
The Mandan City Commission met in regular session at 5:30 p.m. on June 2, 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.

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 Oster. Absent: Commissioner Davis and Attorney Brown.

Mayor Helbling acknowledged the City grounds maintenance crew for the exceptional work done throughout the community. There has been only one complaint received and that was for the cemetery. He also extended a thank you to the police department for their responsiveness during these trying times and in particular, the protests that are going on.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the May 19, 2020 Board of City Commission regular meeting minutes.* Commissioner Braun 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:

E. BIDS:

F. CONSENT AGENDA

1. *Consider approval of the lease and associated document for a John Deere 744L Wheel Loader.*
2. *Consider approval of annual liquor licenses for September 1, 2020 to June 30, 2021 contingent upon approval of Ordinance No. 1339.*
3. *Consider of annual site authorization for Cystic Fibrosis at Stage Stop from July 1, 2020 to June 30, 2021.*
4. *Consider approval of final plat for Schaff Estates.*
5. *Consider approval of annual gaming site authorizations for Bismarck Cancer Center Foundation: (i) Prairie West Golf Course on Saturday, June 12, 2021; (ii) Midway Lane on Saturday, November 28, 2020.*
6. *Consider approval of an Agreement for Long-Term Temporary Highway Closure with NDDOT for Main Street events.*

Commissioner Larson moved to approve the Consent Agenda items 1 through 6 as presented. 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.

G. OLD BUSINESS:

H. NEW BUSINESS:

NEW BUSINESS:

1. *Consider Renaissance Zone Committee recommendations:*

Business Development & Communications Director Huber presented the following requests:

(i) Rehab application for 107 4th Ave NW by Dragon Royal LLC.

Director Huber explained the building at 107 4th Ave NW was before the Commission at the last meeting for a Storefront Improvement project for façade improvements and the owner, Frankie Huang with Dragon Royal LLC had since put together a comprehensive proposal for the additional renovation of the building to include a roof replacement, new HVAC, plumbing, electrical, a walk-in cooler, plus an interior remodel involving changes to the walls, ceiling and flooring to create a main-level dining area and kitchen area in the building for use and lease to the Rice Bowl restaurant. She added that the exterior improvements discussed during the last meeting were estimated at a little over \$70,000. With these other aspects of the project included the total estimated cost of the project is \$511,136.69. The applicant is seeking the Renaissance Zone five-year property and state income tax exemption to help offset this investment in the building.

Director Huber stated one of the requirements of the Renaissance Zone Program is to invest at least 50% of the building's value back into it in improvements. The building is currently valued at about \$348,000 so the applicant is planning to invest more than the building value back into it in improvements. Because of this significant investment, the application does independently meet the requirements of both the Storefront Improvement and Renaissance Zone programs without any overlapping.

Director Huber reported the Mandan Renaissance Zone Committee voted unanimously, 7-0, to recommend approval for this rehab application for the five-year 100% property tax exemption on the building as improved and the state income tax exemption.

Commissioner Rohr moved to approve the application for rehab of 107 4th Ave NW by Dragon Royal LLC as a Renaissance Zone project to include the five-year 100% property tax exemption on the building as improved and the 100% five-year state income tax exemption. Commissioner Braun seconded. Commissioner Rohr commented that when the Commission does approve these projects, overtime there a net gain. Mayor Helbling agreed that it is good for the community. Roll call vote: Commissioner Larson: Yes; Commissioner Braun: Yes; Commissioner Rohr: Yes; Commissioner Davis: Absent; Mayor Helbling: Yes. The motion passed.

(ii) Lease of 107 4th Ave NW by Rice Bowl LLC.

Director Huber explained a feature of the Renaissance Zone program allows for a five-year state income tax exemption for tenants in buildings that are constructed or rehabbed as Renaissance Zone projects to help retain and attract businesses in the Renaissance Zone area. The Rice Bowl

LLC has applied for lease of the main level of a two-story building at 107 4th Ave NW. She added that the main level is estimated to be about 2,700 sq. ft. This is a relocation within the Renaissance Zone as the restaurant is currently located in the Morton Mandan Public Library building on the second story. They have been there for 27 years, and currently lease about 3,500 sq. ft. Director Huber said Renaissance Zone project guidelines state, “Close scrutiny will be given to projects involving commercial tenants relocating within the Zone Area, which may not be eligible for tax incentives.” Criteria for lease applications include expansion by existing businesses in the zone. She said it’s not explicit on what defines an expansion, but it is typically looked at as an expansion in terms of square footage, in terms of employees, or the scope of products or services offered. While the application doesn’t involve expansion in terms of square footage, the applicant does estimate that they will be able to increase their number of employees. The applicant currently has four full-time and nine part-time employees, and anticipates being able to hire four or more over the next five years as they are hopeful that restaurant sales will grow with improved visibility. Huber noted that 50% of the Rice Bowl’s sales are through delivery and pickup. Huber added that another aspect of this project is that it does help the City retain the business and gives the applicant the opportunity to own a building instead of lease after being a long-time successful business in the community. She added that the reason for the relocation is the upcoming library and parks enhancements project. The applicant has concerns with the library addition about parking most immediate to their space and that customers might not readily find them. The Renaissance Zone Committee’s motion included a recommendation to waive any requirement for expansion or recognize the project as meeting the spirit of that, and approval of the five-year state income tax exemption for the lease to the Rice Bowl LLC at the 107 4th Ave NW location.

