

**Hazen City Commission  
Regular Meeting  
June 2, 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, Joe Snustad, Clint Knutson, Mary Hillerud, Mary Nygard, George Quast, David Bruner, Tim Steffes, Director Neuberger, Seth Peterson.

Meeting Called to order at 5:30 PM CT.

**Minutes:** Commissioner Brunmeier moved to dispense with the reading of the May 19<sup>th</sup> minutes and approve them as presented, second by Commissioner Wolf. Motion unanimously carried.

**Agenda:** Commissioner Obenauer moved to approve the agenda, second by Commissioner Stern. The tobacco/e-Cigarette ordinance was added as item #5A and Mr. Bruner was added as item #5B. Motion unanimously carried.

**CONSULTATION WITH ATTORNEY & ENGINEER**

**Main Street Project:** The commission received written change order #1 relating to previously discussed additions to the Main Street Project which total \$185,532.00. President Nygard had discussed engineering costs with Mr. Boehm and was advised there would be no additional design engineering cost for the changes. Commissioner Obenauer moved to approve Change Order #1 of the 2014 Street Improvement Project at a cost of \$185,532.00, second by Commissioner Wolf. Upon discussion Commissioner Stern questioned an amount for additional base material on the frontage road. This is not part of the change order and will be addressed when the requested pay estimate is discussed. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Nay", Nygard, "Aye", motion carried. The commission had received pay estimate #1 on behalf of Bituminous Paving in the amount of \$99,020.10. This amount includes an additional \$2,572.50 for gravel needed for the base on the frontage road which Commissioner Stern had asked about. Joe Snustad, KLJ Engineering, stated the additional gravel material was necessary because the base of this road was not as thick as originally estimated. Commissioner Brunmeier moved to approve pay estimate #1 in the amount of \$99,020.10 as presented, second by Commissioner Stern. Upon discussion President Nygard asked Mr. Snustad to track things like this to make sure they are accounted for and offset in other portions of the project, if possible. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Obenauer, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried. Mr. Snustad updated the commission on progress of the project and

stated the concrete work will hopefully be finished by June 6<sup>th</sup>, depending on the weather.

Commissioner Stern asked if the curb areas are inspected prior to pouring concrete and Mr. Snustad said he tries to be available while the area is prepared for concrete but it is inspected prior to pouring and he is generally on site when the concrete arrives. Commissioner Stern asked when the paving may begin and Mr. Snustad stated the contractor has another job to finish prior to coming to Hazen so a definite date is not available but he hopes to be able to notify the city a week or two before the contractor arrives.

## **REQUEST OF CITIZENS**

**Tobacco/e-Cigarette Ordinance:** President Nygard said the commission had received information relating to ordinances adopted by other cities relating to tobacco and e-cigarette sales and stated he had no additional comments. Mary Hillerud, Custer Health, stated she had nothing to add at this point and attended the meeting to see how the commission would like to proceed. Commissioner Obenauer stated that he had contacted some businesses and they had no issue with doing what the city wants as they comply with the state law now. Commissioner Stern would like to see the city adopt something restricting sale of e-cigarettes to minors. President Nygard agrees the tobacco ordinance should apply to e-cigarettes also and Commissioner Obenauer inquired as to the process to amend or adopt an ordinance. Attorney Donovan suggested that a proposed ordinance be drafted for review prior to a first reading and Commissioner Obenauer suggested using portions of the ordinance adopted by the City of Hankinson. Ms. Hillerud would like to see an ordinance that would restrict display of e-cigarette to behind store counters and include an age requirement to purchase. Commissioner Obenauer moved to start a process to adopt an ordinance relating to the sale of e-cigarettes which restricts sale of such items to individuals eighteen (18) years of age and older and that they be displayed behind the counter of the business, second by Commissioner Brunmeier. Seth Peterson questioned the need for an ordinance as discussed. President Nygard said these items are not currently required to be behind the counter. Mr. Peterson stated he thought state law required a person be at least eighteen (18) years of age to purchase e-cigarettes. Ms. Hillerud stated there is currently no law restricting sale or requiring other terms. President Nygard indicated he is not aware of the restrictions and agrees that the businesses have been voluntarily restricting sale, at this time. On roll call vote; Obenauer, "Aye", Brunmeier, "Aye", Stern, "Aye", Wolf, "Aye", Nygard, "Nay", motion carried. Commissioner Obenauer, Commissioner Brunmeier and Ms. Hillerud will work to draft language for an ordinance for consideration.

