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The Mandan City Commission met in regular session at 5:30 p.m. on May 4, 2010 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 April 20, 2010 meeting of the Board of City Commissioners.* Commissioner Serhienko moved to approve the minutes as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. ~~*Public hearing to comply with EPA mandates regarding the 2009 Water Quality Report.*~~ This item was removed from the Agenda.

BIDS:

1. *Consider award of bids for Water Improvement Project #2010.* Engineering Project Manager Bechtel reviewed with the Board a request to consider the award of bids for the Water Improvement Project No. 2010. Bechtel stated that this is the project for the construction and installation of a new water main behind the high school and 11<sup>th</sup> Street Northwest. There were four bids received with the low bid of \$515,548.41 received from Cofell’s Plumbing and Heating. The bid was under the engineer’s estimate of \$600,000.

Commissioner Jackson moved to approve the award of bids for the *Water Improvement Project #2010 to Cofell’s Plumbing and Heating* in the amount of \$515,548.41. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

CONSENT AGENDA:

1. *Consider the following proclamations:*
- i. Designating May 2 - 9, 2010 as National Music Week in the City of Mandan.* The Board approved the proclamation designating May 2 - 9, 2010 as National Music Week in the City of Mandan.
  - ii. Designating the period May 1, through June 14, 2010 as National Military Appreciation Month in the City of Mandan.* The Board approved the proclamation designating the period May 1, through June 14, 2010 as National Military Appreciation Month in the City of Mandan.
  - iii. Designating May 7, 2010 as Arbor Day in the City of Mandan.* The Board approved designating May 7, 2010 as Arbor Day in the City of Mandan.
  - iv. Designating May 17-21, 2010 as Bike-To-Work Week in the City of Mandan.* The Board approved designating May 17-21, 2010 as Bike-To-Work Week in the City of Mandan.

2. *Consider approval of a site authorization for ABATE of North Dakota at the Hideaway from July 1, 2010 through June 30, 2011.* The Board approved a site authorization for ABATE of North Dakota at the Hideaway from July 1, 2010 through June 30, 2011.
3. *Consider approval of Twilight Hills final plat.* The Board approved the Twilight Hills final plat.
4. ~~*Consider approval of School District 1<sup>st</sup> Addition Replat.*~~ (See “Old Business No. 2”.)
5. *Consider approval of the following abatements:*
  - i. *Darlene Berger – Homestead Credit Exemption*
  - ii. *Robert Geiss – Homestead Credit Exemption*
  - iii. *Marina Bay LLP – Value reduction*
  - iv. *MMSK LLP – Value reduction*

The Board approved of the abatements as listed above.

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

#### OLD BUSINESS:

1. *Consider agreement between Captain Freddy’s and City of Mandan.*  
Commissioner Jackson stated that the Board members have been given a copy of the draft Agreement that has been prepared regarding this matter. He stated that he has been working with Todd Kranda, who represents Captain Freddy’s; however, Kranda was unable to attend tonight’s meeting. He indicated that there will be some revisions to the proposed agreement. In particular, the decibel reading requirement is listed at 50 DB, which is not possible, because even normal noise levels such as pontoons going by exceed 50 DB. (One pontoon going by was at 70-75 DBs). One item within the Agreement that Jackson pointed out was that the homeowners do not want to be part of the negotiations. He said they are considering bringing their own initiated ordinance and for that reason Captain Freddy’s is requesting that the Agreement be subject to any initiated ordinance that might be brought up. Mr. William Delmore is present tonight representing Captain Freddy’s.

Mr. Delmore came forward to speak on behalf of Todd Kranda, who was absent. Delmore stated that he previously worked for the ND Attorney General’s office and while working there, he had experience with the creation of noise ordinances. He stated that Captain Freddy’s has acquired a band shell tent to diffuse the noise and the fence will also be heightened. Captain Freddy’s has hired experts to assist in this project.

Commissioner Jackson stated that erecting the tent made a significant difference in reducing the noise level. Measurements were taken inside the tent and the decibel levels were in the 50 DB range when the music was playing. He asked the Board members to review the Agreement and if any questions, to contact either City Attorney Brown or himself. Commissioner Jackson commented that negotiations are still work in progress with Captain Freddy’s. He stated that a final Agreement should be ready by the next

regular City Commission meeting. Commissioner Jackson complimented Captain Freddy's for their attention to this matter and stated that he felt that the ambient noise was of a level comparable to the music noise with all the noise reduction measures put in place by Captain Freddy's. Mayor Helbling noted that this matter will be reviewed again at an upcoming meeting.

2. *Consider approval of School District 1<sup>st</sup> Addition Replat.* Engineering Project Manager Bechtel stated that this is a housekeeping item, a plat to enter around the area to deed the property to the proper parties. The land was a 2-piece plat, and this is breaking those pieces into the plats that will be deeded to the proper parties: the school, the city, the skate park for the Park District. The other pieces are being platted out as to who will be receiving what.

