

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

Present: Commissioner Obenauer, Commissioner Brunmeier, Commissioner Haack, Commissioner Stern and Commissioner Wolf

Others Present: Attorney Donovan, Editor Coleman, Planner Frovarp, Auditor Erhardt, Buster Langowski, Terri Phillion, Doug Edwards, Clint Knutson, Jim Wetzell, Lucille Kruckenberg, Glenn Kruckenberg, Barbara Andrist, Mary Hillerud, Les Miller, Jerine Miller, PW Direct Neuberger, Herbert Hintz, Darren Mund, Paula Aardahl, Mary Frovarp, Paul Doll, Kerri Krambeer, Paul Krambeer, Jesse Flath, Clarence Wiedrich, and Ardella Wiedrich.

Meeting called to order at 5:30 PM CT.

Minutes: Commissioner Brunmeier moved to dispense with the reading of the June 24th minutes and approve them as presented, second by Commissioner Haack. Motion unanimously carried.

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

CONSULTATION WITH ATTORNEY & ENGINEER

Building Permit/Inspection Fees & Inspector Contract: Planner Frovarp presented proposed fees for building permits to cover costs of inspections to follow the newly adopted ordinance. These fees are based on information from the City of Mandan or the city could consider a simple flat fee of \$500 for a permit allowing for additional fees for unforeseen issues and a nominal fee for small structures. Planner Frovarp said the fees may have to be adjusted, by resolution, as the ordinance is further implemented. Commissioner Stern asked if the permit fees based on square footage would be used for sheds or garages and Planner Frovarp said that structures less than 144 square feet or decks less than 100 square feet will not require a building permit. President Obenauer stated this contractor would report to the City Planner and Attorney Donovan suggested hiring the inspector prior to approving the fee schedule. Planner Frovarp said there were two people interested in the inspector contract and the inspection fees range from \$70-\$75 so this fee schedule would cover those fees. Commissioner Brunmeier suggested completing a contract for inspection prior to adopting fees and Commissioner Stern thought that the proposed inspection fees were close enough to approve the fee schedule. Commissioner Stern moved to approve the building permit fee schedule as presented, second by Commissioner Wolf. Upon discussion the proposed fee schedule did not include an effective date. Commissioner Stern moved to amend his motion to include an effective date of July 21 for the

adoption of the fee schedule, second by Commissioner Wolf. Roll call vote on the amendment; Stern, "Aye", Wolf, "Aye", Haack, "Aye", Brunmeier, "Aye", Obenauer, "Aye", motion carried. Roll call vote on the motion as amended; Stern, "Aye", Wolf, "Aye", Haack, "Aye", Brunmeier, "Aye", Obenauer, "Aye", motion carried.

Elbowoods Water/Sewer Project: Commissioner Stern had the opportunity to meet with Engineer Clint Knutson and a Tand Construction representative with regard to concerns with the Elbowoods Water & Sewer Project erosion control, seeding and hydrant(s). Commissioner Stern said they had reached an agreement to have the contractor re-seed parts of the east and west side of the ditch as well as completing other dirt work. Mr. Knutson said they would fill in recover and fill in eroded areas without disturbing vegetation if possible, as well as pulling out the fiber rolls and replacing them when erosion dirt had been replaced. The commission was concerned about the erosion and asked if additional bales or fiber rolls should have been installed initially. Mr. Knutson said there were supposed to be fiber rolls on the west side and the rolls are to be removed once grass has been seeded and begins to take hold. Doug Edwards said more rolls are needed to control erosion, some areas need additional topsoil and once seeded something should be done to hold the earth till the seed gets a start. President Obenauer asked about the cost for these issues and Mr. Knutson said the agreement is to do the repairs at the contractor's cost unless additional materials (rolls/matting) are added. Commissioner Stern said there are also concerns with a hydrant or water valve operating properly which will be addressed by the contractor. Attorney Donovan asked if Ulteig would be charging additional for the work. Mr. Knutson said there is a contract for them to oversee construction and there may be fees for this additional work. President Obenauer did not feel the local taxpayers should be responsible for these costs if they were part of the original design. Mr. Knutson stated there were fiber rolls that were to be on the west side of the street that were placed on the east side. Attorney Donovan suggested the contractor or the engineer should be responsible for extra costs, if there are any. Commissioner Haack said he was not on the board when the project began but felt if the project wasn't done properly the additional costs should be borne by Tand or Ulteig. Commissioner Stern said a major problem was the seed not growing and if the seed had been placed properly this should not have been a problem and Ulteig did miss placement of some of the fiber rolls. Commissioner Stern felt it may be fair to pay the engineer for additional work but the contractor has some responsibility. President Obenauer agreed the contractor should be responsible for some of the costs and asked how to resolve this matter. Mr. Knutson stated there will be no additional charges and they will see that the work gets done. President Obenauer thanked Mr. Knutson and stated the city needs to make sure we at least get what we asked for.

