



AGENDA
MANDAN CITY COMMISSION
APRIL 17, 2012
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the April 3, 2012 Board of City Commission meeting.
- C. PUBLIC HEARING:
1. Public Hearing to consider an Ad Valorem tax exemption for Windriver Properties
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider entering into an Engineering Services Agreement with Advanced Engineering.
 2. Consider approval of monthly bills
 3. Consider games of chance for Bismarck Mandan Stock Car Association at Dacotah Speedway April 18-May 25, 2012.
 4. Consider approval of site authorization for Abate of ND at the Hideaway Bar from July 1, 2012 through June 30, 2013.
 5. Consider approval of the West Hills Estates 2nd Zone Change. (*First consideration of ordinance #1121*)
 6. Consider reappointing Sue Balcolm and Cameo Skager to the Dakota Media Access Board of Directors thru July 1, 2016
- F. OLD BUSINESS:
- G. NEW BUSINESS:
1. Consider the purchase of a vehicle for Parking Enforcement
- H. RESOLUTIONS & ORDINANCES:
1. Second consideration and final passage of Ordinance No. 1114 – An ordinance to amend and re-enact Section 12-01-04(1) of the Mandan Code of Ordinances relating to location
 2. Second consideration and final passage of Ordinance No. 1115 – An ordinance to create and enact Section 12-02-07(7) of the Mandan Code of Ordinances relating to drive-up window sales

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3. Second consideration and final passage of Ordinance No. 1116 – An ordinance to amend and re-enact Section 12-01-02 of the Mandan Code of Ordinances relating to application of chapter
4. Second consideration and final passage of Ordinance No. 1117 – An ordinance to create and enact Section 12-02-05.1 of the Mandan Code of Ordinances relating to certification of food sales
5. Second consideration and final passage of Ordinance No. 1118 – An ordinance to amend and re-enact Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances relating to transfers of licenses limited
6. Second consideration and final passage of Ordinance No. 1119 – An ordinance to amend and re-enact Section 12-02-06 of the Mandan Code of Ordinances relating to license fee
7. Second consideration and final passage of Ordinance No. 1120 – An ordinance to amend and re-enact Section 12-02-04 and to repeal Section 12-02-05 of the Mandan Code of Ordinances relating to alcoholic beverage licenses
8. *Consider first consideration of Ordinance No. 1121 Zone Change for West Hills Estates 2nd* – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. May 1, 2012
2. May 15, 2012
3. June 5, 2012

K. ADJOURN

Departmental planning meeting will be held the Monday prior to the Commission meeting, all Commissioners are invited, noon, Dykshoorn Conference Room. Please notify the city administrator by 8:30 a.m. that Monday if you plan on attending. If more than two commissioners plan on attending, proper public notice must be given.

The Mandan City Commission met in regular session at 5:30 p.m. on April 3, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson (arrived at 5:31 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 and Communications Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta.

MINUTES: *Consider approval of the minutes for March 15, 2012 special meeting and March 20, 2012, regular meeting.* Commissioner Tibke moved to approve the minutes of the March 15, 2012 Special Meeting and March 20, 2012, Regular Meeting minutes. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing to consider the vacation of a 20’ Storm Sewer Easement in Borden Harbor 1st Addition.* Engineering Project Manager Bechtel reviewed with the Board a request to vacate a storm sewer easement submitted by John Keller. If Keller acquires the property he plans to build across the storm sewer easement if approved by the City. Bechtel stated there is no need for the storm sewer easement as it has accomplished what it was supposed to do. Bechtel stated that his office approves of vacating the storm sewer easement.

Mayor Helbling stated that this is a public hearing and invited comments from the public. A second request was made for any comments. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr motioned to approve the vacation of a 20’ Storm Sewer Easement in Borden Harbor 1st Addition. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed

2. *Public Hearing to consider the vacation of a 20’ Overhead Power Line Easement in Sunset Commercial Park 1st.* Engineering Project Manager Bechtel reviewed with the Board a request to vacate a 20’ Overhead Power Line easement in Sunset Commercial Park submitted by Frank Kilzer, St. Alexius Medical Center. MDU has been contacted and agrees to vacate the easement.

Mayor Helbling stated that this is a public hearing and invited comments from the public. Frank Kilzer, St. Alexius Medical Center, came forward and stated that the property was acquired several years ago by St. Alexius with plans to build a clinic on the property. He stated that he has been working through the issues with MDU and he believes all the concerns have been addressed. MDU is agreeable to eliminating the easement.

Mayor Helbling again invited any additional comments from the public. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke moved to approve the request for the vacation of a 20' Overhead Power Line Easement in Sunset Commercial Park 1st. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

BIDS:

CONSENT AGENDA:

1. *Consider for approval out-of-state travel for Police Department from Apr. 23-24, 2012.* The Board approved of the out-of-state travel for Police Department from Apr. 23-24, 2012.
2. *Consider proclamation designating May, 2012 as National Military Appreciation Month in the City of Mandan.* The Board approved of the proclamation designating May, 2012 as National Military Appreciation Month in the City of Mandan.
3. *Consider for approval the final plat of Lakewood 6th Addition.* The Board approved of the final plat of Lakewood 6th Addition.
4. *Consider recommendation from the Pension Committee related to fund changes within the plan.* The Board approved of the recommendation from the Pension Committee related to fund changes within the plan.
5. *Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Meadow Ridge 1st Addition.* The Board approved of the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Meadow Ridge 1st Addition.
6. *Consider approval of the following site authorizations: (i) American Foundation for Wildlife at The Lakewood Bar & Grill from July 1, 2012 through June 30, 2013; (ii) American Foundation for Wildlife at the Last Call Bar from July 1, 2012 through June 30, 2013.* The Board approved of the site authorizations as listed.
7. *Consider the approval of the feasibility report for, approve the plans and specifications for, and authorize the call for bids on Street Improvement District No. 168, Project No. 2011-09(Heart Ridge 1st Addition).* The Board approved of the feasibility report for, approved the plans and specifications for, and authorized the call for bids on Street Improvement District No. 168, Project No. 2011-09(Heart Ridge 1st Addition).
8. *Consider the approval of the feasibility report for, approve the plans and specifications for, and authorize the call for bids on Street Improvement District No. 167, Project No. 2012-04 (Keidels South Heart Terrace, Phase 2).* The Board approved of the feasibility report for, approved the plans and specifications for, and authorized the call for bids on Street Improvement District No. 167, Project No. 2012-04 (Keidels South Heart Terrace, Phase 2).
9. *Consider approval of Games of Chance for World Race Mission Trip for Stephanie Bauer for May 1, 2012, through June 30, 2012.* The Board approved of the Games of Chance for World Race Mission Trip for Stephanie Bauer for May 1, 2012, through June 30, 2012.

Commissioner Jackson moved to approve the Consent Agenda as presented.

Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

1. *Special award presentation by Mandan Lions.* On behalf of the Mandan Lions Club and Lions Club International - Jeff Erickson, President; Art Owens, Secretary-Treasurer; Jack Stuart, incoming President for 2012-2013; and Bryan Giese presented Mayor Tim Helbling with the Melvin Jones Fellowship Award. Melvin Jones was the founder of Lions Club International. The Mandan Lions Club has been presented with a \$1,000 donation on behalf of Mayor Timothy Helbling. This contribution allows the Lions Club to expand their program. The Melvin Jones Fellowship Award presented to Mayor Helbling acknowledges his many years of dedicated service to the City Commission, his service as Mayor, City Commissioner and Park Board Member of the City and for his contributions to the Mandan community. In particular the award recognizes Mayor Helbling's leadership during the Flood of 2011.

2. *Consider the creation of Street Improvement District No. 169 Project # 2012-06. (Lincoln Ridge 5th Addition).* Engineering Project Manager Bechtel reviewed a request from Steve Thilmony to consider the creation of Street Improvement District No. 169 at Lincoln Ridge Addition. The roads to be paved would be 25th Street, West View Place and South View Place Southeast. The developer will be required to install water and sewer utilities to service the area and will be required to pay 100% of the costs via 3-way agreement. Twelve lots will be opened for development. The engineer's estimate is \$214,958.58.

Mayor Helbling commented that there has been much discussion on Measure 2 since it came out with regard to special assessments and it will be voted on in June 2012. He asked Bechtel what developers have been told regarding special assessments. Bechtel replied that the advice being given to engineers and developers is that the City has taken a stance between doing no specials for street projects and a policy to possibly do something other. Most of the indications to the engineers were don't expect the City to assess any of those costs due to street or to their project at this time. Mayor Helbling stated that last week a statement came out that special assessments would not be affected by Measure 2. Based on that, the commission will need to decide tonight as the engineering department has been telling developers not to expect the city to approve special assessment projects. He indicated there was one exception being the Wachter property by Ft. Lincoln School. A commission decision is needed as to where we want to go with the developers. A special meeting was held on March 27, 2012, and there was no decision made on special assessments. Mayor Helbling reviewed some of the discussions that were held and he deferred to Engineering Project Manager Bechtel to provide a summary of the discussions. He mentioned that policies are currently being worked on to accommodate the revisions. Mayor Helbling inquired if the policies would need to be implemented

tonight based on several developers wanting to know which way the City would like to go. Continue as in the past or look at new rules that may be developed?

Commissioner Rohr stated that he believes the City should look at a partnership with the developers and would like to approach it by looking at limitations on some things. But to do it in a way that it is in a partnership with the developers.

Commissioner Tibke referenced documents that were just received, that were previously discussed, regarding the policies for the special assessments. She stated that at the retreat there was discussion regarding changes to be made. She suggested that if there will be any changes made, they all be made at the same time and to put it forward at the next building season in order to allow for planning time for the developers.

Commissioner Frank concurred with the dialogue alluding to allowing the developers ample time to review and understand the concerns of the City when it comes to special assessments. She stated she would be open to further review of the way this is handled in Bismarck in order to allow for consistency among the developers and the communities. She suggested allowing time to digest the materials received tonight and then to have further discussions with the parties who would be impacted.

Commissioner Jackson agreed with the foregoing comments. In addition, he suggested putting in a cap on “per lot” as to what can be special assessed per lot. Recognizing there are other ways to set a cap, he stated that that way of setting it seems most logical under the circumstances.

Mayor Helbling summarized that the consensus of the Commission for now is to continue on the same path as in the past. To continue working with the developers to come up with a mutual agreement for future and to select a future date for changes.

Engineering Project Manager Bechtel commented that he agreed with the process to allow comments from the developers and others from the community who would have an interest in this matter. He stated that he would suggest that January 1, 2013 be a tentative date for any new policies to go into effect, and that prior to that time, a proper recommendation would be brought before this Board for consideration.

Commissioner Frank encouraged anyone attending this meeting or viewing from another location that if they have particular interest in this matter and/or on the special assessments matter, that they contact their city commissioners to voice concerns. Mayor Helbling commented that with the recommendations received last week on Measure 2 on how it will affect the City along with conversations on this matter from last year, the Commission has decided that this will need some type of action.

Mayor Helbling indicated that in regard to the (Thilmony) matter before the Board tonight, (and for requests from subsequent developers), questions similar to the following will be asked:

Q. No. (1) Have you ever had any property that you've requested to be special assessed by the City of Mandan come back for back taxes?

Thilmony: Not property special assessed...not requested for special assessment.

Q. No. (2) Are you a board member of Construction Financial Services or have any business dealings with them?

Thilmony: I used to have a business relationship with them but I sold out 100% of it last year (2011).

Mayor Helbling clarified that these questions were asked because there was a parcel of land in the northwest part of Mandan that did come back for back taxes to the City.

Thilmony stated "I received a list of them today that I was supposedly behind on and I went to the Treasurer's Office and stated they were deeded over last year and that one was deeded over two years ago and they are still sending them to me."

Mayor Helbling mentioned that this information is being requested for recording purposes. "There is one piece of property where Construction Financial Services has let the property go back for back taxes". Thilmony indicated he wanted to know which piece of property that is because he owns property around them. Mayor Helbling provided Thilmony an opportunity to review the documents he received today. After review, Thilmony stated that he believes that it is the property on the corner by the lift station.

Commissioner Jackson asked Thilmony how many of the properties have already been sold as part of the development project. Thilmony replied that he provided 4 contracts to Engineering Project Manager Bechtel and that one of them was supposed to close on 4/2/12 and there are 4 additional lots that have been sold. He stated he requested his realtor come to the meeting to verify that they were told there would be no special assessments. Thilmony mentioned that he called everybody on the list, indicating that in the last week another three lots could have been sold. Out of 12 lots, 7 of them have been sold.

