

**Hazen City Commission
Regular Meeting
March 3, 2014
Hazen City Hall**

Present: President Nygard, Commissioner Obenauer, Commissioner Brunmeier, Commissioner Stern and Commissioner Wolf

Others Present: Attorney Donovan, Editor Coleman, Planner Frovarp, Auditor Erhardt, Terry Boehm, Joe Snustad, Dan Frei, Clint Knutson and Buster Langowski.

Meeting Called to order at 5:30 PM CT.

Minutes: Commissioner Brunmeier moved to dispense with the reading of the February 18th minutes and approve them as presented, second by Commissioner Wolf. Motion unanimously carried.

Agenda: Commissioner Obenauer moved to approve the agenda, second by Commissioner Brunmeier. Motion unanimously carried.

CONSULTATION WITH ATTORNEY & ENGINEER

Main Street Project and Proposed Engineering Agreement: Terry Boehm and Joe Snustad, KLJ Engineers, met with the commission. Mr. Boehm first reviewed recommendations regarding the engineering agreement as forwarded after the February 18th meeting. Some of the recommended changes are acceptable however certain changes with regard to oversight and liability could not be changed, in the opinion of legal counsel for KLJ. While the engineer will be present during the project to oversee matters they are not in a position to dictate the manner in which the work is completed so long as it is in compliance with the plans, specifications and acceptable construction practices. Mr. Boehm assured the commission that the engineering firm would be making inspections and reviewing necessary samples, during the project, but they would not be directing the day to day activity of the contractor. Mr. Boehm also advised the board that, as engineers, they cannot reject work of the contractor they will merely notify the city attorney and the full board, as owners of the project, will have to address any concerns or deficiencies. With regard to the fee structure, Mr. Boehm advised he is proposing a lump sum design fee of 5% of the estimated project cost which will be determined when the bids are received. As to construction cost Mr. Boehm advised this is generally 8% of the actual construction cost and normal mileage to oversee the project is generally included in this cost. Extraordinary costs for mileage and per diem will be charged according to the rate chart provided. Attorney Donovan stated he had discussed the engineering agreement with Mr. Boehm and was expecting to receive a revised draft prior to the meeting. President Nygard said there were no alarming things in the agreement and that the city has had similar agreements with Ulteig Engineering

in the past. Mr. Boehm advised the commission that the preliminary engineering report and estimates include 9th Ave NW from Main Street to ND Hwy 200 and also optional cost to mill and overlay the mine road, County Road 27 from the Antelope Creek Bridge to the northern city limits. Mr. Boehm also said there was discussion as to sealing Main Street when completed or if this would be done as part of a future project. Mr. Boehm mentioned this as the seal coat is generally done a couple years after the initial construction but there were concerns of having to repeat the special assessment process to do the sealing in the future. President Nygard would like the board to finalize the scope of the project and asked about different methods to seal the project. Mr. Boehm said a cement slurry seal is an option but the cost does not justify the benefit and Mr. Boehm does not recommend a fog seal, making the street black, as the chips are the wearing surface for vehicle traffic. President Nygard asked when the seal is most effective and Mr. Boehm indicated they recommend waiting and completing the chip seal later with another project. As to the estimates, Mr. Boehm provided information that the total cost of the project is \$2.7 million without the mine road (Co Rd 27) and would be approximately \$3.1 million if this portion of the project is included. President Nygard asked what the issue is with the mine road and Mr. Boehm stated the cracks open up in spring and part of the asphalt falls into the crack causing the depressions. Commissioner Stern asked about the patching that has been done on 9th Ave NW and Mr. Boehm said there are portions of the subgrade that are in need of attention and suggested portions could be removed and they would use mill material to address the subgrade issues then overlay the street. Mr. Boehm indicated that traffic control is a major factor in the estimates and explained that this cost is driven by the contractor or subcontractor's cost to set up and move throughout the project. President Nygard suggested the board clarify the scope of the project and proceed as the word is out that the city will have a project this summer. Commissioner Stern had concerns with some of the roads, such as Ash Road, and the cost to repair them being very high for the few property owners. Mr. Boehm agreed it is a tough situation and President Nygard said the board would have to make the final decision to repair or let it go back to gravel. Commissioner Stern also commented that the streets near the frontage road are full of mud which isn't necessarily coming from this road. President Nygard asked if there is a motion as to the scope of the project and which sections to add or remove. Commissioner Obenauer moved to complete the entire project with 9th Ave NW but to have the area of Ash Road and the Mine Road as options, second by Commissioner Brunmeier. Upon discussion Commissioner Stern asked if enforcement of the truck parking ordinance would be increased to protect some of the streets being repaired. Commissioner Obenauer feels that most of the truck parking is only overnight and Commissioner Brunmeier asked if the city should be looking at designated areas for truck to park, similar to other cities. Attorney Donovan questioned what the estimated engineering fee was based on and was informed that it was for the entire project without the Mind Road. Commissioner Stern indicated that the motion did not include a portion of 1st Ave NE and 4th Ave SW as included in the preliminary report. Commissioner Obenauer moved to amend the original motion as to the scope of the project to include the portions of 1st Ave NE and 4th Ave SW as indicated in the preliminary report, second by Commissioner Brunmeier. Roll call vote on the

