

---

The Mandan City Commission met in regular session at 5:30 p.m. on November 1, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. The meeting was called to order by Vice President Rohr. Commissioners present were Rohr, Braun, Davis, and Laber. Department Heads present were Finance Director Welch, Deputy Chief Bier, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Planning & Engineering Director Froseth, Principal Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: Mayor Helbling, Police Chief Ziegler.

B. APPROVAL OF AGENDA: Commissioner Laber moved to approve the agenda as presented. Commissioner Davis seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. MINUTES:

1. *Consider for approval of the minutes from the October 18, 2016 regular City Commission meeting and the October 19, 2016, Public Works Expansion Presentation.* Commissioner Laber moved to approve the minutes as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

D. PUBLIC HEARING:

E. BIDS:

F. CONSENT AGENDA

1. *Consider for approval Amendment No. 1 to the Engineering Service agreements with AE2S for the Emergency Generator Project.*

2. *Consider approval of University of Mary Softball Team games of chance at Midway Lanes on November 19, 2016.*

Commissioner Braun moved to approve the Consent Agenda as presented. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Acting as Board of Adjustment, consider variance request to allow construction of an accessory building in front of the principal building at 4008 Old Red Trail.* City Planner Decker explained that this is a request to place an accessory building closer to the road than the primary structure on the lot. The code specifies that accessory buildings be located to the rear of the primary structure. The rear of this lot drops off quite dramatically. He explained there are a total of 12 houses located along the east side of Old Red Trail between 37<sup>th</sup> Street Northwest and Highland Road Northwest with this situation. Only one other house sits farther off the road than 4008 Old Red Trail. The garage for this house is approximately 156 feet from the curb and the

house is located behind the garage. The neighboring house is approximately 100 feet from the curb and the land drops behind the houses. There is a small shed already on the property that is closer to the road than the neighboring house and about 10 feet from the property line. The location of the proposed shed is approximately 55 feet from the side property line and approximately 120 feet from the curb line. The location of the proposed shed was selected to avoid the trees in the side yard and to place the shed close to the driveway. Commissioner Laber visited the site and spoke with the applicant and she attended the Planning & Zoning Commission meeting on this matter. It was recommended to change the code so this type of action would be allowed without requiring a variance because this meets the variance request. Commissioner Braun commented that he agrees with the variance request for this property. He recommended that in the future, the City Commission should review variance requests as issues arise on a case by case basis. The Planning and Zoning Commission voted 7 to 2 to recommend approval of the variance and to recommend that the \$400 application fee be waived.

Commissioner Laber moved to approve a variance request for 4008 Old Red Trail to allow construction of an accessory building in front of the primary structure. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

2. *Consider Change Order #3 for Lakewood 8th, Street Improvement District #202.*

Justin Froseth, Planning & Engineering Director presented a request to consider a change order for Street Improvement District No. 202, Project 2015-13 at the Lakewood 8th Addition, west of 40<sup>th</sup> Avenue along the 24<sup>th</sup> Street corridor. It would add the installation of approximately 130 feet of sewer pipe on the east side of the project connecting the Lakewood 8th Addition pipe that was installed last year, with the segment of pipe that was recently completed from the 40<sup>th</sup> Avenue sewer main. The Lakewood 8<sup>th</sup> Addition Water and Sewer 3-way agreement was approved last year and included this segment of pipe in order to make a complete connection to the sewer main already existing underneath the 24<sup>th</sup> Street, (formerly Shoal Loop), corridor. During the construction of the sewer main for Lakewood 8<sup>th</sup> Addition it was realized that the connection point available was lower than it needed to be in order to positively flow from that point to the sewer main at 40<sup>th</sup> Avenue.

The City initiated an emergency fix to get the sewer slope back in the positive direction. That emergency fix item was brought before the commission a couple of months ago and was recently completed. This change order would initiate the construction of 130 feet of sewer so there is a complete connection of the sanitary sewer from Lakewood 8<sup>th</sup> Addition to 40<sup>th</sup> Avenue. With this change order, the total Street Improvement District (SID) project is still 10% below the original estimate. If approved, the plan is to break out the three properties that don't receive direct benefit from this change order. This change order No. 3 is in the amount of \$56,500. As previously discussed, three properties in the district would not participate and the remaining properties would be assessed an equal portion for this work. The change order will bring the total project amount to \$1,123,150 which is 10% less than the original project estimate.

Commissioner Rohr stated that this project is needed to be completed due to the development in that area. Director Froseth stated that this sewer pipe was not included in the initial Lakewood

---

8<sup>th</sup> Addition project. Commissioner Davis asked when the start of this change order portion of the project would begin. Director Froseth indicated that if approved tonight, the contractor will start on the work tomorrow because they have performed the correctional work to the other two segments. The equipment was left in place to complete the project. The paving contractor requested an extension and that would carry over to next year which is part of this change order.

