
The Mandan City Commission met in regular session at 5:30 p.m. on March 5, 2019 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Acting Chairman Rohr in the absence of Mayor Helbling called the meeting to order.

A. ROLL CALL:

1. *Roll Call of All City Commissioners.* Present were Commissioners Braun, Davis, Larson and Rohr. Department Heads present were Finance Director Welch, City Administrator Neubauer, Fire Chief Nardello, Building Official Ouradnik, Business Development and Communications Director Huber, Planning & Engineering Director Froseth, City Planner Van Dyke, Assessor Markley, Police Chief Ziegler, Deputy Police Chief Flaten, Director of Public Works Bitz and City Attorney Brown. Absent: Mayor Helbling.

B. APPROVAL OF AGENDA:

Commissioner Braun moved to approve the Agenda. Commissioner Davis seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. MINUTES:

1. *Consider approval of the minutes from the February 19, 2019 Board of City Commission regular meeting.* Commissioner Larson moved to approve the minutes as presented. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

D. PUBLIC HEARING:

F. CONSENT AGENDA

1. *Consider letter of support for Redline Plumbing Flex PACE interest buy down.*
2. *Consider approval of the following proclamations: (i) Proclaiming March, 2019 as General Aviation Appreciation Month in the City of Mandan; (ii) Proclaiming April 22, 2019 as Earth Day in the City of Mandan; (iii) Proclaiming April 27 – May 4, 2019 as Spring Clean-Up Week in the City of Mandan.*
3. *Consider letter of support for E-C ND Investments, LLC Flex PACE interest buy down*
4. *Consider transfer of a Class A Liquor License from the Silver Dollar Bar Inc. to Gregorio Didonna.*
5. *Consider approval of a charity raffle permit for Mandan FFA Alumni at the Prairie West Golf Club for 3-1-19 to 6-7-19.*

Commissioner Braun moved to approve the Consent Agenda items 1 through 5 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

Commissioner Larson announced that the actual Spring Cleanup Day is set for Saturday April 27th starting at 8:00 a.m.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations: Ellen Huber, Business Development & Communication Director presented the following for approval:*

(i) Storefront Improvement application for 1710 East Main Street:

At the February 25, 2019 Mandan Growth Fund Committee (MGF) among agenda items considered was an application from Jason Hageness for matching funds towards exterior improvements to the building at 1710 East Main Street. The applicant is planning to remodel the building and he is seeking a \$60,000 match for the exterior renovation and the estimated cost is \$231,325. Exterior improvements are to include new materials on all sides of the building. The south and east sides will have new storefront windows and new doors with cement siding and metal awnings at each entry. Automatic doors, landscaping and signage will be in addition to this amount. Mr. Hageness stated that he plans to invest an additional \$22,000 to remove a MDU power pole and bury the lines in the area in front of the building. Other building improvements will include a new roof and interior renovation. The applicant plans to renovate the building for professional services offices with room for 1- 8 tenants. Completion is planned for this summer.

The exterior building and site plans have received approval from the Mandan Architectural Review Commission. The applicant is applying for a \$60,000 match. The traditional match is \$30,000 for a building, but there is a provision in the Storefront Improvement program guidelines that allows for up to \$60,000 for larger or multi-story buildings. The building is 14,000 sf with three sides visible from East Main Street and the I-94 business loop.

The MGF voted 8-0 (with 1 member absent) to recommend approval of the application for \$60,000 in matching funds for the Storefront Improvement project by Jason Hageness at 1710 East Main Street. Mr. Hageness was available to answer questions.

Commissioner Davis moved to approve providing \$60,000 in matching funds from the MGF for the Storefront Improvement project by Jason Hageness for 1710 East Main Street.

Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

(ii) Restaurant Rewards sales tax rebate for Balancing Goat Coffee Co.

The MGF Committee met on February 25, 2019 and considered the above application. Partners in this business are Dawn Hager and Karen Schmidt. They plan to lease a 3,000 sf space at 2705 Sunset Drive, and this will be a new multi-tenant building. The space will include a coffee shop/café and a studio for yoga and other fitness classes. The menu will include coffee drinks plus smoothies made with fresh fruit, sandwiches, salads, baked goods, and healthy snacks and meals. Both Hager and Schmidt have held management positions in their careers.

