
The Mandan City Commission met in regular session at 5:30 p.m. on October 15, 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 Davis, Larson and Rohr. Department Heads present were, Finance Director Welch, Fire Chief Nardello, Planning & Engineering Director Froseth, Principal Planner Van Dyke, Business Development and Communications Director Huber, Police Chief Ziegler, City Administrator Neubauer, Assessor Markley, Project Engineer Fettig and Assistant City Attorney Oster. Absent: Commissioner Braun, Human Resource Director Cullen, Building Official Ouradnik, Director of Public Works Bitz and Attorney Brown.

Mayor Helbling extended a thank you to the Fire Department, the firefighters, the Police Department, the Metro Area Ambulance, Mandan Rural Fire Department, Bismarck Fire Department, Highway Patrol, City of Mandan staff, volunteers and many others who hosted and helped with the Fire Prevention Day.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the October 1, 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: Absent; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Consider approval of a variance to site obscuring requirements and a stand-alone office use for Lot 3, Block 1, Mandan Industrial Park.* City Planner Van Dyke presented a request for approval of a variance to the site obscuring requirements that apply to public utility service yards and to allow for stand-alone offices in the MA-Industrial zoning district. He said that Innovative Energy Alliance Cooperative (IEAC) is seeking a variance to the site obscuring requirement that applies to public utility service yards. IEAC is also seeking a variance to MA-Industrial to allow stand-alone offices. This request is a result of a reallocation of assets within the energy cooperative. Through this reallocation the applicant is seeking to divide the existing lot that currently has an office building located on the same property as the utility storage yard.. This division would create a non-conforming office building, as it is presently not allowed as a stand-alone structure. Obscuration requirements apply to all new development, a subdivision would trigger the need to meet the current code requirements.

Planner Van Dyke reviewed the requirements under the Mandan Code of Ordinances in granting a variance include:

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.

Planner Van Dyke stated that the special circumstance that applies to this matter is that the cooperative is a unique entity attempting to reallocate assets within the entity itself. There is no change in use expected on either of the proposed lots of the utility service yard or office.

(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;

For the cooperative to function as it sees necessary a division of the property and reallocation of ownership within the entity itself is required. A division would trigger a non-conforming use for stand-alone offices and trigger the requirement for site obscuration of the utility yard. The land is presently surrounded by industrial uses. Requiring site obscuration due to a reallocation of assets within the same entity is burdensome.

(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.

Planner Van Dyke explained that the unique characteristic of this application is that the property is currently utilized and it will continue to be utilized by the same partners. The use will remain unchanged and the granting of the variance will not be injurious to the neighborhood or detrimental to the public. It is a co-owner situation.

Mayor Helbling announced that this is the time and place set for the public hearing to consider approval of a variance to site obscuring requirements and a stand-alone office use for Lot 3, Block 1, Mandan Industrial Park. He invited anyone to come forward to speak for or against the variance. A second announcement was made inviting anyone to come forward to speak for or against the variance. A third and final announcement was made inviting anyone to come forward to speak for or against the variance. Hearing none and noting that no one came forward, this portion of the Public Hearing was closed.

Commissioner Rohr moved to approve the variance for Lot 3, Block 1, Mandan Industrial Park with the provisions noted in Exhibit 3 for the rationale outlined in Exhibit 4. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

2. *Consider approval of Ordinance 1313 related to the annexation, zone change, and preliminary plat/master plan for proposed Evergreen Heights 3rd Addition.* City Planner Van Dyke presented a request for approval of the first consideration of Ordinance 1313 related to the annexation and zone change and the corresponding preliminary plat/master plan for proposed Evergreen Heights 3rd Addition. He stated that Val Renner and Janet Dykshoorn are seeking to plat their property near 19th Street Southeast and South 1806 for the purposes of commercial development. The property requesting to be platted totals 4.04 acres with an additional five (5) acres being part of a master plan. The master planned area is not being requested to be annexed, platted, or rezoned at this time.

City Planner Van Dyke stated that Mr. Renner would like to erect shop condos for his landscaping business and to house similar contractor businesses on Lot 3, Block 1 of the proposed plat (Exhibit 2 and 3 were presented). Lot 1 is intended for similar use as Lot 3. No residential uses are desired on these lots, although Lot 1 has been noted as an ideal location for residential construction. Ms. Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1. Lots 1 through 3, Block 1 is seeking CA – Neighborhood Commercial zoning. City staff is recommending the same restrictions that applied to these lots at the previous P&Z meeting on April 22, 2019. Staff has received confirmation that these restrictions are amenable to the applicant via e-mail. The master plan shows single-family residential being constructed along the west of a proposed north-south future road titled “Living Water Drive.” These are Lots 1-8, Block 3 on the master plan. Future zoning for Lot 1, Block 2 of the master plan is RM multifamily.

Planner Van Dyke said that the development proposed does not align with the comprehensive plan for the City. Despite this, staff is providing recommendation for approval based on the rationale found in Exhibit 4. The Planning and Zoning Commission voted unanimously to recommend approval at the September 23 meeting. He said that the Engineering and Planning Department recommend approval of the annexation and zoning amendment as outlined in Ordinance 1313 and they recommend approval of the preliminary plat as shown in Exhibit 2 and the master plan as shown in Exhibit 3. The recommendation is based on the information included in Exhibit 4. NDDOT approved the Ordinance and emergency services have all had input and approve of the proposed annexation.

Mayor Helbling announced that this is the time and place set for the public hearing to consider approval of the Ordinance 1313 related to the annexation, zone change, and preliminary plat/master plan for proposed Evergreen Heights 3rd Addition. He invited anyone to come forward to speak for or against the Ordinance 1313.

