
The Mandan City Commission met in regular session at 5:00 p.m. on January 21, 2020 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, Rohr and Commissioner Larson via teleconference. Department Heads present were, Finance Director Welch, Fire Chief Nardello, Planning & Engineering Director Froseth, Business Development and Communications Director Huber, Principal Planner Van Dyke, Police Chief Ziegler, City Administrator Neubauer, Assessor Markley, Human Resource Director Cullen, Director of Public Works Bitz and Attorney Brown. Absent: Commissioner Braun and Building Official Ouradnik.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the January 7, 2020 Board of City Commission regular meeting.* Commissioner Davis moved to approve the minutes as presented. 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.

D. PUBLIC HEARING:

E. BIDS:

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Consider designation of financial institutions as depositories for funds.*
3. *Consider letter of interest from Arntson Stewart Wegner to serve as bond counsel.*
4. *Consider approval of an amendment to our agreement with Moore Engineering to include final design and bidding services for the MidTown East Street Improvement District project.*
5. *Consider approval of an agreement with AE2S to provide engineering and bidding services for our Emergency Generators project.*
6. *Consider approval of submission of ‘Bicycle Friendly Community’ designation renewal application.*
7. *Removed for discussion.*
8. *Consider approval of a gaming site authorization for the Mule Deer Foundation at Baymont Inn on Feb. 8, 2020.*
9. *Consider approval of a charity raffle for the Kiwanis Club at Midway Lanes on Feb. 8, 2020.*

Commissioner Larson requested Consent Agenda Item No. 7 be removed for discussion.

Commissioner Davis moved to approve the Consent Agenda items No. 1 through 6 and No. 8 and No. 9 as presented. 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.

Consent Agenda Item No.7:

7. *Consider payment of bills for Morton Mandan Public Library / Downtown Parks Project.* Commissioner Larson stated that up to this point, she has abstained from voting on this agenda item and she questioned if that is necessary since this item has become part of the typical function of the commission. Attorney Brown stated that he agrees with Commissioner Larson that she can abstain, however, she could vote. She does not have personal interest in this contract. Commissioner Larson responded that she does not think there is a conflict with this payment even though it involves her employer. Mayor Helbling commented that Commissioner Larson will not be receiving any financial gain regarding this matter, and stated he does not consider her voting on the matter a conflict of interest. Commissioners Rohr and Davis concurred.

Commissioner Rohr moved to approve the payment of bills for Morton Mandan Public Library / Downtown Parks Project. 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 approval of an amendment to the Purchase and Sale Agreement for parcel 65-3156000.* Principal Planner Van Dyke presented a request for the approval of an amendment to the Purchase and Sale agreement for parcel 65-3156000. He reported that Jake Axtman provided an amendment to the Purchase and Sale Agreement surrounding parcel 65-3156000 to change the price and closing date. The revised offer from \$6,500 to \$1,900 is due to the proposed specials that may be placed on the property following the Mid-town East improvement district. The potential specials for that project on that property are \$4,639.79. The property has title issues that need to be rectified that add to Mr. Axtman's risk. There is a question as to the properties total acreage whether it is 0.73 acres or 1.3 acres. A survey will be required to determine the total acreage.

Planner Van Dyke stated that city staff is recommending approval of the amendment to the Purchase and Sale agreement as outlined in Exhibit 1. The Commission may accept, deny, or counter the proposed amendment. If the Commission decides to deny the request, then staff would recommend an additional motion to dissolve the original agreement and relist the property as active status. Planner Van Dyke recommended approval of the amendment to the Purchase and Sale Agreement as outlined in Exhibit 1. Attorney Brown stated there are significant title issues in particular, that legally it was owned by a business that no longer exists and the buyer cannot get a corrective deed to the property so the buyer will have to get a quiet title to the property.

Commissioner Rohr moved to approve the amendment to the Purchase and Sale agreement for parcel 65-3156000 as outlined in Exhibit 1. 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.

H. NEW BUSINESS

1. *Consider approval of the selection committee's choice of KLJ as our project engineer for the Downtown Street Improvement project and authorize the Engineering Department to negotiate an agreement with them.* Planning and Engineering Director Froseth presented a request to confirm the Selection Committee's recommendation of KLJ for consulting engineering services related to the Downtown Street Improvement project and enter into contract negotiations with them. He stated that last year the City was notified of an award of \$2.4 million in Urban Grant Program funds to address the poor conditions of 1st Street and Avenues in the downtown area of Mandan including walking elements to downtown. The main intent of the project is to reconstruct 1st Street from 1st Avenue West to 6th Avenue West and 2nd to 5th Avenues West from Main Street to 2nd Street. The project would also include new sidewalks, and street lighting improvements and the underground needs such as replacing original water main storm sewer and sanitary sewer will also be addressed, as needed. In November 2019 the City Commission approved the request to issue a Request for Proposals (RFP) to select a consultant engineering firm to help with this project's planning and preliminary design.