REQUEST OF CITIZENS

Nuisance Complaint – 1039 Fayette Drive: Several residents in the vicinity of 1039 Fayette Drive appeared before the commission with regard to the condition of the property. Glenn Kruckenberg said the neighbors have some real trouble with this property, the lawn is not mowed and they are trying to

move dirt late at night. Jim Wetzel said it is usually around 11:30 PM when they start moving dirt and making noise. Mr. Kruckenberg has concerns about the amount of dirt and mud that is being drug onto the sidewalk and street. Mr. Kruckenberg said more people from the area would have been at the meeting but they are concerned for their safety and the noise did let up a little bit after the police had been to the property. Mr. Wetzel said it would be too bad if people began to move out because of this situation. President Obenauer thanked the people for coming and asked if a letter had been sent to the property owner. Planner Frovarp said that a couple of letters had been sent, the last one being in May 2014, to the property owner, who is the mother of the person residing at 1039 Fayette Drive. Planner Frovarp added that the resident appears to make one step forward in cleaning up the property and then makes two steps backward. Attorney Donovan said the city ordinance refers to public and private nuisances and President Obenauer would like a formal process started and followed through.

Stop Sign Consideration – 3rd St NW: Several residents along 3rd Street NW appeared before the commission to continue discussion of traffic control devices along their street. President Obenauer said the commission had received information from the Manual on Uniform Traffic Control Devices and that he has also talked to the Chief of Police about this matter. Commissioner Brunmeier asked if it may be better to look at speed bumps that can be removed for winter street maintenance. Jesse Flath felt speed bumps in that area would not likely do much to slow down traffic. Commissioner Haack said he had thought about some type of rumble strips as he does not know if a three-way stop will help. Mr. Knutson (Ulteig) said stop and yield signs can make the issue worse as 3rd Street is a major street and if stop signs are used too much it can lead to a loss of respect, if not enforced, which can create problems in other areas of the city. Paula Aardahl asked if the commissioners had driven this street and they all indicated they had. Darren Mund suggested a portable or temporary traffic control device and Mr. Knutson said the city could possibly rent a speed indicator sign and suggested a study be conducted to determine if a stop sign is warranted. Ms. Aardahl said it is easy to see the difference between 25 and 40 mph and she is concerned about the traffic when Main Street is closed. Commissioner Brunmeier stated that one lane of main street will be open during the project. Commissioner Wolf said this is not the only area of town where people may be driving fast and that it is hard to drive faster than 25 mph on that road because it is narrow. Commissioner Haack asked about installing “Slow – Children at Play” signs and Terri Krambeer stated they used to have those signs out but they were stolen. Ms. Krambeer also stated that she does not know what the solution may be but she values the lives of the children along the street. President Obenauer suggested temporary control devices during the main street construction and see what effect that has on traffic. Commissioner Stern said he drives the street several times each day and suggested perhaps lower the speed limit and increase enforcement. President Obenauer asked that ND DOT be contacted about temporary signing and perhaps a flashing light with speed bumps. President Obenauer also said the local newspaper has done a good job of reporting the concerns of the area and perhaps the commission could even consider no parking on one side of the street to ease the concerns.

Commissioner Stern does not feel stop signs will necessarily slow down traffic. Ms. Aardahl again invited members of the commission to come to her yard to watch traffic.

Oktoberfest Celebration – Hazen Chamber: Terri Philion met with the commission, on behalf of the Hazen Chamber of Commerce, to express concerns about crowd control and available electricity at Heritage Park. The Chamber is proposing to set the stage on Main Street at the intersection with 1st Ave NE, the location used for the centennial celebration. President Obenauer would like to see the stage set up after 5:00 PM on Friday to minimize disruption of business and also questioned the need to anchor things into the newly completed Main Street. Ms. Philion stated Nightlife Entertainment will set up the stage and they are confident they can put up the advertising signs without staking into Main Street. Commissioner Brunmeier was concerned with blocking of handicap accessible spots on Saturday morning while businesses are open. Commissioner Wolf moved to allow the closure of Main Street, after 5:00 PM on Friday, on the dates as requested, second by Commissioner Haack. On roll call vote; Wolf, "Aye", Haack, "Aye", Stern, "Aye", Brunmeier, "Nay", Obenauer, "Aye", motion carried.

