

**Hazen City Commission
Regular Meeting
August 4, 2014
Hazen City Hall**

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

Others Present: Attorney Donovan, Editor Coleman, Planner Frovarp, Auditor Erhardt, Buster Langowski, Mark Johnson (Ulteig), Doug Edwards, Darren Mund, Dan Frei, Leilani Haack, PW Director Neuberger, Christie Obenauer, Harvey Huber, Mike Quinn, Clayton Hoffman, Duane Pfliger and Darrold Bertsch.

Meeting called to order at 5:30 PM CT by President Obenauer.

Minutes: Commissioner Brunmeier moved to dispense with the reading of the July 21st minutes and approve them as presented, second by Commissioner Stern. Motion unanimously carried.

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

CONSULTATION WITH ATTORNEY & ENGINEER

Street Improvement Project Resolutions: The commission reviewed resolution to direct the assessment and notify the special assessment commission of the amount to be assessed. Auditor Erhardt indicated there is one issue to be resolved relating to discussion of the amount of sales tax or highway funds to be used to buy-down the project, which should be something that can be sustained and used for future projects. Commissioner Stern would like to see the commission dedicate 10% from these funds to the project. President Obenauer agreed it would be a good start but also cautioned to make sure we keep funds available to buy-down future projects. Commissioner Stern moved to approve the resolution directing assessments and notice to the special assessment commission with the city buying-down 10% of the project estimate with sales tax and highway funds, second by Commissioner Brunmeier. Upon discussion President Obenauer feels this assessment will hit some residents pretty hard so it is good to buy it down if possible. Commissioner Stern asked about the wording in the notice relating to 70% of engineer's estimate and was advised that the resolution states the cost to be assessed does not exceed the estimate by 70% or more. On roll call vote; Stern, "Aye", Brunmeier, "Aye", Haack, "Aye", Wolf, "Aye", Obenauer, "Aye", motion carried.

Ballot Resolution – Tax Exemption for New/Expanding Retail Business: The commission was advised that as a result of the last legislative session it is necessary to get voter approval to consider applications for tax exemption for new or expanding retail businesses. The voter approval has to be

voted on at the November General Election. Commissioner Wolf moved to approve wording for a city resolution empowering the governing body to grant property tax exemptions for new or expanding retail business, second by Commissioner Haack. Upon discussion Commissioner Stern asked about the amount of exemption and Assessor Frovarp explained that it can be anything from 100% to 0% for a period of five years. Attorney Donovan said the commission, when considering such an application, would have to consider the effect on other taxing districts. On roll call vote; Wolf, "Aye", Haack, "Aye", Stern, "Aye", Brunmeier, "Aye", Obenauer, "Aye", motion carried.

Ulteig Engineers: Mark Johnson met with the commission to advise them that Ulteig Engineers is hoping to raise the level of service to the city and the commission. As part of this increased service Ulteig proposed an agreement stating; Ulteig will attend all scheduled meetings (including one hour of prep time to discuss matters with city staff); Ulteig will be on call to answer questions by phone, email or other normal methods; not included as part of general services is work for specific projects that require formal recommendations or documentation such as plans or specifications; the city will compensate Ulteig \$200/month billable twice a year. President Obenauer appreciates the commitment to be present for the meetings. Commissioner Stern moved to approve the Services Agreement with Ulteig Engineers as presented, second by Commissioner Haack. On roll call vote; Stern, "Aye", Haack, "Aye", Wolf, "Aye", Brunmeier, "Aye", Obenauer, "Aye", motion carried.

Mr. Johnson presented the commission the estimate and notice to bid the RV Park Road (10th Street NE) as approved at the previous meeting. Mr. Johnson also told the commission that the plans and specifications have been completed. Commissioner Haack moved to approve the advertisement for bids for the RV Park Road, second by Commissioner Brunmeier. Upon discussion Commissioner Stern questioned the plan for the use of the property. President Obenauer said the first matter is to get the road constructed and then to let the Park Board determine if they wish to pursue the RV Park construction. Darren Mund said the park board is discussing the RV Park construction with industry representatives for financial assistance and collaboration. Commissioner Stern asked if the road design would be different if there were no RV Park. President Obenauer said the city could also consider and design for future expansion of infrastructure. Mr. Johnson suggested that for scheduling purposes the city would be better to handle the road bid in September while there are still options for changes to the design. Commissioner Stern stated the preliminary estimate to construct the RV Park appears quite high. Commissioner Haack questioned how many people had been turned away from the RV Park and Mr. Mund said that with the planned construction project at DGC there may be up to 700 workers looking for housing. Commissioner Stern expressed concern with the type of people that will come into an RV Park, referring to an incident with a gun at the present RV Park several years ago. Commissioner Stern also questions running water and sewer infrastructure into the property without a clear plan. Attorney Donovan suggested that the city should consider a plan and plat the property rather than starting with one piece of road. Attorney Donovan also questioned the absence of engineering fees in the estimate and Mr. Johnson indicated the engineering fees are included in the agreement previously approved and will remain unchanged. Mr. Johnson also said the property is

