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The Mandan City Commission met in regular session at 5:30 p.m. on December 15, 2009 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Gangl, Serhienko, and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta.

MINUTES: Consider approval of the minutes for December 1, 2009 meeting of the Board of City Commissioners. Commissioner Jackson moved to approve the minutes as presented. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

CONSENT AGENDA:

1. Consider approval of the City of Mandan Voting Locations for June 8<sup>th</sup>, 2010 Election. The Board approved of the City of Mandan Voting Locations for June 8<sup>th</sup>, 2010 Election.

2. Consider approval of the following abatements:

- i. Marie Beckler – Homestead Credit Exemption
- ii. Leland & Jane Bertsch – New Construction
- iii. Sheryn Doll – Wheelchair Exemption
- iv. Pete Gartner – Disabled Veteran Exemption
- v. Betty Harpole – New Construction
- vi. Frank and Jedaan Hoffman – Homestead Credit
- vii. Mitzel Builders – Revision of Structure value
- viii. Wm. & Clara Ferderer – Homestead Credit
- ix. Ryan Thomas – New Construction

The Board approved of the abatements as listed.

3. Consider approval of monthly bills. The Board approved of the regular monthly bills.

Commissioner Jackson moved to approve the Consent Agenda as presented. Commissioner Gangl seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

NEW BUSINESS:

1. Consider comments from Mr. Wayne Papke regarding the former Mandan Jr. High. Mayor Helbling addressed Mr. Papke to the podium.

Wayne Papke: Good evening Mayor and Commissioners. I just wanted to bring to your attention, in your discussions and future actions that may or may not be taking on anything of the joint ventures with the schools and the City. I thought it was important that I remind the Commissioners of some promises that were made to the voters in the Mandan Middle School

election in 2005. That, if certain actions continue as they are; again, contradicting a lot of those actions that were promised multiple times in 2005. I'm going to pass out, so you can follow along with, three consecutive Bismarck Tribune articles which originated from interviews with Joe Lukach and with the various members of the BUSY group at that point in time and these spread out from March 17 through April 17. None of which were contradicted at the time by the schools so we have to presume they are valid and they were data that was used in the voters decision-making for the vote on the middle school and at the time sounded very good. I will provide these to the members of the school board, too, after this is all done.

I highlighted some of the areas of the promises made and again, this pertains to the City in the respect that the future direction or decisions that are made on the old junior high I think should be affected by the consideration of these promises that were made in 2005. Starting off with the March 17<sup>th</sup> article written by Kayla Cogdill, the bulk of the \$14.3 million will go to the junior high. The remaining money will update the high school's energy units, update Faris Field, and pay for the renovation and partial demolition of the old junior high. Renovations would be made to the junior high's newest addition and the district would move its administrative offices and the preschool from the administration building. The oldest section of the school would be torn down implying there is now some good vacant property, again, to be used for future use by the schools. Some pretty valuable property. The old part of the school constitutes the majority of that area up there and, as a result there will be quite a few lots that would be available there. That was the promise made there. Going down a couple notes, the district will retire 63% of its present debt and by 2016 all existing debt will be retired. The mills for the new school will not go on tax bills until construction is completed in 2008. It's amazing because that was March 17<sup>th</sup>, one and a half month's later, (or was that two and a half month's later?), the bond issue went out, which meant that was not correct or accurate, so we ended up with 2005 tax bills, yet these comments and promises were made.

Going ahead to the March 29<sup>th</sup> article, it reiterates the same thing virtually. If the proposal is approved, residents will pay \$17.6 million for the projects over the course of 20 years. The bulk of the cost \$14.3 million will go to the junior high. The remaining money will update the high school's energy units, update Faris Field, and pay for the renovation and partial demolition of the old junior high. The backside of that page goes on to comment that additional funds from the sale of the Central Administration Building; and this is where I was incorrect, I must have crossed over in my mind the CAB building and the junior high sale. But again, it goes on to say the sale of the Central Administration building on Collins were assumed to help defer the costs of the new junior high. However, the sale money will go to the capital funds which can be used district wide. Lukach said the money would probably be used to renovate the old junior high building but the money would not go to the cost of the new school directly.