Tim Tausand, 1712 14th Avenue Southeast in Mandan came forward and stated that his backyard is located at the southern part of Val Renner’s property. He said he is not opposed to this project but he has a concern about the southern section of the master plan regarding the density of the housing project being put in there. Based on the fact that 16th and 19th are going to be the only two outlets for that are he is concerned that if there will be multi-housing or apartments buildings located there, that would be way too much traffic in that neighborhood for that area. He said that he does supports the plan presented that will be single-family housing only.

A second announcement was made inviting anyone to come forward to speak for or against the Ordinance. A third and final announcement was made inviting anyone to come forward to speak for or against the annexation. Hearing none this portion of the Public Hearing was closed.

Planner Van Dyke clarified that no entitlements are being presented for this master plan. This is largely the functionality and overall harmony of what's being proposed for a preliminary plat. There will still be public hearings when the next section gets annexed and platted and assigned a zone so there will be an opportunity for that type of discussion.

Commissioner Davis moved to approve the first consideration of Ordinance 1313 as shown in Exhibit 7, the preliminary plat as shown in Exhibit 2, and the master plan as shown in Exhibit 3 all subject to the requirements of the final plat as outlined in Exhibit 5 and this approval is based on the rationale included in Exhibit 4. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

E. BIDS:

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Consider confirmation of special assessments for Street Improvement District #211.*
3. *Consider providing a Flex PACE letter of support for Wise Properties, LLC.*
4. *Consider approval of the following assessments: (i) Weed Cutting of 2019; (ii) Sidewalks of 2019; (iii) Health & Safety of 2019; (iv) Delinquent Alarm System Accounts for 2019; and (v) Delinquent Utility Billing Accounts for 2019.*
5. *Consider closing Administrative offices day after Thanksgiving.*
6. *Consider approval to offer a one-time \$10 credit on utility bill to customers who sign up for both SmartHub and E-bills.*
7. *Consider special event permit application for the Morton/Mandan Law Enforcement Center 2019 Trunk or Treat event.*
8. *Consider a 2019 budget amendment for the 2020 community calendar and proposal for its design, printing and mailing.*
9. *Consider approval of Public Works Facility Expansion Change Orders.*

Commissioner Rohr moved to approve the Consent Agenda items No. 1 through 9 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

1. *Consider counteroffer for Lot 1A, Block 1, Roughrider Estate Pioneer Replat.*

City Planner Van Dyke presented a request to accept the counteroffer for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. He provided a recap from a previous meeting. Geoffrey S. Pitman provided a counteroffer of \$200 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. The list price was \$1,000. This is the same price that was originally offered and presented at the October 1, 2019 meeting. The City countered with a

\$1,000 purchase price but the buyer is firm with the original \$200 offer. The property is located in Roughriders subdivision in the far northwest of the City. He explained that Roughriders has several properties wherein the backyards have come back to the city for failure to pay taxes.

Planner Van Dyke reported that the Engineering and Planning Department is recommended accepting this offer given the limited use and value to other potential buyers and rejection of the previous counteroffer attempt by the City to obtain a higher purchase price. Engineering and Planning recommended accepting the counteroffer of \$200 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. City Commissioners may accept, reject, or counter the offer provided by Mr. Pitman.

Mayor Helbling commented that if the City accepts the \$200 offer, does this start a precedence wherein others may come in with a \$200 offer. He stated he would like to counter offer in the amount of \$556 and that the buyer be required to pay the special assessments. That will bring the sales price up to the \$1,000 commented that the property does have some value. Commissioner Larson agreed with Mayor Helbling and stated that she does not approve accepting the \$200 offer due to setting future precedence. Commissioner Rohr commented that it is not a sense of urgency to sell the property. Attorney Oster stated that since there is a counter offer from the buyer, the City can again counter offer whatever they deem fit. The motion could be changed to the number that the City would be willing to respond with.

Commissioner Larson moved to counteroffer with a purchase price of \$556.21 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. Commissioner Davis seconded the motion.

Planner Van Dyke inquired if the motion is to include that the buyer be responsible to pay the balance due of the outstanding specials. Mayor Helbling stated, yes, it will include the specials. Planner Van Dyke recommended that an Amended Motion be placed as a separate motion to include that the buyer be responsible to pay the balance due of the outstanding specials.

Commissioner Larson amended the motion to counteroffer with a purchase price of \$556.21 for the purchase of Lot 1A, Block 1, to include the outstanding specials due on the property are to be paid by the buyer. Commissioner Davis seconded the motion.

Roll Call Vote on the original motion: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

H. NEW BUSINESS

I. RESOLUTIONS AND ORDINANCES

1. *Consider approval of the second and final consideration of Ordinance 1327 related to the annexation of Lot 2, Block 2, Bahm's 1st Addition.* City Planner Van Dyke presented a request to approve the second and final consideration of Ordinance 1327 related to the annexation of Lot 2, Block 2, Bahm's 1st Addition. The connection fee has been paid and the property is ready to be

annexed. There have been no comments or opposition since the presentation of the first consideration.

Commissioner Rohr moved to approve the second and final consideration of Ordinance 1327 related to the annexation of Lot 2, Block 2, Bahm’s 1st Addition. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

Commissioner Larson stated that with the onset of winter, and the first big snow storm hitting the city, she extended a thank you to the Public Works Department for the snow removal efforts during that time. Mayor Helbling commented there also was a water main break on the street to be fixed during that time. Commissioner Rohr commented that Mandan had fewer accidents than Bismarck.

K. ADJOURNMENT:

Commissioner Davis motioned to adjourn the meeting at 5:55 pm. Commissioner Larson seconded the motion. The motion received unanimous approval of the members present.

s/s Jim Neubauer

James Neubauer
City Administrator

s/s Tim Helbling

Tim Helbling
President, Board of City Commissioners