
The Mandan City Commission met in regular session at 5:30 p.m. on May 19, 2020 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order. Due to the coronavirus situation, this meeting was held virtually, however the meeting room was open to the public.

A. ROLL CALL:

1. *Roll Call of All City Commissioners.* Present were Mayor Helbling and Commissioners Braun, Rohr and Larson. Department Heads present were, Finance Director Welch, Planning & Engineering Director Froseth, Business Development and Communications Director Huber, Principal Planner Van Dyke, City Administrator Neubauer, Director of Public Works Director Bitz and Attorney Brown. Absent: Commissioner Davis.

Mayor Helbling extended a thank you to the Mandan community for the efforts of the annual City cleanup day with 237 people that helped. He also extended a thank you to the sponsors for prizes, food and safety equipment. He also announced that this week is National Public Works Week. Commissioner Larson encouraged employees and citizens to thank the Mandan Public Works Department for everything they do for our city. Mayor Helbling also extended a thank you to Director Bitz and his staff.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the May 5 2020 Board of City Commission regular meeting minutes.* Commissioner Larson moved to approve the minutes as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Consider approval of preliminary plat and development agreement for Schaff Estates.* City Planner Van Dyke presented a request to consider approval of a preliminary plat and development agreement for Schaff Estates. The subject property is located about 1,800 ft. north of Roughriders Estates and is within the Mandan city limits. The applicant seeks to plat this lot of approximately 20 acres into two equal sized lots of 10 acres each (See Exhibit 1). He explained that the planned future land use is for commercial and medium density residential. In particular, 56th Ave NW is paved and runs along the east of Roughriders Estates before changing into 24th Ave which is a gravel road and is a planned collector roadway. The 37th St. to the north is the planned future bypass and future principal arterial. The two newly created lots would require a variance to the requirement that a paved road would be required in order to obtain a building permit for a residence. The Planning and Zoning Commission recommended approval subject to conditions contained within a development agreement amenable by both parties (See Exhibit 2) with conditions as follows:

(1) The Development is restricted to one buildable area on each lot as shown in the attached Ghost Plat illustrated by hashed lines on each respective lot in the Development.

- (2) Any improvements, whether permitted or otherwise, whether above or below ground such as a septic system and land designated for a secondary septic system, are to be contained within the buildable area boundaries.
- (3) At the request of the Mandan Building Official, a building permit application will denote the boundaries of the buildable area to ensure the location of any structure is contained within the buildable area.
- (4) Access to Lot 1 of the Development will be restricted to the existing approach located in the northeast corner.
- (5) Access to Lot 2 of the Development will be restricted to the depicted right-of-way immediately north of the buildable area.
- (6) Upon future development of the Property outside the buildable areas of the respective lot, the Developer will vacate the corresponding approach for the construction of a public road or access easement intended to provide access to future lots and utilize said public road or access easement in lieu of the existing private driveway or approach.
- (7) The Developer will not be required to improve the road 24th Ave. or 37th St. to a standard urban section including paving, curb, and gutter, for the purposes of obtaining a single-family residential building permit or related accessory structure(s) within the buildable area on each lot of the Property.
- (8) Future development on the property will align with the adopted land use and transportation plan of the City of Mandan at the time of application unless approved by the Board of City Commissioners.

Planner Van Dyke said this is a deviation from the master plan because it is a rural residential pertaining to pieces of property however the Planning and Zoning Commission recommended approval. The Development Agreement does mitigate some of the negative effects that would ultimately occur if the applicant were allowed to build in the middle of it. The redevelopment of the property will be less cumbersome in the future as development pushes upwards. New information that came out of the Metropolitan Planning Organization Advisory Committee meeting indicated that the north and west side beltway of north corridor access and with that, there is a 200 ft. right of way requiring that significant roadway. This is not a normal roadway and beltway but this would alleviate a lot of pressure off the existing principal arterial in the area and therefore requires additional platting. He inquired if the 120 ft was sufficient or if 200 ft was still required and the Technical Advisory Committee indicated that the 200 ft is what Bismarck is doing along the beltway on the east side of the river. The NDDOT District Engineer indicated that this would be the preferred way to proceed with the 200 ft because that's the type of road it will be. The Technical Advisory Committee advised to proceed with the 200 ft and staff has included that in the amended motion subject to the plat right of way dedication in the northern and western boundary.

