
The Mandan City Commission met in regular session at 5:30 p.m. on August 20, 2019 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order.

A. ROLL CALL:

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

Mayor Helbling extended a thank you to Chief Ziegler and the staff and officers from the Police Department for their work in sponsoring of the Police Department’s annual community picnic event. Many compliments and positive comments were received.

2. *Introduction of new MPD K9 dog and his handler, Officer Scott Warzecha.* Police Chief Ziegler invited Bob Kupper and Officer Scott Warzecha to be introduced along with Canine Kupper, the new K9 dog, who is 1 year 8 months old and is a great addition to the Mandan Police Department. He is trained for meth, cocaine, heroin and tracking bad guys. He is from the Czech-Republic. The Police Chief explained the selection process for the dog. He said that a second canine will be sought soon and trained next year.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the August 6, 2019 Board of City Commission regular meeting.* Commissioner Larson moved to approve the minutes as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *First consideration of Ordinance 1320 related to crematoriums.* City Planner Van Dyke presented a request for approval of first consideration of Ordinance 1320 related to crematoriums. He said that an ordinance that was recently adopted would restrict crematoriums to within the Mandan Union Cemetery. The Board of City Commissioners directed staff to reevaluate the ordinance as it pertains to crematoriums. Through the process, funeral homes in the area provided comment, several public hearings were held and staff also researched land use standards from other communities. The original staff recommendation was provided in Exhibit 1 and the final Planning and Zoning Commission recommendation is in Exhibit 2. City Staff provided alternative recommendation based on many public hearings that have occurred on the issue since the original recommendation. The recommendation can be found in Exhibit 3. The alternative city staff recommended is to provide protections to existing home owners and developments that is not burdensome to a business owner. City staff recommended that

crematoriums be placed in an industrial zoning district with a 50' setback from the property line. In addition, a 350' setback applies to existing dwellings at the time of building permit issuance. Further, staff is recommending that these standards apply to the use and that no special use permit be required. These restrictions should address the issues that were discussed throughout the many hearings that took place in preceding months. P & Z unanimously approved of this recommendation and it has been reviewed and approved by Attorney Brown. The Engineering and Planning Department recommended approval of the first consideration of Ordinance 1320 as presented in Exhibit 3.

Mayor Helbling announced this is a public hearing regarding the First consideration of Ordinance 1320 related to crematoriums. He invited anyone to come forward to speak for or against this Ordinance. A second announcement was made to come forward to speak for or against this Ordinance. A final announcement was made to come forward to speak for or against this Ordinance. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr moved to approve the first consideration of Ordinance 1320 as presented in Exhibit 3. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Preliminary/final plat and first consideration of Ordinance 1321 related to a zoning district amendment for proposed Midway Fourteenth Addition First Replat.* City Planner Van Dyke presented a request for approval of preliminary/final plat and first consideration of Ordinance 1321 related to a zoning district amendment for proposed Midway Fourteenth Addition First Replat. He stated that E-C ND Investments, LLC is seeking the removal of zoning restrictions to allow for a warehouse addition to their existing structure. Other properties in the same Midway 14th development underwent a zone change in 2013 to remove restrictions. This rezone request would bring the development under the same zoning provisions. The applicant is also seeking a preliminary and final plat to consolidate the three lots into one lot for the purposes of building expansion. This document including Ordinance 1321 have been reviewed and approved by Attorney Brown. The Engineering and Planning Department also recommended approval of the zoning amendment to CC-Commercial without restrictions as presented in Exhibit 2, the preliminary plat as presented in Exhibit 3 and the final plat as presented in Exhibit 4.

City Planner Van Dyke recommended approval of the zoning amendment to CC-Commercial without restrictions as presented in Exhibit 2, the preliminary plat as presented in Exhibit 3, and the final plat as presented in Exhibit 4.

Mayor Helbling announced this is a public hearing regarding the Preliminary/final plat and first consideration of Ordinance 1321 related to a zoning district amendment for proposed Midway Fourteenth Addition First Replat. He invited anyone to come forward to speak for or against this Ordinance.

Spence Koenig came forward and stated that he owns the property to the north of this property and he stated that he supports the request to put all three lots together.

Chris Houwman came forward and stated that he is the President of Malloy Electric and also the owner of E-C ND LLC. He provided a summary of the background of Malloy, a company that has been in the area since 1945. It is a family owned business that has six service centers in the upper mid-western states. They offer contract services and they employ engineers, mechanics, winders, and machinists. There are three market divisions and the primary business is described as “anything that feeds a motor”. They are trying to expand their business layout in Mandan. They opened in Mandan in 2016 with one person and as of today they employ 23. Most business comes from outside Mandan but the dollars stay in Mandan. Currently they can handle up to 4,000 horsepower with anticipation of increasing that to 20,000 horsepower and they want to double the plant and eventually double the plant again. The main concern is to get semi-trailers in and out safely and that can be accomplished with the plan being proposed. He said that Malloy is committed to the Mandan Community and noted that the company had their first intern this summer and they have now offered their first scholarship at Bismarck State College. The location of this building is on the east end of the strip, next to Action Motor Sports.

Mayor Helbling provided a second announcement was made to come forward to speak for or against this Ordinance.

Guy Halvorson, from Stockman’s Supply came forward and stated that his business is north of the Malloy building and he stated that they support the combining of the lots for zoning purposes.

A final announcement was made to come forward to speak for or against this Ordinance. Hearing none, this portion of the public hearing was closed.

Mayor Helbling announced that this action is only dealing with the change to Ordinance 1321.

Commissioner Davis moved to approve the zoning amendment to CC-Commercial without restrictions as presented in Exhibit 2, the preliminary plat as presented in Exhibit 3, and the final plat as presented in Exhibit 4. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider variance for Lot 3, Block 1, Midway 14th Addition to the required setback based on tower height.* City Planner Van Dyke requested approval for a variance for Lot 3, Block 1, Midway 14th Addition to the required setback based on tower height. He reported that Powder River Engineering Services, LLC representatives for Mr. Spence Koenig is applying for a variance to the setback requirement for communications towers. The setback requirement is 110% of the height of the structure to the property line. The proposed tower is 200 feet tall and would require the structure to be 220 feet from the property line. A site plan was provided in Exhibit 2. The applicants have provided a letter stamped by an engineer outlining the most likely scenario of failure in Exhibit 3.

