Frank moved to approve Consent Agenda items No. 3 – entering into professional services contract with Municode for recodification of our Municipal Code. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

1. *Consider Approval of Engineering Services Agreement with KLJ Engineering.* Justin Froseth, Planning & Engineering Director, presented a request to approve the Engineering Services Agreement with KLJ Engineering. He stated the City has been approved by the NDDOT local government division to construct 3 street improvement projects in 2014. Eighty percent or more of the project cost will be funded by the urban roads program that is administered through the NDDOT. All projects must go through the NDDOT bidding process requiring the plans and specifications to adhere to their

guidelines. The Engineering office presented a recommendation at the last City Commission meeting on February 18, 2014 to enter into an Engineering Service Agreement with KLJ Engineering based on the Request for Qualifications they submitted. Their proposal was selected. He, along with Public Works Director Jeff Wright, met with the KLJ representatives to define the project scope and review the associated estimate of costs for services. A site visit has also been conducted for each of the projects. The proposals and design fee summary are fair for the projects. The total fees for all engineering and pre-bid services for the DOT come to \$52,016. It was recommended to approve the Engineering Services Agreement with KLJ Engineering.

Commissioner Braun moved to approve the Engineering Services Agreement with KLJ Engineering for federally funded street improvement projects. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

I. NEW BUSINESS:

1. *Consider fiscal sponsorship of Bush Foundation Community Innovation Grant application.* Business Development and Communications Director Huber presented a request to consider fiscal sponsorship of an application for a \$200,000 Bush Foundation Community Innovation grant application in collaboration with the Mandan Tomorrow. The deadline for the application is March 13th. The first grants were awarded in late 2013 and they are seeking community projects for non-profits or a government entity. The Mandan Tomorrow Leadership, Pride and Image Committee is seeking the City of Mandan's endorsement of the sponsorship. The application will be for \$200,000 over a course of 2 years. The sponsorship essentially means that if the funds are awarded or approved by the Bush Foundation they would be deposited with the City of Mandan Growth Fund and there would be no administrative fee on the part of the City in administering this program.

We would bring to it in-kind services in the form of accounting and time from the Business Development Department in executing the program. The concept would be to provide up to \$10,000 per property for commercial and industrial use for the business property owner or tenant to apply. City Attorney Brown has reviewed the Fiscal Sponsorship Agreement. It was recommended to approve the grant application. There is no requirement for a match. However, as in any grant process, the Bush Foundation would look favorably if there were a match. The Leadership, Pride and Image Committee is not making that request of the city at this juncture. This grant is specifically allocated to Minnesota, North Dakota, South Dakota and the Indian Reservations. On the application the businesses would be required to have a 50% match for any storefront or landscape improvements and the criteria would be similar to the existing program.

Commissioner Braun moved to approve the fiscal sponsorship of Bush Foundation Community Innovation Grant application. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner

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

2. *Remediation Update by Leggette, Brashears & Graham.* Tim Kenyon, Senior Vice President with Leggette Brashears & Graham (LBG) presented an update on the status of the cleanup of the diesel spill. He said that approximately 2.7 million pounds of product has been collected and he projects the recovery wells to stop by 2016. Over 360 recovery wells were installed for the cleanup. LBG was hired in 2004 by the Mandan Remediation Trust to do the cleanup. The trust was set up with \$25 million settlement from the railway with the majority of the funds earmarked to pay for the cleanup. The plan going forward starting this spring and over the next two years includes shutting down 322 of those wells throughout a yearlong phase shutdown monitoring. If all goes well those wells will be decommissioned in the spring of 2015. In the meantime 55 wells will continue to operate because of pockets left by the diesel with possible plans to decommission those wells in 2016 which would conclude the project. Commissioners Tibke and Rohr extended a thank you to LBG for the many years of service dedicated to this project.

3. *Consider the creation of, approval of the feasibility report for, approve the engineer's report and approve the Resolution of necessity for Street Improvement District 194 Project 2014-12(Developer's West Acres, Ventures, and Crown Point) (See Resolution No. 4).* Justin Froseth, Planning & Engineering Director presented a request for approval of the feasibility report for approval of the engineer's report and approval of the Resolution of necessity for Street Improvement District 194 Project (2014-12 Developer's West Acres, Ventures, and Crown Point). City staff has observed the street surface within the development has been degraded to the extent that street improvements are needed. This is a 4-mile asphalt paving project with an estimated total cost of \$2,549,592.12. The benefiting property owners will be assessed approximately \$7,992 per parcel. The last project was done in 1997 which was an overlay at that time. Property owners will have until April 7, 2014, to submit written protests. On April 15, 2014, a hearing will be held to determine objections to the special assessment district. Affected property owners will be notified by letter by the City of the proposed property tax increase.

Commissioner Frank moved to approve the creation of, approval of the feasibility report for, approve the engineer's report and approve the Resolution of necessity for Street Improvement District 194 Project 2014-12(Developer's West Acres, Ventures, and Crown Point) (See Resolution No. 4). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider the creation of, approval of the feasibility report for, approve the engineer's report and approve the resolution of necessity for Street Improvement District 195 Project 2014-13(Roughrider Estates) (See Resolution No. 5).* Justin Froseth, Planning & Engineering Director presented a request for approval of the feasibility report for approval of the engineer's report and approval of the Resolution of necessity for

Street Improvement District 195 Project 2014-13(Roughrider Estates). City staff has observed the street surface within the development has been degraded to the extent that street improvements are warranted. This was confirmed by a professional analysis of the streets conducted by Dynatest Consulting in 2012. An optional public input meeting was held on February 20, 2014. All property owners were notified by letter and approximately 30 property owners attended the public meeting.