Mayor Helbling inquired if Planner Van Dyke has discussed this increased footage with the developer. Planner Van Dyke replied that he discussed it with Toman Engineering who was going to reach out to his client with this new request but has not yet received any feedback.

Mayor Helbling announced this is a public hearing to consider approval of preliminary plat and development agreement for Schaff Estates. He invited anyone to come forward to comment for or against the request. A second announcement was made for anyone to come forward and a

third and final announcement was made to come forward. Hearing none, the public hearing was closed.

Commissioner Rohr moved to approve the preliminary plat in Exhibit 1 subject to the Development Agreement in Exhibit 2 and also subject to the 100 ft lot right of way in the north and west boundaries. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; 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 approval of annual site authorizations for Fort Abraham Lincoln Foundation for July 1, 2020 to June 30, 2021: (i) Lonesome Dove (ii) Seven Seas (iii) Midway Lanes.*
3. *Consider payment of bills for Morton Mandan Public Library / Downtown Parks Project.*
4. *Consider recommendation from the Pension Committee related to fund changes within the plan.*
5. *Consider approval of a raffle for Mandan Police Explorer Post at the Mandan Municipal Golf Course on June 19, 2020.*
6. *Consider amendment to the ND DOT contract concerning additional funding for a video camera for the patrol vehicle.*
7. *Consider approval of Construction Engineering services for the Mid-Town East, SID #215, 215A and 215B project.*
8. *Consider approval of ad for bids for the Emergency Generators project.*
9. *Consider approval of agreement to cross BNSF lines required as part of the Raw Water Intake project.*
10. *Consider approval of Memorandum of Understanding between the Mandan Police Department and Custer District Health regarding security for Points of Dispensing.*

Commissioner Braun moved to approve the Consent Agenda items 1 through 10 as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Consider Growth Fund Committee recommendation on Storefront Improvement Application for 107 4th Ave NW.* Business Development & Communications Director Huber presented a request to consider a Mandan Growth Fund (MGF) Committee recommendation for approval of a Storefront Improvement application for 107 4th Ave NW, the Rice Bowl, east of the new Runnings location. She reported that the MGF Committee met on May 12, 2020 and considered the approval of an application by Frankie Huang of Dragon Royal LLC for matching funds towards exterior improvements to the building at 107 4th Ave NW. The improvements are proposed for a two-story building, part of a set of adjacent buildings all listed under the same

parcel on assessing records. Other buildings added on to the west end of this building are currently leased to Nutrition Wellness Center and Curvy Flamingo. Huang plans to relocate his restaurant, the Rice Bowl, to the main level of the two-story building. The applicant is seeking a \$30,000 match for the exterior renovation that has an estimated cost of \$73,228. The proposed exterior improvements amount to \$59,000 of the project and include fixing and painting the exterior walls, sealing windows on the south side of the building so it can serve as a firewall, and replacing storefront glass on the east side. The applicant also plans to replace two doors with fire rated exit doors, replace one door with ADA accessibility. The proposal also includes moving signage from the existing location at the library to the new location, utilizing existing sign faces and cabinetry as much as possible, plus moving the existing awning. The exterior building and site plans have received approval from the Mandan Architectural Review Commission contingent upon elimination of the projecting sign as proposed or modified to comply with sign code size requirements, plus meeting all engineering requirements for the proposed sidewalk ramp and meeting fire code. The project sign in the application is 47.75 inches plus bracketing. Sign code limits the projection to 36 inches. The applicant plans to eliminate this sign unless he can work with Bismarck Signs to come up a plan that is compatible with the sign code. Due to the circumstances, the timeline was not complete at this time. Additional improvements include a new roof and an interior remodel to accommodate the restaurant. The applicant intends to seek Renaissance Zone approval in the future for these improvements.

