

The Mandan City Commission met in regular session at 5:30 p.m. on June 16, 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 (joined at 5:55 p.m.), Davis, 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, Kari Moore, Administration and Assistant City Attorney Oster. Absent: Finance Director Welch, Attorney Brown.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the June 2, 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: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

E. BIDS:

1. *Consider approval of low bids for the 2020 Mandan Generators project.*

Planning and Engineering Director Froseth presented a request to award the contract to the low bidder of the Mandan 2020 Generators project. AE2S is the engineering firm assisting with both bid projects. Laith Heinz, project manager and is available to answer questions. He said this first project has to do with the 2020 Mandan Generator project. Last year the City accepted a FEMA grant to purchase and install two emergency generators. The two generators will be located at (1) The Sunset booster station that is part of the water distribution system and is located off of Old Red Trail and (2) Backup power for the 40th Avenue Sanitary Lift Station which is part of the sanitary sewer collection system and is located off of 40th Avenue SE in the southeast part of the City in the Lakewood area. The generators are both diesel. Director Froseth said that the locations were identified as critical infrastructure and the generators will make these facilities more dependable and reliable. The bid opening was held on June 11, 2020 and there were six bidders that submitted bids. The low bid came from Fetzer electric in the amount of \$199,900 which is about 41% under the estimate of \$341,500. The FEMA grant share is 75% of total project costs with the City’s share being 25%. The previous estimate indicated that the City’s share would be about \$120K but with the positive bid results, the estimated local share is now closer to \$80K. Director Froseth recommended awarding the project to the low bidder, Fetzer Electric, LLC in the amount provided.

Commissioner Rohr moved to approve awarding the project to the low bidder, Fetzer Electric,

LLC in the amount of \$199,900. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

2. *Presentation of received bids for Raw Water Intake project.*

Planning and Engineering Director Froseth presented the bid opening results for the Raw Water Intake project. He reported that high bids for the Raw Water Intake project were received in October 2019. AE2S worked on value engineering tasks to lower the cost of the project from what was reflected at that time. Those tasks were completed and the engineering office moved forward to opening bids for Phase 1A on May 19, 2020, while the bids for Phases 1B (pumphouse) and Phase II (piping to the plant) were opened on June 3, 2020. The full results were provided to the Commission. The bids came in overestimated and Director Froseth stated that AE2S and City Staff were prepared to request the State Water Commission (SWC) to continue their commitment to this project at the 60% match. During the June 9, 2020 SWC meeting, the SWC decided not to act on any new project funding requests or requests to raise the amounts to any particular project state-wide given budgetary concerns of theirs. The construction bids received totaled \$29.7M. The SWC continued their commitment to this project. With the bids that came in, the new projected total project estimate is about \$36.6M. That compares to an estimate of \$30.0M in April, after final design, but before the City advertised for bids. More significantly is that it compares to an estimate of \$20.8M from early 2019, which is the estimate that the SWC's cost share commitment was based on.

Director Froseth stated that no action is being request by the Commission. The SWC is working under uncertain funding with the funds they have or will have available for all state projects. At the June 9, 2020 meeting they did not take any action on any of the funding requests that came in but instead will be working on a clear picture of funding situation with plans to decide on funding requests at their meeting scheduled for July 16, 2020. The City of Mandan's bid specifications allow the City to hold these bids into August, therefore the City can wait for the decisions that come out of the SWC July 16, 2020 meeting before acting. The plan is to bring this item back for a decision at the July 21, 2020 City Commission meeting.

Director Froseth recommended this matter be discussed after the July 16, 2020 SWC meeting takes place and after that the Engineering Department will bring a recommendation to the July 21, 2020 City Commission meeting.

Mayor Helbling stated that this project involves the refinery and that makes it more difficult when working on someone else's land. The recommendation is to wait until the SWC meets on July 16, 2020 to determine funding situations for all parties involved. He does not believe this delay is meant to mislead anyone rather the status of what's happening in the market place today was not anticipated by anyone.

