
The Mandan City Commission met in regular session at 5:30 p.m. on May 17, 2011 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Jackson, Rohr and Frank. Department Heads present were City Administrator Neubauer, Director of Public Works Wright, Business Development and Communications Director Huber, Finance Director Welch, Deputy Police Chief Leingang, Engineering Project Manager Bechtel, Fire Chief Nardello, City Assessor Barta and City Attorney Brown.

MINUTES: Consider approval of the minutes for May 2, 2011, Special Meeting; May 3, 2011, Regular Meeting; and May 9, 2011, Special Working Session of the Board of City Commissioners. Commissioner Jackson moved to approve the minutes as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing to consider a 5-Year Ad Valorem tax exemption for Randy Rhone d/b/a Little Caesars.* City Assessor Barta presented a request on behalf of Randy Rhone, d/b/a Little Caesars for a 5-Year Ad Valorem tax exemption. Barta stated no oppositions have been received. Barta stated that the Mandan Growth Fund (MGF) voted unanimously to recommend approval of the plan as presented.

Mayor Helbling stated that this is a public hearing and asked for comments from the audience. Hearing none after a second announcement, the public hearing was closed.

BIDS:

CONSENT AGENDA:

1. *Consider approval of monthly bills.* The Board approved of the monthly bills.
2. *Consider approval of Lakewood Commercial Park 5th Addition Zone Change. (First reading of Ordinance 1095).* The Board approved of the Lakewood Commercial Park 5th Addition Zone Change. (First reading of Ordinance 1095).
3. *Consider appointment to the Mandan Airport Authority.* The Board approved of the re-appointment of Dr. Dale Klein to the Mandan Airport Authority.
4. *Consider proclamation designating the week of May 16-20, 2011 as Project Hope Week for the Bismarck Cancer Center.* The Board approved of the proclamation designating the week of May 16-20, 2011 Project Hope Week - Bismarck Cancer Center.
5. *Consider request of budget amendment from the Mandan Police Department for funding from the Alarm Fund.* The Board approved of the request of budget amendment from the Mandan Police Department for funding from the Alarm Fund.
6. *Consider budget amendment from Wastewater Treatment Plant for the purchase of new flat bottom boats.* The Board approved of the budget amendment from the Wastewater Treatment Plant for the purchase of new flat bottom boats.
7. *Consider for approval the applications for beer garden and street dance events.* The Board approved of the applications for beer garden and street dance events.
8. *Consider approval of the following site authorizations for the Cystic Fibrosis Association of ND from July 1, 2011 through June 30, 2012: (i) Colonial Lounge*

(ii) *Roundup Bar & Grill* (iii) *Stage Stop*. The Board approved of the following site authorizations for the Cystic Fibrosis Association of ND from July 1, 2011 through June 30, 2012: (i) Colonial Lounge (ii) Roundup Bar & Grill (iii) Stage Stop.

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

OLD BUSINESS:

1. *Consider offer for property located at 116 E Main Street.* Business Development and Communications Director Huber reviewed with the Board the offer received from Scott Johnson in the amount of \$15,000 with a stipulation that the City of Mandan bring a fire service water line to the building and with a commitment for improvements estimated at \$104,900. The city's cost of the water line is estimated at \$20,000. Huber stated that the building has been listed since February 17, 2011. There have been additional inquiries about the property. However, Mr. Johnson has been the only person that has submitted an offer stating that he is concerned about the ability to secure a roof contractor if a decision is not made soon. Mr. Johnson came forward and stated that he has a retail business interested in occupying the building as soon as the repairs are completed. He stated that he is anxious to secure a roof contractor yet this year indicating that their schedules are filling up quickly.

Mayor Helbling asked for comments from the Board referencing the offer from Scott Johnson to purchase the property at 116 East Main Street.

Commissioner Rohr questioned if the investment in the building would be only the storefront portion if the water line would not be done. Mayor Helbling stated that the applicant would have to go through the same process as any other interested party as far as applying for Storefront Improvement funds. Mayor Helbling reviewed the options for disposition of this matter: (1) Follow Huber's recommendation (2) Accept Scott Johnson's offer to purchase (3) Request City Attorney Brown and city staff to come up with a counter-offer.

Commissioner Jackson motioned to table any action on Johnson's offer until the June 7, 2011 meeting. There was no second to the motion so the motion died for lack of a second.

