

The Mandan City Commission met in regular session at 5:00 p.m. on September 3, 2019 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, Commissioners Braun, Rohr and Larson. Department Heads present were, Finance Director Welch, Fire Chief Nardello, Deputy Chief Flaten, Planning & Engineering Director Froseth, Principal Planner Van Dyke, Business Development and Communications Director Huber, Police Chief Ziegler, Assessor Teigum, City Administrator Neubauer, Director of Public Works Bitz, Assessor Markley and Attorney Brown. Absent: Commissioner Davis, Human Resource Director Cullen, Building Official Ouradnik.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the August 20, 2019 Board of City Commission regular meeting.* 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:

1. *Request permission from Public Works to accept bids relating to contingent heavy equipment rates.* Public Works Director Bitz presented a request to accept bids relating to contingent heavy equipment rates. He said the Public Works Department advertised for bids August 9 & 16, 2019 and then accepted and opened bids on August 23, 2019 at 10:00 a.m. for contingent heavy equipment rates. He explained the purpose for the solicitation is to establish rates from private contractors who would be called upon to assist city crews in hauling snow from our streets within normal winter street maintenance operations. Bids were also solicited on other heavy equipment services so if city staff would not able to perform services with the available resources there would be options of hiring private contractors to augment our capabilities.

Director Bitz recommended approval to accept the two low bids which meet the bidding requirements.

Commissioner Larson moved to approve accepting the two low bids which meet the bidding requirements. 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.

F. CONSENT AGENDA

1. *Consider proclaiming Friday, November 1, 2019 Extra Mile Day in Mandan ND.*

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2. *Consider approval of Engage Addition minor plat.*
 3. *Consider approval of the Bismarck Mandan Rifle Pistol Association charity raffle permit for a one day event at the Baymont Inn & Suites on December 14, 2019.*

Commissioner Rohr moved to approve the Consent Agenda 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

1. *Consider approving the selection of Stantec for assistance of procurement and implementation of brownfields grants.* City Planner Van Dyke presented a request for the approval of the selection of Stantec for assistance of procurement and implementation of brownfields grants. He said that staff recently requested permission to issue a request for qualifications (RFQ) to assist the City with the procurement and implementation of brownfields grants. The City received one RFQ from Stantec. If approved, Stantec will assist with grant writing and administration of a brownfield assessment grant processing. This grant would provide up to \$300,000 in grant monies towards creating an inventory of properties, planning, environmental assessment, as well as community outreach (See Exhibit 1). Stantec will work with the City on a pro-bono basis with the grant writing in an effort to help the City's application be as competitive as possible. The City of Mandan is the only city they are working with in North Dakota during the 2020 application period. If the City is successful in obtaining the grant, federal monies will be used to compensate Stantec for their assistance in administering the grant. The City would be notified in the spring 2020 if it will receive the grant. Funds would be dispersed and work would commence in the fall of 2020. Staff will work with Stantec to create a contract and present these details at the September 17, 2019 City Commission hearing for approval.

Planner Van Dyke recommended approval of the selection of Stantec for assistance of procurement and implementation of brownfields grants.

Commissioner Rohr commented that these grants are used for cleanup or contamination caused of that nature. Director Van Dyke stated that city staff will work with Stantec to identify the areas that are likely to have been contaminated. Examples are gas tanks that have been left in the ground. This grant would determine what work needs to be done and to create a plan of action. The City would be able to apply for additional grant money in the future. If the grant is not given, then no one pays.

Commissioner Braun moved to approve the selection of Stantec for assistance of procurement and implementation of brownfields grants. 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.

2. *Consider appointment of Victoria Vayda to the Planning and Zoning Commission to fulfill an At-Large member term ending December 2022.* City Planner Van Dyke presented a request to consider the appointment of Victoria Vayda to the Planning and Zoning Commission. The Planning and Zoning Commission is comprised of seven at-large members. One seat is available for appointment due to a recent resignation. The Engineering and Planning Department received a letter of interest from one interested individual, Victoria Vayda. After review and discussion, the Planning and Zoning Commission voted unanimously to appoint Victoria Vayda to the Planning and Zoning Commission to fulfill the term ending December 31, 2022. Planner Van Dyke recommended approval of the appointment.

