AGENDA
MANDAN CITY COMMISSION
FEBRUARY 1, 2011
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

A. ROLL CALL:
   1. Roll call of all City Commissioners and Department Heads.

B. MINUTES:
   1. Consider approval of the following minutes:
      i. January 18, 2011 Board of City Commission meeting
      ii. January 28, 2011 Special Meeting Board of City Commissioners

C. PUBLIC HEARING:
   1. The purpose of the hearing is to review the performance of the city in carrying out its Community Development Block Grant program, particularly regarding Cloverdale Foods Company for which CDBG funds were provided.

D. BIDS:

E. CONSENT AGENDA:
   1. Consider approval of the pledge of securities reports as required by NDCC 21-04.
   2. Consider approval of a re-assessment abatement for Paul Everson
   3. Consider approval of Waste Management hauling to alternate facilities.
   4. Consider approval of the employment contract for the Business Development & Communications Director.

F. OLD BUSINESS:

G. NEW BUSINESS:
   1. Consider Growth Fund Committee recommendations for 2011 Retail and Restaurant Incentive Program
   2. Consider approval of Liquor License application for Victoria Luchkina at the former location of Sportsmans Lounge
   3. Update on remediation project by Leggette, Brashears & Graham.

H. RESOLUTIONS & ORDINANCES:

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. February 15, 2011
2. March 1, 2011
3. March 15, 2011

K. ADJOURN

The Mandan City Commission met in regular session at 5:00 p.m. on January 18, 2011 in the Ed "Bosh" Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, and Frank. Commissioner Jackson arrived at 5:26 p.m. 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, and City Assessor Barta. Absent was: Engineering Project Manager Bechtel.

Employee Recognition: The following individuals were recognized:
Mandan Special Assessment Commission: Georgene Vredenburg - 22 years service;
Water Treatment Plant: Gary Zander - 43 years service;
Mandan Street Department: Wesley Long – 42 years service.

MINUTES: *Consider approval of the minutes for January 4, 2011, meeting of the Board of City Commissioners.* Commissioner Frank moved to approve the minutes as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:
1. Consider first reading of Ordinance No. 1090 relating to "noise". Mayor Helbling announced this is a public hearing and asked for public comments.

Chase Felchle came forward to speak on behalf of Richard Haman. He stated he has three statements in support of the Ordinance: (1) This is a standard Noise Ordinance similar to Noise Ordinances passed by other North Dakota cities. (2) That the Ordinance was passed on a city wide ballot which means it is a city wide necessity and not meant to solely target the bars. (3) This Ordinance was passed by a 56% majority and for this counsel to appeal or change this measure would mean turning its back on a vote by the people of Mandan.

Richard Baer came forward to speak. He stated that he represents the Broken Oar and offered the following comments: (1) We talk about and I heard at the last meeting - is that the people voted for it, the people voted for it, the people voted for it. Okay, fine, all is well and good except one thing. It never should have been on the ballot. We know that. It was illegally drafted inappropriately. And I know they call and they refer to it as a legal technicality. Well, it wasn't a legal technicality. It was a requirement set by the State before the City adopted their charter. There never should have been a vote on this Ordinance at all. And, accordingly, the judge declared it to be illegal. But going down to it, and I did hear comments during the meeting last week and in the press. I've seen them, is that this bill is going to need some tweaking. I am not going to tell you how to correct it but I believe the tweaking that is to be done here will be done probably by the courts. This Ordinance, talks about snow blowers, but it doesn't say how long after the snow falls. It doesn't say anything about lawnmowers. It doesn't say coming home from work at 5:30 or 6:00 in the morning and running your lawnmower. The argument that this Ordinance follows along with the ordinances of other cities in North Dakota - it doesn't. I've looked at them all. You've looked at them all and we all had a packet

about a year ago and we looked at them and said "Hmmm". There's a new paragraph in here, unless I overlooked it before that says that we're going to measure the noise. You don't see that in the other ordinances but you do see the language that is contained in this ordinance that the noise decibels not exceed going from one place to another - the decibels in that other place. So, if you are going to measure them at the location - what then happens to the violation that it not exceed the levels at the place where the complainers are or is? I am familiar with and I understand where the complainers are coming from but the problem I have with it is this: If there are two people sitting on their decks outside in those units and one says I really like the music and the other guys says, no, it's noise, now we have a real issue. And what are the police going to do to enforce this ordinance when there is language that says that we're going to set these decibels but we're not going to require that a violation of decibels be treated as an offense? In other words, you could be charged with a violation of the ordinance whether or not you exceed the decibels. Now, where did that come from? Where are we going to go with this? The table of exceptions. The other City ordinances that I have looked at and which you have access to and have looked at don't virtually exclude every noise making part of the activities that go on in cities and towns. None of the other ordinances do that. Here we exempt the snow blowers and left out the lawnmowers. Here we talk about noise violation coming from the offender's property which is the place where the noise emanates but it's not suppose to violate the place that could be a mile or two away. I am just thinking that at the last meeting when Chief Rohr commented that there are plenty of things for law enforcement people to do. Driving around checking snow blowers two days after a snowfall rather than 24 hours after the snow fall and going around sticking their meter out the door at so-called property lines and trying to measure noise and for how long and to figure it out. The Commissioner who spoke at the last meeting was right that it's going to take some tweaking - opted out at this time to not do the tweaking - because if you did do some tweaking you are going to take this ordinance and can it. There are plenty of other ways to enforce what these people want enforced. The problem is, as Mr. Jackson said, is that we spent, and I was on the Committee, almost a year and a half trying to negotiate and make arrangements with the complainers. There was never any give on the complainer's side. There was only demand. And when you folks did not do what they wanted they brought the initiated measure. Then they violated the law in preparing it and doing it and it was unfortunately put on the ballot inappropriately, and in my opinion illegally, and it was not a technicality because it should not have been on there. I am just saying they don't need it. I agree with Mr. Jackson and the other commissioners that worked with us on this thing that enough is enough. There are plenty of ordinances to enforce it and we don't need any more. And if you think you've got complaints coming from people when they know there is no ordinance, you are going to have truckloads of them when you pass one. And it's just asking for a burden that I don't think the City Police Department is ready for nor is the financial litigation that follows going to be worth it. I say jettison it, start over, or try something else but I wouldn't adopt this one.

Commissioner Jackson arrived at approximately 5:30 p.m. having been involved with a prior commitment. For clarification, he stated that he has taken the position, that he voted against the ordinance at the outset, in the committee meetings, and so on, but his

position lately has been that the voters did vote on this and it passed. Even if it is, as you stated, a technicality… Mr. Baer interrupted and clarified that he said it was not a technicality, that it was illegally done. Commissioner Jackson continued on, stating that I, as a City Commissioner, can view the election at the very least as a straw poll, if you will, of the feelings of the citizens of the City of Mandan. That's fair though, right?

Richard Baer: My first point before you got here was that this Ordinance was on the ballot inappropriately and never should have gotten on the ballot the way it was done. It was not a technicality. It was a requirement by statute before the City adopted its charter and then included the same language or actually more stringent language in the charter.

Commissioner Jackson: Even assuming that I accept it as technicality though; can't I look at it as a straw poll to gauge the feelings of the citizens of Mandan?

Richard Baer: Oh certainly. But the point being, why accept that as a straw poll and adopt an ordinance that is virtually unworkable for everybody?

Commissioner Jackson: Have you reviewed the City of Bismarck's?

Richard Baer: Yes I have and I do know why there was an attempt made by you or whoever made it, to check up… . You understand that the law in Bismarck never suffered a legal challenge except for the motorcycle and that was thrown out by the court. The noise for motorcycles doesn't exist. There are no cases in these other towns that I am aware of, or cities, but the point is that the City of Bismarck entered into a separate agreement with Southport specifically because the language of that city ordinance did not address the problem at Southport and so they handled it with a separate agreement. They did not draft an agreement as a city wide ordinance and then nailed lawnmowers and snow blowers. If we don't fix this now, we will be back here more and more if we don't look at what was drafted and what the consequences are going to be.

Keith Keller came forward to speak: I have a couple issues with the Noise Ordinance. I question why the commission thinks we have to listen to the race track every Friday night when the bar music is too much but the race track is acceptable? I prefer to not listen to the race track. The lawnmower issue as well as chain saw issues, if I have to trim a tree in my yard, will I have to get a special permit for a noise ordinance for the noise the chainsaw is going to make? And lastly, I have to wonder that if it was not a bar out there but a manufacturing plant that had people employed there would the same end result come out? Would you have told that plant that they can't run 24 hours a day or make excessive noise because of the people who live there? I think it just happens to be a bar and it's unfortunate for the people that live there.

Rose Marie Gerhart came forward to speak. First of all, the Noise Ordinance as it is now has gone way beyond the bar issue. It's a Noise Ordinance for the total City and this Noise Ordinance was voted upon and approved by the majority of the voters of the total city. 3,574 people voted for the Noise Ordinance which means the people want something done. Secondly, all the other major cities have noise ordinances and they are

able to enforce it. Granted there were some comments about what's music to one is noise to another and so on, that is probably true, but what we're looking at is the level of the music or noise. Also, if you are cutting down a tree, is that chain saw going to run for 3-4 hours straight into the night? Past 12 o'clock? I don't think so. I think that what has been drafted here is very similar to Bismarck's and should be acceptable because it was voted on. Another comment was that people didn't know what they were signing. Since the inception of this matter, you follow the paper. You follow the TV. You know how many times this Ordinance has been talked about. So people were not ignorant when they signed and voted for that. And as far as the error that was made when it was put on the ballot, when the petitioners brought their petition in to have it okayed, it was okayed both by the city administrator and the city lawyer. They told the petitioners that everything that was done was correct and it was acceptable. At that time had it not been correct and acceptable it would not have taken much to have the petition with the correct affidavit or whatever it was they needed, that could have been done at that time but they were told they were okay. And that's why it went on the ballot. True, it was in error, but it was not an error on the part of the petitioners. I just needed to straighten that out because everybody focuses on the people that brought it to put on the ballot. Yes we made an error because we were told it was correct and it was not. I realize you are not going to stop noise from everything that is going on but what we're talking about here is long sustained noise that is disruptive to the peace of the people whether it's beside a bar or whether it's beside a business. This is what we are addressing. We would like Mandan to not stay like in the past but to move forward as a City and I truly believe that a Noise Ordinance is a part of that.

