
The Mandan City Commission met in regular session at 5:30 p.m. on July 7, 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, Camisa, Rohr and Larson. Department Heads present were Planning & Engineering Director Froseth, Business Development and Communications Director Huber, Principal Planner Van Dyke, City Administrator Neubauer, Director of Public Works Director Bitz, Assessor Markley, Human Resource Director Cullen, Police Chief Ziegler, Fire Chief Nardello, Building Official Ouradnik, Assistant City Attorney Oster, Attorney Brown. Absent: Finance Director Welch.

2. *Recognition of “If I Were Mayor” Essay Contest Winner Scarlett Chorne.*

Mayor Helbling introduced Scarlett Chorne, Ft. Lincoln Elementary School, who won the 2020 ND League of Cities “If I were Mayor for the Day” contest. A Certificate of Excellence was presented on behalf of the Mandan Progress Organization.

3. Mayor Helbling announced that Attorney Malcolm Brown will be retiring on July 14, 2020 and he will be recognized for his years of service to the City of Mandan. A retirement event will be held in his honor in the near future. This will be his last City Commission meeting.

4. Mayor Helbling extended a thank you to the Mandan Progress Organization (MPO) and the Mandan Rodeo Committee for their efforts in organizing the Mandan Market event and also for the organization of the July 2, 3 and 4, 2020 Mandan Rodeo. A thank you was also extended to Mandan residents and contributing sponsors from both Mandan and Bismarck.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the June 16, 2020 and June 23, 2020 Board of City Commission meeting minutes.*

Commissioner Larson moved to approve the minutes as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

E. BIDS:

F. CONSENT AGENDA

1. *Consider for approval the annual liquor licenses for September 1, 2020 to June 30, 2021:*
(i) Class A – Styrker Enterprises; (ii) Class A – Lonesome Dove; (iii) Class A – Midway Lanes
(iv) Class D – Walmart.

-
2. *Consider approval for abatement applications: (i) Steven Rudolph 2018 Abatement Application; (ii) Steven Rudolph 2019 Abatement Application; (iii) Steven Rudolph 2020 Abatement Application.*
 3. *Consider approval of minor plat for Replat of Lots 8 & 9 Block 1 Heart Ridge Addition.*
 4. *Consider approval of minor plat for Andy's Addition.*
 5. *Consider approval of a Special Event Permit for the Mandan Moose Lodge Tractor Trek/1st Responder fundraiser on July 18, 2020.*

Commissioner Rohr moved to approve the Consent Agenda items 1 through 5 as presented. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

1. *Consider entering into a purchase agreement for the sale of Lot 30A, Roughriders Estates Pioneer Replat.*

City Planner Van Dyke stated this matter was discussed at the last meeting. The City has received an offer for the purchase of Lot 30A, Block 1 of Roughriders Estates Pioneer Replat. The list price for the property is \$1,500. This property was the subject of competing offers, with the Board requesting the neighboring property owners to discuss and determine if an amenable solution could be reached. Planner Van Dyke reported that Mr. Krein has rescinded his offer. Mr. Jorgenson, the property owner immediately in front of the subject property submitted a revised offer of \$800. The Jorgensen's original offer was \$1,500. The property does not have a specials balance. The buyer's intent is to expand their backyard. Staff recommends accepting the offer by the Jorgensen's as shown in Exhibit 1 with line 68 to be marked buyer. Even though there is no specials balance, it is best to not leave anything unmarked on a Purchase Agreement. The Engineering and Planning Department recommended approval of the offer as shown in Exhibit 1 with line 68 marked buyer.

Commissioner Camisa moved to approve the offer provided by the Jorgensen's as presented in Exhibit 1 with line 68 marked buyer. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

H. NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations:*

Ellen Huber, Business Development & Communications Director presented the following:

- (i) *Funding for two additional Mandan Progress Organization business gift card promotions.* The Mandan Progress Organization (MPO) requested funding of two additional business gift card promotions to support businesses amid COVID-19 challenges. Supported in part with funding from the Mandan Growth Fund, the MPO conducted a successful series of online flash sales of business gift cards (and certificates) in late April and early May. All gift cards were worth \$30, but sold for \$20, with a limit of 5 per customer per sale. Funding from the Mandan Growth Fund (MGF) covered \$5 of the difference and participating businesses were asked to cover \$5 per gift card. In the end, four financial institutions came forward to sponsor the remaining gap so that the participating businesses came out whole at a time when needed.