The source of funding would be the MGF unallocated balance for economic development projects as a whole, an amount of \$258,165 as of April 30, 2020. If this application is approved, the uncommitted balance would be reduced to \$228,165.

The MGF voted 8-0 (with one member absent) to recommend approval of the application for \$30,000 in matching funds for the Storefront Improvement project by Dragon Royal LLC for 107 4th Ave NW.

Commissioner Larson moved to approve providing \$30,000 in matching funds from the Mandan Growth Fund for the Storefront Improvement project by Dragon Royal LLC for 107 4th Ave NW. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Update on Morton Mandan Public Library & Downtown Parks Project & request to go out for bid.* City Administrator Neubauer presented a request to consider putting the Morton Mandan Public Library (MMPL) & Downtown Parks project (Project) out for bid. He reported that the donation from Energy Transfer of \$3M kick-started an expansion of the Library and improvements to the downtown parks. Bartlett & West along with Stantec have been working on finalizing the bid documents and are ready for the project to go out for bid.

Wendy Van Duyne came forward and provided the final site plan for the MMPL, Dykshoorn Park, Depot Plaza and Heritage Park project that were reviewed in February with some minor changes. The Steering Committee, along with the MMPL Board of Trustees met on May 13, 2020 to review the plans. The MMPL moved to approve the plans to go out for bid. She then moved into the plans for the sidewalk and entryway improvements and landscaping portions of

the project. The Steering Committee will determine the final design of the children's play area on the west side of the park. There continues to be work in process on a sound system that will pipe in music for the various events and various seasons. She stated that these are the final plans for the bid document.

Joe Larrivee came forward and reviewed the final version of the plan stating there were not many conceptual changes rather he has been working on general construction and the electrical portions of the project. The major plan is pretty much intact. He reviewed the exterior building plan along with the covered porches and connected patio to the band shell and amphitheater to serve as a place for public gatherings. He then reviewed the interior plans including the tower with specialized lighting and a ceiling fan for ventilation purposes. He reviewed the Bookmobile garage work area and the library portion of the building including a meeting room with a patio connected to the park that has an elevated deck. In terms of construction, the bid process is expected to start on June 1, 2020 of which he said is expected to be fairly intense by contractors who are looking for large projects like this. The project is estimated to be an overall cost of \$3.25M with some alternates and some further cost control.

Joe Larivee said that the bid is generally out for 30 days and he would like to discuss the date with Administrator Neubauer in terms of getting the bids back in front of the Commission noting that 30 days is an overall timeframe preferred schedule.

Mayor Helbling stated that the project will utilize the \$3M received from the Energy Transfer and it will also use funds from the Hospitality Fund. Further, the City will look for donations, which might be tough in this environment stating that the city will cut back the project where possible.

Commissioner Larson reported that Bartlett and West is her employer and noted she does not believe there is a conflict of interest with this matter but brought it forward to be transparent.

Commissioner Braun extended a thank you to Wendy and Joe for their work on putting this plan together stating that the concept will revitalize Mandan and create a unique environment for the City for many years into the future.

Commissioner Rohr moved to approve moving forward with the plans as presented for bid for the Morton Mandan Public Library (MMPL) & Downtown Parks project. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider approval of the Decision Document for the Memorial Highway Reconstruction project as completed by the Engineering Department.* Planning and Engineering Froseth presented a request to bring forward major decision item of this project that the NDDOT wants the city's input with regard to moving into the final design phase of the project. This was discussed in March and the decisions made today will be promptly relayed to the DOT, however, they may or may not agree when making their final decision. Included within the Preliminary Engineering effort are two documents; (1) the Draft Documented Catex and (2) the Draft

Decision Document. Both require input from the City in order to help with project decisions.