Commissioner Rohr motioned to approve the creation of Street Improvement District No. 169 Project # 2012-06. (Lincoln Ridge 5th Addition). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Mayor Helbling stated there is another project in process, (the Keidel Addition), and requested Engineering Project Manager Bechtel provide an update on that project. Bechtel stated that at the last meeting the developer was looking at special assessing the costs of the street project to the benefiting lots. This Board approved to create a district but there was a caveat that there would be a decision on the specials at a later time, based on this policy. Bechtel stated that in regard to the discussion just held (on Thilmony's request) this developer is requesting to special assess the benefiting lots within the same fashion as Thilmony requested. Mayor Helbling stated that this matter cannot be acted

on because they (developers) are not in front of the Commission. The consensus tonight is that this matter will be treated similar to Mr. Thilmony's request that has just been addressed. Bechtel stated he will contact the developer and let them know it is the presumption that the City will be special assessing the costs to the lots.

Mayor Helbling stated that the City Engineer's office is directed to keep the assessed project process in place for the time being until the policy is changed. He recommended the Commission members review the documentation provided to everyone today, and to contact staff with any recommended changes. After Bechtel has received input he can bring it back to a future meeting for discussion. Bechtel was instructed to include the (developer) questions previously outlined as part of the process.

RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3rd & 4th – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the second consideration and final passage of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3rd & 4th – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Consider second consideration and final passage of Ordinance No.1113 Zone Change for Lakewood 6th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the second consideration and final passage of Ordinance No.1113 Zone Change for Lakewood 6th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *First consideration of Ordinance No. 1114 – An ordinance to amend and re-enact Section 12-01-04(1) of the Mandan Code of Ordinances relating to location.* City Attorney Brown stated that this matter has been discussed at previous meetings. Ordinance No. 1114 amends the location of licenses to prohibit a Class A which is the general on or off sale license or Class D that is off sale and that must be 300 feet away from a school, library, hospital, college or university building used for academic purposes unless the entity affected by the above limitation consents to the issuance of the license.

Commissioner Jackson moved to approve the first consideration of Ordinance No. 1114 – An ordinance to amend and re-enact Section 12-01-04(1) of the Mandan Code of Ordinances relating to location. Commissioner Tibke seconded the motion. Roll call

vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

4. *First consideration of Ordinance No. 1115 – An ordinance to create and enact Section 12-02-07(7) of the Mandan Code of Ordinances relating to drive-up window sales.* City Attorney Brown stated that this is a new section relating to drive-up window sales. There is no current ordinance related to this. Chief Bullinger has indicated that he has had discussions with Minot and they indicated there have not been any problems with drive-up window sales.

Commissioner Jackson moved to approve the First consideration of Ordinance No. 1115 – An ordinance to create and enact Section 12-02-07(7) of the Mandan Code of Ordinances relating to drive-up window sales. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

5. *First consideration of Ordinance No. 1116 – An ordinance to amend and re-enact Section 12-01-02 of the Mandan Code of Ordinances relating to application of chapter.* City Attorney Brown stated that this is a new section to this ordinance outlining that the license granted by the City is a privilege to engage in the activity. That the license does not constitute a property right or property which the license holder can sell. Also, it prohibits the license issued by the city from being mortgaged, or assessed, or taken for any debt, judgment, etc. The license will have to be renewed annually.

Commissioner Tibke moved to approve the First consideration of Ordinance No. 1116 – An ordinance to amend and re-enact Section 12-01-02 of the Mandan Code of Ordinances relating to application of chapter. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

6. *First consideration of Ordinance No. 1117 – An ordinance to create and enact Section 12-02-05.1 of the Mandan Code of Ordinances relating to certification of food sales.* City Attorney Brown stated that the current Class C license permits the license holder to operate a restaurant and serve alcoholic beverages. It requires that the food sales equals or exceeds the sale of alcoholic beverages and there was no way of enforcing that requirement. He explained that this revision will require the license holder of the restaurant to file certification of records by a certified public accountant or the license holder to request a certified copy of their sales tax return be sent to the city. The purpose of the revision is that the bar should not be running a restaurant as a sideline business.

Commissioner Frank moved to approve the First consideration of Ordinance No. 1117 – An ordinance to create and enact Section 12-02-05.1 of the Mandan Code of Ordinances relating to certification of food sales. Commissioner Rohr seconded the motion. Roll

call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

7. *First consideration of Ordinance No. 1118 – An ordinance to amend and re-enact Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances relating to transfers of licenses limited.* City Attorney Brown stated that this provision states that not more than two licenses of each classification shall be issued to any applicant, and each license shall be valid only for the specific premises licensed. It also addresses license restrictions of partnerships, stock of corporations, corporations, connection with any two or more licensed liquor establishments.

Commissioner Rohr moved to approve the First consideration of Ordinance No. 1118 – An ordinance to amend and re-enact Section 12-02-08-(1) (2) and (3) of the Mandan Code of Ordinances relating to transfers of licenses limited. Commissioner Tibke seconded the motion.

Commissioner Jackson stated that in Subdivision (3) at Line 8: ... nor shall any retail license to sell alcoholic beverages be issued or granted to any member of the immediate family. What is immediate family? He would suggest that immediate family be defined within the City Code of definitions as to what constitutes immediate family. City Attorney Brown will research the North Dakota Century Code for a definition of “immediate family” and circulate that information prior to the next meeting.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

8. *First consideration of Ordinance No. 1119 – An ordinance to amend and re-enact Section 12-02-06 of the Mandan Code of Ordinances relating to license fee.* City Attorney Brown stated this ordinance has to do with an issuance fee to a new licensee. This amendment gives flexibility if there is competition for a license - how is the City going to handle maximizing it for the benefit of the City. Commissioner Jackson clarified License Fee in Paragraph 3: What we are really saying is in its discretion to include: “as to the amount of the fee”. Just to make it clear that the City has the discretion as to the amount of the fee but not as to the issuance of the fee. Commissioner Jackson stated that this clarifies the bidding process and this Commission may want to do a sealed bidding process but future commissions may want to do something different, realizing that ordinances can be changed at any time and in reality this may provide more clarification for those who are involved in this process. Commissioner Frank commented that prior to inclusion it does say that “in an amount determined by the board,” it precedes that rather than follows it. City Attorney Brown recommended eliminating the comma after “board” which will clear up the discrepancy.

Commissioner Jackson moved to approve the First consideration of Ordinance No. 1119 – An ordinance to amend and re-enact Section 12-02-06 of the Mandan Code of Ordinances relating to license fee with the addition of a strikethrough after the comma, in

the third line, after board. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

9. *First consideration of Ordinance No. 1120 – An ordinance to amend and re-enact Section 12-02-04 and to repeal Section 12-02-05 of the Mandan Code of Ordinances relating to alcoholic beverage licenses.* City Attorney Brown commented that currently with these two ordinances (12-02-04) relating to beer and (12-02-05) relating to alcoholic beverages, the goal is to have one ordinance that deals with alcoholic licenses. Currently there are six classes of licenses and this is being amended to have seven classes. He summarized as follows: Class A does not change. Class B does not change except for the elimination of the beer/liquor licenses; they will be called alcoholic beverages. Class D will be for exclusive off-sale alcoholic beverages and Class D-1 will be exclusive retail off-sale beer and wine (convenience store). The new language includes limiting the Class A license to “17” in number (which is the current number) until such time as the number of living units (as determined by the office of Building Inspection) increases by 500 living units within the City of Mandan, effective June 30, 2012. Attorney Brown stated there are two problems with the current ordinance. First, it states an increase of 5,000 in population, which is a high number; and secondly, the census is only performed every ten years. In the revised version, commencing on June 30, 2012 and every year thereafter, a determination would be made if criteria exists to issue another liquor license. The current Class D has two and this change would increase it to three. The number of Class D-1 exclusive retail and off-sale beer and wine licenses is five and this change would increase it to seven. There will be a total of three (3) new licenses permitted by this amendment that will take effect July 1, 2012 which is the current license renewal period.

Commissioner Frank had a question on page 3 concerning the new language which suggested wherein a Class A license would be increased at 500 living units. Would this only pertain to Class A and not to the Class D-1 and Class D-2 licenses? City Attorney Brown indicated that is the intention of the revision. She inquired if there would be a new license opened up every time the number hit “500 living units”? Mayor Helbling commented that he recalled that there would be one more of each license opened at that time. Attorney Brown clarified that he can re-write the ordinance to state that “500” living units enables the ability to increase one (1) more of every Class, A, D, and D-1. Commissioner Frank stated that she would like to see two (2) licenses opened for Class D-1.

Commissioner Jackson stated that he is in favor of opening it up as unrestricted and then charging a high fee like the City of Grand Forks has in place.

Commissioner Frank motioned to approve the First consideration of Ordinance No. 1120 – An ordinance to amend and re-enact Section 12-02-04 and to repeal Section 12-02-05 of the Mandan Code of Ordinances relating to alcoholic beverage licenses including the fact that the number of licenses opening based on the 500 living units includes Class A, Class D and Class D-1 at 500 living units, the commission would have the option to open

one (1) Class A, one (1) Class D and two (2) Class D-1 licenses. Commissioner Tibke seconded the motion.

Commissioner Jackson commented that under Class A license and staying within the “spirit” of compromise, he thought restrictions were being put on that as far as square footage as to what could be on sale and what could be off sale. He stated it was pointed out to him that there was a dollar amount involved in Class A license, as far as on sale and off sale, in other words, that it was supposed to be split 50/50 or something. City Attorney Brown stated it is not in the current ordinance and he has no recollection of that. Mayor Helbling commented that he recalls that it was going to be limited to some extent. Changes can be brought back to the second reading. Attorney Brown stated that in the ordinances he has reviewed – Bismarck, Fargo, Grand Forks, it was not in there. He was not clear as to what purpose it would serve. Mayor Helbling stated that the Commission will have the opportunity to instruct the way in which the license will be used if needed.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

OTHER BUSINESS:

1. Plug Removal: Mayor Helbling requested Administrator Neubauer provide an update as to the plug removal, an overview of the contracts, and the timeframe as to when people can expect to be back on the river. Administrator Neubauer stated that load restrictions are currently in effect. Under normal conditions the restrictions are removed the latter part of April/early May. At that time the Notice to Proceed will be given to the contractors to start the removals. Discussion is in process with the contractors to coordinate the sand removal with the plug removal while trying to stay within a reasonable cost. River access could be the middle to latter part of June due to the different types of situations this year. Notification of the plug removal has been published in the Mandan Messenger which will be in the utility bills that will be going out towards the middle to end of April, along with the Mandan Messenger link on the City website at www.cityofmandan.com

2. Mayor Helbling noted the following: (1) April 13, 2012, is the deadline for filing for public office. (2) The City Offices will be closed on Friday, April 6, 2012.

3. Leroy Volk came forward to voice concern about his street. Volk stated that he was before this Commission two years ago and no repair to his street has occurred and he would like something done about it. He also complained that the street has not been cleaned yet this year. Mayor Helbling requested Jeff Wright, Director of Public Works, to provide the upcoming street cleaning schedule. The schedule is also on the website. Volk also requested additional policing in his neighborhood. Mayor Helbling requested Chief Bullinger to review this matter.

4. Steve Markel, a resident who lives two miles west of Mandan came forward and requested assistance to enforce the variance on the equipment temporarily parked in his

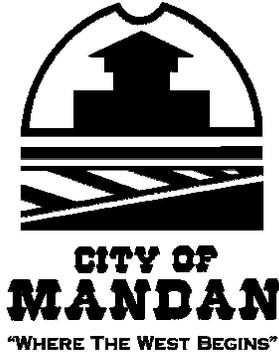
neighborhood. According to the variance there is only supposed to be 5 gravel trucks in that area. He asked who will do something about the situation. City Attorney Brown stated that he has not had any direction from the City Commission to do anything about it. He said that the court proceeding has been dismissed that dealt with the use of that property. Mayor Helbling mentioned that he was at the Zoning meeting last week and he suggested that the matter be tabled due to its complexity while attorneys reviewed the documentation. However, that was shot down. He stated that he feels that the City Commission does not have the authority to ask the City Attorney to enforce that because it has been occurring improperly for the last 25 years under the county's jurisdiction. If the zoning would have been changed and re-zoned under the City's jurisdiction, City staff would be requested to address the matter. Mayor Helbling stated that they are going to have to come in there and ask for some type of re-zoning. Then he would recommend that they work with City staff to get the proper zoning for that property, put whatever restrictions on it, and then the City can enforce it. Helbling recommended that this be placed before the Planning and Zoning Committee and that a request be presented that they put restrictions on it and then the City could handle it.

City Attorney Brown commented that if he started a legal proceeding requesting them to compel by the agreement that was entered into back in 1978, he would be met by the defense in charge saying that the county let them do this. It would be a dead issue. Attorney Brown stated that what Mayor Helbling outlined has merit. By having the Planning and Zoning create a zoning restriction, the City then would try to enforce it. Unfortunately that may involve permitting some uses going on, including on that parcel. In addition, right now the Planning and Zoning has denied the application. Attorney Brown said that the City is stuck with what the County did not do. Mayor Helbling stated that another problem that has occurred is that the county has been taxing that property as commercial property for many years. Not as agricultural and not as residential, this makes it more difficult for the City to amend it.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 6:56 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: April 17, 2012
PREPARATION DATE: April 10, 2012
SUBMITTING DEPARTMENT: Assessing Dept
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Property Tax Incentives for New or Expanding
Businesses for Windriver Properties

STATEMENT/PURPOSE: To consider a tax exemption for Pat Wachter, Windriver Properties, pursuant to North Dakota Century Code 40-57.1.

