
The Mandan City Commission met in regular session at 5:30 p.m. on May 21, 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 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: Commissioner Larson, Finance Director Welch and Human Resource Director Cullen.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the May 7, 2019 Board of City Commission regular meeting and May 10, 2019 Special Meeting.* Commissioner Braun moved to approve the minutes as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Consider Approval of Preliminary Plat for Evergreen Heights 3rd Addition and First Consideration of Ordinance 1313 for related Zoning Map Amendment.* Principal Planner Van Dyke presented a request to approve the preliminary plat for Evergreen Heights 3rd Addition and the First consideration of Ordinance 1313 for the related zoning map amendment. He said that Val Renner and Janet Dykshoorn are seeking to plat their property near 19th Street SE and South 1806 for the purposes of commercial and residential development. The property totals 9.81 acres. Planner Van Dyke explained that Mr. Renner would like to rezone for commercial zoning to build shop condos for his landscaping business and similar contractor businesses on Lot 3, Block 1 of the proposed plat. No residential uses are planned on that lot. Janet Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1. Lots 1 through 3, Block 1 and Lot 1, Block 2 are seeking CA – Neighborhood Commercial zoning and Lot 1, Block 3 is seeking RM – Multi-family Residential with a restriction to four units per acre with 8 dwelling units based on acreage of Lot 1, Block 3. Planner Van Dyke said that several meetings have occurred with Mr. Renner or his surveyors/engineers to understand their intention for the property regarding precise use and timing of the proposed development. Mr. Renner has no plans to further develop the properties other than Lot 3, Block 1. Lots 1 in Blocks 1, 2, and 3 are expected to be listed for sale and developed at a future time. The development proposed aligns with the plan for the City. While the areas are designated commercial, the proposed developments do not overlay precisely with the future land use and it should be understood that the plan designations are appropriate in very close proximity. Adjacent property uses must be considered to ensure that harmonious development occurs and that any commercial development is not too intrusive to the preexisting residential subdivisions in the vicinity. CA – Neighborhood Commercial District is permissive and without additional restrictions could result in neighbors being negatively impacted by certain commercial uses.

After review of this matter the City staff recommended restrictions to be applied to any zone amendment, if approved. The Planning and Zoning Commission recommended approval with a 5-4 split decision. The recommendation included the commercial restrictions presented by staff and applying R3.2 Residential zoning rather than RM-Multi-family to Lot 1, Block 3. The Exhibit 6 reflects the recommended zoning amendment.

The Engineering and Planning Department and Planning and Zoning Commission recommended approval of the preliminary plat for Evergreen Heights Third Addition and Ordinance 1313 as presented in Exhibit 6 subject to entering a development agreement including the provisions outlined in Exhibit 7. The final plat should also include a 10' utility easement along South 1806.

Mayor Helbling announced this is a public hearing to consider approval of Preliminary Plat for Evergreen Heights 3rd Addition and First Consideration of Ordinance 1313 for related Zoning Map Amendment. He invited anyone to come forward to speak for or against this matter.

Tim Tausend, 1712 14th Avenue Southeast, Mandan, came forward and stated that his home is west of the project area to be developed. His wife purchased that lot in 1998 and there were 3 or 4 vacant lots adjoined the property. They signed an agreement with Janet Dykshoorn as part of Evergreen Heights Lot 2 and all the property east of that was designated as residential. About 2-3 years ago a proposal was brought before the Commission to designate all the lots as residential. He inquired how the P & Z Commission changed the plan in midstream by making part of this land commercial. He supports having R7 directly behind his house stating they should not be zoned commercial.

Greg Fesser, the engineer representing Val Renner and Janet Dykshoorn came forward to comment. He said that the main goal of this project is to get shop condos for his business because that is the way the family would like to keep the property intact. The access to the property is also one of the reasons. Ms. Dykshoorn is not in agreement with not having access to her property. The goal is to be able to build shop condos. Mr. Renner does not have plans to develop the main property at this point rather that may be done several years down the road.