Commissioner Jackson inquired as to what is the future plan for a through-street in that area? Bechtel stated that the plan is for Division Street to curve northward with a couple different alignments and will meet up with Boundary Road. Division Street is the main extension for the future. Bechtel said that the street in between the High School and the Hockey Arena is being platted over to the school as their piece of property.

Leo Volk, a Mandan resident, came forward to speak. He stated that he lives on 8<sup>th</sup> Street. He commented that he believes they are using more of 7<sup>th</sup> & 8<sup>th</sup> Streets than Division Street.

Commissioner Gangl moved to approve the final replat of School District 1<sup>st</sup> Addition. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

#### NEW BUSINESS:

1. *Discussion regarding issues brought forth at Morton Burleigh Bismarck Mandan (MBBM) Committee.* Commissioner Tibke summarized for the Board the purpose of the MBBM Committee, a subcommittee of the Mayor's Economic Advisory Group established by Mayor Warford and Mayor Helbling. She stated that two meetings have been held in regards to determining the needs for a detention center facility and the possibility of sharing the costs between the four entities: the Mandan and Bismarck Police Departments and the Morton and Burleigh County Sheriff's Departments. Commissioner Tibke stated that she has been assigned to inform the Mandan City Commission of the intent of the MBBM Committee to develop collaborative effort between the four entities in the completion of a regional detention center. Commissioner Tibke stated that at this time the MBBM Committee is interested in obtaining a Professional Needs Assessment to determine the current and future long term needs of a detention center and the first step is to see if all four entities are interested in participating in the study. Once a determination is made as to who will participate, an approximate cost for the needs assessment can be determined. She indicated that an estimated cost of \$50,000 was discussed as the cost of the study.

Mayor Helbling commented that he is in favor of participating with the other entities in a study such as this and if the costs were shared population wise, Mandan would probably benefit from the study. Finance Director Welch stated that he would have to check with city staff to determine the resource from which funding source this could be drawn in order to pay the City of Mandan's share of the cost for the study. Mayor Helbling suggested that discussions take place with the LEC Committee to make sure they are in agreement with the regional needs assessment study and then bring the matter back to determine the numbers.

Commissioner Serhienko commented that it only makes good sense to combine the Morton and Burleigh Sheriff Departments and the Mandan and Bismarck City Policy Departments. He stated he is in favor of such a plan.

Mayor Helbling stated that this Agenda item is for informational purposes only at this time. Administrator Neubauer was instructed to contact Morton County LEC to get this on the County Agenda for an upcoming meeting.

Dennis Rohr, former Mandan Police Chief, came forward to speak. He stated that this matter was discussed about 10 years ago. He stated that there has been considerable research done on this issue from previous years. He also mentioned that one consideration is to house inmates from surrounding communities which will bring in revenue to offset costs.

Commissioner Tibke stated that there are possibilities of stimulus monies and also looking to the federal delegation for this type of facility of which there are funds available. The MBBM Committee will be discussing this matter with Senator Dorgan's office.

2. *Consider acceptance of 2010 Budget amendment and Grant acceptance for firefighting gear.* Fire Chief Nardello reviewed with members a request to accept a grant in the amount of \$56,295.00 acquired for firefighting gear and clothing from the Assistance to Firefighter Grant program. He explained that the normal process is that the funds would be taken from the general fund to pay for the equipment and then reimbursement would be provided to cover the costs from the grant program. Commissioner Serhienko inquired if the equipment would be "red" in color, and Chief Nardello replied that "no" it will be "yellow".

Commissioner Serhienko moved to approve amending the 2010 Fire Department Budget to include a \$56,295.00 grant for firefighting gear from the Assistance to Firefighter Grant program. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

3. *Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the construction of 3<sup>rd</sup> Street S.* Engineering Project Manager Bechtel reviewed with members an agreement with the NDDOT that would include a cost participation for the construction of 3rd Street South in Mandan. This Agreement would

provide funds to the City for the match of federal funds that have been allocated for the construction of the project. Bechtel explained that the project would have a cap of \$1,120,000 and a responsibility to provide 19.07% of the matching funds on that amount. The City's share is approximately \$165,000 for the construction of the project. The engineer's estimate for the project is \$608,322. He stated that this Agreement allocates the funds requested and binds the City to matching funds for the construction of the project.

Bechtel said that the special assessment district is going to be very minimal for the homeowners, with an average cost of \$70 to \$150 over a 15 year period. Some of the commercial lots will be higher. Bechtel explained there are two portions to the project – from 3<sup>rd</sup> Street to 10<sup>th</sup> Avenue to 2<sup>nd</sup> Avenue Southwest. It is anticipated the project will start mid June with hopes to have it completed before school begins in the fall. The other portion that will be chip sealed is expected to be completed by mid September.