Annette Behm-Caldwell came forward to speak. My husband Dusty Caldwell and I own Open Road Honda which is a motorcycle, ATV and power equipment dealership on the Strip. I am here to speak against the Noise Ordinance tonight. Plainly stated, if this Noise Ordinance were to go into effect, I would exceed it every day that our business is open. We work on multiple units, snow blowers, lawnmowers, dirt bikes, ATV's and motorcycles. Now, where the bikes meet the decibel limit by the EPA, they would exceed the noise limits as set by the Noise Ordinance. I have private homes on the east and west of my business. This Noise Ordinance would open me up to litigation and liability. I cannot continue my business without servicing the units and without servicing the units I need to be able to run those units. I have also talked to a lot of people that signed the petition for the noise ordinance. I think that when people voted for a noise ordinance they wanted a noise ordinance. I don't think they understand decibels. I think where we got the problem is that people don't realize that 50 decibels is actually less than my volume at this moment. I don't think people understand that after 11:00 that if their baby is crying, it is going to exceed the noise ordinance. If they're working on their car in their garage, it's going to exceed the noise ordinance. I have a number of employees who live in Mandan and one guy jokingly said that "I want the noise ordinance because then my girlfriend can't argue with me after 11:00 at night because it will exceed the noise limit". We are very familiar with noise limits because we sell generators and generators have different noise limits. Even our quietest generator would exceed this noise limit so if someone had a camper and had our quietest E1000 generator hooked up to it and wanted to run that generator through the night they would exceed the noise limit

in the residential area. I am not saying that a noise ordinance is a bad idea but I think we need to look at those decibel limits. I've heard the phrase, let's pass it and see what happens. That's a risky proposition for me. I have good neighbors, but if my neighbors change or if someone gets their nose out of joint; this opens me wide up for litigation.

Mayor Helbling asked for any additional comments regarding the Noise Ordinance. Seeing and hearing none, this portion of the public hearing was closed. The Commissioners were invited to present their comments.

Commissioner Rohr: I did go out and visit with people and asked them "What is the most annoying noise to you in Mandan?" They came up with the noise from the race track, noisy vehicles on the streets, and fireworks. Now I don't see this particular ordinance dealing with these in a manner that we already don't have an existing way to dealing with it. I do believe we have existing ordinances and mechanisms in place to handle by far most of the problems. I see, in some respects, what we're doing we're taking away the human evaluation with this ordinance and imposing a mechanism of measuring decibels. The readings of this machine will be the evaluator and it's a seemingly objective device but it's subject to a subjective environment. That's my take on this particular issue.

Commissioner Tibke: Commissioner Rohr, how the decibel discussion came up was really from our view and I do have concerns about the decibel levels as the vote was passed it, but really to protect both parties. The issue that we have at Captain Freddy's, from my observation, and I went down there when Captain Freddy's was probably louder and the neighbors were upset about it and it was, in my opinion, it was too loud and I can sleep through just about anything. The problem was, is that continued for awhile to the point where when I feel like the (bar) owner was trying to rectify the situation, it was at a point where the neighbors weren't trusting him and his judgment and he wasn't trusting their judgment and we came at an impasse after committee work and working together. The issue just could not be solved and it's to the point where you almost need an evaluation or evaluator or something to show either the neighbors or the owner of an establishment that if the noise coming from your establishment is too noisy, or neighbors, and the establishment is meeting the noise requirement and you're being overly sensitive. This is what we've been working with for a while now and that's where that decibel discussion came from. I really don't know how you solve that issue of passing some sort of decibel reading in that situation that we dealt with at the Captain Freddy's area. The neighbors were so upset that, in my opinion, he could have done anything and that would have been too noisy at that point because he had really passed their patience level and it was hard for them to go back and be objective about it. Personally when this came to a vote, I voted against it because I didn't like some of the wording within the ordinance. I see that in the future, depending on how this goes tonight there may be some issues but when you look at this with common sense, you really prevail in general about decibel levels, snow blowers, lawnmowers. The problem comes in when there are abuses and then the decibel readings are useful but like the business owner stated, now that we have the issue of decibel levels and where they're at and how that will play out and affect businesses. Is it too over-reaching? From my perspective, there has to be some objective evaluator. If and when this passes, I really don't see an onslaught of calls on snow

blowers, etc. I really think common sense will prevail but I see that this may be helpful for some situations when there is need for someone to come in and say either you are being sensitive or you're being too loud.

Commissioner Frank stated that it was great to have the different view points from community members that presented tonight and that this is a difficult scenario as Commissioner Rohr pointed out. In an ideal world, we would use the ordinance that we already have including a Nuisance Ordinance that specifically mentions noise; and in an even more perfect world I think if we could have neighbors that could knock on each others doors and ask them to quiet down as opposed to bringing it in front of a Police Department or a City Commission. One thing that I am also concerned with is the decibel levels and where they sit. When you take a look at what 50 decibels is as Mrs. Behm-Caldwell pointed out, we're talking louder than 50 decibels so that's definitely a concern. I realize that we do have a community that voted for and supported it but at the same time we have a community that's very busy and active in their personal lives and maybe did not take the time to read the ordinance in its entirety to consider what those decibels really mean. So I think it will be upon us to make that decision for them on how to proceed. My concern is that while it is excellent to have a mechanism to kind of evaluate the sensitivity of one side or the other as to whether they think it's noisy or not, my concern is that now there is something that can pinpoint whether or not they are exceeding or violating an ordinance and now there is a penalty for it.

And can you be gray with ordinances? That would be a question for the police chief wherein if you have a question on the environment and suggest that it shouldn't be disruptive but your decibel meter says it is, can you be gray or do you have to be black and white and hand over a $500 dollar fine?

Commissioner Jackson asked Commissioner Rohr: You seem not inclined to vote in favor of a Noise Ordinance. Are there decibel levels where you would consider a Noise Ordinance or is it that you are opposed to anything at this time?

Commissioner Rohr: My pundit is perhaps in part is dependent on the device. I say its objective in its measurement but it is to a subjective environment. What's hostile and what's a friendly noise? There are differences in opinion of that as well. I did check on the internet and I did look at some national model noise ordinances and I got the impression that a lot of them in the bigger cities came from industrial problems, from the noises from the industrial areas, not in bars or local little sounds and things like that. But is more directed from that and then the question there they build on other issues within the community. In reading those that was my interpretation there. Then, of course, I have been in law enforcement and have worked with noise problems over the years and always found out that when you deal with these things from the public, most of the time, and I think the chief of police here will attest to that, that you go out and you deal with the person and they will accommodate and they will do what they can to reduce that. In response to Commissioner Frank's response, we do operate in gray areas in law enforcement. You don't give every speeder a speeding ticket; sometimes you give them a warning so there is a certain amount of judgment that would lay in the laps of our law

enforcement people to do that. A lot depends, too, on the complaining part how staunch they are in their complaints as well. They always have a right to sign a complaint as it's not always the officer who signs a complaint. There are all those options there as well.

Commissioner Jackson: I have obviously taken a couple different positions on this Noise Ordinance. Originally I voted against it and now I have come out obviously in favor of it. I think it undermines the problems with the Noise Ordinance and it is, I agree with Commissioner Rohr, subjective. But at the same time, I agree with Commissioner Tibke because I do think the nice thing, if you will, about a noise ordinance, is that if we did have an industrial area move into town, then the industrial area would know what kind of noise they can have in place. There's always been a very practical, to me, reason for the City to have a Noise Ordinance. And that is the practical reason is that people will then know what the levels are. When the committee originally drafted a similar ordinance we did have that the readings be sustained and that was for the very reason of the chain saw issues. As I did the research I found that that was an issue. How do you measure or take that subjectivity out and make it more objective? If a law enforcement officer, as we took those readings back two years ago, and a boat drove by on the river and for a split second something was in violation of these decibel levels but it was not a sustained noise. That's what I was looking at when I originally drafted it. Now obviously this does not have that in there. I am not inclined to change it because I do agree with Commissioner Tibke that I don't want to make any assumptions about what the voters knew or did not know. The reality is that this is what was passed. I acknowledge that because of the research I did on this and after the last meeting on this there was a sound engineer present, who I don't believe is here today, and he and I discussed extensively on decibel levels, etc. I absolutely acknowledge that there are some problems with the Noise Ordinance but at the same time I feel like we've been through this before and a decision has been made by the voters. I disagree with Mr. Baer that it wasn't a technicality. I believe it was a technicality and furthermore, even if it wasn't a technicality, I would suggest that we could use it as a straw poll to gauge the sentiment of the City on whether or not we need a Noise Ordinance. Therefore I think we should look at it and pass it. However, I am open to suggestions if other commissioners have compromises that they believe should be in the Noise Ordinance. You are worried about proof, Commissioner Rohr, and I think if you have a law enforcement officer who can stand in front of a judge and say "I stood there for 2 minutes and I got a sound reading for a minute solid that it was in violation of 55 decibels". I understand that concern. The other thing I would just point out, the maximum penalty is $500. The minimum penalty is not provided for within the…. (To City Attorney Brown: The minimum penalty under our ordinance, our draft, is $50?) So the minimum penalty is $50. I know some people said that this would open them up to litigation. It would open up to a fine potentially of somewhere between $5 and $500. So I just want to make sure that was clear to everyone.