Wade Meschke 1810 14th Avenue Southeast came forward and stated that he sent a letter of protest about the concerns regarding this matter that included the noise and traffic generated from commercial businesses and multi-family dwellings. He feels that this will decrease property values due to adjacent multi-family dwellings and nearby commercial properties. His home located in Evergreen 2nd Addition is R7 as is the Living Waters Church. He encouraged the commissioners to consider R7 dwellings and this was voiced by the P & Z Commission of which 4 of the members seemed to be in agreement. If there is going to be a transition to some multi-family zones, that the Commission consider no commercial development in this neighborhood.

Mayor Helbling extended a second invitation to come forward to comment on the consideration for the approval of Preliminary Plat for Evergreen Heights 3rd Addition and First Consideration of Ordinance 1313 for related Zoning Map Amendment.

David Wise came forward and stated that with regard to Val Renner's proposal, he commented with regard to the map that Mr. Meschke referred to, it is his understanding the reason for light commercial is because there cannot be all residential in the City of Mandan. The house property taxes are higher in Mandan than in Bismarck. He stated that Mandan needs more commercial properties and this location would be good for light or medium commercial. The master plan had all of this property as commercial. He supports zoning some of this property as commercial.

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

Mayor Helbling inquired what the zoning is for the greenhouse on the property. Planner Van Dyke replied that it is zoned Agriculture. Mayor Helbling inquired of the property zoning located to the north of which there is a storage unit located. Planner Van Dyke replied that is zoned as CA neighborhood commercial surrounded by RM multi family. Lots 1 and 2, single family homes and multi-family would be allowed in this area. Planner Van Dyke pointed out these areas on a map. Commissioner Rohr inquired if there are pending issues with the road entrance off 16th Street. Planner Van Dyke explained that when the plan was submitted to the NDDOT for application the approach that serves Ms. Dykshoorn's property would be vacated at some point in the future as outlined in Exhibit 7; and lots 2 and 3 would share an approach on 16th Street when that is constructed and that will improve safety. If approved with two approaches, staff would recommend that this is not a good idea and NDDOT may have regulations for that set up. Commissioner Rohr said mixed uses are becoming more popular. It's how it's laid out and if these things are compatible with how the neighborhoods are congruent with the way the neighborhood looks.

Mayor Helbling inquired of Attorney Brown regarding the future land use plan that was voted on by the Commission in 2015, what liability the City would have if they tell the landowners they will be restricted to single family dwellings. Attorney Brown stated that he does not believe the City has any "liability" because it was just a plan. The purpose of that land use plan was to let people know this is what the City thinks how land should be used. Things change and he recommended that the plan adopted should be followed.

Mayor Helbling pointed out that this is the only commercial property that can be built on in this area and suggested consideration be given to zoning more commercial properties in this area in order to avoid the residential property taxes from skyrocketing. He believes going against this would be unfavorable precedence for someone who wants to develop or be included within the City of Mandan. Commercial businesses have been established in this area and there is a nice buffer. Commissioner Davis commented that he believes the residents in that area may want a business there but it would be dependent on what type of business would be appropriate. He said he is not convinced with this request as presented. Commissioner Braun commented that he and Commissioner Rohr were members of the City Commission at the time this property plan was laid out. In this area, access to commercial properties and businesses are what attract people. The ease of getting to and from and the fact that this is on 1806 lends itself to that type of construction such as a coffee shop or greenhouse or storage unit. That will provide the City with the tax dollars it needs. Commissioner Davis inquired if it would be possible to revisit these plans and design another option for consideration and if so, he would be open to that.

Commissioner Rohr pointed out that with Commissioner Larson being absent and the diversity of the conversation held on this matter tonight, he suggested that all five commissioners should be included in the discussion. Mayor Helbling commented that the absence of a commissioner should not set precedence to table issues until the full Board is present. Commissioner Davis inquired if it would be possible to create another plan?

