

**Hazen City Commission
Regular Meeting
April 7, 2014
Hazen City Hall**

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

Absent: Commissioner Obenauer

Others Present: Attorney Donovan, Editor Coleman, Planner Frovarp, Auditor Erhardt, Mike Anderson, Ann Jacobs, Nick Scharbach, PW Director Neuberger and Buster Langowski.

Meeting Called to order at 5:30 PM CT.

Minutes: Commissioner Brunmeier moved to dispense with the reading of the March 17th minutes and approve them as presented, second by Commissioner Wolf. Motion unanimously carried.

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

CONSULTATION WITH ATTORNEY & ENGINEER

Main Street Project: President Nygard said that no one appeared and no written protests were received with regard to the resolution of necessity for the Hazen Street Improvement Project District 2014-01. Commissioner Brunmeier moved to approve the Resolution Determining Insufficiency of Protests, second by Commissioner Wolf. On roll call vote; Brunmeier, "Aye", Wolf, "Aye", Stern, "Aye", Nygard, "Aye", motion carried. Terry Boehm, KLJ Engineering, presented a recommendation to award the bid as opened on April 3, 2014 to Bituminous Paving. Mr. Boehm had reviewed all the bids and quantities and said a minor calculation error in the bid of Knife River Corporation had been corrected. Mr. Boehm also said the city has contracted with Bituminous Paving in the past and there are no concerns in contracting with them at this time. Mr. Boehm suggested the city consider ways to scale back some of the construction of Ash Road to reduce the cost and new project costs, based on the low bid, were presented to the commission. Mr. Boehm advised the commission that construction engineering is estimated at 8% of the project cost but the project will be completed rather quickly so this amount may be less as it will be actual cost based on the current rates while on the project. In response to a question of President Nygard, Mr. Boehm advised the contingency is estimated a little higher but the hope is that none of the contingency funds will be necessary. Mr. Boehm is waiting for a tentative schedule from the contractor and advised that a pre-construction meeting will be held once the schedule is received. President Nygard asked if the \$2.3 million estimate includes everything and Mr. Boehm advised that it does. Commissioner Brunmeier moved to award the contract, based on the bid of, to Bituminous Paving, Ortonville MN, second by Commissioner Wolf. Upon discussion

Commissioner Stern asked if the commission can still omit portions of the project and Mr. Boehm advised the commission can omit parts of the project and the contractor is aware this may happen but, the contract is awarded based on the bid and then a change order would be prepared for any such change. President Nygard asked if there is a deadline to make a change and Attorney Donovan asked if the change order is required. Mr. Boehm said changes can be made even after construction begins and that a change order is required because the bid was for the entire project. In response to Mr. Boehm, Commissioner Stern indicated his question had been answered but that he doesn't think some of the roads need to be done at this time. Commissioner Stern asked if the frontage road was to be completed with concrete and Mr. Boehm said he had talked to a local contractor and they have the opportunity to contact Bituminous Paving and have this changed if they can do this at a lower cost. On roll call vote; Brunmeier, "Aye", Wolf, "Aye", Stern, "Nay", Nygard, "Aye", motion carried.

Plat Approval – West River Patio Homes Condominium Development: Planner Frovarp presented a re-plat of the West River Patio Homes Condominium Development which was prepared to address a change in the size of Lots 2, 4, & 6 to accommodate construction of an additional tri-plex unit. Planner Frovarp said the matter had been reviewed and approved by the Planning and Zoning Board nearly a year ago and the original will be mailed once the change to include the auditor's attestation. President Nygard asked about the separation between buildings and was advised that, since this is within a Planned Unit Development, the separation is adequate. Commissioner Stern moved to approve the plat, with the changes as discussed, second by Commissioner Wolf. On roll call vote; Stern, "Aye", Wolf, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

