
The Mandan City Commission met in regular session at 5:30 p.m. on May 7, 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 and Commissioners Braun, Davis, Larson and Rohr. Department Heads present were, City Administrator Neubauer, Fire Chief Nardello, Building Official Ouradnik, Business Development and Communications Director Huber, Assessor Markley, Director of Public Works Bitz, Police Chief Ziegler, Planning & Engineering Director Froseth, Principal Planner Van Dyke and Attorney Brown. Absent: Finance Director Welch and Human Resource Director Cullen.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the (i) April 16, 2019 Board of City Commission regular meeting, (ii) April 16, 2019 Board of Equalization meeting, (iii) April 23, 2019 Special Meeting, (iv) April 30, 2019 Special Meeting Budget Working Session.* Commissioner Larson moved to approve the minutes as presented. 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.

D. PUBLIC HEARING:

Mayor Helbling announced there was another public hearing scheduled for this meeting but it was cancelled due to Cloverdale Foods requesting additional time to work on the application. This matter will be rescheduled at a later time.

1. *Conduct a public hearing to consider testimony from the owner of the property at 210 5th St. NW.* Building Official Ouradnik stated that this is the time and place set for the public hearing pursuant to Mandan Municipal Code Section 111-9-5(1) for the property at 210 5th Street NW Mandan, ND with the legal description of First Northern Pacific Addition, Block: 76 LOT 7&8 – 4361 for the owner, Kristi Sample, to show cause why the building should not be demolished.

A report was given to the City Commission on April 16, 2019, about the conditions of the property located at 210 5th Street NW, Mandan, North Dakota. The report included the contact Kristi Sample, Ellis Larson (Kristi Sample’s father), and Mike Markwed from Markwed Excavating Inc., had with City staff and Custer Health District staff. After concerns from Mandan Police Officers were raised on the sanitary and structural conditions of this residence inspections were conducted by Custer Heath District who deemed the house uninhabitable and a notice was posted on January 8, 2019. Mandan Code Enforcement, Mandan Building Inspections and Custer District Health conducted further inspections on January 15, 2019. The inspections displayed cause for the house to be deemed a Dangerous Building as per Section 111-9-1 of Mandan Municipal Code. Notice was sent to Ms. Sample informing her that the home had been declared a dangerous building according to Mandan Municipal Code Chapter 9 section

111-9-1 on January 18, 2019. Attempts were made by Mr. Larson to obtain an extension of the deadline for the demolition of the house was rejected due to the fact that a signed contract with a contractor could not be produced. On February 5, 2019 an estimate from Markwed Excavating Inc. was received for the demolition of the property but a signed contract was not produced. Notice of a public hearing was posted on the house. A timeline of the process was reviewed beginning January 8, 2019 through February 28, 2019.

Based on the above, Building Official Ouradnik recommended the City Commission uphold the findings of Custer Health, Code Enforcement, and the Building Inspections Department and declare the property at 210 5th Street NW, Mandan ND to be a dangerous building and that the house be demolished.

Mayor Helbling announced this is a public hearing to consider testimony from the owner of the property at 210 5th Street Northwest, Mandan, ND. He invited anyone to come forward to speak for or against this matter.

Kristi Sample came forward and requested that she be allowed additional time in order for her to employ her own structural engineer to look at the house before it is torn down.

Mayor Helbling announced again that this is a public hearing and invited anyone to come forward to speak for or against this matter.

Kristi Sample approached Mayor Helbling and handed him a document that was given to Administrator Neubauer.

Mayor Helbling announced a third time that this is a public hearing and invited anyone to come forward to speak for or against this matter. Hearing none, this portion of the public hearing was closed.

Commissioner Davis inquired that if a third party comes in to do an assessment of what has been done already on the property, what purpose would that serve?

Building Official Ouradnik stated that if the owner wants to have a third party to come in to see if there is any way to repair the home that would be acceptable with his office. He commented that any engineer that comes in will have substantial work to complete. For example, there is a portion of the foundation that is crumbling away and it is currently be held up by blocks and jacks. Custer Health has declared the house is unsafe for anyone to live in. If the owner can show that they can rehab the home, that would be fine but a timeline would have to be established. The home would have to be cleared out and it would have to be done within a reasonable amount of time.