They plan to be open 6 days a week from 6 am to 6 pm. The restaurant will seat 30 people, plus a drive-thru. They project about \$665,000 in annual restaurant sales. They anticipate having 2 full-time employees and 10-12 part-time employees. They will contract with instructors to teach in fitness studio. Construction of the building and the interior build-out is expected to be complete by midsummer for a grand opening in August. The business is also seeking approval for the remaining \$1,144.76 in the Restaurant Rewards Program to assist with an interest buy down.

Sales are estimated at \$664,764 annually, putting the projected rebate at \$6,647 per year or \$33,235 over five years. The rebate amount will depend on actual sales and sales tax remittances. Attorney Brown has reviewed the application. Additional requirements include installation of an automatic door, plus completion of a recipient agreement, business incentive agreement, and the N.D. Tax Department's Form 500 to allow for disclosure of sales tax collections.

The MGF Committee voted (8-0 with 1 absent) to recommend the approval of the application by Balancing Goat Coffee Company for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation. Dawn Hager and Karen Schmidt were available to answer questions.

Commissioner Larson moved to approve the application by Balancing Goat Coffee Company for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation.

Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

(iii) Restaurant Rewards Flex PACE interest buy down for Balancing Goat Coffee Co.

At the MGF meeting on February 25, 2019, an application was reviewed for an interest buy down of financing from the Bank of North Dakota (BND) Flex PACE program for Balancing Goat Coffee Company. The purpose of the loan is for lease hold improvements and equipment for a new coffee shop/café with a fitness studio located at 2705 Sunset Drive. The applicants are seeking the remaining \$1,144.76 from the original \$162,000 set aside for use toward the community match for a BND interest buy down. The total project cost is estimated at \$425,000. The applicants are seeking to finance \$340,000 of the costs and have a financing commitment from BNC National Bank. By participating in the BND Flex PACE program the borrowers can benefit from a reduction in the interest rate from 6% to 1% for 36 months. The BND will provide 65% of the buy down or \$24,720. The required local community match is 35% or \$13,311. The partners are also seeking approval of the Restaurant Rewards sales tax rebate. The MGF Committee voted (8-0 with 1 absent) to recommend the approval of the application by Balancing Goat Coffee Company for \$1,144.76 toward the local share of an interest buy down.

Commissioner Larson moved to approve the application by Balancing Goat Coffee Company for \$1,144.76 toward the local share of an interest buy down. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

(iv) Sunset of Restaurant Rewards Program on March 31, 2019.

The MGF Committee discussed the future of the Restaurant Rewards Program at the meeting on February 25, 2019. The program was first approved by the City Commission in April 2016. The program was established for an initial 1-year period with a deadline for application approval of March 31, 2017. On March 21, 2017 and February 6, 2018, they approved renewal of the program for additional 1-year periods with the last extension effective through March 31, 2019.

Director Huber stated that if the application on the Commission's agenda for this meeting is approved, there will be nine restaurants approved for the program since 2016 and all of the funds set aside for interest buy downs will be committed. All types of restaurants have been eligible

for the program with an initial goal to attract full-service, sit-down casual dining establishments. There was also a desire to see restaurant growth in each of the city's three major business districts: Main Street/downtown, north Mandan/I-94 corridor, and Memorial Highway/east Mandan. These goals have been accomplished. There have been some setbacks in the Mandan's restaurant sector (the closure of Bar M Steakhouse and Bonanza, Pizza Hut's change to takeout and delivery only, and the transition of the Harvest Grill from a restaurant to an event and catering space). However collections of the 1% restaurant and lodging tax indicate steady year over year growth over the last decade with 2018 revenues being up 5%. Of note, when hotel tax revenues are solely considered, it's apparent that the growth is from the restaurant sector.

The MGF voted unanimously (8-0 with one member absent) to recommend a sunset of the Restaurant Rewards program sales tax rebate effective March 31, 2019.

Commissioner Davis moved to approve a sunset of the Restaurant Rewards program sales tax rebate effective March 31, 2019. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

2. *Consider N.D. Opportunity Fund Loan Committee appointment.*

Ellen Huber, Business Development & Communications Director presented a request to consider an appointment for representation of Mandan on the ND Opportunity Fund (NDOF) Loan Committee. The NDOF provides private financing to help small businesses attain loans and investments needed to expand and create jobs. Mandan is part of a consortium of 38 North Dakota municipalities that received funding for the loan participation program through the US Treasury Department's State Small Business Credit Initiative (2012). The Lewis and Clark Development Group managed the fund and process all loan applications.