Planner Van Dyke pointed out the possibilities for Lots 1 and 2 that would be low commercial businesses. Without the restriction the list grows into 2 pages long. He said that he did not think there was anything else he could do to further limit the restrictions unless a developer had something very specific in mind. He said that Val Renner and Janet Dykshoorn have stated that they are okay with these recommendations and that a lot of compromise has gone into play to pick the uses that are least invasive to their neighborhood. There no improvements and these are still their facilities so any improvement costs in the future would be bore on their end. The spillover costs related to road improvements there is no indication that the neighbors would have to bear those costs. Commissioner Davis inquired if the adjacent residents are aware of the amendments that Planner Van Dyke explained. Planner Van Dyke said that he has worked to reduce these restrictions. The shop condos would be limited and restricted in use. The work involved will be mainly inventory storage and office work. There would be five shop condos with possibly three more in the future.

Commissioner Braun moved to approve the preliminary plat for Evergreen Heights Third Addition and Ordinance 1313 as presented in Exhibit 6 subject to entering a development agreement including the provisions outlined in Exhibit 7. The final plat should also include a 10' utility easement along South 1806. Commissioner Rohr seconded the motion.

Roll call vote: Commissioner Rohr: No; Commissioner Davis: No. Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion failed.

Commissioner Rohr moved that this particular issue be on the agenda for a future meeting for consideration and that will include the discussion tonight in order for the City Commission to address this matter.

Mayor Helbling requested guidance from Attorney Brown as to how to proceed in order to bring this back at the next meeting. Attorney Brown explained that due to the motion failing and there was a tie vote, there was no losing side to bring the matter up again. He suggested that there be a motion made that would reconsider the matter at an upcoming meeting.

Commissioner Davis motioned to reconsider this matter at a future meeting. Commissioner Rohr seconded the motion. Commissioner Rohr stated that this matter was also discussed at a department meeting and that he has struggled with what is best for the City of Mandan and the parties involved.

Wade Meschke came back to the podium and commented that he and several residents along with Planner Van Dyke had met and tried to make this work for all the parties involved. The plan that was presented to the P & Z Commission was doable, but that changed. (RM in Lot 1, Block 3 with restriction of single family dwelling with the street to a neighborhood restricted

area). He said that the neighbors are okay with the development and they do not want to compromise the RM zoning.

Commissioner Davis inquired that if the suggested recommendation goes back to the way it was discussed at the Planning & Zoning meeting, the residents and Mr. Renner could live with it? Planner Van Dyke will bring back the change that occurred that was referred to. Planner Van Dyke stated that the original recommendation (at P & Z Commission meeting) was that Lot 1 Block 3 would only be single family. Planner Van Dyke was asked to re-present the map and point out the recommendation which he did and he stated that the RM would be changed to be single family dwellings. Everything else would stay the same.

Mayor Helbling suggested that if the parties are in agreement with what Planner Van Dyke just presented, that if a proper motion is made on the recommendation this matter can be resolved tonight. Mayor Helbling requested Planner Van Dyke to re-write the recommendation and present it at this time. (That was done, and the motion follows.)

Commissioner Braun moved to approve the preliminary plat for Evergreen Heights Third Addition and Ordinance 1313 as presented in Exhibit 6 subject to entering a development agreement including the provisions outlined in Exhibit 7 with the exception of replacing Lot 1, Block 3 with RM restricted to single family homes and limited to four units per acre. The final plat should also include a 10 foot utility easement along South 1806. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *First consideration of Ordinance 1300 related to wireless telecommunications in the right-of-way.* Principal Planner Van Dyke presented a request for the approval of first consideration of Ordinance 1300 related to wireless telecommunications facilities. The telecommunications ordinance surrounds small cell (5G) attachments to city-owned infrastructure within the right-of-way. It also adds a special use permit requirement to traditional towers exceeding 120' in height. Due to the length of the Ordinance, Planner Van Dyke presented a summary that provided outlining the basic elements Exhibit 1.

5G Telecommunication facilities: Planner Van Dyke explained that the City of Mandan was approached months ago with regard to placement of infrastructure necessary to provide customers with 5G wireless service. The infrastructure is known as “small cell” technology, which is much smaller than a traditional cellular tower. They are small enough to be attached to other infrastructure that is typically located within the public right-of-way, such as street or traffic light poles, larger street signs, etc. They service a much smaller geography and therefore require a higher concentration than a standard tower.