City Planner Van Dyke reviewed the requirements under the Mandan Code of Ordinances in granting a variance: Variance may be granted under the following circumstances (See Sec. 105-1-12):

1. There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, (or not).

City Planner Van Dyke stated that there does not appear to be any special circumstances or conditions that apply to the land or buildings for which the variance is sought.

2. For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant;

City Planner Van Dyke stated that the land does not have a commercial improvement on it at this time although it is sufficiently sized to accommodate many other commercial uses. A variance does not appear to be necessary to obtain a reasonable use of this land.

3. The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

City Planner Van Dyke stated that without certainty that a structural failure would not result in the structure crossing a property line as the setback ordinance is in place to provide, a grant of a variance does not appear to be in harmony with the general purposes and intent of this chapter or to not be injurious to the neighborhood or otherwise detrimental to the public welfare.

This document has been reviewed and approved by the City Attorney and it was reviewed by the Planning and Zoning Commission who unanimously recommended denial of the setback as outlined in the documentation.

City Planner Van Dyke reported that the City Engineering and Planning Department has recommended denial of the setback of 220' to 22 feet for failure to meet the requirements of 105-1-12 surrounding variances to the zoning code for the reasons outlined in Exhibit 4. City Planner Van Dyke recommended denying the setback of 220' to 22 feet for failure to meet the requirements of 105-1-12 surrounding variances to the zoning code for the reasons outlined in Exhibit 4.

Mayor Helbling announced this is a public hearing to consider variance for Lot 3, Block 1, Midway 14th Addition to the required setback based on tower height. He invited anyone to come forward to speak for or against this variance request.

Brandon Peterson (AT&T) from Arizona, came forward and stated he is representing Powder River Engineering Services, LLC and that he supports the request for the variance request

brought by Spence Koenig. He said he was unable to attend the recent Planning and Zoning meeting when this was discussed due to the short notice. He said that the hardship case in this matter is due to the size and shape of the property as well as the location of the property, which is next to the interstate. The development for Mr. Koenig's business would be limited if the variance is denied. The variance would also deny Mr. Koenig rental income for the tower that would be placed on the property that would in turn help develop it. The tower would be built in fashion that it would never break or fall over, rather it is designed so that it would bend at the base and would not break.

Mayor Helbling provided a second announcement to come forward to speak for or against this variance.

Spence Koenig came forward and stated he owns Direct Ag Supply in Mandan and has been in Mandan since 2012, starting with 2-3 employees and that has increased to 11 or 12 employees. He explained that they have locations in Mandan with anticipated plans to grow the business further. A new addition to the company will be named Precision Planting and that will offer farming equipment, electronics and technology and that company will employ another 3-4 more people. He said that in order to make this business plan financially feasible, the rental income from the tower would enhance his business cash flow. He requested the City Commission approve the variance request as presented. He provided photos of a map of the cell phone towers located in Mandan versus those in Bismarck (far exceeding the number of towers in Mandan).

Brandon Peterson came back to the podium and stated that the reason for AT&T wants to come here is for the emergency response system that is going nationwide and AT&T won the contract for that system. He said if that contract was not acquired by AT&T, he would not be here today supporting this request.

Guy Halvorson came forward and stated that he is one of the owners in the building west of Mr. Koenig's property. He does not support this project due to the fact that his building is 147 feet away from the curb where that tower could possibly fall. He stated it could be a safety risk for his employees, customers and property.

Mayor Helbling provided a final announcement to come forward to speak for or against this variance request. Hearing none, this portion of the public hearing was closed.

City Planner Van Dyke said that this is part of the Memorial Highway overlay so there may be some aesthetic concerns as 200 feet is a substantially tall tower so in addition to safety concerns the staff has noted aesthetic concerns. Commissioner Rohr inquired if Powder River Engineering services wants to have a tower, is there a specific location where they want to put it? Are there other alternatives they can seek out as another location? Brandon Peterson replied that he was given limited information when told to go find a location (for the tower). He said he did not originally work this location however, he was in contact with Mr. Koenig and it is his goal to work out the best deal for the carrier and the business owner, in this case, Mr. Koenig.

Commissioner Larson commented that she is aware that several residential Bismarck owners have complained about towers near their property so in this similar situation there are neighbor

businesses that have voiced safety concerns and brought them forward and she said that the City Commission is obliged to listen to business owners as well as city residents.

Commissioner Larson moved to approve the denial of the setback of 220' to 22 feet for failure to meet the requirements of 105-1-12 surrounding variances to the zoning code for the reasons outlined in Exhibit 4. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *First consideration of Ordinance 1322 related to a zoning district amendment for select lots in Scott's Acres (Proposed Engage Addition).* City Planner Van Dyke presented a request for the approval of the first consideration of Ordinance 1322 related to a zoning district amendment for select lots in Scott's Acres. This property is located at the site of Engage Church off Old Red Trail NW. He said that Engage Church is seeking to divide their property located to the southwest of the intersection of Old Red Trail NW and Highland Road NW and rezone one of the newly created lots to MA Industrial and the other to R7 Residential (See Exhibit 2). The existing zoning is MA Industrial and R7 Residential. The request is to reorient the zoning district boundaries to align with the proposed lots. The MA Industrial zoning is currently located along the rear of the property. The R7 Residential is located along the front of the property (See Exhibit 1). City Planner Van Dyke stated that storage units are located to the west of the proposed industrially zoned property and there is utility outdoor storage to the south. Industrial uses are more appropriate than a single family residence for the land between Engage Church and the rest of this industrial area. He said that City Staff recommends approval of the zoning amendment in Exhibit 3 for the reasons as outlined in Exhibit 4. He outlined the reasons for approval including:

- The property to the west and south are industrial zoned; the properties to the east/north are residentially zoned.
- The proposed industrial zoning district boundary abuts one of Mandan's large industrial parks.
- The church provides a harmonious transition from more intense industrial uses to lesser intense residential uses to the north and east.
- The existing zoning designations of MA Industrial and R7 Residential already exist on the property in a different configuration; this is a reconfiguration of what already exists on the property.