Commissioner Rohr stated that he feels that the ordinance is somewhat discriminatory in that it exempts noise that really is irritating for a number of people. The racetrack, the bands that we allow for at some events - those will still be there. Some of those problems are not being addressed here. We are a society and we make noise. For example, I live at Terra Valley area and there is a horn there by the power plant refinery and it wakes me up

a lot. It doesn't do anything for me there. I think we have over emphasized this and don't think this Noise Ordinance is going to make us into a peaceful community. I just don't see that. I see it as a hammer with a different colored handle.

Mayor Helbling commented that this will give us a false sense of security or that the City is going to come up with something and immediately stop the noise. That's one thing I don't like about it. The City and the police department are not going to be able to jump such as if there is a car accident they are dealing with, that they will come out and measure decibel reading in two seconds like people are going to assume they can. It's going to give a false sense of security. I think the whole Commission wishes this would have happened in a different manner and we would have had an agreement with the bar owners that were in question and that did not happen. We have to look at this as a straw poll and it was voted on, I won't say it passed because it wasn't done properly but it was voted on so we have a straw poll to go by. It's in no way a perfect Noise Ordinance as it definitely needs some changes. The marching band annoys me at six in the morning when they are out marching. Now is that something that we need to address? We probably do. We either need to address it by exempting them or asking them to come out at a different time. I hear the baseball and the football loud speakers over and over. But that's part of being in the community and I think something that we have to look at. I do agree within the Noise Ordinance there are exemptions; we are a different community than Bismarck… than Jamestown… than Minot. We are very event driven. And if we start taking those events out of our community what do we have? I think it's very important that as a Commission we recognize that we are event driven. It's a big part of our community. It's a big part of our history and it's a big part of our future so we need to make sure that that stays there. That we can sustain that and it can grow. The race track comes up quite often. I am a huge race fan. I go to races all over the country. I think we need to have a side agreement with the race track and set some hours of operation. For normal nights, for specials and you can operate within these parameters, within these hours. You violate these hours; we're going to have to do something. Because that is a big complaint and I think they need to be more courteous of their surroundings and their neighbors. Because at times they do not do that. It's going to be hard on our Police Department to enforce. But it's hard on Bismarck's to enforce; it's hard on Minot's. I think they all can get it done, I think we can too. We've also had developers come forward and saying without a noise ordinance and what's happening in that particular area of town, it is affecting home values. It is affecting people's perception of that part of the community. That's something that bothers me. We don't want to affect home values and we want people to have a positive perception of that part of the community. And the community as a whole, not just that part. We've had apartment owners come before us and say…we've had tenants complain about it. "Where's the noise coming from?" Certain areas and certain businesses. So I think we can't really ignore it, in my opinion. Does it need some changing? It definitely does. But I think that since there was a vote of the people and we have a duty to pass it and tweak it from there. Nothing's to say that once it's passed we can't come back at the next meeting and change some things in it that are wrong. Because we can. I think it is a step forward. We tried to resolve it in what I thought was the proper manner. It didn't work out. And where we are

today. So, with that…your wishes, Commissioners? (See: Resolutions and Ordinances No. 1)

BIDS:

CONSENT AGENDA:

1. Consider approval of monthly bills. The Board approved of the monthly bills as presented.

2. Consider site authorization for Ducks Unlimited at the Seven Sea's Conference Center for March 16, 2011. The Board approved of the site authorization for Ducks Unlimited at the Seven Sea's Conference Center for March 16, 2011.

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

OLD BUSINESS:

1. Consider adoption of Leadership Code for City Commissioners Policy. City Administrator Neubauer reviewed a previous request that was brought to this Board for consideration regarding a Leadership Code for Elected Officials. Neubauer stated that at the last meeting a question came up under the "Conflicts of Interest" section as to whether or not a commissioner should or should not participate in a vote. He reviewed a revision made to the policy wherein the following was added in order to comply with NDCC, to-wit: *"City Commission members should declare a personal interest in any official actions and withdraw from participation in that action unless permitted to participate by the consent of a majority of the rest of the Commission"*. Administrator Neubauer stated that this revision clearly spells out if there is a conflict in a voting issue that the commissioner should declare that conflict and then seek permission from commission counterparts. If you wish to vote or don't wish to vote on an issue then it is advisable that the particular commissioner would leave their chair and exit the room during that vote.

Commissioner Rohr motioned to adopt the Leadership Code for City Commissioners Policy. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Absent; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

NEW BUSINESS:

1. Consider recommendation from Renaissance Zone Committee for appointment of committee members. Business Development Director Huber reported that there are two positions open on the Renaissance Zone Committee. She stated that two letters of interest were received by the deadline of December 30, 2010 from David Leingang and Robert Vayda. The Renaissance Committee reviewed their applications and recommend that they be appointed to 3-year terms on the Renaissance Zone Committee.

Commissioner Frank moved to approve the appointments of David Leingang and Robert Vayda to 3-year terms on the Renaissance Zone Committee. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. Mayor Helbling extended a thank-you to the applicants for their interest in serving on the Renaissance Zone Committee.

2. Consider recommendations from Growth Fund Committee regarding High Plains Cooperative application. Business Development Director Huber reviewed with members a request from the Growth Fund Committee to assist with financing to implement the High Plains Cooperative project that will function as a retail store and fulfillment center featuring Pride of Dakota products. Huber stated that the initial funding required is $317,500 of which $292,500 is common stock and $25,000 is in preferred stock. To date they have raised $211,500 in common stock and another $13,000 in preferred stock. The cooperative is requesting the City of Mandan purchase $25,000 of preferred stock in the cooperative to show support for the organization and in turn they anticipate better success in selling the final shares of common stock by the January 31, 2011 deadline. Huber recommended the purchase of preferred stock at $24,950 with the conditions as outlined by the Growth Fund Committee: (1) Meet the goal of securing 65 members at $4,500 each for a common stock equity total of $292,500 (to date, 47 of the 65 have committed) (2) Locate the store in Mandan (3) Open for business no later than August 1, 2011. Two of the High Plains representatives - Becky Bowen and Susan Davis were available for questions. Becky Bowen, General Counsel for Common Enterprise Development Corporation came forward and stated that they are providing technical assistance for High Plains Cooperative. Commissioner Frank inquired as to how important it is for the City to show support for the purchase of preferred stock and how will that affect accomplishments within the next couple weeks? Bowen replied that campaign members are currently working on recruiting the remaining 18 common stock members. She explained that by securing preferred stock membership such as the City of Mandan has an opportunity to do so, will show support from the community. Commissioner Frank inquired that if the goal for preferred stock is at $25,000 and $13,000 has been secured, why wasn't the request in the amount of $12,000 from the City of Mandan? Bowen explained that the minimum requirements under the Business Plan require $292,500 in common stock investment and $25,000 in preferred stock investment. The Equity Campaign contemplates up to $900,000 in shares of common stock and $700,000 in preferred stock. The minimum needed for the launch is what was stated and it is desirable to have a little more cushion than the minimum requirements. Finance Director Welch stated that over the years the City has purchased preferred stock, however, he did not have the data available at this time.

Commissioner Tibke moved to approve the purchase of preferred stock in the High Plains Cooperative Project in the amount of $24,950 pursuant to the following conditions: (1) Meet the goal of securing 65 members at $4,500 each for a common stock equity total of $292,500 (to date, 47 of the 65 have committed) (2) Locate the store in Mandan (3) Be open for business no later than August 1, 2011. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes;

Commissioner Frank: Yes; Mayor Helbling: Yes. Commissioner Jackson: Absent. The motion carried.

RESOLUTIONS & ORDINANCES:

1. Consider first reading of Ordinance No. 1090 relating to the making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city. Commissioner Jackson moved to approve the first reading of Ordinance No. 1090 relating to the making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: No; Mayor Helbling: Yes. The motion carried.

Mayor Helbling recommended the commissioners read through the Noise Ordinance before the next meeting and bring any questions or recommended changes to that meeting. Mayor Helbling encouraged the public to contact any one of the commissioners with questions.

OTHER BUSINESS:

1) *Announcement:* The Mandan Tomorrow Committee will report on the progress of the Mandan Tomorrow Strategic Plan on January 31, 2011, 5:30 p.m. at the Mandan High School library.

There being no further actions to come before the Board Commissioner Tibke moved to adjourn the meeting at 5:59 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City Commissioners

The Mandan City Commission met in special session at 12:00 p.m. on January 28, 2011 in the Dykshoorn Meeting Room at City Hall. Commissioners present: Helbling, Tibke, Frank and Rohr. Present via conference call was Commissioner Jackson. City Administrator Neubauer was also present.

NEW BUSINESS*:*
Commissioner Tibke motioned to enter into executive session pursuant to N. D.C.C. § 44-04-19.1(9) regarding negotiating instructions for its business development director contract. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. Motion carried.

Mayor Helbling informed the Commission the executive session will be recorded and all members of the governing body are reminded to limit their discussion during the executive session to the announced topic.

Any collective decision, collective commitment, or other final action by the governing body must occur after it reconvenes in an open meeting, unless final action is specifically required by law to be taken during the executive session.

The prohibition on taking final action during the executive session does not apply to providing guidance or instructions to our attorney or negotiator.

Mayor Helbling looked outside the conference room and found no members of the public present. He anticipated adjourning the executive session, and reconvening the open portion of the meeting, at approximately 12:20 p.m.

The minutes will show that the executive session began at 12:01 p.m. and was attended by Commissioners Helbling, Tibke, Rohr, Frank and via telephone Commissioner Jackson, and Administrator Neubauer.

Commissioner Frank moved to adjourn the executive session at 12:46 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the Board members present. The minutes will show that the executive session was adjourned at12:46 p.m.

The public has been invited to return to the meeting room and we are now back in open session.

