

**Hazen City Commission  
Regular Meeting  
May 19, 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, Jesse Flath, Ken Link, Mary Hillerud, Casey Voigt, Greg Lange, Inez Jo Neuberger, Leon Grosz, Ron Neuberger and Buster Langowski.

Meeting Called to order at 5:30 PM CT.

**Minutes:** Commissioner Wolf moved to dispense with the reading of the May 5<sup>th</sup> minutes and approve them as presented, second by Commissioner Obenauer. Motion unanimously carried.

**Agenda:** Commissioner Obenauer moved to approve the agenda, second by Commissioner Stern. Mr. Link was added to the agenda as item 11B. Motion unanimously carried.

**CONSULTATION WITH ATTORNEY & ENGINEER**

**Main Street Project – Resolution-Proposed Changes:** President Nygard said the commission had looked at some possible additions to the project and Mr. Boehm has provided cost estimates based on the bid prices as received by the commission. There are five separate areas to be considered. The first item to consider is the installation of fabric for the entire length of the main street project, at an estimated cost of \$44,898. Mr. Boehm indicated the fabric would help spread the load over the street and help to reduce reflective cracking of the pavement. Commissioner Stern moved to approve the fabric addition to the project, second by Commissioner Brunmeier. On roll call vote; Stern, “Aye”, Brunmeier, “Aye”, Obenauer, “Aye”, Wolf, “Aye”, Nygard, “Aye”, motion carried. The next item for consideration was the addition of Central Ave south from Main Street to within ten feet (10’) of the railroad crossing at an estimated cost of \$47,702. Commissioner Obenauer moved to approve the Central Ave S addition to the project, second by Commissioner Wolf. Upon discussion Commissioner Stern said there are other streets already in the project that are in better shape than this and other streets not in the project that are extremely bad. President Nygard agreed, stating there are probably a whole lot of areas that need to be addressed and there may be a need for another major project within the next ten (10) years. Commissioner Obenauer also agreed that more areas could probably be added to the project if the city were to re-evaluate the condition today. Commissioner Stern said there is more that should be done but the commission needs to choose what they will do based on the need of the citizens. President Nygard asked how much could be added to the project without need to re-

bid and was advised the project cannot increase or decrease by more than 20%. Jesse Flath said he heard that 4<sup>th</sup> Street serving the hospital is scheduled for next year and that there are more areas that will need to be repaired within the next five (5) years. President Nygard said no other projects are planned for next year. Commissioner Stern said he would like to see a major project every two (2) years. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Nay", Nygard, "Aye", motion carried. The next item to be considered was the addition of repairs to 12<sup>th</sup> Ave NW at an estimated cost of \$58,264. Mr. Boehm advised that this area would need to be done from the beginning by removing the pavement and sub-cutting approximately six inches (6") before rebuilding the street and paving. Commissioner Wolf moved to approve the 12<sup>th</sup> Ave NW addition to the project, second by Commissioner Brunmeier. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Nay", Obenauer, "Aye", Nygard, "Aye", motion carried. The next item was the addition of a portion of Highway Drive, from the entrance of Roughrider Electric to the valley gutter, at an estimated cost of \$22,933. Commissioner Obenauer moved to approve the Highway Drive addition to the project, second by Commissioner Brunmeier. Ken Link said this street and the one near Alco are bad but they were not designed for heavy semi traffic or parking and there are questions as to the drainage near Alco and the effect this has on 12<sup>th</sup> Ave NW. Mr. Boehm agreed that 12<sup>th</sup> Ave NW would have to be torn up and repaired from the start and that each street in the project will be treated differently with regard to the re-construction or maintenance needed. Mr. Link said that at one time there was a plan to assess all the city street foundations and this was never completed. Mr. Boehm said the commission may not want to hear the results of such an assessment as the cost to design and re-build the streets will be very high. President Nygard asked about the history and benefit of the fabric and Mr. Boehm again said the fabric helps transfer the load over a larger area but maintenance would still be required and the city would have to consider sealing or something in the future to protect its investment. On roll call vote; Obenauer, "Aye", Brunmeier, "Aye", Stern, "Nay", Wolf, "Aye", Nygard, "Aye", motion carried. The final item to be considered was for the paving of the parking lot north of city hall at an estimated cost of \$18,832. President Nygard suggested that this work be done utilizing city funds and city crews to complete some or most of the prep work. Commissioner Stern moved to approve paving of the parking lot north of city hall and not include the cost for the paving in the special assessment, second by Commissioner Brunmeier. On roll call vote; Stern, "Aye", Brunmeier, "Aye", Obenauer, "Aye", Wolf, "Aye", Nygard, "Aye", motion passed. Mr. Flath then asked about the curb stop in front of his business on Main Street indicating it has not worked properly for the last couple of years. Mr. Boehm agreed the city should address repair/replacement of this curb stop prior to paving Main Street to protect it from damage. Mr. Boehm also updated the commission on the progress of the project indicating two (2) inlets had been installed on the "Mine Road", concrete crews had begun work on curb and gutter at various locations in town and blade work for the new curb and gutter on the frontage road had been started. The concrete crew is still estimating a couple of weeks to complete their work and the asphalt crews would begin work shortly after that once the weather has warmed up a little more. Commissioner Obenauer asked if a couple areas that were disturbed to repair