Lastly, on the big sheets, it goes on again. One month after the first promise. A 60% majority vote is needed to pass the bond issue. Residents will be voting on more than just a proposed school. Included in the bond are renovations to the Mandan High School and Faris Field and demolition and remodeling of the old junior high. It goes on to say, I found this one interesting, the Terra Valley location selected by the School Board this time would not require any extending of roads or utilities. I don't believe that that came true either. Going over to the right hand

column, demolition remodeling \$700,000 to tear down the oldest section of the school, remodel remaining sections of the building for administrative offices and special education classroom for 50 preschoolers now taught in the Central Administration Building. The alternate daycare program and alternate high school for at-risk students would be taught at the old junior high. Currently the school district rents space on Main Street for that program. These are the promises that were made that seem to have taken a turn over the last couple years and I think we need to remember these promises that were made to the taxpayers in discussions on future use of the Mandan Junior High. I appreciate your time and consideration of my input here. Any questions?

Mayor Helbling: Mr. Papke, would you like this to be your official record into the minutes? Or would you like your email that was submitted?

Papke: No, just this, thank you.

Mayor Helbling: Thank you. I would like to remind you that we are four years later than this discussion. I don't see any official motions by the School District in this documentation. I know there are some things you probably told your clients and things that I told customers of mine four years ago, but we are in a whole different world than we were four years ago and sometimes things change.

Papke: All of these actions will be on the minutes of the School District also.

Mayor Helbling: We will enter these into the record and you are more than welcome to share your concerns with the School District.

Articles from the Bismarck Tribune referenced by Mr. Wayne Papke at the December 15, 2009 City Commission meeting: (Highlights by Mr. Papke)

### **The Junior High Debate**

*KAYLA COGDILL, Bismarck Tribune | Posted: Saturday, April 16, 2005 7:00 pm*

Fifty-seven years ago, Dave Schmidt graduated from Mandan High School. Over the years he's seen a lot of changes. So has the school.

On a recent visit Schmidt almost didn't recognize the inside of his old high school. The old high school is now Mandan Junior High School. The building served as a high school until the 1950s, and off and on as an elementary school and middle school until 1994, when the Fort Lincoln Elementary School opened in south Mandan. Now the school is a junior high for grades seven and eight. The oldest section was built more than 100 years ago and additions were made in the 1920s and 1970s.

In the 1940s, there were no houses north of the school. Schmidt remembers running up to a field, now covered with houses, and playing softball during gym class.

Other than being in the gym a couple of times, Schmidt hadn't been inside the school until April 9, when he attended a fund-raiser there, hosted by Building Up Schools for Youth in Mandan, an organization supporting the school bond, and the Mandan chapter of Dollars for Scholars. Lots of people attended the fund-raiser and more than 100 people, including Schmidt, toured the school.

"It was a trip down memory lane, but I could only remember a few of the old classrooms because so much has changed and been remodeled," Schmidt said. "After seeing the school again there is no doubt about it, Mandan needs a new school. It's past its due and has outlived its time."

On April 26, Mandan will vote again on whether to build a new junior high. In 2002, 70 percent of the voters said "no" to a new school because of taxes and location. This time the location has changed, the tax impact is less, and the mayor, Mandan city commissioners, park district, Bismarck-Mandan Chamber of Commerce, Mandan School Board, teachers and BUSY are trying to persuade the public why now is the time to vote "yes."

Schmidt voted "yes" for the first proposal and has already voted "yes" by absentee ballot for this proposal.

A 60 percent majority vote is needed to pass the bond issue. Residents will be voting on more than just a proposed school. Included in the bond are renovations to Mandan High School and Faris Field, and demolition and remodeling of the old junior high. The bond will cost \$17.6 million and be paid over the next 20 years.

Mandan Mayor Ken LaMont said it's expensive to educate children; however, interest rates are low and now is a good time to build a school.

"If somebody thinks the junior high is fine, then they haven't been there in 50 years," he said. "If you live in a community, you need to be a part of that community and support it. It takes a community to build schools and support them."

The junior high proposed in 2002 for \$13 million would have increased taxes for owners of a \$100,000 house by \$180 a year for 20 years. This time the same homeowner would pay an increase of \$115 per year.

The \$180 was divided into \$145 for the school and \$35 to pay for extending utilities and roads. The Terra Vallee location selected by the school board this time would not require extending roads or utilities.