City Planner Van Dyke stated that this document including Ordinance 1322 have been reviewed and approved by Attorney Brown. The Engineering and Planning Department recommended approval of the first consideration of Ordinance 1322 per Exhibit 3 based on the reasons outlined in Exhibit 4. City Planner Van Dyke recommended approval of the first consideration of Ordinance 1322 based on Exhibit 3 including the outline in Exhibit 4.

Mayor Helbling announced this is a public hearing of the First consideration of Ordinance 1322 related to a zoning district amendment for select lots in Scott's Acres (Proposed Engage Addition). He invited anyone to come forward to speak for or against this variance request.

A second announcement was made to come forward to speak for or against this Ordinance. A final announcement was made to come forward to speak for or against this Ordinance. Hearing none, this portion of the public hearing was closed.

Commissioner Braun moved to approve the first consideration of Ordinance 1322 per Exhibit 3 based on the reasons outlined in Exhibit 4. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

5. *Consider approval of the first consideration of Ordinance 1323 related to a zoning district amendment and preliminary plat for Meadow Ridge 4th Addition.* City Planner Van Dyke presented a request for the approval of the first consideration of Ordinance 1323 related to a zoning district amendment and preliminary plat for proposed Meadow Ridge 4th Addition. He said the applicant is requesting approval for a rezone from MC-Industrial to RM-Residential and a preliminary plat to create four new lots. Each lot is planned to be further subdivided in the future once a specific placement for a twin-home has been determined. The lot line would then divide the shared wall so that each side of the structure could be owned independently. Exhibit 2 contains the preliminary plat for Meadow Ridge 4th Addition.

City Planner Van Dyke stated that the Planning and Zoning Commission recommended approval subject to a restriction only allowing single and two-family construction following concerns raised by adjacent residents. The applicant is amenable to this restriction. This document, including Ordinance 1323 has been reviewed and approved by the City Attorney. The Engineering and Planning Department recommended approval of the first consideration of Ordinance 1323 as reflected in Exhibit 1 and the preliminary plat as shown in Exhibit 2.

City Planner Van Dyke recommended approval of the first consideration of Ordinance 1323 as reflected in Exhibit 1 and the preliminary plat as shown in Exhibit 2.

Mayor Helbling announced this is a public hearing of the First consideration of Ordinance 1323 related to a zoning district amendment and preliminary plat for Meadow Ridge 4th Addition. He invited anyone to come forward to speak for or against this variance request.

Loretta Landeis, 2901 Highway 1806 North, Mandan came forward to speak. She stated she is concerned with this development and is against this request until their water problem is taken care of. She provided a photo of the original culvert since the road was built. It used to be a county road. She provided another photo of a culvert wherein storm water came down and washed the culvert out under Highway 1806, a state road. They (county) replaced it with three 36 inch culverts. She provided a photo of 28 inch culverts. When the county owned the culvert she said there was mud coming down and washed out culvert. The concern she has is there is water running across her private property with no easements, no right of ways and no infrastructure. This has damaged her drain field and caused damage to her private land. Many trees on her property have died because of this. She complained that their property has dropped in value but the taxes go up. She requested she would like to have any more building planned for this area to be held up until they (city/county) address the water problem. She requested the City Commission to vote “no” for any development in Meadow Ridge. She requested that the city

officials work together to fix the problem. She requested postponing this action until a solution is found for the water problem.

Dave Bjorndahl who lives on 7th Avenue Northwest, north of Meadow Ridge 4th Addition came forward to speak. He stated he is in favor of passing the Ordinance 1323 related to a zoning district amendment and preliminary plat for Meadow Ridge 4th Addition.

Deb Dressler, 2512 7th Avenue Northwest, Mandan, came forward and stated she has a problem with no public lighting in this area of town. She was concerned about putting in more buildings with multi-family dwellings because there is not enough public lighting. She believes it is a hazard with no lighting. There is some lighting at the end of 26th but no lighting on 27th. Mayor Helbling said that 27th is a state project and lighting is part of the project but that project has been pushed out for two years. Director Froseth explained that the 27th Street improvements, was in the DOT's TIP for 2021 but it has been bumped to 2022, after the 1806 project is reconstructed so they are not conflicting with each other. He said that regarding the lighting in the Meadow Ridge Addition, that will have to wait until the next phase of Meadow Ridge to put all the street lights in. The phases have been stretched out so those lights will have to wait. When put in, the street light project will be assessed to the property owners when they are put in.

Commissioner Rohr commented that he lived in that area previously and there were complaints about no street lights at that time. He inquired if the developer should be responsible for putting in street lighting? Director Froseth stated that the city requires street lights to go in with new construction. Mayor Helbling recollected that several years ago the city agreed that the developer could wait to put in street lights once there was 70% occupancy. Mayor Helbling requested Director Froseth to address the street light issue in this area at a later time.

Abe Ulmer with Toman Engineering came forward and stated he was the engineer on 1st and 3rd Meadow Ridge projects and he is also the engineer on the proposed 4th and 5th Meadow Ridge projects. Regarding the street lights, he confirmed that Bismarck still allows occupancy at 70% before they do a special assessment district. When the street lights just referred to were addressed previously, as a maintenance item, Dave Bechtel and Jeff Wright, former city directors, held off on putting street lights in this district. He explained the process used today for the installation process for street lights. He recalls the City asked they not put in the street lights at that time with the intention of putting them in sometime in a future phase of the Meadow Ridge projects, which will be done when looking at Meadow Ridge 5th. He also clarified that with regard to the zoning issue that the developer consented for Meadow Ridge 4th to be duplex or single family. He did ask that Meadow Ridge 5th be zoned as RM zoning with no constraints. Regarding the storm water, the city criteria will be followed. There have been concerns for quite a while on the water problems and that the county is involved. He said the engineers are willing to move forward with these projects and said that before doing so, everything is reviewed before building on that property.

Mayor Helbling commented that the four lots discussed are already draining into the watershed and will have little impact on the water shed. City Planner Van Dyke agreed it will be the same rate of flow.