There being no further actions to come before the Board, Commissioner Tibke moved to adjourn the meeting at 12:47 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the Board members present and the meeting adjourned.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City Commissioners

Public Hearing No. 1

Board of City Commissioners

Agenda Documentation

MEETING DATE: February 1, 2011
PREPARATION DATE: January 27, 2011
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Public Hearing Cloverdale Foods Company

STATEMENT/PURPOSE: To hold a public hearing regarding Community Development Block Grant Program (CDBG).

BACKGROUND/ALTERNATIVES: Cloverdale Foods Company was provided a loan through the CDBG program. In order to close out this project a public hearing must be held.

Cloverdale originally committed to creating an additional 8 full time jobs as a result of the financial package which included funding through the Community Development Block Grant Program. Due to economic conditions and business needs the company was unable to create the additional jobs. In lieu of the job creation requirement the company repaid the loan in full, including interest, which fulfills its obligation under the CDBG Program.

Public Notice was contained in the January 21, 2011 Mandan News.

ATTACHMENTS: Notice of Public Hearing

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: n/z

SUGGESTED MOTION: n/a

PUBLIC HEARING ON COMMUNITY DEVELOPMENT BLOCK GRANT

The City of Mandan will be holding a public hearing on community development at 5:30 p.m. on February 1, 2011 at Mandan City Hall.

The purpose of the hearing is to review the performance of the city in carrying out its Community Development Block Grant program, particularly regarding Cloverdale Foods Company for which CDBG funds were provided.

Anyone wishing to comment may do so orally or in writing at the time of the hearing.

CITY OF MANDAN
"WHERE THE WEST BEGINS"

Board of City Commissioners

Agenda Documentation

MEETING DATE:	February 1, 2011
PREPARATION DATE:	January 26, 2011
SUBMITTING DEPARTMENT:	Finance
DEPARTMENT DIRECTOR:	Greg Welch
PRESENTER:	Greg Welch
SUBJECT:	Pledge of securities reports.

PURPOSE
The City of Mandan is required semiannually to approve pledges of securities reports.

BACKGROUND
Except for the Bank of North Dakota, financial institutions must pledge security for all public deposits at a ratio of $1.10 for every $1.00 above the FDIC coverage amount.

ATTACHMENTS
- Pledge of securities report from Wells Fargo Bank
- Pledge of securities report from Starion Financial

FISCAL IMPACT
None

STAFF IMPACT
None

LEGAL REVIEW
In accordance with the provisions of NDCC 21-04.

RECOMMENDATION
To approve the following pledge of securities reports:
- Wells Fargo Bank
- Starion Financial

SUGGESTED MOTION

Move to approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial

WELLS FARGO

STAGECOACH SWEEP
WELLS FARGO BANK, N.A.
Confirmation
Repurchase Agreement

CITY OF MANDAN
205 2ND AVE NW
MANDAN ND 58554

ACCOUNT SUMMARY

Date : 12/31/2010
Account : 1390030007

ACCOUNT DETAIL

Investment : Repurchase Agreement

From Date : 12/31/2010
To Date : 01/03/2011

Rate : .10000000 %
Principal : $ 3,034,090.42
Interest : $ 25.28

REPURCHASE AGREEMENT DETAIL

Collateralized By : $ 2,422,169.87
FN-30 : 852282
% Due : 6.00 %
Maturity Date : 04/01/2036

CUSIP : 31408H2P9
Sequence : 123110
Price : 109.004032
Accrued Interest : $ 12,110.84

REPURCHASE AGREEMENT DETAIL

Collateralized By : $ 625,662.62
FN-30 : 869270
% Due : 6.00 %
Maturity Date : 03/01/2036

CUSIP : 31409EW72
Sequence : 123110
Price : 109.004032
Accrued Interest : $ 3,128.31

INVESTMENTS NOT FDIC INSURED

Public Funds Collateral Unit
333 Market Street, 17th Floor
San Francisco, CA 94105-2102
Phone: 1-877-479-6603
PublicFundsCollateral@wellsfargo.com

WELLS FARGO BANK, N.A.
PUBLIC FUNDS COLLATERAL UNIT
COLLATERAL ANALYSIS

CITY OF MANDAN
GREG WELCH
205 2ND AVE NW
MANDAN, ND 58554

DATE COMPLETED:	January 06, 2011	**COLLATERAL ANALYSIS AS OF:**	December 31, 2010
CONTRA NUMBER:	PL-0000473	**COLLATERAL ACCOUNT NUMBER:**	0V8
COLLATERAL WHEREHELD:	Wells Fargo Bank Northwest, NA		

CUSIP	Description	CPN	Maturity Date	Original Face	Current Par	Market Value	Pledge Value
31409CEF8	FN 866934 6.000% 02/01/2036	6.00	2/1/2036	25,000.00	8,179.24	8,956.60	8,956.60
31409CV69	FN 867437 6.000% 05/01/2036	6.00	5/1/2036	260,000.00	103,080.73	112,877.55	112,877.55
31409GP42	FN 870843 6.000% 10/01/2036	6.00	10/1/2036	252,000.00	103,765.62	113,627.54	113,627.54
31414NHL1	FN 971035 5.000% 01/01/2039	5.00	1/1/2039	375,000.00	198,741.65	209,929.39	209,929.39
	Total for Collateral Account Number:		0V8	$912,000.00	$413,767.24	$445,391.08	$445,391.08
	Total for PL-0000473 :			$912,000.00	$413,767.24	$445,391.08	$445,391.08

001579

Starion
FINANCIAL

109 1st St. NW. Mandan, ND 58554
701-663-6434 • 701-667-1619 (fax)

FAX

To:	**Greg Welch**	**From:**	**Janice Richter**
Company:	**City of Mandan**	**Pages:**	~~3~~ 4
Fax #:	**701-667-3223**	**Date:**	**12-31-10**
RE:	**Pledge Report**		

• The following is the pledge report for December 2010. ***This report lists all securities currently pledged for your deposit account(s).***

<u>The pledges are reviewed and approved on a monthly basis by the Starion Financial Asset/Liability Management Committee and presented to the Board of Directors.</u>

** If there is an increase in the balance of your account(s) prior to the month end check, please contact us, so that we may increase the amount of pledging if necessary.

If you have any questions, please feel free to contact me at 667-1620 or Mary Erman, Chief Operating Officer at 667-1670.

Thank you,

IMPORTANT: This message intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you receive this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the United States Postal Service. Thank you.

	STARION FINANCIAL		
Name:	CITY OF MANDAN		
Date:	12/30/2010	Current Month	Previous Month
	Current Deposits	$8,395,258.84	$8,230,524.31
	Pending Deposit		
	Trust Account	$1,563,549.73	$1,560,816.58
	less TAG qualified account(s)	($135,821.62)	($185,957.45)
	FDIC Insurance	$250,000.00	$250,000.00
	Total Deposits	$9,572,986.95	$9,355,383.44
	X 110%	$10,530,285.65	$10,290,921.78
	Pledged Securities	$10,685,820.52	$10,328,844.43
	BND Letter of Credit	$0.00	$0.00
	Pledges Pending(Released)	$0.00	$0.00
	Pledges Pending(Released)	$0.00	$0.00
	Over/Under Pledged	**$155,534.87**	**$37,922.65**

Pledges By Pledgee And Maturity

IPA

Pledged To: City of Mandan

Starion Financial - Mandan, ND

As Of 12/31/2010

Receipt# / Safekeeping Location	CUSIP	Description / Maturity / Prerefund	Pool/Type / Coupon	Moody / S&P	Original Face / Pledged Percent	Pledged: Original Face	Pledged: Par	Pledged: Book Value	Pledged: Market Value
WELL: Wells Fargo	384450CG5	GRAFTON ND PUB SCH DIS 06/01/11	3.75	N/A NR	265,000.00 100.00%	265,000.00	265,000.00	265,260.09	268,437.05
FNBH: FIRST NATL BANK HUTCHII	672129AB9	OAKES ND LN ANTIC REV 02/15/12	1.35	N/A N/A	350,000.00 100.00%	350,000.00	350,000.00	350,000.00	350,136.50
WELL: Wells Fargo	0806356D2	BELOIT WIS-XLCA INSD 05/01/13	3.75	WR A+	250,000.00 100.00%	250,000.00	250,000.00	251,772.00	255,837.50
WELL: Wells Fargo	431389AY1	HILL CITY SD SCH DIST-AGI 01/15/14	3.70	Aa3 NR	230,000.00 100.00%	230,000.00	230,000.00	230,000.00	238,441.00
WELL: Wells Fargo	31371LNV7	MBS FNMA 10-YR-255204 04/01/14	255204 4.50		1,000,000.00 35.00%	350,000.00	50,322.42	50,717.93	52,043.86
WELL: Wells Fargo	97072NAJ7	WILLISTON ND SALES TAX I 05/01/15	3.00	A2 N/A	155,000.00 100.00%	155,000.00	155,000.00	156,569.22	157,855.10
WELL: Wells Fargo	31374TQ51	MBS FNMA 323676 04/01/16	323676 7.65		1,712,412.00 11.68%	200,000.00	153,349.17	165,338.41	163,947.02
WELL: Wells Fargo	091933CY5	BISMARCK ND PK DIST 05/01/16	2.90	N/A N/A	195,000.00 100.00%	195,000.00	195,000.00	195,000.00	194,900.55
WELL: Wells Fargo	841344HY3	SOUTHEAST CASS WTR RE 05/01/16	3.20	Aa2 N/A	245,000.00 100.00%	245,000.00	245,000.00	245,000.00	249,885.30
WELL: Wells Fargo	924478BS8	VERNON COUNTY WIS-NAT 04/01/18	4.20	A1 NR	250,000.00 100.00%	250,000.00	250,000.00	262,934.38	255,767.50
WELL: Wells Fargo	31377PLA0	MBS FNMA-382921 12/01/18	382921 7.24		1,421,500.00 100.00%	1,421,500.00	1,254,854.85	1,346,032.71	1,386,645.24
WELL: Wells Fargo	091933DK4	BISMARCK ND PK DIST 05/01/20	3.00	N/A N/A	280,000.00 100.00%	280,000.00	280,000.00	280,000.00	266,103.60
WELL: Wells Fargo	31417YQM2	MBS FNMA 10-YR 07/01/20	MA0459 4.00		1,000,000.00 100.00%	1,000,000.00	910,877.91	963,100.98	946,115.78

Although the information in this report has been obtained from sources believed to be reliable, its accuracy cannot be guaranteed.