7th Street Survey – Proposed Work Order: President Nygard said there have recently been issues regarding location of the property vacated and the alley easement that starts east of the Senior Suites parking lot. Planner Frovarp presented an aerial view and stated that it can be seen that the road does not follow a straight line as it continues east and there may be records from a previous survey. Mr. Boehm said he may have some documentation on the previous survey and he would be willing to provide it to the city. President Nygard said he is reluctant to spend funds for something that may be on file. Planner Frovarp said there are pins located at the intersection of 7th Street and 8th Avenue but he is not certain if there are pins as you travel east. Planner Frovarp said there may also be an issue with the location of Roughrider and West River Telecomm pedestals. President Nygard said 7th Street used to run to the city limit and Planner Frovarp said that is correct but twenty-three feet (23') on the north and south of the sixty-six foot (66') street were vacated to the north and south property owners leaving a twenty foot (20') dedicated alley and the property owners provided utility easements as well. President Nygard said the trail was vacated to the individual property owners and the trail appears to be on private property. Commissioner Brunmeier asked if the matter could be tabled until Mr. Boehm has a chance to research his records. Commissioner Stern asked about the reason part of the road was vacated and narrowed down and President Nygard thought it may have something to do with matters when Senior Suites was constructed. Nick Scharbach, Hazen, said he purchased his property from his father and he was told there is a property pin near the center of the alley and a pin in the front yard.

President Nygard agreed there are supposed to be pins and these will need to be located to determine where the dedicated alley is located. Mr. Scharbach asked about the legal boundaries and how any costs to determine these may be assessed. Mike Anderson, Hazen, said he purchased the garage near this location and he was told there is an established road accessing it that he can use. Mr. Anderson then asked if the city would provide him access to his property. President Nygard said there is a dedicated alley that can be used to access the property, although it may need some improvement. Mr. Anderson said that if he goes south of the pedestals at this location he will likely be on private property and asked if he can continue to use the established road. Attorney Donovan suggested Mr. Anderson contact private legal counsel to assist him in determining if the current access is an established road. Mr. Anderson asked if the commission would be willing to say he can continue to use the established road and President Nygard said the commission could not give such approval at this time. Mr. Anderson state he was using the current access road until property owners blocked it with a vehicle and President Nygard stated the city would do what it can to determine the alley boundaries. Mr. Anderson then asked if the commission was telling him not to use that road. Ann Jacobs, Hazen, then asked which road was being referred to and Mr. Anderson stated the gravel surface that is there. Mr. Scharbach had no objection to Mr. Anderson using the gravel surface and then traveling south of the trees near the pedestals. President Nygard said the commission cannot provide a definite answer until the alley easement is properly defined. Commissioner Stern asked if a lot has a house and garage and the property is then split to separate it does the property owner have to provide access to the other portion of the property. Attorney Donovan stated the property the garage is located on is not part of the platted lot and was acquired separately. Commissioner Stern then asked if he were to buy a lot surrounded by private land what his rights to access the property are. Attorney Donovan said there are many variables to consider and that property owners need to seek private legal advice to resolve these issues. President Nygard said there is a proposal to conduct survey work and Mr. Anderson stated he had a copy of a survey depicting the lot pin locations. Ms. Jacobs said she also has documents that may show this location. President Nygard would also like to know the legal description of the property the garage is located on and suggested that if pins cannot be located by Planner Frovarp and Mr. Boehm he would like to see if KLJ Engineering has survey documents for the area. Commissioner Stern asked if the city would then be improving the alley access and President Nygard said that would be another issue as most benefited improvements are usually assessed back to the property owners but it would depend on the extent of the improvement. The matter was held until Planner Frovarp and Mr. Boehm returned to the meeting. When Planner Frovarp and Mr. Boehm returned the commission was advised that the pins were not definitely located and Mr. Boehm stated he would check office records and provide any documentation he could in the morning of April 8th. Mr. Boehm stated the garage appears to be right on the line of the alley easement, but he was not certain, and stated the pedestals appear to be near the center of the dedicated alley. President Nygard asked if, based on the information, the commission would like to proceed with the survey work. Commissioner Stern moved to approve survey work of 7th Street NE and the dedicated alley not to

exceed \$4000, second by Commissioner Wolf. Upon discussion Attorney Donovan asked if the utility companies may have survey documentation and Planner Frovarp stated that based on his discussion with Roughrider Electric this is not likely. On roll call vote; Stern, "Aye", Wolf, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried. President Nygard asked that this matter be resolved as quickly as possible.