Commissioner Rohr moved to approve the application for lease of 107 4th Ave NW by Rice Bowl LLC as a Renaissance Zone project to include the 100% five-year state income tax exemption. Commissioner Larson seconded the motion. Roll call vote: Commissioner Braun: Yes; Commissioner Rohr: Yes; Commissioner Larson: Yes; Commissioner Davis: Absent; Mayor Helbling: Yes. The motion passed.

2. *Consider approval of the Purchase and Sale Agreement for Lots 9, 10, 11, and 12, Block 3 Heart View Addition.* City Planner Van Dyke presented a request to consider approval of the Purchase and Sale Agreement for Lots 9, 10, 11, and 12, Block 3 Heart View Addition. He presented the lots on webex for viewing. He said that the city has had a caution sign posted on the property since it was not in use for many years, if ever. He said that Mr. Zitterman presented an offer of \$5,000 for the purchase of Lots 9 through 12, Block 3 Heart View Addition. Each Lot is listed for \$10,000 individually. The offer is low, but the additional expenses for an engineered foundation, amount to around \$25,000 for the home constructed to the south on the lots that were sold last year and that should be taken into consideration. There is a specials balance due of \$2,168.40 that exists and will be absorbed by the purchaser following proration for the year. The offer also specifies that closing costs would be shared between buyer and seller. Historically, the buyer has paid for all the closing costs for city property sold in the last 1.5 years.

City Staff recommended countering the offer for \$11,800 and for the buyer to pay all closing costs.

He explained that this amount was determined using last year's sale of the lots to the south which had similar development obstacles. In comparison, the lot size for the sale last year was 0.55 acres and the sale price was \$6,500. The four lots are subject to this purchase and sale agreement total one acre and the proportional sale price by acreage equates to \$11,800 with the buyer paying all closing costs aligns with previous city property sales in the past 18 months. There was some confusion in the previous sale of property to the south regarding availability of water/sewer. Moving forward, the realtor will include language that does not warrant that water/sewer is available. For each of the lots, it may or may not be stubbed into the property. In nearly all instances it will not. With that, addressing this issue in the counter is important.

Planner Van Dyke stated that the Engineering and Planning Department recommended to counter the purchase and sale agreement with the purchase price of \$11,800 and that the buyer pay all closing costs and that the City does not warrant water, sewer, and other utilities are available to the property.

Commissioner Rohr stated that years ago he lived at a property across the street from that area and he said that the erosion doesn't look too great - what is the erosion factor there? Planner Van Dyke replied that is unknown at this time and the Engineering Department would have to look at it to determine if the structure placed on it stays in perpetuity in longevity. Mayor Helbling stated there is a home on the property already and commented that it will be beneficial for the city to once again have it as taxable property.

Commissioner Larson moved to approve a counter offer with a purchase price of \$11,800 and buyer to pay all closing costs and that the City does not warrant water, sewer, and other utilities are available to the property. 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.

3. *Consider approval of the Purchase and Sale Agreement for Lot 8A, Roughriders Estates Pioneer Replat.* City Planner Van Dyke stated that originally he had recommended that this sale be accepted however in discussions with Darren Schmidt, a realtor at Oaktree Realty, said that the purchaser had intentions to build a home on this lot that is not allowed to. The buyer was told there were issues with his plans to build on the property. At this point Planner VanDyke recommended rejecting the offer because it would create conflict. He stated that he is reaching out to property owners of Roughrider Estates that are adjacent to and would benefit from these lots with an expanded yard to solicit interest in purchasing them. He recommended rejecting any offers to purchase this property.

Commissioner Braun moved to reject the offer as presented in Exhibit 1. 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.

4. *Consider the appointment of Bernie Parkhurst to Bismarck Mandan Mayors Committee for People with Disabilities.* City Administrator Neubauer stated there are two openings on this Committee. He said that Bernie Parkhurst has volunteered to be on the Committee. He

submitted a letter of interest and Mr. Parkhurst works for Pride Inc. This appointment would be for a 3-year term. He explained that the Bismarck-Mandan Mayors' Committee for People with Disabilities works to educate the public and initiate projects. The goal of their work is to establish a receptive climate for the involvement of people with disabilities in all aspects of life within the communities of Bismarck-Mandan. This Committee meets three times a year and receives funds based upon 50% of the handicap parking ticket collections. The major portion of the disbursements from this goes to provide scholarships. Committee members will solicit applications from students with disabilities who are pursuing a secondary education. The number of monetary awards provided depends upon on available funds. He recommended appointing Bernie Parkhurst to the Bismarck Mandan Mayors Committee for People with Disabilities to a 3-year term.