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Pledges By Pledgee And Maturity

IPA

Pledged To: City of Mandan

Starion Financial - Mandan, ND

As Of 12/31/2010

Receipt# Safekeeping Location	CUSIP	Description Maturity Prerefund	Pool/Type Coupon	Moody S&P	Original Face Pledged Percent	Pledged Original Face	Pledged Par	Pledged Book Value	Pledged Market Value
WELL: Wells Fargo	952753DG3	WEST FARGO ND WTR & Sv 11/01/20	5.40	Aa3 N/A	235,000.00 100.00%	235,000.00	235,000.00	235,000.00	236,388.85
WELL: Wells Fargo	938688TF5	WASHINGTON CNTY TEX JF 10/01/22	4.00	Aa3 AA+	250,000.00 100.00%	250,000.00	250,000.00	257,088.77	247,210.00
WELL: Wells Fargo	672132AG2	OAKES ND SALES TAX 11/01/23	4.30	N/A N/A	400,000.00 100.00%	400,000.00	400,000.00	400,000.00	394,540.00
WELL: Wells Fargo	307489LR3	FARGO ND PK DIST 04/01/24	4.00	Aa1 N/A	230,000.00 100.00%	230,000.00	230,000.00	237,333.84	226,957.10
WELL: Wells Fargo	31371LZP7	MBS FNMA 255550 12/01/24	255550 5.50		2,900,000.00 100.00%	2,900,000.00	955,102.18	1,013,898.69	1,032,827.13
WELL: Wells Fargo	31371LZP7	MBS FNMA 255550 12/01/24	255550 5.50		2,200,000.00 100.00%	2,200,000.00	724,560.28	772,871.82	783,524.04
WELL: Wells Fargo	31376KSS6	MBS FNMA Conv 08/01/25	357929 5.00		1,350,000.00 29.63%	400,000.00	150,514.74	149,950.64	159,712.46
WELL: Wells Fargo	31294MBC4	MBS FHLMC Gold 15 Yr 10/01/25	E02735 3.50		1,000,000.00 100.00%	1,000,000.00	976,353.45	1,017,591.70	978,892.99
WELL: Wells Fargo	31410FYY5	MBS FNMA Conv 11/01/25	888227 5.00		1,700,000.00 100.00%	1,700,000.00	862,008.55	927,373.98	915,115.53
WELL: Wells Fargo	31398KEN6	FHR 3581 PE 01/15/39	P11 4.50	N/A N/A	1,050,000.00 100.00%	1,050,000.00	869,580.25	916,739.76	924,536.42
23 Securities Pledged To: 170 - City of Mandan						**15,556,500.00**	**10,242,523.80**	**10,689,574.92**	**10,685,820.52**

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Consent No. 2

Board of City Commissioners

Agenda Documentation

MEETING DATE: February 1, 2011
PREPARATION DATE: January 24, 2011
SUBMITTING DEPARTMENT: Assessing/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Abatement - Paul Everson

STATEMENT/PURPOSE: To consider a reduction in value from $452,900 to $399,000 for the year 2010.

BACKGROUND/ALTERNATIVES: Mr. Everson questioned his value and requested a walk-thru of the property to verify data. At this time, it was determined that portions of the home were over-graded and the garage was under-graded. This resulted in conducting a market analysis of the property and a new value of $399,000 was determined to be more accurate.

This parcel is also known as 4515 Borden Harbor Dr SE on Lot 42, Block 1, Lakewood Harbor 2nd Addition on Parcel #9750.

ATTACHMENTS: Application and Market Analysis report.

FISCAL IMPACT: Approximately $993.00 with City losing $238.00 of revenue.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of the requested value reduction from $452,900 to $399,000 for the year 2010.

SUGGESTED MOTION: I recommend a motion to approve the request from Mr. Everson to reduce the 2010 true and full value from $452,900 to $399,000 due to a re-assessment being completed on the property.

Application For Abatement And Settlement Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1st of the year following the year in which the tax becomes delinquent.

State of North Dakota
County of Morton
Name EVERSON PAUL E
Address 4515 BORDEN HARBOR DR SE
Legal Description of the property involved in this application
Lot: 42
Block: 1
LAKEWOOD HARBOR 2ND

Property ID Number
City 9750
County 65-1810725

Total true and full value of the property described above for the year 2010 is:

Land	$64,100
Improvements	$388,800
Total (1)	$452,900

Total true and full value of the property described above for the year 2010 should be:

Land	$64,100
Improvements	$334,900
Total (2)	$399,000

The difference of $53,900 true and full value between (1) and (2) above is due to the following reason(s):

___ 1. Agricultural property true and full value exceeds its agricultural vale defined in N.D.C.C § 57-02-27.2
___ 2. Residential or commercial peroperty's true and full value exceeds the market value
___ 3. Error in property description, entering the description, or extending the tax
___ 4. Nonexisting improvement assessed
___ 5. Complainant or property is exempt from taxation (Attach a copy of Application for Property Tax Exemption)
___ 6. Duplicate assessment
___ 7. Property improvement was damaged by fire, flood or tornado (see N.D.C.C. § 57-23-04(1)(g))
___ 8. Error in noting payment of taxes, taxes erroneously paid
___ 9. Property qualifies for Homestead Credit According to N.D.C.C. § 57-02-08.1 (Attach a copy of Homestead Credit Application)
X 10. Other (Explain) Re-Assessment

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go to question #5.

1. Purchase price of property: $ _____ Date of Purchase: _____
   Terms: Cash _____ Contract _____ Trade _____ Other (explain) _____
   Was there personal property involved in the purchase price? _____ Estimated value: $ _____
2. Has the property been offered for sale on the open market? _____ If yes, how long? _____
   Asking price: $ _____ Terms of sale: _____
3. The property was independently appraised: _____ Purpose of appraisal: _____
   _____ Market value estimate: $ _____
   Appraisal was made by whom? _____
4. The applicant's estimate of market value of the property involved in this application is $ _____
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

The Applicant asks that _____

By filing this application, I consent to an Inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the Inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a government matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) Date

X Paul Everson 1-20-11
Signature of Applicant Date

01/12/11 RESIDENTIAL ASSESSMENT SYSTEM FOR CITY OF MANDAN AS1325 TEST PAGE 2

APPRAISAL OF IMPROVED PROPERTY

	SUBJECT	ADJ FACTOR	COMPARABLE SALE #1 DESCRIPTIVE	ADJ	COMPARABLE SALE #2 DESCRIPTIVE	ADJ	COMPARABLE SALE #3 DESCRIPTIVE	ADJ	COMPARABLE SALE #4 DESCRIPTIVE	ADJ
SEQUENCE NUMBER	09750		09830		09159		09736		09152	
SALE PRICE	431000		290200		315900		321000		426500	
YEAR BUILT	2005	200 $	2004	200	2001	800	2009	800-	2001	800
EFFECTIVE YEAR	2005	.2 P	2004	580	2001	2527	2009	2568-	2001	3412
CONDITION	6	7 P	6		5	22113	6		6	
QUALITY	6	7 P	6		6		6		6	
STORIES	2	3 P	2		1	9477	1	9630	2	
EXTERIOR WALLS	6	.2 P	9	1741-	5	632	10	2568-	18	10236-
AIR CONDITIONING	2	600 $	2		2		2		2	
BATHS/FIXTURES	15	700 $	13	1400	8	4900	10	3500	12	2100
NO. OF FIREPLACES	1	1000 $	2	1000-	1		0	1000	2	1000-
FIREPLACE QUALITY	5	100 $	6	100-	5		0	500	6	100-
FLOOR PLAN	2	4 P	2		2		2		2	
BASEMENT	3	3 P	3		3		3		3	
BASEMENT FINISH	2	10 $	2		2		2		2	
GARAGE	4	200 $	4		4		4		4	
NO. OF STALLS	3	4500 $	3		4	4500-	3		4	4500-
GARAGE QUALITY	6	100 $	5	100	5	100	6		6	
SWIMMING POOL	0	5000 $	0		0		0		0	
TOPICAL LOT	2	.5 P	2		2		2		2	
1ST FLOOR AREA	1450	40 $	1158	11680	1463	520-	1716	10640-	1321	5160
2ND FLOOR AREA	792	36 $	876	3024-	0	28512	0	28512	1071	10044-
3RD FLOOR AREA	0	15 $	0		0		0		0	
COVERED PATIO COST	0	10 $	0		0		0		0	
AREA FACTOR	140	1300 $	120	26000	130	13000	130	13000	130	13000
DATE OF SALE	200625		200858	27627	201058	2654	201008	5906	201066	2900
PROPERTY LOCATION	6		4	40000	6		6		6	
BSMT FNSH AREA/QLTY	1450/05		1050/06	1900	1463/05	130-	1400/06	2300-	1200/06	100
ADJUSTED SALE				393,822		395,465		364,172		428,092

WEIGHTED AVG 398,964 MEAN ADJUSTED SALE 395,388 STD DEV 22,618 COEF OF VAR 5.7%

INDICATED MKT VALUE = 399,000 AS OF 2-1-2011

PREVIOUS MKT VALUE 452,900 LISTING PRICE 454,900 DATE 05/12/10 VALUE PER SQ FT 177.96

Consent No. 3

Board of City Commissioners

Agenda Documentation

CITY OF MANDAN
"WHERE THE WEST BEGINS"

