

**Hazen City Commission  
Regular Meeting  
October 20, 2014  
Hazen City Hall**

**Present:** President Obenauer, Commissioner Brunmeier, Commissioner Haack, and Commissioner Stern

**Absent:** Commissioner Wolf

**Others Present:** Attorney Donovan, Editor Coleman, Auditor Erhardt, Assessor Steve Frovarp, Mark Johnson (Ulteig), Allyson Hicks, Levi Randle, Delree Kilber, Darnel Davis & Ryan Norrell.

Meeting called to order at 5:30 PM CT by President Obenauer.

**Minutes:** Commissioner Brunmeier moved to dispense with the reading of the October 6<sup>th</sup> minutes and approve them as presented, second by Commissioner Haack. Motion unanimously carried.

**Agenda:** Commissioner Haack moved to approve the agenda as presented, second by Commissioner Stern. Motion unanimously carried.

**CONSULTATION WITH ATTORNEY & ENGINEER**

**Appoint Special Prosecutor:** With the departure of Mr. Podoll from the offices of Lange and Donovan and due to a conflict it is necessary to appoint a special prosecutor to act on behalf of the city in the matter of the public nuisance hearing requested by Delree Kilber. Commissioner Brunmeier moved to appoint Allyson Hicks as special prosecutor for the public nuisance hearing, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye" Haack, "Aye", Obenauer, "Aye", motion carried.

**Nuisance Declaration Appeal- Hearing:** Allyson Hicks introduced herself to the commission and then began to present a series of documents relating to a finding of a public nuisance by the municipal court on September 4<sup>th</sup>. Ms. Hicks called Steve Frovarp, City Planner and presented exhibits 1 – 11, documents and photographs, in support of the information and findings in the matter. The commission had questions with regard to the tarp covered "structure" and Planner Frovarp indicated he was told it was only up to store items and would be removed when the building was completed. Commissioner Stern then asked if the items are not removed the city can then take the items and put them into some type of storage can the city then also charge rent for storage. Ms. Hicks stated the ordinance provides for some type of abatement; removal of the property or keep it stored there is no specific manner of abatement defined in the ordinance. Commissioner Haack then asked if the property owner needed to remove the items within ten (10) days if the commission finds it is a nuisance and Ms. Hicks advised that the commission has ultimate authority in the matter and can

specify a specific time to allow for abatement if they choose to allow more ten (10) days. Delree Kilber addressed the commission and began by pointing out that she owns a home north of the location in question and she had concerns about the poor maintenance of the road and that several people had been stuck on the road in times of wet weather. President Obenauer asked her to address the matter at hand and Ms. Kilber stated the tarp structure is merely in place to protect items they had to remove from property that was owned by the family prior to her husband's death. Ms. Kilber also advised the commission that the garage structure was ordered on May 31<sup>st</sup> and they had issues with weather and finding a competent contractor to complete the concrete work. Ms. Kilber stated they are trying to get the new garage built as quickly as possible but now two (2) of the rafters for the structure are damaged and she was told it could take as much as three (3) weeks to get new rafters. Ms. Kilber, in response to a question, advised she was not able to attend the initial hearing due to health concerns. The commission had concerns of the complaints of welding or grinding under the tarp structure and engine noise late at night. Commissioner Stern asked if there is a timeline to complete the garage and Ms. Kilber stated as soon as the replacement rafters are in they have lined up equipment to get them in place, weather permitting. President Obenauer said he had concerns about the weather and Darnell Davis said they are working as quickly as they can, considering the health problems in the family. Commissioner Haack suggested getting credit for the damage rafters and seeing if they can get them quicker from another supplier. Commissioner Haack also ask inquired about the assistance to get the rafters in place and Ms. Kilber said that Greg Batke had offered his assistance to get this done and that is was not their intention to irritate the neighbors. President Obenauer then expressed concern that it appears many of the items removed from the property in question are now at Ms. Kilber's home. Ms. Kilber said that most of the stuff will be moved to her mother's property when they can and that she is not looking for pity from the commission but they are trying to deal with the loss of her husband and adjust their life as good as they can. Commissioner Stern asked what Ms. Kilber would like to see as a solution from the commission and she said they would like some time to get the rafters up and the building closed up so the property can be put inside. President Obenauer then asked what the next step would be and Ms. Hicks advised the commission they should have discussion and then make a decision on the findings. Commissioner Brunmeier had concern with the timing to get the replacement rafters and then asked if the commission allows time to complete the building and it is not completed what are the options. Ms. Hicks advised the commission can order the abatement of the nuisance as it sees fit. Commissioner Stern said that Mr. Davis said it would take about three (3) weeks to finish the building so he would like to see the abatement extended that time and if it is not cleaned up the city will step in. Commissioner Brunmeier would like to give them until November 7<sup>th</sup> to resolve the issue and Commissioner Haack still had concerns about getting replacement rafters. Commissioner Brunmeier moved to make a finding of a public/private nuisance, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried. Commissioner Brunmeier moved to allow until November 7<sup>th</sup>, 2014 to abate the nuisance or city crews will begin to remove the items on November 10<sup>th</sup>, second by Commissioner Stern. On roll call vote;

Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried. Ms. Hicks said she would prepare the findings and order for President Obenauer's signature.

**Missouri River Stakeholders Presentation – R. Norrell:** Ryan Norrell provided a brochure to the commissioners and stated the Missouri River Stakeholders are a new organization dealing with old issues relating to management of the river systems. Mr. Norrell said this process began with the passing of the Flood Act of 1944 and how the government had made promises to get the act passed and many of the promises have not been kept, as of this time. The purpose of the Missouri River Stakeholders is to bring different people and groups together to address the concerns and Mr. Norrell advised the commission that there will be a one-day workshop in November to get this process started. President Obenauer said there are concerns with a consistent reservoir level and Mr. Norrell agreed it is a concern for many people.

**Bid Opening – Bus Purchase:** Bids for purchase of a new 20 +2 passenger bus with a lift were received as follows: North Central Bus & Equipment: Base Bid-\$89,893 with separate pricing for different options including MorRyde suspension and other than OEM driver's seat. Harlow's Bus Sales: Base Bid-\$82,850 with separate pricing for options including MorRyde suspension and other than OEM driver's seat. Commissioner Brunmeier moved to send the bids to the ND DOT, Transit Office, for review and approval prior to awarding, second by Commissioner Haack. On roll call vote; Brunmeier, "Aye", Haack, "Aye", Stern, "Aye", Obenauer, "Aye", motion carried.

## REQUEST OF CITIZENS

**Free Reduced Hall Rent – Sakakawea Medical Center:** The commission reviewed a request for free/reduced hall rent from Sakakawea Medical Center to hold their employee recognition on February 6, 2015. Commissioner Brunmeier moved to approve the request for free hall use, subject to the kitchen fee, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried.

## APPROVAL OF APPLICATIONS & BUILDING PERMITS

**Renaissance Zone Project Application – Hazen Family Eyecare PC:** Planner Frovarp presented an application for Renaissance Zone Project as submitted by Hazen Family Eyecare. The business will be located in the commerce center building and Planner Frovarp advised the commission that the build-out of the space is estimated at \$165,000 plus an additional \$65,000 for fixtures. Planner Frovarp also advised the commission that this portion of the building is currently exempt from tax because it has no tenants and the proposed improvement will raise the value of the property by an estimated \$150,000 which equates to a tax exemption of roughly \$10,000 over a five year period. Planner Frovarp told the commission that the renaissance board recommended approval of the application pending certificate of good standing from the State Tax Commissioner. Commissioner Stern asked who would actually receive the benefit of the tax exemption and Planner Frovarp said he was not certain and it would depend on the agreement with the tenant. It could be that HCD gets the tax benefit and passes it on

to the tenant. Commissioner Stern also asked if the benefit goes on for the full five years if the tenant leaves prior to this time and Planner Frovarp said the benefit would be extended to the new buyer/tenant for the remaining time frame. Commissioner Haack moved to approve the Renaissance Zone Application of Hazen Family Eyecare PC, as presented, pending receipt of certification of good standing from the State Tax Commissioner, second by Commissioner Brunmeier. On roll call vote; Haack, "Aye", Brunmeier, "Aye", Stern, "Aye", Obenauer, "Aye", motion carried.