REQUEST OF CITIZENS

Free/Reduced Hall Rent – Northland Healthcare Alliance: Northland Healthcare Alliance presented a request for approval for free hall use to conduct an event in cooperation with the ND Attorney General to educate the public on different "scams". A meal will be provided but the kitchen is not intended to be used for the event. Commissioner Wolf moved to approve the request for free use of the city hall, second by Commissioner Brunmeier. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Nygard, "Aye", motion carried.

Free/Reduced Hall Rent – Knights of Columbus: The Knights of Columbus are requesting free use of city hall for their annual Palm Sunday Breakfast with the proceeds to be used to purchase equipment for the First Choice Clinic. Commissioner Brunmeier moved to approve the free use of the city hall, subject to the regular kitchen fee, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

APPROVAL OF APPLICATIONS AND BUILDING PERMITS

Building Permit – Tobias Lemer: The commission reviewed an application for building permit to construct additional storage structure at 22 Glacier Park Ave as provided by Mr. Lemer. The permit does not require any type of variance. Commissioner Wolf moved to approve the building permit as requested by Mr. Lemer, second by Commissioner Stern. On roll call vote; Wolf, "Aye", Stern, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

Demolition Permit – Stroup Insurance Inc: Stroup Insurance Inc presented a request for a demolition permit, pursuant to city ordinance, to remove a structure located at 217 Central Ave N. A check in the amount of \$1000 was provided as surety for the permit. Commissioner Stern asked if there would be a need for asbestos abatement for this property and it was not certain at this time. Commissioner Stern moved to approve the demolition permit, pending clarification of the need for asbestos abatement, second by Commissioner Wolf. On roll call vote; Stern, "Aye", Wolf, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

Temporary Use Permit – Hazen Christian Fellowship: The commission reviewed photos relating to a previous request for approval of a temporary use permit to use a portable building as classrooms near the church. President Nygard said he saw no problem with the request so long as the building is skirted and properly maintained. Commissioner Stern moved to approve the temporary use permit, for period of two (2) years, as requested, second by Commissioner Wolf. Upon discussion Commissioner Brunmeier had concerns about a door being closed up and the general appearance,

stating she would like to see the condition improved a little bit. Attorney Donovan inquired as to utility connections and Commissioner Wolf understands there will be no city utility needs and electrical needs were not determined. On roll call vote; Stern, "Aye", Wolf, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

Building Permit w/Variance Request – Richard Heard: Planner Frovarp informed the commission that Mr. Heard was requesting a building permit to add an attached entry to his residence and construct a garage on the property at 510 6th Ave NE. Planner Frovarp said the residence is not in compliance with city code at this time, much like most of the properties in this area. The construction would require a twelve foot (12') front yard variance and a one foot (1') side yard variance for the garage.

Commissioner Stern moved to approve the building permit with the requested variances, second by Commissioner Wolf. Upon discussion Commissioner Stern asked if the \$15,000 estimated cost was accurate and Planner Frovarp said this only an estimate for a portion of the construction and the cost of the permit is based on square footage. On roll call vote; Stern, "Aye", Wolf, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

REPORTS

President: President Nygard had nothing to report but advised the commission, in Commissioner Obenauer's absence, that two (2) candidates were interviewed for the police department position.

Water/Sewer: Commissioner Brunmeier stated she had a report of coyotes coming down onto Divide Avenue getting into garbage. The crew will keep an eye on this matter.