This Ordinance outlines the requirements that must be met in order for a small cell to be placed within the public right-of-way, as well as within each zoning district. The Ordinance provides standards for small cells attached to existing poles within the right-of-way, city-owned buildings, and privately owned buildings. Fees and process are established by reference to the Wireless Facilities Guidelines Exhibit 2. The fees are based on what is deemed reasonable by the Federal

Communications Commission (FCC). The Planning and Zoning Commission deferred the determination of the specific fees to the City Commission. City staff, including Planner John Van Dyke, Engineering and Planning Director Justin Froseth, Public Works Director Mitch Bitz, City Administrator Jim Neubauer, and City Attorney Brown met to discuss the creation of the Ordinance and associated guidelines. The ordinance largely mirrors that from City of Bismarck, ND, with modifications to address specific concerns by P&Z Commission.

Planner Van Dyke said that with regard to other telecommunication while working through the Ordinance changes related to telecommunications, limitations to the height of telecommunication transmissions towers was added. Presently, telecommunications transmission towers are exempt from height limitations and in some districts do not require a conditional use permit. This opens the door to the erection of these structures adjacent to residential development with limitless height. The proposed changes would require towers exceeding 120 feet to obtain a conditional use permit. The height of 120 feet was determined based on several located in Mandan and Ordinances reviewed from other communities. There is no height limit in Mandan's Ordinances. It was recommended to have checks and balances in the City Code.

Commissioner Rohr inquired if the intent is to have a process in place if providers come in to provide for an upgrade to adapt to the new systems? Planner Van Dyke replied that is a correct statement. Verizon has been the one the City has been in contact with and when the City enters into a master attachment agreement that will be about 3 years out. Mayor Helbling commented that he has had a discussion with Todd Kranda who represents Verizon and it came out that the Ordinance is the easy part, and that the details in the contract and the problems would have to be ironed out in the contract when a service provider comes into the area. Commissioner Davis commented that this plan is good progress for Mandan.

Mayor Helbling announced this is a public hearing to consider the First consideration of Ordinance 1300 related to wireless telecommunications in the right-of-way and invited anyone to come forward to speak for or against the matter. Mayor Helbling extended a second invitation for anyone to come forward to speak for or against this matter. Hearing none, this portion of the public meeting was closed.

Commissioner Braun moved to approve Ordinance 1300 as presented in Exhibit 1. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

E. BIDS:

1. *Consider award of the low bid for the 19th Street Trail project to Weisz & Sons, Inc. (Award by Resolution).* Planning & Engineering Director Froseth presented a request to consider bids for the 19th Street Trail, Phase I project. He stated that bids were received through the NDDOT bid opening system on May 10, 2019. There were three prime contractors that bid the project and the low bidder was Weisz and Sons, Inc. for the total amount of \$155,280.25 which was 10% over the engineer's estimate. Because of some change in scope of the crossing signal now to be a Rapid Rectangular Flashing Beacon (RRFB) instead of the application indicated HAWK signal along with other nuances, this bid amount results in a local share that is a little

less than what was expected previously. There is an agreed amount splitting the costs three ways that will include a third to School District and a third to the Park and Rec District. The completion deadline is August 16, 2019. Phase 1 of the project was explained by Director Froseth and a motion will be forthcoming.

Director Froseth said that the Engineering office received a letter recently notifying the City that the Transportation Alternatives (TA) grant request for the maximum amount allowed through the program of \$290,000 was awarded for Phase II. The Engineering Office is waiting for a letter to follow up with next steps they would require from the City to officially accept or deny the award. This is for information only and no action is required at this time.

The City of Mandan has an agreement with the Park and Recreation and School Districts to split the cost evenly with the City for Phase I of the project. After bid, the estimate is \$39,000 for each entity's local share. This is a lower than the approximate \$41,000 for each entity agreed to last summer. The City's portion would come from the Sales Tax fund and has already been budgeted. Director Froseth recommended approval of the bid award to Weisz and Sons, Inc.

