

**Hazen City Commission
Regular Meeting
January 2, 2024
Hazen City Hall**

Present: President Obenauer, Commissioner Pillar, Commissioner Stern and Commissioner Wiedrich.

Absent: Commissioner Haack

Others Present: PW Director Brousseau, Attorney Donovan, Editor Arens, Auditor Erhardt, Brennen Stern, Troy Schilling, Cheryll Rush, Zeely Rush, and Buster Langowski.

The meeting was called to order at 5:29 PM by President Obenauer.

President Obenauer led the Pledge of Allegiance and Commissioner Pillar said the prayer.

Minutes: Commissioner Wiedrich moved to suspend the reading and approve the minutes of the December 18th meeting, as presented, second by Commissioner Pillar. Motion unanimously approved.

Agenda: Commissioner Pillar moved to approve the agenda, as presented, second by Commissioner Wiedrich. Motion unanimously approved.

REQUEST OF CITIZENS

Local Permit-Raffle – Coal Country Animal Rescue:

Local Permit-Calendar Raffle – Hazen Lions Club: Commissioner Wiedrich moved to approve local permit #2024-01 as requested by Coal Country Animal Rescue for a raffle to be conducted on January 17, 2024, and to approve local permit #2024-02 as requested by the Hazen Lions Club to conduct a calendar raffle from April 15th to May 24th, 2024, second by Commissioner Stern. Motion unanimously approved.

REPORTS

Water/Sewer/Garbage: Commissioner Pillar informed the board that one of the new employees began working today. Commissioner Pillar stated that staff has identified another manhole that will need repairs and it will be added to, or replace a less crucial item, on the list of repairs for this year.

Street/Cemetery: Commissioner Haack was absent but, PW Director Brousseau informed the commission that equipment maintenance continues at the shop and the second snow gate fabrication is progressing and will be completed soon.

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

Police/Fire/Forestry: Commissioner Wiedrich informed the board of the calls for service in December with Officer Beyer responded to seventeen (17) calls for service; Officer A. Melberg responded to twenty-two (22) calls for service; Officer S. Melberg responded to thirty-five (35) calls for service; and Chief Wolff responded to fourteen (14) calls for service. Commissioner Wiedrich has been gathering information on the purchase of new Glock duty weapons for the police department and this information was shared with the board. Commissioner Wiedrich moved to approve the purchase of four (4) Glock 9mm duty weapons at a cost of \$3289.00, second by Commissioner Stern. Upon discussion, Commissioner Pillar had a question about the life span of the current weapons and was advised that there are parts on these

weapons that can wear and fail. Commissioner Wiedrich advised that these weapons include the red dot sites to increase accuracy. Commissioner Stern asked if it is mandatory for the officers to carry these weapons and Commissioner Wiedrich advised that the policy does not make it mandatory, at this time, and the officers will have the option of purchasing the old weapon if it will be used. Commissioner Stern asked if only one (1) officer does not want the new weapon and Commissioner Wiedrich indicated that was all of which he was aware. On roll call vote: Wiedrich, "Aye", Stern, "Aye", Pillar, "Aye", Obenauer, "Aye", motion carried.

Regarding the new police vehicle, Commissioner Stern informed the board that he had been in contact with CAT Fleet, and they advised they had ordered two thousand (2000) vehicles and hoped to get five hundred (500) of them delivered so, it is highly improbable that our local dealer will be able to get a new Tahoe. Commissioner Wiedrich was advised that CAT Fleet will be getting an allocation of Dodge Durango's by the end of the first quarter but, this is not a desired option. Chevrolet/GM has a program for Silverado pickups with the PPV package and Officer A. Melberg has been asked to gather additional information and costs of this vehicle. There were questions about securing the pickup bed and options for a cover, or topper, type equipment. Further discussion of this option will be addressed as information is received.

HCD: Buster Langowski had nothing to report at this time.

President: President Obenauer informed the board that he, and Commissioner Wiedrich, had a very productive meeting with the police department before the commission meeting. They discussed communication issues and the goal of working together to provide the best protection for the city residents. President Obenauer said that he always appreciated when officers would stop, even if only briefly, at school event and activities.

NEW BUSINESS

Election Agreement: The commission reviewed a proposed election agreement from the county to conduct the 2024 elections. The commission was informed that Hazen has been designated as a polling location, along with early voting and vote-by-mail. Commissioner Wiedrich moved to approve the election agreement with Mercer County, second by Commissioner Pillar. There was discussion about the polling alternating between Hazen and Beulah and that this agreement covers only the upcoming election cycle. On roll call vote: Wiedrich, "Aye", Pillar, "Aye", Stern, "Aye", Obenauer, "Aye", motion carried.

The commission recessed at 5:49 PM.

President Obenauer opened the public hearing on the confirmation of special assessments for Hazen Improvement Project District #2022-01 at 5:59 PM CT. Present for the public hearing were President Obenauer, Commissioner Pillar, Commissioner Stern, Commissioner Wiedrich, Editor Arens, Auditor Erhardt, Troy Schilling, Cheryll Rush, Zeely Rush, Brennen Stern, Buster Langowski and Dave Brousseau. The city had received a written notice of appeal signed by Cheryll Rush, Roger Farrar, and Rhonda Koehler. Attorney Donovan shared written information about the process and legal background for the assessment processes. Cheryll Rush indicated that she wished to hear from Attorney Donovan prior to making any comments. Attorney Donovan indicated that he would like Ms. Rush to proceed as he wanted to hear her comments and he respected her input. Ms. Rush referred to her exhibit displaying the boundary of the assessment district and the fact that the district includes both residential and commercial properties with three (3) residences within the district. Ms. Rush, and others, had