The North Dakota Opportunity Fund's 15-person loan committee is comprised of members experienced in commercial lending, business start-up and expansion, and economic development. The committee makes all credit decisions to include considering and voting on applications for loans with input on rates, terms and conditions. Mandan is allotted one appointment or vote. Appointments are generally for two years or until filled. An email was sent on February 15, 2019, to all financial institutions with Mandan locations to alert them that we were seeking volunteers experienced in commercial lending to represent Mandan on the loan committee. Three people expressed interest by the deadline. They are Jason Arenz of BNC National Bank; Greg Ellwein of Gate City Bank and Jeff Erickson, Security First Bank.

Director Huber recommended the appointment of Jason Arenz to the ND Opportunity Fund loan committee with the designation of Jeff Erickson and Greg Ellwein as alternates, all for terms beginning immediately and ending Dec. 31, 2020, or until filled.

Commissioner Braun moved to appoint Jason Arenz to the ND Opportunity Fund Loan Committee with the designation of Jeff Erickson and Greg Ellwein as alternates, all for terms beginning immediately and ending December 31, 2020 or until filled. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes;

Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

3. *Consider approval of concurrence of award and associated budget amendment for the Highway 810 segment of the I-94 resurfacing project.* Justin Froseth, Planning and Engineering Director presented a request to consider approval of the concurrence of award for the project requested by the NDDOT. The project would be on the I-94 and I-194 interstate roadways. Some of the improvements would take place on Highway 810, which is the segment known as Expressway, south of Memorial Highway to the Expressway bridge. This Highway 810 segment is part of the arterial roadway system in which the City has 10% funding participation responsibility and there is a need for the City to indicate concurrence of award to show our commitment to the funding share.

At the January 22, 2019 meeting the City Commission approved the Cost Participation and Maintenance (CPM) agreement which also indicated a commitment to the funding share. That agreement was pre-bid and came with an estimate associated with the final design. That estimate reflected the local share at \$101,210. The estimate last summer when budgeted for was the local share for an amount of \$35,056. The January 22, 2019 action also included a 2019 budget amendment up to the estimated \$101,210. The project was bid on February 8, 2019. The bid results came in about 26% above estimate for the portion that the City has cost share of. Based on bids the new local share estimate for Mandan would be \$128,427. That was shared in a letter to City staff which also included a request that the City concur to award the low bid submitted by Central Specialties, Inc. Subsequently City staff reached out to DOT staff to discuss options given the 265% increase this project increased since budgeted last summer. City staff asked if given the amount of increase, the DOT would give special consideration for this project to keep Mandan's share at the \$101,210 amount that the City agreed to through the CPM agreement in January. The DOT said they could not do that. Essentially, the program amounts are what they are based on percentage of project costs regardless of how much the estimate increased throughout project planning. The DOT staff re-stated that they did not see an issue with the City paying the original budget amount in 2019 for 2019 work and increasing our budget amount in 2020 to pay for the remainder of the 2019 and 2020 work in 2020.

Based on the above a budget amendment is required to increase the amount of sales tax fund for this project from the budgeted \$101,210 to the latest estimate of \$128,427. Finance Director Welch was consulted and verified that this amended amount can be handled by the sales tax fund perhaps taking the DOT up on the option to pay for some of the cost in 2020.

Director Froseth recommended approving the budget amendment from \$101,210 to \$128,427 and to approve the Letter of Concurrence of Award for the Highway 810 portion of the I-94 resurfacing project.

Commissioner Rohr commented that eventually this will project will have to be done and we have to work with the Department of Transportation on projects now and into the future.

Commissioner Braun moved to approve the budget amendment from \$101,210 to \$128,427 and the Concurrence of Award for the Highway 810 portion of the I-94 resurfacing project.

Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

4. *Introduction of new employees:*

(i) *Lila Teigen, Real Property Appraiser III (Assessing Department):* Kimberly Markley, City Assessor introduced Lila Teigen, Real Property Appraiser III for the Assessing Department. Ms. Teigen started in the Assessor's Office on March 4, 2019. She previously worked in Buffalo SD. She has over 25 year experience working in county government with 8 years as the Harding County Director of Equalization. She has been a member of the South Dakota Association of Assessing Officers, North Central Regional Association of Assessing Officers and was elected to serve as the Vice Chair of the South Dakota Association of Assessing Officers. This is a full time position. Acting Chairman Rohr welcomed Ms. Teigen to the Assessor's Office.