The Project Overview for reconstruction of the highway include:

- Add sidewalks or trails
- Improve Traffic flow and intersection safety
- Improve drainage
- Provide safe access to businesses
- Address pavement at the end of useful life
- Proposed Typical Section
- Funding
 - Project Cost Share Federal 80.93%; State 9.07%; Local 10% plus additional City utility cost
- Construction Phasing
 - Approval today progresses the project forward and will initiate final design of Phase I in the coming months. The City has 10% cost share of design and construction for all items related to the roadway and storm sewer or any other above ground feature of the project. The City has 100% of the costs of design and construction for all the water and sanitary sewer system elements.
 - Phase 1 – Storm Sewer Improvements off corridor, tentatively 2022
 - Phase 2 – Reconstruction of ½ corridor, tentatively 2023
 - Phase 3 – Reconstruction of ½ corridor, tentatively 2024

Director Froseth reported that the Draft Documented Catex includes an opportunity for the City to complete major decision items such as whether we agree with the project concepts, whether we agree to move forward and pursue final plans for the build alternative, should we pursue an asphalt or concrete surface for the roadway and trail. He stated that the Draft Decision Document is the other document that includes a request to complete. This document is centered on the decision of which storm water control concept to pursue. At the March 17, 2020 City Commission meeting the Commission was presented with three stormwater concepts, all including some detention pond in order to accomplish the desired flow rate releases into major water bodies. Any plan that includes a detention pond or ponds to control releases has been a tough pill to swallow from staff, and we heard that concern at the March City Commission meeting as well. Following that meeting, the design team reevaluated how we could responsibly control stormwater runoff without detention ponds. Though it requires more length of deeper and larger stormwater pipe the team has come up with a viable option that eliminates ponds with costs that are in the ballpark of the lowest cost storm water option.

Director Froseth reported that the option that best accomplishes the above goals is shown within the Draft Decision Document as option #5. It is estimated to cost about 7% more than option #2, however the ability to accomplish without a detention pond will make up for cost in the long-run. It eliminates a large detention pond from being part of our maintenance responsibilities in perpetuity as well as it does not take up significant acreage off of our busiest corridor that could otherwise be put to better use. There has been extensive conversation between City staff, HDR and the DOT about the stormwater concepts. Five total options have been laid out in the Stormwater Design Memo at the back of the Draft Decision Document. These are the five

options that made the cut as distinct and feasible options. Many variations of these concepts and others that didn't have enough support to go forward as feasible were discussed as well.

Director Froseth said that HDR and AE2S are available to answer any questions on the project.

Commissioner Rohr inquired where funding will come from for this project. Director Froseth stated that the storm water portion of the project are eligible for funding from the federal and state funding sources of the 80%, 10%, 10% cost share formula as long as those improvements are benefiting the corridor. That formula is attributed toward the roadway and the storm water major portions of the project, not the water main or sanitary sewer which would be the responsibility of the City. The power poles elimination will not be part of this project.

Mayor Helbling stated that when discussing this project with the NDDOT the City indicated that the project should move forward with the concrete surface option. Part of the deal with taking the federal and state funds to reconstruct this corridor is that the City will maintain after complete. The City believes that concrete will provide a distinct advantage over asphalt to accomplish a long-lasting corridor with relatively minimal maintenance. Also discussed were the Prairie Dog funds and funding going forward and can the City of Mandan afford this project at this time. The 90% - 10% split is good but the water and sewer underneath could be a considerable amount of money and without some of the Prairie Dog funds should the project be postponed? Should the City ask for it to be delayed for a couple years? Due to the recent economic events as a result of the COVID-19 pandemic, the City's ability to fund projects has been compromised.

Director Froseth clarified that the request tonight if approved, will move the project forward and will initiate final design of Phase I in the coming months. The City has been asked by the NDDOT to comment on the City's funding situation knowing that Mandan along with many other North Dakota cities are uncertain about that right now. This agenda item does not require a determination of where funds are coming from for the project rather this is providing the City's recommendation of major design elements and moving forward with the project with that commitment.