Director Froseth reported that the Selection Committee received seven proposals by the deadline requirements. They reviewed and discussed the proposals and selected three firms to conduct in-person interviews and those interviews were held on January 16, 2020. The firms interviewed were HDR, HEI (Houston) and KLJ. At the conclusion and after Selection Committee discussion, KLJ scored highest. It was noted that KLJ completed the Downtown Subarea study in 2018. They were also chosen for the Main Street Reallocation and Traffic Signals planning and design effort which is coming to a close for a bid opening in April and construction during the summer of 2020.

Director Froseth stated that if the City Commission approves the recommendation presented, negotiation terms of an agreement with KLJ would begin to get them started on planning and design of this project. The preliminary planning and design efforts, including public outreach, would take place starting in February 2020. It is anticipated that the special assessment district would be addressed this summer and if the proposed district does not protest it out the design process would begin later in 2020 for a bid opening in early 2021 for 2021 construction. Director Froseth recommended approving the selection of KLJ and to authorize engineering staff to negotiate for the Downtown Street Improvement project (SID 217) engineering services contract.

Commissioner Larson inquired on the total project cost listed as \$6 million and what is included in that and what other funding sources are being considered in addition to the Urban Grant funding. Director Froseth stated the general scope of the project would be a full reconstruct of all the segments of roadway and portions of the sidewalks that are not in good condition. There are plans to replace the water main in that area and that is included in the estimate and the Utility Fund will be used for that with the Sales Tax fund and city assessments to pay the balance. There may be a buy down the local share and it is anticipated using that. The local share after that is 20% minus the water main components. This project is a part of the Main Street project and in subsequent years separate projects will be addressed. Director Froseth explained the funding sources including the use of Prairie Dog Funds will be used towards these projects.

Commissioner Davis moved to approve the selection of KLJ and authorize engineering staff to negotiate the Downtown Street Improvement project (SID 217) engineering services contract. 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 entering into agreement with Kadrmas, Lee & Jackson (KLJ) and Braun Intertec for services related to potential spring flooding protections.* City Administrator Neubauer stated that there is a high probability of spring flooding and pursuant to that prediction in order for the City to be prepared, he presented a request to enter into an agreement with Kadrmas, Lee & Jackson (KLJ) and Braun Intertec for services related to potential spring flooding protections. KLJ has already been contacted for a proposal as they did considerable work for the City of Mandan during the 2011 flood event and they would be uniquely qualified to perform similarly related services should the need arise in 2020. The agreement with KLJ would include Topographic Survey, Preliminary Design, Entitlements, Final Design and Bidding and negotiating. When completed, this would get us to a point to present bids to the City Commission for consideration. Should the need arise after that point a separate contract would be negotiated. He explained that unlike in 2011 whereby the bays (Bridgeview, Marina, Borden Harbor and Lakewood) were plugged with clay, the installation of plugs via sheet-piling would be the preferred method causing less property and city infrastructure damage from the number of trucks hauling material. Bidding of the project would grant assurances the necessary contractors and material would be available should the installation of plugs be necessary. The contract with Braun is for the geotechnical evaluation and design assistance of the sheet-pile walls. The purpose of this evaluation is to characterize subsurface geologic conditions at selected exploration locations, evaluate their impact on the design and construction of sheet-pile walls and provide a design section to resist the design loads. Administrator Neubauer further stated that NDCC 40-22-01.1 was specifically enacted to enable the creation of a special assessment districts for the assessing of flood protection costs and clean up against the benefitting properties. The creation of a special assessment district for assessment of flood protection costs does not require an emergency declaration. FEMA would not provide reimbursement unless there is a presidentially declared disaster. The need to move on this expeditiously is recommended. Should the Board determine to issue a request for proposals for these services, it could be 60 days out for advertising, interviews and selections and the ability to secure necessary bid documents and secure materials prior to when flooding may occur would not be timely. Morton County Emergency Management is currently researching reimbursement options should the City enter into these contracts prior to a possible emergency declaration. Even if a declaration is not issued, the work done for these contracts would be valuable for years to come. The estimated cost is not expected to exceed \$100,000 and funds would come from the City Sales Tax fund with possible reimbursements from federal, state or local sources.

Administrator Neubauer recommended the City Commission consider the following; Attorney Brown recommended each action item should be voted on separately:

- (1) Waive the public bidding requirements for the selection of an engineering firm and geotechnical firm related to potential flood related projects.
- (2) Approval of the proposed contract with KLJ to provide said engineering services.
- (3) Approval of the proposed contract with Braun for geotechnical services.