Superintendent Kent Hjelmstad said it would almost be unheard of if the project came in over budget. The school district has come in under budget on the last eight projects. The debt for the school bonds can't take longer than 20 years to retire and the taxes can never be more than what the public votes on. The school district and school board don't have the legal authority to go beyond the voted tax limit.

"People are always looking for a Catch-22," Hjelmstad said.

Currently, Mandan is ranked 10th out of 14 Class A schools for the total number of mills levied for schools. If the bond issue is passed, Mandan would be ranked fourth or fifth in the state. The number of mills does not indicate the cost of the mills.

Right now, school taxes make up 44 percent of the total taxes in Mandan. Bismarck residents pay 56 percent. However, the mill levy for city taxes in Mandan is not the highest in the state, but higher than Bismarck's.

For some residents, overall taxes are the reason for their "no" vote.

A group publicly opposing the bond issue is the Committee for Responsible Taxation. Jake Hertz Sr., the group's chairman, is a Mandan retiree. Hertz and a group of his friends argue taxes are too high and the residents of Mandan don't have the financial base to pay for the new school.

Wayne Papke, a Mandan resident and financial investor, doesn't have a problem with building a new school, but voted against the first bond issue and said he will vote "no" on April 26.

"In 2002, it was not a vote against the school, but a vote against the taxes," Papke said. "I would be the first person to vote "yes" for a new junior high if the city and county would lower their taxes."

LaMont said if people think they are paying too much in taxes, they need to ask themselves if they like their streets cleaned and having a fire department.

"I'm not going to say the tax increases aren't going to affect some people, but these people need to ask themselves if they truly can't make it, because if their house isn't valued at \$100,000 their taxes won't even go up a \$100 a year," LaMont said.

BUSY broke down the tax impact for the new school as less than 50 cents a day.

"I'm already paying for 300 cups of coffee at 50 cents a day; I can't afford to pay for 301 cups of coffee a day," Papke said.

Schmidt, 73, said he talked to some people close to his age who had quite a few kids who went through the school system and they oppose the new school bond.

"They should be the ones for it because even though they don't have kids in school, they've got grandkids that will need a new school," Schmidt said. "People go to the casino or play or golf or do other things that cost money. But they say that extra \$100 a year on taxes will hurt them."

Another concern about the proposed school is the size. Currently, there are about 540 seventh- and eighth-graders at the junior high school. The proposed school would have room for 600 students.

Projected enrollments based on the current number of students in Mandan through 2010 never reach or exceed 600 students and never fall below 400 students. These numbers do not include projected growth to the community.

Hjelmstad said the school district is planning a building to last for the next 85 years, and it needs a margin of error for what it is doing.

"It is very difficult to know what will happen in the future, but we don't want to build too small," he said. "In general, we are serving the present population. The elementary schools are comfortable, but full. There is not much extra space."

As for the structure of the building, school board members said they want good quality, but nothing fancy.

"We want to emulate Fort Lincoln Elementary because it is a good, sound building," Hjelmstad said.

Nothing is certain about the design or layout of the proposed junior high. Nothing can be planned until after the bond issue is approved. If the public votes "yes," the next year will be spent researching school designs and getting input from the public and educators on what elements of a new school are most important.

If approved, the ground-breaking ceremony would be in the spring of 2006. If everything goes as planned, the school would be up and running by the fall of 2008.

"In 2008 we would open a completed campus, from building, to outdoor fields, parking and bus loops to make it be a functioning junior high campus," Hjelmstad said.

In the ballot language, Terra Vallee, the location selected by the school board, is not included. The cost of the land is included in the total amount of the bond issue, but the purchase of the site is contingent upon a "yes" vote.

The owner of Terra Vallee has done numerous tests to determine the condition of the land. After a "yes" vote the school district will select an architect to do further testing.

The owner of Terra Vallee and the school district have signed a purchase agreement.

Terra Vallee is unpopulated compared to other residential developments in Mandan. Before Fort Lincoln Elementary School was built in south Mandan that location could be compared to Terra Vallee.

Now the area around the elementary school is dotted with homes. The city of Mandan and school board members are hoping the same thing happens if the new junior high is built.

When people look at moving to a community, there are a number of factors involved.