(ii) *Jonathan Mathisen, Payroll and Benefits Technician (Finance Department):* Greg Welch, Finance Director introduced Jonathan Mathisen who will serve as the Payroll and Benefits Technician in the Finance Department. Jonathan previously worked at Unisys Corporation in Bismarck as a Payroll Analyst for over 10 years. He graduated from the University of Mary with degrees in Accounting, Business Administration, and Computer Information Systems. Jonathan started with the City of Mandan on February 25, 2019. This is a full time position. Acting Chairman Rohr extended a welcome to Mr. Mathisen to the Finance Department.

5. *2019 Legislative Update #4:* Administrator Neubauer presented an update on the 2019 Legislative Bills pertinent to the City of Mandan. HB 1066 Prairie dog bill - Commissioner Davis testified on this today and it is hoped there is a do-pass. HB1210 indicates an opposition to this one and the City is being presented by Planner Van Dyke. SB2010 is an insurance premium for fire department that comes back to the local municipalities. Defeated bills have been removed from the weekly report.

I. RESOLUTIONS AND ORDINANCES

1. *First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals.* Police Chief Ziegler presented a request to consider the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals. Deputy Chief Flaten came up with a document that breaks down the revisions to the Ordinance. Chief Ziegler stated that this began in the summer of 2018. Discussions have been held with City Commissioners and city officials regarding updating the current ordinances relating to dogs and cats in Mandan Municipal Code. In November 2018, a first reading on a proposed new ordinance was held. After this reading, additional input was received regarding the proposed ordinance. It was decided to re-examine the proposed changes. Instead of making numerous changes to the ordinance proposed in November, a new ordinance was drafted. The new ordinance contains a number of additional definitions. Several nuisance related sections were repealed and were combined into an expanded restricted activities section. Changes were made to the sections involving running at large and leashes. In addition, a number of sections have been changed to allow for the issuance of a citation for violations instead of having to do a long form complaint for charges. This allows officers to write a citation and it defines what those citations are for and what violations go before the

judge. The licensing was left alone as it allows for a process to keep track of vaccinations for animals. Chief Ziegler recommended approval of the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals.

Acting Chairman Rohr invited anyone to come forward to speak for or against the First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals.

Mary Rebenitsch, 105 Fourth Street NW, Mandan, came forward to speak. She inquired as to the justice for victims. What protection and reimbursement do they receive? There is no impounding or follow-up of the animal that is offending.

Attorney Brown said that any animal that causes damage will be a civil remedy in civil court and not something that the City can regulate. It would be a personal injury claim a resident would have to file.

Chief Ziegler said nothing has changed with the impounding ordinance. He explained how animals are impounded and how that process works.

Deputy Chief Flaten explained that there are various fees whether animals are licensed or not and how long they are in the pound. After 3 days they can be put up for adoption and there are options there.

Attorney Brown clarified that Deputy Chief Flaten created the amendment revisions to this Ordinance. He said that at Section 6-1-6 there is language related to restriction of animals which would have to change so it is congruent with the (new) Ordinance for chickens. Chief Zielger concurred. Planner Van Dyke said that he will make sure the chicken ordinance will be input into this Ordinance.

Commissioner Braun moved to approve the First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

2. *Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District.* City Planner Van Dyke presented for approval the Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District. City Commission voted unanimously at the February 19, 2019 meeting to approve the ordinance as presented. There have been no comments received since the first consideration was presented.

Commissioner Larson moved to approve the Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

3. *Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees.* City Planner Van Dyke presented for approval the Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees of \$100. The City Commission unanimously voted to recommend approval of Ordinance 1291 at the February 19, 2019 meeting. There have been no comments received since the first consideration was presented.