Jo Wyeth came forward to comment on the lighting issue in this area. She stated she wants the Commission to understand the safety problem that exists. She lives on 6th Avenue Northwest and she believes that there is increased concerns if there will be additional multi-family units built. She requested that if this project moves forward that lighting must be part of the project.

Director Froseth clarified that the street lighting is not planned with the 27th Street project, rather it will happen with the next phase of Meadow Ridge 5th development.

City Planner Van Dyke cautioned adding street lights to Meadow Ridges 1 thru 3 and requested they not be tied to Meadow Ridge 4th and Meadow Ridge 5th. They all take access off 24th and that Meadow Ridge 1 thru 3 would be treated as a special district. Planner Van Dyke further clarified that Meadow Ridge 4th and 5th street lighting will be planned under the current projects and then Meadow Ridge 1 thru 3 will have separate assessment districts as separate projects.

Mayor Helbling inquired of Attorney Brown if Meadow Ridges 1 thru 3 qualifies as a health and safety concern? Attorney Brown stated that yes, they would be. Mayor Helbling recommended that they can be a separate special assessment district and that they should get done.

Jeff Dressler came forward and stated that he lives on 7th Avenue and he commented on the (lack of) street lighting in the area. He pointed out there are “64” mail boxes located down at the end of 8th Street. He said when it’s dark, you cannot see the boxes. It is a safety issue. He requested a temporary light be installed on the telephone pole that is right next to the mailboxes until the street lights are installed.

Mayor Helbling inquired of Director Froseth and Planner Van Dyke that in order to get street lights in this area, that a district would have to be created and 2020 would be the earliest this could be done? Director Froseth replied that yes that is the correct process. Mayor Helbling requested Administrator Neubauer to discuss with Public Works Director Bitz the possibility of installing a temporary light by the mailboxes.

A second announcement was made to come forward to speak for or against this Ordinance. A final announcement was made to come forward to speak for or against this Ordinance. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr commented that regarding the Landeis’ request to solve the water problem, he clarified it is a broader development and that it would be difficult to determine a plan for their water problem without delaying the project.

Commissioner Larson commented that she appreciates the residents and the developer working together to make the adjustment for the single or two-unit only – it’s a good compromise on both sides. She requested further clarification with the street lights and potentially making the other Meadow Ridge 1, 2, 3, contingent on Meadow Ridge 4 or 5 and what kind of position that puts the City in. Mayor Helbling stated that Planner Van Dyke recommended that there should not be a contingency on Meadow Ridge 4 or 5. Planner Van Dyke concurred that is correct and stated that Meadow Ridge 1, 2, 3 project have nothing to do with Meadow Ridge 4 and 5 projects that will have street lights. He recommended that Meadow Ridge 1, 2, 3 project should be treated

independently as a special assessment district. He said that city staff will go back and address Meadow Ridge 1, 2, and 3 as a safety issue of which the City Commission already requested staff to look into it.

Attorney Brown clarified it has been determined that it is a safety issue and the City can create a special assessment district for Meadow Ridge 1, 2, 3 that cannot be protested out. That can be done between now and next summer and the street lights can be constructed in 2020.

Commissioner Larson moved to approve the first consideration of Ordinance 1323 as reflected in Exhibit 1 and the preliminary plat as shown in Exhibit 2. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

6. *Consider approval of the first consideration of Ordinance 1324 related to a zoning district amendment and preliminary plat for Meadow Ridge 5th Addition.* City Planner Van Dyke presented a request for the approval of the first consideration of Ordinance 1324 related to a zoning district amendment and preliminary plat for proposed Meadow Ridge 5th Addition. He said the applicant is requesting approval for a rezone from MC-Industrial to RM-Residential and a preliminary plat to create eight new lots. He said that as with Meadow Ridge 4th Addition each lot is planned to be further subdivided in the future. Exhibit 2 contains the preliminary plat for Meadow Ridge 5th Addition. City Planner Van Dyke stated that the Planning and Zoning Commission recommended approval of the zoning amendment and preliminary plat without restrictions. This document including Ordinance 1324 have been reviewed and approved by Attorney Brown. The Engineering and Planning Department recommended approval of the first consideration of Ordinance 1324 as reflected in Exhibit 1 and the preliminary plat as shown in Exhibit 2. City Planner Van Dyke recommended approval of the first consideration of Ordinance 1324 related to a zoning district amendment and preliminary plat for proposed Meadow Ridge 5th Addition.

Mayor Helbling announced this is a public hearing of the First consideration of Ordinance 1324 related to a zoning district amendment and preliminary plat for Meadow Ridge 5th Addition. He invited anyone to come forward to speak for or against this variance request.

Mayor Helbling commented that it is understood that the Landeis' are opposing this Ordinance and would want their information as presented before entered into the record for this ordinance.

Loretta Landeis approached the podium and again requested this project be held up due to all the water that goes through their property.

Abe Ulmer, Toman Engineering came forward and stated that on this property there are three existing storm ponds and the engineers have to put in detention ponds to slow down the water. For Meadow Ridge 5th he is working on a fourth pond to be connected to the other pond. However, everything will have to be approved through the City Engineer's Department. Part of the investigation should be on the county side to look at the culverts. Commissioner Davis commented that in trying to help out the Landeis family, when he visited the property there were

three culverts there and he questioned if that was enough and suggested that the city and county look at getting the water to flow through there quicker.

Mayor Helbling provided a second announcement to come forward to speak for or against this Ordinance. A final announcement was made to come forward to speak for or against this Ordinance. Hearing none, this portion of the public hearing was closed.

Commissioner Davis moved to approve the first consideration of Ordinance 1324 as shown in Exhibit 1 and the preliminary plat as shown in Exhibit 2. Commissioner Larson seconded the motion.

Mayor Helbling stated that he is aware there is one parcel the School District is looking at annexing however, before that happens the Landeis' water problem has to be resolved before any development plans go forward.