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Consider for approval the annual site authorization for American Legion Mandan Post 40 at Black Lions from July 1, 2020 – June 30, 2021.*

3. Consider renewing the mutual aid agreement between Mandan Fire Department and Bismarck Fire Department.
4. Consider payment of bills for Morton Mandan Public Library / Downtown Parks Project.
5. Consider for approval the annual liquor licenses for September 1, 2020 to June 30, 2021.
6. Consider for approval the annual site authorization for Prairie Public Broadcasting at The Strawberry Bar & Grill from July 1, 2020 – June 30, 2021.
7. Consider for approval the annual site authorizations for Mandan Hockey Club for July 1, 2020 – June 30, 2021. (i) Blackstone Tavern; (ii) Old Ten Bar & Grill; (iii) Old Town Tavern; (iv) Vicky's Sports Bar.
8. Consider for approval the Abstract of Votes cast by the Voters of City Mandan in the Consolidated Primary Election held the 9th day of June A.D. 2020.
9. Consider the amendment to the site authorization for ABATE at the HideAway from July 1, 2020 – June 30, 2021.
10. Consider the amendment to the term of Bernie Parkhurst to Bismarck Mandan Mayors Committee for People with Disabilities.
11. Consider approval of the Special Event Permit Application for the Mandan Market for July 3 & 4, 2020.
12. Consider approval of the Special Event Permit Application for Stage Stop July 4th Celebration on July 3, 2020. Mayor Helbling commented that he has ownership with the Stage Stop properties, however, this event would not present a conflict of interest.
13. Consider approval of the Special Event Permit Application for the Silver Dollar beer garden and street dance for July 3 & 4, 2020.

Commissioner Rohr moved to approve the Consent Agenda items 1 through 13 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:

1. Consider revision to counter offer terms for Lots 9-12, Block 3, Heartview Addition.

City Planner Van Dyke presented this item for discussion with a possible adjustment of counter offer for Lots 9-12, Block 3, Heartview Addition. This matter was discussed at the last meeting and involves four lots along the river and slough-off at the property line. The list price is \$10,000 for each lot (\$40,000 total) and there is an original offer of \$5,000. The terms of the counter offer for subject property were as follows:

- Purchase price of \$11,800
- Buyer to pay all closing costs
- City does not warrant water, sewer, and other utilities are available to the property.

Planner Van Dyke said that the Buyer is amenable to the changes except for the adjustment in purchase price. If the Commission will entertain keeping the purchase price at \$5,000 then Darren Schmidt, Oaktree Realtors will draw up the offer for signatures by all parties. Planner Van Dyke provided the information from the May 19, 2020 City Commission meeting for review as needed.

Commissioner Rohr moved to approve the removal of the change in price as part of the counter offer discussed at the May 19, 2020 meeting and to accept the \$5,000 offer as presented. There was no second to the motion. The motion died for lack of a second.

Commissioner Braun moved to deny the removal in the change in price as part of the counter offer as provided at the May 19, 2020 meeting. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: No. The motion passed.

Mayor Helbling commented that it would be preferred that a house would be constructed on this property so that the property goes back on the tax rolls and City is able to collect taxes on the property.

H. NEW BUSINESS:

1. *Consider approval of purchase agreement for the sale of Lot 24A, Block 1, Roughrider Estates Pioneer Replat.* City Planner Van Dyke presented a request for approval of the Purchase and Sale Agreement for Lot 24A, Roughriders Estates Pioneer Replat. After the last meeting, notices were sent out to all the landowners with rear lots knowing that there was an offer from someone who did not live in the area and ultimately it was declined. He stated that Mr. Heuther has presented an offer of \$500 for the purchase of Lot 24A, Roughriders Estates Pioneer Replat. This is one of the rear yards that was separated from the adjoining property for failure to pay taxes. Mr. Heuther owns Lot 24, and the property is immediately in front of the property in question. The property does not have a specials balance. The list price is \$2,500. The buyer's intent is to expand his backyard. City Staff is recommending approval of the purchase agreement for the amount as presented in Exhibit 1. A map of the subject property was also provided in Exhibit 2. This was the only offer received. Planner Van Dyke reported that the Engineering and Planning Department is recommending approval 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 Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