BACKGROUND/ALTERNATIVES: Mr. Wachter is asking for an exemption on commercial condos. The Notice to Competitors was published in the March 23rd and March 30th editions of the Mandan News and no competitors have submitted a written protest.

The Mandan Growth Fund Committee reviewed this project on March 27th and the project was approved by a vote of 6-0 to recommend a 100% five year exemption subject to verification of meeting the job requirements by the end of year two and sustained through year five. Without at least one new job per \$100,000 in structural value subject to exemption (10.6 jobs) by the end of year two, the exemption would be reduced to 75% in year three, 50% in year four and 25% in year five.

The County, the School District and the Park District were given notification of this exemption on March 20th and again on April 10th.

This parcel is also known as Parcel #10655 at 2201 40 Ave SE on Lot 1, Block 2, Lakewood Commercial Park 4th Addition.

ATTACHMENTS: Application.

FISCAL IMPACT: Approximately \$21,359 per year if fully exempt.

STAFF IMPACT: N/A

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Subject: 5-Year Ad Valorem Tax Exemption for Windriver Properties

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LEGAL REVIEW: N/A

RECOMMENDATION: Approval of a 100% exemption for Windriver Properties in accordance with the recommendation from the Mandan Growth Fund Committee to approve a 100% five year exemption subject to verification of meeting the job requirements by the end of year two and sustained through year five. Without at least one new job per \$100,000 in structural value subject to exemption (10.6 jobs) by the end of year two, the exemption would be reduced to 75% in year three, 50% in year four and 25% in year five; by meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines; and also under State Statute.

SUGGESTED MOTION: A motion to approve the request by Windriver Properties in accordance with the recommendation from the Mandan Growth Fund Committee to approve a 100% five year exemption subject to verification of meeting the job requirements by the end of year two and sustained through year five. Without at least one new job per \$100,000 in structural value subject to exemption (10.6 jobs) by the end of year two, the exemption would be reduced to 75% in year three, 50% in year four and 25% in year five; by meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines; and also under State Statute.

#10655

**Application For Property Tax Incentives For
 New or Expanding Businesses**

Pursuant to N.D.C.C. Chapter 40-57.1

Project Operator's Application To Mandan
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1. Name of project operator	<u>Windriver Properties</u>		
2. Address of project	<u>2201 40th Ave SE</u>		
	City <u>MANDAN</u>	County <u>MORTON</u>	
3. Mailing address of project operator	<u>Box 838</u>		
	City <u>Bismarck</u>	State <u>ND</u>	Zip <u>58502</u>
4. Type of ownership of project	<input type="checkbox"/> Partnership <input type="checkbox"/> Subchapter S corporation <input type="checkbox"/> Individual proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Cooperative <input checked="" type="checkbox"/> Limited liability company		
5. Federal Identification No. or Social Security No.	<u>45-0455742</u>		
6. North Dakota Sales and Use Tax Permit No.	<u>-</u>		
7. If a corporation, specify the state and date of incorporation	<u>-</u>		
8. Name and title of individual to contact	<u>PAT WACHTER</u>		
Mailing address	<u>Box 838</u>		
City, State, Zip	<u>Bismarck, ND</u>	<u>58502</u>	Phone No. <u>663-2600</u>

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.	<input checked="" type="checkbox"/> Property Tax Exemption <u>5</u> Number of years <u>2012</u> Beginning year <u>2016</u> Ending year <u>100%</u> Percent of exemption _____ Amount of annual payments (attach schedule if payments will vary)		<input type="checkbox"/> Payments In Lieu of Taxes
10. Which of the following would better describe the project for which this application is being made:	<input checked="" type="checkbox"/> New business project <input type="checkbox"/> Expansion of a existing business project		

Board of City Commissioners

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Subject: 5-Year Ad Valorem Tax Exemption for Windriver Properties

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Description of Project Property

11. Legal description of project real property

Lakewood Commercial Park Fourth Addition
Block 2 Lot 1

12. Will the project property be owned or leased by the project operator? Owned Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?
 Yes No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility? New construction Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application June 2012

b. Description of project to be constructed including size, type and quality of construction

100 X 240 Concrete, Steel, Block & or Brick

c. Projected number of construction employees during the project construction 35

14. Approximate date of commencement of operations for this project Oct-Nov 2012

15. Estimated market value of the property used for this project:

a. Land \$ 150,000

b. Existing buildings and structures for which an exemption is claimed \$ _____

c. Newly constructed buildings and structures when completed \$ 1,060,000

d. Total \$ 1,210,000

e. Machinery and equipment \$ _____

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) 

b. Eligible existing buildings and structures \$ _____

c. Newly constructed buildings and structures when completed \$ 4,060,000

d. Total taxable valuation of property eligible for exemption (Add lines b and c) \$ 53,000

e. Enter the consolidated mill rate for the appropriate taxing district403

f. Annual amount of the tax exemption (Line d multiplied by line e) \$ 21,359.

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: Ag processing Manufacturing Retailing
 Wholesaling Warehousing Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

6-12 Rental Spaces Service business - electrical construction, heating, glass shop Appliances Auto Repair Retail - Tire Repair Sales

19. Indicate the type of machinery and equipment that will be installed

N/A

20. Projected annual revenue, expense, and net income of the project for each year for the first five years.

Year	2012	2013	2014	2015	2016
Annual revenue	17,000	81,000	93,000	120,000	140,000
Annual expense	46,000	92,000	96,000	99,000	105,000
Net income	<29,000>	<11,000>	<3,000>	21,000	35,000

21. Projected annual average number of persons to be employed by the project at the project location for each year for the first five years and the estimated annual payroll.

Year	2012	2013	2014	2015	2016
No. of Employees (1)	6	12	18	22	30
Estimated payroll (1)	37,500	288,000	45,000	572,000	805,000
(2)					

(1) - full time
 (2) - part time

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? Yes No *New Project*
23. Has the project operator conducted this business at this or any other location either in or outside of the state? Yes No *New Project*
24. Has the project operator or any officers of the project received any prior property tax incentives? Yes No

If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).

1606 43 Ave SE 1820 40th Ave SE
 1706 43 Ave SE Mandan

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Business Competition

25. Is any similar business being conducted by other operators in the municipality? Yes No

If YES, give name and location of competing business or businesses

Spence Koemig 2120 40th Ave SE
Shane Farland Riverwood Ave SE

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? Yes No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? Yes No

If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):

To present additional facts or circumstances which were not presented at the time of the original application

To request continuation of the present property tax incentives because the project has:

- moved to a new location
- had a change in project operation or additional capital investment of more than twenty percent
- had a change in project operators

To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, PAT WACHTER, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

Pat Wachter Signature Owner/Manager Title March 16, 2012 Date

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory pursuant to North Dakota Century Code §§ 40-57.1-03 and 40-57.1-07. An individual's social security number is used as an identification number by the Office of State Tax Commissioner for file control purposes and record keeping.

Certification of Governing Body (To be completed by the Auditor of the City or County)

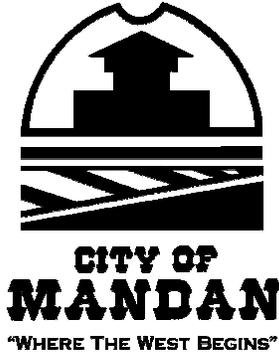
The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the _____ day of _____, 20____, granted the following:

Property Tax Exemption Payments in lieu of taxes

_____ Number of years _____ Beginning year _____ Ending year

_____ Percent of exemption _____ Amount of annual payments (Attach schedule if payments will vary)

_____ Auditor



Board of City Commissioners

Agenda Documentation

MEETING DATE: April 17, 2012
PREPARATION DATE: April 5, 2012
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider entering into an Engineering Services Agreement with Advanced Engineering.

STATEMENT/PURPOSE: To allow the City of Mandan to utilize the services of AE2S as they relate to the existing hydraulic model and master planning efforts and the need to update them on a yearly basis.

BACKGROUND/ALTERNATIVES: In 2007 and 2011, the City completed its efforts with master planning the water distribution system and waste water collection systems respectively. As the City grows and evolves this agreements allows us access to the services that AE2S provided as part of those plans and allows us to update those plans on a yearly basis to keep them up to date. We also utilize their services and have periodic meetings to discuss the systems as they relate to growth areas, problems, system improvements and so on.

ATTACHMENTS: 1. Engineering Services Agreement

FISCAL IMPACT: The agreement spells out a cost of not to exceed \$25,000 annually for the services. These costs would be covered from the Water Utility's Capital Improvements Plan Fund.

STAFF IMPACT: Minimal

LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

RECOMMENDATION: To enter into the agreement with Advanced Engineering.

SUGGESTED MOTION: I move to approve the Engineering Services Agreement with Advanced Engineering.

Board of City Commissioners

Agenda Documentation

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Subject: Consider entering into an Engineering Services Agreement with Advanced Engineering.

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March 28, 2012

To the President and Commissioners
of the Mandan Board of City Commission
c/o Jim Neubauer, City Administrator
205 2nd Avenue NW
Mandan, ND 58554-3125

**Re: Engineering Services Agreement
Mandan Water Distribution System Assistance**

Dear Jim:

We respectfully request your inclusion of this engineering proposal and attached engineering agreement on the April 17, 2012 City Commission Agenda. The intent of this proposal and agreement is to provide an opportunity for the City to utilize the services of AE2S as they relate to updating the existing hydraulic model and for planning and preliminary engineering of water distribution system projects.

As you are aware, in 2007 AE2S completed the Mandan Water Distribution System Master Plan, which included the evaluation of the existing finished water high service pumping, storage, transmission mains, and distribution mains to provide the City with recommendations and a prioritization plan for capital improvements. A key component of the Master Plan was the creation of a hydraulic model of the City's water system. The model was assembled and calibrated for the existing system and evaluated the water system pressures, distribution system storage capacity, water main capacity, fire flow capacity, and water age.

To ensure that the City continues to utilize the hydraulic model to its fullest potential, it is important that a plan be implemented to allow the model to be updated to reflect modifications within the distribution system. In addition, the updated model can be used to evaluate development proposals to ensure that the infrastructure for new development is adequately sized to meet existing and future demands.

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To address the water distribution system needs, AE2S has developed a proposal to provide on-demand services to the City of Mandan. The tasks that would be completed under this agreement would include, but are not limited to:

1. Annual update of the existing hydraulic model to incorporate recent and current year's projects.
2. Periodic working sessions with City staff to use the model for staff training, to evaluate operational decisions, and to identify possible system upgrades related to hydraulic improvements and water quality issues.
3. Provide preliminary engineering services related to the water distribution system.
4. Provide modeling services to support operational decisions, master planning, and concept design of capital projects.
5. Preparation of reports or supporting documentation suitable for presentation to the public, outside agencies, or other City personnel and departments.

The agreement is a three year agreement, with a clause to allow the contract to be extended an additional three years at the City's discretion. The total compensation for the Water Distribution System Assistance agreement is not to exceed \$25,000 annually. The actual compensation will vary based on the tasks requested by the City.

We look forward to working with the City to continue to utilize the water distribution system hydraulic model to its fullest potential and to assist the City with making educated decisions as they relate to the proposed expansion of the water system. If you have any questions or would like additional information prior to the City Commission meeting please feel free to contact me.

Submitted In Service,

AE2S



Russell Sorenson, PE
Operations Manager

c: Dave Bechtel, City Engineering

Enclosure

Board of City Commissioners

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STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of April 17, 2012 ("Effective Date") between City of Mandan, 205 2nd Avenue NW, Mandan, ND 58554-3125 ("OWNER") and Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Suite 301, Bismarck, ND 58501 ("ENGINEER").

OWNER retains ENGINEER to perform professional services, in connection with: **Water Distribution System Assistance** ("Assignment"). OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

A. ENGINEER shall provide the services set forth herein and in Exhibit SR-A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin services as set forth in Exhibit SR-A.

C. If authorized by in writing by OWNER, and agreed to by ENGINEER, services beyond the scope of this Agreement will be performed by Engineer for additional compensation.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit SR-A.

ARTICLE 3 - TIMES FOR RENDERING SERVICES

3.01 ENGINEER's services will be performed within the time period or by the date stated in Exhibit SR-A.

3.02 If ENGINEER's services are delayed or suspended in whole or in part by OWNER, ENGINEER shall be entitled to equitable adjustment of the time for performance and rates and amounts of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this agreement has been revised.

3.03 For purposes of this Agreement the term "day" means a calendar day of 24 hours.

ARTICLE 4 - PAYMENTS TO ENGINEER

4.01 Methods of Payment for Services of ENGINEER

A. OWNER shall pay ENGINEER for services rendered under this Agreement as follows:

1. An amount equal to the cumulative hours charged to Project by each class of ENGINEER's employees times Standard Rates for each applicable billing class for all services performed as part of the task-order services, plus Reimbursable Expenses, and ENGINEER's Consultants' charges, if any. As defined in Exhibit SR-A, the total annual compensation under 4.1.01 is not to exceed \$25,000 without written authorization from OWNER.