Commissioner Frank suggested the Board keep in mind that the ultimate objective is for the sale of the building. She recommended considering what Director Huber recommended in that the service line would lead to additional uses for the building. She also pointed out that consideration should be given to Mr. Johnson's discussion regarding the current state of the roof and that postponing the repairs is doing more damage than good. She recommended looking into contracting the repairs to the roof and changing any consideration to offers once that improvement is made. Mayor Helbling concurred indicating that the Board needs to make a decision if the building is to come down or stay. The estimate to repair the roof is approximately \$24,900.

Commissioner Frank motioned that the City pursue the roof repairs at 116 East Main Street. There was no second to the motion so the motion died for lack of a second.

Commissioner Jackson stated that he would like to see the matter tabled until the next meeting allowing additional time to pursue the interest of the recent inquiries. He stated that there is another Agenda item to be discussed regarding a property in that location that may have an impact on the increased value of the property at 116 East Main Street.

City Attorney Brown stated that the discussions he has had with Administrator Neubauer and Development Director Huber indicate that waiting a little longer to see if additional offers come in would be in the best interests of this sale. He stated that at the time they discussed this matter, they were not sure about Mr. Johnson's intentions of the fire suppression system, having learned tonight that it might not make a difference. He stated there is another meeting with Mr. Johnson (5/31/11) and it is anticipated that a counter-offer will be brought to the next meeting. Mayor Helbling concurred to wait until the next meeting to discuss this matter again.

Scott Johnson came forward to speak and commented that he is "on the hook" until May 31, 2011, with his offer – after that the offer will be less due to the structural attention that the building is in need of. He requested that the public be made aware that the \$15,000 offer is not bait for them to have people go over the \$15,000 because after May 31, it will not be \$15,000. He stated that his legal obligation ends on May 31st. Mayor Helbling commented that a recommendation should come from City staff by May 31st.

Commissioner Rohr motioned to retain the offer from Scott Johnson until the June 7, 2011 meeting while encouraging other offers through June 7th. Commissioner Jackson seconded the motion.

Attorney Brown stated that the reason for the extension to June 7th is to attempt to get more offers or to re-visit with Mr. Johnson and attempt to negotiate a counter-offer. If that occurs, a special meeting may have to be called. If an agreement is arrived at with Mr. Johnson – presumably that will wait until the June 7, 2011 meeting.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations on Storefront Improvement applications:* Business Development and Communications Director Huber reviewed the following requests for Storefront Improvements. Commissioner Jackson inquired if any of these requests are contingent upon Renaissance Zone approvals? Huber replied that they are not "contingent upon" but the buildings are subject to applications for Renaissance Zone benefits and those will be requested today under New Business No. 3. Huber stated that these have been reviewed and approved by the Architectural Review Commission and are subject to final approval.

1. (i) 308 W Main – Harvest, LLC: The total cost of the façade project is estimated at \$22,683 which will include removal of stucco, replacement of windows, sandblasting and brick repair, painting, new signage and installation of an automatic door.

Commissioner Frank moved to approve the MGF recommendation on Storefront Improvement application for 308 W Main – Harvest LLC. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

1. (ii)(iii) 318 W Main – Dennis Kwandt and 320 W Main – Dennis Kwandt: The plan for the 318 / 320 building is to provide a unified façade – to restore brick, replace windows, etc. The improvement is expected to cost \$32,500 in each of the buildings (architect estimate, contractor’s estimates yet to be obtained for the actual improvement). Each building has submitted a request for \$10,000 in matching funds. Total investment will be \$65,000 or \$32,500 each building, in which there will be \$45,000 private investment and a total of \$20,000 improvement funds.

Commissioner Frank moved to approve the Storefront Improvement allocations of \$10,000 each in matching funds for 318 W Main and 320 W Main. Commissioner Tibke seconded the motion.

Commissioner Jackson inquired of Dennis Kwandt if his Storefront Applications are subject to the approval of the Renaissance Zone applications? Kwandt replied “not solely”. The project estimate is @ \$65,000 and it would be difficult for him to come up with another \$20,000; so, at this time, it would delay any improvements. Mayor Helbling stated that he was at the MGF meeting and Mr. Kwandt indicated that he would go through with the Storefront Improvement project even if the plans do not work out. He plans to take care of both buildings at the same time.