water/sewer lines could be included in the project as they have been in need of attention for more than a year. President Nygard suggested contacting the local contractor to see if they intend to complete this work and Commissioner Stern suggested, if possible, doing these areas with the crew that is working on the main street project.

**Tobacco/e-Cigarette Ordinance:** Mary Hillerud, Custer District Health, met with the commission to ask them to consider developing and approving an ordinance relating to tobacco and e-cigarette sales in the City of Hazen. Ms. Hillerud stated e-cigarettes are not considered tobacco products and therefore have no age restrictions on sales. Ms. Hillerud said she has conducted many assessments of local business and finds that these items are being displayed behind the counter making them slightly less accessible than other products but she would like the commission to review some ordinances adopted by other jurisdictions, such as the one recently approved by the city of Hankinson. Commissioner Obenauer said he had visited with some area businesses and they agree adopting an ordinance relating to e-cigarettes would be okay. Ms. Hillerud presented a spreadsheet listing cities that have adopted tobacco/e-cigarette ordinances and said the city does not have such an ordinance and relies on state law for guidance. In response to a question from President Nygard, Attorney Donovan stated there is a national debate as to the effects of e-cigarettes and the city has ultimate discretion as to what extent they city wants to regulate something. Mr. Flath questioned how the e-cigarettes are taxed and suggested if they are taxed like tobacco the legislature should address laws treating them the same way as tobacco. President Nygard indicated he is not opposed to adopting an ordinance if state law does not address the issue. Commissioner Stern asked about city license to sell tobacco products and was advised there is no local license only a state license. Commissioner Brunmeier would like some time to review the Hankinson ordinance and consider this matter again at the June 2<sup>nd</sup> meeting.

**LiDAR Project:** Greg Lange and Casey Voigt, representing the Mercer County Water Resource Board, met with the commission to update them on progress toward a project to obtain LiDAR mapping of Mercer County and the cities. Mr. Lange stated the total estimated cost for the project is \$234,000 and they are seeking funding equal to one-half of this amount from the State Water Commission. The remaining balance for the project would be shared among the water board, county and each of the cities (based on population). Mr. Lange stated the share to the city of Hazen, based on population, would be approximately \$11,142. President Nygard said he had talked to staff at Ulteig and Kadrmas, Lee & Jackson and they both agree this would be valuable to the city. Mr. Lange said the data collected is accepted by FEMA and available to the public. Commissioner Stern asked if the county was interested in paying more than 25% of the \$117,000 and Mr. Lange stated everyone is being asked to participate in the cost and basing it on population seemed the best reflection of the tax base. There were some questions of additional expense from the city's engineer to establish control points and Mr. Lange said he would check with the contractor providing the service but he was not aware of such a need. Commissioner Stern moved to approve funding of up to \$15,000 for the LiDAR project, second by Commissioner Wolf. President Nygard said that anything over the \$15,000 would require action by

the commission for approval. On roll call vote; Stern, "Aye", Wolf, "Aye", Obenauer, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