2. ENGINEER's Reimbursable Expenses Schedule and Standard Hourly Rates Schedule are attached to this Agreement in Exhibit C and Exhibit D, respectfully.

3. The amounts billed for ENGINEER's services will be based on the cumulative hours charged to the Assignment during the billing period by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and ENGINEER's Consultant charges, if any, incurred during the billing period.

4.02 Other Provisions Concerning Payments

A. *Estimated Compensation Amounts. Not Used.*

B. *Adjustments*

1. ENGINEER's compensation is conditioned on time to complete the Project not exceeding the time identified in Exhibit A. Should the time to complete the Project be extended beyond this period due to reasons not the fault of and beyond the control of ENGINEER, the total compensation to ENGINEER shall be appropriately adjusted.

2. The Standard Hourly Rates Schedule and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1**) to reflect equitable changes to the compensation payable to ENGINEER.

C. *Reimbursable Expenses.* Reimbursable Expenses means the actual expenses incurred by ENGINEER or ENGINEER's Consultants directly in connection with the Assignment, including the categories and items listed in Exhibit SR-C.

D. *For Additional Services.* OWNER shall pay ENGINEER for all services not included in the scope of this Agreement on the basis agreed to in writing by the parties at the time such services are authorized by the OWNER.

ARTICLE 5 – DESIGNATED REPRESENTATIVES

5.01 Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall each designate specific individuals as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Assignment on behalf of their respective party.

ARTICLE 6 – CONTENT OF AGREEMENT

6.01 The following Exhibits are incorporated herein by reference:

A. Exhibit SR-A, "Engineer's Services and Owner's Responsibilities", consisting of two (2) pages.

B. Exhibit SR-B, Standard Terms and Conditions," consists of four (4) pages.

C. Exhibit SR-C, "Reimbursable Expenses Schedule," consisting of one (1) page.

D. Exhibit SR-D, "Standard Hourly Rates Schedule," consisting of one (1) page.

6.02 Total Agreement

A. This Agreement (consisting of pages 1 to 4 inclusive, together with the Exhibits identified in 6.01) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

By: Tim Helbling

Title: President, Board of City Commissioners

Date Signed: _____

ATTEST: _____

Name: Jim Neubauer

Title: City Administrator

Address for giving notices:

City of Mandan

205 2nd Avenue NW

Mandan, ND 58554-3125

Designated Representative (paragraph 6.02.A):

Jim Neubauer

Title: City Administrator

Phone Number: (701) 663-6714

Facsimile Number: (701) 667-3223

E-Mail Address: jneubauer@cityofmandan.com

ENGINEER:

By: Brett M. Jochim, P.E.

Title: Chief Operating Officer

Date Signed: 3-28-12

ATTEST: _____

Name: Lisa Ansley, P.E.

Title: Project Manager

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Lisa Ansley, P.E.

Title: Project Manager

Phone Number: (701) 221-0530

Facsimile Number: (701) 221-0531

E-Mail Address: Lisa.Ansley@ae2s.com

This is **EXHIBIT SR-A**, consisting of two (2) pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated April 17, 2012.

ENGINEER's Services and OWNER's Responsibilities

Specific articles of the Agreement are amended and supplemented to include the following agreement of the parties.

A.1.01 ENGINEER's Services

A. The Water Distribution System Assistance is comprised of "Task-Order" based services in which specific tasks will be performed upon request as various OWNER needs are identified. Examples of specific tasks that could be performed under this agreement upon request by the OWNER include, but are not limited to:

1. Annual update of the existing H2ONET hydraulic model to incorporate recent and current year's projects including calibration of the model.
2. Periodic working sessions with City and consultant staff to use the model for staff training, to evaluate operational decisions, and to identify possible system upgrades related to hydraulic improvements and water quality issues.
3. Provide preliminary engineering services related to the water distribution system.
4. On an as-requested basis, provide modeling services to support operational decisions, master planning and conceptual design of capital projects.
5. Services to include preparation of reports or supporting documentation suitable for presentation to the public, outside agencies or other City personnel and departments.
6. Other tasks as may be defined by the OWNER, but not specifically listed herein.

A.2.01 OWNER's Responsibilities

A. OWNER shall do the following in a timely manner, so as not to delay the services of ENGINEER.

1. Provide ENGINEER with all critical and necessary information as to OWNER's requirements for specific tasks requested under this Project.
2. Furnish to ENGINEER all existing studies, reports, and other available data pertinent to the specific task under this Project, obtain or authorize ENGINEER to obtain or provide additional reports and data as required, and furnish to ENGINEER services of others as required for the performance of ENGINEER's services under this Project.
3. Meet with ENGINEER as required to complete requested tasks.

B. ENGINEER shall be entitled to use and rely upon all such information and services provided by OWNER or others in performing ENGINEER's services under this Agreement.

C. OWNER shall bear all costs incident to compliance with its responsibilities pursuant to this paragraph A.2.01.

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A.3.01 Times for Rendering Services

- A. The terms of this agreement shall be a three year agreement, with an option for the City to extend the agreement an additional three years at their discretion. The time period for the first three year agreement shall be April 17, 2012 through April 16, 2015.
- B. Not Used.

This is EXHIBIT SR-B, consisting of four (4) pages, referred to in and part of the Agreement between OWNER and ENGINEER for Professional Services dated April 17, 2012.

Standard Terms and Conditions

Articles 1 and 6 of the Agreement are amended and supplemented to include the following agreement of the parties:

B.6.01.B Standard Terms and Conditions

1. Standard of Care

The standard of care for all professional services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

2. Independent Contractor

All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either OWNER or ENGINEER. ENGINEER's services under this Agreement are being performed solely for OWNER's benefit, and no other entity shall have any claim against ENGINEER because of this Agreement or the performance or nonperformance of services hereunder. OWNER agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

3. Payments to ENGINEER

Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER monthly, unless otherwise agreed. Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges.

4. Insurance

ENGINEER will maintain insurance coverage for Workers' Compensation, General Liability, and Automobile Liability and will provide certificates of insurance to OWNER upon request. Insurance carrier shall notify the OWNER of any change of insurance coverage during the term of the Agreement.

5. Indemnification and Allocation of Risk

a. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and consultants in the performance of ENGINEER's services under this Agreement.

b. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and consultants with respect to this Agreement.

c. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any injuries, losses, damages and expenses caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.

d. In addition to the indemnity provided under paragraph B.6.01.B.5.b. of this Exhibit, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's officers, directors, partners, employees, and consultants from and against injuries, losses, damages and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other disputes resolution costs) caused by, arising out of, or resulting from Hazardous Environmental Condition, provided that (i) any such injuries, losses, damages and expenses are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and (ii) nothing in this paragraph B.6.01.B.5.d shall obligate OWNER to indemnify any individual or entity to the extent of that individual or entity's own negligence or willful misconduct.

e. The indemnification provision of paragraph B.6.01.B.5.a. is subject to and limited by the provisions agreed to by OWNER and ENGINEER in paragraph B.6.01.B.6, "Limit of Liability," of this Agreement.

6. **LIMIT OF LIABILITY. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS, OR ANY OF THEM TO OWNER AND ANYONE CLAIMING BY, THROUGH, OR UNDER OWNER, FOR ANY AND ALL INJURIES, LOSSES, DAMAGES AND EXPENSES, WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THIS AGREEMENT FROM ANY CAUSE OR CAUSES INCLUDING BUT NOT LIMITED TO THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR WARRANTY, EXPRESS OR IMPLIED, OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS, OR ANY OF THEM, SHALL NOT EXCEED THE TOTAL INSURANCE PROCEEDS PAID ON BEHALF OF OR TO ENGINEER BY ENGINEER'S INSURERS IN SETTLEMENT OR SATISFACTION OF OWNER'S CLAIMS UNDER THE TERMS AND CONDITIONS OF ENGINEER'S INSURANCE POLICIES APPLICABLE THERETO (EXCLUDING FEES, COSTS, AND EXPENSES OF INVESTIGATION, CLAIMS ADJUSTMENT, DEFENSE, AND APPEAL).**

7. **Dispute Resolution.** Not Used.

8. **Termination of Contract**

Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement. Upon such termination, OWNER shall pay to ENGINEER all amounts owing to ENGINEER under this Agreement, for all work performed up to the effective date of termination, plus reasonable termination costs.

9. **Access**

OWNER shall arrange for safe access to and make all provisions for ENGINEER and ENGINEER's Consultants to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

10. **Hazardous Environmental Conditions**

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a "Hazardous Environmental Condition," i.e. the presence at the site of asbestos, PCBs, petroleum, hazardous waste, or radioactive materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Project. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for

consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the site is in full compliance with applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the site in connection with ENGINEER's activities under this Agreement.

11. **Patents**
ENGINEER shall not conduct patent searches in connection with its services under this Agreement and assumes no responsibility for any patent or copyright infringement arising therefrom. Nothing in this Agreement shall be construed as a warranty or representation that anything made, used, or sold arising out of the services performed under this Agreement will be free from infringement of patents or copyrights.
12. **Ownership and Reuse of Documents**
All documents prepared or furnished by ENGINEER pursuant to this Agreement are instruments of service, and ENGINEER shall retain an ownership and property interest therein. Reuse of any such documents by OWNER shall be at OWNER's sole risk; and OWNER agrees to indemnify, and hold ENGINEER harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by OWNER or by others acting through OWNER.
13. **Use of Electronic Media**
 - a. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
 - b. When transferring documents in electronic media format, ENGINEER makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.
 - c. If there is a discrepancy between multiple copies of electronic files, the ENGINEER's stored copies govern.
 - d. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.
14. **Opinions of Probable Construction Cost**
 - a. Construction Cost is the cost to OWNER to construct proposed facilities. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with OWNER's contemplated project, or the cost of other services to be provided by others to OWNER pursuant to this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 - b. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction

Board of City Commissioners

Agenda Documentation

Meeting Date: April 17, 2012

Subject: Consider entering into an Engineering Services Agreement with Advanced Engineering.

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Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator.

15. Opinions of Total Project Costs

a. Total Project Costs are the sum of the probable evaluation cost, allowances for contingencies, the estimated total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, and OWNER's costs for legal, accounting, insurance counseling or auditing services, and interest and financing charges incurred in connection with a proposed project, and the cost of other services to be provided by others to OWNER pursuant to this Agreement.

b. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

16. Force Majeure

ENGINEER shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this Agreement resulting from any cause beyond ENGINEER's reasonable control.

17. Assignment

Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.

18. Binding Effect

This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.

19. Severability and Waiver of Provisions

Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

20. Survival

All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

21. Headings

The headings used in this Agreement are for general reference only and do not have special significance.

22. Controlling Law

This Agreement is to be governed by the law of the state of North Dakota.

23. Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

This is **EXHIBIT SR-C**, consisting of one (1) page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated April 17, 2012.

Reimbursable Expense Schedule

Reimbursable Expenses are subject to review and adjustment annually as of January 1. Reimbursable Expenses for calendar year 2012 are:

Reimbursable Expense Schedule

Transportation	\$0.65/mile
Survey Vehicle	\$0.70/mile
Photocopies	\$0.10/copy
Plots – Color Bond	\$1.25/s.f.
Plots – Monochrome Bond/Vellum	\$0.75/s.f.
Plots – Film/Photo High Gloss	\$2.00/s.f.
Digital Imaging	\$10.00/day
Laser Printouts 8 ½" x 11"	\$0.20/page
Color Laser Printouts/Copies 8 ½" x 11"	\$0.68/page
Fax	\$0.40/page
Total Station	\$10.00/hour
Total Station – Robotic	\$35.00/hour
Pro-XR GPS	\$15.00/hour
Fast Static/RTK GPS	\$50.00/hour
3D Laser Scanner	\$100.00/hour
Survey Monument	\$3.00/each
Fence Posts	\$6.00/each
Survey Lath	\$18.00/bundle
Survey Stakes	\$10.00/bundle
All Terrain Vehicle/Boat	\$100.00/day
Hydrant Pressure Recorders	\$10.00/day
Telemetry Radio	\$50.00/site
Pressure Recorder	\$5.00/day
Pump Station Monitor	\$24.00/day
Area Velocity Module	\$30.00/day
Rain Gauge	\$12.00/day
In-house Lodging	\$125.00/day
Outside Services*	cost *1.15
Out of Pocket Expenses**	cost*1.15
Rental Car	cost*1.20

* Includes laboratory testing, architectural and engineering consultants, surveying, etc.

** Includes toll telephone, shipping, postage, subsistence, technical literature, equipment rental, etc.

These rates are subject to adjustment each year on January 1.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 17, 2012

Subject: Consider entering into an Engineering Services Agreement with Advanced Engineering.