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

E. BIDS:

1. *Consider the award of the bid for the demolition of the structure at 210 5th St NW to Boehm Construction and Spray Foam (Award by Resolution).* Building Official Ouradnik presented information regarding a contract for bids received for the demolition of the property located at 210 5th Street Northwest, Mandan ND. The demolition of the structure will include the demolition of the structure, removal of all debris, termination of all utility services, and placing compacted fill to make the site buildable for the future. He reported that only one bid was received on August 12, 2019 for this project in the amount of \$32,500 from Boehm Construction. He reported that a Purchase Agreement was received today from Jack and Marie Friedt. They are proposing their plans to purchase the lot and remove all the structures from the lot and construct a new house. The closing date for the purchase will be on or before September 15, 2019 with the demolition to be completed by October 31, 2019. The new home construction would then begin with the foundation being installed in the fall of 2019 and the construction of the new home being completed in spring of 2020. The bid came in late today and that is why there is a change on the agenda. Mr. Friedt is waiting for the decision on the bid (postponing) before he signs the Purchase Agreement.

Jack Friedt came forward and stated that he wrote up a Purchase Agreement and he will give a down payment after this Commission meeting. He said he plans to complete the purchase by September 15, 2019 and take full ownership of the property.

Attorney Brown stated this (Purchase Agreement) is a private matter. The bid from Boehm Construction can be held for up to 120 days. He recommended deferring awarding the bid until the October 1, 2019 City Commission meeting which will give the Friedt's time to complete the purchase. If Mr. Friedt does not go through with the purchase, the City can then award the demolition bid. Building Official Ouradnik agreed with the outlined proposal explained by Attorney Brown.

Commissioner Larson moved to postpone the demolition of the structure at 210 5th Street Northwest, Mandan ND and subsequent resolution until the purchase of the property is decided. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*

MONTANA-DAKOTA UTILITIES - 24,654.19; ADVANCED ENGINEERING SVC - 664.00; BRADY, MARTZ & ASSOCIATE - 20,000.00; BRANDOZ CONCRETE INC - 6,188.48; BROOKE/PATRICK - 50.00; CENEX- FUOC BISMARCK-MAN - 10,051.00; H. A. THOMPSON & SONS, I - 4,476.00; HAUG/PAT - 250.95; HINES/ROBERT - 149.27; LEINGANG/DIANE - 176.33; ND DEPT OF ENVIRON QUALI - 400.00; SANFORD MEDICAL - 419.00; TEAM LABORATORY CHEMICAL - 1,851.00; MONTANA-DAKOTA UTILITIES - 33,209.65; AT & T - 700.03; BALABAN LAW OFFICE - 1,500.00; BANK OF NORTH DAKOTA - 95,227.98; BIS-MAN CONVTN & VISITOR - 1,941.38; CULLEN/BRITTANY - 1,175.00; DAKOTA MEDIA ACCESS - 10,998.00; DEARBORN LIFE INSURANCE - 2,394.04; FIRESIDE OFFICE PRODUCTS - 497.00; GLASS/THOMAS J. - 1,500.00; JIRAN ARCHITECTS & PLANN - 124,500.00; KELSCH KELSCH RUFF & KRA - 4,000.00; MANDAN PARK BOARD - 130,167.17; MORTON COUNTY AUDITOR - 233.50; ND CLE COMMISSION - 25.00; NORTH DAKOTA CPA SOCIETY - 145.00; SANFORD BISMARCK - 13,370.00; VINNY'S PROPERTY MANGT L - 871.60; CENTURYLINK - 4,369.15; ND PERS - 165,850.56; WELLS FARGO COMMERCIAL C - 137,446.21; MONTANA-DAKOTA UTILITIES - 25,482.85; ADVANCED ENGINEERING SVC - 169,519.57; ARMSTRONG SANIT & ROLL O - 108,251.46; BAER/JOHN - 29.99; BANK OF NORTH DAKOTA BON - 2,489,814.79; BOYCE/TRENT - 100.00; BRANDOZ CONCRETE INC - 21,756.13; BRASHEARS/KRIS - 100.00; BURLEIGH COUNTY - 82,067.36; C S DOORS INC - 359.95; CHI ST. ALEXIUS HEALTH E - 882.38; CIP CONSTRUCTION TECH. I - 730.00; COMPANION LIFE - 10.00; CRISAFULLI SLUDGE REMOVA - 3,847.00; CROSS COUNTRY COURIER - 88.55; CROSS COUNTRY EQUITY LLC - 51.25; CROWLEY FLECK PLLP - 5,000.00; CUSTER DISTRICT HEALTH U - 1,119.00; DAKOTA COMMUNICATION SVC - 2,525.00; DOMINGUEZ/ROSAURA - 70.00; EDLING ELECTRIC INC - 4,240.00; ELECTRIC PUMP INC - 3,059.93; FETZER ELECTRIC, LLC - 9,939.73; FLEXIBLE PIPE TOOL COMPA - 468.10; GRAYMONT CAPITAL INC - 12,551.70; GRISSOM/KAYLA - 120.15; HAUG/SUZANNE - 50.00; HAVERKAMP/AMELIA - 100.00; HIT, INC. - 519.25; HOLZER/CODY - 100.00; INFORMATION TECHNOLOGY D - 839.82; INTERGOVERNMENTAL SHOP - 12,224.41; KADRMAS, LEE & JACKSON, - 13,036.85; MANDAN MUNICIPAL COURT - 6,457.90; MANDAN PARK BOARD - 1,000.00; MISSOURI VALLEY PETROLEU - 14,623.38; MISSOURI WEST WATER SYST - 50.12; MORRELL'S WELDING INC - 115.00; MORTON COUNTY AUDITOR - 3,186.00; MORTON COUNTY RECORDER - 40.00; MORTON MANDAN PUBLIC LIB - 7,692.91; MUNICIPAL CODE CORPORATI - 965.11; MY GOV, LLC - 960.00; ND DEPT OF TRANSPORTATIO - 17,116.36; ND HEALTH DEPT MICRO DIV - 400.00; ND YOUTH CORRECTIONAL CE - 397.19; NDSACCHO - 20.00; NORTHERN IMPROVEMENT CO - 320,954.85; NORTHERN LIGHTS COUNCIL - 600.00; ONE CALL CONCEPT INC - 428.15; PRESORT PLUS - 4,693.45; PUBLIC AGENCY TRAINING C - 325.00; RAZOR TRACKING INC. - 450.00; RED ROCK PERKINS - 139.36; RENNER'S LAWN SPRINKLING - 911.00; SCHLOSSER EXCAVATING INC - 20,046.00; SJOBERG/PHILLP - 100.00; SOUTHWEST AG, INC - 100.00; STRATA CORPORATION - 3,453.03; TERRACON CONSULTANTS, IN - 2,759.75; THE CREATIVE TREATMENT L - 1,621.00; TRAFFIC SAFETY SERVICES - 3,750.00; TWIN CITY ROOFING INC - 4,395.00; VANGUARD APPRAISALS, INC - 1,200.00; VAULT1440, LLC - 11,700.00;