MEETING DATE: February 1, 2011
PREPARATION DATE: January 26, 2011
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Waste Management Contract

STATEMENT/PURPOSE: The contract with Waste Management requires approval for them to haul trash to another location.
BACKGROUND/ALTERNATIVES: Portion of the Waste Management contract:

> Section 3.1 The City will pay to the Contractor the total amount of $30.00 per ton for the transportation and disposal of the City's MSW to the Waste Management Landfill near Wishek, ND or alternate disposal facility that Contractor may request. ***Any alternate disposal facility shall require prior approval by the City***. This approval shall not unreasonably withheld. (Emphasis added)

In a January 20, 2011email from the Waste Management District Manager:

> Good Afternoon Jim;
> Per our phone call, as it relates to our contract with the City of Mandan;
> On occasion, WM will take hauls to:
> McDaniel Landfill in Sawyer, ND (a WM owned Landfill) – Due to frozen loads, we actually poke the loads to loosen the frozen material so we can dump the compactor boxes – Jahner Landfill (a WM owned Landfill near Wishek) does not have the equipment to loosen these loads
> Bismarck Landfill – Due to winter weather events and not being able to travel to WM owned Landfills, we have to haul Mandan's Transfer Station compactor boxes to Bismarck – We then can maintain the Mandan Transfer Station's needs of empty compactor boxes
> Again, this is only on occasion, if you have any questions please call
> Thank You,
> Mitch Dahlstrom
> *District Manager*

ATTACHMENTS: n/a

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: Attorney Brown has reviewed the contract.

RECOMMENDATION: I recommend approval for WM to haul to alternate locations as requested.

SUGGESTED MOTION: I move to approve WM hauling to alternate locations as requested.

New Business No. 1

Board of City Commissioners

Agenda Documentation

MEETING DATE:	February 1, 2011
PREPARATION DATE:	January 25, 2011
SUBMITTING DEPARTMENT:	Business Development
DEPARTMENT DIRECTOR:	Ellen Huber, Business Development Director
PRESENTER:	Ellen Huber, Business Development Director
SUBJECT:	Growth Fund Committee Recommendations for 2011 Retail and Restaurant Incentive Program

STATEMENT/PURPOSE: To consider a Mandan Growth Fund Committee recommendation for changes to the Retail and Restaurant Incentive Program for 2011.

BACKGROUND/ALTERNATIVES: The City of Mandan offered a pilot Downtown Retail and Restaurant Rent Subsidy Program in 2010 with $60,000 in funding. There were no applications from qualified business interests. The Mandan Growth Fund Committee has discussed and acted on the recommendations for the continuation of the program in 2011 at three different meetings held Nov. 24, 2010; Dec. 30, 2010; and Jan.21, 2010.

Major changes recommended are as follows:

- Eliminate downtown boundary for program and offer citywide.
- Associate incentive with operating square footage rather than rent.
- Eliminate the maximum incentive differential between retail and restaurants, previously at $3 and $5 maximum per square foot, respectively; now a straight $5 psf maximum.
- A reduction in the minimum required weekly operating hours.
- Inclusion of additional language regarding certification, authorization and release of information.
- Creation of a scoring system to serve as a guide for committee members in evaluating an application and determining the amount of incentive warranted.

ATTACHMENTS: Proposed 2011 Retail and Restaurant Incentive Program — guidelines, application/checklist, and evaluation form.

FISCAL IMPACT: The $60,000 for the program is a part of the 2011 Growth Fund budget. The source of the funding is sales tax.

STAFF IMPACT: Minimal.

LEGAL REVIEW: Attorney Brown participated in the Growth Fund Committee meetings where the program was discussed and has reviewed the proposed changes for 2011.

RECOMMENDATION: The Mandan Growth Fund Committee has voted to recommend the approval of the changes as presented to the Retail and Restaurant Incentive Program for 2011.

SUGGESTED MOTION: I move to approve the changes as presented to the Retail and Restaurant Incentive Program for 2011.

NEW BUSINESS NO 1
- ATTACHMENT
Revisions as recommended
by Growth Fund Committee
01 21 11

CITY OF
MANDAN
"WHERE THE WEST BEGINS"

2011 Retail & Restaurant Incentive Program
GUIDELINES

The Program
The purpose of this program is to serve as a catalyst for securing new retail, restaurant and service concepts to fill vacant properties and stimulate new construction by providing financial assistance to qualified applicants.

The program is available to qualified retail and restaurant businesses new to or expanding in the City of Mandan. Retailers/restaurateurs may choose any location within the City.

The program is offered through the City of Mandanôs Business Development Office. The funding source is a portion of the Cityôs 1 percent sales tax collection.

Program Benefits
An incentive in the form of a forgivable loan during the first 12 months of operation for qualified retail, restaurant or service businesses based on their operating square footage. The maximum assistance to be provided is $5 per square foot. There is an additional cap of no more than $20,000 per property.

Examples:

- *Retail shop or restaurant plans to open in a 3,000 square foot operating space. Could apply for up to a $5 per square foot subsidy to be paid for 12 months totaling $15,000 or $1,250 per month.*
- *Retail shop or restaurant plans to operate in an 8,000 square foot space. A $5 per square foot subsidy exceeds the maximum of $20,000 per property, so the most that could be allocated is $20,000 for 12 months (an equivalent subsidy of $2.50 per square foot) at $1,666.67 per month.*
- *Existing retailer plans to expand from 3,000 sf to 6,000 sf. Could apply for up to a $5 psf subsidy on the 3,000 sf expansion to be paid for 12 months totaling $15,000 or $1,250 per month.*

Budget
Maximum funding for the program is $60,000 for the year 2011. Under the proposed scenario, the program would be equipped to assist at least 3 qualifying businesses and perhaps more depending upon the type of businesses seeking assistance and the number of square feet used for operating space. Funding for the program is limited and will be encumbered on a first-come, first-served basis to qualified applicants. Thus funding may not be available at the time of application.

Eligibility

1. ñFor profitòbusinesses that collect sales and use taxes and that are not currently operating in the city or that provide new or underserved products or services. (See Retail Preferences ï Exhibit A).
2. Applications will be considered for first-time retailers/restaurateurs, new and expanding concepts by existing retailers/restaurateurs, and expansion of retailers and restaurateurs from outside the City.
3. Eligible retailers must devote a majority of the floor space to the display of products available for sale on the premises. Catalog showrooms shall not be eligible.
4. Non-profit organizations will be considered only if there is a retail component to the operation.
5. Must be a permitted use in compliance with all laws, zoning ordinances, rules and regulations applicable to the business.
6. Ineligible uses include but are not necessarily limited to thrift stores, second hand stores, dollar stores, pawn shops, non-profit agencies and entities (unless there is a retail component), schools, day care centers, currency exchanges including check cashing agencies and some non-bank financial retail outlets, bars and liquor stores (more than 50% of revenue generated by alcohol sales as compared to food), passive real estate ownership and management firms, and personal service retailers such as tanning salons, nail shops, beauty parlors, or tattoo parlors.
7. The Mandan Growth Fund Committee will review each application on a case-by-case basis and reserves the right to exclude other business activities if the use is not consistent with approved City redevelopment and development plans; if it does not benefit the health, safety and welfare of the community; or if the business activity does not meet the objectives of this program.
8. Businesses currently located in the City moving from one location to another location are not eligible unless there is an expansion and then only on the additional operating square footage.

Conditions

1. In lease situations, a minimum 3-year agreement is preferred.
2. Retailer must be open for business a minimum of 30 hours per week. If an applicant proposes to be open fewer hours, justification must be presented in the business plan.
3. First-time retailers or applicants that have been in business for less than one year must submit application to the local N.D. Small Business Development Center office and after start up participate in quarterly consultations with the SBDC or another approved business consultant.
4. Installation of an automatic door is required for at least a main entrance to the building as required by Mandan Municipal Code Section 14-02-12.

Application Process

1. Submit the application and all required attachments to the City of Mandanôs Business Development Office (see application for required documentation).
2. City staff will make every effort to review completed applications (along with all necessary supporting documentation required for the application process) within a 2-week period.
3. The Mandan Growth Fund Committee will meet to review application and make recommendation to the Mandan City Commission. MGF meetings are scheduled as needed. Applicants will be notified of the meeting and asked to attend to present their request for assistance.
4. An application recommended for approval will be forwarded to the Mandan City Commission for consideration. The City Commission meets the first and third Tuesdays of the month at 5:30 p.m. Applicants will be notified of the meeting and asked to attend to represent their request.

5. Recommendations of the Growth Fund Committee will be presented to the City Commission for consideration of final approval within 45 days after a complete application is submitted.
6. Business has 180 days from City Commission approval, which encumbers funding, to be open and operational. The applicant may request an extension in writing to the City Commission. The extension may or may not be approved. If the extension is not approved and the reimbursements have not commenced within 180 days, the amount allocated to the applicant will be forfeited by the applicant.

Selection Criteria

- Degree to which business provides an economic and added value public benefit to the location area and complements other businesses in the community
- Degree to which the business fills gaps in Mandan's retail and service sector (as indentified in a 2008 household survey and through available market statistics)
- Qualifications and track records of business owners or managers
- Potential for long-term viability
- Business plan
- Financial history
- Hours of operation
- Extent of customer base
- Storefront plans (exterior condition or upgrades, signage, displays)
- Investment of business owner (in inventory, point-of-sale software, equipment, building improvements, or other business start-up expenses)
- Jobs created
- Degree to which other public incentives are being utilized or the overall ratio of public to private investment.