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This is **EXHIBIT SR-D**, consisting of one page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated April 17, 2012.

2012 Standard Hourly Rate Schedule

The Hourly Rate Schedule is subject to review and adjustment annually as of January 1. Standard Hourly Rates for calendar year 2012 are:

Labor Rates

Engineer I	\$92.00	GIS Specialist V	\$133.00
Engineer II	\$104.00	GIS Specialist VI	\$150.00
Engineer III	\$128.00		
Engineer IV	\$145.00	Marketing Consultant I	\$70.00
Engineer V	\$160.00	Marketing Consultant II	\$87.00
Engineer VI	\$178.00	Marketing Consultant III	\$105.00
Engineer VII	\$189.00	Marketing Consultant IV	\$120.00
Engineer VIII	\$198.00	Marketing Consultant V	\$135.00
		Senior Consultant	\$175.00
Program Coordinator	\$145.00		
Project Manager	\$170.00	Communications Specialist I	\$75.00
Technical Expert I	\$210.00	Communications Specialist II	\$86.00
Technical Expert II	\$225.00	Communications Specialist III	\$98.00
Technical Expert III	Negotiable	Communications Specialist IV	\$116.00
		Communications Specialist V	\$130.00
I&C Technician I	\$82.00		
I&C Technician II	\$93.00	IT I	\$84.00
I&C Technician III	\$106.00	IT II	\$101.00
I&C Technician IV	\$116.00	IT III	\$118.00
I&C Technician V	\$128.00	IT IV	\$134.00
I&C Technician VI	\$136.00	IT Manager	\$150.00
I&C Technician VII	\$145.00		
Land Surveyor I	\$84.00	Financial Analyst I	\$72.00
Land Surveyor II	\$98.00	Financial Analyst II	\$85.00
Land Surveyor III	\$108.00	Financial Analyst III	\$100.00
Land Surveyor IV	\$121.00	Financial Analyst IV	\$112.00
Land Surveyor V	\$133.00	Financial Analyst V	\$127.00
Land Surveyor VI	\$154.00	Financial Analyst VI	\$145.00
		Financial Analyst VII	\$160.00
		Financial Analyst VIII	\$175.00
Engineering Technician I	\$54.00		
Engineering Technician II	\$70.00	Administrative I	\$48.00
Engineering Technician III	\$82.00	Administrative II	\$60.00
Engineering Technician IV	\$97.00	Administrative III	\$72.00
Engineering Technician V	\$109.00	Administrative IV	\$81.00
Engineering Technician VI	\$123.00	Administrative V	\$90.00
Engineering Technician VII	\$138.00		
GIS Specialist I	\$72.00	Intern I	\$40.00
GIS Specialist II	\$87.00	Intern II	\$45.00
GIS Specialist III	\$102.00	Intern III	\$50.00
GIS Specialist IV	\$117.00	Intern IV	\$56.00
		Intern V	\$65.00



LOCAL PERMIT OR CHARITY LOCAL PERMIT

OFFICE OF ATTORNEY GENERAL
SFN 17926 (9-2009)

Consent No. 3

Type: Local Permit * Charity Local Permit

Permit Number
2012-20

Name of Organization Bismarck Mandan Stock Car Association		Date(s) Authorized (Read instruction 2) 4/18/2012 to 5/25/2012 Beginning Ending	
Contact Person Ken Hoff	Business Phone Number (701) 391-6211		
Mailing Address P.o. Box 6272	City Bismarck	State ND	Zip Code 58501-0000
Site Name Dacotah Speedway	Site Address 2500 Longspur Trail		
City Mandan	State ND	Zip Code 58554-0000	County Morton
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*			
Restriction:			
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor <u>and</u> Office of Attorney General within 30 days of the event.			
Date 4/10/2012	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor <i>Jay Gruebele</i>	Printed Name of City or County Auditor Jay Gruebele	Auditor Telephone Number (701) 667-3250

Please see the instructions on the backside of this form on how to complete the Permit.
For a raffle or calendar raffle, read "Information Required to be Preprinted on a Standard Raffle Ticket" below.

cut along this line

INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:

1. Name of organization;
2. Ticket number;
3. Price of the ticket, including any discounted price;
4. Prize, description of an optional prize selectable by a winning player, or option to convert a merchandise prize to a cash prize that is limited to the lesser of the value of the merchandise prize or four thousand dollars. However, if there is insufficient space on a ticket to list each minor prize that has a retail price not exceeding twenty dollars, an organization may state the total number of minor prizes and their total retail price;
5. For a licensed organization, print "office of attorney general" and license number. For an organization that has a permit, print the authorizing city or county and permit number;
6. A statement that a person is or is not required to be present at a drawing to win;
7. Date and time of the drawing or drawings and, if the winning player is to be announced later, date and time of that announcement. For a calendar raffle, if the drawings are on a same day of the week or month, print the day and time of the drawing;
8. Location and street address of the drawing;
9. If a merchandise prize requires a title transfer involving the department of transportation, a statement that a winning player is or is not liable for sales or use tax;
10. If a purchase of a ticket or winning prize is restricted to a person of minimum age, a statement that a person must be at least "___" years of age to buy a ticket, or win a prize;
11. A statement that a purchase of the ticket is not a charitable donation;
12. If a secondary prize is an unguaranteed cash or merchandise prize, a statement that the prize is not guaranteed to be won and odds of winning the prize based on numbers of chances; and
13. If a prize is live beef or dairy cattle, horse, bison, sheep or pig, a statement that the winning player may convert the prize to a cash prize that is limited to the lesser of the market value of the animal or four thousand dollars.

12-20



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
OFFICE OF ATTORNEY GENERAL
SFN 9338 (06-2010)

Application for: Local Permit Charity Local Permit (one event per year)

Name of Non-profit Organization <u>Bismarck/Mandan Stock Car Assoc.</u>		Date(s) of Activity <u>4-18-12 to 5-25-12</u>	
Person Responsible for the Gaming Operation and the Disbursement of Net Income <u>Ken Hoff</u>		Title	Business Phone Number
Business Address <u>P.O. Box 6272</u>	City <u>Bismarck</u>	State <u>ND</u>	Zip Code <u>58501</u>
Mailing Address (if different) <u>2500 Longspur Trail</u>	City <u>Mandan</u>	State	Zip Code
Name of Site Where Game(s) will be Conducted <u>Dutch Speedway</u>	Site Address <u>2500 Longspur Trail</u>		
City <u>Mandan</u>	State <u>ND</u>	Zip Code <u>58554</u>	County <u>Morton</u>
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
<u>Raffle</u>	<u>Race Car</u>	<u>1,000.00</u>			
Total:					(Limit \$12,000 per year) \$

Intended uses of gaming proceeds: Improvement to Facility

Does the organization presently have a state gaming license? No Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," the organization does not qualify for a local permit or charity local permit.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," indicate the total value of all prizes previously awarded: \$. This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive/Official <u>Ken Hoff</u>	Date <u>4-5-12</u>	Title <u>Promoter</u>	Business Phone Number <u>397-6211</u>
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GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (02-2011)

Consent No. 4

G - _____ (____)____
Site License Number
(Attorney General Use Only)

Abate of North Dakota
(Full, Legal Name of Gaming Organization)

is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location: Hideaway Bar the address of which is:

1000 Boundary Road Mandan 58554 Morton
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning 7/1/12 Ending 6/30/13

Specific location where games of chance will be conducted and played at the site (required): on south side of entrance

Number of twenty-one tables (required) (if zero, enter "0") : 0

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations _____

2. Hours of gaming _____

3. List each specific game type prohibited _____

Attorney General Date Signature of City/County Auditor Date

PRINT Name / Official Position of person signing above

INSTRUCTIONS:

1. City/County Auditors - Retain a **copy** of the Site Authorization for your files.
2. City/County Auditors - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

RETURN ALL DOCUMENTS TO:

Office of Attorney General
Licensing Section
600 E Boulevard Ave, Dept. 125
Bismarck, ND 58505-0040
Telephone: 701-328-2329 OR 800-326-9240



RENTAL AGREEMENT
 OFFICE OF ATTORNEY GENERAL
 SFN 9413 (Rev. 06-2010)

STATE USE ONLY	
SITE LICENSE NO.	
G- _____ (____) ____	

Site Owner (Lessor) Hidden Inc.		Site Name Hideaway		Site Phone Number (701) 663-8362
Site Address 1000 Boundry Road		City Mandan	State ND	Zip Code 58554
County Morton				
Organization (Lessee) Abate Of North Dakota		Rental Period 7/1/2012 to 6/30/2013		Monthly Rent Amount
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the primary game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
2. Is a raffle drawing going to be conducted at this site?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
3. Is Prize Boards involving a dispensing device conducted at this site?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
4. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ <input checked="" type="checkbox"/> Rent per Table \$ _____		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
Number of Tables with wagers over \$5 _____ <input checked="" type="checkbox"/> Rent per Table \$ _____				\$
5. Is Paddlewheels conducted at this site? Number of Tables _____ <input checked="" type="checkbox"/> Rent per Table \$ _____		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
6. Is Pull Tabs involving both a jar bar and dispensing device conducted at this site? If "Yes," skip questions 7 & 8.		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
7. Is Pull Tabs involving only a jar bar conducted at this site?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
8. Is Pull Tabs involving only a dispensing device conducted at this site?		<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	\$ 275.00
TERMS OF RENTAL AGREEMENT:				Total Monthly Rent \$ 275.00

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or prize boards involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessor's oncall or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor <i>[Signature]</i>	Title President	Date Apr 6, 2012
Signature of Lessee (Top Executive Official) <i>[Signature]</i>	Title President	Date 4-6-2012

(over)



ANNUAL STATE GAMING LICENSE REAPPLICATION
 OFFICE OF ATTORNEY GENERAL
 SFN 51575 (Rev. 2-2011)

License Number: (Office Use) G -
License Year Ending: June 30, _____

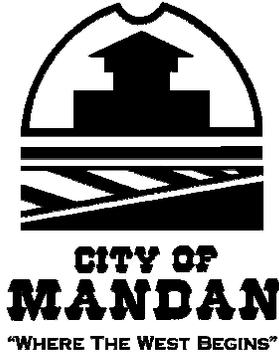
1. Official, Legal Name of Organization: (Do Not Abbreviate) Abate Of North Dakota		Business Telephone Number: (701) 223-5609	
Business Address: (Street) 1001 south 22 street	City: Bismarck	State: ND	Zip Code: 58504
Mailing Address: S/A	City:	State:	Zip Code:
E-mail address: (optional) cutter@abatend.com	Contact Person: Michael Jay	Contact Person Official Position: Gaming Manager	
2. Is organization recognized as tax exempt by the Internal Revenue Service? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		3. Provide organization's Federal Employer Identification Number (EIN): 450369430	
4. City and county in which games of chance will be conducted:			
City: Bismarck		County: Morton	
5. Name and Title of Organization's Top Executive Official: (i.e., Cmdr., Pres., etc.) Don Faber President		Daytime Telephone Number: (701) 226-4884	
6. Name of Gaming Manager: Michaeljay		Daytime Telephone Number: (701) 391-3062	
6a. Signature of Gaming Manager:		Date:	
7. List Governing Board Members (Print) - The governing board is primarily responsible for properly determining and distributing net proceeds.			
Name: Don Faber	Telephone Number: (701) 226-4884	Name: Randy Love	Telephone Number: (701) 220-1655
Name: Roy Towne	Telephone Number: (701) 226-1469	Name: Kim Brander	Telephone Number: (701) 220-5669
Name: Larry Stevahn	Telephone Number: (701) 220-2108	Name: Jay Toepke	Telephone Number: (701) 226-9060
Name: Genie Sauvageau	Telephone Number: (701) 471-0352	Name:	Telephone Number:
Name: Tom Birkholz	Telephone Number: (701) 214-3194	Name:	Telephone Number:
Name: Mike Cooper	Telephone Number: (701) 471-3388	Name:	Telephone Number:
8. Does the Organization Own or Rent the Premises at Which the Games of Chance will be Conducted? <input type="checkbox"/> Own <input checked="" type="checkbox"/> Rent			

AFFIDAVIT:

The Top Executive Official declares that the information is correct and authorizes the Attorney General to inspect the organization's bank records.	Signature of Top Executive Official: 	Date: 4-6-12
---	--	-----------------

ENCLOSE \$150.00 LICENSE FEE WITH THIS APPLICATION
 (Check payable to: ND Attorney General)

RETURN TO: Office of Attorney General
 Licensing Section
 600 E Boulevard Ave Dept. 125
 Bismarck, ND 58505-0040
 Telephone: 701-328-2329 OR
 1-800-326-9240



Consent No. 5 & Ord. No. 8

Board of City Commissioners

Agenda Documentation

MEETING DATE: April 17th, 2012
PREPARATION DATE: April 11th, 2012
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider a change of zoning of West Hills Estates 2nd Addition.

STATEMENT/PURPOSE: Request from Nathan and Darcy Lamoureux to change West Hills Estates 2nd Addition from R7 (Single-Family Residential) to RM (Multi-Family Residential).