2. Consider approval of a renewal Class E liquor license at the Harvest Catering & Events located at 308 W. Main. Street.
3. Consider approval of an extension of the closing date for the sale of 100 5th St. NW.
4. Consider amending 2019 Municipal Court budget.
5. Consider formal acceptance of the Bank of North Dakota Infrastructure Loan for the Southside Street Improvement project.
6. Consider approval of the Special Event Permit for the Mandan Golden Age Club Car Show.
7. Consider approval of the Mandan Parking Authority Board's recommendations for expansion of the 90 minute parking zones.
8. Consider approval of Change Order G-02 to the Mandan 30" Sunset Reservoir Transmission Line Improvements project.

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

G. OLD BUSINESS:

1. Consider a variance to our driveway width standards at 4200 Lakewood Drive SE. Planning and Engineering Director Froseth stated this matter was discussed at the last City Commission meeting wherein the Planning and Engineering office received a variance request to allow two driveways at this residential property whose sum exceed the maximum allowable width of 36-feet. The following outlines the request as compared to code language for consideration.

August 16th update: In response to City Commission's concerns about their plans conflicting with neighborhood covenants, the Lakewood Homeowners Association (HOA) has been in communication with the Engineering Department. Director Froseth summarized a letter received from the HOA that basically says that Lakewood Homeowners Association appreciates the driveway sub-standards but in this case they have no opposition to the variance to allow the second driveway and exceed the maximum width standards. Other items related to this plan had comments based on the original draft of the addition, in particular, have some architectural elements, windows on the water side of the lot and items pertaining to the garage door and similar items of which the applicant does not have the plans completed yet but they verbally said they would do that and they had no issue with that. The HOA appears to be in favor of the variance request. Director Froseth stated that his office did not think the HOA's decision had any impact with the Engineering Department's decision. Commissioner Davis commented that he felt it would be important to know what the HOA's position was, mostly for the neighborhood's sake and to make sure the City Commission was doing its due diligence on behalf of the neighborhood.

Scott Berger, a local contractor came forward and stated that he has been retained to help the homeowner's with this variance request. He stated that he spoke with Craig Smith, the

Lakewood HOA representative and they approved of the variance request. He explained that most lots are 80-90 feet wide, and this particular lot is about 180 feet wide. Further, the south side of that lot is controlled by the Park District (North Dakota Parks and Rec) that cannot be developed so there is that side of the street to handle any snow issues.

Commissioner Larson stated she is not in favor of approving variances on a regular basis, however given the above explanations and given that there is an easement on the other side of the property and considering the extreme width of the property, she does not see any effect on snow removal or storm water adversely affecting anything in this situation, thus she stated that she is supportive of this variance request. She has discussed this matter with Director Bitz, who has concerns with snow removal; however, Director Bitz agreed that this particular property would not adversely affect the Public Works operations. Commissioner Davis concurred with Commissioner Larson's point of view. Commissioner Rohr stated that regarding Ordinance, the City Commission is the discretionary party at times and they need to consider the opinions of the homeowners and see how this plays out. He concurred with Commissioner Larson's position.

Commissioner Davis moved to approve the variance request of driveway width of 14' at 4200 Lakewood Drive Southeast. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

H. NEW BUSINESS

1. *Consider approval of James B Mellon, Midway Lanes INC., Exemption Application 3327 Memorial Hwy.* Lila Teigen with the City Assessing Department presented a request to consider an application for a three year exemption for construction of an addition to a structure pursuant to North Dakota Century Code 57-02.2. The request was brought by James B Mellon, Midway Lanes INC., who is applying for a three year exemption for the construction of an 8,000 foot square addition to the structure located at 3327 Memorial Highway. The 40' x 200' addition will be constructed on the east side of the building. The addition will consist of an amusement area, pizza shop and rental space for Northern Trophy. This parcel is also known as Lot 2A of Lot 2 Block 1 Midway 12th Addition, parcel #65-6100142. The following documents were reviewed: Application, 2015 City of Mandan Guidelines for Property Tax Exemption of Improvements to Commercial & Residential Buildings, plan and current picture of east side of building.

The value of the addition is estimated to be \$1,144,300. Based on that amount, with the 2018 mill levy of 265 mills, the estimated exemption is \$15,174 for all taxing entities and \$3,674 for the City of Mandan per year. Midway Lanes representatives were present to answer questions.

This request was reviewed by Assistant City Attorney Oster. It was recommended to approve the Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2 located at 3327 Memorial Hwy.

Commissioner Braun moved to approve the Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2 for the building addition to 3327 Memorial Hwy. Commissioner Davis seconded the motion. Roll

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

2. *Consider a driveway variance for 1401 Action Drive Southeast.* Planning and Engineering Director Froseth stated that the Planning and Engineering office received a variance request to allow a fourth driveway at a commercial business located at 1401 Action Drive Southeast in Mandan. He said that when this first was presented there was a request to combine the driveway lots so that when the lots are combined there would be one lot, one business, and four driveways. For commercial lots, the city allows two driveways. He said that this technically is not combined yet, so on technicality before combination it could have four driveways because it would not be two per lot. The City would not allow driveways to cross property lines and the request is for 19 feet between driveway aprons and the Mandan City Code requires 24 feet to allow for at least one extra space for parking vehicles. Since they already have three driveways and knowing what a challenge it is for Public Works staff to remove snow in cul de sacs areas, the Public Works staff did not agree with the fourth driveway and an alternative was suggested to work this out, however the property owner still prefers having the fourth driveway.