2. *Evaluate and consider approval of one of two purchase agreements received for the sale of Lot 30A, Block 1, Roughrider Estates Pioneer Replat.* City Planner Van Dyke presented a request to consider approval of one of two purchase agreements received for the sale of Lot 30A, Roughriders Estates Pioneer Replat. He said that the City has received two offers for the purchase of Lot 30A, Block 1 of Roughriders Estates Pioneer Replat. The list price for the property is \$1,500. He said that Mr. Krein, who owns Lots 31 and 31A immediately to the north has provided an offer of \$2,100. Mr. and Mrs. Jorgenson, who owns Lot 30 immediately in front of the subject property has provided an offer of \$1,500. Both buyers were told that there was another offer on the table and to provide their highest and best offer. The property does not have a specials balance. Planner Van Dyke reported that both buyers' intent is to expand their backyard. Everything else being equal, staff is recommending approval of the purchase agreement provided by Mr. Krein in the amount of \$2,100, as presented in Exhibit 1 because of the higher purchase price offered. A map of the subject property was provided in Exhibit 3.

Jackie Schmidt and Lindsay Jorgenson came forward and commented that the homeowners could utilize the property since it is nearest to their yard and it ties into their land (referring to Jorgenson property) and she believes that the individuals living there should have access to Lot 30A.

Mayor Helbling stated that pursuant to the information submitted by Planner Van Dyke, there are two offers on this property - one offer is for \$1500 from the property owner who lives in front of the property and the other offer for \$2100 which is from the next door property. Planner Van Dyke concurred that is correct. Mayor Helbling inquired if the Jorgenson's would match the high bid, could the City award the property to the Jorgenson's? Assistant City Attorney Oster clarified that the property needs to go to the highest bidder but there is nothing to prevent them from making a higher bid if already made. Mayor Helbling inquired if both parties would be allowed to increase their bid? Attorney Oster said that it was her understanding that the other party was aware this matter was going to be discussed at this meeting and had the opportunity to attend this meeting. Planner Van Dyke said that he did not speak with the Krein's directly however, Daren Schmidt, the realtor handling this transaction has been in direct communication with them regarding this process and that's why they submitted their second bid. Attorney Oster stated that because the amount is less than \$5,000 there does not need to be a Public Sale on the property as stated in the statute so it's a question of negotiations in what the City Commission wishes to do.

Mayor Helbling suggested tabling this matter in order to allow additional time for the two neighbors to work out a satisfactory resolution for the purchase of this Lot 30A. Also, if the Jorgenson's were to increase their bid, would it be appropriate if the Commission could accept that bid? In regard to the other lots that will be presented to the Commission for sale, there should be a paragraph in the purchase agreement stating preference will be given to the lot directly connected to that particular lot, in particular, not an adjacent lot owner, but the lot owner directly related to the lot.

Commissioner Davis inquired when the bidding ended for this particular lot? Planner Van Dyke explained that this lot was listed as a "For Sale" which is an alternative option afforded the City given there were thirty properties indicating this is a very limited bidding process. He explained that the lots are listed until sold or at least until the contract with Daren Schmidt, Oaktree Realty expires, noting that contract was just extended recently for another year.

Based on the discussion, Commissioner Davis encouraged the Jorgenson's to discuss this matter with their neighbor in an attempt to settle this without the City intervening.

Commissioner Davis moved to table this item. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

3. *Evaluate and consider approval of one of two purchase agreement for the sale of Lot 35A and 36A, Block 1, Roughrider Estates Pioneer Replat.*

Planner Van Dyke presented a request for consideration of approval of one of two purchase agreements for the sale of Lot 35A and 36A, Block 1, Roughrider Estates Pioneer Replat. He said that the City has received multiple offers for Lot 36A. One offer involves the joint purchase of Lot 35A. The buyers are not competing for purchasing both lots, rather just Lot 36. The other offer is solely for the purchase of Lot 36A. These lots are two of the rear yards that were separated from the adjoining property for failure to pay taxes. Both properties do not have special balances. Mr. Kraft has presented an offer of \$1,000 for the purchase of both Lot 35A & 36A, Block 1 of Roughriders Estates Pioneer Replat. The list price is \$1,000 for each property. Mr. Kraft owns Lot 35, immediately in front of Lot 35A. Lot 36A is owned by an LLC and was sent the same letter as Mr. Kraft. Mr. and Mrs. Himmelspach have presented an offer of \$1,200 for the purchase of Lot 36A and they live at Lot 37 just to the north / northwest of Lot 36A. Their backyard abuts said property.