Commissioner Braun moved to approve the appointment of Victoria Vayda to the Planning and Zoning Commission to fulfill an at-large membership term ending December 2022.

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 contract with Bartlett & West for Phase I Site Planning and Project Programming for the Morton Mandan Public Library and Downtown Parks project.* City Administrator Neubauer presented a request to enter into a contract with Bartlett & West (B&W) for Phase I Site Planning and Project Programming for the MMPL and Downtown Parks project. At the City Commission meeting on August 20, 2019 the Board authorized staff to begin negotiations with Bartlett and West for this project after interviewing two other firms.

B&W supplied a Phase 1 plan for Site Planning and Project Programming. This Phase 1 would cost \$45,000. Phase II would involve the civil engineering and landscape architecture design plan for improvements outlined in Phase I. Phase I and Phase II timelines were reviewed. Administrator Neubauer stated that before moving forward, final presentations will be presented to the MMPL, the MARC and the Mandan City Commission. There will be one designated person at B&W that will handle the project, rather than having several contractors involved. The cost for the Phase 1 initial start of the project will be \$45,000 to Stantec to do master planning on the project before moving forward with final building and structural designs. Bids are expected to go out in December 2019 with ground breaking anticipated in the spring of 2020.

Commissioner Larson respectfully requested to be recused from voting on this matter due to a conflict with Bartlett & West (her employer).

Commissioner Rohr moved to approve the Phase I AIA Agreement between Bartlett & West and the City of Mandan for the Morton Mandan Public Library, Dykshoorn Park and Heritage Plaza improvements. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Abstained; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *Consider approval of Engineering Service Agreement contract with Moore Engineering for Mid-Town East Street Improvement District Project (SID 215).* Planning and Engineering Director Froseth presented a request to enter into an agreement with Moore Engineering for the

design and other engineering services through 30% design including full existing conditions assessment, public input meetings and a project concept report.

At the August 20, 2019 City Commission meeting, Moore Engineering was approved to do contract negotiations and also to provide engineering services for the Southside Street Improvement District project. Moore Engineering delivered their scope and fee for the design of the project the following week. He explained that under this agreement, the city is committing to preliminary or what is commonly referred to in the engineering industry as 30% design. It is intended to be far enough to answer the major questions about project scope and get an idea of the project costs before presenting to the public and commission as a resolution of necessity thereby starting the protest period required by state law. It is anticipated that all steps will be completed with anticipation of moving forward with the project in the spring or early summer of 2020.

Director Froseth recommended approving the Engineering Services Agreement with Moore Engineering for the Mid-Town East Street Improvement District project.

Commissioner Braun moved to approve the Engineering Service Agreement contract with Moore Engineering for Mid-Town East Street Improvement District Project (SID 215). 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.

5. *Consider Approval of Mandan Raw Water Intake project Ad for Bid and State Water Commission Grant Acceptance.* Planning and Engineering Director Froseth provided an update to the City Commission on the Raw Water Intake project and requested approval of an ad for bids and State Water Commission grant acceptance. City staff and the refinery staff have met at regular meetings over the last half of year and AE2S has completed the final design of the intake project. The project will include the intake structure, the electrical and mechanical equipment, including the pumps, and improvements to the Water Treatment site and the Refinery's site needed to receive the water. He said that the transmission pipe is not included in this initial project at the new intake site to the Water Treatment Facility. Those plans are being finalized and will come before commission as a future item.

Laith Hintz, an AE2S representative was introduced to provide basic information of the project. Director Froseth stated that following the presentation there will be two items of business to be addressed: (1) approval of the ad for bid and (2) accept the State Water Commission grant.