BACKGROUND/ALTERNATIVES: The zone change was approved by the Planning & Zoning Commission on March 26th, 2012. West Hills Estates 1st sits south of this addition and is already zoned RM (Multi-Family Residential).

ATTACHMENTS:

1. Office Report
2. Map
3. Ordinance

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

SUGGESTED MOTION: To approve the zone change to RM (Multi-Family Residential).

MANDAN PLANNING OFFICE REPORT
March 21, 2012

Applicant(s): Nathan & Darcy Lamoureux

Owner(s): Nathan & Darcy Lamoureux

Developer(s):

Requested Action: Zone Change Approval

Name of Subdivision: West Hills Estates 2nd Addition

Legal Description: All of Blocks 1-6 in the SE ¼ of Section 7, Township 139N, Range 81W

Located: Between 47th Avenue NW and Nova Avenue NW

Parcel Acreage: 3.69 (approximate)

Existing Land Use: vacant

Proposed Land Use: Single and Multi-Family Residential

Adjacent Land Use: Single and Multi-Family Residential

Existing Zoning: R7 (Single-Family Residential)

Proposed Zoning: RM (Multi-Family Residential)

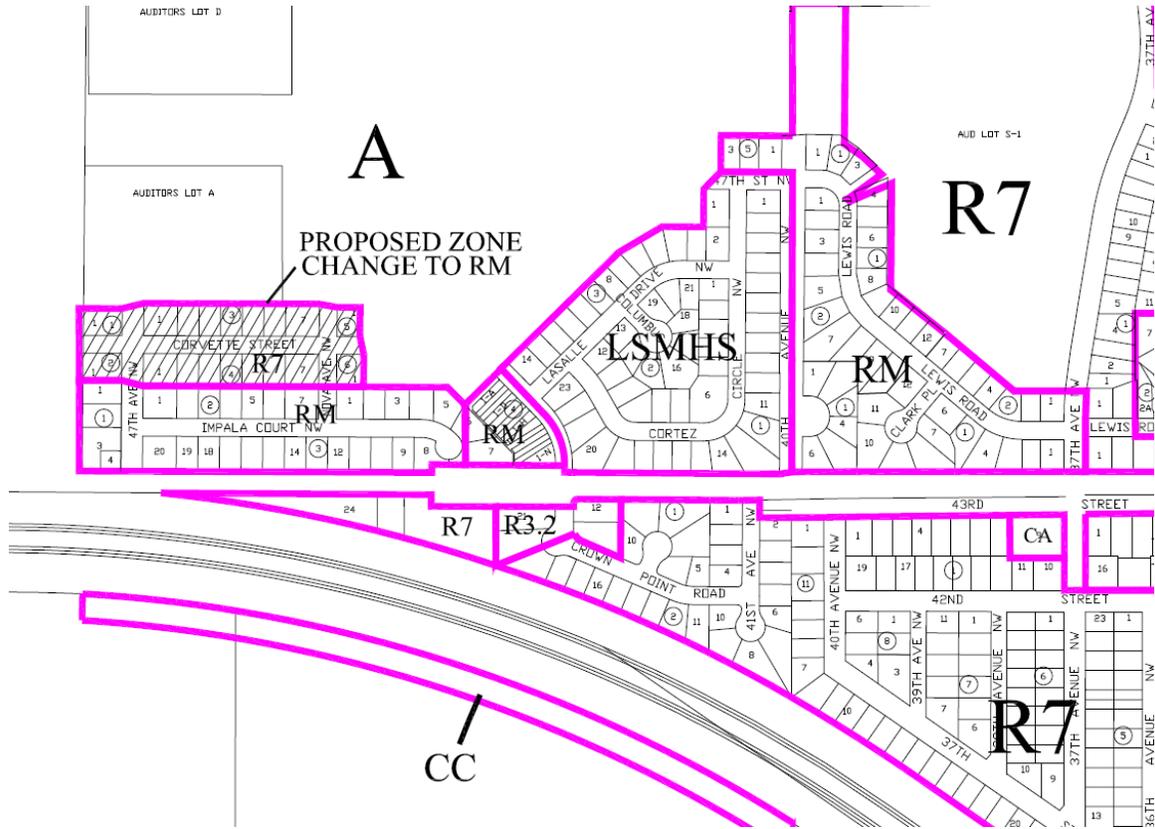
Adjacent Zoning: A (Agriculture), RM (Multi-Family Residential)

Fee(s) Required: \$250.00 Date Received: March 5th, 2012

Adjacent Property Owner Notification: Letters were sent April 2nd, 2012

Dates of Legal Notices: April 6th & 13th, 2012

Recommendations: The Planning Office recommends approval.





Board of City Commissioners

Agenda Documentation

"WHERE THE WEST BEGINS"

MEETING DATE: April 17, 2012
PREPARATION DATE: April 13, 2012
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Dakota Media Access Board Appointments

STATEMENT/PURPOSE: To consider appointments to the Dakota Media Access (DMA) Board of Directors.

BACKGROUND/ALTERNATIVES: The City of Mandan agreed to have its commission meetings broadcast live. In addition, the city is funding 20% of the cost to operate Dakota Media Access. This percentage is based on the number of cable subscribers in the Bismarck/Mandan area. The DMA Board will consist of 10 members with two from the Mandan area.

The DMA is recommending the reappointments of Sue Balcom and Cameo Skager.

ATTACHMENTS: Letter from DMA Board President

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend approving Sue Balcom and Cameo Skager to the DMA Board thru July 1, 2016.

SUGGESTED MOTION: I move to appoint Sue Balcom and Cameo Skager to the DMA Board of Directors thru July 1, 2016.



March 1, 2012

Honorable Mayor Tim Helbling
Mandan City Commissioners
Mandan City Hall
205 Second Avenue NW
Mandan, ND 58554

Dear Mayor Helbling and Mandan City Commissioners:

Dakota Media Access (DMA) requests the following individuals be considered for appointed to serve on the DMA Board of Directors to 7/1/2016.

Cameo Skager, Cameo Communications (reappointment)
Sue Balcom, Bismarck State College (reappointment)

Current DMA Board Members include:

Jack McDonald, Wheeler Wolf Attorneys (2014)
Michael Lindblom, The Rainmaker Group (2013)
Peg Nelson, Coacheschoice (2013)
Fred Schmidt, Retired (2012)
Richard Torrance, Good Shepherd Lutheran Church (2014)
Rena Walker, Bismarck Public Schools (2015)
Tom Ackerman, University of Mary (2015)
Rick Collin, State Historical Society of North Dakota (2015)

Thank you for your consideration.

Sincerely,

Jack McDonald, President
Dakota Media Access

307 North 4th Street
701-258-8871

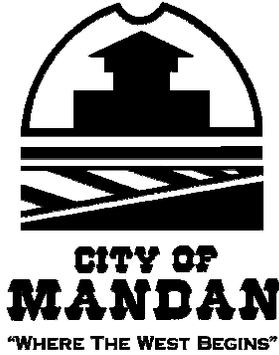
Bismarck, ND 58501

email: info@freetv.org

701-258-8767

www.freetv.org

Fax:



Board of City Commissioners

Agenda Documentation

MEETING DATE: April 17th, 2012
PREPARATION DATE: April 3rd, 2012
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Dennis A. Bullinger
PRESENTER: Chief Dennis A. Bullinger
SUBJECT: Vehicle Purchase for Parking Enforcement

STATEMENT/PURPOSE:

Consider the purchase of a new specialty vehicle that will be used for enforcement of the City of Mandan parking ordinances in the downtown business district.

BACKGROUND/ALTERNATIVES:

- 1) The 1993 Cushman that had been used for enforcement for the past 19 years has been disposed of because it was not repairable.
- 2) Unspent funds from the 2011 budget totaling \$24,400 were approved and carried forward into 2012 budget making funds available for this purchase.
- 3) Product reviews for a replacement vehicle have been conducted and the "GO-4 Interceptor" manufactured by Westward Industries has been identified as the most serviceable vehicle for our needs. The specific features include a gas powered engine, vehicle design for parking enforcement, center positioned steering, and a passenger side exit.
- 4) Contact was made with two other law enforcement agencies that utilize the "GO-4 Interceptor" and both agencies were very satisfied with them.
- 5) Pros and Cons;

GO-4 Interceptor,

Pros, maneuverable vehicle when moving around diagonal parked vehicles and other moving vehicular traffic. Overall length, 118 in., width, 52.5in. Center Post steering column, easy step out right passenger side of vehicle, safety. Fuel Injected gasoline engine.

Cons, none.

Jeep Wrangler,

Pros, would maintain a higher trade value after a period of time. Additional usages by police. Right side steering column.

Cons, size maybe a problem when moving around diagonal parked vehicles and other moving vehicular traffic. Overall length, 183 in, width 82.8 in.

Firefly Electric Vehicle,

Pros, maneuverable vehicle when moving around diagonal parked vehicles and other moving vehicular traffic. Center post steering column, easy step out right passenger side of vehicle, safety.

Cons, less durable in colder climates, cost.

Kubota RTV,

Pros, cost.

Cons, Center post or right hand steering columns not an options creating safety issues. More off road usages than on road usages.

My recommendation is that we purchase the GO-4 Interceptor. Staff in their research and with their job experiences suggest the purchase of the GO-4 Interceptor.

ATTACHMENTS:

Pages 4&5

1) Bid #1	Cushman Motor Co	GO-4 Interceptor	\$ <u>24,457.00</u>
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Pages 6&7

2) Bid #2	Ryan Dodge	Jeep Wrangler	\$ <u>29,355.00</u>
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Pages 8&9

3) Bid #3	Cushman Motor Co	Firefly	\$ <u>30,275.00</u>
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Pages 10&11

4) Bid #4	Northern Plains Equipment	Kubota	\$ <u>16,476.98</u>
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FISCAL IMPACT:

1) Purchase price and delivery of the "GO-4 Interceptor" is estimated \$24,400.

STAFF IMPACT:

1) A vehicle will be available for staff to conduct parking enforcement in downtown Mandan.

LEGAL REVIEW:

N/A

RECOMMENDATION:

Approve the purchase of the “GO-4 Interceptor”

SUGGESTED MOTION:

Move to approve the purchase of a “GO-4 Interceptor” by the police department in the amount of \$24,400.

CUSHMAN PROPOSAL PREPARED FOR:
MANDAN POLICE DEPARTMENT
ATTN: PAUL LEINGANG

Cushman Motor Company, Inc.
 2909 East Franklin Ave.
 Minneapolis, MN 55406
 Fax 612-333-5903
 Phone 612-333-3487

Date: 3/14/12

We are pleased to submit the following quotation for your consideration:

<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>TOTAL</u>
1	2012 WESTWARD INDUSTRIES, INTERCEPTOR III VEHICLE	
	<ul style="list-style-type: none"> • 61 HP, 4-cylinder EFI engine • 4-Speed automatic transmission • 40 MPH electronically governed top speed • Automotive power assisted hydraulic disc brakes on all three wheels • 13" All-season radial tires • 20,000 BTU heater/defroster • Headlights, tail lights, brake lights and turn signals • Full gauge and indicator light system • Color: White 	22,900.00
1	1-04-106D, PARTS & SERVICE MANUAL ON CD	33.00
1	1-96-006, 12 V PLUG AND SWITCHES & RELAYS (to run accessory equipment)	106.00
1	FREIGHT AND SET-UP	650.00
	Delivery to Mandan	<u>500.00</u>
		\$24,189.00
	Optional Accessories & Modifications	
1	1-96-028, AM/FM/CD RADIO	\$376.00
1	1-96-002, SLIDING REAR WINDOW	\$283.00
1	1-96-004, PADDED ARM REST (with storage box)	\$204.00
1	1-96-024, EXTRA SET OF KEYS	\$11.00
1	1-86-114-01, FRONT NERF BAR	\$268.00

TERMS: NET 30 DAYS
 F.O.B. DELIVERED
 AVAILABILITY: 180 DAYS A.R.O.
 WARRANTY: 3 YEAR PARTS AND LABOR (5 Year corrosion coverage)

Submitted by:

Thank you for your consideration.