## **INTRODUCTION, READING & APPROVAL OF ORDINANCES**

**Building Inspections/Chapter VIII Building Code Ordinance:** The proposed amendment of city ordinance, Chapter VIII relating to building codes has been updated as recommended at the previous meeting. Planner Frovarp advised the commission that he included a definition for "remodeling" and updated the requirements relating to backfilling and notifications as requested. Commissioner Brunmeier moved to approve the first reading the proposed amendments to the municipal ordinance, as presented, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Obenauer, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

## **APPROVAL OF APPLICATIONS AND BUILDING PERMITS**

**Site Authorization(s) – Hazen Winter Sports:** Inez Jo Neuberger met with the commission to request approval for gaming site authorizations at; Box's Bar, Jimmy's Lounge and Longshots Bar LLC as required for renewal of state gaming permits. Commissioner Obenauer moved to approve the site authorizations as presented by Hazen Winter Sports, second by Commissioner Wolf. Upon discussion the commission asked what the gaming proceeds are used for and Ms. Neuberger stated the gaming proceeds fully fund the operations of Hazen Winter Sports and their programs and an annual report of revenue and expenditures is available upon request. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Nygard, "Aye", motion carried.

**Building Permit Application w/Variance Request – L. Grosz:** The commission reviewed a building permit and variance request submitted by Leon Grosz for construction to be done at 1029 Elbowoods Drive. Planner Frovarp said the application may look familiar as the commission previously approved a similar request but this new application increases the size of the structure from 36'x40' to 40'x40' and does not increase the required variance. Commissioner Wolf moved to approve the building permit and variance as requested, second by Commissioner Brunmeier. Upon discussion Commissioner Obenauer was advised the only change from the previously approved permit was the size of the structure. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Nay", Obenauer, "Nay", Nygard, "Aye", motion carried.

## **REPORTS**

**President:** President Nygard had the auditor update a spreadsheet of expenses relating to the RV Park relocation stating all the costs, thus far, are recoverable. President Nygard had asked that the cost of the water/sewer capacity study be included as this needed to be done regardless of the RV Park move. Commissioner Stern stated the costs were higher than indicated as there was additional engineering that was not included. Commissioner Stern also questioned if the sewer study, which was based on a 32 unit complex and 10 single family homes would be accurate or need to be changed depending on

the size and type of development. President Nygard did not feel there would be a large change in demand based on the use. Mr. Flath asked if the road at the proposed RV Park was going to be constructed this year and he was informed that it is not planned to be constructed at this time.

**Water/Sewer:** Commissioner Brunmeier had nothing to report.

**Street/Cemetery:** Commissioner Stern had provided pictures of damage to the bike path north of Highway 200 between 4<sup>th</sup> Ave NE and 6<sup>th</sup> Ave NE that occurred when the contractor added asphalt to raise the path near the apartment complex. Mr. Link said the path in that area was flawed from the start as it affects drainage during high water events. The city is to prepare a letter requesting the Hwy 200 project engineer work with the contractor to address the damages. Commissioner Stern said the public works positions had been offered to two (2) individuals and one has accepted and Commissioner Obenauer will address the second offer during his report. Commissioner Stern referred to a quote to crush asphalt as distributed by Public Works Director Neuberger and advised the commission that he had obtained a quote to purchase, deliver and spread recycled asphalt over a 600' x 300' area for \$90,000. The quote received to crush 8,000 tons of asphalt, on hand, is \$100,000. With regard to using the former grass/tree dump site for truck parking, Director Neuberger said the base is not very good. Commissioner Obenauer questioned how much asphalt could be recovered if this site is developed and Mr. Flath asked if the city intends to charge for parking at such a location. Mr. Link suggested the city blade the site for proper drainage, apply four inch (4") scoria and gravel rejects which would make a very good lot for truck parking. Commissioner Brunmeier asked if there was any new information with regard to the proposed hotel and Mr. Langowski indicated the market study is expected to come in soon and he doesn't expect a lot of change from the previous report. President Nygard asked about crushing what the city has on hand and Commissioner Stern expressed concern about crushing at the proposed cost and then only using a small portion of it. President Nygard suggested Director Neuberger get prices for scoria and gravel for consideration.