platted as a single lot similar to other such properties and a preliminary layout of the lot for use as an RV Park is on file. On roll call vote; Haack, "Aye", Brunmeier, "Aye", Stern, "Nay", Wolf, "Aye", Obenauer, "Aye", motion carried.

Mr. Johnson informed the commission that he met with Tand Construction, onsite, on July 29th and they were planning to complete work the week of August 4th but weather conditions have again delayed them. Mr. Johnson said Tand has agreed to the letter as to the final payment and suggested the city approve the payment but hold it until the work has been completed. Doug Edwards stated that no work has been completed as yet and that the straw rolls need to be cleaned out as part of the work. Mr. Johnson reviewed the contents of the final payment letter indicating the amount due is \$32,471.28 after deducting the amount due for work not completed. Commissioner Stern asked why work was not completed and it was determined that the work not completed related to curb, gutter and valley gutter that was not necessary as the utilities were stubbed in north of Divide Street.

Commissioner Wolf moved to approve the payment to Tand Construction in the amount of \$32,471.28 and to retain the payment until work is completed and approved by the engineer, second by Commissioner Brunmeier. On roll call vote; Wolf, "Aye", Brunmeier, "Aye", Stern, "Aye", Haack, "Aye", Obenauer, "Aye", motion carried.

Commissioner Stern had some questions for Mr. Johnson with regard to the preliminary estimates for the RV Park sewer and Mr. Johnson advised the ND Department of Health is requiring duplex lift station based on the 10 states rules. Commissioner Stern also asked if the sewer main would still only be three (3') feet below the ground and Mr. Johnson indicated it would have to be eight (8') feet.

Purchase Agreement – Turner Properties LLC – Hotel Site: The commission reviewed a proposed agreement for purchase of property by Turner Properties LLC for construction of a hotel. Buster Langowski, Hazen Community Development, said there have been several meetings with interested investors and are more meetings scheduled. Mr. Langowski said that if the initial capital is not raised the project will not proceed. Commissioner Stern asked about engineering work that would need to be completed between now and the ninety (90) days in the agreement. Mr. Langowski said he is not aware of any needs and the main structures of the hotel will be modular but some portions would have to be "stick built." Commissioner Stern also asked about sharing of the costs to get water, sewer and street to the property line and Mr. Langowski stated this was initially intended to be shared cost. Commissioner Stern also expressed concern of the need to update lift structures and stated that the city will only receive \$150,000 to purchase the property and the road may cost as much as \$100,000 to construct so he is concerned about writing a blank check. Attorney Donovan said the offer to purchase is subject to certain conditions the city must comply with to complete the agreement. Commissioner Stern stated he did not think the property would go anywhere if the agreement was not approved today and he would like to see the agreement updated to include language originally discussed when the project was first introduced. Mr. Langowski stated the purchase agreement presented last fall was to be reviewed by the city attorney for recommendations to present the city's position to the purchaser.

REQUEST OF CITIZENS

SMC Capital Campaign: Christie Obenauer, SMC Board Chair, advised the commission that SMC is moving forward with a construction project to enhance hospital services in the area. Ms. Obenauer introduced Darrold Bertsch, SMC CEO, who presented historical information of the hospital, project overview and some of the planning tools such as the Community Needs Assessment. Mr. Bertsch then introduced Clayton Hoffman of the Capital Campaign Committee who spoke to the commission about the great working relationship that has been developed among the healthcare providers in Hazen, Beulah and Mercer County as a whole. Mr. Hoffman introduced Harvey Huber of the Capital Campaign Committee who spoke to the commission about the finance and fund raising goals of the campaign. Mr. Huber asked the commission to consider a pledge of \$250,000 which could be paid over a period of five (5) years. Mr. Huber stated he was not looking for a commitment at this time but the campaign committee would like a decision soon as they would like to share the information as reference for future presentations. Commissioner Stern asked about previous donations the city has made to the hospital and if the hospital is property tax exempt. Mr. Bertsch advised the commission that the last legislative session appropriated \$50 million to rural hospitals and SMC was awarded \$6.7 million in low-interest loan funds through the Bank of ND.