Commissioner Rohr moved to approve the resolution of award the 19th Street Trail, Phase I project to Weisz and Sons, Inc. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

Director Froseth indicated he will be requesting approval for Stantec Design as the contractor.

F. CONSENT AGENDA

1. *Consider approval of the following proclamations: (i) Proclaiming May 19-25 as National Public Works Week in the City of Mandan; (ii) Proclaiming June 15, 2019 as Lemonade Day in the City of Mandan.*

2. *Consider closing administrative offices July 5, 2019.*

3. *Consider approval of monthly bills.*

ADVANCED ENGINEERING SVC - 13,852.85; ARMSTRONG SANIT & ROLL O - 30,182.19; BANK OF NORTH DAKOTA - 124,727.86; BANK OF NORTH DAKOTA LOA - 34,221.42; BIS-MAN CONVTN & VISITOR - 2,485.75; BROOKE/PATRICK - 100.00; BURLEIGH-MORTON DETENTIO - 3,670.83; C S DOORS INC - 98.67; DAKOTA COMMUNICATION SVC - 11,351.51; GRAVES/MATTHEW - 233.93; GRAYMONT CAPITAL INC - 3,800.34; I STATE TRUCK CENTER - 26,887.58; INTERGOVERNMENTAL SHOP - 20,012.66; KRONOS SAASHR, INC - 2,681.29; MANDAN AIRPORT AUTHORITY - 5,600.00; MANDAN PARK BOARD - 500.00; MORTON MANDAN PUBLIC LIB - 10,650.00; MUNICIPAL FINANCE OFFICE - 30.00; NDAAO - 30.00; PRESORT PLUS - 4,551.22; RICOH USA, INC - 122.57; STARION BANK MANDAN - 43,326.37; STARION BOND SERVICES - 5,967,988.37; MONTANA-DAKOTA UTILITIES - 24,179.55; MERCHANTS BANK EQUIPMENT - 14,987.91; GUARDIAN LOCK & SAFE - 249.00; INFORMATION TECHNOLOGY D - 1,011.15; K & L PROPERTIES - 11,852.00; ND PERS - 148,237.38; AMERICAN WELDING & GAS, - 7,775.23; AT & T - 715.99; BALABAN LAW OFFICE - 2,000.00; CENTURYLINK - 4,345.39; DAKOTA COMMUNICATION SVC - 4,238.00; DAKOTA MEDIA ACCESS - 10,998.00; FORT DEARBORN LIFE - 2,393.91; GEORGE STROH TRUCKING IN - 9,300.00; GLASS/THOMAS J. - 2,000.00; HP INC. - 3,674.85; HR COLLABORATIVE - 25.00; KELSCH KELSCH RUFF & KRA - 4,000.00; MISSOURI VALLEY PETROLEU - 16,090.53;