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

1. (iv) Extension for Silver Dollar Bar. The Silver Dollar Bar presented a request for an extension of the timeline to complete its previously approved Storefront Improvement Project. The project was to have been completed by May 12, 2011; however, the business has been completing requirements set by the Architectural Committee. The MGF granted the extension until September 1, 2011.

Commissioner Tibke moved to approve the extension requested by the Silver Dollar Bar for the Storefront Improvement Project until September 1, 2011. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Consider Growth Fund Committee recommendation on Restaurant Incentive application: Harvest Brazilian Grill – 308 W Main.* This is a request for a Restaurant Incentive application submitted by Harvest Brazilian Grill. This restaurant has been operating in Linton and plans to open by June 16, 2011. The restaurant plans to employ 15 – 20 people. The applicant is requesting Storefront Improvement matching funds in the amount of \$10,000 and Renaissance Zone property and state income tax exemptions. An automatic door will be installed. The total assessment of the project including the acquisition of the building, the interior and exterior improvements and equipment needed to operate the restaurant is estimated at \$342,500. The use of public incentives is estimated at 14.6% if all the incentives being sought are approved. This is a middle score for these criteria, with 30% or more resulting in the lowest rating. Huber explained that the rating system has 13 different criteria in total. The MGF arrived at an average rating of 4.16 on a scale of 1 to 5 with 5 being the highest. A score of 4.0 warrants the maximum level of incentive at \$5 per s/f operating space with a cap of \$20,000 per building. The MGF recommended \$20,000 for this project to be paid in 12 monthly increments dependent upon the successful operations of the business. Huber stated that Edgar Oliveira is present to answer any questions. This is not contingent on the Renaissance Zone application.

Commissioner Frank motioned to approve granting the \$20,000 incentive for the Harvest Brazilian Grill restaurant, payable in 12 equal monthly installments following each month of operations. Commissioner Tibke seconded the motion.

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

3. (i)(ii) *Consider Renaissance Zone Committee recommendation on rehabilitation of 318 and 320 West Main Street by Dennis Kwandt.* Business Development Director Huber reviewed with the Board the recommendations from the Mandan Renaissance Zone Committee, which met May 12, 2011, regarding several applications.

The 318 W Main rehabilitation application is for a \$32,500 façade makeover as part of a unified approach with the adjacent building. This building's current value is \$28,700. A minimum project qualification is an investment in improvements equal to at least 50% of a building's value with a \$15,000 minimum. The proposed investment of \$32,500 exceeds the minimum requirement. The building's street level is currently leased to Express Yourself Salon. Plans are to renovate the second story apartments in the future, but that is not part of the scope of the application at this time.

The Assessing Department estimates the value of the 318 building upon completion at \$44,000. The estimated property tax exemption is \$900 annually for a five year total of \$4,500. The state income tax exemption is estimated at \$234 annually for a five-year total of \$1,170.

The 320 W Main application is for an estimated \$32,500 in exterior improvements, plus an estimated \$290,000 in interior improvements. The building is currently valued at \$32,700. The investment far exceeds 50% of the building's value and the \$15,000 building minimum. The building is currently vacant. The main level and basement are to be leased to Bird Dog Brewing Company. Plans are to renovate the second story apartments in the future, but that is not part of the scope of the application at this time.

The Assessing Department estimates the value of the 320 building upon completion at \$271,000. The estimated property tax exemption is \$5,542 annually for a five year total of \$27,710. The state income tax exemption is estimated at \$234 annually for a five-year total of \$1,170. Huber noted that the applicant has signed a business incentive agreement as required by the state when incentives are expected to total more than \$25,000 over the course of five years.

Commissioner Jackson asked if the applicant was aware of the City Commission's policy for 100% exemptions in years 1 and 2, 75% in year 3, 50% in year 4, and 25% in year 5? Huber clarified that the policy referred to was that for property tax exemptions for new commercial buildings outside the Renaissance Zone. The Renaissance Zone policy provides for a 100% percent exemption on the value of a building as improved for five years. Mr. Kwandt replied that he was not totally aware of the policy; however, he indicated that he is not sure if he will need the complete five year exemptions.