Attorney Brown interjected and stated that under the Ordinance, that if the Commission were to determine the house is a dangerous building, the City will be required to give the owner notice and they will have thirty (30) days before the city can contract for house to be demolished. He stated that based on his review of the photographs and documentation provided in the agenda packet, the house appears to be in bad shape. In the thirty (30) days, the owner could have an

engineer look at it and give them an estimate about reconstruction. That gives the owner a thirty (30) day window. Mayor Helbling inquired what liability the City would have if it is delayed. Attorney Brown stated that the City has no liability, rather the City Commission is following the Ordinance Code procedures.

Commissioner Braun commented that if the City Commission follows the recommendation of the City Building Official, the owner will have thirty (30) days to get an engineer in to do an assessment, the owner will be allowed to present the information at the next City Commission meeting. Mayor Helbling stated that if that happens, the City Commission would require an Engineer's Assessment report and a Plan of Action before the thirty (30) expire and that Engineer's Assessment would be at the expense of the owner Kristi Sample, not the City. Commissioner Davis commented he would agree to the plan outlined by Mayor Helbling as it would buy some time for the homeowner if there is a chance to repair the home.

Commissioner Rohr agreed that the home is in bad shape and that it will take substantial repairs to make it suitable to live in.

Commissioner Rohr moved to declare the property at t 210 5th Street Northwest, Mandan, North Dakota, with the legal description of First Northern Pacific Addition Block 76 Lot 7 & 8 – 4361 a Dangerous Building in accordance with Article 9 Section 111-9-1 of Mandan Municipal code and order the home to be demolished at the cost of the home owner.

Commissioner Larson seconded the motion.

Commissioner Braun inquired if the motion should contain a contingency that if the homeowner comes back within the thirty (30) days with an acceptable Action Plan, will the City Commission make a new motion at that time?

Attorney Brown replied that he would not recommend a contingency because if an acceptable Action Plan is presented, it can be reviewed by the City Commission at that time and appropriate action can be taken.

Mayor Helbling clarified that the City Commission will move forward with the motion and the homeowner will have thirty (30) days to hire an engineer or structural engineer to come up with a corrective action plan that would include a satisfactory timeline to complete any work to be done and a letter from a financial resource would also be required. If that information is submitted within the thirty (30) day timeframe, the Commission would have the option to review the request – if this motion does pass.

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

E. BIDS:

F. CONSENT AGENDA

1. Consider approval of a charity raffle permit for Djw Life Project at Christ the King Church on 5/17/2019.
2. Consider approval of annual site authorization for Bismarck Cancer Center Foundation at Prairie West Golf Course July 1, 2019 to June 30, 2020.
3. Consider approval of annual site authorizations for Mandan Baseball Club for July 1, 2019 to June 30, 2020: (i) Powerhouse/501; (ii) Broken Oar; (iii) The Drink (Lakewood Bar & Grill); (iv) Last Call Bar; (v) Silver Dollar.
4. Consider approval of Minor Plat for Canyon of the Willows Addition.
5. Consider approval of agreement for long-term temporary highway closure with NDDOT.
6. Consider approval of Annual Maintenance Certification with NDDOT.
7. Consider subordination agreement related to the financing of Library Square I.
8. Consider approval of Soccer club road closure request.
9. Consider approval of the Mercer County Sheriff's Office Jail Agreement.
11. Consider Assessing Department budget transfer.
12. Consider approval of annual site authorization for Matpac Wrestling Club at The Scapegoat Bar for July 1, 2019 to June 30, 2020.
13. Consider approval of site authorization for New Salem Civic Club at Rock Point for the remainder of the year ending June 30, 2019.
14. Consider approval of annual site authorization for New Salem Civic Club for July 1, 2019 to June 30, 2020: (i) Mandan Bennigan's; (ii) Rock Point.
15. Consider amending the 2019 Street Department budget.

Commissioner Larson requested that items 16 and 17 be pulled for discussion. Commissioner Davis requested item 10 be pulled for discussion.

Commissioner Rohr moved to approve the Consent Agenda items 1 through 9 and items 11 through 15 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.