The MGF Committee at its June 2, 2020, meeting expressed interest in supporting additional business gift card promotions. The MPO presented a proposal to the MGF at its June 22, 2020 meeting, for \$5,600 in funding to cover two additional blitzes with a series of four sales each involving 100 gift cards per sale. The funding request includes costs for credit card fees, marketing and administration. The MGF voted 7-0 to support the request with the condition that all Mandan businesses be allowed to participate without requirement for membership. Dot Frank was available to answer questions. The Growth Fund has an unencumbered balance for economic development projects as of May 31, 2020 of approximately \$231,000. The request is for \$5,600. The MGF voted 7-0 to recommend approval of the MPO request for funding support of \$5,600 toward two additional Mandan business gift card promotions. Mayor Helbling commented that this is a good program and supports the community. He extended a thank you to the MPO and Director Huber for efforts on this project.

Commissioner Larson moved to approve the MPO request for funding support of \$5,600 toward two additional Mandan business gift card promotions. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

(ii) *Creation of a Mandan Strong business forgivable loan for innovation, adaptability and diversification.* This request is to consider a Mandan Growth Fund (MGF) Committee recommendation for creation of a Mandan Strong Business Match program to help small, locally owned businesses challenged by reduced revenues due to COVID-19 to become more innovative and resilient. The MGF Committee received findings from Bismarck-Mandan business surveys about the impacts of COVID-19 as well as samples of assistance programs being offered in other states and cities in North Dakota. At the June 2, 2020 meeting, the committee instructed staff to develop a proposal for an innovative grant program to assist businesses impacted by the virus.

The MGF committee met on June 22, 2020 to review the proposal. Staff also had apprised the committee about a new plan by the ND Department of Commerce to use \$69 million of federal funding for the state's COVID-19 response for a ND Economic Resiliency Grant Program. The program would provide grants of up to \$50,000 per business for investments in personal protection equipment (PPE), supplies and other improvements for the safety of employees and customers. The ND Emergency Commission approved the request on June 18, 2020. It will be considered on June 25, 2020 by the Legislative Budget Section.

Although there were individuals who thought a local COVID-19 business assistance program may not be needed in light of the unanticipated state program, the majority of committee members concurred there were enough differences to proceed. (1) The proposed state program requires that a business demonstrate financial viability prior to the Coronavirus pandemic. Commercial lenders participating in the meeting noted that start-up businesses may not yet have been operating at a profit, so may have difficulty meeting this parameter and could potentially survive with assistance; (2) The proposed local program offers assistance for other strategies related to innovation, adaptability and diversification. The committee discussed various parameters of the proposed local program in great detail including whether to structure as a grant or forgivable loan, plus eligibility and accountability provisions. They weighed concerns and rights of taxpayers and business needs in making their recommendation.

The Growth Fund has an unencumbered balance for economic development projects as of May 31, 2020 of approximately \$231,000. The recommendation would earmark \$75,000 of this funding for the proposed program through approximately the end of October and likely no later than the end of 2020. Any unused funds would return to an uncommitted status after the last application round and/or the closure of any outstanding projects. The MGF voted 4-2 (with three members absent) to recommend approval of the proposed Mandan Strong Business Match Program. This has only went through the proper committee levels and there has not been many public comments received. Mayor Helbling commented that many of the small businesses have struggled during the COVID and commended the MGF for stepping up and helping out these businesses and for recognizing the importance of keeping these businesses going. He recommended an end date for the program. This program is designed to keep the businesses open and to rebuild and stay within Mandan. The MGF may have to look at other programs in the future. Commissioner Rohr concurred with Mayor Helbling's recommendation to have an end date for the program. Commissioner Larson inquired about the guidelines for handicap doors. It is important to know that the use of these funds is not necessarily used for handicap doors. She agreed with the application process to tie the pandemic to this and if the business was under mandated closure such as hotels and restaurants as those are the businesses that have been the hardest hit. This has not affected all businesses equally. Mayor Helbling commented that if the COVID issue did not exist this would not have even been brought forward. Director Huber referred to the proposed timeline application deadlines for July 27th and September 14th with reviews to be completed by the Committee and City Commission as soon as possible. It states at 6(b) they would get 75% of the funding upon City Commission approval. One signature on a promissory note will be required after submitting receipts, applicant will receive the funds at 90 days upon application approval from the City of Mandan Business Development Office. There is an expectation that these are immediate projects and there is no provision for this to go beyond year 2020. In essence, when the time limits are over the program will come to an end. Commissioner Larson voiced concern with the Ordinance changing the language, will there be an option for putting a sunset on that exemption?