This is a pavement project that will consist of a mill and overlay of all streets in the development but not full replacement of curb and gutter and it will include street lighting throughout but no sidewalks. The estimated total cost is \$761,591. The benefiting property owners will be assessed the costs for the project of approximately \$9,402 per parcel. Property owners will have until April 7, 2014 to submit written protests. On April 15, 2014, a public hearing will be held to determine objections to the special assessment district. Affected property owners will be notified by letter by the City of the proposed property tax increase. Commissioners Rohr and Frank requested that Mr. Froseth check into any kind of grants that may be available to decrease the costs for the residents in this area, as well as in regards to the energy efficiency and safety of the street lighting portion of the project.

Commissioner Frank moved to approve the creation of, approval of the feasibility report for, approve the engineer's report and approve the resolution of necessity for Street Improvement District 195 Project 2014-13. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider the creation of, approval of the feasibility report for, approve the engineer's report and approve the resolution of necessity for Street Improvement District 196 Project 2014-14(Mandan Industrial Park) (See Resolution No. 6).* Justin Froseth, Planning & Engineering Director presented a request for approval of the feasibility report for, approve the engineer's report and approval of the resolution of necessity for Street Improvement District 196 Project 2014-14 for Mandan Industrial Park. City staff has observed the street surface within the development has been degraded to the extent that street improvements are needed. This was confirmed by a professional analysis of the streets conducted by Dynatest Consulting in 2012. An optional public input meeting was held on February 19, 2014. All property owners were notified by letter and 3 property owners attended the public meeting.

Options that were discussed were for the main east to west roads that being 34th Street and 37th Street through the Industrial Park. The options discussed were if the surface should be a mill and overlay project or asphalt pavement or whether these roads should be reconstructed with concrete. This area experiences heavy truck traffic on all roads and it is felt that it will be beneficial to move forward with a project in this area now rather than wait for any period of time since those roads were determined to be inadequate by Dynatest in 2012.

There were concerns at the public input meeting of square footage property for each lot. The City Engineer's office, (along with Public Works), have concluded that given the nature of the Industrial Park the most fair way to distribute the assessments should be determined by area of property because they would have more room to conduct business in addition to see more traffic flow generated by a larger piece of property.

This recommendation is subject to approval by the Special Assessment Committee as to how the assessments will be assessed. Commissioner Rohr commented that it is important to take into consideration the costs of repair now vs. the cost of a complete replacement of the road. Mr. Froseth pointed out that a road can be expected to last twice as long if concrete is used rather than pavement which equates out to about one-third more of the cost when compared to reconstruction with asphalt.

Commissioner Frank commented that regarding the discussion that was held earlier as far as communicating with the property owners the term that's available as far as the special assessment period and the financial impact. She inquired if there is an option to go from a 20-year assessment term to a 25-year term? Finance Director Welch stated that with a project like this, for example, the majority of the cost is due to concrete product. He recommended consideration of a 20-year assessment and a 20-year bond. When looking at a longer term there is a higher interest component because of the longer financing. If the concrete cost is more than 50% of the cost he would recommend a 20-year term vs. a 15-year term. The total project cost is estimated to be \$2,230,923. Property owners will have until April 7, 2014, to submit written protests. On April 15, 2014, a hearing will be held to determine objections to the special assessment district. Affected property owners will be notified via letter by the City of the proposed property tax increase.

Commissioner Frank moved to approve the creation of, approval of the feasibility report for, approve the engineer's report and approve the resolution of necessity for Street Improvement District 196 Project 2014-14. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance No.1179 an Ordinance to amend and reenact Section 21-03-02 of Ordinance 1088 of the Mandan Code of Ordinances relating to district boundaries and zoning map. (Schaff's Industrial Park).* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No.1179 an Ordinance to amend and reenact Section 21-03-02 of Ordinance 1088 of the Mandan Code of Ordinances relating to district boundaries and zoning map. (Schaff's Industrial Park). Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Second consideration and final passage of Ordinance No.1180 an Ordinance to Amend and Re-enact Section 13-21-02, and Section 19-06-03 of the Mandan Code of*

Ordinances. Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No.1180 an Ordinance to Amend and Re-enact Section 13-21-02, and Section 19-06-03 of the Mandan Code of Ordinances. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider Resolution Approving Contract and Contractor's Bond for Municipal Sidewalk Improvement Project 2014-11.* Commissioner Frank moved to approve the Resolution Approving Contract and Contractor's Bond for Municipal Sidewalk Improvement Project 2014-11. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider the Resolutions creating district, approving engineer's report and resolution of necessity for Street Improvement District 194 Project 2014-12(Roughrider Estates).* Commissioner Frank moved to approve the Resolutions creating district, approving engineer's report and resolution of necessity for Street Improvement District 194 Project 2014-12(Roughrider Estates). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider the Resolutions creating district, approving engineer's report and resolution of necessity for Street Improvement District 195 Project 2014-13(Developers West Acres, Ventures, and Crown Point).* Commissioner Frank moved to approve the Resolutions creating district, approving engineer's report and resolution of necessity for Street Improvement District 195 Project 2014-13(Developers West Acres, Ventures, and Crown Point). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Consider the Resolutions creating district, approving engineer's report and resolution of necessity for Street Improvement District 196 Project 2014-14(Mandan Industrial Park).* Commissioner Frank moved to approve the Resolutions creating district, approving engineer's report and resolution of necessity for Street Improvement District 196 Project 2014-14(Mandan Industrial Park). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS

There being no further actions to come before the Board of City Commissioners, Commissioner Rohr moved to adjourn the meeting at 6:40 p.m. Commissioner Frank

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