10. Consider approval of Memorandum of Understanding Operational Plan and Grant Agreement with ND Game & Fish Dept. Police Chief Ziegler reported that this is an agreement for summer river patrol. It is between the City of Mandan, Morton County, Burleigh County and the City of Bismarck. There is reimbursement through the Fish and Game through a state grant. It is used for enforcement of violations on the river such as speeding boats on the river. It applies to both river and shorelines.

Commissioner Davis moved to approve the Consent Agenda item 10 as presented. 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.

16. Consider approval of offer for 109 14th Ave. NW.

Commissioner Larson inquired that the property value was listed at \$20,000 and the offer that is coming in for the lot is \$6,500. They are asking the City to absorb the specials balance of over \$1,000 so the City would be paid \$5,500 which is substantially under the asking price. She

requested an explanation of the difference of the offer being accepted versus what the property was originally listed for.

Principal Planner Van Dyke explained that back in the 1980's-1990's, many of these homes in this area had structural issues such as the rear of the property began to erode away and fall into the Heart. The lots were posted as unstable soil and unstable ground. When the lots were valued by a real estate agent, Planner Van Dyke stated that he believes that piece of information was not taken into consideration; rather it was based on the assessed value and the overall acreage to create the listing price. As research was done more details as explained above, were discovered about the property. Also, he noted that all buyers will be paying the title fees for these lots so the City will not have those costs which are normally assessed to sellers. Commissioner Rohr stated that several years ago there was a house on one of those lots and it had to be torn down because of erosion and the City did know about the problems with the banks of those properties. Commissioner Larson said that it will be important to make sure the builder is aware that this will be only a single family lot and that the structural issues will need to be addressed accordingly before a single family home would be built on it.

Commissioner Larson moved to approve the Consent Agenda item 16 as presented. 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.

17. *Consider approval of the Special Event Permit for the Touch A Truck event.*

Commissioner Larson said that she wanted to address this event that is scheduled for May 18th from 11 a.m. to 3 p.m. The event is free to the public and food trucks will be available with food for purchase. She encouraged families to bring a non-perishable food items to be donated to Aid Incorporated.

Commissioner Larson moved to approve the Consent Agenda item 17 as presented. 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.

G. OLD BUSINESS:

H. NEW BUSINESS

1. *Consider approval of new class Beer Wine Only (BWO) for G.D. Hooker LLC at the location of 200 W. Main Street, Suite 102 dba Black Lions.* City Administrator Neubauer stated that all new Class Beer Wine Only (BWO) liquor licenses must be approved by the Board of City Commissioners at time of application. An application has been received from G.D. Hooker LLC, and background checks have been completed with no issues found at this time. The fees will be collected once approved and are set at \$3,000 for the issuance fee and \$95.83 liquor license for one month, June 1, 2019 through June 30, 2019. The applicant is expected to apply for the renewal license which begins July 1, 2019 through June 30, 2020.

Administrator Neubauer recommended approval of the request contingent upon the establishment meeting all Fire Code, Health & Safety and Building Inspections Codes and all property taxes will be paid in full. Garrett Hooker d/b/a Black Lions anticipates to be open for business by June 1, 2019.

Commissioner Rohr moved to approve a new Class BWO license for Black Lions at 200 West Main Street, Suite 102 for June 1, 2019 through June 30, 2019 contingent upon the establishment meeting all Fire Codes, Health & Safety Code, Building Inspection Codes and all property taxes and fees are paid. 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 Renaissance Zone Committee recommendation for a lease application by G.D. Hooker LLC (dba Black Lions) for 200 W Main St, Suite 102.* Business Development Director Huber Commissioner explained Garrett Hooker plans to lease space in a building at 200 W Main St, Suite 102. She provided a visual of the space located in a mixed use building on the corner of Main and First Avenue NW. She stated the mixed used building was constructed in 2010 and was the first of the infill projects on properties that had been acquired for accommodating remediation equipment for clean-up of the underground fuel spill. The space has never been occupied.

Black Lions will be a start-up business for the applicant operating as a beer pub offering local beers and other favorites as well as sports television and highlighting veterans, first responders and service men and women who help the community. The applicant plans to serve pizza and offer options from local restaurants and food trucks. Huber stated Hooker plans to create 3-4 jobs, including his role as manager. Hooker hopes to have the start of the buildout in process by the end of May and be open for business by June's end. The applicant's beer and wine only license was approved by City Commission during the meeting as new business item No. 1.