Commissioner Braun moved to approve Change Order No. 3 for Street Improvement District #202, Lakewood 8<sup>th</sup> Subdivision. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

3. *Consider proposal for additional Engineering services for the Mandan Public Works Facility.* Jeff Wright, Public Works Director, presented a proposal for additional engineering services for design changes for the Mandan Public Works Facility project. The proposed design changes were discussed at the October 19<sup>th</sup> meeting with the engineering firm, EPIC Engineering, and the city which included a quorum of City Commissioners. (The minutes of which were approved earlier in this meeting.) Discussion was held regarding relocating the proposed mechanic area from the existing storage shop and combine it with the proposed wash bay in the existing utility department building. The mechanic would have been isolated from other staff which would have been a safety concern. This would move the mechanic next to a new administration building in closer proximity to other staff. The proposed design scope change would be approximately \$36,848. Director Wright recommended approval of the proposal as presented.

Commissioner Laber questioned whether this request would increase the cost of the overall project. Director Wright stated he is unsure if there will be any increase because EPIC Engineering is unable to estimate that amount at this time. Their contract is 5.5% of the construction cost of the building. Commissioner Laber stated she brought this forward because she had concerns with the mechanic being located away from other staff for safety and oversight concerns.

Commissioner Laber moved to approve proposal for additional Engineering services for the Mandan Public Works Facility. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

#### I. RESOLUTIONS AND ORDINANCES:

1. *First consideration of Ordinance 1253 amending and reenacting Sec. 105-1-2 (5) of the Mandan Code of Ordinances related to accessory buildings.* City Planner Decker explained this is a follow-up to the earlier variance request. He explained that this is one of many situations where locating accessory buildings in the rear yard is not possible. There have been requests to allow accessory buildings to be located closer to the front property line than the principal building. Other specific standards have been added to the code. These cases occur when the principal building is located far back on the lot or where topography or other lot conditions prevent locating a structure in the rear yard. The Planning and Zoning Commission will be made aware of the request to modify the restrictions on locating accessory buildings, and if they have

---

any questions Planner Decker will report back to the City Commission. Commissioner Laber requested that Building Official Lalim review it prior to the final consideration of this ordinance to be sure that we aren't missing anything as far as building inspections.

Commissioner Laber moved to approve the First consideration of Ordinance 1253 amending and reenacting Sec. 105-1-2 (5) of the Mandan Code of Ordinances related to accessory buildings. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

2. *Consider resolution reducing fee for variance request at 4008 Old Red Trail.*

City Planner Decker stated that a variance request was made to allow location of a shed to be placed in front of the primary structure. This is the final step in that process. The current fee for this type of request is \$400. During discussion at their October 24, 2016 Planning and Zoning Commission meeting it was recommended that the limits on the location of accessory buildings be modified. This matter is related to the request for changes made by Ordinance 1253 to remove the restriction for which the variance at 4008 Old Red Trail was requested. Commissioner Laber stated that in this circumstance she would recommend waiving the fee because that was the indication given at the Planning and Zoning meeting. But she stated she is open for discussion on this situation. Commissioner Braun stated that waiving the fee for this situation is appropriate because the residents involved with this action were led to believe by the Planning and Zoning Commission that the fee would be waived. He suggested that the subcommittees be cautioned as to what to offer in these types of circumstances because the City Commission has the authority to make that determination.

Commissioner Laber moved to approve the resolution waiving the fee for variance request at 4008 Old Red Trail. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

3. *Consider Second Consideration and Final Passage of Ordinance 1252 amending and reenacting Section 20-7-15 of the Code of Ordinances of the City of Mandan relating to group health insurance.* City Administration Neubauer stated that at the last meeting the Commission requested further information as to why the City pays the health insurance the month after the employee would be separated, terminated, or retired. That's because North Dakota Administrative Code pertaining to the political subdivisions clarifies that an employee's coverage must end the month following the month after termination of employment. That comes as a result of the City paying the insurance premium one month in advance, thus the coverage is available. This is a policy within the PERS program.

Commissioner Braun moved to approve the Second Consideration and Final Passage of Ordinance 1252 amending and reenacting Section 20-7-15 of the Code of Ordinances of the City of Mandan relating to group health insurance. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

J. OTHER BUSINESS:

L. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Commissioner Laber moved to adjourn the meeting at 6:03 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/James Neubauer

James Neubauer  
City Administrator

/s/Dennis Rohr

Dennis Rohr  
Vice-President, Board of City  
Commissioners