Street/Cemetery: Commissioner Stern informed the commission that while moving snow there was an incident where a piece of equipment struck a vehicle while windrowing and the matter has been turned over to the city insurance carrier. Mr. Anderson asked about the parking ordinance during such an event and was advised that we do have the ordinance and citizens are usually notified to move vehicles prior to taking enforcement action. Public Works Director Neuberger stated that, at one time, the fine was so low it had little effect. President Nygard stated in such events it is a matter of good communication between the public works and police departments to avoid these types of incidents.

Finance/Busing: Commissioner Wolf informed the commission that in the preceding quarter the service provided 8,146 rides to the public and Hazen Busing was recently awarded additional funds to replace one of the buses.

Police/Fire: Commissioner Obenauer absent, no report.

OLD BUSINESS

Street Lighting – Fayette/Elbowoods Drive: Planner Frovarp had received information about the cost to install street lighting at \$440/light pole, \$5.50/foot for trenching (including wire) and a monthly cost of \$8.75/light for a 250W equivalent light. The commission would like Planner Frovarp to work with Roughrider Electric to determine proper placement of the lights and provide a total cost based on the

locations. Commissioner Stern asked if there had been a rate adjustment for the monthly cost and was advised this price has remained unchanged for a couple of years.

Truck Parking – Designated Areas: Commissioner Obenauer requested this topic be placed on the agenda to generate discussion on the need for designated truck parking areas. President Nygard said he had spoken to Commissioner Stern about this matter and agreed that if there is a suitable location for short-term parking it is something the city could work on. Commissioner Stern talked about the parking lot near Riverbend Machinery Inc or if some recycled asphalt could be placed at the former tree/grass site and then be removed if the property is developed. President Nygard suggested contacting companies to crush asphalt and Commissioner Stern they made inquiries in 2013 with little luck. President Nygard also suggested Commissioners Stern and Obenauer work with law enforcement to enforce current parking ordinances.

10th Street Extension/Construction: President Nygard asked that this item be placed on the agenda to see if the commission would like to re-address this matter while the street project is being done this year. Commissioner Stern would like to see what is going to be put on the property and design plans. President Nygard stated that part of the purpose in purchasing the property was to extend the street to provide alternative access to this area of the city. Attorney Donovan said the commission may want to consider platting the property to include the road and other improvements. President Nygard said there was an initial design for the road and perhaps this could be incorporated into a plat. Attorney Donovan suggested the purpose of the plat is to show where utilities will be located taking into consideration the city's master plan for development. Director Neuberger said people are using the trail as a shortcut and President Nygard suggested that if it is not to be developed in the near future the access to the site should be shut down and allow it to be used for agricultural purposes which may control some of the weeds in the area. Director Neuberger said the access has been barricaded on the west end and the gate has been locked on the east end. Commissioner Stern had concern that if the land is farmed would there be an issue if there were some construction later in the year and President Nygard suggested any rental agreement include provision that the road may be constructed and Commissioner Wolf suggested that if farmed the proposed road area be marked to exclude it when seeded.

NEW BUSINESS

ND Department of Health Contract: Commissioner Wolf moved to approve the annual contract with the ND Department of Health Division of Microbiology for testing of water samples, second by Commissioner Brunmeier. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Nygard, "Aye", motion carried.

July 4th Fireworks Display: Commissioner Wolf told the commission that the Chamber of Commerce is preparing for the 4th of July celebration and is seeking approval to use the property near the proposed arboretum for the fireworks display. The location was used in the past and the display would be conducted by the Hazen Fire Department. Chamber representatives will contact local property owners to ensure everyone is aware of the planned display. Commissioner Brunmeier moved to approve the

use of the site near the proposed arboretum for the fireworks display, second by Commissioner Stern. Upon discussion it was determined this location was used two (2) years ago. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

