
The Mandan City Commission met in regular session at 5:30 p.m. on March 17, 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 and Commissioners Braun, Rohr, Davis and Larson. Department Heads present were, Finance Director Welch, Fire Chief Nardello, Planning & Engineering Director Froseth, Business Development and Communications Director Huber, Principal Planner Van Dyke, City Administrator Neubauer, Director of Public Works Bitz, Assessor Markley, Deputy Police Chief Flaten, Building Official Ouradnik and Police Chief Ziegler. Absent: Human Resource Director Cullen, Attorney Brown.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the March 3, 2020 Board of City Commission regular meeting.* 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:

1. *Consider approval of a land use plan amendment, first consideration of Ordinance 1336 related to a zoning amendment, and preliminary plat for Longhorn 2nd Addition.* City Planner VanDyke presented a request to consider approval of a land use plan amendment, first consideration of Ordinance 1336. The applicants is requesting to amend the land use and transportation plan of the City, rezone their property and obtain approval for the preliminary plat of Longhorn 2nd Addition. The land use designation is currently zoned rural residential. The applicant would like to amend the land use and transportation plan to accommodate the existing use of commercial and expand that to apply to adjoining property owned by Mr. and Mrs. Alvina which is presently a platted residential subdivision – Longhorn 1st Addition Replat (Exhibit 2). No roads were constructed to serve the platted subdivision and many of the lots created are encumbered by transmission line easements that would likely prohibit any future residential construction as it is platted currently. The proposed land use amendment would keep the rural residential designation for any lands adjacent to the property subject to this application. Central Dakota Humane Society plans to expand their operations in the coming years and this would allow them to grow rather than move from the existing location. There are presently industrial uses across 37th Street to the north. This land is outside the extra-territorial area of the City. The applicants have consulted with P&Z Director Pierce who has informed the Morton County P&Z Commission of this application. The proposed land use aligns with the existing use in the area to the north and on part of the subject property.

City Staff recommended approval due to the existing character of area near the intersection of 37th Street and 1806 North to establish a commercial node accessible by neighboring residents, and its adjacency along a future minor arterial. (A commercial node at this location would be

similarly spaced as those planned for in other areas of the City/ETA). The proposed land use amendment is summarized in Exhibit 5.

As noted, the applicants are requesting to change the zoning from A-Agriculture and R-7 Residential to CB- Commercial and A-Agriculture (Exhibit 3). The CB-Commercial zoning designation would accommodate the existing use of kennel and allow for the expansion to adjoining land in the future. The CB-Commercial zoning district would apply to the same area that is being proposed through the amendment to the land use and transportation plan. The A-Agriculture zone would apply to the remainder of property and align with the neighboring land to the south. The applicant would like to preserve this as A-Agriculture to farm the land.

The Planning and Zoning Commission recommended approval of the rezone with these restrictions:

CB-Commercial:

- Kennel
- Dog Daycare
- Animal Hospital or Clinic
- Pet Grooming
- Pet Hospital or Clinic

A-Agricultural:

- Field crop farming
- Commercial flower growing
- Fruit growing
- Tree, shrub or plant nursery
- Livestock raising or feeding

The preliminary plat shows two lots (Exhibit 4). One lot will be served by a 40' access easement. No access lines have been required along 1806 North and along 37th Street to ensure the same access point is utilized for both proposed lots.

City staff recommended approval of the preliminary plat as proposed in Exhibit 4 with the following requirements at 37th Street right-of-way that will allow additional right-of-way as needed to meet arterial road width as planned for 37th Street in the future.

The Planning and Zoning Commission recommended approval of the land use and transportation plan amendment, zone change, and preliminary plat subject to minor relaxation of some restrictions applied to the CB-Commercial zone change. These are incorporated into the ordinance (Exhibit 6). The Planning and Zoning Commission approved the amendment to the land use and transportation plan as outlined (Exhibit 5) and recommended approval to the change in zoning as outlined in Exhibit 6, and approved the preliminary plat (Exhibit 4).

Mayor Helbling announced this is a public hearing to consider approval of a land use plan amendment, first consideration of Ordinance 1336 related to a zoning amendment and

preliminary plat for Longhorn 2nd Addition. He invited anyone in the audience to come forward to speak for or against the Ordinance 1336.

Jerry Kemmet, President of the Central Dakota Humane Society came forward to speak. He said the Center is celebrating 60 years of business in Mandan and they want to stay in Mandan. This addition of land will allow expansion. They would like to plan on putting in trails for the animals and the public would be welcome to use the trails. They would like to be able to house more animals in anticipation of finding homes for the animals.