**Water Concerns – Sunflower Lane:** Clint Knutson, Ulteig Engineers, advised the commission that he had looked at the condition of the curb and street near the Bruner residence. Mr. Knutson said you can see where the curb dips and depression in the street and suggested the only way to address this situation would be to remove a section of the curb, fill and pack the area, and then replace the curb and repair the asphalt. President Nygard was advised of the location of the curb stop and asked if it may be possible to jack the curb back into proper position. Mr. Knutson stated this could be a

possibility but the city would still have to address the need for additional asphalt as well. Director Neuberger said he did not think it would work to try to pick the curb up back into place and suggested removing the curb to make proper repairs. In response to a question of the commission Mr. Bruner stated the job was started by a contractor who was not able to complete the project so the city completed it and Mr. Bruner questioned if the city backfilled and packed the area properly. Commissioner Stern asked if the water problems Mr. Bruner is experiencing are coming from the curb situation and Mr. Knutson stated he could not answer the question definitely until such time as the area is dug up. Mr. Bruner stated he had never experienced water problems prior to this being dug up for repairs. President Nygard stated the city is responsible to repair the street and curb but it may not solve the problem. Commissioner Stern asked if the concrete crew working the street project would be able to address this area and Mr. Snustad stated they are not set up for excavating such as this. Commissioner Stern moved to repair the curb and street near 1208 Sunflower Lane making sure the fill is packed properly, second by Commissioner Brunmeier. Upon discussion Commission Obenauer asked if they would have to excavate to the center of the street and Mr. Knutson stated most of the issue is toward the north side of the street. On roll call vote; Stern, "Aye", Brunmeier, "Aye", Obenauer, "Aye" Wolf, "Aye", Nygard, "Aye", motion carried.

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

**Building Inspections/Chapter VIII Building Code Ordinance:** The first reading of the amendments to Chapter VIII relating to Building Codes were approved at the May 19th and Commissioner Wolf moved to approve the second reading of the proposed ordinance, as presented, second by Commissioner Stern. On roll call vote; Wolf, "Aye", Stern, "Aye", Brunmeier, "Aye", Obenauer, "Aye", Nygard, "Aye", motion carried. The ordinance will be effective upon publication in the official newspaper. The commission then discussed the process to contract with an individual or firm to perform building inspections. Commissioner Brunmeier moved to advertise for contract for building inspection services, second by Commissioner Wolf. Upon discussion Attorney Donovan said the commission will still need to determine who will supervise the contractor and what the duties will be. On roll call vote; Brunmeier, "Aye", Wolf, "Aye", Obenauer, "Aye", Stern, "Aye", Nygard, "Aye", motion carried. Planner Frovarp asked, since the ordinance was approved, if the city could hire someone to perform these duties, as needed, until a contract is finalized. Attorney Donovan suggested making the ordinance effective at a later date to allow time for advertising and a contract to be offered. Commissioner Obenauer moved to establish the effective date of July 21, 2014 for the approved ordinance amendments of Chapter VIII, second by Commissioner Brunmeier. On roll call vote; Obenauer, "Aye", Brunmeier, "Aye", Stern, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

## **REPORTS**

**President:** As this will be President Nygard's last official meeting he wished to thank the employees of the city for making his job as commission president so much easier. President Nygard also wanted to thank the other commissioners stated they may not have always agreed but they have always had a good discussion. President Nygard also wanted to thank his wife, Mary, for her support and stated the experience has been very fun and he learned a lot in his years of serving on the commission.

**Water/Sewer:** Commissioner Brunmeier stated there have been a couple of incidents in the past week where curb stops have been hit and needed to be replaced. In one instance the city's portion of the parts and labor was more than \$900. Commissioner Stern asked about the penalty for failure to complete a one call and Director Neuberger said a locate call had been done but the city does not have current documentation as to all the utility locations in this area. Commissioner Brunmeier also had concerns with property on 1<sup>st</sup> Ave NE that is being neglected and suggested a letter be sent to the property owner under the city's nuisance ordinance. President Nygard said this process has been done in the past.

**Street/Cemetery:** Commissioner Stern advised the commission that additional interviews for the public works position were conducted on May 30<sup>th</sup> and Commissioner Stern moved to offer the full-time public works specialist position to Kenny Klein at a rate of \$17.60/hour, second by Commissioner Brunmeier. Commissioner Stern said the pay rate is 85% of the full hourly wage and also informed the commission that Mr. Klein is currently employed by the city of Beulah. Commissioner Obenauer asked if the position will involve forestry duties and Commissioner Stern stated it is not part of the offer but explained forestry duties could be added in the future. On roll call vote; Stern, "Aye", Brunmeier, "Aye", Obenauer, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

**Finance/Busing:** Commissioner Wolf advised the commission that payroll for the Chamber Director will be processed through the city to streamline withholding and reporting requirement. Attorney Donovan and Auditor Erhardt are drafting an agreement relating to reimbursement responsibilities. Commissioner Wolf also informed the commission that, as part of the recent HCD meeting, there was discussion on repairing the parking lot near the commerce center and also discussion to encourage the city to pursue additional property for city development. President Nygard has been advised the property owned by Basin Electric will be advertised for bids and he recommend the city provide a bid. Commissioner Stern asked about the size of the Basin Property and was advised it is roughly 23 acres.

