



**AGENDA**  
**MANDAN CITY COMMISSION**  
**APRIL 3, 2012**  
**ED "BOSH" FROEHLICH MEETING ROOM**  
**5:30 P.M.**  
**[www.cityofmandan.com](http://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 following minutes:
    - i. March 15, 2012 - Special Meeting
    - ii. March 20, 2012 – Regular Board Meeting
- C. PUBLIC HEARING:
1. Public Hearing to consider the vacation of a 20' Storm Sewer Easement in Borden Harbor 1<sup>st</sup> Addition.
  2. Public Hearing to consider the vacation of a 20' Overhead Power Line Easement in Sunset Commercial Park 1<sup>st</sup>.
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider for approval 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.
  3. Consider for approval the final plat of Lakewood 6<sup>th</sup> Addition.
  4. Consider 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.
  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
  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).
  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).

F. OLD BUSINESS:

G. NEW BUSINESS:

1. Special award presentation by Mandan Lions.
2. Consider the creation of Street Improvement District No. 169 Project # 2012-06. (Lincoln Ridge 5th Addition).

H. RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup>* – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.
2. *Consider second consideration and final passage of Ordinance No.1113 Zone Change for Lakewood 6<sup>th</sup> Addition* – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.
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.
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.
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.
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
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.
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.
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.

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. April 17, 2012
2. May 1, 2012
3. May 15, 2012

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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.*

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The Mandan City Commission met in Special Meeting Session at 1:30 p.m. on March 15, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson. Department Heads present were Deputy Police Chief Leingang, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Business Development and Communications Director Huber, Engineering Project Manager Bechtel, City Assessor Barta, and WWTP Director Himmelspach. Absent: Finance Director Welch, Fire Chief Nardello and Police Chief Bullinger.

OLD BUSINESS:

1. *Consider award of bids for flood removal projects including, Hesco & various earthen levees, Bridgeview Bay, Marina Bay, Borden Harbor and Lakewood Harbor.* Mayor Helbling reported that a letter was received on March 14, 2012, from FEMA granting an extension for the period of performance to September 30, 2012 and that extension should be sufficient to get everything completed. Approval has been given for the Marina Bay plug, Bridgeview Bay plug and Hesco & various earthen levees removal. Remaining are Borden Harbor and Lakewood Harbor and it is anticipated that those will also be covered. Regarding sandbar removal behind the plugs, the State of North Dakota is still working on that and we are still pursuing processing those requests. Everything looks good so far and it appears that we can go ahead with no problems foreseen.

Mayor Helbling recommended moving forward with the flood removal projects. Brent Erickson from Kadrmas, Lee and Jackson was present to answer any questions if needed. Erickson stated that load restrictions are in place as a state restriction and the City of Mandan follows those guidelines. It has been determined that removing the plugs and taking over the streets with the load restrictions on will cause more damage than the cost of the plugs. If there is damage done to the streets, the damages are not reimbursable by FEMA. It does not make sense to take the plugs out and damage the streets. He stated he does not know when the load restrictions will be lifted. He indicated that if the bids are awarded today the earliest the project would start is May 1<sup>st</sup> to May 15<sup>th</sup>. If road restrictions come off earlier there is flexibility to give the Notice to Proceed on May 1<sup>st</sup> or May 15<sup>th</sup>. Erickson stated he has talked to all five contractors and all of them anticipate starting approximately May 15<sup>th</sup>. He said he will continue to watch the river and the Notice to Proceed will not be issued if the water stays at 14 feet which is the action stage. Right now it is at the 5.5 foot to 6 foot range.

Mayor Helbling stated that the contract says that once the load restrictions are lifted by the state they have ten days in which to start the project. Erickson clarified that the Notice to Proceed will not be issued until after the load restrictions are lifted for the final time by the state. It does not state the “day” the load restrictions are lifted. They have ten days to mobilize and start and then 45 days to complete the project. Erickson noted that different projects will take different time frames to be completed. The project consists of five bid packages on five distinct projects.

The number of Class A licenses shall be restricted to 17 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 1<sup>st</sup> 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.

8. The number of Class A general retail on- and off-sale alcoholic beverage licenses shall be 17. The number of Class D exclusive retail off-sale alcoholic beverage licenses shall be 3. The number of Class D-1 - Exclusive retail off-sale beer and wine shall be 7.

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: \_\_\_\_\_  
Second Consideration \_\_\_\_\_  
and Final Passage: \_\_\_\_\_

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Commissioner Jackson moved to approve Bid Package # 8 – Marina Bay Clay Plug Removal to H & S Contracting, Moorhead, Minnesota with a bid of \$414,920.00. 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.

Commissioner Jackson moved to approve Bid Package #9 - Borden Harbor Clay Plug Removal to Rachel Contracting, St. Michael, Minnesota with a bid of \$153,338.00. 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.

Commissioner Jackson moved to approve Bid Package #10 – Lakewood Harbor Clay Plug Removal to Tom’s Backhoe Service, Inc. Brainerd, Minnesota with a bid of \$166,500.00. 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.

Commissioner Jackson moved to approve Bid Package #11 Bridgeview Bay Clay Plug Removal, Park Construction Company of Hampton, Minnesota with a bid of \$321,177.50 and Bid Package #12 Earth Levee Removal, Hesco Barrier Removal, Sandbag Removal, Disposal and Restoration, Park Construction Company of Minneapolis, with a bid of \$354,970.00. 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.

NEW BUSINESS:

1. *Overview of Request for Proposals for development of land parcels located near I-94 & evaluation criteria.* Business Development and Communications Director Huber gave a short refresher summary that the Board had previously approved, of the Request for Proposals for development of these two parcels of land consisting of @22 acres of property in northwest Mandan issued on January 3, 2012. On January 12, 2012, the proposal was revised based on the announcement from Walmart that occurred on that day regarding their planned supercenter in the near vicinity. Four responses were received by a Feb. 17 deadline. Those developers are here today to present their proposals to the Commission and to answer any questions.

2. *Presentations and interviews by interested developers:*

Proposal No. 1

*Annabelle Homes presented by Tom Bakritges, Project Manager.*

**Dean Dovolis, LEED AP Lead Architect for Annabelle Homes, LLC’s presentation of approximately 10 minutes, (Segment No. 2), missing from CD**

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Bakritges reviewed the proposal as outlined:

- Single Family Homes – 13
- Townhomes – 48
- Retail including restaurants two-story, 30,000 sq. ft.
- Retail & Office – 15,000 sq. ft. retail; second story office @ 15,000 sq. ft.
- Lodging/Hotel – 80 rooms with two levels
- Convenience store and gas station
- Open parking spaces

Bakritges stated that the project will be completed in three phases:

Phase 1: Townhomes and hotel with a construction value of \$17,400,000

Phase 2: Convenience Store and retail/office with construction value of \$5,800,000

Phase 3: Retail, restaurant, single family homes, and a neighborhood park with construction value of \$31,475,000

Bakritges stated that after completion of construction the City will have received approximately \$370,000 in construction sales taxes. The three phase project is projecting an investment of approximately \$31.5 million in newly constructed properties. He stated that in the future there is potential the City will receive annual property taxes of \$245,000 with an additional sales tax of \$132,000.

Bakritges indicated that the project can start sooner than anticipated. He stated that if awarded the property the prep work would be started this year and continue into 2013 which is Phase 1. Phase 2 and Phase 3 would start in 2014. Bakritges re-iterated that Annabelle Homes is in line with the City of Mandan’s Vision Statement “Together we can make it happen” and they are committed to the success of this project.

Additional notes:

- The infrastructure costs would be included within the project wherein the City would not be responsible to put in streets, sewer and water;
- Development of the properties would include consideration of working with Mandan local business and/or other retail within the plans. This project is not exclusive to just their own businesses.
- Proposed price @ \$1: In order to put together the infrastructure costs in order to keep affordable housing costs down.

Proposal No. 2

*Link's True Value Hardware presented by Matt Appleby, Retail Consultant North Dakota representative for True Value and appears on behalf of Link Golz, owner of Link's True Value, Ashley, ND.* Matt Appleby gave a short history of Link Golz’s business experience and why he is interested in pursuing a business relationship with Mandan. Golz has plans to move to Mandan. True Value Company is one of the largest retail cooperative businesses in the world. “Destination True Value” is what Golz plans to implement in Mandan. Parcel #1, is the area requested to build this store which will request 40,000 sq.

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ft. for an 11,400 sq. ft. store. A review of the Project Costs at \$1.4 million will be covered by Golz's personal investments with a brief breakdown as follows:

- Inventory: \$375,000
- Startup costs: \$106,400
- Equipment: \$96,750
- Fixtures: \$173,600
- Computers, registers: \$22,200
- Forklifts, pallets: \$5,500

Appleby stated that the request is to acquire the property for \$40,000. Golz would like to request a five-year tax exemption and he would request that the City cover all required infrastructure costs leading to the property and that there be no special assessments during the five-year property tax exemption period. The request includes closing on the property as soon as possible with plans to break ground by June 1, 2012. The construction would be completed by September and merchandise intact with plans to host a Grand Opening in December 2012. Benefits to Mandan would include attracting retail sales making Mandan a shopping destination for local and surrounding communities and provide employment for ten plus employees. Appleby stated that True Value would not be in opposition to partnering with other businesses should the opportunity arise.

Proposal No. 3

*RiverWest Development presented by Kathleen Spilman, consultant for Keitu Engineers & Consultants, Inc.* Kathleen Spilman indicated that RiverWest is interested in Parcel 1 to construct a development referred to as the "River Garden Office Park". She stated that the packet for this project was previously submitted to the Commission for review outlining the plans for mixed use commercial office space and a restaurant. The proposal is already consistent with the zoning in the area. She stated that they are not dependent upon Walmart coming in or a feasibility study being conducted. There will not be any requests for City tax incentives or tax breaks for the project and the developer will pay costs up front of \$270,000 for 135,022 sq. ft. of property. The project will be privately financed. A reference letter of confirmation from Security State Bank was provided with the project plan.

A review of the project timeline is as follows:

- (i) August 2012 Sale of property complete
- (ii) September 2012 construction to commence of first 4970 sq. ft. building site
- (iii) April 2013 first building ready for occupancy
- (iv) September 2013 construction to commence of second 4970 sq. ft. building site
- (v) April 2014 second building ready for occupancy

Additional information:

- Keitu Engineers & Consultants, Inc. would occupy one of the buildings
- Walking bridge constructed within the area
- Plans include a bus stop area to encourage public transportation to the site
- Parking will be adequate for restaurant capability

- Possibility of drive-thru coffee and/or snack shop
- Up to two of the buildings would be expandable for future growth
- Office complex to attract white collar firms moving into Bismarck/Mandan area
- The request includes a penalty if the project is not completed on time
- Is willing to work with local businesses as prospective tenants

Proposal No. 4

*Don McGuire & John Shultz represented by Mike Tappe, Solid LLC, a carpentry and cement contracting entity from Minneapolis, presented a site plan for the parcel owned by the City: Parcel 2698AA @ 18.22 acres in its entirety for a price offer of \$493,938.*

Tappe stated that the proposed project includes:

(i) An 89-unit extended stay hotel planned for spring 2012 with an approximate value of \$10.2 million.

A strip mall valued at \$2 million (iii) A restaurant valued at \$1.7 million

An office building valued at \$2.5 million

A single family and town home residential development totaling approximately \$11.6 million. Brochures were provided that depicted single family housing units similar to the ones that are being constructed in Minot

(iv) Request for a five-year exemption on the property taxes for the hotel only

(v) \$398,404 in specials to be paid by the company (requesting forgiveness of \$31,000 that is deemed not buildable at this time)

The proposed timeline is as follows:

(i) Begin site development for the hotel in the spring with completion in 2013

(ii) Next phase would be single and multifamily site development in Spring 2013

(iii) Office and strip mall development would be in 2013

Tappe introduced the team members representing this project. An investor group has been secured for the project costs of the hotel and residential property development. The hotel will be the first part of the project to be developed. Annual gross revenue from the hotel is estimated at \$2,225,000 generating hospitality and sales taxes for Mandan. An annual average payroll of \$300,000 to operate the hotel is expected. The project includes infrastructure costs and will be taken care of by the developer. There will be no special assessments. There will be approximately 60 single family housing units available and there would be a limited number of multi-family units constructed.

3. *Discussion and consideration of any action(s).*

Mayor Helbling commented that all four developers have heard each other's proposal. There were no additions to any of the presentations given. Business Development and Communications Director Huber asked Engineering Project Manager Bechtel if there will be a need for a street connecting from Big Sky Development to Sunset Drive or if Bechtel would view that site plan as compatible with site plans for that area. Bechtel stated that the main concern would be the sewer from the Big Sky Development area to be brought down to Sunset Drive either through a corridor easement or the projected plan as shown. Bechtel mentioned he could work with this plan to meet the needs.

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Commissioner Frank brought up a few questions:

- (1) What if the City were to absorb the special assessments? How does the City then pay off the costs associated with that? City Administrator Neubauer replied that generally if the City is to borrow money for a project, say at 3%, the interest rate allowed to be charged that district by law is 1.5% above so we assess at 4.5%. That accounts for any delinquencies in assessments on a project or if someone comes in to pay off their special assessment early and our bond isn't callable for maybe five years from the date of issue; so we have to have in place some kind of backstop to protect us. In addition we levy for city special assessments.
- (2) If there is not enough money to cover the project where will that revenue come from? Administrator Neubauer replied that the City has options where they could use a portion of the sales tax or if they might want to tax an additional one or two mill to cover that debt service payment on to the property tax.
- (3) What is the land currently valued at? Huber provided information that she obtained from the City Assessor's Department on Parcel 1 which is the 3.1 acres that is closest to I-94 Exit 152 and the larger piece of property known as Parcel 2.

Mayor Helbling mentioned that one of the questions he has gotten is that with all the oil development, why doesn't the City hold on to this parcel? He noted that the City is not in the land business and that it should be put into private hands. Considering there is \$429,000 in specials it would be beneficial for the City to sell the property as soon as possible so the rest of the community does not end up paying those special assessments.

Commissioner Jackson commented that this is a unique situation and an opportune time to sell the property. Commissioner Rohr concurred that selling this property would be a game winner for the citizens and for future developers.

Mayor Helbling suggested that the Board review the four proposals over the next couple of days, discuss the pros and cons of each, and determine what the best fit is for the criteria outlined regarding the sale of the property.

Commissioner Jackson motioned to table this matter until the next regular meeting scheduled for Tuesday, March 20, 2012. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

Commissioner Tibke commented that with regard to the four proposals, she is appreciative of the fact that consideration has been given for the uses for the properties such as primary sector office space, retail services and additional housing options.

Wayne Papke a Mandan City resident came forward to comment. He stated that he is representing the Citizens for Responsible Government, Mandan Chapter. He requested the Board put the taxpayer first and the most upfront money that can be obtained from these proposals is better for the taxpayer.

Commissioner Jackson stated that all the Commission members' email addresses are listed on the city website as well as their telephone numbers. He encouraged citizens to comment on any of the submitted proposals. Huber stated that there has been discussion about collaboration with the proposals among the developers. She recommended that if anyone wanted to bring forth an adaptation to the proposal that they be given a date and time certain in which to have that submitted so that it can be fairly considered if you are taking it up again at Tuesday's meeting.

Commissioner Jackson moved to amend the original motion to include a provision that any entity, (who has submitted a proposal), interested in proposing an adaptation that it be submitted by 5:00 pm CST, Monday, March 19, 2012. Commissioner Rohr seconded the Amended Motion. The motion received unanimous approval of the members present. The motion passed.

4. *Consider Energy Infrastructure and Impact Office Flood-Impacted Political Subdivision Infrastructure Grants.* City Administrator Neubauer reviewed with the Board a plan to allocate funds related to infrastructure grant application. He stated that Morton County has been allocated \$1M in funds to be used for flood projects. This is a local match program. Dave Bechtel (City of Mandan Engineering Project Manager), Jeff Wright (City of Mandan Director of Public Works), Mike Aubol (Morton Co. Superintendent of Roads), and Tammy Lapp-Harris (Morton Co. Emergency Preparedness Manager) have all been involved in preparing the applications in order to meet the needs of the City and County. Neubauer reviewed the top three projects which add up to the \$2 million projected project costs:

- (1) \$1.4M (\$700,000 local share) Lining of the effluent line from the WWTP to the Missouri River and pump station
- (2) \$250,000 (\$125,000 local share) Grade raise of 0.25 mile on Timberhaven Drive
- (3) \$350,000 (\$175,000 local share) Grade raise of 0.7 mile on 32 ½ Street, 22<sup>nd</sup> Avenue and River Place Drive.