Implementation Procedures

1. The program requires that the applicant pay upfront expenses. The City of Mandan will provide the subsidy within 30 days after the applicant has been open for business for one month.
2. Applicant (and landlord in lease situations) must be current on all municipally applied taxes, special assessments, utility bills, or loans. Payments will cease if either party fails to be current on these obligations.
3. Payments cease if applicant discontinues the business, moves the business from Mandan, , or fails to comply with any and all building, fire, health or zoning codes or regulations applicable to the business.
4. The subsidy will be structured as an interest-free loan that will be pro-rated and forgiven over the course of 3 years from date of opening, provided the retailer remains in continuous operation within the City of Mandan. Retailers who locate outside the City before this time shall repay a pro-rata share of the rent subsidy.
5. Following the first 12 months of subsidization and through the third year of operation, each applicant will be required to submit a quarterly report to the Business Development Office to verify that the business is still operating in the approved location and an annual report to provide statistics on full-time and part-time employment.

Exhibit A — Retail Preferences

- Appliances
- Art/frame store
- Arts, crafts, hobby shop
- Bakery/bread store/dessert shop
- Book store (new)
- Clothing and other apparel ð men, women, children
- Consumer goods rental
- Dry cleaners
- Electronics
- Food specialties ð product specific, health, fresh, organic, etc.
- Gift, novelty, souvenir shop
- Hardware/paint
- Home décor or accessories
- Ice cream parlor
- Kitchen supplies and accessories
- Movie theater or other recreational/entertainment services
- Music or musical instruments
- Pet supplies
- Restaurants (more than 50% of revenue generated by food sales as compared to alcohol)
- Shoe store ð men, women, children
- Toy store

This list may not be all inclusive. Other types of businesses may be eligible as long as not explicitly listed as "ineligible" and if providing products or services missing from Mandan's business community or documented as in demand by residents.

CITY OF
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2011 Retail & Restaurant Incentive Program APPLICATION & CHECKLIST

Business Name _____

Address of Proposed Downtown Business _____

Applicant's Mailing Address_____ City_____ State_____ Zip_____

Applicant's Phone_____ Email_____

Use: (Circle)

Retail Square Feet_____ Restaurant Square Feet_____

AMOUNT OF ASSSISTANCE REQUESTED PER SQUARE FOOT $_____

Approximate cost to open the business: $_____

Personal Investment $_____ (Equity)

Bank or other financial commitment $_____ Other: _____

Building Acquisition or Construction Cost $_____

Building Rehabilitation $_____Lease Term _____

Monthly Rent/Lease Per Square Foot $_____Landlord Match_____

Proposed Opening Date of the Business _____

Description of the Business Including Products and Services Being Offered _____

_____

_____

_____

Number of New Jobs _____ Expected daily traffic _____Estimated Opening Date _____

Weekly hours of operation _____

Other Business & Applicant Information

Please submit as many of the following items as possible in order for the City of Mandan Growth Fund Committee and City Commission to make an appropriate decision on an application:

- ☐ Option to buy agreement for a building or letter of intent to lease contingent on receipt of incentives
- ☐ Business plan
- ☐ Personal financial statement and 3 years federal tax returns for principals of any new business, or business operating less than one year. Three years tax returns for any existing business
- ☐ Marketing plan
- ☐ Cost estimates for up-fit/equipping the space
- ☐ Business/personal history
- ☐ Certificate of Good Standing from N.D. Tax Department
- ☐ Proof of registration with N.D. Secretary of State

Be advised as per North Dakota open records law that applications may be released to the public if requested except for portions subject to NDCC 44-04-18.4 pertaining to confidentiality of trade secret, proprietary, commercial, and financial information.

Certification and Authorization

I / We certify that all information set forth in this application is a true representation of the facts pertaining to the proposed business for the purpose of obtaining funding under the City of Mandan Retail & Restaurant Incentive Program. I / We understand and acknowledge that any willful misrepresentation of the information contained in this application could result in disqualification from the program, requiring any funds already disbursed to be repaid in full to the City of Mandan.

The undersigned specifically authorizes the City of Mandan Business Development Office or its representatives to conduct a background check on the applicant, including the checking of references and the verification of any information on the application.

I understand that personal and/or business information may be requested pursuant to this applicant for an incentive and I hereby give my consent for such information to be provided to the City of Mandan Business Development Office, the Mandan Growth Fund Committee or its representatives. I also understand that the Mandan Growth Fund Committee and the Mandan City Commission retain the decision as to whether this incentive application is approved, disapproved, or modified. It is my right to accept or decline the incentive amount and terms approved by the program.

The applicant further certifies that he/she has read and understands the City of Mandan Retail & Restaurant Incentive Program Guidelines. If a determination is made by City of Mandan staff that program funds have not been used for eligible program activities, the Applicant agrees that the proceeds shall be returned, in full, to the City of Mandan and acknowledges that, with respect to such proceeds so returned, he/she shall have no further interest, right, or claim. It is understood that all funding commitments are contingent upon the availability of program funds.

Release of information
The applicant hereby authorizes any third party to release to the City of Mandan Business Development Office without limit, any and all financial information regarding the applicant that is requested by the City of Mandan Business Development Office, its representatives or employees. Further, the applicant hereby authorizes release of said records and information by the City of Mandan Business Development Office to a third party, as deemed necessary by the City of Mandan Business Development Office, its representatives or employees.

All owners, officers or partners must sign this application.

Signatures:

Applicant/Business Owner: _____ Date: _____

(if different from applicant)

Property Owner : _____ Date: _____

Submit application form and all supporting documents to:

City of Mandan
Business Development Office
205 Second Avenue NW
Mandan, ND 58554

For more information, call City of Mandan Business Development Office; phone 701-667-3485.

RETAIL & RESTAURANT INCENTIVE — APPLICATION EVALUATION

The purpose of the program is to serve as a catalyst for securing new retail, restaurant and service business in the City of Mandan to provide greater selection and convenience to residents, businesses and visitors as well as to generate additional revenues for the public sector by way of local sales or restaurant and lodging taxes. Following are guidelines for use by Mandan Growth Fund Committee members. To be completed individually, tallied and averaged. Subject to discussion.

Applicant:					
Amount of subsidy requested psf:					
Operating space (sf):					
1. Degree to which business fills a gap?	Significant				Minimal
	5	*4*	*3*	*2*	*1*
2. Products/services needed by other businesses?	Significant				Minimal
	5	*4*	*3*	*2*	*1*
3. Sales or restaurant tax potential?	Significant				Minimal
	5	*4*	*3*	*2*	*1*
4. # of jobs created?	Significant				Minimal
	5	*4*	*3*	*2*	*1*
5. Use of other public incentives	Minimal (5% or less)	6-9%	10-19%	20-29%	Significant 30% or more
	5	*4*	*3*	*2*	*1*
6. Customer base	Broad				Limited
	5	*4*	*3*	*2*	*1*
7. Hours of operation	High				Low
	5	*4*	*3*	*2*	*1*
8. Qualifications of owners, managers	Strong			Weak	No info
	5	*4*	*3*	*2*	*1*
9. Potential for long-term viability	Strong				Weak
	5	*4*	*3*	*2*	*1*
10. Storefront plans/curb appeal	Significant				Minimal
	5	*4*	*3*	*2*	*1*
11. Investment - inventory, equip, building, etc.	Significant				Minimal
	5	*4*	*3*	*2*	*1*
Ratings/recommendation to be provided by third-party such as SBDC or LCRDC					
12. Business plan	Strong			Weak	No plan
	5	*4*	*3*	*2*	*1*
13. Financial history	Strong			Weak	No info
	5	*4*	*3*	*2*	*1*
Totals					
Grand Total		**Average Rating**			

General Guide (based average rating):

- Less than 2.0 = no assistance
- 2.0 to 2.4 = ¼ of maximum
- 2.5 to 2.9 = ½ of maximum
- 3.0 to 3.9 = ¾ of maximum
- 4.0 and greater = maximum

New Business No. 2

Board of City Commissioners

Agenda Documentation

MEETING DATE: February 1, 2011
PREPARATION DATE: January 27, 2011
SUBMITTING DEPARTMENT: City Administrator
DEPARTMENT DIRECTOR: Jim Neubauer
PRESENTER:
SUBJECT: Individual liquor License Application

STATEMENT/PURPOSE: New liquor licenses must be approved by the Board of City Commissioners at all times of new application.

BACKGROUND/ALTERNATIVES: Application has been received and fees will be collected if approval of license is given.

ATTACHMENTS: Liquor License application.

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval contingent upon the establishment meeting all Fire Code, Health & Safety Code, Building Inspections and all property taxes paid.

SUGGESTED MOTION: I move to approve the Liquor License application for Victoria Luchkina to be used at the former Sportsman Lounge location. Contingent upon the establishment meeting all Fire Codes, Health & Safety Code, Building Inspection Codes and all property taxes and fees are paid.