Director Froseth stated that the following outlines the request along with the city code language for consideration. The sections of code that are of concern are sections 115-5-3 (c)(2) 115-5-4 (6) are *italicized* in the sections below:

Section (c) Application issuance. The City Engineer shall issue a permit if a determination is made that:

(1) The work will be done according to the standard specifications of the city for public work of like character;

(2) *The operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties; and*

(3) The health, welfare and safety of the public will not be unreasonably impaired.

Non-residential lots: Any lot not used for residential purposes may have a maximum of two driveways, each not to exceed 40 feet in width, *separated by a distance of not less than 24 feet measured at the curb line of each side of the lot that fronts upon a public street.*

The variance requirements for section 105-1-12 of Mandan City Code and the city staff comments under each are in italics:

(1) Variances.

(a) On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this chapter in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the chapter would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

(b) No adjustment in the strict application of any provisions of this chapter shall be granted by the Board of Adjustment unless it finds that:

1. There are special circumstances or conditions, fully described in the findings of the Board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not.

The Engineering Department does not see special circumstances or conditions that apply to this land or building that would require an additional driveway to properly serve this property.

2. For reasons fully set forth in the findings of the Board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building; and the granting of the variance is necessary for the reasonable use of the land or building; and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.

The Engineering Department does not believe that the denying the request to add another driveway would deprive the applicant of the reasonable use of this land or building. Three driveways would still be allowed.

3. The granting of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Engineering Department does not believe this request to be in harmony with the general purpose of the rules relating to allowable driveways. There is a concern about adequate room to put snow within this cul-de-sac. When lot three to the NE develops, it will be that much more of a challenge.

Director Froseth stated that in conclusion, the Planning and Engineering Department finds that this request does not strictly meet the criteria needed to grant. It would be appropriate for the applicant to speak of the hardship if not granted however as our department cannot fully and accurately express that component. All items were forwarded to the City Attorney for review.

Director Froseth recommended denying the variance request because the property does not include special circumstances or conditions peculiar to the property, denial does not result in "...unnecessary hardship that would deprive the owner of a reasonable use of the land or building...", and granting the variance is not in harmony with the general purpose and intent of the chapter. He said the main reason for the denial has to do basically with snow removal.

Mr. Houwman came forward and stated one of the reasons they are interested in locating in Mandan is because of how the community has so nicely worked with them in doing business. He said he may have to consider downsizing his business expansion if this is denied and that would prohibit their business to grow in the fashion he anticipated. He said they are fine working through meeting requirements even if they have to downsize. He provided additional areas that snow could be piled up if needed.

Commissioner Rohr commented that he understands that businesses need certain access to their property in order to run their business and that cul de sacs in a business area differ than those located in residential areas. Mayor Helbling agreed with Commissioner Rohr in that it is a totally different circumstance with residential versus commercial. If it was a business or residence where the public goes there constantly it is a different situation. He stated he believes this request is within reason. More than likely, this business will not be going anywhere in the next several years and it is Mandan's goal to encourage business relationships. Commissioner Davis inquired if this were approved, would there be any agreement that would have to be made that Malloy and Action Sports would be open to providing more snow removal, since that is one of the issues.

Mr. Houwman reported that his business is 24/7 and if there are plants that are shut down or other emergencies, the plant has to open up and make sure there is access to their facility. He said they understand they will maintain the public street for snow removal and they are good with that.

Commissioner Larson, spoke to the one undeveloped piece of property in that area. Malloy is not involved with that property at all. In reply to that question, Spence Koenig came forward and stated that he owns that piece of property and agrees with the request as presented by Malloy.

Commissioner Braun commented that the City Commission relies on the City Engineering staff to bring forth information so the Commission can make informed decisions. He said that everyone agrees that industry and commercial is something that the City pushes for and that the goal is to make it easier to promote and create that kind of business atmosphere. He agreed with Mayor Helbling, the basic issue is snow removal that has to be taken care of between the city and the business without having to enter into an agreement. That nullifies his issue at this time.

Commissioner Larson moved to approve the variance request. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider approval of negotiating with Moore Engineering for Engineering Services related to the Mid-Town East Street Improvement District (SID 215).* Planning and Engineering Director Froseth presented a request to confirm the Selection Committee's qualifications based selection of Moore Engineering for consulting engineering related to the Mid-Town East Street Improvement project and enter into contract negotiations with them. Director Froseth explained that the local street conditions in this area of town can be generally classified as unsatisfactory as determined by a street assessment effort completed in 2012. There are water main pipes pushed beyond their useful life and storm sewer issues throughout the project area. This area is also challenging in the way of ADA compliance. Though it will not be feasible to address all ADA issues because of existing grade and construction limit constraints, improved accessibility will be accomplished with this project. A Request for Proposals (RFP) was advertised in June and July for engineering assistance. The City received seven proposals indicating interest in providing these services for the city. A Selection Committee was created that was comprised of Planning and Engineering and Public Works department staff. After the Selection Committee reviewed the seven proposals, three of the competing firms were interviewed. After the interviews and in

evaluating all information the selection team scored the three firms. After the scores were tabulated, Moore Engineering came out on top with Houston Engineering scoring in second place and HDR in third place. Therefore, Director Froseth recommended moving forward with contract negotiations with Moore Engineering.

Director Froseth reported there is no direct cost at this time. Designing a project of this scope and size is expected to cost under, but in some cases near, 10% of the construction. The specific limits and scope of project have not been set yet. A preliminary estimated cost for this project is about \$6M-\$8M before going too far into project assessment. All documents have been forwarded to the City Attorney for review.

Director Froseth recommended approving the selection of Moore Engineering and to authorize engineering staff to negotiate for the Mid-Town East Street Improvement project (SID 215) engineering services contract. Moore Engineering was present to answer questions.

Commissioner Larson moved to confirm the selection of Moore Engineering, and authorize engineering staff to negotiate for the Mid-Town East Street Improvement project (SID 215) engineering services contract. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *Consider selection of Architect firm for Morton Mandan Public Library and Downtown Parks Project.* City Administrator Neubauer presented a request to consider selection and permission to enter into negotiations for architectural services for Morton Mandan Public Library, Dykshoorn Park and Heritage Plaza Improvements. He said that a Request for Qualifications (RFQ) was issued on June 21, 2019 for architectural services for Morton Mandan Public Library, Dykshoorn Park and Heritage Plaza Improvements. Subsequently, three proposals were received from Bartlett & West, Al Fitter Architect PC in conjunction with Ciavarella Design Architects & Buffalo Design Architects and Image Group Architecture & Interiors.