Neubauer stated that three additional projects are listed in the event additional funding becomes available. For financing purposes, there would have to be interim funding acquired through the Bank of North Dakota.

Mayor Helbling indicated that it makes sense for the effluent line being funded through water and utility rates. But the rest of the list, including those in the county, if there is a local flood control structure or additions to what needs to be there, it would be his understanding that special assessment districts would have to be set up in each of those areas and the county should be encouraged to do the same. The general taxpayer should not need to raise someone's road that has nothing to do with anyone in the City's subdivisions.

City Administrator Neubauer responded that while the City has no say in how the county would choose to finance their projects, with the flood control structures the City would look at an assessment district or doing it out of the storm water charge. There are two options. We can fully develop those options as we move on but we wanted to bring to

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you today, after working on these projects for 2-3 months, to get to the point where we have solid engineering estimates. There is a March 20<sup>th</sup> deadline so the commitment today would be for the 50% match. The slip line project on the effluent line was scheduled on the Master Plan for the Waste Water Treatment Plant to be done within the next 3 or 4 years, but the opportunity to have that paid for by 50% presents itself today. We can make some modifications in the capital improvement plan at the WWTP to move this one up and move a couple of those back. Steve Himmelspach has been involved in these discussions.

Mayor Helbling commented that SRF funding at 20 years is way too long to finance a project of this nature stating that 12-15 years should be more than sufficient.

Neubauer stated that the WWTP also had issues with the river when the water was above 17 ft. and there were also issues when the water was being pushed to the south. There is a separate hazard mitigation grant application filed for the design of an alternate discharge so we would have the effluent going to the east and we would have the issue solved if we have to discharge to the south.

Commissioner Jackson commented that a couple of the projects listed could have more of an impact than simply as a flood reaction issue. Is there a reason why the City did not apply for the million dollar grant? Neubauer replied that the county was allocated a \$1M grant for use. The City is taking up a large portion of that due to priorities discussed with the county.

Commissioner Jackson moved to approve the commitment of \$1,000,000 local funding match for the above projects submitted in the Infrastructure Grant application through an SRF loan. 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

#### OTHER BUSINESS:

1. Jeff Zueger and Steve Pine, residents at Borden Harbor came forward and requested clarification as to the plug removal. Zueger had a question regarding the state's effort to try to get potential funding for the sand removal in front of the plugs. What is the effort and what is the timeline? Mayor Helbling replied that a project worksheet was submitted through the county and the state for the removal of the sand in front of all the plugs. The request has not been denied. It is still a work in progress. Actually it was denied the first time and then we put in a non-concurred (that we did not concur). City Administrator Neubauer stated that they are still working through all the project worksheets. They say it is not an eligible project that will be funded through FEMA because the sand that was deposited there is not above the ordinary high water mark of the river. So while they are saying it is not an eligible project, they write a project worksheet for that and they send it to us and when we get that, we will do a non-concur. Wherein we do not agree with them and then it moves up the appeal process. We are still waiting for that project worksheet to come down. Mayor Helbling stated that we have been in contact with congressional delegates Berg and Conrad requesting they push this through, as well as meeting with

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Senator Hoeven who thought this should be an eligible FEMA project. Neubauer stated he expected an answer to the project worksheet last week. However, he believes they are currently working on it pursuant to an email received today indicating that it is currently in the State DES queue. Zueger requested that he be informed when something transpires with this matter.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 3:25 p.m. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

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James Neubauer,  
City Administrator

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Timothy A. Helbling,  
President, Board of City  
Commissioners

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The Mandan City Commission met in regular session at 5:30 p.m. on March 20, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Tibke, Rohr, 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, Absent: Commissioner Frank.

MINUTES: *Consider approval of the minutes for March 6, 2012 regular meeting.*

Commissioner Jackson moved to approve the minutes of the March 6, 2012 regular meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *A Public Hearing to consider an Ad Valorem tax exemption for Lakewood Living Center/Shorestone Development.* City Assessor Barta reviewed with members a request to consider an Ad Valorem tax exemption for Lakewood Living Center/Shorestone Development at 4401 21<sup>st</sup> Street Southeast, Mandan, ND. The request is for an exemption of the construction of 32 senior units and 40 assisted living units. The Notice to Competitors was published on 2/24/12 and 3/2/12 in the Mandan News. There were no objections to the exemption request received. The Mandan Growth Fund unanimously recommended approval of 100% for Year 1 and Year 2; 75% for Year 3; 50% for Year 4; 25% Year 5 with the condition that they are subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period.

Mark Payne, Shorestone Development, came forward to speak. He stated that the name of the project will be Lakewood Landing, Inc. There will be two separate units connected by one common space. Susan Balla was introduced as the individual who will be running the project. She stated that they have a similar project like this in Moorhead, MN. This will be a continuum of care type of facility with senior services à la carte to advanced care to end of life care. It is not a nursing facility, but rather assisted care. Starting employment will be 22 people with growth to expand to 30 people. The two largest expense components will be the property and the payroll. This will be the third facility of this kind that Shorestone has developed. She stated that the facility is expected to open in November 2012.

Susan Beehler, Mandan City resident, came forward to speak. She stated she is against property tax exemptions pointing out that if commercial property taxes go away the next place they would go would be to residential taxes. She inquired if Silver Lake is the same company that is doing this project? She provided photos of the properties on the 4400 21<sup>st</sup> Street Southeast block and stated that there have been a lot of tax exemptions given to people and the properties rented. She stated she does not understand why the City continues to give property tax exemptions so that the taxes are taken away from the commercial and given to the residential to pick up the tab. She mentioned they are a foreign company who has been incorporated since 2006. She indicated she does not

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think it is right to allow a foreign company to charge seniors anywhere from \$700 to \$1,000. Beehler requested that the City Commission stop now (granting tax exemptions) because the City is at a point where housing is filling up before it is even being built. Beehler had documentation available that indicated taxes were not being assessed on properties in some of the additions. She requested the Commission investigate that further or not to grant the exemption.

Mark Payne returned to the podium to clarify some facts. He stated that Lakewood Crossing was the first project he did here. That's the one on the corner. No tax exemption was even requested at that time. He has paid full taxes on that property since it opened. That is the 44 unit apartment complex and they have all been rented out. Then he proceeded with Silver Lake Apartments and he applied for a 2-year tax exemption and that building opened last fall. That started to fill up so he proceeded with another building that was in that 2-year tax exemption. Last August he applied for a 2-year tax exemption on Highland on Lakewood (north side of the street) and neither one of those buildings is open. He proceeded with 2 buildings instead of 3 to start with until occupancy has been achieved, which it has not. The first building will open in May, 2012 and that project is not even near being full at this time. He stated that Lakewood Landing is a whole different concept which includes a whole different corporation and yes, the company is a foreign corporation licensed out of Minnesota. Each individual company is a North Dakota corporation with North Dakota investors. The 5-year exemption on this property is different than the apartment project in that they were market rate apartments. The 2-year tax exemption helps take a little bit of the risk out of it up front.

Mayor Helbling invited any further comments on this matter. A second announcement was made for comments on this matter. Hearing none, the public hearing was closed.

City Assessor Barta stated that since the buildings are not commercial they would not require electronic doors. Commissioner Jackson indicated that under Section 14.02.15, which is the Electronic Handicap Accessible Door Policy, Subsection 1 requires them for every building that is open to public use. These apartments are not open for public use since you can get a "no trespass" order for an apartment complex. They're owned by the individual owner as are nursing homes and assisted living facilities so an electronic door is not required by the ordinance. This interpretation has been confirmed by City Attorney Brown. Mayor Helbling commented that electronic doors may be an asset to the property considering the nature of the buildings for assisted living.

Commissioner Jackson stated that this request for property tax exemption falls within the Commission's tax exemption policy and noted that property tax exemptions are discussed frequently by this Board and that he would be interested in backing off at some time. However, it is these types of facilities that are increasing the City's density and traffic counts. This is not increasing people's taxes because the taxes remain the same. What is happening is the population is increasing in density and should be compared to an "investment". Research shows that if the traffic counts and population density increase, that encourages commercial growth which brings in sales tax to the area. It appears this

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request follows the policy and this would be the third Lakewood area property that will be granted an exemption.

Commissioner Rohr pointed out the difference between apartments and this facility. Apartments do not generate jobs wherein this complex will employ several people. He stated that for the most part he has not been in favor of granting tax exemptions for apartments.

Commissioner Tibke stated that this public hearing provided a lot of education for those viewing from home or reading the newspaper. She commented that the process of debating matters will sometimes bring up the best ideas.

Mayor Helbling commented that he has had three people this week contact him regarding assisted living arrangements who do not want to leave the Mandan community and right now they have no choice. The company is doing exactly what is expected of them in order to qualify for the tax exemption. The community is growing and people are investing in the community and it is not costing a lot of money. He stated that if the exemptions were not made available that these properties would cost the City money due to back taxes not being collected. The special assessments on these properties are high and the community would eventually end up paying for the assessments. This is a wise investment for the community.

City Attorney Brown clarified that property tax exemptions are not given to owners. They are given to the “property”. The fact that Mr. Payne may have an interest in these projects is irrelevant to the exemption.

Mayor Helbling inquired if the property at 4401 21<sup>st</sup> Street Southeast is a name change to Lakewood Land Inc. would that require any change? City Attorney Brown replied that the address that the tax bill goes to is not pertinent.

Commissioner Tibke moved to approve the request for an *Ad Valorem tax exemption* by Lakewood Living Center at 4401 21<sup>st</sup> Street Southeast to receive a 100% exemption for Year 1 and Year 2; 75% for Year 3; 50% for Year 4; 25% Year 5 by unanimous vote subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period in accordance with the recommendation from the MGF Committee due to meeting all criteria under the City of Mandan’s Commercial Property Tax Exemption Policy and guidelines and also under state statute; subject to repayment if the facility would be sold to a tax exempt entity within five years from expiration of the exemption period. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

BIDS:

1. *Consider the award of Concrete and Asphalt crushing project at the Landfill.* Director of Public Works Wright reviewed with the Board that two bids were opened for this project. He stated that this is considered a maintenance project explaining how the

sale of the product works. Kraemer Trucking was the low bidder and Wright recommended awarding the bid to Kraemer Trucking not to exceed \$50,000.

Commissioner Rohr motioned to approve the bid award of Concrete and Asphalt crushing project at the Landfill to Kraemer Trucking not to exceed \$50,000. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

#### CONSENT AGENDA:

1. *Consider approval of expenditure budget amendments for fiscal year 2011.* The Board approved of the expenditure budget amendments for fiscal year 2011.
2. *Consider approval of monthly bills.* The Board approved of the monthly bills.
3. *Consider approval of Games of Chance for the ND Society of Radiology Technologists at the Seven Seas (Apr. 12-14, 2012).* The Board approved of Games of Chance for the ND Society of Radiology Technologists at the Seven Seas (Apr. 12-14, 2012).
4. *Consider approval of the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Zone Change. (First consideration of ordinance #1112).* The Board approved of the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Zone Change. (First consideration of ordinance #1112).
5. *Consider approval of the Lakewood 6<sup>th</sup> Addition Zone Change. (First consideration of ordinance #1113).* The Board approved of the Lakewood 6<sup>th</sup> Addition Zone Change. (First consideration of ordinance #1113).
6. *Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Wastewater Treatment Plant.* The Board approved of the transfer of funds from the 2011 Budget to the 2012 Budget for the Wastewater Treatment Plant.
7. *Consider approval for Out-of-State travel for Surface Water Treatment Workshop for the Water Treatment Plant.* The Board approved of the Out-of-State travel for Surface Water Treatment Workshop for the Water Treatment Plant.
8. *Consider approval of an abatement for Chris & Jessica Haluzak – new construction.* The Board approved of an abatement for Chris & Jessica Haluzak – new construction.
9. *Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Police Department.* The Board approved of the transfer of funds from the 2011 Budget to the 2012 Budget for the Police Department.
10. *Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Mandan Growth Fund.* The Board approved of the transfer of funds from the 2011 Budget to the 2012 Budget for the Mandan Growth Fund.
11. *Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Solid Waste Utility Fund.* The Board approved of the transfer of funds from the 2011 Budget to the 2012 Budget for the Solid Waste Utility Fund.
13. *Consider proclamation designating the week of April 16-20, 2012 as Project Hope Week for the Bismarck Cancer Center.* The Board approved of the proclamation designating the week of April 16-20, 2012 as Project Hope Week for the Bismarck Cancer Center.

14. *Consider approval of recommendation of Law Enforcement Center Building Committee Recommendation to replace carpet in offices within LEC Building.* The Board approved of the recommendation of Law Enforcement Center Building Committee Recommendation to replace carpet in offices within LEC.

*Consent Agenda Item No. 12:* Commissioner Jackson requested this item be removed from the Consent Agenda to be discussed with New Business Item No. 4 (See below).

Commissioner Tibke moved to approve Consent Agenda items 1 through 11 and items 13 and 14 as presented. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

OLD BUSINESS:

1. *Consider proposals for development of land parcels near I-94.* Business Development and Communications Director Huber stated that a Request for Proposals was issued on January 3, 2012, for the two parcels of property totaling 21.32 acres and were due by February 17, 2012. Four responses were received and the four entities presented proposals at the City Commission Special Meeting on March 15, 2012. There are two different parcels of land. One being at Sunset Drive which is 3.1 acres and the larger parcel is 18.22 acres and borders Sunset Drive to the east and 27<sup>th</sup> street to the south. At the Special Meeting, one of the proposals submitted by the McGuire-Schulz Partnership was presented in a substantially different manner than what was submitted in writing previously on Feb. 17th. This is noted because the public is following this process through what they read in the newspaper and they are not always following the documentation before the Board. It is important to note that what was presented on March 15<sup>th</sup>, rather than for the initial 4 or 5 acres with an option to buy on another 4 or 5, was actually a proposal for all of Parcel 2 – the 18.22 acres with a price offer for that. A request for correction has been presented to the Bismarck Tribune in regards to correcting that matter. On 3/15/12 the Commission tabled any action and the parties were allowed to submit additional information until 5:00 p.m. March 19, 2012. Huber reviewed the modifications presented, summarized as follows:

(1) *Annabelle Homes – Retail and Office Space*

- i. Assistance to the City in the form of payments lieu of property taxes during construction of \$5,000 per month for a 12-month period, totaling \$60,000.
- ii. Rights of offset with sales of properties.
- iii. The \$429,776.02 Special Assessments would be assumed, but the developer would request to spread it across the entire 21.32 acres rather than the 18.22 acres only.

(2) *Link Golz – True Value Hardware Store*

- i. In collaborating with Kathy Spilman of Keitu Engineers, who has suggested splitting Parcel 1 into 3 sub-parcels, Golz offered \$1 psf for 50,000 sf. An alternate proposal submitted by Spilman indicated only 40,000 sf to be sold by the City for the hardware store. Huber indicated that she had called to clarify and the 40,000 is what is needed based on the site plan submitted by True Value Hardware.

(3) *Kathy Spilman & RiverWest Development/Keitu Engineering – Office Buildings, Restaurant, Coffee, Bank or Sandwich Shop*

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- i. An alternate proposal was submitted offering for Parcel 1 to be re-platted at Spilman's expense into three smaller parcels denoted on the diagram provided as 1A: 40,007 sf proposed hardware store; 1B: 30,769 sf drive thru business; 1C: 64,246 sf three building office park. Costs for survey and re-plat submitted to the City at Keitu's expense. There was a discrepancy in the written offer of \$55,100 for the combined Parcel 1B and Parcel 1C as compared to the per square foot rates offered for those parcels of \$2 psf for Parcel 1B and \$0.10 psf for parcel 1C, which totals \$68,000 . Huber indicated that she had called Spilman to clarify and that Spilman indicated the per square foot rate or the \$68,000 is the correct amount of the alternate offer. Spilman will withdraw any non-development penalties for the parcels with this alternative proposal. The alternate offer also keeps open the possibility of 5-year property tax exemption for Parcel 1B only. No property tax exemptions will be sought for buildings associated with Parcel 1C.
  - ii. Spilman's original proposal of \$2 psf or \$270,000 for the entire 3.1 acres still stand. The alternative purchase offer, while it allows for the hardware store, is substantially less.