Papke said he chose to live in Mandan because at the time taxes were lower than Bismarck's. For Ron Day, taxes were not an issue, the schools were the only issue.

Day and his family used to live in Mandan and his daughter was one of the first students to attend Fort Lincoln Elementary School. He said the experience was wonderful.

Because of his job, Day moved out of state, but returned to the Bismarck-Mandan area three years ago. At the time, his daughter was entering junior high.

"The school was the No. 1 deciding factor for us," Day said. "We had no preference what side of the river we lived on."

Horizon Middle School in Bismarck was recently built and had "wonderful opportunities" for his daughter in track and "the infrastructure was great," he said.

"It was a no-brainer. Horizon was brand new versus the old junior high in Mandan," Day said.

Schmidt's family moved to Mandan when he was in high school and he knows that when other people are looking to move into the area they want good schools.

"Mandan doesn't have much for business, but a lot of good people have come out of Mandan and we take good care of our kids," Schmidt said. "People know we need a new school. They just have to dig in their pockets a little deeper."

(Reach reporter Kayla Cogdill at 250-8251 or [kaylacogdill@bismarcktribune.net](mailto:kaylacogdill@bismarcktribune.net).)

### **Public Still Has Questions on New School**

*KAYLA COGDILL, Bismarck Tribune / Posted: Tuesday, March 29, 2005 6:00 pm*

Tuesday night Mandan voters came to listen about the proposal for a new junior high. Some left with questions answered and some not answered, while others left the meeting with even more questions than before they came.

The Mandan junior high gymnasium held more than 50 people who came to learn about the proposal for a new junior high, the tax impact and voice their opinions. Building Up Schools for Youth, a citizen task force, hosted the meeting. This organization has been promoting a new junior high since the first plans for the school was rejected in 2002.

If the proposal is approved, residents will pay \$17.6 million for the projects over the course of 20 years. The bulk of the cost, \$14.3 million will go to the junior high. The remaining money will update the high school's energy units, update Faris Field and pay for the renovation and partial demolition of the old junior high.

Bill Schuh, a Mandan School District Board member, said the new school and the other projects need to be taken care of now. He even used car repairs as an example, "if you don't take care of your vehicle the cost goes up when you have to fix it, we have to build this school to fix this problem before the cost goes up," he said.

Sandy Sunga, a resident from Mandan, said renovation and repairs to the schools and Faris Field should have been repaired as the problems arose not until they bottle-necked.

Sunga opposed the first proposal for a new school in 2002 and has her doubts about the new proposal. She is concerned about youth at risk and the high dropout rate of students.

"Just because you have a new school doesn't change the students attitudes," she said. "Attitudes of students and teachers have to change. The teachers have to improve their attitudes before the attitudes of the students will ever change."

Board member Kirsten Baesler argued that a new building will entice new teachers to replace the ones that will retire in the near future.

"A quality building creates quality classrooms and quality teaching, a new building will enhance the type of instruction," Baesler said.

Other residents mentioned feelings of distrust lingered from the last proposal for a new junior high from the school board.

Schuh said there are no contingencies about the new proposed cost of the school. The school will be built for the number of students expected in the future based on real demographics.

According to information provided by the school district and BUSY at the meeting, the number of students remains fairly consistent through 2010. However, the Department of Public Instruction's data on the population growth in Mandan and Bismarck school districts has it declining through 2013. DPI does not figure in economic development as a contributing factor when calculating the number of students per grade.

The new school would house 600 students between two grades.

Financing the proposal also was questioned at the meeting.

If the school proposal receives a 60 percent majority vote, the school district can apply for a state school construction loan up to \$2.5 million. This loan is a one-time loan per project with interest rates below 2 percent.

The loan has not been figured into the \$17.6 million cost because it can't be applied for until after the bond issue gets a green light.

Joe Lukach, business manager for the school district, said the school does qualify for the loan, and it would actually lower the projected cost of the school because of the low interest rate.

Additional funds from the sale of the Central Administration Building on Collins Avenue were assumed to help defer the cost of the new junior high. However, the sale money will go to the capital funds and can be used district-wide. Lukach said the money would probably be used to renovate the old junior high building, but the money would not go to the cost of the new school directly.

Another public meeting will be at 7 p.m. Thursday at the Mandan Junior high gymnasium. For more information about the meetings, contact call BUSY President Laurie Leingang at 667-2945.