Attorney Brown stated that the City Commission can amend the Ordinance at this time as provided for at item #G. Commissioner Camisa inquired if there are any specific examples of those have difficulty in receiving funds? Director Huber said there are some concerns if the business does not have a full year of history and from the standpoint of the qualifications for the payroll protection program (PPP), if you did not have a healthy revenue, if you were a start up business, often times that is the case, it would be expected that a period of time occur in order for the business to get wrapped up; if a business has been left in a gap, that would be one example. Some businesses are receiving up to \$10,000 in the PPP that they can have forgiven if they turn in the right documentation but many have suffered consequences much higher than \$10,000. Commissioner Larson explained that the funding assistance has been tied to protecting payroll and other costs up to this point and they have not been offset wherein 60% has to be used just to cover payroll. The expenses and closure costs that the businesses have incurred, have been a concern and there are more concerns being brought forward if there is a second closure.

Commissioner Larson moved to approve the proposed Mandan Strong Business Match Program. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Presentation by Waste Management regarding Recycling Contract.*

City Administrator Neubauer presented a request to renew the recycling contract with Waste Management (WM) that has been in effect for about 4.5 years. He stated that the original recycling contract was with Dakota Sanitation for a 5-year period with an opportunity for an extension. WM subsequently purchased Dakota Sanitation and became the contractor for the pickup and disposal of recyclable materials. The contract is similar to the previous contract with the exception in pricing and the addition of a fuel surcharge should the price of diesel rise above \$4/gallon, see Section V(e).

The proposed term: 5 years beginning Jan. 1, 2021 thru Dec. 31, 2025, with a possible 3-year extension. Services: Single sort, once every two week pick up; The fee for year 2021 -will increase \$1.00 to \$5.95/month with an increase by 7% per year (by the end of year 5, the rate would be comparable to rate charged to City of Bismarck) The first-year increase is \$1.00 more than the 2020 rate.

Administrator Neubauer explained that if the recycling contract were to be terminated, there would be an additional cost for residential pick up. An average of 100 tons of recycle per month = 1,200 tons per year. To dispose at Bismarck Landfill would be approximately = \$55,320 plus (\$46.10/ton x 1,200 tons) a per load charge of \$7,000 (1,200 tons / 6 tons per truck = 200 truck trips \$35/trip). There may be additional costs as residents may want collection sites for recycling which also has a cost, and common recycle sites generally are not that effective as they become a dumping ground and also the loads are at higher risk for contamination. Should the contract be terminated, there may be requests for additional totes as residents currently have one for recycle and one for other trash. To extend the contract would cost an addition \$1/month first year and increase by 7% each year thereafter. If the contract were terminated, there would be an additional cost for disposal.

The Waste Management (WM) representative came forward and explained WM has serviced this contract since May 2017, and has honored all the pricing under the Dakota Sanitation contract. He reviewed the initial bid WM submitted and stated there is a difference in what is being billed today. He said the contract being presented is a reasonable price for this community. The goal of the program is to keep contamination down with 80% participation from the community residents. Curbside recycling is used throughout the country and he did not believe it would not be a good idea to drop the recycling service since it is saving landfill space.

Mayor Helbling commented there are many other projects within the City that take precedence over recycling, including increase in recycling costs. He said that residents who do not want recycling services, should be allowed to opt out. He recommended looking at the overall budget and to determine how to handle this matter at a later time. Commissioner Larson recommended hearing from the Mandan residents on this matter. Mayor Helbling requested that a poll be taken of Mandan citizens to solicit their input on this matter. Mayor Braun provided recycling stats

throughout the world with most countries with recycling services at 50% in comparison to the United States at 18%. He feels that moving towards getting more people to recycle will benefit everyone, well into future generations. Commissioner Camisa agreed with the recommendation to table this matter until there is more data available and to allow time to look at how the impact will be in the future giving consideration to landfill issues. He said he is in favor of getting input from city residents before a decision is made.