amendment: Obenauer, "Aye", Brunmeier, "Aye", Stern, "Nay", Wolf, "Aye", Nygard, "Aye", motion to amend carried. On roll call vote for the motion as amended; Obenauer, "Aye", Brunmeier, "Aye", Stern, "Nay", Wolf, "Aye", Nygard, "Aye", motion carried. Mr. Boehm said this does not include the chip seal so the cost would be less than \$3.1 million. Commissioner Obenauer moved to approve a resolution directing the engineer to prepare detailed plans and specifications for the project, second by Commissioner Wolf. Roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye" Stern, "Aye", Nygard, "Aye", motion carried. Commissioner Wolf move to approve a resolution of necessity and to inform the public of the opportunity to protest, with hearing on the protests scheduled for April 7 at 5:30 PM CT, second by Commissioner Brunmeier. Roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Nay", Obenauer, "Aye", Nygard, "Aye", motion carried. The board discussed the timelines for the notices, bidding and project construction and determined it would be necessary to conduct a special meeting in order to get this project out to contractors for bid by early April. Commissioner Brunmeier moved to hold a special meeting on March 10, 2014 at 5:30 PM CT to review the plans and authorize the engineer to advertise for bids, second by Commissioner Wolf. Roll call vote; Brunmeier, "Aye", Wolf, "Aye", Obenauer, "Aye", Stern, "Aye", Nygard, "Aye", motion carried. Clint Knutson, Ulteig Engineers, advised the board that their firm wishes to fulfill their obligation to the city and offered assistance in on this project. President Nygard thanked Mr. Knutson and advised that Ulteig is still the city's appointed engineer and will be utilized for this, and other, projects as needed.

Equalization Meeting – April 8, 2014: Assessor Frovarp advised the commission that the notices of increase in valuation will be going out soon and that he must include the date and time of the city equalization meeting. Assessor Frovarp was not certain of the number of notices, yet, but stated there will be many so the city could consider sending a notice to every property owner. It was determined that 6:00 PM on April 8th would allow the majority of the board to be present. Commissioner Obenauer asked Assessor Frovarp to explain again how the increase numbers are determined. Assessor Frovarp stated the information of value is based on the sales ratios and ND Century Code says property must be assessed at 100% of the market rate, however the state allows limited leeway on the amount to 90%. Assessor Frovarp also explained that the city's increase this year is not so much on the structure side but more on the land side as indicators say this value should be 15% of the overall value and the city's needed to be adjusted. President Nygard said the agreement with Vanguard was to keep the valuation information accurate and that it must be made clear that while the valuation changes it should not directly affect tax statements as they are based on the budgets of the taxing districts, not the value, if done correctly. Attorney Donovan agreed with the statement and President Nygard added that property tax is a very small portion of the city's revenue with coal severance and conversion taxes. Commissioner Stern questioned how the county never seems to reduce the mill levy and Assessor Frovarp was not sure but said the rural residences and values are adjusted annually similar to the city property. Attorney Donovan said that rural property is taxed based on soil type and use so that may affect the overall value of the property.

MCR Affordable Housing Project – Purchase Option/Site Control Agreement: The board was provided an updated draft of the Purchase Option/Site Control Agreement for the affordable housing project. The agreement has been reviewed by Attorney Donovan and he indicated there are no further changes at this time. Commissioner Obenauer moved to approve the Purchase Option/Site Control Agreement with Multifamily Capital Resources as presented, second by Commissioner Wolf. Roll call vote; Obenauer, “Aye”, Wolf, “Aye”, Brunmeier, “Aye”, Stern, “Aye”, Nygard, “Aye”, motion carried.

REQUEST OF CITIZENS

Free/Reduced Hall Rent – SMC Hospice: Commissioner Obenauer moved to approve free use of the hall, subject to the normal kitchen fee, for SMC Hospice to hold their annual turkey dinner on March 16, 2014, second by Commissioner Brunmeier. Roll call vote; Obenauer, “Aye”, Brunmeier, “Aye”, Stern, “Aye”, Wolf, “Aye”, Nygard, “Aye”, motion carried.