## REPORTS

**President:** President Obenauer informed the commission that he would not be able to attend the MCED meeting scheduled for October 22. President Obenauer will see if Commissioner Wolf is available and if not Commissioner Brunmeier indicated she could attend the meeting.

**Water/Sewer/Garbage:** Commissioner Brunmeier informed the commission that he requested and an ad was published with regard to items the garbage crew will no longer be picking up on the route and this will be effective November 1, 2014. Commissioner Brunmeier said she had been contacted about the matter as the crew has been following the policy and residents were not made aware of the change prior to it being implemented.

**Street/Cemetery:** Commissioner Stern had nothing to report at this time. President Obenauer asked about the street project and was informed that the project is basically complete with some minor clean-up to be done. The final pay estimate should be ready for the November 3<sup>rd</sup> meeting.

**Finance/Busing:** Commissioner Wolf is absent, no report.

**Police/Fire:** Commissioner Haack advised the commission that the police department has provided recommendations to make the junk/nuisance ordinance more enforceable and the next step will be to get commission and public input. Commissioner Stern asked about the parking of vehicles on the sidewalk or boulevard and this matter was not discussed in detail with the police department.

## NEW BUSINESS

**Administrative Rule 30 – Judicial Salary:** The commission was provided copies of Administrative Rule 30 (AR30) which relates to minimum standards for municipal courts in North Dakota. According to AR30 the minimum salary for the municipal judge, in a city between 1,500 and 3,000 people, is \$258/mo. or \$3,096 annually. This is \$26.49 more per pay period than the city currently pays. Attorney Donovan also said the city has to consider the municipal judge that serves more than one municipality and the sharing of training and other costs. Commissioner Stern recused himself from action on this matter as a may be a conflict of interest. Commissioner Brunmeier moved to adopt the salary recommendations of AR30 relating to salary of the municipal judge, effective January 1, 2015, second by Commissioner Haack. On roll call vote; Brunmeier, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried.

**Approval of Bills:** Commissioner Stern would like to see more of a donation to Mr. Edwards for his assistance in removing and replacing the culvert on Elbowoods drive and suggested \$200 Hazen Bucks. Commissioner Brunmeier moved to approve the bills, with additions/corrections discussed, second by Commissioner Stern. Pre-paid and bills approved for payment are as follows: Roughrider Electric Coop Inc, 2283.63, Ameripride Linen & Apparel Service, 685.22; Ben Berg, 600.00; Convention & Visitors Bureau, 5429.18; D&E Supply Co, 243.45; David Glick, 48.15; Discovery Benefits Inc, 25.00; Fastenal Co, 126.25; Ferguson Waterworks, 288.60; Hazen Community Development, 56.08; Hazen Parks & Recreation, 7500.00; Information Technology Dept, 75.00; Job Service ND, 262.35; Montana Dakota Utility, 4212.54; Myron Stern, 26.98; NDVCF, 50.00; ND One Call Inc, 47.30; Northland Financial, 302.00; Pace Construction Inc, 1642.50; Power Plan, 111.93; Preble Medical Services, 53.00; Rough Rider Industries, 15.72; Sakakawea Medical Center, 12.68; SMB Inc, 38.99; Steve Frovarp, 29.38; Stroup Insurance, 135.00; Union State Bank, 200.00; US Postal Service, 269.32. Motion unanimously approved.

There being no further business the meeting was adjourned at 7:10 PM CT. The next regular meeting of the commission will be Monday, November 3, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: \_\_\_\_\_  
Jerry Obenauer, President

Attest: \_\_\_\_\_  
Monte J. Erhardt, Auditor