**Police/Fire:** Commissioner Obenauer advised that the recent MCED meeting involved a lot of discussion about the need to acquire property for development and also would like to see the city provide a respectable bid for the purchase of the Basin property. Commissioner Obenauer informed the commission that in the past week tractor/trailers were asked to move off the street and the city needs to address the parking issue. Director Neuberger said, based on the 300' x 600' suggestion at the last meeting, it would cost approximately \$19,125 dollars for the city to purchase scoria or \$33,750 for the purchase of the scoria (delivered) to the former tree/grass dump site (based on a cost of \$8.50/ton undelivered or \$15/ton delivered). Commissioner Obenauer asked if the area would need to be that large and Commissioner Stern stated it could be smaller. President Nygard said the trucks need

to get off the streets and Commissioner Obenauer said the location at the tree/grass dump site is ideal as many of the truckers are staying at the RV Park. Commissioner Obenauer moved to purchase scoria to prepare a 300' x 300' space for parking of trucks at the former tree/grass dump site, second by Commissioner Wolf. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Nygard, "Aye", motion carried. Commissioner Obenauer said McKeon Meyhoff contacted the city to inquire about summer employment. Mr. Meyhoff has worked in the forestry for the past couple of summers and would be a helpful addition to the summer crew. Commissioner Obenauer moved to hire McKeon Meyhoff to carry out city forestry duties at a rate of \$12.00/hr., second by Commissioner Brunmeier. On roll call vote; Obenauer, "Aye", Brunmeier, "Aye", Stern, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried. Commissioner Obenauer thanked President Nygard for being an excellent model for the commission and, on behalf of the citizens, for his service to the city of Hazen.

### **CORRESPONDENCE**

**Donation Requests:** The commission received donation requests from the Hazen Chamber for the 4<sup>th</sup> of July Fireworks and from the Mercer County Peace Officers Association for the Cops and Kids Fishing Derby. The city has made contributions to both of these events in the past. Commissioner Obenauer moved to purchase \$100 in Hazen Bucks for the Cops and Kids Fishing Derby, second by Commissioner Brunmeier. On roll call vote; Obenauer, "Aye", Brunmeier, "Aye", Stern, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried. Commissioner Brunmeier moved to donate \$1500 to the Hazen Chamber to assist with the 4<sup>th</sup> of July Fireworks, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Obenauer, "Aye", Wolf, "Aye", Nygard, "Aye", motion carried.

### **NEW BUSINESS**

**Spraying Quote:** The commission had received one quote for spraying of various city properties from K&K Spraying. The total amount of the quote is \$3800. Commissioner Obenauer moved to accept the quote of K&K Spraying, second by Commissioner Wolf. On roll call vote; Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Nygard, "Aye", motion carried.

**Fireworks Permit and Rental Agreement:** The commission received an application for fireworks sales permit and also an agreement for rental of the armory building for a period of one month from Memory Fireworks. Commissioner Stern moved to approve the fireworks sales permit and rental agreement with Memory Fireworks as submitted by Wayne Hermes, second by Commissioner Obenauer. Upon discussion the commission was informed that Fire Chief Wettstein said he had no concern in approving the fireworks permit as he would conduct an inspection of the building prior to, and during occupancy. The term of the rental agreement is for one (1) month at a rate of \$1000.00. On roll call vote; Stern, "Aye", Obenauer, "Aye", Wolf, "Aye", Brunmeier, "Aye", Nygard, "Aye", motion carried.

**Approval of Bills:** Commissioner Wolf moved to approve payment of bills, second by Commissioner Brunmeier. The pre-paid and bills approved to be paid are as follows: Aaron Pitcher, 5.00; Anthony Flaherty, \$103.08; BHG Inc, 1388.15; Bob Barfield, 82.50; Chamber of Commerce, \$1500.00; Chuck Dahl, 207.91; Desiree Ritter, 6.25; Ecolab Pest Elimination, 110.23; Hawkins Inc, 5.00; Hazen Fire Department, 506.59; Hiway Express, 98.66; J&L Automotive LLC, 960.90; Kadrmas, Lee & Jackson Inc, 15276.77; Lange & Donovan PLLP, 880.00; M&T Fire and Safety Inc, 2424.23; Marc Corp, 209.29; Mark Straub, 18.09; Mercer County Treasurer, 6238.11; Monte Erhardt, 17.88; Motorola, 787.68; Pam Borlaug, 66.67; Ron Muth, 120.00; Roughrider Electric Coop Inc, 82.50; Sakakawea Medical Center, 175.00; Sanitation Products Inc, 117.46; SBM Inc, 157.50; Southwest Water Authority, 21493.23; Steve Frovarp, 27.12; Super Products LLC, 236.83; Union State Bank, 100.00; Verizon Wireless, 105.02; West Dakota Lumber, 49.94. Motion unanimously carried.

There being no further business the meeting was adjourned at 6:51 PM CT. The next regular meeting of the commission will be June 24, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

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

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