MORTON COUNTY SOIL CON - 2,500.00; SCHLOSSER EXCAVATING INC - 1,800.00; SENGER/CYNTHIA F. - 42.63; VOICE PRODUCTS, INC - 2,622.63; WELLS FARGO COMMERCIAL C - 189,044.70; MONTANA-DAKOTA UTILITIES - 15,339.27; ADVANCED ENGINEERING SVC - 36,533.61; ARMSTRONG SANIT & ROLL O - 56,886.97; BIS-MAN CONVTN & VISITOR - 20.00; BIS-MDN TRANSIT BOARD - 3,754.40; BISMARCK MAYOR'S COMMITT - 350.00; BURLEIGH-MORTON DETENTIO - 3,334.00; CENTURYLINK - 1,764.55; CHI ST. ALEXIUS HEALTH E - 882.38; COMPANION LIFE - 10.00; CORE & MAIN - 7,534.40; CROWLEY FLECK PLLP - 5,000.00; CUSTER DISTRICT HEALTH U - 1,119.00; DAKOTA COMMUNICATION SVC - 11,321.51; GEFFRE/RON - 222.00; GRAYMONT CAPITAL INC - 12,475.51; GUITAR LOTS LLC - 378.13; HAUCK/BRANDON - 209.00; HR COLLABORATIVE - 25.00; HUB INTERNATIONAL OF ND - 2,224.00; INFORMATION TECHNOLOGY D - 1,867.08; INTERGOVERNMENTAL SHOP - 17,212.60; JACOBSEN/CARL - 35.00; JOHNSON CONTROLS FIRE PR - 698.91; MANDAN AIRPORT AUTHORITY - 7,476.98; MANDAN MUNICIPAL COURT - 5,048.62; MISSOURI WEST WATER SYST - 61.27; MORTON COUNTY AUDITOR - 3,698.96; MORTON COUNTY RECORDER - 90.00; MORTON MANDAN PUBLIC LIB - 28,487.32; MUNICIPAL CODE CORPORATI - 1,234.00; MY GOV, LLC - 960.00; ND DEPT OF TRANSPORTATIO - 8,115.74; ND HEALTH DEPT CHEMISTRY - 894.52; ND HEALTH DEPT MICRO DIV - 400.00; ND STATE RADIO COMMUNICA - 780.00; ND YOUTH CORRECTIONAL CE - 734.50; NORTHERN IMPROVEMENT CO - 74,133.08; ONE CALL CONCEPT INC - 69.80; RAZOR TRACKING INC. - 450.00; RIVERBEND CENTRE - 628.02; RJ LEE GROUP INC. - 1,212.74; ROTO-ROOTER SEWER & DRAI - 170.00; SCHLOSSER EXCAVATING INC - 640.00; SHOEZAM SHOES - 492.50; STARION BOND SERVICES - 3,293.25; THE CREATIVE TREATMENT L - 2,268.75; WESTERN EDGE ELECTRIC IN - 741.00; WINKS/LOREN K - 35.00;

4. *Consider approval of annual site authorizations for Prairie Public Broadcasting at The Strawberry.*
5. *Consider approval of minor plat of Lot 1, Block 1 of Rippel's 5th Addition.*
6. *Consider approval of the Amendment to the North Dakota Department of Transportation (NDDOT) Traffic Safety Contract between the NDDOT and the City of Mandan Police Department.*
7. *Consider holding a public hearing for the vacation of a segment of 8th Ave. NE between 16th St. NE and I-94.*
8. *Consider an amendment to our Engineering Service Agreement with Moore Engineering to include Construction Engineering Services for the Southside Reconstruction project.*
9. *Consider approval of annual site authorizations for Fort Abraham Lincoln Foundation at: (i) Lonesome Dove; (ii) Midway Lanes; (iii) Seven Seas; (iv) Station West Bar & Grill.*
10. *Consider approval of the Special Event Permit Application for the Mandan Progress Organization for Buggies-n-Blues, June 8th and 9th, 2019.*
11. *Consider approval of the Special Event Permit Application for the Silver Dollar Bar Beer Gardens for June 8th, 2019 (Buggies-n-Blues) and July 3rd, 2019.*
12. *Consider approval of the Memorandum of Understanding Internet Crimes Against Children (ICAC) Task Force Agreement.*
13. *Consider amending the 2019 Cemetery Budget.*
14. *Consider approval of Addendum No. 2 to the Engineering Service Agreement with Stantec to include constructing engineering services for the 19th Street Trail Phase 1 Project.*

Commissioner Rohr moved to approve the Consent Agenda items 1 through 14 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS

1. *Police Department presentation of the Tip 411 Program.*

Police Chief Ziegler provided information regarding the new phone app called Tip 411 Program the Mandan Police Department will be implementing. This program will allow the public to text tips to the Police Department and it can also be used by the Police Department to alert the public of important information via text messaging. The program utilizes a downloadable application which is free to the public. The associated cost is \$4,800 for 2-year contract. The app is completely anonymous and simple to use. The tips can be assigned and tracked so all tips will be in the system. It is not designed to take complaints. Chief Ziegler encouraged residents and the City Commission to download the app to their phones.