protested the resolution of necessity and those appealing do not agree with the benefit to their properties as determined by the Special Assessment Commission. Mr. Rush acknowledged that the city commission has final authority in the matter, but the affected residents do not see how the project benefits their residential property. Ms. Rush addressed the fact that the 2018 street project was supposed to address pour drainage and hasn't. Ms. Rush said the residents are only asking for legal and fair treatment and then asked what other improvement districts have included residential and commercial properties. Commissioner Pillar referred to the street improvements that would have included the hospital and residential properties and that the city is trying to be consistent with the special assessments. Ms. Rush asked if consistent mean fair and added that, in her opinion, the Post Office and West River Telecommunications are the only properties that benefitted from the alley project and that the three (3) residential properties do not use the alley to get their mail. Ms. Rush again said the process needs to be fair and that the commission is to represent all the residents and not just the city. President Obenauer thanked Ms. Rush for her comments and said the city is trying to be fair in the assessment. Attorney Donovan addressed the commission with case information and advised that ND Century Code does define residential property as 60% of the area of the district, which is not the case in this matter. Attorney Donovan then referred to Attorney Scott Wagner, who works with bond counsel on special assessments throughout the state and the fact that the ND Supreme Court has addressed special assessments on many occasions. Attorney Donovan added that the special assessment process has been challenged the most by residents and the legislature has delegated the authority to the city, or county, commissions working with the Special Assessment Commission. Attorney Donovan added that the project is complete so the only thing to be challenged at this point is the amount of the assessment to the properties of the district and that the residential property within the district does not qualify as a separate property area. Ms. Rush commented that the alley benefits more residents of the city than the area defined and that if everyone paid for the alley, she would also pay her share. Hearing no further comments; President Obenauer closed the public hearing at 6:22 PM CT, and Cheryl and Zeely Rush exited the meeting. President Obenauer reconvened the regular commission meeting at 6:22 PM Ct.

OLD BUSINESS

Confirmation of Special Assessments for Hazen Improvement Project District #2022-01: The commission discussed the option of "buying down" the project cost with additional sales tax dollars, under city ordinance. Attorney Donovan said the state does have a Homestead Credit process for special assessments which then gives the state a lien on the property. The commission then discussed establishing a tiered format for using sales tax dollars for a project based on the overall cost of the project being considered. Commissioner Stern agrees that special assessments rarely seem fair and if this had been part of a larger project the city would have participated with more sales tax funds. Commissioner Stern was also concerned that some businesses are not required to pay property taxes and suggested the commission look at buying down projects a greater amount to have more "skin in the game." Commissioner Pillar asked if establishing a tiered approach to funding projects would lock future commissioners into something and Attorney Donovan said a future commission has the option to make changes. Auditor Erhardt said that this could be something reviewed, revised, and adopted when the commission re-organizes after each election, part of city ordinance. Commissioner Pillar moved to adopt a tiered approach to using sales tax funds for projects as follows: improvement projects costing up to \$250,000 will be funded 20% by sales tax revenue; projects costing \$250,001 up to \$500,000 will be funded 15% by sales tax revenues; and projects exceeding \$500,001 will be funded 10% by sales tax revenues, to be effective immediately and reviewed bi-annually when the city commission reorganizes, second by Commissioner Wiedrich. Upon discussion, there was consideration of a larger project receiving less sales tax benefit and Attorney Donovan asked if this is only street projects or if it included

water/sewer projects that cannot be protested. Commissioner Stern was concerned that the largest benefit recipient of this project does not pay property tax as other property owners and Commissioner Wiedrich indicated he was in favor of the tiered system as it makes the city have more skin in the game. On roll call vote: Pillar, "Aye", Wiedrich, "Aye", Stern, "Nay", Obenauer, "Aye", motion carried. Commissioner Pillar moved to apply a 20% sales tax funds buy-down to Hazen Improvement Project District #2022-01 for a fifteen (15) year assessment, without interest, second by Commissioner Wiedrich. On roll call vote: Pillar, "Aye", Wiedrich, "Aye", Stern, "Nay", Obenauer, "Aye", motion carried.

PUBLIC COMMENTS

No public comments were received at this time.

Approval of Bills: Commissioner Wiedrich moved to approve the bills, as presented, second by Commissioner Stern. Pre-paid and bills approved for payment are as follows: ND Post Board, 45.00; Power Plan, 109.45; US Postal Service, 356.25; CVB, 4794.56; Fitterer Oil Hazen LLC, 1005,36; Moore Engineering, 2778.25; ASCAP, 434.00; B&G Electric LLC, 4976.20; Chamber of Commerce, 700.00; Core & Main LP, 925.20; D&E Supply Co, 206.55; Global Safety Network, 75.05; Hazen Mercantile Inc, 952.08; Hazen Public Library, 5122.31; Krause's, 38.59; MaintainX, 2340.00; Marco Technologies LLC, 343.38; Matthew Bender & Co, 81.60; Mercer Co Auditor, 2724.80; SW Water Authority, 28768.87; Tractor Supply Credit Plan, 81.94; Verizon, 326.55. On roll call vote: Wiedrich, "Aye", Stern, "Aye", Pillar, "Aye", Obenauer, "Aye", motion carried.

There being no further business, the meeting was adjourned at 6:52 PM CT. The next regular meeting of the commission is scheduled for Tuesday, January 15, 2024, at 5:30 PM CT in the Commission Room of the Hazen City Hall.

Approved: _____
Jerry Obenauer, President

Attest: _____
Monte J. Erhardt, Auditor