(Reach reporter Kayla Cogdill at 250-8251 or [kaylacogdill@bismarcktribune.net](mailto:kaylacogdill@bismarcktribune.net).)

### **Board releases costs of junior high proposal**

*KAYLA COGDILL, Bismarck Tribune | Posted: Thursday, March 17, 2005 6:00 pm*

The numbers are in for the cost of the proposed junior high in Mandan. The new school would cost more and be smaller than the proposed junior high in 2002, but this time around the tax impact will be less.

Three years ago residents of Mandan said no to building a new junior high mainly because of the proposed location and tax increases. After crunching numbers, the Mandan School Board on Wednesday released the cost for the new junior high and three other projects. On April 26, Mandan residents will decide whether to give the new school a thumbs up or thumbs down.

If the proposal is approved, residents will pay \$17.6 million for the projects over the course of 20 years. The bulk of the cost, \$14.3 million, will go to the junior high. The remaining money will update the high school's energy units, update Faris Field and pay for the renovation and partial demolition of the old junior high.

Renovations would be made to the junior high's newest addition, and the district would move its administrative offices and preschool from the Central Administration Building. The oldest section of the school would be torn down.

In 2002, the new junior high proposed at \$13 million would have increased taxes for the homeowner of a \$100,000 house by \$180 a year for 20 years. This time the same homeowner could pay an increase of \$115 per year.

The \$180 was divided into \$145 for the school and \$35 to pay for extending utilities and roads. The Terra Vallee location would not require extending roads or utility lines.

"The tax increase encompasses the total expense of the new junior high from breaking the ground, infrastructure, to building the school and occupying it," said Joe Lukach, Mandan public school's business manager. "There will be no variations in the proposed taxes."

There are three reasons why the tax impact is less, even though the cost is more. Over the years, the mill levy values have increased, and interest rates have dropped. Also, the school district will retire some of its debt.

In 2012 the district will retire 63 percent of its present debt and by 2016 all existing debt will be retired. The mills for the new school will not go on tax bills until construction is completed, approximately in 2008.

Enough debt will be retired by 2012 to compensate for the new school, dropping the overall mill to existing levels.

The board will sell the Central Administration Building on Collins Avenue for \$300,000 to \$500,000 to help pay for the school.

In April, a 60 percent majority vote will be needed to pass the bond issue. Three years ago approximately 70 percent of voters voted no. Building Up Schools for Youth, a citizen task force, has been actively promoting a new junior high after the first school was rejected.

Ellen Huber, spokeswoman for BUSY, said there has been a broader recognition from the public of the need for a new junior high and of the educational and economic benefits to Mandan.

Huber called the proposed school "accommodating and thrifty" because it is smaller and will cost residents less than 50 cents a day in taxes.

However, some residents are still opposed to building a new school because of the tax increases.

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Wes Eisenmann, a resident of Mandan for 27 years, voted no on the first junior high and says he will vote no again.

As a senior citizen on a restricted income, the Eisenmanns will be selling their house this spring and moving to a smaller community. He says the taxes are already too high and the increase for the new school will put more strain on him and his wife.

He also opposes BUSY.

"In their fliers they show the oldest part of the junior high and neglect to show the west or east side of the school, which are newer. They only show the 100-year-old section of the building. This is very deceiving to new people moving to the area because they will think the building is worse than it is," Eisenmann said.

BUSY has been talking to the community justifying the tax increases.

"We sympathize to those with fixed incomes, but the pioneers of Mandan were able to build a school that has served its purpose well, but now it is our turn to build a new school," Huber said.

The new junior high, large enough for 600 students, will house seventh- and eighth-graders. Room to build additional classrooms is available for another grade if needed in the future. The commons are such as the library and cafetorium will be designed for three grades.

The gymnasium will have two courts and seat 900 people. The first proposal could seat 3,500 and have three full courts.

Terra Vallee, the new location, is located on 30 acres north of Mandan and would provide enough room for sporting fields, parking and future growth.

In 2002, the board choose Lohstreter Addition, a 30-acre lot west of the high school.

Don Helbling, owner of L & H Manufacturing, said he voted against the first junior high because of its location, but will vote yes for the Terra Vallee location. As for economic impact, he wasn't sure if a new school would have an impact or not.