Sidewalk Repair – Western Frontier Insurance: Jesse Flath appeared before the commission to ask about replacing the sidewalk in front of his business after repair of the curb stop. Mr. Flath said the site has been disturbed for two weeks and he is proposing he be allowed to complete the concrete work personally. Mr. Flath would also like approval to remove the tree at this location as it blocks visibility of his business. President Obenauer said there have been other requests to remove trees along Main Street and he is opposed to such a request at this time. Commissioner Stern would like to allow Mr. Flath to complete the concrete work so long as it is up to city specifications. Commissioner Haack asked if he intended to replace the concrete along the entire business front and Mr. Flath indicated this was his intention as he feels the condition of the sidewalk is a liability issue. Commissioner Brunmeier asked if the tree could possibly be trimmed and Mr. Flath indicated he would rather have a bush or shrub at this site. Commissioner Brunmeier moved to allow Mr. Flath to complete the concrete work in front of his business without removing the tree, second by Commissioner Stern. Upon discussion Mr. Flath indicated he would like to complete the project within the week. Mr. Knutson suggested it may be wise to complete a one call for any stakes that will be used to set the concrete forms. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Wolf, "Aye", Obenauer, "Aye", motion carried.

INTRODUCTION, READING AND APPROVAL OF ORDINANCES

Tobacco Ordinance: The commission was presented a draft ordinance based on discussion of the sub-committee established to develop a tobacco ordinance. Mary Hillerud, Custer Health, and Barbara Andrist, ND Center for Tobacco Prevention & Control, were present to answer questions they commission may have with regard to the ordinance. Commissioner Brunmeier asked if other cities are seeing problems with tobacco sales and Ms. Andrist indicated e-cigarette use has almost doubled among school children and they are pursuing local ordinances to deal with this matter as the state legislature is not aggressively pursuing any such action. President Obenauer said that local business

are doing well to control access to e-cigarettes but state law currently does not prohibit sales to people under 18 years of age. Paul Doll said the business are doing their best and agreed that e-cigarettes are and will be an issue in the future. Attorney Donovan indicated that this ordinance will be an addition to our health and safety ordinances which will require local enforcement rather than enforcement of state statutes by the State's Attorney. Commissioner Wolf asked if this will only limit sale of e-cigarettes to minors and Ms. Hillerud said the ordinance as drafted will make possession and use of e-cigarettes illegal for minors. Commissioner Brunmeier moved to approve the first reading of Article 7 of Chapter IX relating to the sale and possession of tobacco products in the City of Hazen, second by Commissioner Stern. On roll call vote; Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Wolf, "Aye" Obenauer, "Aye", motion carried.

APPROVAL OF APPLICATIONS AND BUILDING PERMITS

Local Permit – Hazen Fire & Rescue: The commission reviewed an application for a raffle permit as presented by the Hazen Fire Department. The raffle will be conducted at Hazen Fire Hall in December. Commissioner Wolf moved to approve local permit #2014-10 as requested by the Hazen Fire & Rescue, second by Commissioner Brunmeier. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried.

Local Permit – Hazen Area Dollars for Scholars: The commission reviewed an application for a raffle permit as presented by the Hazen Area Dollars for Scholars. The raffle will be conducted at Union State Bank. Commissioner Brunmeier moved to approve local permit #2014-11 as requested by Hazen Area Dollars for Scholars, second by Commissioner Wolf. On roll call vote; Brunmeier, "Aye", Wolf, "Aye", Stern, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried.

REPORTS

President: President Obenauer advised the commission that during the previous evening's storm there were issues with lift station #2 and the old generator. The generator did not properly power the lift station and the city was fortunate that power to lift station #5 was restored and the new generator could be used to power lift station #2. President Obenauer would like the city to pursue repair or replacement of the old generator as part of the 2015 budget process.

Water/Sewer: Commissioner Brunmeier stated that a tree had come down in SW Hazen that caused the power outage and a new generator is estimated to cost between \$30,000 and \$40,000. The auditor will research grant availability. Editor Coleman said he had spoken to National Weather Service representatives and straight line winds were reported to be in excess of 80 mph in Hazen.

Street/Cemetery: Commissioner Stern advised the commission that the street department staff is busy cleaning up tree debris this week.

Finance/Busing: Commissioner Wolf had nothing to report at this time.