Timothy G. Commers

SPECIFICATIONS

ENGINE
 61 h.p., liquid cooled
 4-cylinder, overhead cam
 4-cycle, electronically fuel injected

TRANSMISSION
 4-speed automatic
 Automotive transaxle with electronically controlled shift

DIMENSIONS
 Overall height with cab: 89.5"
 Overall length: 118"
 Overall width: 52.5"
 Outside turning radius: 114"
 Inside turning radius: 86"
 Wheelbase: 78.5"

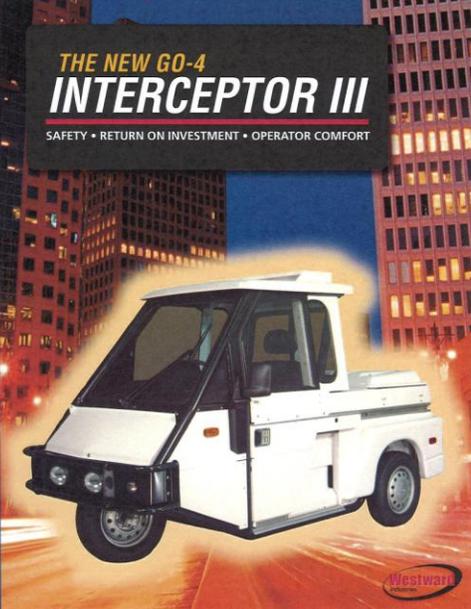
BRAKING
 Service - Automotive power assisted hydraulic disc brakes on all three wheels with dual master cylinder
 Parking - Hydraulic over mechanical

ELECTRICAL SYSTEM
 Charging - Heavy duty 70 amp automotive alternator
 Lights - Two halogen headlights
 Stoplight - Lights with high visibility stoplights
 Turn signals
 Starting - 12-volt starting motor
 Interlock prevents starter from operating unless shift lever is in "neutral or park" position
 Gauges - Speedometer, fuel level and hour meter
 Indicator Lights - Oil pressure warning, Three stage water temperature light: (Blue - below running temperature, OFF - normal running temperature, Red - above normal running temperature), Overdrive indicator, Charging system
 Low fuel
 Wiring - Wiring harness with abrasion-resistant loom
 Multiple plug-in connectors for accessories
 Governor - Electronic on the fuel injection system
 Transmission Cooler - Integrated
 LTI - (Lateral Thrust Indicator) for safer operation of vehicle.

Specifications are subject to change without notice. These vehicles comply with the U.S. D.O.T. vehicle safety standards "motorcycle", as well as meet E.P.A. and C.A.R.B. standards.

THE NEW GO-4 INTERCEPTOR III

SAFETY • RETURN ON INVESTMENT • OPERATOR COMFORT





1077 Highway 26
 St. Francis Xavier, Manitoba
 Canada R4L 1A6
 Phone: (204) 866-2066
 Fax: (204) 866-2364
 E-mail: info@westwardindustries.com
 Web: www.westwardindustries.com




THE NEW GO-4 INTERCEPTOR III

SAFETY • RETURN ON INVESTMENT • OPERATOR COMFORT





SAFETY

LTA (lateral thrust alarm) sounds alarm:

- when cornering at too high a rate of speed
- When working on too great a side slope

Full roll cage designed frame protects operator in side, front and rear impact collisions

Highly visible due to unique styling and height of vehicle

Automotive style seat belts with shoulder harness

P.E.O. can perform most of their duties right from the vehicle without interfering with traffic flow

High mounted, highly visible, rear brake and running lights and turn signals

RETURN ON INVESTMENT

Two to six month payback on original purchase price based on:

- increased productivity due to reduced fatigue
- increased productivity due to less time to travel to and from beats
- increased revenue due to more rapid circuits of beats
- Increased mobility allows the vehicle to be used in other areas, such as traffic control, accident scene attendance, parking meter cash retrieval and maintenance, etc.
- over 40 miles per gallon

OPERATOR COMFORT

automotive automatic transmission
 ergonomically designed vinyl seat
 automotive instrument cluster
 optional automotive air conditioning
 20,000 b.t.u. automotive heater
 power assisted hydraulic disc brakes on all three wheels
 optional roof mounted am/fm radio
 tiltable steering wheel
 powerful 61 horse power gas engine
 large lockable trunk (room for six standard boots, or a cash box)

(See our separate "Accessories" page for a pictures and descriptions of all of our optional equipment)



"ControlLink" FRONT SUSPENSION

Westward Industries Ltd. is proud to introduce its new leading link, anti-dive front suspension. The coil over shock design has been tested at the Bosch Durability Test Facility, under extreme conditions to an equivalent of 100,000 miles without failure of any kind.





Board of City Commissioners
Agenda Documentation
Meeting Date: April 17th, 2012
Subject: Vehicle Purchase for Parking Enforcement
Page 6 of 11

03/21/2012 15:47 FAX 7015300526

CORWIN CHURCHILL

002

Dave Mills

Mandan Police Department

205 1st Ave NW

Mandan, ND 58554

Dear Dave,

Attached are the equipment and specification sheets for the right hand drive, 2012 Jeep Wrangler Unlimited Sport we discussed. Even though this is a very unique special order, we would be happy to order it for you at the Dealer Invoice price of \$29,355. It would take approximately 4 to 8 weeks to receive the vehicle after ordering.

If you have any questions, please don't hesitate to call me at (701)223-1170.



Rick J. Miller

BusinessLink Account Manager

Ryan Dodge Chrysler Jeep Ram

1112 Missouri Ave

Bismarck, ND 58504

Board of City Commissioners
 Agenda Documentation
 Meeting Date: April 17th, 2012
 Subject: Vehicle Purchase for Parking Enforcement
 Page 7 of 11

03/21/2012 15:47 FAX 7015300526

CORWIN CHURCHILL

003

RYAN CHRYSLER, DODGE, JEEP OF BIS
 1112 MISSOURI AVE
 BISMARCK, ND 58504

Configuration Preview

Date Printed: 2012-03-21 12:45 PM VIN: Quantity: 1
 Estimated Ship Date: VON: Status: BA - Pending order

Sold to: RYAN CHRYSLER, DODGE, JEEP OF BISMARCK (08701)
 1112 MISSOURI AVE
 BISMARCK, ND 58504
 Ship to: RYAN CHRYSLER, DODGE, JEEP OF BISMARCK (08701)
 1112 MISSOURI AVE
 BISMARCK, ND 58504

Vehicle: 2012 WRANGLER UNLIMITED SPORT 4X4 RHD (JKUM74)

	Sales Code	Description	MSRP(USD)	FWP(USD)
Model:	JKUM74	WRANGLER UNLIMITED SPORT 4X4 RHD	29,435	28,424
Package:	24U	Customer Preferred Package 24U	0	0
	ERB	3.6L V6 24V VVT Engine	0	0
	DGJ	5-Speed Auto W5A580 Transmission	0	0
Paint/Seat/Trim:	PW7	Bright White Clear Coat	0	0
	APA	Monotone Paint	0	0
	*A7	Cloth Seats w/Adj. Head Restraints	0	0
	-X9	Black	0	0
Options:	NHK	Engine Block Heater	35	31
Destination Fees:			900	900

HB: 884 Total Price: 30,370 29,355
 FFP: 29,061
 EP: 27,962

Order Type: Retail PSP Month/Week:
 Scheduling Priority: 4 - Dealer Order Build Priority: 99
 Customer Name:
 Customer Address:

Instructions:

Note: This is not an invoice. The prices and equipment shown on this priced order confirmation are tentative and subject to change or correction without prior notice. No claims against the content listed or prices quoted will be accepted. Refer to the vehicle invoice for final vehicle content and pricing. Orders are accepted only when the vehicle is shipped by the factory.

***CUSHMAN PROPOSAL PREPARED FOR:
CITY OF MANDAN
ATTN: DAVID MILLS***

***Cushman Motor Company, Inc.
2909 East Franklin Ave.
Minneapolis, MN 55406
Fax 612-333-5903
Phone 612-333-3487***

Date: 2/5/12

We are pleased to submit the following quotation for your consideration:

<u>QUAN</u>	<u>DESCRIPTION</u>	<u>TOTAL</u>
1	2012 FIREFLY ELECTRIC PARKING ENFORCEMENT VEHICLE <ul style="list-style-type: none">• AC Induction, 35 HP nominal permanent magnet motor• Battery Pack: 72 Volt Lithium Iron Phosphate• Computer-controlled integrated drive system (IDS)• 40 MPH electronically governed top speed• 60 Miles per charge under normal operation• Automotive hydraulic disc brakes on all three wheels• 14" All-season radial tires• 72V, 700 watt heater/defroster• Headlights, tail lights, brake lights and turn signals• Full gauge and indicator light system• Color: White	
	Less Municipal Discount	31,275.00 <u>-1,000.00</u> \$30,275.00

TERMS: NET 30 DAYS (Prices firm 90 days from date shown)
F.O.B. MINNEAPOLIS
AVAILABILITY: 12-14 WEEKS (estimate)
WARRANTY: 1 YEAR PARTS AND LABOR

Thank you for your consideration.

Submitted by:

Timothy G. Commers

Fabian Lewkowicz Photography

MY ACCO

HOME PORTFOLIO GALLERIES SEARCH ABOUT HEAD SHOTS CONTACT B

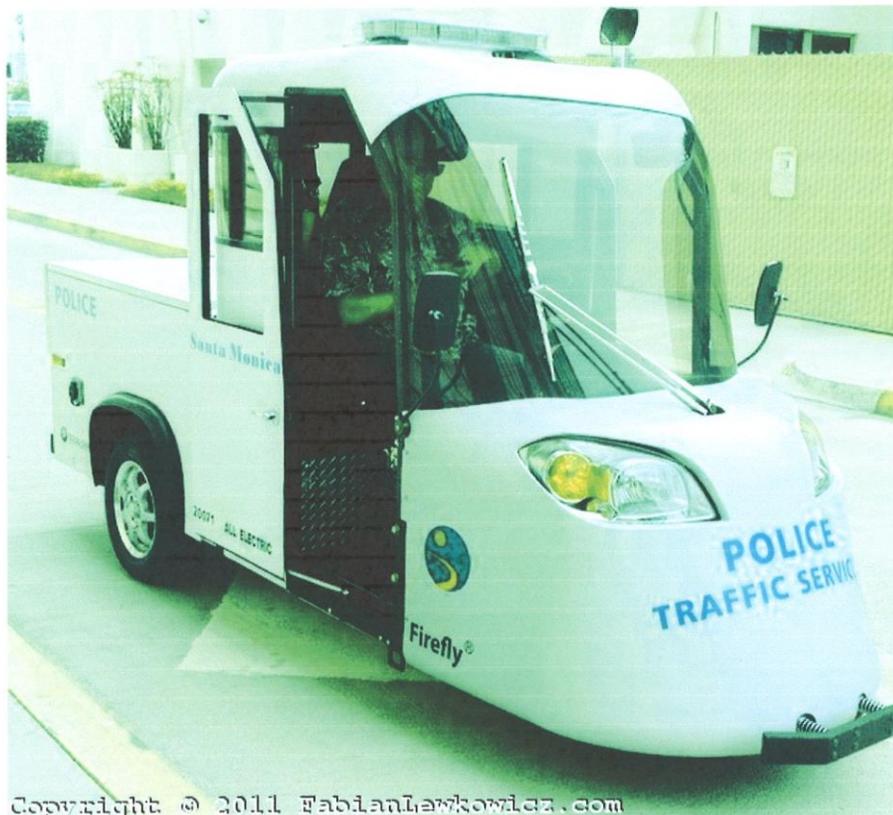
Buy

Add to Lightbox

Download



Like



Copyright © 2011 FabianLewkowicz.com

Santa Monica Police Sergeant Philbo Rubish (Traffic Service Division) checks-out the all electric parking enforcement vehicle prototype named "Firefly" on Monday, April 18, 2011. The Firefly is built by the Good Earth Energy Conservation Inc. (GEEC)

File name
Copyright

Santa Monica, Santa Monica Pier, Photographer, Santa Monica Photographer

<http://fabianlewkowicz.photoshelter.com/image/I0000VQbcXX8J2do>

3/5/2012



Northern Plains Equipment Co., Inc.



2933 Twin City Drive - Mandan, ND 58554
 701-663-9864 - 800-223-2972 - Fax: 701-663-9493

3/2/2012

Sales Quote/Order

Page 1

Name Paul Leingang
 Company Mandan Police Dept
 Address
 City/Town Mandan ND 58554

Telephone (701) 667-3250
 Acct. Manager Roger
 Quote No. 1
 In Effect Until

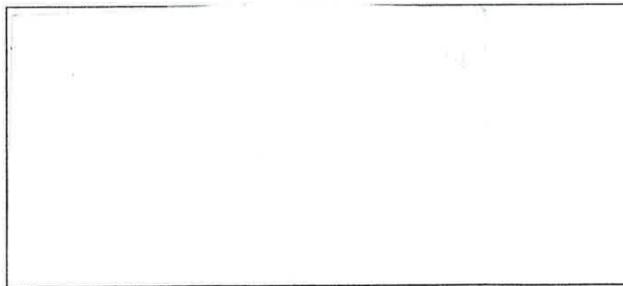
We are Committed to Providing You with the Best Value
 in Price/Performance for your Hard Earned Dollar.
 You can count on our Parts and Service Departments to
 Keep your Investment Running Strong for Many Years to Come.