Another concern was the decreasing number of students in the school district and across the state. However, Mandan Superintendent Kent Hjelmstad believes the number of students will increase because of the residential and economic growth in Bismarck and in Mandan. Currently the elementary schools in Mandan are not overcrowded, but they are full, he said.

"We are not building a junior high based on enrollment," said Hjelmstad. "We have to replace a building that is old and outdated."

(Reach reporter Kayla Cogdill at 250-8251 or [kaylacogdill@bismarcktribune.net](mailto:kaylacogdill@bismarcktribune.net).)

2. *Consider agreements with Western Edge Developments for redevelopment of city-owned properties at intersection of Collins Avenue and Main Street.* Business Development Director Huber presented a request to consider agreements with Western Edge Developments that are positive steps forward in Mandan's Revitalization process. Huber stated that in 2008, a Selection Committee was appointed and reviewed three proposals for redevelopment of City owned parcels acquired for remediation and redevelopment purposes. At that time a Letter of Understanding was entered into for redevelopment rights with Hopfauf Custom Builders. In the time since, Hopfaufs formed a partnership for the redevelopment project, Western Edge Developments, and had requested previously an extension of the Letter of Understanding to allow them to secure tenant/buyer commitments to make the project financially viable. Huber stated that the Hopfaufs are present tonight to inform the Commission that they have a letter of intent from a business for the street level portion of the three-level building. They are ready to enter into purchase and business incentive agreements with the City to further outline timelines and provisions for that redevelopment process. Huber stated that there are three items for consideration regarding this project:

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**i. Purchase Agreement:** The major commitment would require the sale of the property of approximately 16,250 sq. ft. for \$1.00 in return for a \$5.8 million investment in the three-story project;

Commissioner Serhienko moved to approve moving forward with a Purchase Agreement with Western Edge Developments. Commissioner Jackson seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed.

**ii. Business Incentive Agreement:** This outlines the timelines in which the development needs to occur and lists the goals to be met within that project. In particular, the timeline will address the commencement of construction of 7/1/10 and that the project will need to be substantially complete by 12/31/11. The agreement further defines the completion of the project as the exterior being finished along with at least 50 percent of the interior. Huber introduced Mike and Geris Hopfauf to speak in support of their request for consideration of entering into agreements for the project listed above. Geris Hopfauf came forward and stated that Huber summarized the project as understood by the Hopfaufs. She stated there is work in progress regarding a Purchase Agreement with an unnamed company for the ground floor level of the building.

Commissioner Jackson moved to approve moving forward with a Business Incentive Agreement with Western Edge Developments. Commissioner Serhienko seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed.

Huber stated there are two additional points to highlight:

- (a) The business incentive in addition to the sale of the property for \$1.00 that the developer intends to request. Those will be separate applications and review processes that will come before the Commission in the future – one would be for Renaissance Zone, local property tax exemption for 5 years, and 5-year tax exemption is allowed under the Renaissance Zone Program and,
- (b) A request intent for tax increment financing in the form of a property tax exemption on any portions of the project that would remain under ownership of Western Edge Developments in the future. The street level space, the letter of intent from the business that would like to occupy that space, they would like to own in a condominium style, that portion of the space so that would not be subject to the tax increment financing agreement. Huber stated that the Hopfaufs are not free to disclose the business involved in the Letter of Intent, however, they have disclosed that it is a service sector business rather than a restaurant.

**iii. Discussion regarding 116 E Main Street:** Commissioner Tibke moved to approve an extension for the Letter of Understanding with Western Edge Developments for the 116 East Main Street property through July 1, 2010. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes;

Commissioner Helbling: Yes. The motion passed. Mayor Helbling extended a thank you to the Hopfauf's and Ellen Huber for their hard work in pulling this project together.

3. Consider approval of a waiver of Ordinance 1048 Electronic Door Waiver for Tim Ell dba Turbo Spa Inc. City Assessor Richard Barta, stated that this property is located to the west of Eddy's Clinic on Twin City Drive. This building will be a car wash. There is only one door that goes into the mechanical room. The rest of the doors are large car wash doors into the bays. City Attorney Brown stated that this (building) does not require an electronic door as the public will not be invited into the mechanical room. This information is brought before the Commission for informational purposes only.