*(4) Shultz-McGuire – Hotel, Townhomes & Single family homes, Strip Mall, Restaurant, Office Building*

- i. As presented on March 15, 2012.
- ii. Will be willing to work with the hardware store in a revised proposal.

All the entities have representatives present at this meeting to answer any questions.

Commissioner Rohr clarified that McGuire-Shultz will take care of the infrastructure costs to which Huber confirmed that is the case.

Commissioner Tibke asked of RiverWest Development/Keitu Engineering with the alternate proposal of 3 office buildings and a drive-thru business, if a restaurant was no longer included? Huber provided a map depicting the alternate proposal, indicating that there would likely not be space for a sit-down or casual dining restaurant, which is typically about 4,000 to 5,000 square feet plus parking. Spilman confirmed that the alternate proposal did not allow for a restaurant.

Commissioner Rohr asked for a definition of an extended-stay hotel. Huber stated that those rooms tend to be rented often by the week or longer, but use tends to be during the week and open during the weekend, with a suite concept.

Joel Feist, President of Real Builders, Minot, came forward and provided additional information for the Shultz-McGuire proposal. He stated that they have built several suite or extended-stay hotels in Minot and Williston. He explained the difference between an extended-stay and regular hotel is the extended stay accommodation has full kitchenettes available in each of the suites. They are normally rented for periods of time such as months or a year while people are looking for housing or may be working the area for a couple months at a time. Some are two rooms that have living rooms and bedrooms in them. The hotel is comprised of suites.

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City Attorney Brown commented as follows: The City has published the properties for sale and offers have been received. Two of the offers maximize the highest dollar amount for the property based on the advertising that was done. Those were the McGuire-Shultz and the RiverWest Development offer without the alternate proposal. Some of the offers are subjective based on the dollars, which is required per state law. In comparison to Renaissance Zone the criteria is different than for urban renewal projects wherein you can consider intangible factors that are not a factor in this particular development.

Commissioner Jackson stated that in order to move forward on this a motion would have to be made to direct Administrator Neubauer and City Attorney Brown to start entering into negotiations and do the contract processing.

Commissioner Jackson moved to direct Administration to enter into negotiations for a contract with the McGuire-Shultz group for Parcel 2. Commissioner Rohr seconded the motion.

Commissioner Rohr stated he was reluctant to consider the Annabelle property for \$1 indicating that he thinks the City should attempt to get the most dollar for the property. Commissioner Jackson stated that other than the Longfellow Park Memorial, this matter has prompted the most comments. The sale of this property should indicate a significant change in property taxes next year.

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

Commissioner Jackson moved to direct Administration to enter into negotiations for a contract with the Keitu Engineering Group for Parcel 1. Commissioner Tibke seconded the motion.

Mayor Helbling stated that any negotiations will be with the private parties and it would be up to them to decide if the hardware store will be a possibility.

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

Mayor Helbling commented on Parcel 2 of the proposed layout that shows housing development along Sunset. He thinks it is crucial to have retail in that area and administration should work with that. He extended a thank-you to all the developers for their time and the effort put into this property development. Going forward, private landowners will be paying the taxes and special assessments on this property instead of the citizens of the community and that's the way it should be.

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Wayne Papke, Mandan City resident, clarified that the City coffers have paid \$68,000 that is not going to be recovered in this matter. He wanted to point out that not all these incentives are coming back to the City. Papke said that \$68,000 left the City and will not return because if the City had not paid the \$68,000 there would be a balance of about \$497,000 instead of the \$429,000. Mayor Helbling commented that if the property did not sell, the City residents would be picking up the specials until they were paid off.

#### NEW BUSINESS:

1. *Consider a contract extension for Retail Attractions.* Business Development and Communications Director Huber reviewed with the Board an extension on the contract with Retail Attractions for assistance with national recruitment of commercial and retail land developers as well as for retail, restaurants and other hospitality sector businesses. Huber stated that this was presented initially about a year ago by Retail Attractions, Inc. an economic development consulting firm from Owasso, Oklahoma. She indicated that with the thriving economy in the Mandan community it would be prudent to continue the services of this firm for another three months extending the contract through July for a fee of \$3,000 p/m or \$9,000 total. The current contract ends on April 30, 2012. Huber recommended renewal of the contract in order for Mandan to retain representation through Retail Attractions during the upcoming International Council of Shopping Centers (ICSC) global retail estate expo on May 20 – 22, 2012. Huber mentioned this request for extending the contract is being brought at this time in order to prepare for the expo. The funds for this will come from sales tax, via the Growth Fund and the allotment for economic development activities. Huber said that now is a good time for Mandan to be represented at the expo as larger national chains look for developments in communities such as the Walmart Supercenter and the property development that will be occurring soon in Mandan.

Commissioner Tibke moved to approve a three-month extension for Retail Attractions as proposed. Commissioner Rohr seconded the motion. Roll call vote: Commissioner

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

2. *Consider the approval of plans and specifications, Engineers Report, and authorize the call for bids for the 2012 Municipal Sidewalk Improvement.* Engineering Project Manager Bechtel reviewed with the Board the annual project to construct sidewalks, driveways and other concrete items throughout the City. Bechtel stated that the engineers projected costs for the project is \$285,000. The costs would be special assessed. He stated that consideration has been given to Measure No. 2 and will look at awarding a bid after June 12, 2012.

Commissioner Jackson moved to approve the plans and specifications, Engineers Report, and authorize the call for bids for the 2012 Municipal Sidewalk Improvement. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

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3. *Consider the creation of Street Improvement District No. 168 Project # 2017-09. (Heart Ridge Addition – Phase 1).* Engineering Project Manager Bechtel stated this project was started in 2011. A 3-way agreement was approved in September 2011. A petition has been received from Lance Wachter requesting the special assessment of the streets within the Heart Ridge Addition plat. The developer will need to install the needed water and sewer utilities to service the lots within this subdivision and will be required to pay 100% of those costs via the 3-way agreement. The road to be paved will be Ridge Drive Southeast. This will create approximately 27 lots for building single or two family homes. Mayor Helbling commented that this project was in the works before Measure No. 2 was developed. The lots have already been sold and the developer will have to cover the costs of water and sewer however has requested the streets etc. be special assessed. There is very little risk to the City of Mandan to assess this project.

Commissioner Jackson moved to approve the creation of Street Improvement District No. 168 Project # 2017-09. (Heart Ridge Addition – Phase 1). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

4. *Consider the creation of Street Improvement District No 167 Project # 2012-04. (Keidel's South Heart Terrace – Keidel Trail SW).* Engineering Project Manager Bechtel reviewed the request for the creation of Street Improvement District No. 167 Project Keidel's South Heart Terrace from Morty's LLC requesting the special assessment of the street, Keidel Trail SW within the Keidel's South Heart Terrace plat. The project would pave that street and open up about 37 lots for building single family homes.

Commissioner Jackson moved to approve the creation of Street Improvement District No 167 Project # 2012-04. (Keidel's South Heart Terrace – Keidel Trail SW). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

*Consent Agenda Item No. 12. Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition.* Engineering Project Manager Bechtel reviewed the 3-way agreement plan. The developer will need to install the utilities to service the lots and will be required to pay 100% of the costs via a 3-way agreement between City of Mandan, Basaraba's Excavating and Morty's LLC. The construction costs and engineering of the project would be approximately \$275,000. Bechtel stated that the Board may approve the 3-way agreement now; however, if the documentation and consideration does not come out to their liking, the 3-way agreement does not have to be executed depending on how they would like to proceed.

Commissioner Jackson stated that the reason for combining the two items (NB Item #4 and Consent Agenda Item #12) has to do with special assessments going back to a

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developer as was discussed previously (in 2011). This is an opportunity to revisit that issue and how that may affect the developer's thoughts if they want to move forward. Dave Thompson of Toman Engineering and Steve Iverson of PACES Lodging Corp. were present for discussion of the projects. Mayor Helbling cautioned to be careful with special assessments pending the passage or failure of Measure No. 2. Commissioner Jackson voiced two concerns: (A) We were looking at this anyway as a Commission and (B) Concerns about what Measure No. 2 will do to special assessments. If the Commission approves a \$382,000 special assessment, there is a question as to whether it can be done if Measure No. 2 is passed. City Attorney Brown stated that the risk with a special assessment project (again the assessments are against the property) if Measure No. 2 passes there is a possibility the City would have no mechanism to recover those bond payments if the owner of the lot defaults on payment. If everyone pays the specials there is no harm. But if they don't pay them the risk is how the City is to pick up that deficiency because the City is obligated to make the bond payment.

Mayor Helbling stated that the City is obligated now through general taxation as one mechanism as a fee that can be charged over and above the actual interest rate @ 1.5% and that goes into a fund. Once that fund is depleted it goes into a general obligation and if we still want to special assess, we would have to use another source such as sales tax or another revenue source other than general obligation funds. We could still do it but we would have to have another pool of money available. Commissioner Jackson stated that the policy was never finalized on this matter and he suggested the matter be discussed at another working session.

City Administrator Neubauer stated that the Commission could approve the district because they would not be approving an award for bids in that district. Therefore, if Measure No. 2 fails and the Commission would decide to go ahead with the creation of a district the City would be 2-3 steps ahead by the time June 12<sup>th</sup> comes around. The district can be created and the project can be put out for bids. Neubauer stated that you do not have to award the bids, and if you then determine that you would be agreeable to special assess the project, you could do that at that time. Just by approving the district you are not saying that you are agreeing to special assess.

Commissioner Rohr moved to approve the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

#### RESOLUTIONS & ORDINANCES:

1. *Consider Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.* Finance Director Welch stated that this resolution is to finalize the sale of bonds for the refinancing which took place and was approved by this Board at the last meeting. Commissioner Jackson moved to approve the Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes;

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

2. *Consider first consideration of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.*

Engineering Project Manager Bechtel provided an overview of a map that depicted the area that is located west of the middle school. Commissioner Tibke moved to approve the first consideration of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> – 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: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *Consider first consideration of Ordinance No.1113 Zone Change for Lakewood 6<sup>th</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.*

Engineering Project Manager Bechtel stated that the parcel is located west of 40<sup>th</sup> Avenue and it includes the land that the school is purchasing and is looking to be rezoned as RM. Commissioner Jackson moved to approve the first consideration of Ordinance No.1113 Zone Change for Lakewood 6<sup>th</sup> 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 Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

OTHER BUSINESS:

1. Mayor Helbling requested administrative staff to add an agenda item to a future meeting to address a parcel of City-owned property on Main Street that Huntington Books is renting. The discussion is to come up with a new lease agreement or put the property up for general sale to the public. That agreement has expired.

There being no further actions to come before the Board of City Commissioners, Commissioner Jackson moved to adjourn the meeting at 6:58 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

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James Neubauer,  
City Administrator

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Timothy A. Helbling,  
President, Board of City  
Commissioners



Public Hearing No. 1

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3<sup>rd</sup>, 2012  
**PREPARATION DATE:** March 29<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Engineering/Planning  
**DEPARTMENT DIRECTOR:** Dave Bechtel  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Vacation of a 20' Storm Sewer Easement Borden Harbor 1<sup>st</sup> Addition.

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STATEMENT/PURPOSE: To vacate a 20' Storm Sewer Easement

BACKGROUND/ALTERNATIVES: Request from John Keller.

ATTACHMENTS: Office Report  
Vicinity Map  
Resolution

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

LEGAL REVIEW:

RECOMMENDATION: Approve the vacation of the 20' Storm Sewer Easement

SUGGESTED MOTION: Move to approve the vacation of the 20' Storm Sewer Easement

MANDAN PLANNING OFFICE REPORT  
February 17, 2012

Applicant(s): John Keller

Owner(s): John Keller

Developer(s):

Requested Action: Vacation of storm sewer easement

Name of Subdivision: Borden Harbor First Subdivision

Legal Description: Auditors Lot "O" of Lot 31 Block 1, Borden Harbor First

Located: Auditors Lot "O" of Lot 31 Block 1, Borden Harbor First

Proposed Land Use:

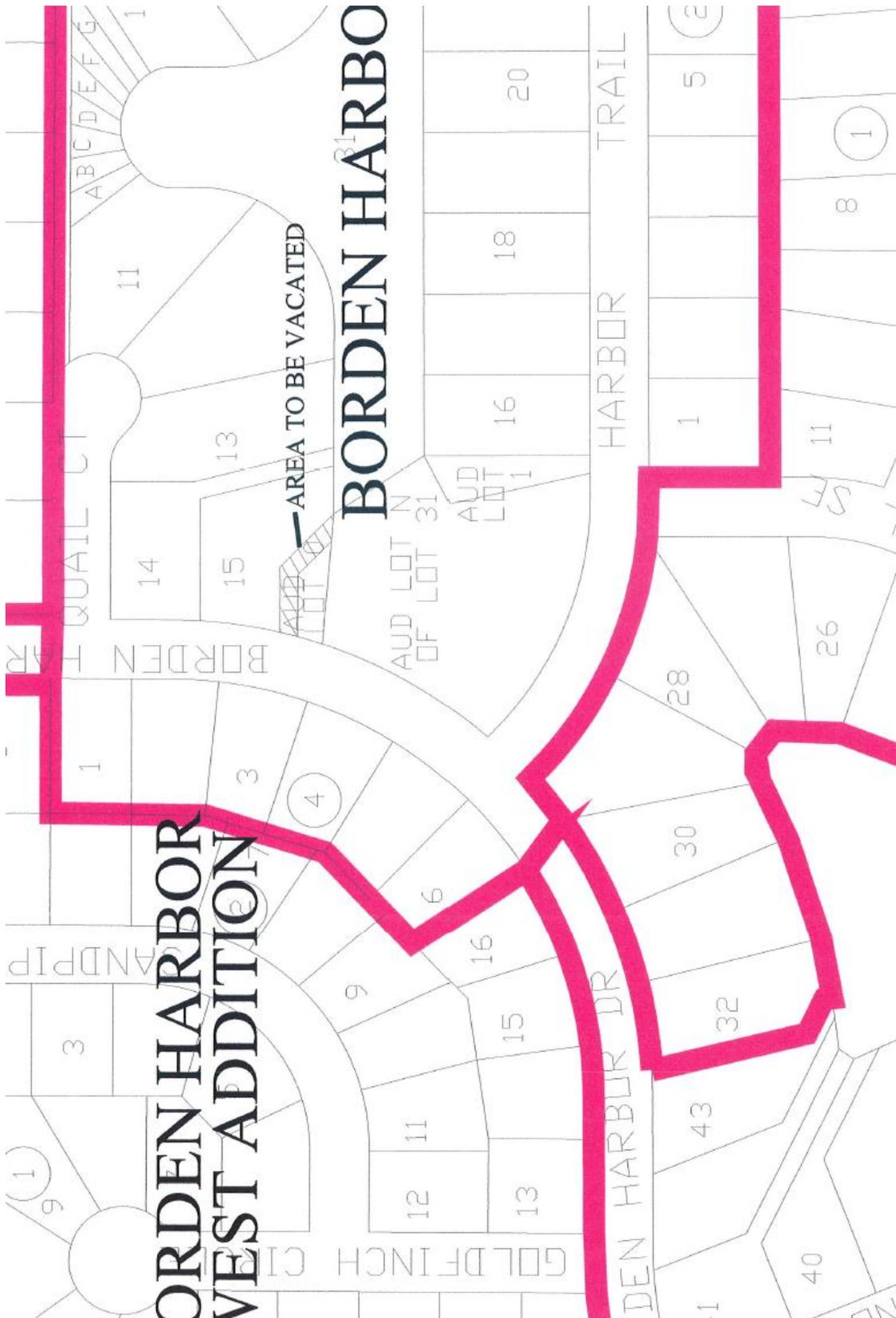
Adjacent Land Use: single family homes

Fee(s) Required: \$150.00      Date Received: February 17, 2012

Adjacent Property Owner Notification: Letters were sent March 28, 2012

Dates of Legal Notices: March 9, 16, 23 & 30, 2012

Recommendations: The Planning Office recommends approval.



**RESOLUTION OF VACATION  
Board of City Commissioners  
City of Mandan, North Dakota**

WHEREAS, John Keller has submitted to the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, a verified petition asking that a 20' storm sewer easement in Auditor's Lot O of Lot 31, Block 1, Borden Harbor 1<sup>st</sup> Addition, lying in the NW ¼ of Section 7, Township 138N, Range 80W of the 5<sup>th</sup> Principal Meridian, City of Mandan, Morton County, North Dakota be vacated. The property is located at 3610 46<sup>th</sup> Avenue SE.