Commissioner Braun moved to appoint Bernie Parkhurst to the Bismarck Mandan Mayors Committee for People with Disabilities to a 3-year term beginning June 3, 2020. 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.

I. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage 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 shall end on June 30. Should this ordinance be approved licenses shall end on August 31, following the date of this issuance unless revoked or suspended as described in this chapter.

Commissioner Larson moved to approve the second and final passage 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. *Consider resolution regarding a reduction to 2020-2021 annual liquor license fees.* City Administrator Neubauer reviewed the establishments participating in the beer, liquor or alcoholic beverage license fees and the suggested reduced fee for each that have been affected by the COVID-19. This relates to Ordinance 1339. This is for the period ending June 30, 2021.

Commissioner Larson moved to approve the resolution regarding a reduction to 2020-2021 annual liquor license fees. 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.

Mayor Helbling stated he has received several thank-you's from Mandan businesses for being proactive with this matter.

3. *Second and final passage 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 clean up language related to the garbage receptacles. There have been no comments or opposition received since the first consideration.

Commissioner Larson moved to approve second and final passage 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 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.

4. *Consider the introduction and first consideration of Ordinance No. 1341 an Ordinance to Amend and Re-enact Sections 2-4-1(d), 2-4-2, 2-4-3, 2-4-4, 2-4-5 and 2-4-7(d) of the Mandan Code of Ordinances Relating to Statement of Policy, Definitions, Competitive Bidding Required, Exceptions, Conveyance of Property, and Bidding Procedure.* Public Works Director Bitz presented the introduction and first consideration of Ordinance No. 1341. He explained that an ordinance to allow the most efficient means to procure equipment, supplies, or services, it is recommended that the competitive bidding requirement be raised from \$25,000 to \$75,000. From 0 dollars to \$74,999 would require the three written quotes. The Finance Department and city auditors participated in refining the language in the ordinance to ensure that there is compliance with federal regulations as it relates to spending and procurement on goods and services. Public Works by its nature is consistently purchasing products, materials, and services. Often times, these purchases cannot easily be made locally due to the current limitation. He provided examples of purchases and how this revision will enhance the workflow process. He explained how the proposed revisions are also intended to update the City's procurement policies in order to conform to other recommended standards and procedures, to new laws and regulations in the North Dakota Century Code, and to comply with the U.S. Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

Director Bitz recommended approval of the introduction and first consideration of Ordinance No. 1341 an Ordinance to Amend and Re-enact Sections 2-4-1(d), 2-4-2, 2-4-3, 2-4-4, 2-4-5 and 2-4-7(d) of the Mandan Code of Ordinances Relating to Statement of Policy, Definitions, Competitive Bidding Required, Exceptions, Conveyance of Property, and Bidding Procedure.

Commissioner Rohr moved to approve the introduction and first consideration of Ordinance No. 1341 an Ordinance to Amend and re-enact Sections 2-4-1(d), 2-4-2, 2-4-3, 2-4-4, 2-4-5 and 2-4-7(d) of the Mandan Code of Ordinances Relating to Statement of Policy, Definitions, Competitive Bidding Required, Exceptions, Conveyance of Property, and Bidding Procedure. 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.

J. OTHER BUSINESS:

1. *Consider large gathering guidance from the Smart Restart guidelines.*

Administrator Neubauer stated that as of Friday, May 29, 2020, North Dakota moved down to a low risk category for COVID 19. The North Dakota guidelines have established that larger indoor and outdoor gatherings are permitted if approved by the local health authority and event planners are to submit emergency operation plans no later than 30 days prior to an event. Community leaders may require event planners to do this. The question to the City Commission is if they would want event planners to submit such a plan? He said that that city staff have discussed this with the Police and Fire and the Custer District Health Unit and would recommend that event planners submit plans pursuant to a check list and to require that a special events permit be obtained if using a public right of way. The City wants event planners to be aware of making plans for emergency situations and to comply with the guidelines the state has set out. The City does not want to make this process overly burdensome on event planners rather the City wants to make sure that planners are taking into account the guidelines. He did recommend one change to the recommended guideline and that is that the City will require a 14 day notice of an event, rather than 30 days due to the many events that occur in the month of July. Mayor Helbling stated this pertains to public gatherings, public property or public right of way and not private events. There will not be a fee attached to this.

Commissioner Larson moved that the City Commission require event planners to submit an emergency operations plan to their local health authority no later than 14 days prior to an event. 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. Public Works Director Bitz provided an update on maintenance to the road that goes out to the landfill. The County Highway Department will be applying a product to the road. The road will be limited to traffic on Wednesday, 6/3/20 at 2 pm until Thursday, 6/4/20 at 9 am in order to apply an application to the road.

3. Mayor Helbling reminded residents to vote on Tuesday June 9th.

4. Mayor Helbling announced that the annual Mandan Rodeo will be held this year. The ticket sales met their goal and several community sponsors stepped up to help out. He extended a thank you to the Mandan Progress Organization for making that happen.

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Rohr motioned to adjourn the meeting at 6:15 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