Approval of Bills: Commissioner Wolf moved to approve payment of bills, second by Commissioner Brunmeier. Commissioner Stern had a question about the JDA Levy and was advised the total amount is less than \$20,000 but the majority is received in the first couple months of the year, prior to the discount deadline. The pre-paid and bills approved to be paid are as follows: Ameripride Linen & Apparel Services, 341.30; BHG Inc, 1622.96; Bobcat of Mandan, 192.47; Butler Machinery Co, 915.56; Cardmember Service, 218.93; Cenex, 3389.75; Chamber of Commerce, 14.00; Christy White, 42.00; D&E Supply Co, 140.08; Dakota Communications, 580.50; Dan Wettstein, 320.00; Electronic Communications Inc, 52.00; Fastenal Co, 697.19; Global Chemicals Inc, 409.61; Greg McKee, 184.14; Hawkins Inc, 5.00; Hazen Community Development, 9521.44; Hazen Hardware Inc, 202.25; Hazen Motor Co, 38.15; Hazen Motor Farm Equipment Co, 327.50; Hazen Welding, 401.00; Hiway Express, 3117.53; Jensen Jewelry, 284.95; Joyce Lemer, 31.50; Judy Brunmeier, 116.36; Krause's Super Valu, 309.52; Kurt Milbradt, 100.00; Lange & Donovan PLLP, 1123.75; M&T Fire & Safety Inc, 780.00; Matthew Bender & Co Inc, 57.08; Mel Roth Oil, 2821.58; Mercer County Peace Officers Assn, 40.00; Mercer County Treasurer, 3333.69; Michael Todd & Co Inc, 382.20; Midwest Doors, 118.20; Monte Erhardt, 271.80; My-Lor Inc, 42.59; ND Department of Health, 32.00; NAPA Auto Parts, 928.33; Obenauer Plumbing LLP, 84.48; Peggy Rahn, 42.39; Preble Medical Services, 88.00; Radisson Hotel, 74.70; Roughrider Electric Coop Inc, 3608.23; Sakakwea Medical Center, 88.58; SBM Inc, 15.08; Shannan Fink, 150.52; Southwest Water Authority, 22247.34; St Alexius Medical Center, 187.50; Starion Bond Services, 182628.75; Steve Frovarp, 25.95; Verizon Wireless, 294.65; West Dakota Lumber, 95.00; West River Telecommunications, 844.93. Motion unanimously carried.

There being no further business the meeting was adjourned at 7:03 PM CT. The Equalization Board will meet at 6:00 PM on April 8th in the small hall and the next regular meeting of the commission will be April 21, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: _____
Mark Nygard,

Attest: _____
Monte J. Erhardt, Auditor

**City of Hazen
Board of Equalization
Meeting Minutes
April 8, 2014**

Board Members Present: Mark Nygard, Jerry Obenauer, Judy Brunmeier, Casey Stern & Nancy Wolf,