WHEREAS, The Board having deemed it expedient to consider such petition and having ordered that said petition be heard by the Board at its regular meeting held at City Hall in the City of Mandan, North Dakota, on April 3<sup>rd</sup>, 2012, at 5:30 o'clock p.m., CT, and the City Administrator having published notice of the filing of the petition and the object therein in the official newspaper once each week for four (4) consecutive weeks, as required by law, which notice stated that the petition would be heard and considered on the date and time aforesaid, at which time any persons interested might appear and be heard, and proof of such publication of the notice having been made and filed; and

WHEREAS, on the 3<sup>rd</sup> day of April, 2012, at 5:30 o'clock p.m., CT, being not less than thirty days after the first publication of the notice aforesaid, the Board of City Commissioners proceeded to hear the testimony and evidence of persons interested and no one having appeared against said petition of vacation, and it appearing to the satisfaction of the Board of City Commissioners that said petitioners are the owners in fee simple of the property to be vacated; that no objections by the immediately adjoining landowner to the requested vacation were raised at the public hearing, that said petition was accompanied by a map of the area proposed to be vacated; which map is on file in the office of the City Administrator of Mandan; and the facts and reason for the vacation of such area as established by the petition and the testimony and evidence are good and sufficient to justify the vacation of such area;

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, that the requested portions above described as a 20' Storm Sewer Easement, in the City of Mandan, Morton County, North Dakota be and the same are hereby vacated.

BE IT FURTHER RESOLVED, That the within and foregoing Resolution shall become effective from the time of its passage and publication.

Approved and passed April 3<sup>rd</sup>, 2012, by at least two-thirds vote of all the members of the Board of City Commissioners.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3<sup>rd</sup>, 2012

Subject: Vacation of 20' Storm Sewer Easement in Borden Harbor 1<sup>st</sup>

Page 5 of 7

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President, Board of City Commissioners

ATTEST:

\_\_\_\_\_  
City Administrator

Public Notice Dates: March 9<sup>th</sup>, 16<sup>th</sup>, 23<sup>rd</sup> & 30<sup>th</sup>, 2012

Public Hearing: April 3<sup>rd</sup>, 2012

Final Passage: April 3<sup>rd</sup>, 2012

Publication Date: \_\_\_\_\_

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

**CERTIFICATE**

James Neubauer, the duly appointed city administrator and city auditor of the City of Mandan, Morton County, State of North Dakota, does hereby certify that attached hereto is a true and correct copy of a Resolution of Vacation of the City of Mandan, which was duly and finally passed and adopted by said Board of City Commissioners after notice of the public hearing on the request for a vacation of a 20' storm sewer easement described therein had been duly published in the official newspaper of said City prior to the public hearing and final passage of said Resolution.

I do further certify that notice of the Board's approval to vacate said storm sewer easement has been published and the original copy of said Resolution is on file in the office of the City Administrator of the City of Mandan.

Dated at Mandan, North Dakota, this 3<sup>rd</sup> day of April, 2012.

---

James Neubauer, City Administrator  
City of Mandan, North Dakota

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3<sup>rd</sup>, 2012

Subject: Vacation of 20' Storm Sewer Easement in Borden Harbor 1<sup>st</sup>

Page 7 of 7

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## **PUBLIC NOTICE OF STREET VACATION**

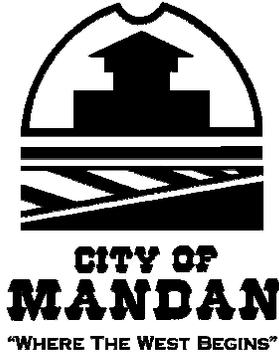
Notice is hereby given that the Mandan City Commission, on Tuesday, April 3<sup>rd</sup>, 2012, following a public hearing, approved a resolution vacating the 20' storm sewer easement in Auditor's Lot O of Lot 31, Block 1, Borden Harbor 1<sup>st</sup> Addition, lying in the NW 1/4 of Section 7, Township 138N, Range 80W of the 5<sup>th</sup> Principal Meridian, City of Mandan, Morton County, North Dakota more fully described in the resolution.

This resolution is available for inspection and copying during normal working hours in the office of the City Administrator.

Dated this 3<sup>rd</sup> day of April, 2012.

By: James Neubauer, City Administrator

**Please Note:** The city administrator is to cause the above notice to be published once following adoption of the storm sewer easement resolution.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3<sup>rd</sup>, 2012  
**PREPARATION DATE:** March 29<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Engineering/Planning  
**DEPARTMENT DIRECTOR:** Dave Bechtel  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Vacation of a 20' Overhead Power Line easement  
in Sunset Commercial Park 1<sup>st</sup> Addition.

---

STATEMENT/PURPOSE: To vacate a 20' Overhead Power Line Easement.

BACKGROUND/ALTERNATIVES: Request from Frank Kilzer, St. Alexius. MDU agrees to vacate the easement.

ATTACHMENTS: Office Report  
Vicinity Map  
Resolution

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

LEGAL REVIEW:

RECOMMENDATION: Approve the vacation of the 20' Overhead Power Line Easement

SUGGESTED MOTION: Move to approve the vacation of the 20' Overhead Power Line Easement



**RESOLUTION OF VACATION  
Board of City Commissioners  
City of Mandan, North Dakota**

WHEREAS, Frank Kilzer, St. Alexius, has submitted to the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, a verified petition asking that a platted 20' Overhead Power Line easement in Lot 2, Block 2, Sunset Commercial Park 1<sup>st</sup>, lying in the NE ¼ of Section 21, Township 139N, Range 81W of the 5<sup>th</sup> Principal Meridian, City of Mandan, Morton County, North Dakota be vacated. The property is located at 2501 Sunset Drive NW.

WHEREAS, The Board having deemed it expedient to consider such petition and having ordered that said petition be heard by the Board at its regular meeting held at City Hall in the City of Mandan, North Dakota, on April 3<sup>rd</sup>, 2012, at 5:30 o'clock p.m., CT, and the City Administrator having published notice of the filing of the petition and the object therein in the official newspaper once each week for four (4) consecutive weeks, as required by law, which notice stated that the petition would be heard and considered on the date and time aforesaid, at which time any persons interested might appear and be heard, and proof of such publication of the notice having been made and filed; and

WHEREAS, on the 3<sup>rd</sup> day of April, 2012, at 5:30 o'clock p.m., CT, being not less than thirty days after the first publication of the notice aforesaid, the Board of City Commissioners proceeded to hear the testimony and evidence of persons interested and no one having appeared against said petition of vacation, and it appearing to the satisfaction of the Board of City Commissioners that said petitioners are the owners in fee simple of the property to be vacated; that no objections by the immediately adjoining landowner to the requested vacation were raised at the public hearing, that said petition was accompanied by a map of the area proposed to be vacated; which map is on file in the office of the City Administrator of Mandan; and the facts and reason for the vacation of such area as established by the petition and the testimony and evidence are good and sufficient to justify the vacation of such area;

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, that the requested portions above described as a 20' Overhead Power Line Easement, in the City of Mandan, Morton County, North Dakota be and the same are hereby vacated.

BE IT FURTHER RESOLVED, That the within and foregoing Resolution shall become effective from the time of its passage and publication.

Approved and passed April 3<sup>rd</sup>, 2012, by at least two-thirds vote of all the

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3<sup>rd</sup>, 2012

Subject: Vacation of 20' Overhead Power Line Easement in Sunset Commercial Park 1st

Page 4 of 6

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members of the Board of City Commissioners.

\_\_\_\_\_  
President, Board of City Commissioners

ATTEST:

\_\_\_\_\_  
City Administrator

Public Notice Dates: March 9<sup>th</sup>, 16<sup>th</sup>, 23<sup>rd</sup> & 30<sup>th</sup>, 2012

Public Hearing: April 3<sup>rd</sup>, 2012

Final Passage: April 3<sup>rd</sup>, 2012

Publication Date: \_\_\_\_\_

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

**CERTIFICATE**

James Neubauer, the duly appointed city administrator and city auditor of the City of Mandan, Morton County, State of North Dakota, does hereby certify that attached hereto is a true and correct copy of a Resolution of Vacation of the City of Mandan, which was duly and finally passed and adopted by said Board of City Commissioners after notice of the public hearing on the request for a vacation of a 20' overhead power line easement described therein had been duly published in the official newspaper of said City prior to the public hearing and final passage of said Resolution.

I do further certify that notice of the Board's approval to vacate said overhead power line easement has been published and the original copy of said Resolution is on file in the office of the City Administrator of the City of Mandan.

Dated at Mandan, North Dakota, this 3<sup>rd</sup> day of April, 2012.

---

James Neubauer, City Administrator  
City of Mandan, North Dakota

**PUBLIC NOTICE OF  
STREET VACATION**

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3<sup>rd</sup>, 2012

Subject: Vacation of 20' Overhead Power Line Easement in Sunset Commercial Park 1st

Page 6 of 6

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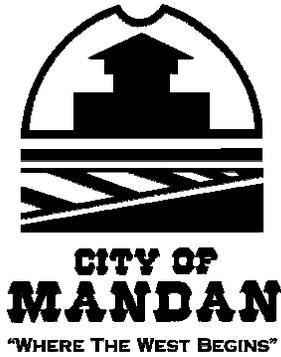
Notice is hereby given that the Mandan City Commission, on Tuesday, April 3<sup>rd</sup>, 2012, following a public hearing, approved a resolution vacating the 20' overhead power line easement in Lot 2, Block 2, Sunset Commercial Park 1<sup>st</sup>, lying in the NE 1/4 of Section 21, Township 139N, Range 81W of the 5<sup>th</sup> Principal Meridian, City of Mandan, Morton County, North Dakota more fully described in the resolution.

This resolution is available for inspection and copying during normal working hours in the office of the City Administrator.

Dated this 3<sup>rd</sup> day of April, 2012.

By: James Neubauer, City Administrator

**Please Note:** The city administrator is to cause the above notice to be published once following adoption of the storm sewer easement resolution.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 26, 2012  
**SUBMITTING DEPARTMENT:** Police  
**DEPARTMENT DIRECTOR:** Chief Dennis A. Bullinger  
**PRESENTER:** Dennis A. Bullinger  
**SUBJECT:** Approval for Out of State Travel

---

STATEMENT/PURPOSE:

A two day conference is scheduled in north eastern Montana, involving local sheriffs, chiefs of police, tribal law enforcement, county attorneys and tribal prosecutors from Montana, North Dakota and Canada. The focus of the meeting will be on jurisdiction, traditional crime, and most importantly, intelligence sharing.

During my attendance at the Gas, Oil, Law Enforcement conference in Denver, information/intelligence sharing was a topic of importance among other topics.

It is worthy that we remain active with attendance and continue being a part in the development of a strategic plan working with Federal Law Enforcement and U.S. Attorney's Offices. It is my intentions to have the Deputy Chief attend this conference and future gatherings.

BACKGROUND/ALTERNATIVES:

ATTACHMENTS: Copy of invite.

FISCAL IMPACT: Expenses for fuel, daily per diem, would be paid from the 2012 police Training/Travel budget with reimbursement from the Department of Justice.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approve the request for out-of-state travel.

SUGGESTED MOTION: Move to approve the request for out-of-state travel by the police department, to Glasgow, Montana.

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF MONTANA**



## Mark Your Calendars

Over the past few months, the impact of the oil boom on local law enforcement efforts in the Bakken oil patch has become more than apparent. Law enforcement and county attorneys in northeast Montana and northwest North Dakota are currently overwhelmed with calls for services and processing cases. As a result, the duty falls to Federal Law Enforcement and the U.S. Attorney's Office to develop a strategic plan to support local law enforcement and attorneys who are facing this challenge and to develop partnerships that will strategically target the organized criminal elements involved in drugs and other organized criminal activity that will surely be part of the oil boom. There will be an influx of 20,000 to 30,000 new oilfield workers in the next few years who will bring traditional law enforcement issues of guns, drugs, prostitution, human trafficking. Proximity of Indian Country, state and international borders will also create jurisdictional issues and generate federal enforcement actions.

**This 2-day conference is intended for local sheriffs, chiefs of police, tribal law enforcement, county attorneys and tribal prosecutors from Montana and North Dakota and will focus on jurisdiction, traditional crime, and intelligence sharing.**

### The Bakken

**Montana/  
North Dakota/  
Canada Law  
Enforcement  
Forum**

**April 23 -  
April 24,  
2012**

**Cottonwood Inn  
Highwood 2 E  
Glasgow,  
Montana  
(406) 228-8213**

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF MONTANA**

Keri Brehm Leggett  
Law Enforcement Coordinator  
P.O. Box 3447  
Great Falls, MT 59403

Phone: 406.771.2005  
Fax: 406.727.4710  
E-mail: [keri.leggett@usdoj.gov](mailto:keri.leggett@usdoj.gov)



# CITY OF MANDAN

MANDAN CITY HALL - 205 2nd Avenue NW  
MANDAN, NORTH DAKOTA 58554  
701-667-3215 • FAX: 701-667-3223 • www.cityofmandan.com

## CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING/BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

## PROCLAMATION

*WHEREAS, The freedom and security that citizens of the United States enjoy today are direct results of the blood shed and continued vigilance given by the United States Armed Forces over the history of our great nation; and*

*WHEREAS, the sacrifices that such members of the United States Armed Forces and of the family members that support them, have preserved the liberties that have enriched this nation making it unique in the world community; and*

*WHEREAS, the United States Congress, in two thousand and four, passed a resolution proclaiming May as National Military Appreciation Month, calling all Americans to remember those who gave their lives in defense of freedom and to honor the men and women of all of our Armed Services who have served and are now serving our Country, together with their families; and*

*WHEREAS, the month of May was selected for this display of patriotism because in May we celebrate Victory in Europe (VE) Day, Military Spouse Day, Loyalty Day, Armed Forces Day, National Day of Prayer, and Memorial Day.*

*NOW, THEREFORE, I, MAYOR TIMOTHY A. HELBLING, of the City of Mandan, do hereby proclaim May 2012 as a special time to show appreciation for our Military and proclaim it as NATIONAL MILITARY APPRECIATION MONTH.*

*Signed this 3<sup>rd</sup> day of April, in the year 2012.*

\_\_\_\_\_  
Timothy A. Helbling, President  
Board of City Commissioners

Attest:

\_\_\_\_\_  
James Neubauer, City Administrator



"WHERE THE WEST BEGINS"

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 28<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Planning  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider for approval the final plat of Lakewood  
6<sup>th</sup> Addition

---

**STATEMENT/PURPOSE:** To accept the subject final plat.

**BACKGROUND/ALTERNATIVES:** Request from Mitzel Builders. The Planning & Zoning Commission approved the preliminary plat on February 27<sup>th</sup>, 2012 and the final plat on March 26<sup>th</sup>, 2012.

**ATTACHMENTS:** 1. Office Report  
2. Final Plat  
3. Vicinity Map

**FISCAL IMPACT:** Minimal

**STAFF IMPACT:** Minimal

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

**RECOMMENDATION:** This office supports the approval of the subject plat.

**SUGGESTED MOTION:** I move to approve the final plat of Lakewood 6<sup>th</sup> Addition.

**MANDAN PLANNING OFFICE REPORT**  
**March 21, 2012**

Applicant: Mitzel Builders, Inc.

Owner: same

Developer:

Land Surveyor:

Requested Action: Final plat approval.

Preliminary Plat: Approved February 27<sup>th</sup>, 2012

Name of Subdivision: Lakewood 6<sup>th</sup> Addition

Legal Description: A part of Outlot A of Section 1, Township 138N, Range 81W

Location: 39<sup>th</sup> Avenue SE and McKenzie Drive

Parcel Acreage: 65.692

Number of Blocks: 3                      Number of Lots: 5

Existing Land Use: Agricultural and wetland mitigation. Wetland will remain A zoning.