A second announcement was made for anyone in the audience to come forward to speak for or against Ordinance 1336. A third and final announcement was made for anyone to come forward to speak for or against Ordinance 1336. Hearing none, this portion of the public hearing was closed.

Commissioner Braun moved to approve the amendment to the land use and transportation plan as outlined in Exhibit 5, the first consideration of Ordinance 1336 as outlined in Exhibit 6, and approve the preliminary plat as outlined in Exhibit 4. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Consider approval of the preliminary plat for Lakewood 9th Add. Replat of Lot 1, Block 4.* City Planner Van Dyke presented a request to approve the preliminary plat for Lakewood 9th Addition Replat of Lot 1, Block 4. He reported that Art Goldhammer, VE Land Company, is seeking approval for a preliminary plat to Lot 1, Block 4, Lakewood 9th Addition. The property is currently a storm water retention pond that was over constructed as the surrounding developments utilized the dirt from this lot to fill and elevate out of the floodplain. Due to the storm water pond being developed over capacity, there is potential for the lot to be partially filled and elevated thereby creating four new lots (Exhibit 2). Three of the lots will have street frontage along 21st Street SE. The lot in the rear will continue to function to facilitate storm water flows and be held in common ownership by the three street-fronting lots proposed. The property is zoned PUD, where these lots will continue to be restricted to limited uses in the CB-Commercial District. City staff received two inquiries from neighboring property owners. One neighbor indicated that he was happy to hear that the lot abutting their property would still function as a storm water pond and provide a buffer to the development near 21st Street. City staff and Planning and Zoning Commission recommended approval of the preliminary plat subject to conditions already shared with the applicant (Exhibit 3). The Planning and Zoning Commission unanimously recommended approval at the February P&Z hearing. The Engineering and Planning recommended approval of the preliminary plat as presented in Exhibit 2 subject to the conditions of approval contained in Exhibit 3.

Mayor Helbling inquired as to who will be responsible for the maintenance and upkeep on the remaining. People are concerned if this pond is partially filled, will they go across the street and fill the next pond that will downgrade property values? Planner Van Dyke replied that Lot 1A is a common lot included in joint ownership for the three buildable lots and that would be established if this plat is approved, therefore it would not likely come back to the City. It would be tied to those three parcels. That was an action enacted at the City previously to ensure these

types of lots would not become the city's responsibility. Mayor Helbling recommended that there should be assurance that the three lots will jointly be responsible for the 4th lot so that the City is fully released of any responsibility. Planner Van Dyke stated that Attorney Brown was aware that these lots would not be the responsibility of the City.

Mayor Helbling announced this is a public hearing to consider approval of the preliminary plat for Lakewood 9th Addition Replat of Lot 1, Block 4. He invited anyone in the audience to come forward to speak for or against the preliminary plat for Lakewood 9th Addition Replat of Lot 1, Block 4. A second announcement was made for anyone to come forward to speak for or against this request. A third and final announcement was made for anyone in the audience to come forward to speak for or against this request. Hearing none, this portion of the public hearing was closed.

Commissioner Braun moved to approve the preliminary plat for Lakewood 9th Addition Replat of Lot 1, Block 4 in Exhibit 2 subject to conditions of approval contained in Exhibit 3. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: No; Commissioner Braun: Yes; Mayor Helbling: No. The motion passed.

3. *Consider approval of Ordinance 1314 related to outdoor seating.* City Planner Van Dyke presented a request for approval of Ordinance 1314 related to outdoor seating. He said that the City has received numerous requests over the years for outdoor seating located in the public right-of-way. The City has been working with Thomas and Moriarty's to trial a permanent outdoor seating ordinance. The outdoor seating ordinance has minimum provisions that need to be met such as fencing that doesn't interfere with Americans with Disability Act, sidewalk width requirements, an aesthetic review by Mandan Architectural Review Commission and other considerations. The Ordinance would require a permit to be approved by Mandan Architectural Review Commission and signed off by the building, fire, and engineering departments prior to establishing an outdoor seating area. The Ordinance is similar to the one Bismarck has in-place for outdoor seating. The City would require a separate right-of-way encroachment agreement to be signed by both the City and the applicant. Multiple departments, including legal, were involved in the creation of this ordinance. All present recommended approval of the Ordinance (Exhibit 1). This is limited to businesses that would sell food or drink. Minor changes could be made to accommodate businesses, if necessary. This matter has been held up for about 6 months. No adjustments were made to this to accommodate the Moose Club (they built an outdoor seating area, without city approval permit, in the City right of way) but will have to be addressed separately from this matter. This will accommodate businesses that apply upfront and are meant for temporary seasonal purposes. Commissioner Larson commented on the distinguishing between this type of outdoor seating versus putting a bench in front of a business. Mayor Helbling commented this is a good Ordinance if it is followed properly.