Commissioner Tibke moved to approve the 318 and 320 W Main applications with the 100% five-year property and state income tax exemptions. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

3. (iii) Consider Renaissance Zone Committee recommendation on lease of 320 West Main Street by Bird Dog Brewing Company. Huber provided a summary of the application. The application is for lease of the main floor and basement in the building just approved for rehabilitation as a Renaissance Zone project. The business is unique and will likely serve as a destination draw. It is expected to employ 3 to 4 people. An additional investment in equipment is pegged at \$51,000. The business will also generate additional restaurant and lodging tax collections.

Huber noted that it can be difficult for a brand new business to estimate its income and, hopefully, profitability, to arrive at an estimate of the state income tax exemption. The estimated state income tax exemption for Bird Dog Brewing is projected at \$5,272 annually for a five-year total of \$26,359. The applicant has signed a business incentive agreement.

Commissioner Frank moved to approve the lease application for 320 W Main by Bird Dog Brewing Company with the 100% five-year state income tax exemption. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes;

Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

3. (iv) *Consider Renaissance Zone Committee recommendation on rehabilitation of 308 West Main Street by Harvest, LLC.* Huber provided an overview of the project. The application includes exterior improvements estimated at \$22,683 plus interior improvements ranging from \$60,000 to \$100,000 to include expansion of restrooms, creation of the kitchen space and installation of a fire suppression system. The building's current value is \$98,300. Thus the proposed investment far exceeds the minimum 50% re-investment requirement. In addition to the building rehab and occupancy of a vacant building, the business is expected to help fill Mandan's demand for restaurants, serve as a regional draw, and create 15-20 jobs. The restaurant has been in operation in Linton, but will be closing due to lack of volume on days other than on Fridays and Saturdays. The Mandan location will be larger and the plans include for it to be open 7 days a week with lunch and dinner service.

The estimated value of the building with improvements is \$181,100. This puts the estimated property tax exemption at \$3,703 annually for a five-year total of \$18,517. The state income tax exemption is forecast at \$2,400 per year or \$12,000 over five years. The applicant has signed a business incentive agreement.

Commissioner Jackson inquired of Mr. Olivera if he would be able to do this project without some of the Renaissance Zone Funds? Mr. Olivera replied that the business plan was not developed with the renaissance zone financing figured in, however he did add the restaurant incentive program.

Commissioner Frank moved to approve the application for rehabilitation of 308 W Main Street with the 100% five-year local property and state income tax exemptions.

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

3. (v) *Consider Renaissance Zone Committee recommendation on policy to establish deadlines for projects.* Huber explained that the Renaissance Zone Committee had discussed the status of a handful of projects that were approved a few years ago but that have not yet been completed. The N.D. Commerce Department suggests a policy establishing timelines be adopted. The Renaissance Zone Committee recommends adopting the same policy used for exemptions on new commercial buildings outside the zone. The policy is that the project will begin within one year of City Commission approval and be completed within two years.

Commissioner Tibke moved to approve the establishment of a Renaissance Zone policy requiring projects to commence within one year of City Commission approval and to be completed within two years. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Consider Budget Policy recommendations from the Budget Committee.* Finance Director Welch reviewed with members the following recommended revisions from the Budget Committee as presented regarding: (1) *Mandan Airport Authority Funding:* The purpose is for the Airport Authority to become less dependent on the City's General Fund for budget support. (2) *Morton Mandan Public Library Funding:* The purpose is for the Library to become less dependent on the City's General Fund for budget support. Since the Library operates and maintains the building owned by the City, the Library may need to request funding from the City for any major repairs and maintenance to the building in the future. (3) *Part-time Temporary Positions:* The purpose is to establish a uniform guideline for departments to pay the same hourly rate for similar duties performed based on the job description for part-time temporary positions. (4) *Water and Sewer Utility Rates:* The purpose is to incrementally move the Water and Sewer rates to mid-point over the next five years since currently the City's total rates are \$5.48 above the average total rates for the other 11 largest cities in the state. This policy would become similar to the existing Mill Levy Policy. (5) *Fund Balance Transfers.*

Commissioner Jackson stated that with regard to the Morton Mandan Public Library funding item, from a Library perspective, this item should not be included here because of the problem that would be caused by the 2/3 – 1/3 split with Morton County, and to leave the capital improvement budget as it is and let the county continue to pay for one-third without an argument on it. At budget time, in order to accommodate the library's upcoming budget request, it may go from 2% to 5%.