The team that included Mayor Helbling, MMPL Board of Trustees President Linda Ehreth, City Administrator Jim Neubauer, Business Development & Communications Director Ellen Huber, Program Coordinator Kari Moore, Library Director Jackie Hawes, Del Wetsch, MPO and City Planner John Van Dyke reviewed the proposals and also participated in the interviews of each of the proposers. In person interviews were conducted on August 13-14, 2019. The recommendation from the team was a unanimous vote in favor to move forward on contract negotiations with Bartlett & West. Their work on the Dickinson Public Library renovation and expansion along with work on several public gathering spaces hit upon many of the points our project entails.

Administrator Neubauer stated that the goal is to bring back a contract to the City Commission for their consideration at the September 3, 2019 meeting. Administrator Neubauer recommended approval for the selection and permission to enter into negotiations for architectural services for Morton Mandan Public Library, Dykshoorn and Heritage Plaza improvements as presented.

Commissioner Larson stated she has a conflict of interest with this and was not part of the City's side of this discussion outside of voting for the issuing of the RFP for this project. She has not been part of the Bartlett and West (her employer) discussion from their side. She feels she has a strong conflict with this matter and respectfully recused herself from voting on this item.

Commissioner Braun moved to approve the selection and permission to enter into negotiations for architectural services for Morton Mandan Public Library, Dykshoorn and Heritage Plaza improvements as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Abstained; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

I. RESOLUTIONS AND ORDINANCES

1. *Second and final consideration of Ordinance 1317 to amend and re-enact Section 18-1-7 and Section 18-1-8 of the Mandan Code of Ordinances relating to the possession of marijuana and drug paraphernalia.* Police Chief Ziegler stated there have been no additional comments or revisions since the first reading of this Ordinance.

Commissioner Braun moved to approve the Second and final consideration of Ordinance 1317 to amend and re-enact Section 18-1-7 and Section 18-1-8 of the Mandan Code of Ordinances relating to the possession of marijuana and drug paraphernalia. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Second and final consideration of Ordinance 1318 to create Section 6-3-1 of Article 6 of the Mandan Code of Ordinances relating to animals on city owned property.* Administrator Neubauer stated there were some edits to the Ordinance since the first consideration was presented in that “publically owned property” was removed and changed to “city owned property” and deferred to the Park and Rec and School District verbiage so the city code language is the same wording. It also included that this is a violation that can be ticketed for a \$20 fine. This ordinance was brought forward due to people bringing their animals to the park and not cleaning up after them. Commissioner Braun inquired if this would pertain to city cemeteries. Administrator Neubauer replied that there is a resolution following this ordinance that will indicate which properties will have limited access. Dykshoorn Park and Heritage Plaza are those two areas however, the cemetery is not included in that resolution. He said that because of the new ordinance there will have to be proper signage posted. Commissioner Larson inquired if there are events where pets are invited, and what would happen in instances like that? Administrator Neubauer stated that common sense would rule the day and could be determined on a case by case.

Commissioner Rohr moved to approve the Second and final consideration of Ordinance 1318 to create Section 6-3-1 of Article 6 of the Mandan Code of Ordinances relating to animals on city owned property. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider Resolution to approve the Second and final consideration of Ordinance 1318 restricting dogs, cats, or domesticated animals on city property at Dykshoorn Park and Heritage Plaza.* Administrator Neubauer said that some questions have come up about service animals so verbiage will be included to allow service animals.

Commissioner Davis moved to approve the Second and final consideration of Ordinance 1318 permitting the restriction of dogs and cats or domesticated animals on certain City owned property. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *Second and final consideration of Ordinance 1319 to amend and re-enact Section 24-7-17 and Section 24-7-18 of the Mandan Code of Ordinances relating to parking of certain vehicles and unattached trailers and restrictions on consecutive parking.* Deputy Chief Flaten stated there are no changes since the first consideration was presented. She provided some stats of complaints received over the last three months on campers, trailers and boats. Mayor Helbling stated he didn't like singling out certain groups, and stated he thought it should be anything (car, motorcycle, etc.) if it's parked too long it should be ticketed. Deputy Chief Flaten stated cars can be parked on residential street for 48 hours.

Commissioner Larson reported that a Mandan resident brought up a concern that the (20 feet) length is restrictive. That length could be made longer, and Commissioner Larson suggested 36 feet in length.

Commissioner Larson moved to approve the Second and final consideration of Ordinance 1319 to amend and re-enact Section 24-7-17 and Section 24-7-18 of the Mandan Code of Ordinances relating to parking of certain vehicles and unattached trailers and restrictions on consecutive parking with the amendment of the length from 20 feet on any residential street or alley within any residential district to 36 feet. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: No. The motion passed.

5. *First Consideration of Ordinance 1325 to amend and re-enact Sections 4 and 5 of Sec. 24-12-8 of the Mandan Code of Ordinances relating to violation for not carrying liability insurance.* Attorney Brown stated this was brought to his attention by Judge Kautzman stating that the insurance conforms to North Dakota state law. This will state that a violation of subsection one must include a fine of one hundred fifty dollars (\$150) which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined three hundred dollars (\$300) which may not be suspended. Upon conviction for a violation of subsection one or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of one (1) year and kept on file with the department.

Commissioner Braun moved to approve the First Consideration of Ordinance 1325 to amend and re-enact Sections 4 and 5 of Sec. 24-12-8 of the Mandan Code of Ordinances relating to violation for not carrying liability insurance. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

Commissioner Larson suggested that the City Commission send a recommendation to city staff to review the lighting situation and bring recommendations to a future meeting for the project referred to as Meadow Ridge 1, 2 and 3 Additions.

K. ADJOURNMENT:

Commissioner Braun motioned to adjourn the meeting at 7:58 p.m. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

James Neubauer
City Administrator

Tim Helbling
President, Board of City Commissioners