Mayor Helbling announced this is a public hearing to consider approval of Ordinance 1314 related to outdoor seating. He invited anyone in the audience to come forward to speak for or against the approval of Ordinance 1314 related to outdoor seating.

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

Commissioner Rohr moved to approve Ordinance 1314 related to outdoor seating in Exhibit 1. 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.

E. BIDS:

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Consider the following requests to approve budget amendments and transfers:*
 - i. *Fire Department;*
 - ii. *Assessing Department;*
 - iii. *Municipal Court;*
 - iv. *Building Inspection Department;*
 - v. *Business Development & Communications Department;*
 - vi. *Human Resources Department;*
 - vii. *Administration Department;*
 - viii. *Utility Billing Department;*
 - ix. *Finance Department;*
 - x. *Public Works;*
 - xi. *Planning and Engineering Department;*
 - xii. *Water Treatment;*
 - xiii. *Wastewater Treatment;*
 - xiv. *Information Technology Department;*
 - xv. *Police Department.*
3. *Consider allowing the fire department to apply for an Assistance to Firefighters Grant.*
4. *Consider payment of bills for Morton Mandan Public Library / Downtown Parks Project.*
5. *Consider approval of Zander Addition minor plat.*
6. *Consider approval of a Main Street Initiative Community Action plan and allowing an application for Partners in Planning matching funds.*
7. *Consider allowing the planning department to apply for an AARP Community Challenge Grant.*
8. *Consider appointment of Kelbi Pritchett (8th grade) to the Mandan Youth Commission.*

Commissioner Braun moved to approve the Consent Agenda items 1 through 8 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS

1. *Abatement applications for Infinity Ventures Inc.*

City Assessor Markley presented a request to consider reduction to the 2018 & 2019 value of the property at 4102 Shoal Loop SE. This parcel is also known as parcel #65-6101450 with a legal description of Lots 8A & Lot 9 & 10 Block 2 Lakewood Commercial Park 3rd. The property includes three 36 unit apartment buildings and garages. The applicant has requested a reduction in value based on the income information provided. The owner provided his income and expense data.

The City of Mandan Assessing Office considers three approaches to value property: sales, cost, and income. The sales approach uses sales of similar properties to determine value. The cost approach is land value and the depreciated cost of improvements. The income approach estimates present value of future benefits. The Assessing office has historically used the sales approach to value property. The sales data is readily available. The county recorder sends the sales information monthly.

Apartment owners contacted the Assessing Office in late 2018 and early 2019 concerning their property valuations. They felt they were overvalued compared to the income they were generating. In response to these concerns letters were sent to the owners of apartment buildings in December 2018 and some responses were received. In October 2019 another request was sent for the income and expense data anticipating a better response. After the request in 2019 enough data was received to consider the income approach for valuation purposes for the 2020 assessment year.

The Assessing Office used the services from Vanguard Appraisals, Inc. to analyze the income & expense information to update the valuation model. Vanguard Appraisals Inc. has the experience and expertise to assist in determining the 2020 valuations using the income and expense data collected. The abatements that are being requested are for 2018 & 2019 valuations. The Assessing Office did not have adequate information to use income approach in our calculations for 2018 & 2019 valuations. Therefore allowing such abatements would create inequity for the other properties in this class.

Assessor Markley stated that all these abatement recommendations will go to the County Board after tonight and they can overrule any decision made here.

Assessor Markley did not recommend abating the 2018 & 2019 values based on the income provided because it will create an inequality to similar properties.

Stacy Zander, 2220 Shoal Loop, Mandan, came forward to speak. He stated that with regard to Assessor Markley's statement "That it will create inequality to the other properties." Mr. Zander stated that those properties have a right to request abatement. If the property is over-assessed that's why you request abatement. The City brought in an outside company to do the assessment and based on my accountant's information that was provided to them, they have my data and my property is over-assessed. He said he is requesting their valuation. He does not know why the City would deny his request, when he is using their numbers.

Mayor Helbling called on Administrator Neubauer to explain how this was managed a few years ago when some large apartment complexes were challenging their valuations.