APPROVAL OF APPLICATIONS AND BUILDING PERMITS

Building Permit/Variance Request – B. Lemer: Planner Frovarp presented an application for building permit with variance for 311 5th Ave NW as submitted by Blaine Lemer. Mr. Lemer is proposing to build a 30'x18' garage on his property and is requesting a two foot (2') side yard variance to line the building up with his dwelling. Commissioner Wolf moved to approve the building permit and variance as requested, second by Commissioner Haack. Upon discussion President Obenauer clarified the variance is two feet (2') on the south side of the lot, adjacent to a vacant lot. On roll call vote; Wolf, "Aye", Haack, "Aye", Stern, "Aye", Brunmeier, "Aye", Obenauer, "Aye", motion carried.

Building Permit/Variance Request – Enerbase Cooperative Resources: Planner Frovarp presented an application for a building permit as requested by Enerbase Cooperative Resources to pour concrete slab for placement of fertilizer bins. The application is before the commission because it is for commercial property. Commissioner Stern moved to approve the building permit as requested, second by Commissioner Brunmeier. On roll call vote; Stern, "Aye", Brunmeier, "Aye", Haack, "Aye" Wolf, "Aye", Obenauer, "Aye", motion carried.

REPORTS

President: President Obenauer informed the commission about a recent tour of the Basin Transload Facility near Zap, as part of MCED business. President Obenauer stated it is quite a facility which handles up to 180 semi-trailers per day operating 24/7. President Obenauer will keep the commissioners informed of upcoming MCED meetings in case they would like to attend.

Water/Sewer: Commissioner Brunmeier reported that the garbage truck will be taken to Bismarck on 8/5 for recall work.

Street/Cemetery: Commissioner Stern advised the commission that the cooler at city hall is not functioning properly and he recommends replacing it. Commissioner Stern moved to approve purchase of a new freezer-less refrigerator, not to exceed \$1500, second by Commissioner Wolf. On roll call vote; Stern, "Aye", Wolf, "Aye", Haack, "Aye", Brunmeier, "Aye", Obenauer, "Aye", motion carried. Commissioner Stern had nothing further however; President Obenauer spoke about the conditions at the cemetery and the need for the water spigots sticking out of the ground and asked if they could somehow be recessed into the ground. Director Neuberger stated they are combination spigot and sprinkler and that perhaps some could be recessed but they are intended to provide water for people to use at grave sites. Commissioner Stern agreed they do not look good but they are less visible in the north areas of the cemetery.

Finance/Busing: Commissioner Wolf advised the commission that the busing is preparing for the school year and all the bus routes are full or nearly full.

Police/Fire: Commissioner Haack advised the commission that the rescue truck was serviced and new volunteers are being trained to serve on the Fire Department. The new rescue truck is expected to be delivered in October. Commission Haack said the police department is enforcing the stop signs on 3rd Street NW and issuing warnings. The warnings will be issued for a couple of weeks before citations will be issued. Commissioner Haack also discussed the possibility of promoting someone on the public works staff to forester and asks that a letter be given to the employees to see if there is interest in such a position. President Obenauer said he received an email for a citizen indicating the law is being broken more now because of the stop signs and Mr. Langowski suggested it is likely a matter of people just not being used to the stop signs at that location.

OLD BUSINESS

Basin Land Purchase: Commissioner Stern asked President Obenauer about the bidding process and if the board had approved a maximum bid why the city stopped prior to reaching the maximum. President Obenauer agreed that a maximum bid was agreed upon but there was also discussion that if the other party bidding did not appear to have the best interests of the city in mind to continue bidding. President Obenauer added that he stopped the bidding process several time for him and Auditor Erhardt to discuss the city's bid. Commissioner Wolf agreed that authority to bid higher was granted but it didn't mean it had to go to the maximum. Commissioner Brunmeier said she thought the city was hoping a developer would purchase the property and Commissioner Haack agreed that a higher bid was authorized but questioned the need to bid top dollar. Commissioner Stern asked if President Obenauer was aware of the plans for the property and President Obenauer said it was discussed several times during the bidding process. Commissioner Stern said this property is likely the easiest to develop and if the city had purchased it the city could still have sold it for development and asked expressed concern that the purchaser could do whatever he wished with the land. Mike Quinn

said it is irrelevant who owns the property and suggested the city look at new concepts in design subdivisions and look beyond traditional lay-outs. Commissioner Stern asked about the recourse of the board if the action approved by the board is not followed through. Attorney Donovan said that he believes the motion, based on the discussion in executive session, was followed in its intent and that President Obenauer and Auditor Erhardt acted within the power granted by the board.