**RESOLUTIONS & ORDINANCES:**

1. Consider second and final reading of the following ordinances:
  - i. Ordinance No. 1064, an ordinance to repeal certain sections of the Mandan Code of Ordinances,
    - Chapter 13-05, Auctioneers
    - Chapter 13-06, Electricians
    - Chapter 13-07, Excavators
    - Chapter 13-10, Gas Fitters
    - Chapter 13-11, Hide Processing
    - Chapter 13-12, House Movers
    - Chapter 13-16, Plumbers,
    - Chapter 13-18, Sidewalk Contractors

Commissioner Jackson moved to approve the second and final reading of Ordinances No. 1064 an ordinance to repeal certain sections of the Mandan Code of Ordinances as outlined above in Chapters 13-05, 13-06, 13-07, 13-10, 13-11, 13-12, 13-16, 13-18. Commissioner Serhienko seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed.

**ORDINANCE NO. 1064**

An Ordinance to repeal certain sections of the Mandan Code of Ordinances;

BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, as follows:

The following Chapters of the Mandan Code of Ordinances are hereby repealed:

Chapter 13-05	Auctioneers
Chapter 13-06	Electricians
Chapter 13-07	Excavators
Chapter 13-10	Gas Fitters
Chapter 13-11	Hide Processing
Chapter 13-12	House Movers
Chapter 13-16	Plumbers

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Chapter 13-18 Sidewalk Contractors

/s/ Timothy A. Helbling  
President of City Commission

ATTEST:

/s/ James Neubauer  
City Administrator

First Reading: December 1, 2009  
Second Reading and Final Passage: December 15, 2009

*ii. Ordinance 1065, an ordinance to create a new section to the Mandan Code of Ordinances which creates a section dealing with a winery or brewery.*

Commissioner Jackson moved to approve Ordinance 1065, an ordinance to create a new section to the Mandan Code of Ordinances which creates a section dealing with a winery or brewery. Commissioner Serhienko seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed.

**ORDINANCE NO. 1065  
WINERY OR BREWERY**

An Ordinance to create a new section to the Mandan Code of Ordinances which creates a section dealing with a winery or brewery.

BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, as follows:

**12-02-04.1. Class WB.** A Class WB license shall authorize the licensee to operate a domestic winery or brewery and to sell wine or beer produced on the premises by the licensee “on-sale” and “off-sale”, and to sell wine-making or brewery supplies and related services, subject to the following restrictions and conditions:

(1) A Class WB license may be issued only to a domestic winery or brewery owner or operator who obtains a license from the State Tax Commissioner allowing the production of wine or beer.

(2) A Class WB license will authorize the licensee to sell, on the winery or brewery premises, wine or beer produced by that winery or brewery on the premises at on-sale or off-sale, in retail lots, and not for resale, in total quantities not in excess of 10,000 gallons in a calendar year. In the absence of another appropriate license, sales or delivery of on-sale or off-sale wine, beer or any other alcoholic beverage produced off the premises shall not be permitted.

(3) A Class WB license will authorize the licensee to utilize special event permits issued by the State Tax Commissioner.

(4) The Class WB license shall be governed by all the provisions of this chapter generally applicable to all license qualifications.

(5) The fee for a Class WB license shall be as determined by resolution of the Board of City Commissioners.

/s/ Timothy A. Helbling  
President of City Commission

ATTEST:

/s/ James Neubauer  
City Administrator

First Reading: December 1, 2009  
Second Reading and Final Passage: December 15, 2009

*iii. Ordinance 1066, an ordinance to amend Section 20-14-03 of the Mandan Municipal Code of Ordinances related to angle parking.*

Commissioner Jackson moved to approve Ordinance 1066, an ordinance to amend Section 20-14-03 of the Mandan Municipal Code of Ordinances related to angle parking. Commissioner Serhienko seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed.

### **ORDINANCE NO. 1066**

An Ordinance to Amend  
Section 20-14-03 of the Mandan Municipal Code  
Relating to Angle Parking

Be it Ordained by the Board of City Commissioners as follows:

1. Section 20-14-03 of the Mandan Municipal Code is hereby amended to read as follows:

Section 20-14-03. Angle Parking.