Administrator Neubauer explained that the sales approach was used since it was difficult getting income and expense data for the large apartment complexes that were evaluated in the past. He said this has been handled by the City in denying the abatement and then the homeowner can appeal to the county and ask the county commission to consider abatement. If the county also denies the request, the next option would be district court. Mr. Zander again stated that he used the figures provided by Assessor Markley. Commissioner Davis offered to meet with Mr. Zander and Assessor Markley to review the Vanguard process, sales vs. income, in hopes of

answering Mr. Zander's questions. Assessor Markley agrees with Mr. Zander, there were not a lot of sales data so the income approach was used with other properties as well. Those values will be lowered in 2020 based on the income and expenses received. Commissioner Rohr said that equity and balance can be difficult and these matters can become complex. As far as the city is concerned, we do the best we can.

Commissioner Davis moved to deny the abatement requests for the property located at 4102 Shoal Loop SE. Commissioner Braun seconded the motion.

Commissioner Larson inquired if the income approach was used for any other valuations and Assessor Markley replied, no. Commissioner Braun stated that when abatements were discussed a couple years ago, it was an arduous task and that was done in good faith to provide the best assessment possible at that time. Having gone through the process at that time, he feels this matter should be addressed in that same manner.

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

Mayor Helbling stated that Mr. Zander has the right to appeal to Morton County Commission.

2. Abatement applications for JDS Holdings LLP

i. Abatement application 65-6119750

City Assessor Markley presented a request to consider a reduction to the 2019 value of the property at 1619 – 31st Street NW. This parcel is also known as parcel #65-6119750 with a legal description of Lot 6 Block 1 Missouri Valley Replat. This property includes 36 unit apartment building and garages. The applicant has requested a reduction in value based on the income information provided. As previously explained, the City of Mandan Assessing Office considers three approaches to value property: sales, cost, and income. The sales approach uses sales of similar properties to determine value. The cost approach is land value and the depreciated cost of improvements. The income approach estimates present value of future benefits. The Assessing Office has historically used the sales approach to value property. The sales data is readily available. The county recorder sends the sales information monthly.

The City Assessing Office was contacted by apartment owners in late 2018 and early 2019 concerning their property valuations. They felt they were overvalued compared to the income they were generating. In response to these concerns letters were sent to the owners of apartment buildings in December 2018 and received a limited response. In October 2019 another request was sent for the income and expense data in hopes of receiving a better response. After the request in 2019 there was enough data to consider the income approach for valuation purposes for the 2020 assessment year. The Assessing Office used the services from Vanguard Appraisals, Inc. to analyze the income & expense information to update the valuation model. Vanguard Appraisals Inc. has the experience and expertise to assist in determining the 2020 valuations using the income and expense data collected. The abatement that has been requested is for 2019 valuations. The Assessing Office did not have adequate information to use income approach in our calculations for 2019 valuations. Therefore, allowing such abatement would create inequity for the other properties in this class.

Assessor Markley stated that the Assessing Office does not recommend abating the 2019 value based solely on the income provided because it will create an inequality to similar properties. She recommended a motion to deny the abatement request for the property located at 1619 31st Street NW.

ii. Abatement application 65-6119700.

City Assessor Markley presented a request to consider a reduction to the 2019 value of the property at 1611 31st Street NW. This parcel is also known as parcel #65-6119700 with a legal description of Lot 5 Block 1 Missouri Valley Replat. The property includes a 44 unit apartment building and garages. The applicant has requested a reduction in value based on the income information provided. The City of Mandan Assessing Office considers three approaches to value property: sales, cost, and income. The sales approach uses sales of similar properties to determine value. The cost approach is land value and the depreciated cost of improvements. The income approach estimates present value of future benefits. The Assessing Office has historically used the sales approach to value property. The sales data is readily available. The county recorder sends the sales information monthly.

The Assessing Office was contacted by apartment owners in late 2018 and early 2019 concerning their property valuations. They felt they were overvalued compared to the income they were generating. In response to these concerns letters were sent to the owners of apartment buildings in December 2018 and received a limited response. In October 2019 the Assessing Office sent another request for the income and expense data in hopes of receiving a better response. After the request in 2019 the Assessing Office gathered enough data to consider the income approach for valuation purposes for the 2020 assessment year. The Assessing Office used the services from Vanguard Appraisals, Inc. to analyze the income & expense information and to update the valuation model. Vanguard Appraisals Inc. has the experience and expertise to assist in determining the 2020 valuations using the income and expense data collected. The abatement that has been requested is for 2019 valuations. The Assessing Office did not have adequate information to use income approach in our calculations for 2019 valuations. Therefore, allowing such an abatement would create inequity for the other properties in this class.