Commissioner Larson moved to approve the Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands in Exhibit 1 and the Resolution Establishing Permit and Associated Fees at \$100 as presented in Exhibit 6. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

4. *Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees.* City Planner Van Dyke presented for approval the Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees. He provided a summary stating that this request came from several residents who were interested in having this resident-promoted Ordinance put in place. He went over the specifics of the Ordinance requirements. At the meeting on February 19, 2019, the City Commission voted three (3) in favor and two (2) opposed to approve the First consideration of Ordinance 1306. Minor adjustments to Ordinance 1306 between first and second consideration included the following:

- Clarified that the “coop” is also required to be setback from property line and adjacent dwellings.
- Removed definition of “exercise yard”, as it is not used within the ordinance.
- If this Ordinance is approved, the fees associated with the permit are provided in Exhibit 6. These fees are estimated to account for staff time involved in the permitting of backyard chickens. Recommended fees: New Permit \$100 / Annual Renewal \$50.

Acting Chairman Rohr invited anyone to come forward to comment on the Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees.

Martin Schaff, 2401 Westview Place Southeast, Mandan came forward to speak. He encouraged the Commission to not allow chickens in Mandan because they attract rodents and predators, particularly skunks and raccoons. They create dust and when dust accumulates on electric heaters that creates a fire hazard. Chickens often have Blyth and they attract flies and cause an odor. They shed feathers. Chicken coups would be unsightly and may affect property values of neighbors. He is concerned that the valuation of his home will go down due to chicken coups and chicken fences. He inquired who will enforce the chicken laws and at whose expense?

Shawna Laber came forward to comment on behalf of the Planning and Zoning Commission. The P & Z Commission has been discussing this issue for at least 6 months. She stated that the presentation given by Planner Van Dyke answered many questions that have been asked. She said that the 13 members of the Planning and Zoning Commission unanimously voted to approve the Ordinance. Many cities in North Dakota allow chickens in their cities and certain conditions and rules need to be met by the owner. It is in North Dakota’s constitution that we are a freedom

to farm state. On behalf of the Planning and Zoning Commission she requested the Commission consider passing this Ordinance.

Andrea Soule, 406 Second Avenue Northwest, Mandan, came forward to comment. She said she sent an email to Planner Van Dyke indicating that she supports the Ordinance for chickens. She said they are fun pets to have. The Ordinance is written well and well thought out. She encouraged the Commission to pass the Ordinance.

Travis Dengel, 1707 Third Street Northeast, Mandan, came forward and commented that he was the individual who originally requested this Ordinance and he requested the Commission to consider passing it.

Adrian Tschida, 1100 First Street Northeast, Mandan, came forward and voiced her support for passing this Ordinance allowing chickens.

Martin Schaff returned to the podium and commented that it was said that the chicken coups and fences might be good for the neighborhood. He reported that he bought two lots and built a home and his wife is particular about keeping up the yard but the fact is there are covenants on that property that he cannot build a backyard shed and there must be a reason for that. He stated that he believes it does nothing for the value of the property.

Commissioner Davis stated that Mr. Schaff brings up a point, and inquired if the covenants in those neighborhoods have been looked at? Planner Van Dyke explained there is a section of covenants and restrictions that apply to the neighborhood and they would supersede this permit. The permit does not go in to circumvent additional restrictions that have been voluntarily placed on that subdivision. It will be the responsibility of the HOA member to ensure they are participating in their neighborhood HOA and privately addressing those issues. He stated there may be several subdivisions that do not allow certain animals and other things covered in covenants. It does require active participation to be effective. Attorney Brown stated that the covenants in any particular subdivision would trump the chicken ordinance.

Gary Brucker, 503 Division Street Northeast, Mandan, came forward and said he and his wife were thrilled to hear that the City of Mandan was considering chickens. He said he was in support of the Ordinance.

Commissioner Davis inquired about the fee, \$100 vs. \$200 and who will be the “chicken cop” if this is passed? How will the City pay for staff for an officer to do enforcement? Budget resources would have to be considered. Planner Van Dyke replied that the \$100 fee is twice what Fargo charges. He said he has developed a plan for record keeping of the fees so that portion of the process is in place. For enforcement, it would be handled as any other complaint that would come in. The enforcement officer would be called and issue the appropriate citation and notice of violation. Then the policy would be followed to revoke the permit and if they still do not come into compliance and the property is a mess - that would be reported to and handled by municipal court.

Acting Chairman Rohr said he researched this matter and voted against it initially and he found that cities that did have chickens - didn't seem to have many issues. Regarding predators, he thinks that would be affected at the extraterritorial areas where there is more wildlife in the area rather than being centrally located in the city. The Planning and Zoning Committee researched this and that is a body who makes recommendations to the City Commission and he is confident that they check things out and are reasonable with their recommendations. This seems to be a fad with the current generation per research on the Internet.