2. *Consider approval of a new liquor license for Old Ten Bar & Grill, LLC at 417 East Main Street.* City Administrator Neubauer stated that all new Class E liquor licenses must be approved by the Board of City Commissioners at time of application. An application has been received from the Old Ten Bar and Grill and background checks have been completed with no issues found at this time. The fees of \$208.33 will be collected once approved for the Class E liquor license for June 1, 2019 to June 30, 2019.

Administrator Neubauer recommended approval of this request contingent upon the establishment meeting all Fire Code, Health & Safety Code, and Building Inspections Codes and all property taxes paid. Cody Stern and Curtis Miller plan to open the door for Old Ten Bar & Grill, LLC sometime in June.

Commissioner Davis moved to approve a new Class E liquor license for Old Ten Bar & Grill, LLC at 417 E. Main Street. Contingent upon the establishment meeting all Fire Codes, Health & Safety Code, Building Inspection Codes and all property taxes and fees are paid.

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

3. *Consideration of the appeal of the denial of the building permit for the property located at 2711 6th Ave North.* Building Official Ouradnik presented a request to consider an appeal of the denial of the building permit for the property located at 2711 6th Avenue North. He explained the request is to appeal the decision of the Building Official to deny the permit to construct a single family residence at 2711 6th Avenue North in Mandan with a legal description Canyon of the Willows Addition Block 1 Lot 1. The denial was based on Mandan Municipal Code Section. 111-2-10. - Building construction rules (2) A building permit will not be issued until street curb and gutter and a street surface approved by the city engineering and planning

department is in place and (6) No certificate of occupancy will be issued until completion of at least the first lift of asphalt pavement or concrete street and concrete driveway apron.

He gave a summary of this matter stating that Mr. Goebel combined lot 8 and lot 3 of Block 3 of Zachmeier's Subdivision with the intention of building a single family home. Zachmeier's Subdivision was annexed into the City in 2013 when there were no roads or city services in place at that time. The roads and city services are still not in place but are expected to be at some time in the future. The road at 6th Ave North is a gravel road and the only road through the subdivision and this property will gain access from this road. Custer Health has been in contact with Mr. Goebel and will allow a septic system to be placed on the property. The Building Official for the City of Mandan denied the building permit in writing on May 13, 2019 citing Section. 111-2-10. - Building construction rules (2) A building permit will not be issued until street curb and gutter and a street surface approved by the City Engineering department is in place. (6) No certificate of occupancy will be issued until completion of at least the first lift of asphalt pavement or concrete street and concrete driveway apron.

Official Ouradnik recommended that Mr. Goebel be allowed to construct a 1680 sf single family home with a 1200 sq. ft. attached garage and a 224 sq.ft covered entry on the property located at 2711 6th Avenue North Mandan, ND with the Legal Description of Canyon of the Willows Addition Block 1, Lot 1.

Commissioner Rohr moved to waive the restrictions of Mandan municipal code Section 111-2-10 - Building construction rules at No. 2 and No. 6 due to the fact that this subdivision was unimproved when annexed in 2013 and it will be improved during future city projects. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *Consider approval of City funding requests from the Mandan Progress Organization.*

Del Wetsch, MPO Director presented a request to consider approval of funding from the City of Mandan Grant applications. He said that applications are reviewed by the MPO subcommittee for recommendation to the City Commission for approval. He said that organizations submitting funding request need to provide criteria of how monies are spent and the impact each event has on the community and that funding needs to add to the economic and well-being of the community and increase the quality of life for the citizens. Grant monies awarded are divided between 50% in Mandan Bucks and 50% check which are spent in the City of Mandan. City of Mandan budgets \$20,000 from the 1% City Sales Tax Fund.

Mr. Wetsch recommended approval of the applications submitted by the MPO Funding Committee and approved by the MPO Board of Directors. Commissioner Rohr moved to approve the organizations in the amounts suggested by the MPO Funding committee and approved by the MPO Board of Directors on May 15, 2019 as presented.