Assessor Markley did not recommend abating the 2019 value based solely on the income provided because it will create an inequality to similar properties. She recommended a motion to deny the abatement request for the property located at 1611 31st Street NW.

James Moen, Minot, came forward to speak and stated that his property is located at 1619-1611 31st Street. He said he has a problem with the fairness of the process used. He said when he compares his property to adjacent properties he believes his values are 15%-20% higher than those properties. Where is the fairness? He said he has provided Assessor Markley the information she asked for over the last couple years. He gave examples of the values of his properties in comparison to others in the area. Assessor Markley said this was not discussed and she offered to review the information to figure out the disparity. She said that if there is an error found, she can provide that recommendation to the county. She will meet with Mr. Moen to discuss this further.

Commissioner Davis moved to deny the abatement requests of 65-6119750 and 65-6119700. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. Abatement application for HM4 LLC

City Assessor Markley presented a request to consider reduction to the 2019 value of the property at 1627 31st Street NW. This parcel is also known as parcel #65-6119800 with a legal description of Lot 7 Block 1 Missouri Valley Replat. The property included a 42 unit apartment building and garages. This property suffered fire damage to the apartment building and heat damage to the garages on July 14, 2019. Ten of the 43 garages were being rented on 10/16/2019. The applicant has also requested a reduction in value based on the income information provided. She reported that the NDCC 57-23-04 states: "When any building, mobile home, structure, or other improvement has been destroyed or damaged by fire, flood, tornado, or other natural disaster, the abatement or refund must be granted only for that part of the year remaining after the property was damaged or destroyed."

The City of Mandan Assessing Office considers three approaches to value property: sales, cost, and income. The sales approach uses sales of similar properties to determine value. The cost approach is land value and the depreciated cost of improvements. The income approach estimates present value of future benefits. The Assessing Office has historically used the sales approach to value property. The sales data is readily available. The county recorder sends the sales information monthly.

The Assessing Office was contacted by apartment owners in late 2018 and early 2019 concerning their property valuations. They felt they were overvalued compared to the income they were generating. In response to these concerns, letters were sent to the owners of apartment buildings in December 2018 and received a limited response. In October 2019 another request was sent for the income and expense data in hopes of receiving a better response. After the request was sent in 2019 the Assessing Office had gathered enough data to consider the income approach for valuation purposes for the 2020 assessment year. The Assessing Office used the services from Vanguard Appraisals, Inc. to analyze the income & expense information to update the valuation model. Vanguard Appraisals Inc. has the experience and expertise to assist in determining the 2020 valuations using the income and expense data collected. The abatement that has been requested is for 2019 valuations. The Assessing Office did not have adequate information to use income approach in our calculations for 2019 valuations. Therefore allowing such an abatement would create inequity for the other properties in this class.

Assessor Markley stated that this lot does have a slope. She said she found an error in the calculation of the land value therefore she would recommend a lower value for this property. Assessor Markley recommended abating the 2019 value for the portion of the year that the buildings were damaged and correct the land value.

James Moen, Minot, came forward to speak and stated he agrees with Assessor Markley on the abatement due to the damages to the property.

Commissioner Davis moved to approve the request to approve abatement and adjust the 2019 value to \$2,968,050 for the property located at 1627 31st Street NW. 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.

Mayor Helbling stated that on the abatement matters, the property owners have the right to appeal to Morton County Commission.

4. *Consider appointments to Mandan Visitors Committee.* City Administrator Neubauer presented a request to consider appointments to the Mandan Visitors Committee. He reported there are four positions up for appointment, including one vacant position. Letters of interest were pursued through an October news release with a requested deadline for responses by November 1, 2019 or until the positions are filled.

Members whose terms expired:

- Lee Pierce (term: Aug. 2015 - Aug. 2019)
- Terry Kraft (term: Aug. 2015 – Aug. 2019)
- Maria Walen (term: Jan. 2016 – Dec. 2019)

Unexpired term to be filled:

- Shannon Gangl (term: Aug. 2018 – Aug. 2020)

The Mandan Visitors Committee met on March 3, 2020 to discuss the consideration of recommendations for 2020 appointments. Individuals who submitted letters of interest include: Maria Walen, Clint Boyd, Tyler Gangl, Karmen Siirtola. Terry Kraft, withdrew letter of interest 2/21/2020 and Rena Mehlhoff withdrew letter of interest 2/13/2020. Interested individuals, Walen, Boyd, Gangl, and Siirtola were all in attendance.