The city engineer or other person authorized by the governing body may mark or sign streets upon which angle parking will be permitted. Upon those streets which have been signed or marked for angle parking, no person may park

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or stand a vehicle other than with the front of the vehicle at an angle to the curb or edge of the road indicated by such signs or markings.

By: /s/ Timothy A. Helbling

President, Board of City Commissioners

Attest:

/s/ James Neubauer

City Administrator

First Reading: December 1, 2009

Second Reading and Final Passage: December 15, 2009

2. Consider Financing Resolution for Street Improvement District #138-Area G (Lincoln Ridge Estates 3<sup>rd</sup> and 4<sup>th</sup> Addition), Street Improvement District #147 (Division Street), Street Improvement District #153-Area A (19<sup>th</sup> Street South), Street Improvement District #153-Area B (Keidel's South Heart Terrace 1<sup>st</sup> Addition), Street Improvement District #153-Area C (West Hills Estates 2<sup>nd</sup> Addition), Water and Sewer Improvement District #52 (Division Street), and Water and Sewer Improvement District #55 (19<sup>th</sup> Street). (Note: Bond sale was approved by the Board on December 1, 2009).

Commissioner Serhienko moved to approve Financing Resolution for Street Improvement District #138-Area G (Lincoln Ridge Estates 3<sup>rd</sup> and 4<sup>th</sup> Addition).

Commissioner Jackson seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed. (A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)

3. Consider Financing Resolution for Street Improvement District #148 (Mandan Avenue). (Note: Bond sale was approved by the Board on December 1, 2009). Commissioner Serhienko moved to approve Financing Resolution for Street Improvement District #148 (Mandan Avenue). Commissioner Jackson seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed. (A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)

4. Consider Resolution Authorizing Issuance of \$4,420,000 Refunding Improvement Bonds of 2009, Series A. (Note: Relates to Agenda items H.2. and H.3.) Commissioner Serhienko moved to approve the Resolution Authorizing Issuance of \$4,420,000 Refunding Improvement Bonds of 2009, Series A. Commissioner Tibke seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed. (A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)

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5. *Consider Financing Resolution for Sidewalk, Curb and Gutter Warrant of 2009. (Note: Bond sale was approved by the Board on December 1, 2009).* Commissioner Tibke moved to approve a Financing Resolution for Sidewalk, Curb and Gutter Warrant of 2009. Commissioner Serhienko seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)*

6. *Consider Resolution Authorizing Issuance of \$225,000 Refunding Improvement Bonds, Series SCG-2009. (Note: Relates to Agenda item H.5.).* Commissioner Serhienko moved to approve a Resolution Authorizing Issuance of \$225,000 Refunding Improvement Bonds, Series SCG-2009. Commissioner Gangl seconded the motion. Roll Call Vote: Commissioner Gangl: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Serhienko: Yes; Commissioner Helbling: Yes. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)*

OTHER BUSINESS:

1. Keith Keidel, a Mandan City resident came forward to speak. He stated that 19<sup>th</sup> Street was a new street that was put in when the new bridge was built and 19<sup>th</sup> street was used as a detour. It remains that way today. He has never gotten any money off the property for use of the property. He stated he has not received any acknowledgement for having it black-topped. He would like to know when discussion will happen regarding payment for the black-top. City Administrator Neubauer responded that those projects have not been assessed. Those hearings will be coming up in January or February 2010 and notices will be going out at that time. What happened with the financing is that the projects have been paid for and the bonds had to be sold for reimbursement. The Special Assessment District was created possibly two years ago. He stated that when the project is complete, the special assessments will occur. Mayor Helbling requested Mr. Neubauer provide documentation regarding this matter to Mr. Keidel.

2. Mayor Helbling announced that former Mayor Ken LaMont has been hospitalized recently and suggested acknowledgements be sent to him.

3. Commissioner Jackson announced that the next and last meeting of the Noise Committee is set for 5:00 p.m. on Thursday, December 17, 2009.

There being no further actions to come before the Board, Commissioner Serhienko moved to adjourn the meeting at 6:05 p.m. Commissioner Jackson seconded the motion. Upon roll call vote, the motion received unanimous approval of the Board and the meeting adjourned.

/s/ James Neubauer  
James Neubauer,  
City Administrator

/s/ Timothy A. Helbling  
Timothy A. Helbling,  
President, Board of City Commissioners