(4) Determine that the funding source for such services to be \$100,000 to come from the City Sales Tax fund with possible reimbursement from federal, state or local sources.

Commissioner Rohr commented that the City will need to be prepared for potential flooding problems in order to not re-live the problems of 2011 and that this is the appropriate time to put a plan in place. Mayor Helbling stated meetings have occurred recently with key staff and it was the consensus to plan accordingly in order for the City to be prepared. Commissioner Davis concurred and agreed with waiving some of the processes and to move forward with a plan. Commissioner Larson concurred with the importance of having a plan in place in order to protect the interests of the citizens.

Commissioner Rohr moved to approve that the City Commission waive the public bidding requirements for the selection of an engineering firm and geotechnical firm related to potential flood related projects. 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.

Commissioner Davis moved to approve the proposed contract with KLJ to provide said engineering services as presented. 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.

Commissioner Rohr moved to approve of the proposed contract with Braun for geotechnical services. 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.

Commissioner Davis moved to approve the funding source for such services estimated to be \$100,000 to come from the City Sales Tax fund, with possible reimbursement from federal, state or local sources. 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.

Mayor Helbling stated there will be several phases including a public input meeting related to this matter.

I. RESOLUTIONS AND ORDINANCES

1. *Second Consideration and Final Passage of Ordinance 1333 to amend and re-enact Chapter 10, Fire Prevention and Protection, of the Mandan Code of Ordinances. The purpose of this ordinance is to adopt the 2018 International Fire Code (IFC) with proposed amendments.* Fire Chief Nardello reported that there have been no comments or opposition to the ordinance since the first presentation. The main purpose is to adopt the 2018 Fire Code. He provided a brief background of the code process cycle reviewed by the Code Council and stated that the 2018 version with amendments is the most current. The City of Mandan is using the 2015 version. He said that the City of Mandan is consistent with what the Bismarck Fire Department uses and that there were no major changes to the (2018) code. He provided an overview of the

recommended changes for the 2018 version. He recommended that the City of Mandan adopt the 2018 International Fire Code with proposed amendments as presented.

Commissioner Larson moved to approve the second Consideration and Final Passage of Ordinance 1333 to amend and re-enact Chapter 10, Fire Prevention and Protection, of the Mandan Code of Ordinance and adopt the 2018 International Fire Code (IFC) including appendixes A, B, C & D. 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.

2. *Second Consideration and Final Passage of Ordinance 1331 pertaining to Building Codes updating the Mandan Building code to supplement the adoption of the State Building code on January 1, 2020.* Fire Chief Nardello presented this matter in the absence of Building Official Ouradnik and stated this item was tabled from a previous meeting in order to allow time for the City of Mandan to see what the Bismarck City Commission, the Burleigh County Commission and the Home Builders Association decided. Chief Nardello stated he attended that meeting and found that what Building Official Ouradnik recommended is acceptable. The only question the Home Builders Association had was the spring loaded hinges on the garage door between the house and the garage of which the City of Bismarck is not requiring wherein the City of Mandan is requiring. It was recommended (at the meeting) that it be the same for both cities, however, Chief Nardello does not consider it to be an issue if it is not the same. Another question was the footings for decks as to when and why it was required, however they were acceptable to that. Thus, the only difference will be the spring loaded hinges on the garage doors.

Commissioner Davis moved to approve the second Consideration and Final Passage of Ordinance 1331 pertaining to Building Codes and updating the Mandan Building code to supplement the adoption of the State Building code on January 1, 2020. 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.

3. *First Consideration of Ordinance No. 1334 granting a franchise to Montana-Dakota Utilities Company, to construct, maintain and operate, within, upon, in and under the streets, alleys and public grounds of the City of Mandan, a gas distribution system for transmitting and distributing natural or manufactured gas or mixture of both for public and private use.* Attorney Brown reported that Montana-Dakota Utilities Co. currently has a franchise with the City of Mandan to provide natural gas that is due to expire. This meeting tonight was also noted as a public hearing in the newspaper and it was made a public hearing by a Resolution on the Agenda. He stated that and no other party has requested installing a natural gas distribution in the City of Mandan which in his opinion would be very rare. Attorney Brown recommended approval of the Ordinance.

Mayor Helbling announced this is a public hearing to approve the First Consideration of Ordinance No. 1334 granting a franchise to Montana-Dakota Utilities Co., to construct, maintain and operate, within, upon, in and under the streets, alleys and public grounds of the City of Mandan, a gas distribution system for transmitting and distributing natural or manufactured gas

or mixture of both for public and private use. He invited anyone to come forward to speak for or against the Ordinance. A second and third announcement was made to come forward to speak for or against the Ordinance. Hearing none, this portion of the public hearing was closed.