Police/Fire: Commissioner Haack reported that he had met with the Police and Fire Chiefs and the fire department is pursuing a buyer for the rescue truck that will be replaced later this year. President

Obenauer asked Commissioner Haack to visit with the Chief of Police some more with regard to the 3rd Street traffic control concerns.

The commission recessed at 7:05 PM.

The commission reconvened at 7:09 PM with all members present.

OLD BUSINESS

Basin Land Sale – Executive Session Pursuant to 44-04-19.1(09)

President Obenauer stated that the next item on the agenda is Executive Session pursuant to 44-04-19.1(09) of the NDCC – Discussion of Sealed Bid for the Purchase of Property. This item may be discussed in executive session. The legal authority for closing this portion of the meeting is NDCC Section 44-04-19.1(09). The topic or purpose of the executive session is for discussion of proposal for sealed bid for the purchase of real property. At this time a motion would be in order to discuss this matter in executive session rather than in an open meeting. Commissioner Wolf moved to enter into executive session, second by Commissioner Brunmeier. On roll call vote; Wolf, “Aye”, Brunmeier, “Aye”, Stern, “Aye”, Haack, “Aye”, Obenauer, “Aye”, motion carried. The executive session will be recorded and members of the governing body are reminded to limit their discussion during the executive session to the announced topic. Any collective decision, collective commitment, or other final action by the governing board must occur after it reconvenes in an open meeting, unless final action is specifically required by law to be taken during executive session. The prohibition on taking final action during the executive session does not apply to providing guidance or instructions to our attorney. We will now ask the members of the public who are attending the meeting to leave the room. We anticipate adjourning the executive session and reconvening the open portion of the meeting as soon as possible. The minutes will show that the executive session began at 6:17 PM CT and was attended by President Obenauer, Commissioner Brunmeier, Commissioner Haack, Commissioner Stern, Commissioner Wolf, Attorney Donovan and Auditor Erhardt.

The minutes will show that the executive session was adjourned at 7:37 PM CT. The public has been invited to return to the meeting room and we are now back in open session. Commissioner Wolf moved to approve bid according to the limit as discussed in executive session, second by Commissioner Brunmeier. On roll call vote; Wolf, “Aye”, Brunmeier, “Aye”, Stern, “Aye”, Haack, “Aye”, Obenauer, “Aye”, motion carried.

Approval of Bills: Commissioner Wolf moved to approve payment of bills, second by Commissioner Haack. The pre-paid and bills approved to be paid are as follows: Payroll, 111375.80, Alynn Beyer, 226.68; Ameripride Linen & Apparel Services, 365.49; BHG Inc, 1916.77; Bobcat of Mandan Inc, 47.96; Cenex, 196.61; Comfort Inn, 296.00; D&E Supply Co, 122.99; Dan Wettstein, 320.00; Department of Transportation, 104730.98; Duckwall-Alco Stores Inc, 15.66; Great Lines Inc, 4810.00; Hawkins Chemicals, 5.00; Hazen Drug, 6.99; Hazen Hardware Inc, 328.35; Hazen Motor Co, 120.75; Hazen Motor Farm Equipment Co, 271.55; Hazen Public Library, 2887.03; Hazen Welding, 74.10, Hiway Express,

3948.85; J&L Automotive LLC, 210.48; Krause's Super Valu, 196.87; Kurt Milbradt, 100.00; M&A Heating & Air Conditioning, 812.47; Maas Electric Inc, 1577.30; Mel Roth Oil, 131.40; Mercer County Highway Dept, 8325.00; Mercer County Recorder, 29.00; Mercer County Treasurer, 4267.33; ND Department of Health, 25.00; ND Department of Health, 32.00; ND League of Cities, 1810.00; NAPA Auto Parts, 905.33; Nelson International, 47.30; Praxair Distributions Inc, 183.05; Pride Contracting Inc, 2577.50; Ron Muth, 100.00; Roughrider Industries, 266.60; S&R Enterprises, 75.57; Sakakawea Hazen Clinic, 324.00; SMB Inc, 23.91; Southwest Water Authority, 34619.19; St. Alexius Medical Center, 187.50; Steve Frovarp, 31.08; United Accounts Inc, 19.32; Verizon Wireless, 167.94; West River Telecommunications, 847.76. Motion unanimously carried.

There being no further business the meeting was adjourned at 7:41 PM CT. The next regular meeting of the commission will be July 21, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: _____
Jerry Obenauer, President

Attest: _____
Monte J. Erhardt, Auditor