CITY OF MANDAN
"WHERE THE WEST BEGINS"

Individual or Partnership Liquor License Application

1. Type of License:

Liquor	On-Sale X	Off-Sale X	Class: A B C D E F (Circle one)
Beer & Wine	On-Sale ___	Off-Sale ___	Class: A B C D E F (Circle one)

2. Duration of License: Annual: (July 1, _____ to June 30, _____)
   Part of Year: From: _____, 20 to _____, 20 .
3. Are you applying for an Individual X or Partnership_____?
4. If business is owned by an individual, give name, address and date of birth of Owner: Victoria Luchkina 2843 Hawken st apt 1, Bismarck, ND 58503, 11/07/1980
5. If business is owned by a partnership give the name of the partnership and the names, addresses and dates of birth of each member of the partnership. _____
6. Name of Individual who is to be in Charge of the Day-to Day Operations and management of the licensed premises and will be responsible for complying with the municipal ordinances and state laws covering the operation of the premises:
   Name: Victoria Luchkina Address: 2843 Hawken st apt 1
   City: Bismarck State: ND Age: 30 DOB: 11/07/1980 Citizenship: Legal Res.
   If naturalized, give Date and Place of Naturalization: _____
   List all Other Places of Residence within last 5 Years: 11 Nectarine ave apt A, Goleta, CA 93117, 743 Las Alturas rd, santa Barbara, CA 93103
7. Description of Licensed Premises: Address: 202 Main st E
   Legal Description: (Lot & Block): 1850 SQFT Lot 14 Block 5 Mandan Proper (OT)
   (Also submit on an attached page a Diagram of the physical layout of the licenses premises including, at a minimum: doors, storage areas, & areas where liquor/beer is purchased and consumed.)
8. Ownership/ Lease: If licensed premises is owned by Applicant, provide date of purchase. Lease
   (If licensed premises is under a contract for deed or leased, attach copy of executed and dated Contract or Lease.)
9. If application is being sought by anyone other than the owner of the premises, attach a copy of the building lease.
10. Does Applicant certify that all property taxes have been paid to date on the licenses premises? Yes: X No: ___
    (Note: If property taxes are not paid, this application WILL NOT BE PROCESSED).

11. Have any of the individuals identified in answer to Questions 3, 4, and 5 ever engaged in the sale or distribution of alcoholic beverages (as an owner, manager, or employee) at a location other than in the City of Mandan at any time prior to this application. Yes: ___ No: X (*If yes, explain in detail on a separate page location, type of business and dates of license or employment*).

12. Have any of the individuals identified in answer to Questions 3, 4, and 5 ever had a license of any kind (including alcoholic beverage license, other business licenses or motor vehicle license) suspended, revoked or non-renewed by any political subdivision, state or federal agency. Yes: ___ No: X (*If Yes, explain in detail on a separate page, listing the name of the individual, the time and place of cancellation, the authority which cancelled the license of any kind, including alcoholic beverage license, other business license, or motor vehicle license, and the reason for such cancellation*).

13. Have any of the individuals identified in answer to Questions 3, 4 and 5 ever been convicted of a violation of any law of the United States, or of any state or political subdivision, other than minor traffic violations, (but including reckless driving or driving under the influence).
Yes: ___ No: X (*If yes, explain the violation in detail on a separate page, giving the date(s), place(s), and crimes for which convicted (both felonies & misdemeanors), the amount of fines and terms of sentence and the courts in which convicted\).*

14. Do any of the individuals named in answer to questions 3, 4 or 5 have any interest whatsoever in any other liquor establishment, either at wholesale or retail, within or without the state of North Dakota. (The interest which must disclose also includes a right of inheritance by law or by will). Yes: ___ No: X If, yes, please explain in detail on a separate page.

15. Does anyone other than the Individual or Partnership applying for this alcoholic beverage license or the business owning the premises have any right, estate, or interest in the lease hold, building, or furniture, fixtures or equipment, in the premises for which the license is requested? Yes: ___ No: X (*If yes, explain in detail on a separate page, giving the names and addresses of any such person(s) and a statement of their interest in the premises, furniture, fixtures or equipment in the premises).*

16. Does the Individual or Partnership applying for this alcoholic beverage license have any agreement, contract, understanding or intention to have any agreement, contract or understanding, with any person, partnership, or corporation to obtain for any other person, partnership or corporation, or to transfer to any other person, partnership or corporation the license for which this application is made or to obtain for any other person, partnership or corporation, for any other purpose other than for the specified use of the applicant. Yes: ___ No: X (*If yes, explain in detail on a separate page, the name and address of such person, partnership or corporation and the conditions of agreement, contract or understanding).*

17. List the occupations and employers of each of the individuals listed in answer to Questions 3, 4 and 5 during the last ten (10) years. *(Use a separate sheet of paper if necessary).*

18. Does the Individual or Partnership applying for this license, engage in any business other than that for which the license is sought or intending to engage in any business other than for the sale of alcoholic beverages under the license for which this application is made. Yes: ___ No: X (*If yes, explain, in detail on a separate page giving the type of business and identification of any and all owners.)*

19. List the names, addresses of at least 3 business references. _____

20. Does the building or structure in which the business is to be conducted meet all applicable state and local building, health and zoning regulations and requirements? Yes: ___ No: X (*Applicant must attach certifications of compliance from each state and/or local agency or department responsible for building, health and zoning regulations.)* Will be done ~~pre~~ before opening

21. List all the names of individuals who are authorized to make purchases for the business at which the license is to be used and located. *(Note: These individuals must submit their names, current address and social security numbers on the forms which will protect their rights of privacy, but allow the appropriate police department background checks to be done. If not attached, the application will be deemed incomplete.)*

22. List the names of all individuals who are authorized to sign checks used to pay the payroll and expense bills of the business at which the license is to be used. *(Note: These individuals must submit their names, current address and social security numbers on the forms which will protect their rights of privacy, but allow the appropriate police department background checks to be done. If not attached, the application will be deemed incomplete.)*

STATE OF NORTH DAKOTA)		**Affidavit of Application Completeness and Accuracy,**
)	**ss.**	**Sworn Statement of Conditions of Licensure,**
COUNTY OF MORTON)		**And Agreement to Right of Entry of City Personnel**

I (We), Victoria Luchkina and _____ having been sworn and under oath, state that I (We) am (are) the named (__) Owner or (__) Partners, of the above named Business or Partnership which hereby applies for the above referenced alcoholic beverage license in the City of Mandan, and I (We) do hereby certify that the above information is true and correct to the best of my (our) knowledge and beliefs.

I (We) do further certify that said Individual or Partnership and employees will abide by the provisions of Chapter 12-01, 12-02 and 12-03 of the Mandan Code of Ordinances and any amendments thereto, as well as all applicable laws of the State of North Dakota, and the United States Government and that said Owner/Partners, and its employees will not permit the violation of any law, rule or regulation on the premises at which the license is authorized. I (We) further certify that I (the Partnership) acknowledge that this license will only authorize the retail sale of liquor, including beer, wine and other spirits as defined by the North Dakota Century Code, and limited by this application, at the premises designated in this application and depicted on the attached diagram.

I (We) do further certify and affirm on behalf of myself or the partnership and its employees that I (the partnership) will not sell or permit the sale of alcoholic beverages to a minor, incompetent person, or anyone who is under the influence or an habitual drunkard and that I will accept any penalty including, suspension or revocation of license for any violation of said prohibited sales.

I (We) do further certify and affirm that the applicant or Partnership understand and acknowledge that any license granted under this application confers no property right to the applicant or licensee, and that said license will not be transferable except by specific authority of the Mandan Board of City Commissioners.

I (We) do further certify and affirm that the applicant (partnership) and its employees do hereby consent to the entry of any city official (including administrative, building, zoning health and fire officials) and its police officers upon the premises described herein at any hour of the day or night and that they shall have free access to the described premises and every part thereof for the purpose of inspecting the premises and the records of this applicant relating to the operation of the premises, and purchase and sale of alcoholic beverages. I (We) further certify and affirm that I (the partnership), and its employees do hereby waive any and all rights that they may have under the Constitution of the United States and the State of North Dakota, relative to searches and seizures without issuance of a search warrant, and the Applicant does hereby agree that such immunities shall never be claimed by them, and that such entry, inspection, search and seizure may be made at any time without a search warrant, which waiver of rights is acknowledged to be a condition of licensure.

Dated at Mandan, North Dakota, on this _____ day of _____, 20__.

Individual or Joint Ownership

By: _____

By: _____

Partnership:

By: _____

By: _____

By: _____

INDIVIDUAL OR JOINT OWNERSHIP

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF MORTON)

Victoria Luchkina and _____
being first duly sworn, depose(s) and says that he/she is the individual(s) who executed the foregoing and above affidavit of application completeness and accuracy, sworn statement of licensure conditions and agreement of right to entry by city personnel, that he/she has read each question and statement contained therein and knows the contents thereof to be true and accurate, and that he/she has furnished the answers set forth in said application, and that each one of said answers is true to the best of his knowledge.

Dated this 25th day of January, 2011

Kari Matt

_____

Subscribed and sworn to before me on this _____ day of _____, 20___.

(Notary Seal) _____

(Notary Stamp)
Notary Public
State of North Dakota
My Commission Expires March 5, 2015

PARTNERSHIP

STATE OF NORTH DAKOTA)
) ss
COUNTY OF MORTON)

We, _____ and _____
First being duly sworn, depose and say that they are the partners in the partnership identified herein, and who have executed the foregoing and above affidavit of application completeness and accuracy, sworn statement of licensure conditions and agreement of right of entry by city personnel, and that they have read each question and statement contained herein and know the contents thereof to be true and accurate, and that they have furnished the answers set forth in said application, and that each one of said answers is true to the best of our knowledge.

Dated this _____ day of _____, 200_

_____

_____

Subscribed and sworn to before me on this _____ day of _____, 20___.

(Notary Seal) _____

(Notary Stamp)

NOTE: If applicant desires to conduct business on Sundays, under the provision of North Dakota Law and the Ordinances of the City of Mandan, the applicant must submit a separate application for same, which is accompanied by certified copies of the most recently paid six month's state filings of the City Lodging and Restaurant Taxes and shall allow the City to verify with the ND State Tax Commissioner that said tax payments have been made and continue to be made throughout the term of the license.

Pre-Leasing Agreement for 202 E. Main st. Mandan

All parties have agreed to terms of a lease agreement to lease 202 E. Main st. Mandan, ND (The Sportsman Lounge). The leasing agreement is contingent on the lessee obtaining a liquor license from the city of Mandan. The Lessor's are Wade And Tina Schultz. The Lessee will be Victoria Luchkina.

Lessor _____ Date 01/20/2011

Lessor _____ Date 01/20/2011

Lessee _____ Date 01-20-2011