Commissioner Camisa moved to approve table this matter until the City is further into the 2021 budget preparations. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider approval of City funding requests from the Mandan Progress Organization.* City Administrator Neubauer presented a request to consider approval of funding from the City of Mandan grant applications. He stated that several organizations submitting funding requests are required to provide criteria of how city monies are spent and the impact the event has on the Mandan community. This service provides organizations the ability to bring new events to the community and assist in keeping established events a continued growth which allows for the betterment to the citizens of Mandan and its visitors. The grant monies awarded are divided between 50% in Mandan Bucks and 50% in a check. The City sets aside \$20,000 from the cities advertising budget to promote events in the city. The recommendations are based upon information from the grant applications by the MPO and a point system is used to grade the event and this year the MPO designed a new application grading system for applicants.

Administrator Neubauer recommended accepting the funding applications submitted by the MPO Funding Committee. Dot Frank was present to answer questions regarding this request.

Commissioner Larson moved to approve the following organizations amounts approved by the MPO Funding Committee and Board of Directors. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2020 Grant Funding

Horse and Saddle Club \$ 1,000
Mandan Historical Society \$ 450
Railroad Museum \$ 500
Musician's Association \$ 2,500
Dacotah Speedway \$ 2,500
OktoberFest \$ 1,000
Buggies N Blues \$ 5,000
Mandan Rodeo \$ 2,500
Friends of Ft. Lincoln \$300
Heritage Plaza \$750
Mandan Baseball Babe Ruth Tourney \$ 1,500
Drive In Movie Night \$ 2,000 (New)
Total: \$ 20,000

4. *Consider Approval of an Application for Property Tax Exemption for Improvements for Steven Rudolph at 209 6th Avenue NE.*

City Assessor Markley presented a request to consider a three-year exemption improvement to residential buildings pursuant to North Dakota Century Code 57-02.2. Steven Rudolph is applying for a three year exemption for renovation of structures located at 209 6th Avenue NE. This property consists of 1918 house, 1942 house and a 1991 detached garage. Renovations include replacing plumbing, electrical, sheet rock, remove lathe and plaster, boiler, baseboard heat window and shingles. The value of the renovations is estimated to have a value of \$80,000. Based on that amount, with the 2019 mill levy of 265 mills, the estimated exemption is \$955.76 for all taxing entities and \$228.74 for the City of Mandan. The actual exemption will be subject to prevailing market values and actual mill rates during the three-year exemption period.

Assessor Markley recommended approval of the Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2 located at 209 6th Avenue Northeast.

Commissioner Rohr moved to approve the Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2 located at 209 6th Avenue NE. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

5. *Consider entering into a purchase agreement for the sale of Lot 8A, Roughriders Estates Pioneer Replat.*

City Planner Van Dyke presented a request to approve the Purchase and Sale Agreement for Lot 8A, Roughriders Estates Pioneer Replat. He stated that Mr. McFerran has presented a full-price offer of \$500 for the purchase of Lot 8A, Roughriders Estates Pioneer Replat. This is one of the rear yards that was separated from the adjoining property for failure to pay taxes. Mr. McFerran owns the home immediately in front of this property. The property does not have a special balance. City Staff is recommending approval of entering into the purchase agreement due to the full price offer. The Engineering and Planning Department recommended acceptance of the offer as shown in Exhibit 1.

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

6. *Consider entering into a Lease Agreement with Marathon Petroleum for a Raw Water Intake.*

City Administrator Neubauer presented a request to consider a lease agreement with Marathon Petroleum Company (Marathon) and the City of Mandan. City staff has been working with Marathon representatives on a lease agreement for property on which a new RWI would be constructed. We have had several discussions with Marathon about the City purchasing the property, and at this time, Marathon's position is that they would prefer continued ownership and would lease the property. Highlights include the Term of 30 years, with possibility of three

extensions each 10 years. Total term is 60 years; start date is September 1, 2020; Rental at \$10/year; and the taxes will be Marathon responsibility. The agreement also puts in writing how the costs for utilities along with construction, maintenance, and repairs of the facility will be split. Within the facility there are certain pumps and other property that is dedicated to Marathon and they will have responsibility for those items and other items that will be the responsibility of the City. Various other costs will be split on a 50/50 basis. He said that this has been the handshake agreement the City and previous owners (including Marathon) have been operating under since the refinery was constructed. Both parties wish to put this agreement in writing.

