

---

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.

/s/ James Neubauer

James Neubauer,  
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,  
President, Board of City  
Commissioners