Laith Hintz came forward and stated that over the last year the final design has been worked on and requests have been submitted to the State Water Commission (SWC) for funding the project. He said that the SWC approved the funding budget that was submitted. He provided a history of this project with a timeline that started back in the 1950's with a Standard Oil Agreement; 1960-1980's sediment water problems started; Late 1990's Sediment problems worsened; 2001 the Corps of Engineers directed the city to find long term fix; 2011 Flood temporarily aligned part of the channel to the west. The river will push itself back away from where the water plant currently sits. A high level overview of the bid packages was presented and explained. The first

single family residents and \$1.25 increase for 2021 to get to the \$2.80 per household for the City's \$4.1 million. However based on the presentation given tonight it appears the city's share could possibly be \$4.4 million. Mayor Helbling announced that when residents see their rate increases in 2020 that is the reason for the water bill fees going upwards.

Commissioner Braun moved to approve the Ad for bid for the Raw Water Intake project and to accept the State Water Commission grant funds to share the cost of the project with the State Water Commission. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

I. RESOLUTIONS AND ORDINANCES

1. *Second and final consideration of Ordinance 1325 to amend and re-enact Sections 4 and 5 of Sec. 24-12-8 of the Mandan Code of Ordinances relating to violation for not carrying liability insurance.* City Attorney Brown stated that at the last meeting he explained that this ordinance will bring the Mandan City Code in line with the state law.

Commissioner Rohr moved to approve the second and final consideration of Ordinance 1325 to amend and re-enact Sections 4 and 5 of Sec. 24-12-8 of the Mandan Code of Ordinances relating to violation for not carrying liability insurance. 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.

2. *Second and final consideration of Ordinance 1323 related to a zoning district amendment for proposed Meadow Ridge 4th Addition.* City Planner Van Dyke stated this is a rezone from MC industrial and R3.2 Residential for proposed Meadow Ridge 4th Addition. The first consideration and plat were heard at the August 20, 2019 public hearing.

Loretta Landeis, 2901 Highway 1806 North, Mandan, N.D. came forward and stated she and her husband Tom Landeis, have concerns about water running across their private property with no easements, no right of way and no infrastructure. She said they believe that water has damaged their drain field and caused damage to their private frontage. She said that trees planted 40 years ago have died. They believe that further development in this area will cause more run off onto their property. She presented photos of their property and how it has been damaged over the years. She said that the original culvert was washed away and three culverts were put in after that. Big Sky Dam was to be rebuilt but the city never did it. She said that Terra Valle was developed and it had no infrastructure, no storm water drains and all the surface water ran down to their property. The county had to replace the culverts with two 63" culverts. All the water from the Mandan Junior High middle school drains onto their property. They move the dirt and everything comes into their land. The water goes in on one side all the way to the other side. She feels that it would be better to fix the problem now so the developers can develop without all this trouble. If this were fixed, you would not have to put in all those holding ponds. It would save land and money. It is something that should be covered. She provided one picture per year of the water problems they has on their property. At the conclusion of the photo session Mrs. Landeis requested that there be no more development in this area until the storm water run-off problems are solved. She provided packets and updated pictures and also added more

information of people that they visited with to help solve this problem. She referred to the storm water management plan of June 6, 2006. She said they went to Interstate engineering to discuss the water problem. The soil was checked and they were told that they were floating then. Everyone refers to this storm water management plan that was passed in 2006, and she thinks it is outdated. She requested the city and county work with them to solve the water problem.

Commissioner Rohr inquired how long it takes for the rain water to drain after a rainfall. Mrs. Landeis replied that it depends on how fast the rain falls. She said they have water all the time and it never drains off completely. Commissioner Rohr asked if a cost estimate has ever been gotten to put in drain pipes. She replied that she did not think so.

Director Froseth stated that with the storm water master plan that is waiting final approval. The Landeis property was looked at and there are some technical alternatives to consider, one of them being the installation of a bypass pipe but no cost estimates have been obtained. He estimated that the cost would be a seven digit number based on the amount of work that would have to be done and a large holding pond would have to be acquired in that space for it. It will be a major project.

Mrs. Landeis said that holding ponds were put in the back area and where their property is located however, they didn't fix it. She said they do not want to wait another 3 or 4 years to have it fixed. She requested that this be moved to the top of the list.

Commissioner Rohr commented that if it will take over a million dollars to fix this problem, it will take time in order to come up with funding and determine who is responsible for the funding.