**Finance/Busing:** Commissioner Wolf advised the commission that the public transit had provided rides for 20,000 students over the course of the school year.

**Police/Fire:** Commissioner Obenauer had nothing to report relating to the fire or police department. With regard to forestry, Commissioner Obenauer would like to combine the forester position, which includes oversight of seasonal workers, with the public works position and offer this position to Mr. Brandt at a rate of \$18.60/hour. Commissioner Obenauer said the forester position requires additional training and involves considerably more paperwork and the public may not realize the true value of the trees within the city. Commissioner Obenauer moved to offer the forestry/public works position to Brody Brandt at a rate of \$18.50/hour, second by Commissioner Wolf. Commissioner Stern was concerned that other applicants may have been qualified for the position and also the concern that Mr. Brandt had not contacted the city with regard to the initial offer of employment. Commissioner Obenauer said he could not speak to the rationale as to why the city was not contacted but he does feel that Mr. Brandt has the background that would be beneficial to the city forestry department. President Nygard asked if the application asked about specific qualifications relating to forestry.

Commissioner Stern stated it was not specific but more of a broad, general question. President Nygard said the city has sought someone for this position both full-time and part-time with no interest. Mr. Flath inquired about the difference in pay between the initial employment offers and was advised it is \$0.90/hour. Commissioner Stern was concerned at the lack of enthusiasm shown with regard to accepting the position and Commissioner Brunmeier thought perhaps other applicants should be considered. Mr. Langowski suggested rather than re-interviewing applicants the commission should take a look at the resumes and proceed from there as he feels the forestry position is important because Hazen is known for its trees. Mr. Link said this one person would then be 100% forestry for about six (6) months out of the year and 100% street department for the other six (6) months of the year; since the duties overlap and capable applicants were interviewed why go back and interview again. Mr. Neuberger was pleased with Mr. Brandt's interview and knowledge not only in forestry type matters but also his experience with equipment. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Nay", Nygard, "Aye", motion carried.

## **OLD BUSINESS**

**Street Parking:** Commissioner Obenauer asked if there had been any information received with regard to Beulah's ordinance and he was advised Commissioner Brunmeier had asked that this be included on the agenda for complaints of parking and vehicles on Main Street and 2<sup>nd</sup> Ave SW. Commissioner Brunmeier had received complaints about visibility when leaving the post office through the alley to the west and about vehicles being on the sidewalk in front of the business. Commissioner Stern said the city ordinance allows parking for seventy-two (72) hours, (shorter in winter) and that we simply need to enforce the ordinances that have been approved. President Nygard agreed that there is some congestion near the intersection and Commissioner Obenauer stated he would contact the Chief of Police about enforcing the current ordinance. Mr. Flath stated that, while not directly related, he and other business owners would like to see a four way stop at the intersection of Main Street and First Ave W. President Nygard said this has been discussed and when the main street project is being completed they will look at ways enhance visibility through different parking options to move vehicles away from the intersection.

**Water Concerns – D. Bruner:** Commissioner Stern had been contacted by Mr. Bruner with regard to a matter he had brought to the board previously. When a water line was repaired near his residence there were issues with backfilling and the street and curb have sunk allowing water to stand which then soaks through and follows the water line into the basement of Mr. Bruner's residence. President Nygard said he and former public works director Quast had looked at the problem and were going to try to lift the curb back up to proper level and then bring the asphalt to proper height as well. Mr. Flath asked who had done the repairs and backfill suggesting they should be responsible for the repairs. Public Works Director Neuberger was asked to take a look at this matter and bring a recommendation to the board.