Staff Present: Assessor Steve Frovarp & Auditor Monte Erhardt

The meeting was called to order by Mr. Nygard at 6:00 PM CT. Mr. Nygard explained that valuations have increased statewide and if certain conditions are met the property owner is sent a notice. Mr. Nygard also explained that though valuations have increased this does not automatically increase the property tax to be levied. Mr. Nygard asked Assessor Frovarp to explain the process and Frovarp advised that the ND Century Code indicates that property within a taxing district is to be valued within 10% of market sales and that this year the city will see an adjustment in the values of all properties due to the increased sale prices and if values are not maintained as required the state can order an across the board increase on subject property. Frovarp also advised that a notice of increase is only sent to a property owner if the increase is \$3000 AND 10% more than the previous year and this year there were 985 notices sent out. Frovarp advised that land valuations were the major portion of the change in valuation as land should be roughly 15% of the sale price of the property. Mr. Nygard then opened the floor to comments. Wayne Hermes expressed concern of properties increasing in value in excess of 53% since Vanguard conducted the initial assessment. Mr. Nygard said there was a problem in previous assessments that were not equalized as well as they are now. Mr. Hermes then said it would be nice to see some type of development in the city. Ray Kruckenberg asked how the patio home units compare in value. Frovarp explained that with a mass appraisal there are more generalities and the program looks at sales and depreciation factors. Mr. Kruckenberg then asked about the purchase of the program from an out-of-state company and Mr. Nygard explained that this type of software is not available from a local provider. Mr. Kruckenberg also asked about the money spent on the RV Park and Mr. Nygard explained other than purchasing the property and some preliminary survey/design work there are currently no funds expended on that property. Mr. Stern said that nearly \$100,000 has been spent on the RV Park and that is not a small sum. Frovarp advised those present that there have been some significant changes to the Homestead Credit program that makes it easier to qualify. Frovarp, in response to a question, stated there were no major changes to commercial property values due to the limited number of sales. Frovarp was then asked if the commercial values could be assessed based on sales or sales tax and Frovarp stated this is not equalized as the difference in sales dollars from a coffee shop to a diamond store would be very great. Kim Langord said that when Vanguard came to his house and established a value there have been no changes to the interior of the home yet it continues to increase and he does not see the rural residences increasing as much. Mr. Kruckenberg asked if the patio homes all are valued the same and if they are not that is discrimination. Frovarp stated that even though they are under one roof there are differences in size and structure within that can make them a slightly different value. Ken Link asked about the equalization process and the fairness of it as some properties near his were not changing in value similarly. Frovarp explained that there was an error on the property information as to when two homes were built which would trigger some of the

depreciation values that are considered. Frovarp explained that these property errors have been corrected. Mr. Link was still concerned as to how many other such errors may be in the system and Mr. Nygard said there may be errors but the process is far less likely to have such errors. Mr. Link said the property owners need to be more aware of the value of their property and the changes to avoid errors like these. Frovarp explained that property owners can access the website to see pictures, floor diagrams and other property information to see if there may be errors. Steve Duewel asked if the city still expects mill levies to go down and what the city is doing to find additional funding sources. Mr. Nygard said he would like to see the city keep tax revenue neutral, if possible, and suggested contacting legislative representatives about such funding sources and Mr. Obenauer said the city is still seeking grant funds and other sources. Mr. Stern said he understood Mr. Langord's point about the rural property not seeming to increase and Frovarp advised that they are held to the same standard as the city in that values are supposed to within 10% of market sales. Mr. Stern then asked about values of homes in the older area of the city and if there is any consideration to location when looking at property value. Frovarp advised location is not as big of factor as people may think in that a home very near the railroad tracks will still have a value nearly the same as a similar home in another area of the city. Robert Jacobson asked if there is any type of maximum amount a home's value may increase and Frovarp advised it still goes back to state law and the sales information. Mr. Nygard said there is room for property tax reform and things probably can be done better. Mr. Langord asked if rental units are considered commercial or residential and Frovarp explained they are considered commercial. Mr. Nygard encouraged anyone with specific questions to contact Frovarp and to also keep an eye on city, school and county budget meetings when they are scheduled as these drive the mill levy. Les Miller had questions about the value of a property and he would like to meet with Frovarp. Mr. Link asked how the assessor gets the sales information as most deeds are indicating confidential and Frovarp advised that the last legislative session changed this and these are no longer confidential and are reported back to the county and are then available to the city. Frovarp also said that his earlier reference to the Homestead Credit program also applies to renters. Mr. Duewel would like to see the city continue to encourage developers to come into the city and Mr. Nygard said that Hazen Community Development has been very active in this regard. Mr. Obenauer moved to recess the equalization meeting until April 21, 2014 until the regular city commission meeting, second by Ms. Wolf. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Stern, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

There being no further business the meeting was recessed at 6:57 PM CT.

Mark Nygard
Chairman, Hazen Equalization Board

Monte J. Erhardt
City Auditor