Planner Van Dyke said that both buyers' intent is to expand their backyards. Both buyers do not own the property directly toward the front where the home resides which is Lot 36. Lot 36 is owned by an LLC and went into foreclosure. The LLC was sent a letter about the sale. City Staff is recommending approval of the purchase agreement presented by Mr. and Mrs. Himmelspach for the purchase of Lot 36A due to the higher purchase price as provided in Exhibit 2. City Staff is recommending countering Mr. Kraft's offer to remove Lot 36A and reduce the purchase price to \$500, as it now does not include Lot 36A.

Planner Van Dyke stated that the Engineering Department recommended approval of the purchase agreement presented by Mr. and Mrs. Himmelspach for the purchase of Lot 36A provided in Exhibit 2. The Engineering Department recommended countering Mr. Kraft's offer as presented in Exhibit 1 to remove Lot 36A and to reduce the purchase price to \$500, as it now does not include Lot 36A.

Commissioner Larson moved to approve the Purchase Agreement presented by Mr. and Mrs. Himmelspach for the purchase of Lot 36A provided in Exhibit 2. In addition, Commissioner Larson moved to counter Mr. Kraft's offer as presented in Exhibit 1 to remove Lot 36A and reduce the purchase price to \$500, as it now does not include Lot 36A. 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.

Nathaniel Parker introduced himself and stated that he is new in Mandan and that he resides at 3201 Crimson Street Northwest. He inquired on the road assessment process. Director Froseth was requested to work with Mr. Parker to resolve his questions.

4. Consider approval of Code Enforcement Appeals Board Appointments.

City Administrator Neubauer presented a request for the approval of four appointments to expired terms on the Code Enforcement Appeals Board. He reported that the Code Enforcement Appeals Board meets as needed and whenever the code enforcement officer receives an appeal to any enforcement action. He reported that this Board has never met. The Board's composition consists of five members. Currently, the Board has four vacancies due to terms expiring at the end of 2018 and 2019 that were never filled. Letters of interest were sent in October 2019 and

early 2020 to find individuals interested in serving on the Code Enforcement Appeals Board. Subsequently letters were received from Jody Skogen, Clint Boyd, Ramona Bernard, Reid Bogers and Bob Vayda. Mr. Vayda's daughter Victoria Vayda currently serves on the Board with a term through December 31, 2021. The City Attorney advised Administration that having family members on the same Board may be a conflict of interest. The City Administrator explained the situation to Mr. Vayda who then withdrew his letter of interest.

The Administration Office received the letters of interest and drew for term lengths with the following results:

- Jody Skogen – three-year term ending Dec. 31, 2022
- Clint Boyd – three-year term ending Dec. 31, 2022
- Ramona Bernard – two-year term ending Dec. 31, 2021
- Reid Bogers – two-year term ending Dec. 31, 2021

Administrator Neubauer reported that the Code Enforcement Appeals Board liaisons recommended appointing Reid Bogers and Ramona Bernard to two-year terms ending December 31, 2021 and Jody Skogen and Clint Boyd to three-year terms ending December 31, 2022.

Commissioner Davis moved to approve the appointment of the following individuals to the Code Enforcement Appeals Board: Reid Bogers and Ramona Bernard to two-year terms ending December 31, 2021 and Jody Skogen and Clint Boyd to three-year terms ending December 31, 2022. 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.

5. *Consider approval of deductive change order for Street Improvement District #215, Mid-Town East.* Planning and Engineering Director Froseth presented the final numbers for deductive change orders that were presented at the May 5th meeting as part of awarding bid and consider execution of these deductions. He stated that at the May 5, 2020 City Commission meeting, a list of deductive change orders for the Commission's consideration was presented. Many of them could have been recommended for execution without substantial concern of compromising the overall project. Some of them were included but concerns were stated, therefore they were not recommended to move forward. City staff have since worked to drill down on those deductive change order ideas to come up with more accurate deduction amounts for each. The deductive change order ideas not including the 3rd Avenue widening primarily involve the underground scope. Part E is the most significant item deducted other than the 3rd Avenue widening deductions. This eliminates the scope in mind to install new water main in the Northwest quadrant of the City under 8th Avenue Northwest, separate from this area. Parts B and C predominately deal with the deductive ideas to eliminate paying for new water and sewer services or improved services to lots that currently are not ideally served. The City has concerns leaving these services as they exist, in drawing a hard line and due to budget concerns, it is believed that any of these improvements should rest with the individual lot. The City has reached out to each to see if they elect improvements during the project instead of making improvements later that would be more costly. He said that getting to the most significant deductive idea both in terms of cost and with how the project will look when finished, we have

explored a couple options with the original plan idea to widen 3rd Avenue NW. For that, there would be several main options, including:

Option 1

Stick with the original scope and widen 3rd Avenue to the east by approximately six feet. This option costs \$521,250.94 more than option 3, which is to eliminate the widening scope all-together. We do not recommend and we gathered that there is not much support for this option from our May meeting given its high price-tag.

Option 2

Reduce the scope of the 3rd Avenue widening to drastically cut down on the scope of the retaining walls that would be needed for it. After taking a deeper look into how this could be accomplished, the design team has put forward as plan that would eliminate the south segment of the wall along 3rd Avenue all-together and instead accomplish with grading. Furthermore, it changes the type of wall for the north segment from a poured in place wall with sub-surface foundation to a “Redi-Rock” was considered and that is a wall which does not require a sub-surface foundation wall. The Engineering Department thinks that this method would not be as clean looking, and it would increase the risk of hill sluffing long-term. However, the risk is reasonable and therefore, this is a viable alternative to consider. With this option, the City would still plan to widen by approximately six feet.

(2a) This is a sub-option to accomplish option #2 that is outlined on attachment #4. Under this sub-option, the significant earthwork task would be conducted by the contractor as they have submitted. The difference is that the earthwork amount from the contractor is \$71,170. This would eliminate \$212,093.75 from the contract original scope.

(2b) This is a sub-option to accomplish option #2. Under this sub-option, the significant earthwork task would be conducted by the Public Works staff. Public Works does have concerns about their ability to conduct this earthwork as they are not ideally set up to do this and do not have mass earthmoving and sloping expertise. It would remove an additional \$71,170 from the contract for a total of \$283,265.75 removed, but Public Works will have some expense in their time and equipment instead.

Option 3

Eliminate all of the widening scope. This does not accomplish any widening. The concerns with the street not being uniform with the street that exists south of it and the concern of it being difficult to pass through in the winter-time with significant snow are not addressed. This would eliminate \$521,250.94 from the original contract and would be \$309,157.19 less than option #2A.

Director Froseth commented that by weighing these options, the Engineering Department believes that Option #3 is preferred. However, Option #2 is a viable alternative that accomplishes the widening of the roadway while also saving \$212,093.75 in project costs vs. what was bid. The numbers presented at the May 5, 2020 meeting assumed Option #3 because staff recommended full removal of the 3rd Avenue widening scope at that time. Option 2 is a viable option if Option 1 is not chosen. The funding summary attachment from May 5, 2020 has been provided to summarize the cost categories of this project as well as the funding sources identified to pay for each. The attachment was created by the Finance Department and includes the scope changes as recommended by the Engineering Department. This varies some from what it will be

today because of the detailed look at all of the items within the estimate done between then and now.

Mayor Helbling commented that Public Works has already cleaned up a lot of brush and debris in that area. If we are going through this area, it should be cleaned up at that one stretch. In the winter, it is mostly used as only one lane due to snow fall. Public works can save the City about \$70,000 with this plan and we should consider the widening as recommended in Option 2b.

Commissioner Larson commented that her concern is how much of a difference there would be if the retaining wall will help with snow removal. She is not sure if the cost of the project will accomplish the goal of making the road more efficient. With regard to Public Works involvement it creates a theoretical savings, there are also costs associated with the Public Works Department who is never fully staffed and they always have a lot on their plate to do with responsibilities of road repair throughout the year. This does not fall within their typical scope of work they are expected to do, thus it might turn out that what this project wants to accomplish will not be accomplished.

Director Bitz stated that Public Works crew was working in that area today without too much of a setback. He offered to continue the efforts of removing brush and debris and reevaluate the process stating that he does not see much of a problem getting the work done. Commissioner Rohr stated that this area has had a great number of accidents through the years and agreed that the cleanup is necessary. Mayor Helbling recommended continuing with the clean up efforts as long as there is work being done in this area rather than having to come back in the future when it will cost more to clean it up then in comparison to doing it now.