Commissioner Larson stated she went out to the Landeis property to view the area. She went after a rainfall and she said that there is a definite drainage problem but she clarified that she did not find it as drastic as the photos that were shown by Mrs. Landeis. However, she said that she is convinced the photos were an accurate reflection of the water problem. She said she does not see that it is completely relevant to the development the city is pursuing as far as direct correlation of drainage. She said she is not fully convinced that the development of the two roads will have a material impact further at this point on the Landeis property.

Mayor Helbling stated that he agrees with Commissioner Larson in that he does not think these two parcels will have a significant impact on the Landeis property. He does think that any larger parcels that are developed there, the city will need to look at this whole area before anything else is constructed. He does not think penalizing the current developers of these parcels is warranted because they are following the city ordinances and city codes and it would not be appropriate to punish them. If there will be any other land or large development projects that the city receives for that area, the water issue will have to be addressed at that time.

Commissioner Larson moved to approve the second and final consideration of Ordinance 1323 related to a zoning district amendment for proposed Meadow Ridge 4th Addition. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis:

Absent; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Second and final consideration of Ordinance 1324 related to a zoning district amendment for proposed Meadow Ridge 5th Addition.* City Planner Van Dyke stated that this is a similar zoning request as the previous action and there have been no comments received since the first consideration.

Commissioner Braun moved to approve the second and final consideration of Ordinance 1324 related to a zoning district amendment for proposed Meadow Ridge 5th Addition as presented in Exhibit 1. 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.

4. *Second and final consideration of Ordinance 1322 related to a zoning district amendment for proposed Engage Addition.* City Planner Van Dyke this is a re-zone from MA industrial to R7 which is more appropriate for this area and the minor plat related to this action was passed earlier in this meeting. There have been no comments since the first consideration.

Commissioner Rohr moved to approve the second and final consideration of Ordinance 1322 related to a zoning district amendment for proposed Engage Addition. 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.

5. *Second and final consideration of Ordinance 1321 related to Lots 4 & 5, Block 1 of Midway 14th Addition.* City Planner Van Dyke stated this is property CC Commercial zoning district without restrictions. There have been no comments since the first consideration.

Commissioner Larson moved to approve the second and final consideration of Ordinance 1321 related to Lots 4 & 5, Block 1 of Midway 14th Addition. 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.

6. *Second and final consideration of Ordinance 1320 related to crematoriums.* City Planner Van Dyke stated this ordinance will limit crematoriums to be limited within an industrial zoning district, minimum 50 ft. from a property line and 350 ft. from an existing dwelling. There have been no comments received since the first consideration with the exception of Mr. Wise's comment.

Commissioner Larson moved to approve the second and final consideration of Ordinance 1320 related to crematoriums as presented in Exhibit 3. 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.

7. *Consider approval of the resolution to transfer real property by nonexclusive listing agreement.* City Planner Van Dyke stated that properties that have been acquired by the City of Mandan over periods of time. If taxes go unpaid by the property owners, in the past, respective property has gone to bid and the highest bidder would acquire the property, however, the number of pieces of property that the city has acquired lends this process to be unmanageable given additional staff responsibilities. He said that there were and still is 23 pieces of property for sale if anyone is interested. This will be round two. As soon as the property is placed back in the hands of private ownership the sooner tax revenue may be realized. The resolution presented in Exhibit 1 includes 13 properties that have been evaluated by the Assessing Department and Public Works and deemed non-essential to the city. Exhibit 2 provides a map of these locations and Exhibit 3 is a listing agreement to provide Oaktree Realtors the ability to list these properties on the MOS and begin marketing the properties for sale.

Commissioner Larson moved to approve the resolution to transfer real property by nonexclusive listing agreement in Exhibit 1 and to enter into contract with Oaktree Realtors as presented in Exhibit 3. 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:

K. ADJOURNMENT:

Commissioner Braun motioned adjourn the meeting at 6:13 p.m. 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.

s/s James Neubauer
James Neubauer
City Administrator

s/s Tim Helbling
Tim Helbling
President, Board of City Commissioners