Attorney Brown has worked on this lease with City Engineer Justin Froseth, Water Treatment Plant Superintendent Duane Friesz and a representative of AE2S. The City will retain a first right of refusal of the property to acquire it should it ever become available for purchase. It was recommended to approve of the Lease Agreement between Marathon and the City of Mandan. Mayor Helbling commented this is a workable solution and stated he is in favor of the Lease Agreement.

Commissioner Larson moved to approve the Lease Agreement between Marathon and the City of Mandan. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

7. *Introduction of Engineering Intern, Kaylin Tomac.*

Planning & Engineering Director Froseth introduced the 2020 summer Engineering Intern, Kaylin Tomac. Kaylin has been working in the Planning and Engineering office since Mid-May. She is a student at NDSU and she is going into her 4th year majoring in Civil Engineering. She grew up in Mandan and is planning on moving back with plans to find employment in the Bismarck-Mandan area after graduation in 2021. Outside of school and work, she spends her time in her garden, going on road trips, and hanging out with friends.

8. *Discussion relating to fireworks.*

Mayor Helbling said that every year there are complaints received from citizens about Fireworks. This year he said he received about 33 telephone calls of individuals wanting fireworks banned. As a solution he suggested eliminating fireworks on July 2nd and allow them on July 3rd and July 4th only and allow them until 1:00 a.m. on July 5th (currently, it is 2:00 a.m.).

Administrator Neubauer stated that City Staff has discussed this and one of the issues pertains to purchasing the fireworks in advance of the allowed usage dates.

Chief Nardello came forward to speak on behalf of a report that he and the Police Department compiled with regard to complaints received this year. The Fire Department had 7 actual fire incidents that included fireworks and there was one structure fire. There were 57 firefighters that responded and that equates to \$1,335 in labor expenses and 14 firetrucks responded. There is a cost to the City but fortunately there were no reports from injuries. The Police Department had 45 complaints from June 27th through July 6th but there were no citations written because by the time the officer arrived, the people shooting the fireworks were gone. Mayor Helbling clarified

that the police officer has to witness the individual doing the fireworks, they cannot act on another individual making a complaint. Chief Ziegler came forward and reported that on July 3 & 4, the PD had over 100 calls for services on July 3rd and July 4th. He said that its nearly impossible to catch a violator since they are gone by the time the officer arrives.

Mayor Helbling said that he had a discussion with “Mayor for the Day, Scarlett Chorne” who said that fireworks should be allowed on July 2, 3, and 4. Her favorite fireworks item is the “parachute”. She enjoys shooting off fireworks with her friends and family.

Commissioner Camisa inquired of Chief Ziegler as to how many calls came in that are related to public safety vs. illegal timeframe of shooting off fireworks? Chief Ziegler stated he would have to review the call logs to come up with an answer. The calls are listed as loud noise complaints or fireworks. He guesstimates that the majority of the calls are for loud noise complaints that occur during the middle of the night or early hours of the morning. He said there are more issues with intoxication than with fireworks. Chief Nardello spoke to the Fire Code and how it pertains to the City of Mandan. He said that the Fire Code prohibits the use and discharge of fireworks unless there is a permit on public display so there are no provisions within the fire code to regulate fireworks. The Fire Code was amended in Mandan so the Ordinance allows the discharge of fireworks, but there is nothing that regulates fireworks.

Commissioner Camisa pointed out that the reason he questions the Mandan Fire Code related to fireworks is because there is no recourse in the code to allow the police or fire departments to step in for any safety situations that arise. Going forward, he said that he would not recommend banning fireworks altogether but reducing to a shorter period of time should be considered, He said that tools should be given to the police and fire departments for regulating how fireworks is discharged in the City of Mandan rather than allowing neighborhoods to be a free for all.

Commissioner Rohr commented that it may be hard to define behaviors of how to use or allow fireworks and that would be difficult writing this into the Code.