Commissioner Davis moved to approve the First Consideration of Ordinance No. 1334 granting a franchise to Montana-Dakota Utilities Co. to construct, maintain and operate, within, upon, in and under the streets, alleys and public grounds of the City of Mandan, a gas distribution system for transmitting and distributing natural or manufactured gas or mixture of both for public and private use. 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:

1. *Announcement of the Metropolitan Transportation Plan, Arrive 2045, final Public Input Meetings: Three meetings over two days at the Mandan City Hall from 11:30-1:00PM on January 23, 2020.* Planning and Engineering Director Froseth encouraged Mandan residents to attend the public hearings coming up related to transportation studies that are being conducted in partnership with the Metropolitan Planning Organization (MPO) scheduled for 1/23/2020 11:30-1:00. The other times scheduled are in Lincoln 6:00-7:30 and a meeting in Bismarck from 5:30-7:00 (tomorrow). All meetings will cover the same material. This study is conducted every five (5) years and this is the last public input opportunity. Information can also be found at www.Arrive2045.com along with various other contact methods were also provided.

Commissioner Rohr said that the concerns discussed will be the roadways and the priorities on how those will be arrived at. In summary, this is the discussion of all projects, the federal funding constraints and it will be to prioritize those projects that should go through.

2. *Announcement of the Intersection Analysis Study first Public Input Meeting. Two meetings on January 28th with one at Mandan City Hall from 5:00 – 6:30 PM on January 28th.*

Planning and Engineering Director Froseth presented information related to another public input meeting, an MPO study that the City of Mandan is involved with. This study entails 2-way stops vs. 4-way stops, etc. This is to double check with experts any factors that are not seen by the Engineering office and will it will provide a second opinion on certain projects. The public meetings for this meeting and similar presentations are as listed.

Director Froseth reviewed the study map that depicted the area of intersections that will be considered in this study. Commissioner Davis pointed out that this is the time for Hwy 6 and Main Street discussion. Director Froseth said the project will move forward. Commissioner Davis requested Director Froseth to explain the reason for the removal of the street light switching to a stop sign as to why that will happen. Director Froseth replied that the study indicated that the traffic analysis report does not have a push button pedestrian crossing because there were only single digit pedestrian crossings recorded.

3. *The Mandan Remediation Trust (MRT) will meet on Wednesday, January 22, 2020, 6:00 p.m. Mandan City Hall, Veterans' Conference Room, to discuss closure of the Mandan remediation site.* Administrator Neubauer stated that this is a public input meeting that has been called by the ND Department of Environmental Quality (DEQ) regarding the Mandan

Remediation project. The MRT members will be in attendance to answer any questions and to show a short presentation on where the City of Mandan stands as the City is near the end of the remediation cleanup activities. The DEQ has issued the City of Mandan a letter that they feel we can start decommissioning the system. This is the time for a public input allowing for an opportunity for anyone to come forward before the system is decommissioned. The settlement with BNSF was in July 2004. It is now January 2020 and the system has been shut down for about 2 years and no issues have arisen and as a part of the site closure plan to shut it down, the city will go in and do some measuring and if nothing has changed, the decommissioning can begin. The date set for the meeting is January 22, 2020, 6:00 p.m. at Mandan City Hall. The public and anyone wishing to comment on this matter are welcome to come forward at that time.

4. Mayor Helbling announced that there are three (3) commission seats up for reelection: Mayor Helbling, Commissioner Davis and Commissioner Braun. He stated that the Bismarck Mandan Board of Realtors along with the Chamber and Home Builders Association will sponsor a campaign training session on February 5, 2020. If anyone is interested in running for a seat, that training session will provide a lot of information. More information can be found on the Homebuilders and Chamber website and also on the City of Mandan website.

5. *Consider moving into executive session pursuant to North Dakota Century Code Code § 44-04-19.1(9) and 44-04-19.2(2) to discuss negotiation strategy related to possible property acquisition.*

Commissioner Rohr motioned to move into executive session pursuant to North Dakota Century Code §44-04-19.1(9) and 44-04-19.2(2) to discuss negotiation strategy related to possible property acquisition. 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.

City Commission met in executive session at 6:06 p.m. present were Mayor Tim Helbling, Commissioners Rohr and Davis with Commissioner via telephone, along with City Attorney Malcolm Brown, Administrator Neubauer and Engineering & Planning Director Froseth.

Executive session adjourned at 6:13 p.m. and reconvened the regular meeting at 6:14 p.m.

K. ADJOURNMENT:

There being no further business to become before the board, Commissioner Rohr motioned to adjourn at 6:14 with Commissioner Davis seconding the motion, all in favor aye, none opposed, meeting adjourned at 6:14 p.m.

s/s James Neubauer
James Neubauer
City Administrator

s/s Tim Helbling
Tim Helbling, Mayor
Board of City Commissioners