Proposed Land Use: Multi-Family Residential

Adjacent Land Use: Multi-Family Residential

Existing Zoning: A (Agricultural)

Proposed Zoning: RM (Multi-Family Residential)

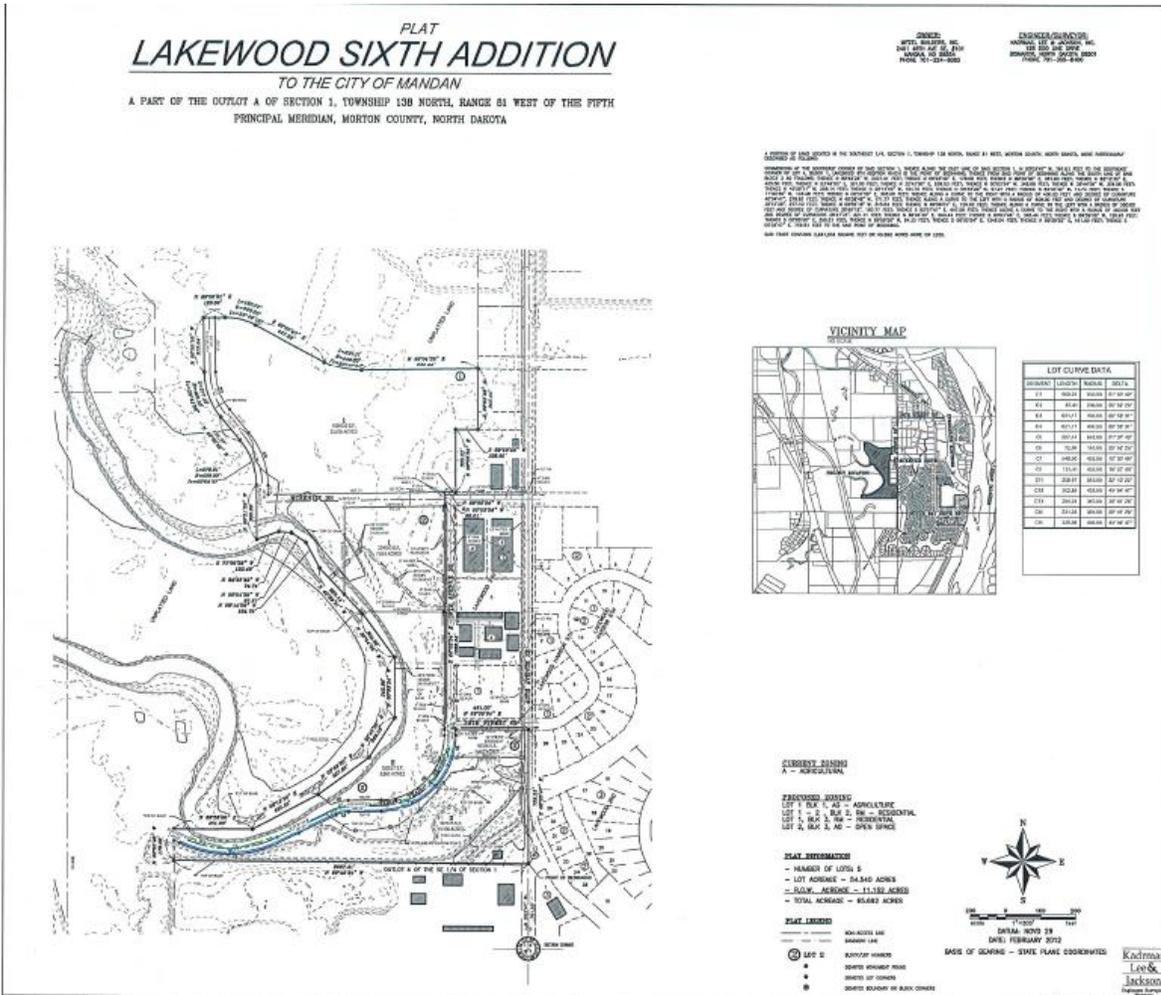
Adjacent Zoning: A (Agricultural) and RM (Multi-Family Residential)

Fee Required: \$250.00                      Date Received: 2-7-2012

Adjacent Property Owner Notification: March 12, 2012

Dates of Legal Notices: March 16<sup>th</sup> & 23<sup>rd</sup>, 2012

Recommendation: Planning office recommends approval.



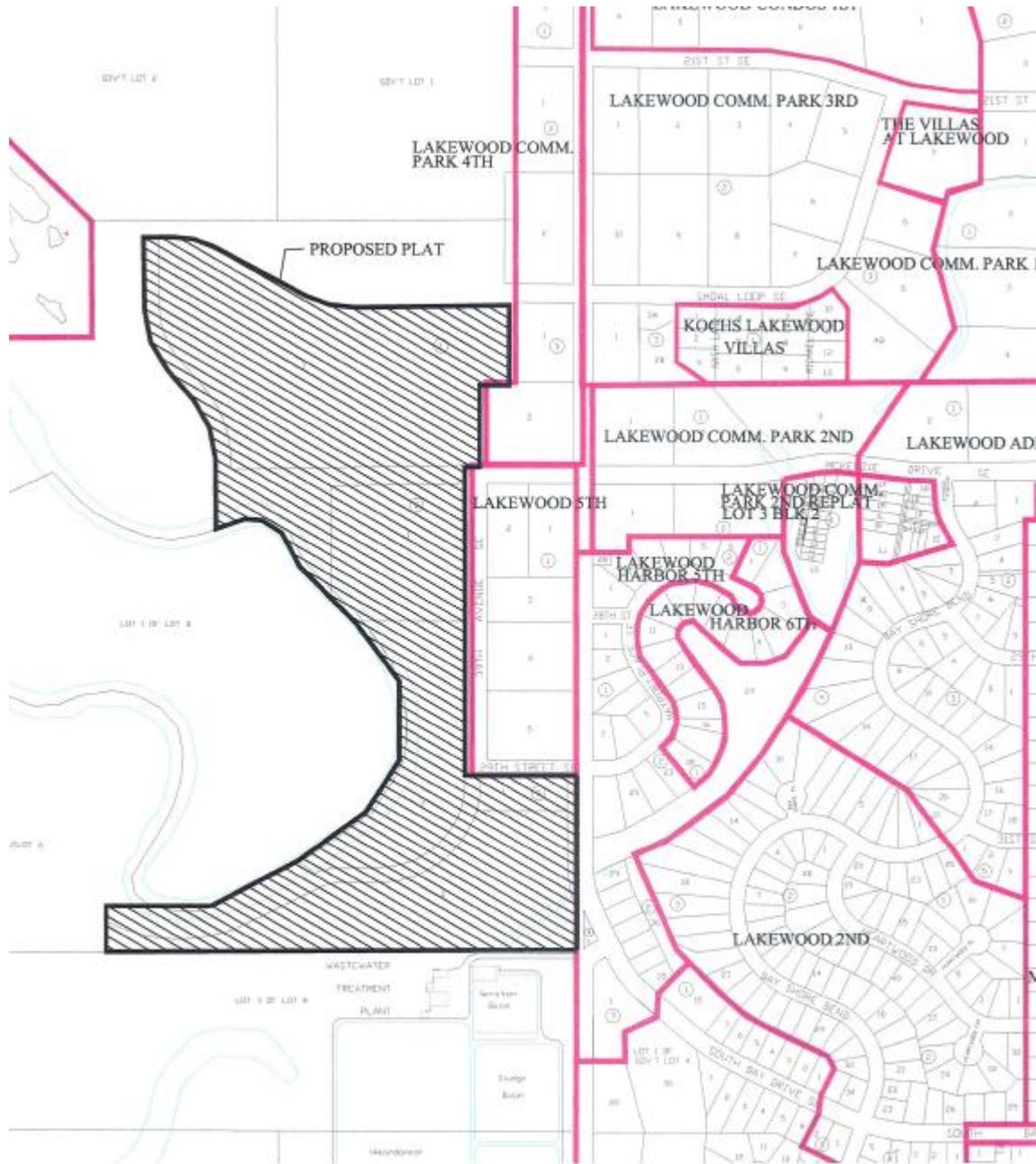
Board of City Commissioners

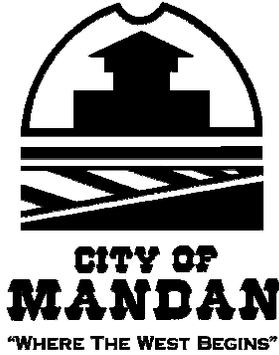
Agenda Documentation

Meeting Date: April 3, 2012

Subject: Consider for approval the final plat of Lakewood 6<sup>th</sup> Addition.

Page 4 of 4





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 28, 2012  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Changes to Investment Options

---

STATEMENT/PURPOSE: The Board of City Commissioners must approve any changes to the to the City of Mandan's investment options.

BACKGROUND/ALTERNATIVES: An annual review is conducted by the Pension Committee Trustees, Cole Higlin, Gaye Neimiller, Greg Welch and Jim Neubauer in order to ensure the best mix possible for the defined contribution retirement plan. The committee met on March 13, 2012 with Troy Nelson from Edward Jones, to review past performance and suggested changes. Representatives from Edward Jones will be presenting a review of the plans performance to employees on April 11, 2012.

The Committee has not heard of any problem areas that need to be addressed.

The recommended changes are:

- 1) Replace Columbia Marsico with Franklin Growth R (due to fund manager changes and recommendation from Edward Jones)
- 2) Adjust the service withdrawal age from 65 to 59 ½. This will put our plan in line with all other plans. It will also allow folks that may wish to withdraw their funds after age 59 ½ and place them in more secure investments if they so choose.

ATTACHMENTS: Columbia Marsico 21<sup>st</sup> Century (Morningstar)  
Franklin Growth R

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: April 3, 2012  
 Subject: Changes to Investment Options  
 Page 2 of 3

**RECOMMENDATION:** The committee unanimously approved the suggested changes as recommended by Mr. Nelson.

**SUGGESTED MOTION:** I move to accept the recommended changes to the City of Mandan's retirement plan investment options.

REMOVE

Current in Plan  
 Replace

Release date 02-29-2012

Page 5 of 14

**Columbia Marsico 21st Century A (USD)**

Overall Morningstar Rtg™  
 ★★★  
 1,463 US OE Large Growth

Standard Index  
 S&P 500 TR

Category Index  
 Russell 1000  
 Growth TR USD

Morningstar Cat  
 US OE Large Growth

**Performance 02-29-2012**

Quarterly Returns	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total %
2010	5.68	-12.13	9.36	15.17	16.95
2011	5.45	-3.98	-21.37	10.07	-12.36
2012	—	—	—	—	11.25

Trailing Returns	1 Yr	3 Yr	5 Yr	10 Yr	Incept
Load-adj Mthly	-12.18	19.54	-2.03	6.88	2.36
Std 12-31-2011	-17.40	—	-3.96	5.50	1.46
Total Return	-6.62	21.93	-0.66	7.52	2.87
+/- Std Index	-11.94	-3.63	-2.44	3.35	—
+/- Cat Index	-14.44	-5.59	-5.40	3.22	—
% Rank Cat	97	79	96	3	—
No. in Cat	1667	1463	1268	819	—
7-day Yield	0.00	—	—	—	—

**Performance Disclosure**

The Overall Morningstar Rating is based on risk-adjusted returns, derived from a weighted average of the three-, five-, and 10-year (if applicable) Morningstar metrics.  
 The performance data quoted represents past performance and does not guarantee future results. The investment return and principal value of an investment will fluctuate; thus an investor's shares, when sold or redeemed, may be worth more or less than their original cost.  
 Current performance may be lower or higher than return data quoted herein. For performance data current to the most recent month-end, please call 800-345-6611 or visit www.columbiainvestments.com.

**Fees and Expenses**

<b>Sales Charges</b>	
Front-End Load %	5.75
Deferred Load %	NA
<b>Fund Expenses</b>	
Management Fees %	0.86
12b1 Expense %	0.25
Gross Expense Ratio %	1.31
Prospectus Gross Expense Ratio %	1.31

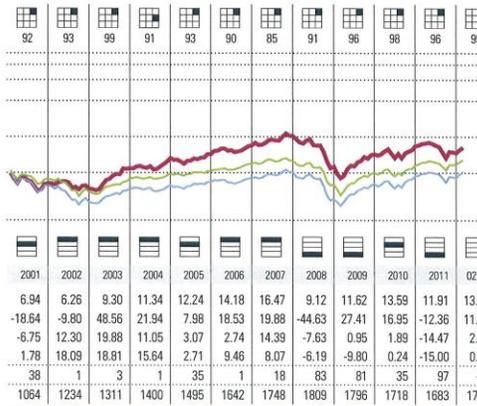
**Risk and Return Profile**

	3 Yr	5 Yr	10 Yr
Morningstar Rating™	1★	1★	5★
Morningstar Risk	+Avg	+Avg	+Avg
Morningstar Return	-Avg	Low	High
	3 Yr	5 Yr	10 Yr
Standard Deviation	21.18	23.18	19.30
Mean	21.93	-0.86	7.52
Sharpe Ratio	1.04	0.03	0.38

MPT Statistics	Standard Index	Best Fit Index
Alpha	-7.35	-8.49
Beta	1.22	1.19
R-Squared	91.59	93.88
12-Month Yield	—	—
30-day SEC Yield	—	—
Potential Cap Gains Exp	—	-90.60%

**Operations**

Family:	Columbia
Manager:	Brandon Geisler
Tenure:	0.4 Year
Objective:	Growth
Base Currency:	USD



**Portfolio Analysis 01-31-2012**

Asset Allocation %	Net %	Long %	Short %
Cash	1.24	1.24	0.00
US Stocks	92.40	92.40	0.00
Non-US Stocks	6.37	6.37	0.00
Bonds	0.00	0.00	0.00
Other/Not Clsd	0.00	0.00	0.00
Total	100.00	100.00	0.00

Equity Style	Portfolio Statistics	Port Avg	Rel Index	Rel Cat
P/E Ratio TTM	19.5	1.30	1.12	—
P/C Ratio TTM	13.8	1.51	1.14	—
P/B Ratio TTM	2.8	1.29	0.89	—
Geo Avg Mkt Cap \$mil	16235	0.30	0.37	—

Fixed-Income Style	Avg Eff Maturity	Avg Eff Duration	Avg Credit Quality	Avg Wtd Coupon
—	—	—	—	—

Credit Quality Breakdown	Bond %
AAA	—
AA	—
A	—
BBB	—
BB	—
B	—
Below B	—
NR/NA	—

Regional Exposure	Stock %	Rel Std Index
Americas	94.0	0.94
Greater Europe	6.0	59.25
Greater Asia	0.0	—

Share Chg since 12-2011	Share Amount	Holdings: 56 Total Stocks, 0 Total Fixed-Income, 87% Turnover Ratio	% Net Assets
—	195,682	Apple, Inc.	4.96
—	1 mil	PNC Financial Services Group Inc	4.16
—	720,510	Occidental Petroleum Corporation	3.99
—	905,669	National Oilwell Varco, Inc.	3.72
—	2 mil	Sensata Technologies Holding B.V.	3.62
—	1 mil	Ross Stores, Inc.	3.47
—	511,004	Wynn Resorts Ltd	3.27
—	454,816	Biogen Idec Inc	2.98
—	310,586	Precision Castparts Corp.	2.82
—	106,517	Intuitive Surgical, Inc.	2.72
—	791,913	Accenture PLC	2.52
—	2 mil	CSX Corp	2.46
—	1 mil	Halliburton Company	2.44
—	284,915	Ralph Lauren Corp	2.41
—	670,594	Ansys, Inc.	2.25

Sector Weightings	Stocks %	Rel Std Index
<b>Cyclical</b>	<b>44.9</b>	<b>1.63</b>
Basic Materials	3.9	1.19
Consumer Cyclical	27.2	2.87
Financial Services	12.9	0.98
Real Estate	1.1	0.60
<b>Sensitive</b>	<b>42.8</b>	<b>0.92</b>
Communication Services	0.0	0.00
Energy	10.3	0.86
Industrials	11.1	0.95
Technology	21.3	1.14
<b>Defensive</b>	<b>12.3</b>	<b>0.48</b>
Consumer Defensive	3.9	0.35
Healthcare	8.4	0.75
Utilities	0.0	0.00

Edward Jones Inv Cat:	NA
Incept:	04-10-2000
Type:	MF
Total Assets:	\$1,710.34 mil

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Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: April 3, 2012  
 Subject: Changes to Investment Options  
 Page 3 of 3

*Replic Columbia Marsco to this FRANKLIN  
 Trust & Management*

*NEW*

Release date 02-29-2012 | Note: Portions of the analysis are based on pre-inception returns. Please read disclosure for more information. Page 6 of 14

**Franklin Growth R (USD)**

Overall Morningstar Rtg™  
 ★★★★★  
 1,463 US OE Large Growth

Standard Index  
 S&P 500 TR

Category Index  
 Russell 1000  
 Growth TR USD

Morningstar Cat  
 US OE Large Growth

**Performance 02-29-2012**

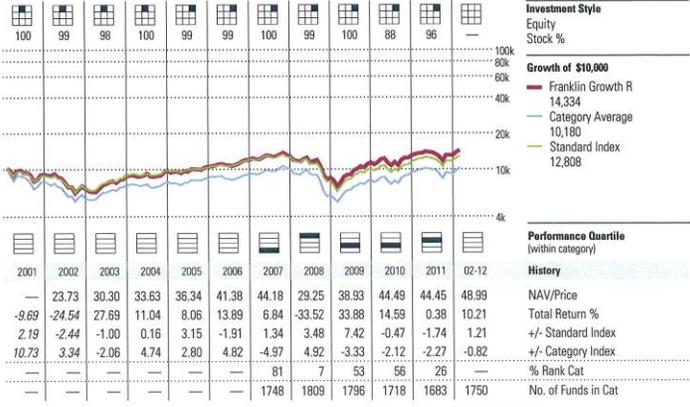
Quarterly Returns	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total %
2010	6.50	-11.31	11.34	8.97	14.59
2011	4.61	1.14	-14.53	11.00	0.38
2012	—	—	—	—	10.21

Trailing Returns	1 Yr	3 Yr	5 Yr	10 Yr	Incept
Load-adj Mthly	6.12	25.93	3.56	—	4.63
Std 12-31-2011	0.38	—	1.81	—	3.69
Total Return	6.12	25.93	3.56	4.96	4.63

+/- Std Index	1.00	0.37	1.98	0.79	—
+/- Cat Index	-1.50	-1.58	-0.98	0.66	—
% Rank Cat	26	33	40	28	—
No. in Cat	1667	1463	1268	819	—
7-day Yield	—	—	—	—	—



**Performance Disclosure**  
 The Overall Morningstar Rating is based on risk-adjusted returns, derived from a weighted average of the three-, five-, and 10-year (if applicable) Morningstar metrics.  
 The performance data quoted represents past performance and does not guarantee future results. The investment return and principal value of an investment will fluctuate; thus an investor's shares, when sold or redeemed, may be worth more or less than their original cost.  
 Current performance may be lower or higher than return data quoted herein. For performance data current to the most recent month-end, please call 800-632-2301 or visit www.franklintempleton.com.