Administrator Neubauer reported that due to the number of open positions for vacant, renewal or new appointments, he recommended doing a reset on term lengths as outlined in the recommendation and motion. That would prevent not having all positions being up for reappointment at the same time. He said that names were drawn from a jar to determine the recommended terms: The Visitors Committee recommended appointing Tyler Gangl to a two-year term ending December 31, 2021; Maria Walen to a three-year term ending December 31, 2022; Clint Boyd to a four-year term ending December 31, 2023; and Karmen Siirtola to a five-year term ending December 31, 2024.

Commissioner Larson moved to approve the following appointments to the Visitors Committee: Tyler Gangl to a two-year term ending December 31, 2021; Maria Walen to a three-year term ending December 31, 2022; Clint Boyd to a four-year term ending December 31, 2023; and Karmen Siirtola to a five-year term ending December 31, 2024. 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.

5. *Memorial Highway Preliminary Engineering Presentation.*

Planning and Engineering Director Froseth presented a brief update on the status of the Memorial Highway reconstruction project planning as it nears the completion of the preliminary engineering effort. The NDDOT decision document will be presented to the City Commission for review and approval. Director Froseth invited Craig Mizera, the Project Manager with HDR, to present relevant project information on the Memorial Highway Improvement project. Mr. Mizera said that AE2S and City staff have been involved in this project for months. The project overview, starts at Main Avenue and goes to 46th Avenue interchange wherein 15,000 vehicles drive through daily. He outlined the goals and proposed improvements, the funding sources wherein the project cost share would be federal cost share 80.93%, state cost share 9.07% and local cost share 10% plus additional city utility cost, water main and sanitary sewer, would be local costs. The project is tentatively scheduled to commence in spring 2022. Public input meetings have been held and we are currently in the document stage at this point. For further information please contact www.memorialhighwayproject.com or by contacting Craig Mizera, Project Manager.

Mayor Helbling inquired about relocating the two lift stations if they will fall under the road project or will they be the City's responsibility? Mr. Mizera stated that utilities typically need to be addressed with existing roadway easements and would be a cost the City would cover. Mayor Helbling stated he is not in favor of the ponds as there would be no way to drain that water into the Heart River. He does not want ponds on park or city property. He recommended that those will be evaluated as part of the process.

Director Froseth stated this is informational only, and no action is required at this time.

6. *Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 215, Project No. 2019-05 (Midtown East), 215A Project 2020-04 (Public Works Parking Lot) and 215B Project 2020.05 (Grounds Maintenance Parking Lot).* Planning and Engineering Director Froseth presented a request to approve the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 215, Project No. 2019-05 (Midtown East), 215A Project 2020-04 (Public Works Parking Lot) and 215B Project 2020.05 (Grounds Maintenance Parking Lot). He provided a recap, stating that at the December 3, 2019 City Commission meeting, the resolution creating the district, approved the engineer's report, approved the feasibility report was approved along with the resolution of necessity for SID 215. At the meeting on January 7, 2020 it was determined that there were insufficient protests and the City Commission elected to move forward with this project. On March 3, 2020 the City Commission approved the resolution creating the district, approved the engineer's report, approved the feasibility report and approved the resolution of necessity for SID 215A. Also on March 3, 2020 the City Commission approved the resolution creating the district, approved the engineer's report, approved the feasibility report and approved the resolution of necessity for SID 215B for parking lots so those costs will not go to the residents in the mid-town east boundaries, rather from the city's assessment fund.

Director Froseth recommended approving the Resolution approving plans and specifications and Resolution directing advertisement for bid for Street Improvement District No. 215, 215A and 215B.

Commissioner Larson moved to approve the Resolution approving plans and specifications and Resolution directing advertisement for bid for Street Improvement District No. 215, 215A and 215B. 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.

7. *Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 218, Project No. 2019-12 (Northwest Area).* Planning and Engineering Director Froseth presented a request the approval of plans and specifications and resolution directing advertising for bids for Street Improvement District No. 218, Project No. 2019-12 (Northwest Area). He stated that at the last City Commission meeting, the Engineering Office brought forward a request to approve resolutions of necessity and to create the district. In order to meet scheduling goals, this request is to approve of plans and specs as well as the advertisement for bid, concurrent with the protest period. After hearing from Mandan residents and City Commission, the City staff had some discussions on what adjustments could be made to the project details or assessment distribution formula.