Commissioner Larson commented that while it did pass the Planning and Zoning, noting there were a couple dissents - and watching that meeting she is found that the ones attending were those who were for it and those against it were their neighbors. Putting that aside, she was concerned with one group that managed housing property and they were concerned about those who had hub housing, if the restriction would not be allowed for those type of property owners (subsidized housing vs. non-subsidized housing owners). Attorney Brown said that putting a restriction on chickens for non-subsidized housing would not be any different than it would be for subsidized property. Commissioner Larson said she still has concerns about the enforcement of violators noting that there is no extra staff available for adding one more thing that she does not think is necessary. The proposed \$100 fee is very logical when considering the staff time it will take to manage this or enforce it when necessary. It is difficult to enforce people getting dog permits, she wonders how many will get the chicken permits.

Commissioner Davis inquired of the number of associations that have covenants against farm animals? Planner Van Dyke replied that would be difficult to determine based on those that are active and those that are not active, etc. Commissioner Davis said he has received more emails against this ordinance than those who are for it. He said he is now looking at it from a covenant restriction within ones neighborhood, where determination could be made about the height of fences, picket fences, etc. He is leaning towards the locality of neighborhoods taking charge of their own neighborhoods.

Commissioner Rohr inquired of Attorney Brown if a condominium unit has covenants do they file with the City as to what's in their covenants? Attorney Brown stated that typically when a new subdivision is created the developer would place restrictions or covenants on the property that they want on the entire subdivision and those are recorded as part of the platting process. So everyone who buys in that subdivision takes title of that property subject to those covenants and restrictions. Subdivisions can amend their covenants. Some divisions have a homeowners association and some sub-divisions have restrictions but do not require homeowners to do anything. They are recorded and part of the title to the property. To create a new covenant in a neighborhood, if everyone agrees they could put restrictions on the property.

Commissioner Rohr inquired of Mr. Schaff if there are any covenants or restrictions in his area. Mr. Schaff replied, yes, there are many. Some of them are, they cannot build a backyard shed, they cannot build a garage separated from the homes, they cannot have chain link fences, however there are property owners that are currently in violation of these restrictions. Attorney Brown said that enforcement of violations in those circumstances, would have to be pursued by a homeowner's group as a private remedy, the City would not get involved. Commissioner Larson voiced concern again about enforcing any violations and how that would be handled.

Commissioner Braun commented that the same issue could be applied to dogs and cats. He thinks that this Ordinance would be dealt with in the same manner as if there were barking dogs.

Acting Chairman Rohr invited any one to come forward to comments on this matter. The goal of the Commission is to consider the needs of the people of Mandan. Hearing none, Commissioner Davis moved to approve the Second Consideration of Ordinance 1306 as presented in Exhibit 1, Related to Backyard Chickens and Resolution Establishing Fees. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: No; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

Acting Chairman Rohr requested Planner Van Dyke to keep the City Commission informed about the number of applications that come in and are granted for the chickens and chicken coups.

Planner Van Dyke requested the City Commission to consider the establishment of fees related to this Ordinance in Exhibit 6.

Commissioner Davis moved to approve the Resolution of Ordinance 1306 relating to establishment of fees as presented in Exhibit 6. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

J. OTHER BUSINESS

Gene Zahursky 1701 Second Street Northeast, Mandan came forward and stated that he sent an email to the City about the traffic problem near Culvers restaurant. He said he was told that it was being looked into but he does not recall who sent him that reply email (Kathy?). He inquired what the status is on looking into this. Chief Ziegler stated he was not aware of the email. Acting Chairman Rohr said that the state DOT may have to be involved because of the highway near there. He indicated that Director Froseth will check into it. Director Froseth said he did receive the email and he has not had an opportunity yet to check into the concern. The suggestion of a stop sign may work but until he reviews the situation he does not know what the responsibility of the City of Mandan is at this time. Acting Chairman Rohr requested this be looked into.

K. ADJOURNMENT

There being no further actions to come before the Board of City Commissioners, Commissioner Davis moved to adjourn the meeting at 7:00 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

s/s James Neubauer

James Neubauer
City Administrator

s/s Tim Helbling

Tim Helbling
President, Board of City Commissioners