This project will be Mandan's 79th Renaissance Zone project. Huber explained there are two primary ways to qualify for a Renaissance Zone benefits: the first is by constructing or rehabbing a building within the Renaissance Zone with a minimum investment requirement and the second is to lease space within one of those buildings. In this case, the benefit for the tenant is a five-year state income tax exemption. That's an exemption on state tax liability on income derived from business activity within the building. The applicant estimated the state income tax exemption will be \$300 annually for a five-year total of \$1,500.

Huber said the applicant will need an automatic door opener installed for the main entrance on the space to be eligible for the Renaissance Zone program and is awaiting his certificate of good standing from the North Dakota Tax Department. He has applied for the certificate, but hasn't received it yet.

The Renaissance Zone committee did recommend approval of the application for lease of 200 W Main Street, Suite 102 by GD Hooker (dba Black Lions) as a Renaissance Zone project to include the 100%, five-year state income tax exemption. Huber explained the applicant was in attendance.

Commissioner Larson asked if there was a capital improvement requirement or investment requirement for this application to qualify as a Renaissance Zone project. Huber explained that for a lease application there is no investment requirement because the building itself is already the qualified project and the investment in the building triggered the eligibility for tenants. However, the applicant did provide a list of his investment in furniture, fixtures, equipment and more and it was about \$79,000. Huber stated in terms of a lease application, the project needs to meet the plans for development in the Renaissance Zone and provide public benefit in terms of compatible use, providing a product or service in the community, and/or creating jobs. Huber explained a leasehold improvement project would require an investment, and this would be where a building owner isn't willing to improve an entire building, but a prospective tenant is willing to put improvements into a particular space within the building to receive property and state income tax exemption.

Commissioner Larson commented that she would like for Mandan to start looking at what we want to do locally as far as criteria for the Renaissance Zone. She wondered if it makes sense anymore to put those kind of exemptions for businesses downtown with how far we've come downtown versus Memorial Highway where we have buildings that could use incentives for rehab. She stated her perspective is that it would be nice to revisit the criteria locally around the Renaissance Zone program. Mayor Helbling stated some preliminary discussion has been had regarding changing the size of the Renaissance Zone, moving it around, or changing the requirements. Huber added Mandan's Renaissance Zone program was established in 2005 and some changes to the criteria have happened over the course of the program, but changes do require a formal process with the combination of local and state approval. She stated we are coming up on the expiration date of the 15-year period for the zone, which is set to expire in the fall of 2020. The Renaissance Zone Committee is going to start going through the whole development plan and criteria starting later in 2019. The process will require public hearings, letters of support from the county and school district, and information exchange with property owners. Mandan does have the opportunity to add up to 11 blocks to its Renaissance Zone, but the first question is if the community even wants to extend the program for five more years. Huber added there can be a three-block area that is non-contiguous to the current Renaissance Zone.

Commissioner Davis moved to approve the application for lease of 200 West Main Street by G.D. Hooker, LLC (dba Black Lions) as a Renaissance Zone project to include the 100% five-year state income tax exemption. 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.

I. RESOLUTIONS AND ORDINANCES

1. *Second and final consideration of Ordinance 1309 related to revisions to the sign ordinance.* Building Official Ouradnik presented the first consideration at a previous meeting. And this is the final request to revise the City of Mandan Municipal code Sec. 105-1-15. - Signs. To allow the Building Inspections Department to process any standard sign application. This revision also establishes the Code Enforcement Officers as first point of contact for sign complaints. This action would establish maximum sizing requirements for pylon and pole signs. He said there have been no comments or opposition received since the first consideration.

Commissioner Rohr moved to approve the Second and final consideration of Ordinance 1309 related to revisions to the Sign ordinance. 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.

J. OTHER BUSINESS:

Announcements and Upcoming Events

1. Mayor Helbling extended a thank you to residents for the Annual Cleanup Day that was held over 230 volunteers participated. He extended a thank you to the MPO, the Mandan Beautification Committee and all the sponsors that support this event and many other events that happen in Mandan.

K. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Commissioner Davis moved to adjourn the meeting at 6:08 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/ James Neubauer

James Neubauer
City Administrator

/s/ Tim Helbling

Tim Helbling
President, Board of City Commissioners