**Fees and Expenses**

Sales Charges	Front-End Load %	Deferred Load %
—	NA	NA

**Fund Expenses**

Management Fees %	12b1 Expense %	Gross Expense Ratio %	Prospectus Gross Expense Ratio %
0.46	0.50	1.19	1.19

**Risk and Return Profile**

Morningstar Rating™	3 Yr	5 Yr	10 Yr
4★	1463 funds	1268 funds	819 funds
Morningstar Risk	Avg	Avg	Avg
Morningstar Return	Avg	Avg	+Avg

**Standard Deviation**

	3 Yr	5 Yr	10 Yr
Standard Deviation	17.55	19.68	16.79
Mean	25.93	3.56	4.96
Sharpe Ratio	1.41	0.22	0.26

**MPT Statistics**

	Standard Index	Best Fit Index
Alpha	-0.35	-0.29
Beta	1.03	0.99
R-Squared	96.46	97.29
12-Month Yield	—	—
30-day SEC Yield	—	—
Potential Cap Gains Exp	—	37.46%

**Operations**

Family: Franklin Templeton Investment Fds  
 Manager: Multiple  
 Tenure: 47.0 Years  
 Objective: Growth  
 Base Currency: USD

**Portfolio Analysis 12-31-2011**

Asset Allocation %	Net %	Long %	Short %	Share Chg since 09-2011	Share Amount	Holdings: 167 Total Stocks, 0 Total Fixed-Income, 3% Turnover Ratio	% Net Assets
Cash	3.93	3.93	0.00	—	—	—	—
US Stocks	89.77	89.77	0.00	—	—	—	—
Non-US Stocks	6.30	6.30	0.00	—	681,000	Apple, Inc.	5.28
Bonds	0.00	0.00	0.00	—	600,000	International Business Machines Co	2.11
Other/Not Clsfd	0.00	0.00	0.00	—	550,000	W.W. Grainger, Inc.	1.97
Total	100.00	100.00	0.00	—	150,000	Google, Inc. A	1.86
					950,000	Allergan, Inc.	1.60

**Equity Style**

Value	Blend	Growth	Port Avg	Rel Index	Rel Cat
—	—	—	15.6	1.04	0.90
—	—	—	10.7	1.17	0.89
—	—	—	2.6	1.17	0.81
—	—	—	27244	0.51	0.62

**Fixed-Income Style**

Lat	Mod	Ext	Avg Eff Maturity	Avg Eff Duration	Avg Credit Quality	Avg Wtd Coupon
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—

**Credit Quality Breakdown**

	AAA	AA	A	BBB	BB	B	Below B	NR/NA	Bond %
—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—
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**Regional Exposure**

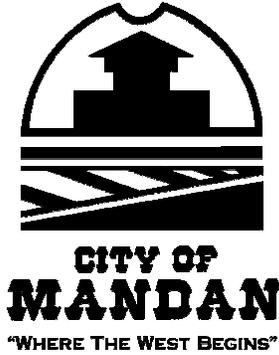
	Stock %	Rel Std Index
Americas	95.4	0.96
Greater Europe	4.1	40.14
Greater Asia	0.5	—

**Sector Weightings**

	Stocks %	Rel Std Index
<b>Cyclical</b>	18.2	0.66
Basic Materials	5.2	1.60
Consumer Cyclical	8.2	0.87
Financial Services	4.8	0.36
Real Estate	0.0	0.00
<b>Sensitive</b>	58.9	1.27
Communication Services	1.1	0.26
Energy	4.8	0.40
Industrials	29.8	2.54
Technology	23.2	1.24
<b>Defensive</b>	22.9	0.89
Consumer Defensive	3.6	0.31
Healthcare	18.3	1.64
Utilities	1.1	0.32

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## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 28, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** 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.

---

**STATEMENT/PURPOSE:** To authorize the installation of water and sewer for the development of the subject area.

**BACKGROUND/ALTERNATIVES:** The subject work would take place on the proposed streets of 8<sup>th</sup> Avenue NW, 6<sup>th</sup> Avenue NW & 24<sup>th</sup> Street NW within the existing Meadow Ridge 1<sup>st</sup> subdivision. This project would extend water and sanitary sewer to the proposed subdivision. The Meadow Ridge plat contains 1 lot that is zoned RM for the construction of apartment or condo units.

**ATTACHMENTS:**

1. Agreement
2. Map of area of work
3. resolution

**FISCAL IMPACT:** The entire cost of the project is being paid by the developer as part of the 3-way agreement. The approximate construction costs come to \$169,316.60.

**STAFF IMPACT:** Minimal

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

**RECOMMENDATION:** This office supports the authorization to move forward with this project.

**SUGGESTED MOTION:** I move to authorize the execution of the 3-way agreement for the construction of the subject project.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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.

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2012-05

04231A

**AGREEMENT  
FOR  
MEADOW RIDGE 1<sup>ST</sup> ADDITION**

THIS AGREEMENT, Made on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, between the City of Mandan, a municipal corporation, hereinafter called the City and WW Ranch, hereinafter called the Developer, and Schlusser Excavating, Inc., hereinafter called the Contractor.

WHEREAS, The Developer wishes to enter upon the public streets and right-of-way to construct under private contract the following improvements:

<u>  X  </u>	Watermains
<u>  X  </u>	Sanitary Sewermains
<u>    </u>	Streets
<u>  X  </u>	Others: Water and Sewer Services

for property to be developed and offered for sale by the Developer, and

WHEREAS, The City wishes to safeguard the public interest in assuring that said construction work will be in accord with plans, specifications and requirements of the City and will be completed in a proper and safe manner in accord with said City plans and specifications for said type of work, and

WHEREAS, The Developer has filed a petition to the Board of City Commissioners to permit the Developer to contract directly for said improvements;

NOW, THEREFORE, It is agreed between the parties, for the considerations herein named, as follows:

(1) LICENSE TO CONSTRUCT.

The City grants to the Developer the right, privilege, and license to enter upon and construct in the public streets of the City the above improvements in the following streets:

1. 8<sup>th</sup> Avenue NW, 6<sup>th</sup> Avenue NW
2. Proposed 24<sup>th</sup> Street NW

Schlusser Exc Frc

Ronald J. Schlusser Pres

**Engineer's Estimate  
of Probable Costs for  
Water & Sewer Project  
REVISED WATERMAIN LAYOUT  
Teco # 4231A  
February, 2012**

Item #	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization & Bonds	1	Lot	1,850.00	1,850.00
2	Furnish & Install 48" manhole with casting, rings, integral base and boots	6	Each	4,832.00	28,989.00
3	Removal & Disposal of Asphalt (thickness varies) (Sawcutting is incidental)	300	SY	16.00	4,800.00
4	Remove, Dispose, and Replace 6" Concrete Valley Gutter (Concrete Sawing is Incidental)	23	SY	41.00	943.00
5	3" Surface Course	50	Ton	14.00	700.00
6	3" Base Course	50	Ton	17.00	850.00
7	Subgrade Preparation	300	SY	10.00	3,000.00
8	Class 5 Gravel	50	Ton	15.50	775.00
9	Furnish & Install 8" PVC Sewermain SDR-35	1332	LF	22.50	29,970.00
10	Telivise Sewermain	1332	LF	1.30	1,731.60
11	Furnish & Install 8" C 900 PVC watermain including all fittings	1457	LF	24.00	34,968.00
12	Furnish & Install 8" gate valve/valve boxes, extension rods, and mudd plugs	4	Each	2,870.00	11,480.00
13	Furnish & Install 8"x6" PVC wyes, plugs, & bends	3	Each	160.00	480.00
14	Furnish & Install 6" PVC sewer service lines SDR-35	209	LF	22.50	4,702.50
15	Furnish & Install 6" PVC Sewer Cleanouts w/casting	3	Each	394.00	1,182.00
16	Furnish & Install 6" C 900 PVC watermain including all fittings	713	LF	21.50	15,329.50
17	Furnish & Install 6" gate valve/valve boxes, extension rods, and mudd plugs	4	Each	2,025.00	8,100.00
18	Furnish & Install 6" fire hydrant 8"6" bury, 6" gate valve, 6" C900 PVC hydrant lead and reducer	2	Each	6,245.00	12,490.00
19	Furnish & Install 6" fire hydrant 8"6" bury	2	Each	5,918.00	11,836.00
20	Storm Water Management Plan	1	Lot	3,480.00	3,480.00
21	Erosion Control	1	Lot	2,860.00	2,860.00

Total Construction = 169,316.00

Engineering, & Contingency =

Grand Total =

Note: This estimate does not include W&S services to Residential lots.  
Asphalt and Concrete Sawcutting are considered incidental to items.  
Water Connection is Incidental to Water items.  
Sewer Connection at Existing MH is incidental to Sewer items.  
Traffic Control shall be considered incidental to project  
All Water & Sewer Installation shall conform to the City of Mandan Construction Specifications

Board of City Commissioners

Agenda Documentation

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(2) SCOPE OF WORK.

The Developer will through a contractor licensed under the laws of North Dakota, to do said work, furnish all materials, and all equipment and labor, necessary to perform all of the work shown on the plans and specifications prepared by a licensed professional engineer, which are hereby referred to and made a part of this Agreement. Construction staking and testing as required by the engineer shall be one by the Developer's contractor at the expense of the Developer. The Developer shall complete all stubouts to the property line on utilities to be constructed under this contract.

All work incidental to the project, such as grading, taps to the watermain, seeding, chlorine, clean up, and any other usual charges as determined by the Engineer shall be borne by the Developer.

(3) TIME OF COMPLETION.

The work to be performed under this Agreement shall be commenced within 20 days of the date of the execution of this Agreement, and shall be completed within 30 calendar days of the date of the execution of this Agreement. But no later than May 15, 2012.

(4) SUPERVISION AND INSPECTION OF WORK.

The City and the City Engineering Department shall at all times have access to the work, in its preparation and progress. The licensed professional engineer and his authorized representatives will give all grades or locations for all work and no work depending upon such grades or locations shall be commenced until the same have been established. Upon all questions concerning the interpretation and compliance with the plans and specifications and the performance and execution of the work called for by them, the decisions of the City Engineer shall be final and binding upon the Developer and its contractors, servants, employees or agents.

(5) ENGINEER'S DECISIONS.

The City Engineer shall have general supervision and direction of the work. He has authority to stop the work when such stoppage may in his opinion be necessary to insure proper execution of the contract. He shall also have the authority to reject all work and materials which do not conform to the plans and specifications and to decide all questions which arise in the execution of the work. All such decision of the City Engineer shall be final.

(6) PAYMENT.

The Developer shall provide an irrevocable letter of credit or a certificate of

deposit in an escrow account from a bona fide bank in the amount of the project cost including engineering, testing and inspection. The money in such account shall be used only for the payment of the project costs. The Developer will be responsible to pay the Contractor for all of the contract work in accord with the plans, and specifications prepared by the City made a part of this contract. The Developer shall, where over size mains are required, be responsible to construct and pay for the same unless it is practical and possible to separate the proposed construction work requiring extra size, and separately bid the same through public bidding.

(7) CONTENTS OF DEVELOPER'S CONTRACT.

All contracts made by the Developer with any person, firm or corporation in connection with or in carrying out this contract work shall provide: "This contract is subject to all the terms and conditions of a contract dated between the Developer and the Contractor."

(8) OWNERSHIP OF WORK-LINES.

All contract work, except utility stubouts, furnished or placed in the public street, alleys, or right-of-way shall become the property of the City of Mandan. The placing and furnishing of all contract work by the Developer, its contractor, its subcontractors, if any, and by an person, firm, or corporation, as labor or material or otherwise, shall be under the provisions of this contract and with the express waiver of any right to claim against the City, or to make any claims or lien against the contract work.

(9) WARRANTY.

The Contractor shall guarantee all work against faulty materials and workmanship for a period of one year from the date of final payment and the performance bond of the contract shall remain in full force and effect for that period.

(10) VERBAL AGREEMENTS.

No verbal agreements or conversations with any officer, agent, or employee of the City before or after the execution of this contract shall affect or modify any of their terms or obligations contained in the documents comprising the contract.

Board of City Commissioners

Agenda Documentation

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Subject: 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.

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(11) PROTECTION OF PUBLIC AND WORK.

The Developer shall provide and maintain all necessary watchmen, barricades, lights, and warning signs and take all necessary precautions for protection of the public, and shall further maintain at all times adequate protection of the work from damage. The Developer shall also take out and furnish general liability insurance to protect itself and the City with an insurer licensed to do business in North Dakota, in the sum of \$1,000,000.00 for one accident, against and from all suits, actions, or claims of any character, name and description brought for or an account of any injuries or damages received or sustained by any person or persons or property on account of any negligent act of fault of the Developer, its contractor, or officers, agents or employees in execution of the contract or on account of its failure to provide necessary barricades, warning lights, or signs, and as will protect the City from any contingent liability under this contract. In no case shall the liability insurance be less than specified in Section 133 of the City of Mandan Construction Specifications for Municipal Improvements.

(12) UTILITIES.

It shall be the responsibility of the Developer and Contractor to familiarize itself with the location of all existing sewer, and water mains and service lines, gas mains and service lines, telephone cable, power, light, and telephone poles, and guys, valve boxes, and stop boxes and all utilities installations that might be affected in the performance of the work. The Developer shall notify all utility companies 48 hours in advance of any construction affecting said utilities, and shall work out with said utilities any conflicts or changes.

(13) CHANGES.

The Board of City Commissioners reserves the right to make any necessary changes in the alignment, grade, or design of the proposed work deemed by them advisable.

(14) CLEAN UP.

Extra materials, tools, and temporary structures shall be removed by the Developer and all dirt, rubbish, and excess earth from excavations shall be disposed of and the construction area left clean to the satisfaction of the City Engineer. The Developer shall maintain for a period of three months after completion of the work the surface of unpaved trenches, adjacent curbs and gutters, sidewalks, driveways, shrubbery, fences, sod and other surfaces disturbed. The Developer shall conduct its operations in such manner as to cause minimum inconvenience to adjoining property owners and the public.