Commission Rohr moved to approve Option 2(b) are outlined. Commissioner Davis seconded the motion.

Director Froseth recommended that the motion contain all the change order with widening Option 2(b) because there are a lot of water and sewer main items included in the entire change order.

Commissioner Rohr concurred that the motion would include all the change order with widening Option 2(b) because there are a lot of water and sewer main items included in the entire change order. Commissioner Davis concurred that also was part of his second to 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 the second consideration and final passage 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 second consideration and final passage of Ordinance No. 1341. There have been no comments or opposition received since the approval of the first consideration. He recommended approval of this Ordinance No. 1341.

Commissioner Davis moved to approve the second consideration and final passage 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 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.

2. *Consider Ordinance No. 1342 to Amend and Re-enact 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. She stated that the voters in the November 4, 2008, City of Mandan election 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.

Proposed Exemption. The installation of an automatic door on an existing building costs approximately \$2,000. The Storefront Improvement Program allows for matching funds for the automatic door as part of a façade makeover. The City Commission approved increasing the amount of matching funds from \$10,000 per building to \$30,000 in 2013 in part because of this requirement, to re-stimulate interest in building improvements, address overall rising construction costs, and to be on par with what was then the City of Bismarck CORE program.

Meanwhile, Mandan’s Retail Incentive Program has seen few applications over the years in part because most potentially interested parties are renting small spaces in which the likely amount of stipend (up to \$5 per square foot) often will not cover the cost of installing an automatic door. The Mandan Growth Fund Committee at its last two meetings discussed possible means of assistance for businesses challenged by reduced revenues due to COVID-19. On June 2, 2020, the committee directed staff to bring back a proposal to provide relatively small amounts of funding, perhaps no more than \$3,000 or \$5,000 per business, for implementation of strategies to become more innovative and resilient in the face of crisis. Examples of eligible projects might include the development of an online presence such as e-commerce websites or social media. Innovation grants or forgivable loans would be a non-starter for economically injured businesses if they did not already have an automatic door. Using Growth Fund dollars to pay for the door could be an option, but would affect the already scarce funds to a much greater degree. Applying the requirement only to businesses receiving \$5,000 or more in funding appears to be the best way to make possible any form of business micro grants or forgivable loans. Any proposal for a

new program by the Growth Fund Committee will be forthcoming and subject to City Commission consideration for final approval. Director Huber reported that there is one citizen who has commented on this via on-line. Typically, the Renaissance Zone and the Restaurant Rewards programs are where these requests have come in. Requests have come from small retail businesses. The reason for bringing this forward had to do with the conversations that have occurred when looking at the community survey results and COVID 19 requests. At the last meeting they directed staff to put together a proposal to the program to bring back a system for businesses that are doing something to make themselves more resilient and something innovative. They will be looking at proposals at the meeting coming up on June 22, 2020 of amounts less than \$5,000 as a starting point.

Commissioner Larson inquired if this would be considered a matching expectation investment from the business owners? Director Huber clarified that what is before the Commission is consideration of correction or updating the Ordinance and whether or not the Commission will consider a waiver of the automatic door requirement situation of \$5,000 or less and changing that is within the Commission's power. In terms of the program it would apply the concept of a program to assist with those impacted by COVID 19 is only in rough draft form. It is being circulated at the staff level and with legal counsel. The plan is to take it to the Growth Fund Committee and have them review it and make recommendations and then bring it to the City Commission. That will be a different program than what exists under the Retail Business Incentive Program which is the only other program offered in amounts of less than \$5,000. Businesses affected by COVID 19 are in the early stages of discussion. She recently received a draft copy of a program from the Department of Commerce that they will be taking that to the ND Emergency Commission and depending on action there are other new matters that the MGF discussed.

Mayor Helbling commented that from the MGF point they did not want to get too deep into several programs without the buy in from the city commission to change anything if indeed the commission does not want to change anything and they have spent many hours trying to pull something together. He said that with regard to the automatic door requirement was a success and he doesn't think it is anyone's intent to get rid of that, in fact, he would like to see that program enhanced to provide smaller grants for handicap accessibility.