Mayor Helbling commented that he brought this forward tonight due to Bismarck considering allowing fireworks. He said that if Mandan tightens up the timeframe, that perhaps Bismarck would consider the same restrictions. Commissioner Larson commented that she is hesitant to put too much code restrictions as that could cause concerns with enforcement and would rather like to see the distribution of education on the use-of and dangers-of fireworks. She said she conducted a poll that showed 2:1 of allowing fireworks in the community. She agrees with the recommendation to shorten the timeframe.

Mayor Helbling recommended that City Staff meet and discuss this matter then bring recommendations back to future meeting.

9. *Consider appointment of Amy Oster as City Attorney.*

City Administrator Neubauer presented a request to consider the appointment of Amy Oster as City Attorney. Attorney Malcolm Brown has announced his retirement effective July 14, 2020. He has served as the City Attorney since 2007. This request is to consider the appointment of Assistant City Attorney, Amy Oster, of Crowley Fleck, as the City Attorney. Should the

Commission approve Ms. Oster as City Attorney, she will bring back a recommendation for an Assistant Attorney for the City of Mandan. Ms. Oster has worked well with all of our departments with her strong suit in employment law. The agreement with Crowley Fleck, may be terminated within 60 days' notice by the parties. Administrator Neubauer recommended the appointment of Amy Oster as the Mandan City Attorney. Mayor Helbling commented that over the years he believes the City Attorney has served the city well.

Commissioner Rohr moved to approve the appointment of Amy Oster as the City Attorney. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

I. RESOLUTIONS AND ORDINANCES:

1. *Second consideration of Ordinance No. 1342 to Amend and Reenact Section 111-2-9 (c) and (g) of the Mandan Code of Ordinances Relating to Electric Handicap Accessible Doors.* Business Development & Communications Director Huber presented a request to consider an administrative correction and exemption to Section 111-2-9 (c) and (g) of the Mandan Code of Ordinances relating to electric handicap accessible doors. Voters in the November 4, 2008, election in the City of Mandan approved a citizen-initiated ordinance that states, "Installation of electric handicap accessible entrance doors are required on every building open to the public that has received public funds in any form whatsoever."

Correction. Use groups for application of the ordinance appear to have been mistakenly cross-referenced when re-codification occurred a few years ago. Subsection C application to buildings or businesses used for purposes described in section 103-174(2), (3), (4), (6), (7), (9) and (10). Section 103 pertains to cemeteries. The correct reference is now section 105 pertaining to district regulations. The proposed correction restores the use groups to those originally approved by the City Commission at a meeting held Feb. 17, 2009. These are Retail Group A, Service Group A, Office Bank Group, and Health Medical Group.

Exemption. The proposed ordinance would exempt businesses receiving less than \$5,000 from the requirement to install an electric handicap accessible door if the grant or award of public funds to a recipient is less than \$5,000. This exemption is not intended to overturn the voter approved ordinance, but rather to make a minor adjustment to balance the automatic door requirement with the need to sustain and grow the city's business community and commercial tax base.

Since November 2008, as part of participation in incentives such as the Renaissance Zone, Storefront Improvement, Restaurant Rewards, and interest buy down programs, the Mandan community has benefited from installation of automatic doors in approximately 60 buildings, some with multiple units. This will not change under the proposed exemption.

Director Huber stated that the impetus for the suggested change is a proposal from the Mandan Growth Fund Committee to create a program to help businesses negatively impacted by COVID-19 become stronger for the future. It would provide a maximum of \$3,000 as a 2:1 match in the form of a forgivable loan. Eligible investments would be for strategies to make the business more

innovative, adaptable or diverse to better withstand crisis. (See: New Business No. 1ii). Installation of an automatic door on an existing building generally costs the property owner or tenant business \$2,000 or more depending on exact circumstances. An innovation mini-match would be a non-starter for businesses already struggling to pay rent and other expenses if the subject building did not already have an automatic door. Using Growth Fund dollars to pay for the door could be an option, but would use funds to a much greater degree and compete with other needs for business assistance. The Storefront Improvement program allows for a 50% match for automatic doors as part of a façade makeover. Investment in automatic doors and other ADA accessibility improvements are also eligible expenditures toward qualifying for the Renaissance Zone program, which provides property and state income tax exemptions after completion of a project to help offset a portion of the cost.