Qty	Description	Price
Sale Items		
UV KU RTV900XTW 0 - New - Kubota RTV900XTW Utility Vehicle		
Stock No.:C6453; Serial Number: C6453;		
1	Utility Vehicle - Work Site - Orange with Heavy Du	\$14,145.00
	Other Costs	\$332.82
	Total for Unit	\$14,477.82
UV KU RTV900 IMPL/ATTACH 2012 - New - Kubota RTV900 IMPL/ATTACH Utility Vehicle		
1	Steel Cab w/Black Steel Doors, Orange Top & Glass	\$2,915.00
	- And glass windshield. Requires V4219 Front Heavy Load Springs or V4209 Front Heavy Load Strut.	
2	Out Side Rear View Mirrows	\$100.00
1	Cab Heater (Soft Cab or Steel Cab)	\$412.00
1	Wiper Kit (Cab/Glass Windshield), Passenger Side	\$159.00
1	Wiper Kit (Cab/Glass Windshield), Driver Side	\$159.00
1	Turn Signal/Hazard Light Kit	\$268.00
1 ?	Rear Mirror Kit (Inside)	\$54.00
1	Headrest	\$59.00
1	Speedometer (Option for RTV900G/W)	\$79.00
1 ?	Backup Alarm	\$133.00
	Other Costs	\$1,960.00
	Total for Unit	\$6,298.00
	Total Price of Sale Items	\$20,775.82
	Dealership Discount	(\$3,013.33)
	Manufacturer Discount	(\$1,285.51)
	Contract Amount	\$16,476.98

Account Manager

Accepted by

Roger
 2933 Twin City Drive, Mandan, ND 58554
 Tel: (701) 663-9864
 Cell: (701) 220-3147
 Email: roger@northernplainequipment.com



ORDINANCE NO. 1114

An Ordinance to Amend and Re-enact
Section 12-01-04(1) of the Mandan Code of Ordinances
Relating to Location

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

Section 12-01-04(1) of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-01-04. Location.

1. General. No Class A, Class D or D-1 license shall be issued to cover any location within three hundred feet of any premises the property line of property whereon is located any school, ~~or~~ church, public or parochial school, public library, hospital, college or university building used for academic purposes, unless the entity(s) affected by the above limitation consents to the issuance of the license. No license shall entitle the holder, except lodges and clubs as defined in this title, to carry on such business at retail except on the first floor above or on ground level; however, hotels and motels may deliver to their guests for consumption in their rooms.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: April 3, 2012
Second Consideration
and Final Passage: April 17, 2012

ORDINANCE NO. 1115

An Ordinance to Create and Enact
Section 12-02-07(7) of the Mandan Code of Ordinances
Relating to Drive-up Window Sales

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

Section 12-02-07(7) of the Mandan Code of Ordinances is hereby created and enacted as follows:

Section 12-02-07(7). Drive-up Window Sales.

Sales of alcoholic beverages in closed containers may be made to persons in motor vehicles at drive-up windows designed for such purpose. However, it shall be unlawful to sell or serve alcoholic beverages in open containers to drivers or occupants of motor vehicles. It shall further be unlawful to serve or sell alcoholic beverages to pedestrians through drive-up windows designed and utilized for sales to persons in motor vehicles.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration
and Final Passage: _____

ORDINANCE NO. 1116

An Ordinance to Amend and Re-enact
Section 12-01-02 of the Mandan Code of Ordinances
Relating to Application of Chapter

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

Section 12-01-02 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-01-02. Application of Chapter.

1. This chapter is declared to be an exercise of the police power directly affecting and designed to promote peace, safety, good order, health and well-being of the people of the city. This chapter shall apply to all territory within the city and to such outlying contiguous territory without the corporate limits within which the city may exercise police jurisdiction as defined by law.

2. All licenses or permits issued by the city pursuant to this article confer a privilege on the license holder to engage in the activity or occupation so licensed, and do not constitute property or property rights or create any such rights in any license holder or applicant. No license or permit issued under this article may be mortgaged, encumbered, pledged, seized, levied upon, attached, executed upon, assessed or in any manner taken for the purpose of securing, or in satisfaction of, any debt, judgment, lien, mortgage, encumbrance or obligation.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration
and Final Passage: _____

ORDINANCE NO. 1117

An Ordinance to Create and Enact
Section 12-02-05.1 of the Mandan Code of Ordinances
Relating to Certification of Food Sales

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

Section 12-02-05.1 of the Mandan Code of Ordinances is hereby created and enacted as follows:

Section 12-02-05.1. Certification of Food Sales.

Any license holder which premises includes a restaurant and which allows persons under twenty-one (21) to enter the premises with a request for renewal of a license shall be required to file with the City a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's gross revenue from the sale of food is equal to or exceeds the gross revenue from the sale of alcoholic beverages in the dining room. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may request from the State Tax Commissioner's Office and furnish to the City Auditor's office a certified copy of licensee's sales tax returns for the most recent 12-month period prior to renewal.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration _____
and Final Passage: _____

ORDINANCE NO. 1118

An Ordinance to Amend and Re-enact
Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances
Relating to Transfers of Licenses Limited

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

Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-02-08. Transfers of Licenses Limited.

1. No license under the provisions of this chapter or any interest therein may be transferred to another person without the prior approval of the board. The accumulated transfers of ownership of more than thirty percent of the outstanding stock in any corporation holding a license issued hereunder, occurring at any time subsequent to the date of the application for a license, shall be reported by the licensee to the city auditor at the time the accumulated total of the transfers exceeds thirty percent of the outstanding stock. The accumulated transfers of ownership of fifty percent or more of the outstanding stock of any corporation holding a license hereunder, occurring at any time subsequent to the date of the application for a license, shall be deemed to be a transfer of the license and a request for the transfer of the license shall be submitted to the board for approval. The board shall determine what information surrounding the transaction shall be disclosed to the city by the applicant. Any concealment of the facts of the transaction shall be grounds for revocation of the license.

2. Not more than two licenses of each classification shall be issued to any applicant, and each license shall be valid only for the specific premises licensed.

3. No license shall be granted to any person who is a member of a partnership or partnerships possessing two or more retail alcoholic beverage licenses nor to any person owning more than one percent of the total common or preferred capital stock of any corporations, or combination of corporations, possessing two or more such licenses, nor shall any retail license be issued or granted to any person who is employed in any capacity in connection with any two or more other licensed liquor establishments, nor shall any retail license

to sell alcoholic beverages be issued or granted to any member of the immediate family of any person who is the holder of two or more licenses within the city limits of the City of Mandan. "Immediate family" means a spouse, child, sibling, parent, grandparent or grandchild. This includes step-parents, stepchildren, step-siblings, and adoptive relationships.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: April 3, 2012

Second Consideration
and Final Passage: April 17, 2012

ORDINANCE NO. 1119

An Ordinance to Amend and Re-enact
Section 12-02-06 of the Mandan Code of Ordinances
Relating to License Fee

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

Section 12-02-06 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-02-06. License fee.

The license fees shall be payable in advance at the time of the filing of the application. Should a license be granted for an unexpired portion of the term of the license, said fees shall be prorated on the basis of the number of months remaining in such term, determined as of the first day of the month in which such license is issued. No license issued pursuant to the provisions of this section shall be assignable or transferable and the failure to pay any license fee on or before the date when it is due shall automatically cancel the license.

The License fees shall be as established from time to time by resolution of the Board of City Commissioners.

Whenever the board increases the number of licenses available in any class, or when a license is not renewed, or is revoked, a one-time only issuance fee, in an amount determined by the board in its discretion, ~~which reflects the current market value of licenses in the same class,~~ shall be paid by any new licensee. The issuance fee shall be in addition to the annual license fee. In lieu of setting an issuance fee ~~reflecting current market value,~~ the board may utilize a competitive sealed bidding process for the award of these licenses, ~~and may determine~~ establish a minimum bid or substitute any other procedure for the issuance of a license as determined by the board.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: April 3, 2012
Second Consideration
and Final Passage: April 17, 2012

ORDINANCE NO. 1120

An Ordinance to Amend and Re-enact
Section 12-02-04 and to Repeal Section 12-02-05
of the Mandan Code of Ordinances
Relating to Alcoholic Beverage Licenses

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

Section 12-02-04 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-02-04. Classification of ~~beer~~ alcoholic beverage licenses--Numbers restricted.

There shall be ~~six~~ seven classes of ~~beer~~ alcoholic beverage licenses, namely:

1. Class A. General retail (on- and off-premises) license;
2. Class B. Club (on- and off-premises) license to be issued only to clubs and lodges, whose profits from the sale of ~~beer~~ alcoholic beverages are used only for benevolent purposes;
3. Special B. Publicly Owned or Operated Facilities.
 - a. A license for the retail on-sale of beer only at the manager's building may be issued to the manager of the municipal golf course designated by the Mandan park district, which shall be nontransferable and shall be held only for the period of the manager's contract and shall terminate with the termination of his contract. The license fee shall be one hundred dollars per annum for that portion of the year in which such golf course is open. This license shall be limited to the service of beer only to the patrons at the municipal golf course and not open to the public at large;
 - b. A license for the retail on-sale of beer only at the Dakotah Centennial Park may be issued to the concessionaire designated by the Mandan park district, which shall be nontransferable and shall be held only for the period of the concessionaire's contract and shall terminate with the termination of the contract. The license fee shall be one hundred dollars per annum for that portion of the year in which such park is open. This license shall be limited to the service of beer only to the patrons of the Dakotah Centennial Park and not open to the public at large;
 - c. (Reserved for future use);
 - d. (Reserved for future use);

- e. Persons or entities holding a Special Class B beer only licenses are eligible applicants under the provisions of Section 12-02-16 of this code relating to special Sunday permits but they are not eligible applicants for a special catering permit under the provisions of Section 12-02-13 of this code. In making application for a special Sunday permit under the provisions of Section 12-02-16, the application must be in the name of the public facility and signed by the president of the park board, or the duly authorized park board representative and the holder of the Special Class B beer only license.
4. Class C. Motel and hotel (on- and off-premises) license to be issued to the owner or lessee of hotels and motels having forty or more sleeping rooms, provided that such license may not be transferred to another location and only one licensee may carry on business in the hotel or motel;
 5. Class D. Exclusive retail off-sale alcoholic beverages.
 6. Class D-1. Exclusive retail off-sale beer and wine.
 7. Class E. Food and beverage license, permitting on-premises ~~beer~~ alcoholic beverage sales, subject to the following restrictions and conditions:
 - a. A licensee hereunder may sell ~~beer~~ alcoholic beverages in a restaurant separated from the room in which ~~beer~~ alcoholic beverages ~~is~~ are opened sold, if the gross sales of food are at least equal to the sales of ~~beer~~ alcoholic beverages in the dining room.
 - b. On-Premises Only. The food and beverage license shall be for on-premises ~~beer~~ alcoholic beverage sales only, and no authority is conferred under said license pursuant to this section to engage in the off-sale ~~liquor~~ alcoholic beverage business.
 - c. Location. Once a food and beverage license has been established at a particular location, no transfer of the license to another location may be permitted. A cessation of business at a licensed location for a period of thirty days or longer shall automatically cancel the license.
 - d. Related Provisions. The food and beverage license shall be governed by all applicable provisions of the ordinances of the city, relating to restaurants; and further, such restaurants shall meet all requirements for a license under this title.

~~The number of Class A licenses shall be and the same is restricted to seventeen in number until such time as the population of the city as shown by federal, state or local official census is in excess of twenty five thousand people, in which event an additional license may be granted for each additional two thousand population over twenty five thousand as disclosed by such official census. There shall be but seven Class D licenses issued in the city until such time as the population as shown by such census shall be in excess of twenty thousand, in which event an additional license may be granted for each~~

~~additional five thousand population over fifteen thousand as disclosed by such census. Such census shall be conclusive as to the determination of the population of the city for this purpose.~~

The number of Class A licenses shall be restricted to 17 in number, Class D licenses to 3 in number, and Class D-1 licenses to 7 in number until such time as the number of "living units" (as determined by the office of building inspection) increases by 500 living units in excess of the number of living units within the City of Mandan as of June 30, 2012. At least 30 days before July 1st of every year the office of building inspection shall certify to the City Auditor the number of living units within the City as of the date of certification.

This section shall not be construed to require the city to issue licenses equal to the number allowed hereunder and the board in its discretion, should it deem that a significant number of such licenses have been issued, may refuse to issue any license even though authorized under this section.

Section 12-02-05 of the Mandan Code of Ordinances is hereby repealed in its entirety.

This Ordinance shall take effect as of July 1, 2012.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: April 3, 2012

Second Consideration
and Final Passage: April 17, 2012

4/10/12

ORDINANCE NO. 1121

AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF ORDINANCE 1088 OF THE MANDAN CODE OF ORDINANCES RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Code of Ordinances is amended to read as follows:

The following described property located within the City of Mandan, Morton County, North Dakota shall be excluded from the R7 (Single-Family Residential) zoning and shall be included in the RM (Multi-Family Residential) zoning namely,

All of West Hills Estates 2nd Addition in Section 7, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota

and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>March 26th, 2012</u>
First Consideration:	<u>April 17th, 2012</u>
Second Consideration and Final Passage:	<u>May 1st, 2012</u>
Publication Date:	<u>May 25th, 2012</u>
Recording Date:	_____