INTRODUCTION, READING AND APPROVAL OF ORDINANCES

Chapter I, Article I, Government Organization – Jurisdiction: The second reading of the ordinance defining the city boundaries to include all annexed property. Commissioner Wolf moved to approve the second reading of Chapter I, Article I, of the city ordinances defining the boundaries of the city, second by Commissioner Brunmeier. Upon discussion Commissioner Stern asked if this description includes the site that was to be the location of the Annabelle project and was informed that it does. Roll call vote; Wolf, “Aye”, Brunmeier, “Aye”, Stern, “Aye”, Obenauer, “Aye”, Nygard, “Aye”, motion carried.

REPORTS

President: President Nygard had nothing to report.

Water/Sewer: Commissioner Brunmeier reported water department spent time opening frozen lines in Christmann Addition and serviced a water line break near the All Seasons Arena. Director Quast said the area of Christmann has had issues in the past with lines freezing and he is not certain how to address the issue. Director Quast said the freezing problem is an issue for many areas of the state this year.

Street/Cemetery: Commissioner Stern reported that Director Quast and Asst Director Krumwiede will be leaving the city effective March 28th and he would like to thank them for their service to the city. Commissioner Stern said that one in-house employee expressed interest in the full-time position on the public works and an interview was conducted. Commissioner Stern moved to offer the public works specialist position to Mr. Froelich and he is to remain at this current salary and benefit rate, second by Commissioner Brunmeier. Roll call vote; Stern, “Aye”, Brunmeier, “Aye”, Obenauer, “Aye”, Wolf, “Aye”, Nygard, “Aye”, motion carried. Commissioner Stern said he has also been contacted about the condition of the sidewalk in front of the vacant buildings on the south side of Main Street

and asked that a letter be sent to the property owner's reminding them of the responsibilities to maintain sidewalks.

Finance/Busing: Commissioner Wolf reported that a listing for a substitute driver has been posted.

Police/Fire: Commissioner Obenauer had nothing to report on police or fire issues but said a letter has been sent to a property owner with regard to a tree concern.

CORRESPONDENCE

Audit Letter – Rath & Mehrer PC: Commissioner Brunmeier moved to approve the audit letter to be sent to Rath & Mehrer regarding the recent collection of financial information for their review, second by Commissioner Stern. The letter indicates that the city has made all information available to the auditors and they are not presently part of any legal action. Roll call vote; Brunmeier, "Aye" Stern, "Aye", Obenauer, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

NEW BUSINESS

Lab Services Contract – Sample Testing: Commissioner Obenauer moved to approve the lab services contract with the ND Department of Health for testing/review of city water samples, second by Commissioner Wolf. Roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Nygard, "Aye", motion carried.

Approval of Bills: Commissioner Brunmeier moved to approve payment of bills, second by Commissioner Wolf. The pre-paid and bills approved to be paid are as follows: United States Postal Service, 268.83; Mercer County Recorder, 17.00; BHG Inc, 36.00; BHG Inc, 845.84; Cardmember Service, 498.33; Chamber of Commerce, 75.00; Custer District Health, 54.38; Dan Wettstein, 320.00; Ecolab Pest Elimination, 106.50; Fastenal Co, 112.38; Ferguson Waterworks #2516, 547.03; Great Plains Fire, 819.02; Hawkins Inc, 5.00; Hazen Hardware, 728.40; Hazen Welding, 266.85; J&L Automotive LLC, 596.04; Jack's Uniforms and Equipment, 719.92; Joyce Lemer, 108.07; Krause's Super Value, 140.79; Kurt Milbradt, 100.00; Municipal Government Academy, 15.00; ND Surplus Property, 55.00; Pam Borlaug, 92.66; Paula Straub, Payroll, 100248.85; 10.50; Peggy Rahn, 50.75; Pride Contracting Inc, 3617.00; SBM Inc, 7.79; Southwest Water Authority, 18685.36; Stein's Inc, 43.16; Stroup Insurance, 410.00; Verizon Wireless, 223.93; Workforce Safety & Insurance, 15991.51. Motion unanimously carried.

There being no further business the meeting was adjourned at 7:1 PM CT. There will be a special meeting of the Commission on March 10, 2014 at 5:30 PM CT and the next regular meeting of the commission will be March 17, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: _____
Mark Nygard,

Attest: _____
Monte J. Erhardt, Auditor