Director Froseth reported that letters went out to each property owner on March 12, 2020, with their individual lot assessment estimates based on the previously mentioned adjustments (February 27th meeting). The recommended changes since the February 27th meeting pursuant to the letters that went out on March 12, 2020, included reductions of assessments:

(1) A reduction of the segment of Lewis Road, west of 37th Avenue NW, to be reconstructed. It is believed that it will all need to be reconstructed and similar to the approach to other segments in this district with pavement that is not that old. It would be recommended to apply a chip seal as part of this project and continue to assess for the timing of a future reconstruction project. Mayor Helbling inquired if Old Red Trail overlay is included in the Lewis Road? Director Froseth said it is not included.

(2) An elimination of the chip seal scope as part of the Old Red Trail overlay portion of the project. As previously mentioned, this part of the project is planned in order to bridge to the federal funds that the City expects in year 2026. Chip sealing is not as valuable as it would be for a project that expects pavement to last for 20 years.

(3) A plan to split the 40th Avenue chip seal scope so that half of the cost goes to the properties to the east and half to the west. This segment of road is basically adjacent to back yards on either side of it with each of those sides taking access from the other road. As such, upon further review, the Engineer's Office agrees that it is most fair to assess to each side.

Director Froseth stated that all the adjustments for assessments were included in the letters that went out to property owners. Mayor Helbling inquired as to the fairness of the assessments to the property owners. The City has been working hard to get the numbers down. He inquired about Old Red Trail and noted that to totally reconstruct it using federal money is \$12 million. The plan might be to overlay it to get another 5-7 years out of it. It's on the MPO's Urban Road project and reconstruct at that time using federal and state funds to offset the cost. The chip seal is removed but the overlay is not.

Mayor Helbling said that the homeowners in this area still have the right to protest this district. By moving forward tonight, it will allow plans to move forward and if the project is protested

out, it will not go anywhere. Director Froseth commented that there will be a question and answer segment running and as questions come in and stated that the city will answer them. That can be found on the cityofmandan.com, go to the “Departments” tab dropdown, click on “Engineering & Planning”, click on “Engineering”, click on “Projects”, Project 218.” In order to make it easier to find, the link will be put visible on the city website homepage. Mayor Helbling encouraged residents to use this process if they prefer this over an email or telephone call to the city. The Engineering Department will address all questions.

Director Froseth stated that he is requesting approval to advertise to start the bid process on March 20, 2020. The determination of sufficiency of protests will be presented at the April 7, 2020 meeting and if determined insufficient, bids will open on April 9, 2020 for consideration at the April 21, 2020 City Commission meeting. The plan is to construct most of the project in 2020 with minor tasks to be completed in 2021. Director Froseth recommended approval of the resolution approving plans and specifications and the resolution directing advertisement for bid for Street Improvement District No. 218, Project No. 2019-12 (Northwest Area).

Delton Kroh 4600 Lewis Road came forward to speak. His concern is that Old Red Trail has been damaged by the truck traffic. Director Froseth commented that the concern is from the 2016 construction at that time when Old Red Trail was worked on and traffic was rerouted as a bypass on Lewis Road to get to the school. There is no data on what kind of truck traffic was in that area at that time. The project construction traffic was kept to Old Red Trail.

Mark Montplaisir 3902 Lewis Road came forward to speak. He explained that Delton was referring to was when Old Red Trail was bypassed, every single vehicle coming from east and west was driving on Lewis Road. The amount of traffic in 2016 during the reconstruct was substantial and neighbors now getting hit again with a \$20,000 assessment on the lots are concerned. They paid on the Old Red Trail at that time when damage was done to Lewis Road and now will be getting assessed again. He inquired as to how many notices or letters does the City have to receive to protest this project out? Director Froseth stated that state law dictates that 50% by area of property within the district automatically kills the project from moving forward. The City Commission can kill a project without the protest. Mayor Helbling commented that the problem cannot be completely caused by Old Red Trail, explaining that certain sections of the project area include road-bed sub-base failure. Commissioner Davis commented that some areas may be cut to alleviate the assessments to the property owners and the City is looking for some kind of buy down for this district. He wanted the property owners to know the City is always looking for ways to cut costs. Director Froseth replied that this is what the City has to offer at this time and as far as outside funding there are limited opportunities to put towards the project. Mayor Helbling stated that the City will continue to look in to applying something to relieve the costs somewhat. Commissioner Larson noted that the portion of Lewis Road reconstruction will benefit all the properties on Lewis Road and the Prairie Dog fund can only go so far and they are not benefiting in the way that their project is limited.

Commissioner Larson moved to the approve the resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 218, Project No. 2019-12 (Northwest Area). 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.