Street surfacing in unpaved areas shall be restored to as good as or better than prior to construction by the Developer. The Developer will be required to replace paving or gravel surface removed or damaged in the construction work or repair

Board of City Commissioners

Agenda Documentation

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Subject: 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.

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any area disturbed as a result of construction work.

(15) ASSURANCE OF PERFORMANCE AND PAYMENT OF BILLS.

The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the faithful performance of the contract and also a payment bond in an amount of not less than one hundred percent (100%) of the total contract amount as security for the payment of all persons performing labor on the project under the contract and furnishing materials in connection with the contract.

(16) The ENGINEER for this project will be Toman Engineering Company acting through its duly qualified representatives or properly designated qualified successors acting on behalf of the OWNER.

(17) The OWNER will pay the CONTRACTOR in the manner and at such times as set forth in the GENERAL CONDITIONS, and related Sections, such amounts and in a manner required by the CONTRACT DOCUMENTS in accordance with the attached BID SCHEDULES.

(18) This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

(19) Retainage shall be as stipulated in Chapter 40-22-37 NDCC as amended.

(20) The CONTRACTOR shall pay to the OWNER the amount of \$100.00 per day for liquidated damages for time in excess of authorized or adjusted completion time.

Board of City Commissioners

Agenda Documentation

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Subject: 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.

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IN WITNESS WHEREOF, The parties have executed the within and foregoing contract.

CITY OF MANDAN

DEVELOPER:

\_\_\_\_\_  
Jim Neubauer  
City Administrator

WW Ranch  
Firm Name

\_\_\_\_\_  
Tim Helbling  
Mandan City Mayor

Michael E. Wachter  
Authorized Representative  
Mike Wachter

\_\_\_\_\_  
Owner  
Title

\_\_\_\_\_  
Address

CONTRACTOR:

Schlusser Excavating, Inc.  
Firm Name

Ronald J. Schlusser Pres  
Authorized Representative

1709 Mandan Avenue

Mandan, ND 58554  
Address

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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.

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**RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND  
AUTHORIZING EXECUTION OF 3-WAY AGREEMENT FOR WATER AND  
SEWER IMPROVEMENT PROJECT NO. 2012-05**

(Serving Meadow Ridge 1<sup>st</sup> Addition)

BE IT RESOLVED BY the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. That the plans and specifications for the Water and Sewer Project No. 2012-05 serving Meadow Ridge 1<sup>st</sup> Addition in the City of Mandan, as presented by WW Ranch, are hereby approved, ratified and confirmed as the plans and specifications for said project, in accordance with which said improvement project will be constructed, subject to any further modifications of the plans and specifications by the Board as provided by law. The plans and specifications shall be filed in the Office of the City Administrator and City Engineer and open for public inspection. The named streets within the subdivision to receive the improvements are: 8<sup>th</sup> Avenue NW, 6<sup>th</sup> Avenue NW & 24<sup>th</sup> Street NW.

2. That the President of the Board is hereby authorized to enter into a 3-way agreement between the City of Mandan; the developer, WW Ranch, and the developer's contractor, contingent upon the City's receipt of an irrevocable escrow account covering construction costs.

3. This resolution shall be in full force and effect from the date of its passage.

\_\_\_\_\_  
President, Board of City Commissioners

ATTEST:

\_\_\_\_\_  
James Neubauer, City Administrator

Date of Passage: April 3, 2012



GAMING SITE AUTHORIZATION  
OFFICE OF ATTORNEY GENERAL  
SFN 17996 (10-2009)

Consent No. 6i

G - \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Site License Number  
(Attorney General Use Only)

AMERICAN FOUNDATION FOR W.L.D.L.F.  
(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: LAKE WOOD BAR + GRILL the address of which is:

007 SOUTH BAY DR. SE MANDAN 58554 MORTON  
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning JULY 1, 2012 Ending JUNE 30, 2013

Specific location where games of chance will be conducted and played at the site (required): WEST WALL CENTER OF BAR

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)

- Days of week of gaming operations \_\_\_\_\_
- Hours of gaming \_\_\_\_\_
- 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



GAMING SITE AUTHORIZATION  
OFFICE OF ATTORNEY GENERAL  
SFN 17996 (10-2009)

Consent No. 6ii

G - \_\_\_\_\_ ( \_\_\_\_\_ ) \_\_\_\_\_

Site License Number  
(Attorney General Use Only)

MERCAN FOUNDATION FOR WILDLIFE

(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: LAST CALL BAR the address of which is:

118 W MAIN  
(Street)

MANDAN  
(City)

58554  
(Zip Code)

MORTON  
(County)

Date(s) Authorized: Beginning JULY 1, 2012

Ending JUNE 30, 2013

Specific location where games of chance will be conducted and played at the site (required): MACH - WEST

WALL CENTER OF BAR B.T. JARS EAST WALL NE CORNER OF BAR

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

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

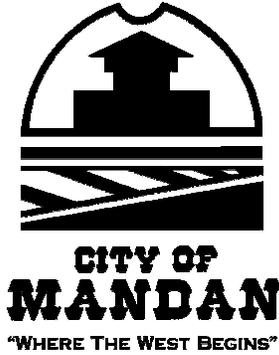
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Bismarck, ND 58505-0040  
Telephone: 701-328-2329 OR 800-326-9240



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 29, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** 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 1<sup>st</sup> Addition).

---

**STATEMENT/PURPOSE:** To and authorize the required paperwork for the requested project and allow for the project to go out for bid.

**BACKGROUND/ALTERNATIVES:** At the last meeting, the Commission acted to create the district for the street project to move forward and the specials to be special assessed to the benefitting are. This action approves the documents and allows the project to be bid. The owner has petitioned the improvements, that documentation was approved with the district creation. The owner has also petitioned and waived his rights to protest the specials as the majority owner. This allows us to not have to advertise the protest period and allows us to move to the bidding stage. This project will allow for new street construction in Heart Ridge 1<sup>st</sup> addition.

**ATTACHMENTS:**

1. Letter of Request
2. District Map
3. Legal documents

**FISCAL IMPACT:** Based on the estimate of cost included with your documentation, the cost of the project would be \$306,186.20, with engineering and administration adding approximately \$76,546.55, bringing the total to \$382,732.75. With 31 lots in the district, each lot would expect to receive approximately \$12,346.22 in specials from this project.

**STAFF IMPACT:** Minimal

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

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

RECOMMENDATION: This office supports moving forward with the projects.

SUGGESTED MOTION: I move to approve 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.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

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March 29, 2012

Dave Bechtel, Engineering Project Manager  
City of Mandan  
205 Second Avenue NW  
Mandan, ND 58554

Re: Street Improvement District 161, Area C, Project 2011-09  
Heart Ridge Addition

Mr. Bechtel:

This letter is to inform you that Wachter Development is of a majority ownership of the properties in the above mentioned project. We also waive the right to protest the above mentioned project.

Please let me know if you have any questions or require additional information.

Sincerely,



Chad Wachter

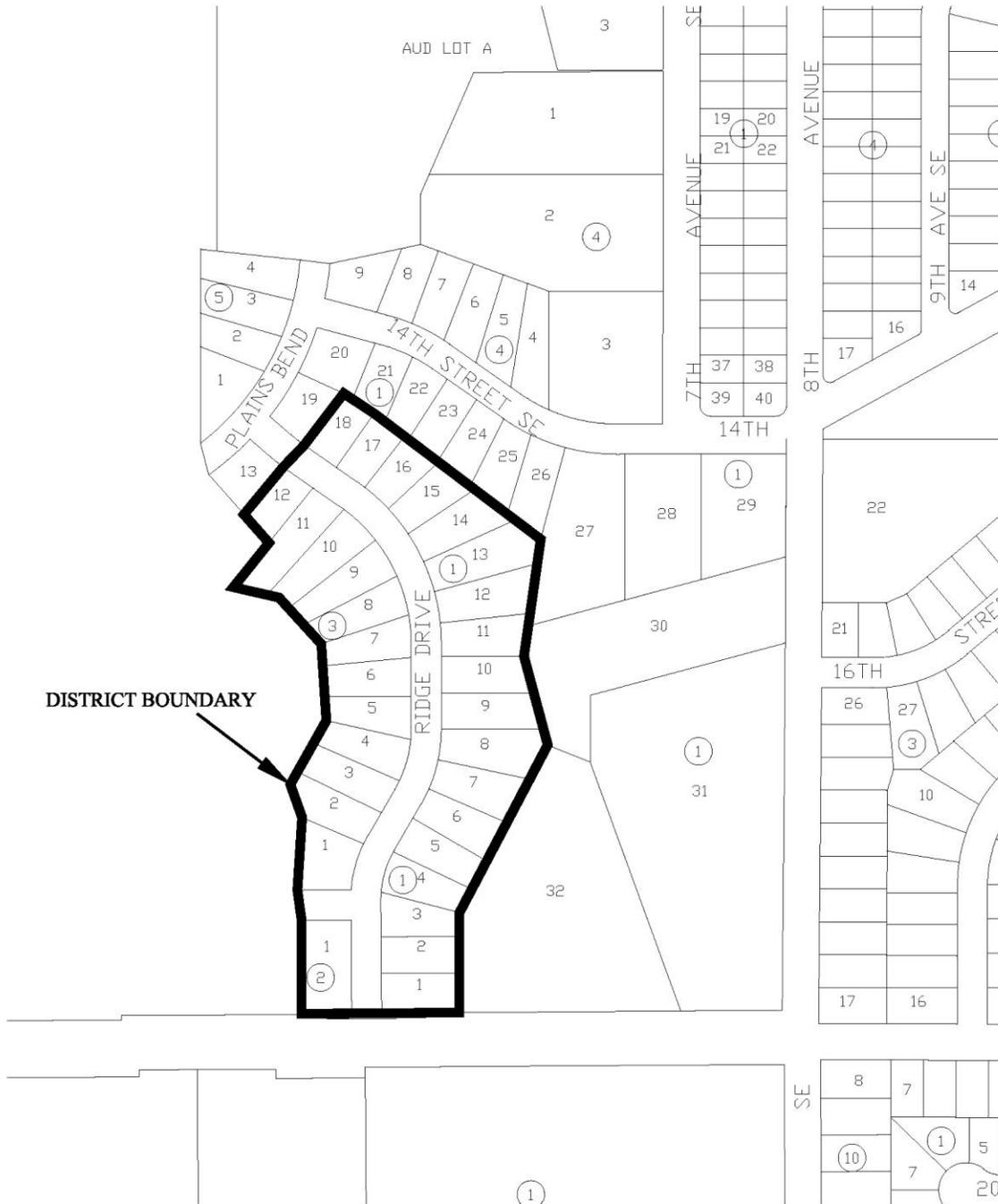
Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

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**FEASIBILITY AND EVALUATION OF IMPROVEMENTS  
FOR STREET IMPROVEMENT DISTRICT #168, PROJECT #2011-09**

1. ) General Nature of Project

The District has been created to allow for new street installation to take place on Ridge Drive SE within the Heart Ridge 1<sup>st</sup> Subdivision. Installation of new curb & gutter, asphalt street, storm sewer, street lights & chip seal will take place with this project.

2. ) Location of Proposed Construction

The proposed construction will take place on Ridge Drives SE from 19th Street SE to the north to the terminus of Ridge Drive SE.

3. ) Environmental Impact

It is anticipated that there will be some dirt, noise and pollutants during the construction period as a result of the use of the necessary equipment. There will also be some surplus or waste construction materials that will need to be disposed of by the contractor at his or her expense. The contractors will be responsible for leaving the area in an attractive and neat condition.

4. ) Feasibility of Project

In the opinion of the undersigned this project is feasible and needed throughout the indicated area. This project will develop a large tract of land within a growing residential area and allow for future development to occur.

5. ) Estimates of Costs

Attached is a map showing the area and district boundary. The construction costs are estimated at \$306,186.20. Other costs of making the improvement including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; publication of legal notices printing of warrants; and all expenses incurred in the making of the improvement and levy of assessments therefore are estimated at \$76,546.55. The total cost for the improvement is estimated at \$382,732.75.

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Dave Thompson  
Acting City Engineer

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 6 of 7

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**RESOLUTION APPROVING PLANS AND SPECIFICATIONS  
FOR STREET IMPROVEMENT DISTRICT NO. 168  
PROJECT # 2011-09**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

Pursuant to the requirement of section 40-22-11 of the North Dakota Century Code, the Plans and Specifications for the improvement project in Street Improvement District No. 168 Project # 2011-09 of said City be and the same are hereby approved, ratified and confirmed as the plans and specifications in accordance with which said improvement project will be constructed, except as modified by this Board in accordance with law, and the City Administrator shall file the same in his office, open for public inspection.

Dated this 3rd day of April, 2012.

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President, Board of City Commissioners

ATTEST:

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City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 7 of 7

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**RESOLUTION APPROVING ENGINEER'S REPORT AND  
AUTHORIZING PREPARATION OF THE DETAILED PLANS AND  
SPECIFICATIONS FOR THE CONSTRUCTION OF THE IMPROVEMENT  
IN STREET IMPROVEMENT DISTRICT NO. 168**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. That the report of the City Engineer with respect to the general nature, purpose, and feasibility of the proposed improvement and the estimate of the probable cost of the work to be done in Street Improvement District No. 168 Project # 2011-09, as required by section 40-22-10 of the North Dakota Century Code, and hereto filed in the office of the City Administrator, is hereby accepted and approved and the proposed improvement project within said District is hereby determined and declared to be feasible.

2. The probable costs of the of the improvement project are estimated to be as follows:

a. Construction costs:	\$306,186.20
b. Other costs including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; cost of publication of legal notices; printing of warrant bonds; and all expenses incurred in the making of the improvement and levy of assessments therefore:	\$76,546.55
c. Total estimated costs of the improvement:	\$382,732.75

3. The Engineer is hereby authorized and directed to prepare detailed plans and specifications for the project to be constructed.

4. This resolution shall be in full force and effect from and after its passage.

Dated this 3rd day of April, 2012.

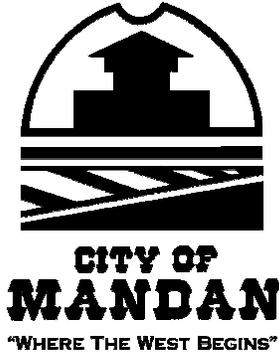
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President, Board of City Commissioners

ATTEST:

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City Administrator



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 29, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** 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).

---

**STATEMENT/PURPOSE:** To and authorize the required paperwork for the requested project and allow for the project to go out for bid.

**BACKGROUND/ALTERNATIVES:** At the last meeting, the Commission acted to create the district for the street project to move forward and left the option to special assess to the benefitting properties as open. Even though the owner does not have a definitive answer regarding if or how much of the street specials will be allowed, he has chosen to move this project along and asks for the permission to bid. This action approves the documents and allows the project to be bid. The owner has petitioned the improvements, that documentation was approved with the district creation. The owner has also petitioned and waived his rights to protest the specials as the majority owner. This allows us to not have to advertise the protest period and allows us to move to the bidding stage. This project will allow for new street construction of Keidel Trail SW in Keidel's South Heart Terrace Addition.

**ATTACHMENTS:**

1. District Map
2. Legal documents

**FISCAL IMPACT:** Based on the estimate of cost included with your documentation, the cost of the project would be \$390,556.70, engineering and administration will add \$97,639.18, bring the total to \$488,195.88. Corner lots would look to receive approximately \$7,179.35.00 per lot as they were assessed for approximately or at half the cost with the existing streets. All the other lots would expect to receive approximately \$14,358.70 as this street would be the primary street for these residences.

**STAFF IMPACT:** Minimal

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 2 of 6

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

RECOMMENDATION: This office supports moving forward with the project.

SUGGESTED MOTION: I move to approve 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.