7th Street Alley/Access: Commissioner Stern said that an electric line, not very deep, crosses the area of 7th Street NE where property access has been discussed and asked what the next step should be to resolve this matter. Planner Frovarp has contacted Roughrider Electric representatives about the issue but they did not provide a response prior to this meeting. Commissioner Stern asked about the cost to move the utility box and Attorney Donovan stated the cost is not the city's responsibility as there are to be no obstructions of right-of-way. Commissioner Stern asked if the access was a legal trail and Planner Frovarp said the section line was vacated from the sixty-six foot (66') standard to a twenty foot (20') alley right-of-way. President Obenauer asked if the city can ask the utility to remove it and Planner Frovarp said yes the city can. President Obenauer would like to meet with Commissioner Stern and Roughrider Electric representatives on-site to review this matter in greater detail.

Public Nuisance: Mike Quinn presented a copy of city ordinance Chapter 16, Section 14-5 which authorizes law enforcement to remove a vehicle when it is parked on a lawn, boulevard or city sidewalk. Mr. Quinn then referred to a picture of a vehicle parked on a city boulevard and asked why a citizen would have to come to a meeting to ask that an ordinance of the city be enforced. Mr. Quinn said he had discussed this matter with the police commissioner and suggested the ordinance be enforced or be rescinded. President Obenauer stated he did not want to start towing vehicles without first talking to the owner and then offer a reasonable time to resolve the issue. Mr. Quinn asked why it would take two (2) weeks to enforce the law and that neighbors should not have to enforce city ordinances. Mr. Quinn stated he had no objection to the officer talking to the person and allowing twenty-four (24) hours to remove the vehicle. Commissioner Haack said he had discussed this matter with the Chief of Police. Mr. Quinn said the police are hired to enforce the laws. President Obenauer said action has been taken to address this matter but he would not promise what time-frame it would be accomplished in. Mr. Quinn asked each commissioner if they would enforce the ordinance by the end of the week. President Obenauer said this is not a perfect situation and suggested the ordinance may have to be revised.

NEW BUSINESS

Piers – Manufactured Home Installation: Planner Frovarp advised the commission that he had been contacted by an individual considering moving pre-owned manufactured homes to Hazen. City ordinance and state law does not require a previously lived in manufactured home to be placed on piers but the individual would like to know if such a proposal would be acceptable. The question of the matter relates to the location of the sewer main in the proposed location and the fact that it would be directly under the manufactured home. The piers would be placed so as to allow 7.5' on each side of

the sewer line and blocks would be used to support the home at a location within the sewer easement. President Obenauer had concern with drilling for placement of piers until it was discussed that the piers would not be within the easement. Commissioner Stern expressed concern over determining the exact location of the sewer line within the lot. Commissioner Wolf agreed that the general consensus of the board would allow placement of piers, on a case by case basis, and upon written request.

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: US Postal Service 277.16; Payroll, 115078.92, Bank of ND, 110775.00; BHG Inc, 977.98; Capital City Restaurant Supply, 67.80; Cardmember Service, 842.94; Dakota Pump & Control Inc, 2041.25; Dan Wettstein, 320.00; David Brousseau, 272.75; Emergency Apparatus Maintenance Inc, 1154.14; Emi Stuart, 52.90; Fastenal Co, 5.01; Hawkins Inc, 5.00; Hazen Community Development, 1261.75; Hazen Hardware Inc, 1046.55; Hazen Motor Co, 1227.98; Hiway Express, 3848.99; Interstate Power Systems Inc, 175.23; J&L Automotive LLC, 89.94; Joyce Lemer, 21.00; Kadrmas Lee & Jackson Inc, 11050.69; Kurt Milbradt, 100.00; Marc Corp, 1005.12; Matthew Bender & Co Inc, 114.10; Mel Roth Oil, 431.20; Mercer County Soil Conservation, 215.00; Michelle Knecht, 100.00; Millennium Express, 15.00; Postmaster, 112.00; Railroad Management Co III, LLC, 146.16; Ron Muth, 120.00; Rough Rider Industries, 51.79; Roughrider Electric Coop Inc, 165.00; Sanitation Products Inc, 44.89; SBM Inc, 139.95; Southwest Water Authority, 32880.24; Stroup Insurance, 3.00; West Dakota Lumber, 14.99; West River Telecommunications, 844.11.

There being no further business the meeting was adjourned at 7:58 PM CT. The next regular meeting of the commission will be August 18, 2014 at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: _____
Jerry Obenauer, President

Attest: _____
Monte J. Erhardt, Auditor