Commissioner Braun moved to approve the City funding requests from the Mandan Progress Organization. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Absent; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

I. RESOLUTIONS AND ORDINANCES

1. *First consideration of Ordinance 1311 related to vegetation on the boulevard as well as first consideration of Ordinance 1312 related to Dutch Elm Disease, Emerald Ash Borer and other invasive diseases.* Public Works Director Bitz presented information related to the Ordinances 1311 and 1312, revisions to the city of Mandan Municipal code Article 4 Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards to create definitions and to amend and re-enact Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6), and (7); and to delete 16-4-8(8) and to create definitions and amend and re-enact Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4(b)(1) and (2); 115-4-5(3); 115-4-7 (a),(b),(c), and (d); and 115-4-8. These changes are to help the public understand what the responsibilities are of the property owners and the city pertaining to trees on boulevards, public right of ways and private property. He explained that definitions need to be established at the beginning of Article 4 Section 16 and 115 to help citizens understand the terms and language that is used to help them know what they are responsible for when it comes to care and maintenance of trees within city limits. Adding “other invasive species” to the beginning of Section 16 gives the City the ability to declare other insects/diseases as nuisances, not just Dutch Elm Disease and Emerald Ash Borer. Section 115 should be revised to state that bushes and shrubs are not allowed to be planted on the boulevard due to the interference of line of sight for safe vehicular travel. Boulevard spacing of trees depends on the mature size of trees being planted. Adequate space needs to be allotted so trees can thrive and not compete for space and resources from neighboring trees. Proposed locations of trees need to take into consideration utilities, signs and public safety. Research shows that wound dressing and pruning sealer does more harm to trees that have been trimmed than good, therefore it should not be used. Trees on public or private property shall be trimmed 14 feet vertically from the street and 10 feet vertically from the sidewalk so as not to impede or interfere with traffic or travel. Trees that stand on more than one property shall be the fiscal responsibility of all properties on which the tree stands to lessen the confusion of who is responsible for care, maintenance and possible removal of tree if the tree is deemed a public safety hazard or public nuisance. Trees or portions of trees on private property that are deemed unsafe to life or property both public and private or constitute a public nuisance shall be abated. This needs to be addressed because dead/hazardous trees lower the property value and increase insurance rates for the properties affected by these trees.

Due to budgetary restraints sending all property owners certified first class letters isn't always practical. Putting a notice to be published in the official newspaper for trimming/abatement when there are a large number of violations is a better use of resources. Once written notice or publication has been given we are increasing the time that the property owner/address has to abate from ten to twenty days. Abuse or mutilation of trees on the boulevard or public right of way shall not be allowed due to the harm/hazard this creates on public property and reduces harm to those when trees have to be cared for or removed.

Director Bitz recommended the passing Ordinance 1311 & 1312 with the revisions to Article 4 Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards to create definitions and to amend and re-enact Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6), and (7); and to delete 16-4-8(8) and to create definitions

and amend and re-enact Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4(b)(1) and (2); 115-4-5(3); 115-4-7 (a),(b),(c), and (d); and 115-4-8.

Commissioner Rohr moved to approve Ordinance 1311 & 1312 with the revisions to Article 4 Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards to create definitions and to amend and reenact Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6), and (7); and to delete 16-4-8(8) and to create definitions and amend and re-enact Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4(b)(1) and (2); 115-4-5(3); 115-4-7 (a),(b),(c), and (d); and 115-4-8.

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

J. OTHER BUSINESS:

1. Del Wetsch, MPO Director announced that the Buggies-and-Blues event is scheduled for June 8 and June 9th. Everyone is welcome to attend this fun-filled event.
2. Mayor Helbling announced that the Mandan Health Coalition is hosting a Health and Wellness Community Event called a Passport to a Healthy Community on May 30, 2019 from 3:00-7:00 pm at the Starion Sports Complex. This is a free event and activities are included along with access to free health sources. This is an opportunity for residents to bring their unused and unwanted medication for safe disposal.

K. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Commissioner Davis moved to adjourn the meeting at 6:40 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer
City Administrator

Tim Helbling
President, Board of City Commissioners