Commissioner Jackson provided a correction to the misconception of the salaries: What actually happened is that when the salaries were all increased and the study was done, the library did not get their increases. Through good fiscal management, they provided increases over three years instead of over one year. That is why the budget has increased over the last couple years. Mayor Helbling commented that if these recommendations are not approved, there may have to be a 2 mill increase. He commented that the library and airport need to come up with creative (funding) thinking or taxes will have to be increased. Commissioner Tibke will forward the Airport budget for informational purposes. Commissioner Jackson voiced concern about getting the money out of the county at the two-thirds / one-third split if this is cut.

Commissioner Frank moved to approve the Budget Policy recommendations from the Budget Committee as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

5. *Consider Growth Fund Committee recommendation for 5-Year Ad Valorem tax exemption for Randy Rhone D/B/A Little Caesars recommendation for 5-Year Ad Valorem tax exemption for Randy Rhone D/B/A Little Caesars.* City Assessor Barta stated that this request is for a 5-year tax exemption for a commercial structure located at 310 – 6th Avenue Southeast, Mandan, just south of Spirit of Life Church. There were no oppositions to the request for exemption. The MGF recommended approval.

Commissioner Rohr moved to approve the 5-year recommendation for 5-Year Ad Valorem tax exemption for Randy Rhone D/B/A Little Caesars. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

6. *Consider for approval, a request for City cooperation for the Rodeo Days and Buggies-n-Blues events.* Del Wetsch, President of the Mandan Progress Organization presented a request for approval for street closures for the annual Mandan Rodeo Days for July 2-4, 2011, and the Buggies-n-Blues events for June 11-12, 2011. Commissioner Tibke moved to approve the request for the Rodeo Days and Buggies-n-Blues events as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

7. *Consider a request to the Finance Committee related to debt management.* City Administrator Neubauer reviewed with members the discussions held regarding the City's current debt load and future debt load. It was discussed at the last working session that it would be appropriate to task the Finance Committee with bringing back two or three alternatives for the Commission to consider.

8. *Consider the creation of, approve the feasibility report for and authorize the advertisement of the Resolution of Necessity for Street Improvement District No. 161 Areas Project # 2010-03. (Diane's Area).* Engineering Project Manager Bechtel reviewed with members a request to create a district for this project. This district will be the same one as the one created last year but was scrapped because of the assessments involved. The costs should be available at the time of the next meeting and then the costs can be sent out to the people that are affected in the districts allowing time to protest.

Commissioner Jackson moved to approve the creation of, approve the feasibility report for and authorize the advertisement of the Resolution of Necessity for Street Improvement District No. 161 Areas Project # 2010-03. (Diane's Area). Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

RESOLUTIONS & ORDINANCES:

1. *Consider first reading of Ordinance No. 1095 Zone Change for Lakewood Commercial Park 5th – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.*

Commissioner Jackson moved to approve the first reading of Ordinance No. 1095 Zone Change for Lakewood Commercial Park 5th – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

2. *Consider a Resolution of Amendment Authorizing the Issuance of Sewer Improvement Interim Certificates of 2008, Series A and Sewer Improvement Revenue*

Bonds of 2008, Series A, and the State Revolving Fund Program Loan Agreement with the North Dakota Public Finance Authority for Improvements at the Wastewater Treatment Facility. Finance Director Welch stated that the purpose for this Resolution is to prepare for the close out of the final state revolving fund program for improvements at the Waste Water Treatment Plant. The amendments are as follows: to adjust the loan amount from the original \$1.7M to the final loan amount of \$1,679,763 and to fix the maturity date for the payoff of the financing for September 1, 2028. The outstanding balance is over \$1.5M – noting that the City has already begun paying off this debt.

Commissioner Tibke moved to approve the Resolution of Amendment authorizing the Issuance of Sewer Improvement Interim Certificates of 2008, Series A and Sewer Improvement Revenue Bonds of 2008, Series A, and the State Revolving Fund Program Loan Agreement with the North Dakota Public Finance Authority for Improvements at the Wastewater Treatment Facility. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

OTHER BUSINESS:

1. *Proclamation for May 21, 2011 requested by the Lions Club.* Commissioner Tibke moved to approve the proclamation as present. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

There being no further actions to come before the Board, Commissioner Tibke moved to adjourn the meeting at 7:11 p.m. Commissioner Frank 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