Commissioner Larson concurred with Mayor Helbling's viewpoint and she would like to look at other ways to enhance the programs. She has concerns with changing the Ordinance without any firm plan in place noting that typically, the planning is the first step and then any request would come to the City Commission.

Director Huber stated this is the first consideration and if it is passed then there will be second reading on July 7, 2020, at which time the recommendations from the Growth Fund Committee will be before the Commission at the same time. Assistant Attorney Amy Oster drafted the proposed Ordinance. Director Huber recommended approval of the proposed ordinance as presented.

Commissioner Braun moved to approve the first reading of Ordinance No. 1342 to Amend and Re-enact Section 111-2-9 (c) and (g) of the Mandan Code of Ordinances Relating to Electric Handicap Accessible Doors. Commissioner Rohr seconded the motion.

Caller and Mandan resident, Susan Beehler provided the following: She stated she agrees with the concern brought forward by Commissioner Larson that this is being addressed preemptively. Changing an Ordinance that was voted for by the people of Mandan without any input other than from the Growth Committee is a disservice to the voters. She requested information on what is proposed commenting that \$5,000 is not much to be giving to businesses. She inquired what prompted this? She questioned changing the dollar amount in the Ordinance based on the circumstances with the COVID situation does not seem like it's a need rather its more like an action. She stated that she has a problem with having a Rodeo and the Commission must have been involved and there was some accessibility there. She is concerned this matter relates to an Ordinance but there has been no public input. She is glad to see that 50 doors have been installed and she would like to see the Committee look at providing more accessibility to businesses.

Mayor Helbling stated that public input was allowed and the notice stated that the Commission Chamber was open for the public to come in and there were several people attending this meeting. In addition, there were other avenues available to the public such as the tele-conference call in lines that were for the public to call in including zoom, Dakota Access Media and other technological ways for people to participate.

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

This Ordinance will come back for a second consideration at a future meeting. Any funding will have to be approved by the City Commission.

3. *Introduction and first consideration of Ordinance No.1343 to Amend and Re-enact Section 115-4-7(a) of the Mandan Code of Ordinances Relating to Removal of Trees and Shrubs.* Director of Public Works Bitz presented the introduction and first consideration of Ordinance No.1343. Director Bitz said that Ordinance number 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. If after proper investigation the City of Mandan determines that the tree or shrub is causing or is likely to cause public hazard, the City Forestry Department may cause the hazard to be immediately abated without having to give notice in accordance with Sec.115-4-7(c). The most significant change is the ability to abate an immediate hazard without the warning they would otherwise receive. He reported that there are areas in the City where trees/shrubs are obstructing traffic signs, signals and there are streetlights need to be trimmed/removed. This change gives the City the authority to send the property owner notice of this violation and the (abutting) property owner shall trim/remove tree or shrub. If the property owner does not abate after the 20-day notice, the City can trim/remove and assess the owner in accordance with Sec.115-4-7(c). If the

City determines that there is a public hazard the City may abate the hazard immediately without giving notice and assess the abutting property owner in accordance with Sec.115-4-7.

Commissioner Davis moved to approve the introduction and first consideration of Ordinance No.1343 to Amend and Re-enact 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 Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

1. *Presentation of award to Commissioner Davis.*

On behalf of the City of Mandan and the City staff, Mayor Helbling extended a thank you to the four years that Commissioner Davis has given of his time to sit on the City Commission. Commissioner Davis replied with a summary of the accomplishments the City has made over the last several years and highlighted events that he personally was involved with. In closing he stated he has been honored to serve as a City Commissioner explaining that personal commitments brought him to resign is position. He extended a welcome to his successor, Joseph Camisa, who will be sworn in later this month,

2. Upcoming Events:

Mayor Helbling announced upcoming events in Mandan:

- i. July 2, 3 and 4, 2020 Mandan Rodeo.
- ii. Mandan Market (similar to Art in the Park)10 am – 6 pm, July 3 & July 4 from 10 am to 6 pm. This is a new event this year and it will feature a market type atmosphere.
- iii. Buggies and Blues has been rescheduled from June to August 14-15, 2020.

Mayor Helbling extended a thank you to Mandan Police and Fire Departments for the emergency services provided at the Mandan Airport.

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Rohr motioned to adjourn the meeting at 7:17 pm. Commissioner Davis 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