Commissioner Jackson moved to approve entering into a Cost Participation and Maintenance Agreement with the NDDOT for the construction of 3<sup>rd</sup> Street South. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

4. *Update on proposed 2010 stimulus projects.* Engineering Project Manager Bechtel stated there is no stimulus money available in 2010 for roads. Bechtel stated that the projects that were part of the stimulus funds request were also put in the rural roads and will be addressed in future years.

5. *Consider Mandan Progress Organization Funding Committee recommendations.* Del Wetsch, Executive Director of the Mandan Progress Organization, requested funding on behalf of the MPO Funding Committee. Wetsch stated that the MPO met recently and reviewed 23 applications for funding assistance. The funding recommendations are based on information received along with an application for funding from organizations within the community. These grants are awarded on an annual basis and the application deadline is March 31<sup>st</sup>. Grant requests are limited to \$5,000 per year per organization and the grants will be paid in 50% Mandan dollars and 50% of the cash value. Wetsch stated the MPO Board has approved of the funding for the organizations listed. They are requesting City approval.

Commissioner Serhienko moved to approve the Mandan Progress Organization Funding Committee recommendations. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

#### RESOLUTIONS & ORDINANCES:

1. *Consider second and final reading of Ordinance No. 1079 – An ordinance to repeal Section 2-01-11 of the Mandan Code of Ordinances relating to reading of Resolutions.* Commissioner Tibke moved to approve the second and final reading of Ordinance No. 1079 – An ordinance to repeal Section 2-01-11 of the Mandan Code of

Ordinances relating to reading of Resolutions. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

**ORDINANCE NO. 1079**

An Ordinance to Repeal  
Section 2-01-11 of the Mandan Code of Ordinances  
Relating to Reading of Resolutions

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

Section 2-01-11 of the Mandan Code of Ordinances is hereby repealed:

~~Section 2-01-11 — Resolutions — Reading in full.~~

~~All resolutions requiring the signature of the president of the board of city commissioners, or involving the expenditure of any of the funds of the city, shall be read in full for passage to the board of city commissions in session.~~

By: Timothy A. Helbling  
President, Board of City Commissioners

Attest:

/s/ James Neubauer  
City Administrator

First Reading: April 20, 2010  
Second Reading and Final Passage: May 4, 2010

2. *Consider second and final reading of Ordinance 1077 – An ordinance to create and enact section 9-03.1-36 of the Mandan Code of Ordinances, relating to the enforcement response plan of the City of Mandan Wastewater Treatment Plant Industrial Pretreatment Program and providing for a penalty and effective date. Commissioner Jackson moved to approve the second and final reading of Ordinance 1077 – An ordinance to create and enact section 9-03.1-36 of the Mandan Code of Ordinances, relating to the enforcement response plan of the City of Mandan Wastewater Treatment Plant Industrial Pretreatment Program and providing for a penalty and effective date. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present. (A copy of the ordinance is on file open for public inspection during regular working hours in the office of the City Administrator.)*

3. *Consider introduction and first reading of Ordinance 1081 – an ordinance to amend section 3-01-07 of the Mandan Code of Ordinances relating to Bidding Procedure. City Attorney Brown stated that it was recently brought up that there is currently no procedure in place as to how the City advertises for bids or where or when the bids might be opened. This revision will bring our Ordinance up-to-date.*

Commissioner Jackson moved to approve the introduction and first reading of Ordinance 1081 – an ordinance to amend section 3-01-07 of the Mandan Code of Ordinances relating to Bidding Procedure. Commissioner Serhienko seconded the motion. The motion received unanimous approval of the members present.

OTHER BUSINESS:

1. Leo Volk, a Mandan resident, came forward and inquired why Mandan does not have a pet control in place? Chief Bullinger responded that the staff assigned to pet control is a three-quarter position. Within that position, that staff person is required to complete other duties in addition to pet control duties. Mayor Helbling commented that if the Police Chief feels additional staffing is needed in this area; the time to bring any request for additional staffing would be at budget time.

2. Victor Friesz, a Mandan resident, came forward to speak. He stated he owns property north of the new junior high building. He stated there have been previous discussions regarding Hwy 1806 exiting off the interstate exit going north past the junior high. He inquired if the City Commission is aware if that project will take place? Engineering Project Manager Bechtel stated that project has been identified as a possible routing for the Sunset Drive area. It's within the mid-range planning over the next ten years. Mr. Friesz requested, that since there may be state funding involved with the project, to move this project ahead on the schedule or consider it within a shorter range. Mayor Helbling commented that the City of Mandan will take that into consideration and also stated that he believes a majority of that land is within the county, not the city. Commissioner Tibke suggested that Mr. Friesz contact his legislators for funding on those state roads.

There being no further actions to come before the Board, Commissioner Serhienko moved to adjourn the meeting at 6:23 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