The Mandan Retail Incentive Program, aimed at filling gaps in the community's market profile, has seen only 9 approved applications since its 2011 launch in part because most potentially interested parties are renting small spaces in which the likely amount of stipend (up to \$5 per square foot, but more often \$3.75 psf) will not cover the cost of installing an automatic door. Increasing the stipend is an option, but this also increases public investment and risk in start-up retail operations.

Director Huber stated that she is not aware of any other city in North Dakota that ties installation of an automatic door to assistance programs boosting business attraction, retention, expansion and start-ups. An attempt at statewide legislation failed in 2009 or 2011. Commercial property and business owners desire to serve as many customers as possible and continue to tackle other accessibility hurdles with renovation projects as their budgets allow. Through a combination of private investment and public incentive programs, Mandan leads the way in North Dakota with regard to installation of automatic doors. Other cities do offer mini-match programs to assist small businesses. A building can meet ADA standards for accessibility without having a door equipped with a power-operated mechanism as long as resistance, door width, and other entrance elements are appropriate. Buildings may have automatic doors and still have other existing accessibility issues such as split foyers and vertical access leading to the entrance platform. This article shall only apply to buildings or businesses that are used for the purposes described in section 105-1-4(c), (e), (g) and (j) of the Mandan Code of Ordinances. This requirement shall not apply to the grant or award of public funds to a recipient of less than \$5,000.00.

Commissioner Rohr inquired if there would be a sunset time limit clause with this. Director Huber replied that decision would be up to the City Commission's discretion. This is the second consideration of this and an amendment would be appropriate. Commissioner Braun agreed there should be a sunset clause.

Commissioner Larson moved to approve the second reading and final passage of Ordinance No. 1342 to Amend and Reenact Section 111-2-9 (c) and (g) of the Mandan Code of Ordinances Relating to Electric Handicap Accessible Doors with the amendment to "Section g" to include that this requirement shall not apply to the grant or award of public funds to a recipient of less than \$5,000, from today, July 7, 2020, to January 1, 2021. Commissioner Braun seconded the motion.

Attorney Brown stated that it would be clearer if the amendment were to note that Subsection g expires on January 1, 2021. Commissioner Camisa stated he supports the amendment. He suggested that this be put out for public vote and see if the public will allow for an exemption to be created. The City Commission can create an emergency exemption for the period referred to but should allow the citizens to put it in as a requirement.

Commissioner Larson moved to amend the motion to the amendment to the ordinance presented, to clarify that this exemption shall expire on January 1, 2021. Commissioner Braun seconded the amended motion.

Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Second consideration of Ordinance No.1343 to Amend and Reenact Section 115-4-7(a) of the Mandan Code of Ordinances Relating to Removal of Trees and Shrubs.*

Director of Public Works Bitz stated that this is the second consideration Ordinance 1343 is a revision to the City of Mandan Municipal code Chapter 115-4-7(a). These changes give the City of Mandan the authority to have property owners trim/remove trees and shrubs that are obstructing street lights, traffic signal, stop signs or similar apparatus or obscuring line of sight for traffic and travel. Director Bitz said that there were no objections or comments received since the first consideration. He recommended passing the second consideration of Ordinance 1343 with the revisions to Sec.115-4-7(a).

Commissioner Camisa moved to approve the Second consideration of Ordinance No.1343 to Amend and Reenact Section 115-4-7(a) of the Mandan Code of Ordinances Relating to Removal of Trees and Shrubs. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

3. *First consideration of Ordinance No. 1344 to Amend and Re-enact Section 20-1-9 of the Mandan Code of Ordinances Relating to Discrimination Prohibited in Employment.*

HR Director Cullen presented a request for approval of first consideration of Ordinance 1344 related to discrimination prohibited in employment. She reported that on June 15, 2020, the Supreme Court ruled that employment discrimination on the basis of sexual orientation or gender identity is illegal and violates Title VII of the Civil Rights Act of 1964. This amendment will ensure the Mandan Code provision is in accordance with the law, as well as clarifying that pregnancy is a protected category. The Human Resources Department recommends approval of Ordinance 1344 as presented in Attachment 1.

Commissioner Camisa moved to approve the introduction and first consideration of Ordinance No. 1344 to Amend and Re-enact Section 20-1-9 of the Mandan Code of Ordinances Relating to Discrimination Prohibited in Employment. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Rohr motioned to adjourn the meeting at 7:14 pm. Commissioner Camisa 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