Commissioner Rohr commented that he concurs with Mayor Helbling regarding concrete surface option due to the high traffic count for that road. The City has 10% cost share of design and construction for all items related to the roadway and storm sewer or any other above ground feature of the project. The City has 100% of the costs of design and construction for all the water and sanitary sewer system elements. Commissioner Rohr voiced concern about putting the project off as it will cost more in years to come, but what can the City afford at this time?

Commissioner Larson stated it is nice to see the road work plan projection laid out for the next several years. Even though it is a 3-year project, it is well planned. Director Froseth commented on the cost, stating that there is a large range in cost right now that affects storm water options which brings the cost up.

Director Froseth stated that comments have been made within the attached documents to clearly convey those concerns brought forward to the DOT as they currently stand.

Director Froseth recommended Option #5 for Storm Water and the concrete pavement that is estimated at an additional \$5M of project costs over the asphalt pavement of the whole project costs so the City would be looking at about \$500,000 based on the local share of 10%. Noted in the Decision Document on the financial capabilities that will need to be addressed to finalize that or clarify that portion. It was recommended to return the Decision Document so they are confident knowing what the City wants for major design elements.

Commissioner Larson moved to approve the completion of the Draft Documented Catex and Draft Decision Document as recommended by the Engineering Department. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

I. RESOLUTIONS AND ORDINANCES:

1. *First consideration of Ordinance No. 1339 an Ordinance to Amend and Re-enact Section 4-2-14 of the Mandan Code of Ordinances Relating to Expiration of Alcoholic Beverage Licenses.* Administrator Neubauer stated at the last City Commission meeting there was discussion related to restaurant and liquor establishments being closed down and they have been running at 50% capacity during this time. Licenses issued under the provisions of this chapter would expire June 30. Ordinance No. 1339 was in response to that discussion and if approved, such licenses would expire August 31. If the first consideration of Ordinance No 1339 is approved tonight, we will bring it back for second consideration at the June 2, 2020 meeting along with a resolution adjusting the fees. The fees for Class D and D-1 would not be adjusted as those establishments have not been at reduced capacity.

Commissioner Braun moved to approve the First consideration of Ordinance No. 1339 an Ordinance to Amend and Re-enact Section 4-2-14 of the Mandan Code of Ordinances Relating to Expiration of Alcoholic Beverage Licenses. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *First consideration of Ordinance No. 1340 an Ordinance to Amend and Re-enact Section 119-1-9(a) of the Mandan Code of Ordinances relating to Residential Area Garbage Collection.* Public Works Director Bitz stated this amended Ordinance 1340 will state that residential area garbage shall be deposited for pickup in durable garbage metal or plastic receptacles equipped with close-fitting covers of a capacity of not less than 15 gallons or more than 35 gallons or in loose garbage bags secured in a cart or other receptacle. This will prevent the garbage from being strewn about by animals or the wind and that 96 gallon or 64 gallon totes are furnished by the residential trash collection contractor.

Commissioner Braun moved to approve First consideration of Ordinance No. 1340 an Ordinance to Amend and Re-enact Section 119-1-9(a) of the Mandan Code of Ordinances relating to Residential Area Garbage Collection. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

1. Commissioner Larson reported that in the past, the Mandan Youth Commission has coordinated an annual food drive for non-perishable food items going to Aid Incorporated, however, due to COVID19 that did not happen this year. She announced that if any residents would like to still contribute to support Aid Incorporated with non-perishable items to bring those items to Aid Incorporated Food Pantry in front of the Thrift Store.
2. Mayor Helbling announced that Buggies-N-Blues has been rescheduled for August 14-15, 2020.
3. Mayor Helbling announced that area community events continue to be evaluated with decisions to be made in the near future.

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Braun motioned to adjourn the meeting at 6:40 pm. Commissioner Rohr 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