## **NEW BUSINESS**

**Meeting Schedule – June Mid-Month Meeting:** According to ND Century Code the board is to re-organize and install the newly elected commissioners at a meeting to be held on the fourth Tuesday in June, following the election which is June 24<sup>th</sup>. President Nygard asked if the board wished to consider rescheduling the June 16<sup>th</sup> meeting to this date so they don't have to have an additional meeting in June. Commissioner Wolf moved to reschedule the June mid-month meeting to June 24<sup>th</sup> at 5:30 PM CT, second by Commissioner Brunmeier. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Obenauer, "Aye", Nygard, "Aye", motion carried. President Nygard will no longer be a member of the commission but stated he would be available if they would like him at the meeting.

**Questions of Mr. Link:** Mr. Link had some questions for the commission with regard to various issues. First Mr. Link suggested the city consider annexing the golf course property to provide for additional sales tax revenue which could be used to offset some of the course expenses. Mr. Link inquired about the annexation of the Enerbase Addition and was advised this property had been annexed. Mr. Link said that, when the sewer lines were replaced in the city center, there was discussion about having all the older sewer lines inspected and if repairs were necessary the district to assess the costs could be over a larger area the city. President Nygard said it has not been discussed recently and Commissioner Stern said he was advised we probably don't want to know what they are like. Commissioner Obenauer stated it may be wise to have them inspected and would not be opposed to such action. Mr. Link also had questions about the engineering contract for the main street project and President Nygard said the commission approved design engineering as a lump sum of 5% based on the engineers estimate and the construction engineering will be actual costs according to the rates provided. Mr. Link also wished to discuss concerns regarding 4<sup>th</sup> Street NE in front of his property. In 1977-1978 much of the traffic to and from the hospital was routed along this street and it has not had any maintenance other than a seal coat since that time. Mr. Link went on to say that approximately twenty (20) years ago a water line was repaired near his property and the curb and street are now sinking allowing water to pool and causing further damage to the street. President Nygard said the city will work with the engineer to meet with the street commissioner and public works director to address Mr. Link's concerns. Mr. Link said if surface water is causing damage to the street it needs to be addressed.

**Approval of Bills:** Commissioner Wolf moved to approve payment of bills, second by Commissioner Obenauer. The pre-paid and bills approved to be paid are as follows: Chip Wizard, 40.00; Convention and Visitors Bureau, 1625.56; D&E Supply Co, 105.85; Discovery Benefits Inc, 25.00; Duckwall-Alco Stores Inc, 18.99; Ed Mittlesteadt, 16.00; Fastenal Co, 4.38; Hiway Express, 3462.15; Information Technology Department, 75.00; Joyce Lemer, 63.00; Kadrmars, Lee & Jackson Inc, 123266.61; Lonny Buchmann, 120.00; Matthew Bender & Co Inc, 67.91; Mel Roth Oil, 1589.50; Michael Todd & Co Inc, 784.85; Mike Froelich, 18.00; Montana Dakota Utility, 4397.74; Monte Erhardt, 65.54; Municipal Government Academy, 235.00; ND Department of Health, 32.00; ND Department of Health, 1240.08; NAPA Auto Parts, 314.70; Nelson International, 110.29; North Dakota One Call Inc, 24.20; Northern

Safety Co Inc, 123.33; Northland Financial, 302.00; Power Plan, 232.70; Preble Medical Services Inc, 53.00; Public Safety Sales, 645.00; Purchase Power, 2020.99; Roughrider Industries, 1381.00; Roughrider Electric Coop Inc, 3507.34; Steam Brothers, 559.00; Stein's Inc, 48.27; Stroup Insurance, 305.00; Super Products LLC, 542.28; Trusco Manufacturing Co, 3114.58; West River Telecommunications, 845.74. Motion unanimously carried.

There being no further business the meeting was adjourned at 7:52 PM CT. The next regular meeting of the commission will be June 2, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: \_\_\_\_\_  
Mark Nygard,

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