8. *Consider the approval of plans and specifications, Engineers Report, and authorize the call for bids for the 2020 Municipal Sidewalk Improvement Project 2020-02.* Planning & Engineering Director Froseth presented a request to approve plans and specifications, Engineers Report, and authorize the call for bids for the 2020 Municipal Sidewalk Improvement Project 2020-02. He explained that this is the annual sidewalk construction project for the removal and replacing of existing sidewalks or aprons in need of repair. Residents may elect to have sidewalk and/or apron work done to their existing sidewalk and/or apron that is adjacent to their property under this project and to have that work assessed to their property. Sidewalks and/or aprons for new construction are not eligible to participate. This work includes any concrete item within the public right-of-way that needs to be done. Last year this sidewalk project totaled approximately \$74,064.19 in construction costs. That included work that Public Works Department completed using the contract prices and with the work completed through the Engineering Department for improvements related to private properties. He said that by taking into account that Public Works is looking at utilizing this contract to repair some 8” curb and gutter, there are some sidewalk gaps that need to be connected where there are parcels that do not have sidewalk. The project is estimated to cost \$75,032.50 for 2020.

Following approval of this request, the plan will be to advertise the project on March 20, 2020 and March 27, 2020, open bids April 14, 2020 and recommendations would be presented to the City Commission for the bid award on April 21, 2020. Director Froseth stated that the Engineer’s Office supports moving forward with this project.

Commissioner Braun moved to approve the resolution approving plans and specifications, approve the resolution approving engineer’s report and approve the resolution directing advertisement for bids for the 2020 Municipal Sidewalk Improvement Project 2020-02. 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. *Consider approval of the second and final consideration of Ordinance 1335 related to zoning application procedures.* City Planner Van Dyke stated this is the second and final consideration of Ordinance 1335 related to zoning application procedures. The proposed zoning text amendment surrounds application procedures for zoning applications in the City of Mandan. He reported there were no comments or changes since the first consideration.

Commissioner Braun moved to approve the second and final consideration of Ordinance 1335 related to zoning application procedures. 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 approval of a resolution renewing the listing agreement for numerous city properties.* City Planner Van Dyke presented a request for the approval of a Resolution to sell

real property by non-exclusive listing agreement and to extend the listing agreement with Oaktree Realtors. He stated that the listing agreement with Oaktree Realtors is nearing its expiration for the first batch of properties listed for sale. The Resolution in Exhibit 1 would extend the listing agreement date to March 19, 2021 for all thirty (30) properties presently listed for sale. To date, the City has sold several properties amounting to over \$23,000 in revenue. The sale of non-essential property via listing in the MLS appears to be working well at this time and it is recommended that the listing agreement be extended. The Engineering and Planning Department, Public Works, and Assessing Departments recommend approval of this resolution as presented.

Commissioner Larson moved to approve the Resolution as presented in Exhibit 1 and enter into the contract as presented in Exhibit 2. 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.

J. OTHER BUSINESS:

1. *Census 2020 Announcement.*

City Planner Van Dyke reported that the grant application that was applied for and has been received in the amount of \$2,000 to be used towards the 2020 census. Survey information should be arriving at homes with a code for them to enter the website to self-respond. That is the No. 1 recommended option to complete the survey. Also, the bureau is monitoring the coronavirus and there are no specific changes at this time. He stated that data collection began March 12, 2020 and continues through July 2020. This is the first year responses can be submitted online, but the option to mail or call in responses will be available. Commissioner Larson said she completed hers on the Mandan website if anyone wants to go there to complete their survey.

2. Mayor Helbling said traffic into the City Hall will be limited. He encouraged anyone who wants to pay their water bill should use the website. He stressed there is to be limited contact with all City staff so public contact should be by telephone, emails, or internet.

3. Mayor Helbling reported with the upcoming City election, several individuals have started taking petitions out. However, without the large sporting events and other community events, candidates are limited with how to get signatures. Finance Director Welch provided the following NDCC 40-09-10 Filling vacancies in board:

If a vacancy occurs in the office of a city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last city general election, the commission shall call a special city election to fill a vacancy occurring more than six months prior to the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

Director Welch summarized that there appears to be two options: call for election or appoint.

Administrator Neubauer commented that under the Home Rule Charter, that would entail a call for a special election, however, that would be impossible to do before the deadline of April 6th.

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Davis motioned to adjourn the meeting at 7:40 pm. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present.

s/s James Neubauer

James Neubauer
City Administrator

s/s Tim Helbling

Tim Helbling, Mayor
Board of City Commissioners