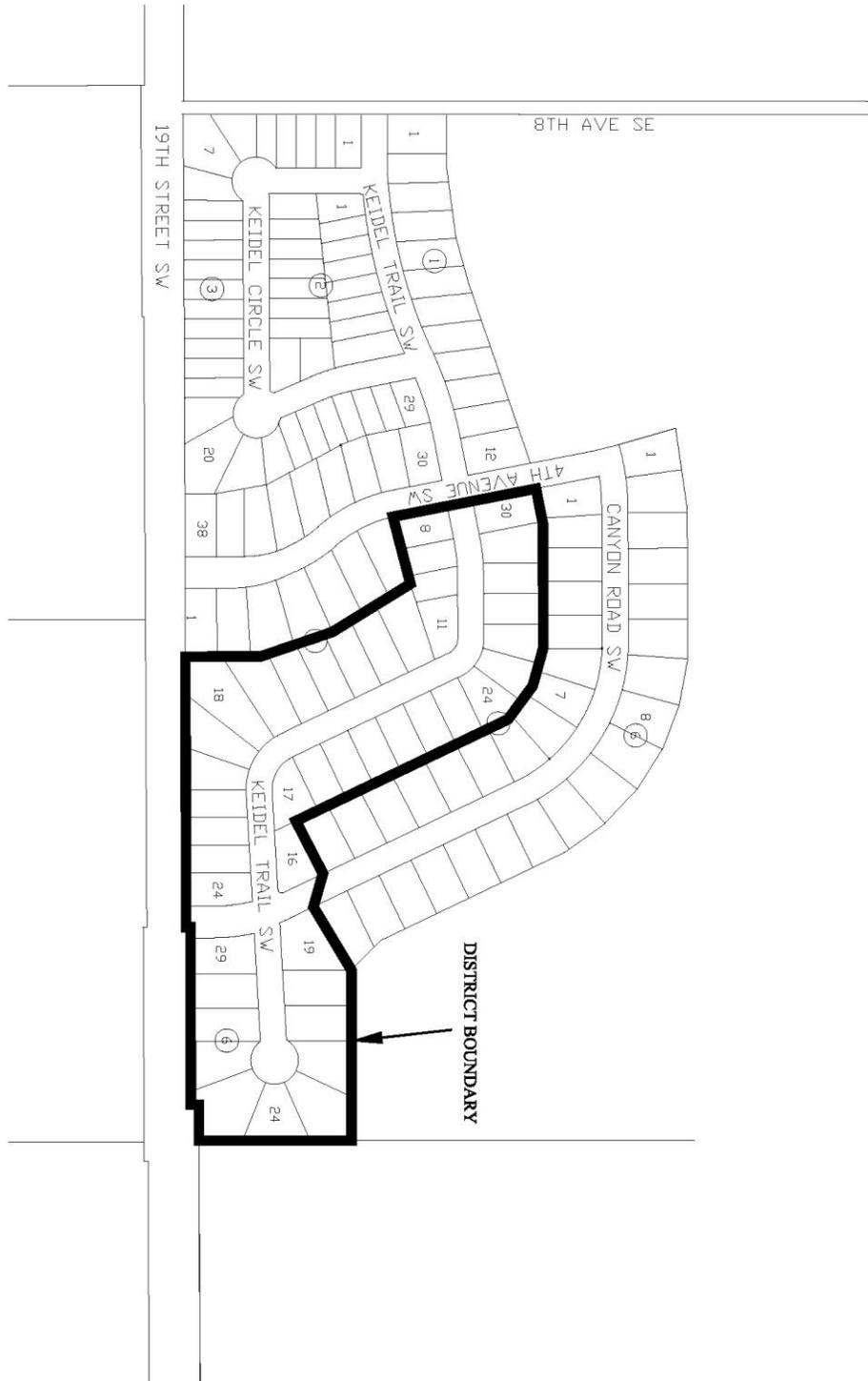
Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 3 of 6



Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 4 of 6

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**FEASIBILITY AND EVALUATION OF IMPROVEMENTS  
FOR STREET IMPROVEMENT DISTRICT #167, PROJECT #2012-04**

1. ) General Nature of Project

The District has been created to allow for new street installation to take place on Keidel Trail SW within Keidel's South Heart Terrace Subdivision. Installation of new curb & gutter, asphalt street, storm sewer, street lights & chip seal will take place with this project.

2. ) Location of Proposed Construction

The proposed construction will take place on Keidel Trail SW its east terminus west to 4<sup>th</sup> Avenue SW.

3. ) Environmental Impact

It is anticipated that there will be some dirt, noise and pollutants during the construction period as a result of the use of the necessary equipment. There will also be some surplus or waste construction materials that will need to be disposed of by the contractor at his or her expense. The contractors will be responsible for leaving the area in an attractive and neat condition.

4. ) Feasibility of Project

In the opinion of the undersigned this project is feasible and needed throughout the indicated area. This project will develop a large tract of land within a growing residential area and allow for future development to occur.

5. ) Estimates of Costs

Attached is a map showing the area and district boundary. The construction costs are estimated at \$390,556.70. Other costs of making the improvement including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; publication of legal notices printing of warrants; and all expenses incurred in the making of the improvement and levy of assessments therefore are estimated at \$97,639.18. The total cost for the improvement is estimated at \$488,195.88.

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Dave Thompson  
Acting City Engineer

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 5 of 6

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**RESOLUTION APPROVING ENGINEER'S REPORT AND  
AUTHORIZING PREPARATION OF THE DETAILED PLANS AND  
SPECIFICATIONS FOR THE CONSTRUCTION OF THE IMPROVEMENT  
IN STREET IMPROVEMENT DISTRICT NO. 167**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. That the report of the City Engineer with respect to the general nature, purpose, and feasibility of the proposed improvement and the estimate of the probable cost of the work to be done in Street Improvement District No. 167 Project # 2012-04, as required by section 40-22-10 of the North Dakota Century Code, and hereto filed in the office of the City Administrator, is hereby accepted and approved and the proposed improvement project within said District is hereby determined and declared to be feasible.

2. The probable costs of the of the improvement project are estimated to be as follows:

a. Construction costs:	\$390,556.70
b. Other costs including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; cost of publication of legal notices; printing of warrant bonds; and all expenses incurred in the making of the improvement and levy of assessments therefore:	\$97,639.18
c. Total estimated costs of the improvement:	\$488,195.88

3. The Engineer is hereby authorized and directed to prepare detailed plans and specifications for the project to be constructed.

4. This resolution shall be in full force and effect from and after its passage.

Dated this 3rd day of April, 2012.

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President, Board of City Commissioners

ATTEST:

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City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: 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).

Page 6 of 6

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**RESOLUTION APPROVING PLANS AND SPECIFICATIONS  
FOR STREET IMPROVEMENT DISTRICT NO. 167  
PROJECT # 2012-04**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

Pursuant to the requirement of section 40-22-11 of the North Dakota Century Code, the Plans and Specifications for the improvement project in Street Improvement District No. 167 Project # 2012-04 of said City be and the same are hereby approved, ratified and confirmed as the plans and specifications in accordance with which said improvement project will be constructed, except as modified by this Board in accordance with law, and the City Administrator shall file the same in his office, open for public inspection.

Dated this 3rd day of April, 2012.

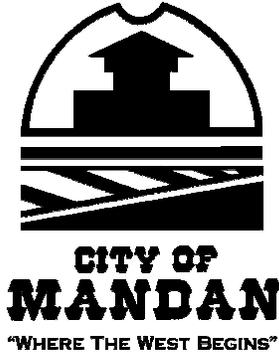
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President, Board of City Commissioners

ATTEST:

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City Administrator



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 3, 2012  
**PREPARATION DATE:** March 28, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider the creation of Street Improvement District No. 169 Project # 2012-06. (Lincoln Ridge 5<sup>th</sup> Addition).

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**STATEMENT/PURPOSE:** To create a special assessment district for the requested project.

**BACKGROUND/ALTERNATIVES:** The Engineering office has received a petition from Steve Thilmony requesting the special assessment of the remaining streets within the Lincoln Ridge 5<sup>th</sup> plat. The location of this plat is west of 8<sup>th</sup> Avenue SE at the west terminus of 25<sup>th</sup> Street SE. The roads to be paved would be 25<sup>th</sup> Street/West View Place & South View Place SE. The developer will need to install the needed water and sewer utilities to service the lots within this subdivision and will be required to pay 100% of those costs via a 3-way agreement. The paving of this street will bring approximately 12 lots onto the market for building of single family homes.

**ATTACHMENTS:**

1. Petition by Owner
2. District Map
3. Estimate of Cost
4. Master Plan of lots by phases

**FISCAL IMPACT:** Based on the estimate of cost included with your documentation, the cost of the project would be \$165,352.75, engineering and administration will add \$49,605.83, bring the total to \$214,958.58. The single corner lot would look to receive approximately \$8,598.34 in special assessments for the street as it would be assessed for approximately half the cost of the other lots within this district. All the other lots would expect to receive approximately \$17,196.69 as this street would be the primary street for these residences.

**STAFF IMPACT:** Minimal

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

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: Consider the creation of Street Improvement District No. 169 Project # 2012-06.  
(Lincoln Ridge 5th Addition).

Page 2 of 6

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RECOMMENDATION: I would recommend approval of this project.

SUGGESTED MOTION: This office recommends approval for the creation of the district.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: Consider the creation of Street Improvement District No. 169 Project # 2012-06.  
(Lincoln Ridge 5th Addition).

Page 3 of 6

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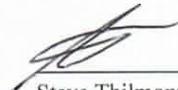
March 28, 2012

2183

**PETITION**

To the Honorable Board of City Commissioners of the City of Mandan, North Dakota.

The undersigned, being the Developer of Lincoln Ridge Estates 5<sup>th</sup> Addition, Mandan, North Dakota, hereby petitions the City of Mandan to create a Special Assessment District for the purpose of performing improvements consisting of asphalt paving, curb and gutter, earthwork and all work and material incidental thereto on a portion of 25<sup>th</sup> Avenue SW and West View Place SE from the west boundary line of Lincoln Ridge Estates 3<sup>rd</sup> Addition, west, northwest to the Intersection of Lincoln Court SE, also South View Place SE in its entirety.

  
\_\_\_\_\_  
Steve Thilmony

Enc See Attached Map

Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: Consider the creation of Street Improvement District No. 169 Project # 2012-06.  
(Lincoln Ridge 5th Addition).

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Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: Consider the creation of Street Improvement District No. 169 Project # 2012-06.  
(Lincoln Ridge 5th Addition).

Page 5 of 6

STREET IMPROVEMENT  
LINCOLN RIDGE 5TH ADDITION

ITEM NO.	ITEM DESCRIPTION	UNIT	PROPOSAL QUANTITY	UNIT PRICE	CONTRACT AMOUNT
1	Unclassified excavation & embankment	CY	700	\$5.00	\$3,500.00
2	Asphalt removal (thickness varies)	SY	5	\$25.00	\$125.00
3	Remove & salvage Road Closed Sign	Each	2	\$350.00	\$700.00
4	Curb & gutter removal	LF	8	\$10.00	\$80.00
5	Subgrade preparation	SY	3,884	\$3.50	\$13,594.00
6	Water for compaction	M.Gal.	7	\$20.00	\$140.00
7	Install mountable curb & gutter	LF	1,539	\$22.00	\$33,858.00
8	2" Surface course	Ton	384	\$90.00	\$34,560.00
9	2-1/2" Base course	Ton	480	\$90.00	\$43,200.00
10	Bituminous tack coat	Gal.	173	\$3.00	\$519.00
11	Bituminous seal coat	Gal.	1,037	\$3.25	\$3,370.25
12	Seal chips 30lb/SY	Ton	52	\$85.00	\$4,420.00
13	Street lights 150W (concrete pole Type "B")	Each	4	\$2,700.00	\$10,800.00
14	Copper conductor circuitry (3#2) & (1#8)	LF	619	\$6.00	\$3,714.00
15	Trenching for conduit & circuitry	LF	619	\$2.50	\$1,547.50
16	Adjust manhole	Each	4	\$450.00	\$1,800.00
17	Adjust gate valve	Each	7	\$275.00	\$1,925.00
18	Class 5 gravel	Ton	50	\$25.00	\$1,250.00
19	Erosion control (silt fence)	LF	500	\$4.00	\$2,000.00
20	Seeding to include topsoiling	Acre	0.5	\$6,500.00	\$3,250.00
21	Soil Sterilizer	LS	1	\$1,000.00	\$1,000.00
CONSTRUCTION TOTAL					\$165,352.75
ENGINEERING & CONTINGENCY					\$49,605.83
TOTAL COST					\$214,958.58

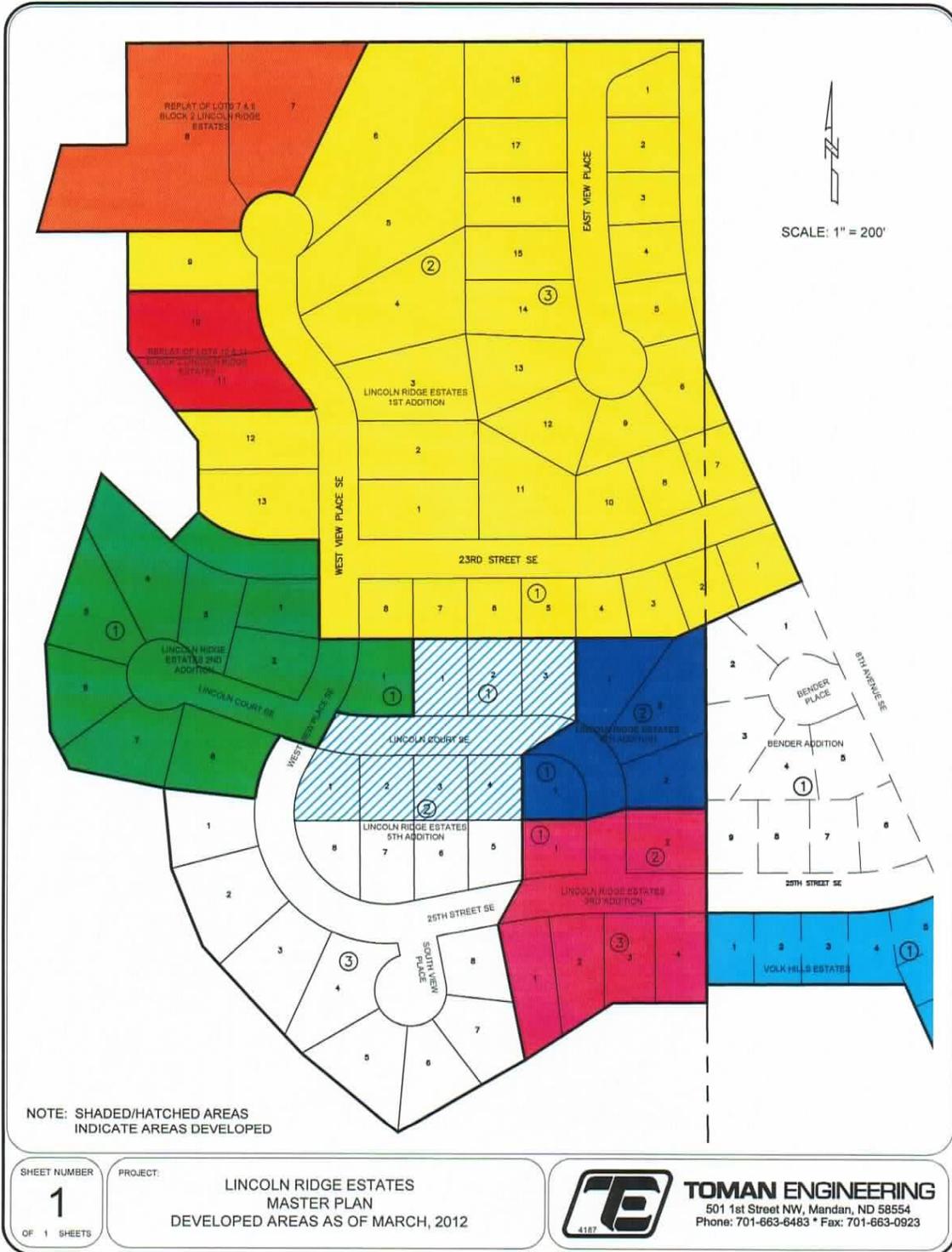
Board of City Commissioners

Agenda Documentation

Meeting Date: April 3, 2012

Subject: Consider the creation of Street Improvement District No. 169 Project # 2012-06.  
(Lincoln Ridge 5th Addition).

Page 6 of 6



**ORDINANCE NO. 1112**

**AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 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 Municipal Code is amended to read as follows:

The following described property located within the City of Mandan shall be excluded from the R7 (Single Family Residential) and R3.2 (Two-Family Residential) zoning and shall be included in the CB Restricted (Heavy Commercial with no retail group B allowed) namely,

part of the SE ¼ vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Addition (less part of Auditor's Lot G), located in the W ½ of the SW ¼ of the SE ¼, in Section 16, Township 139N, Range 81W

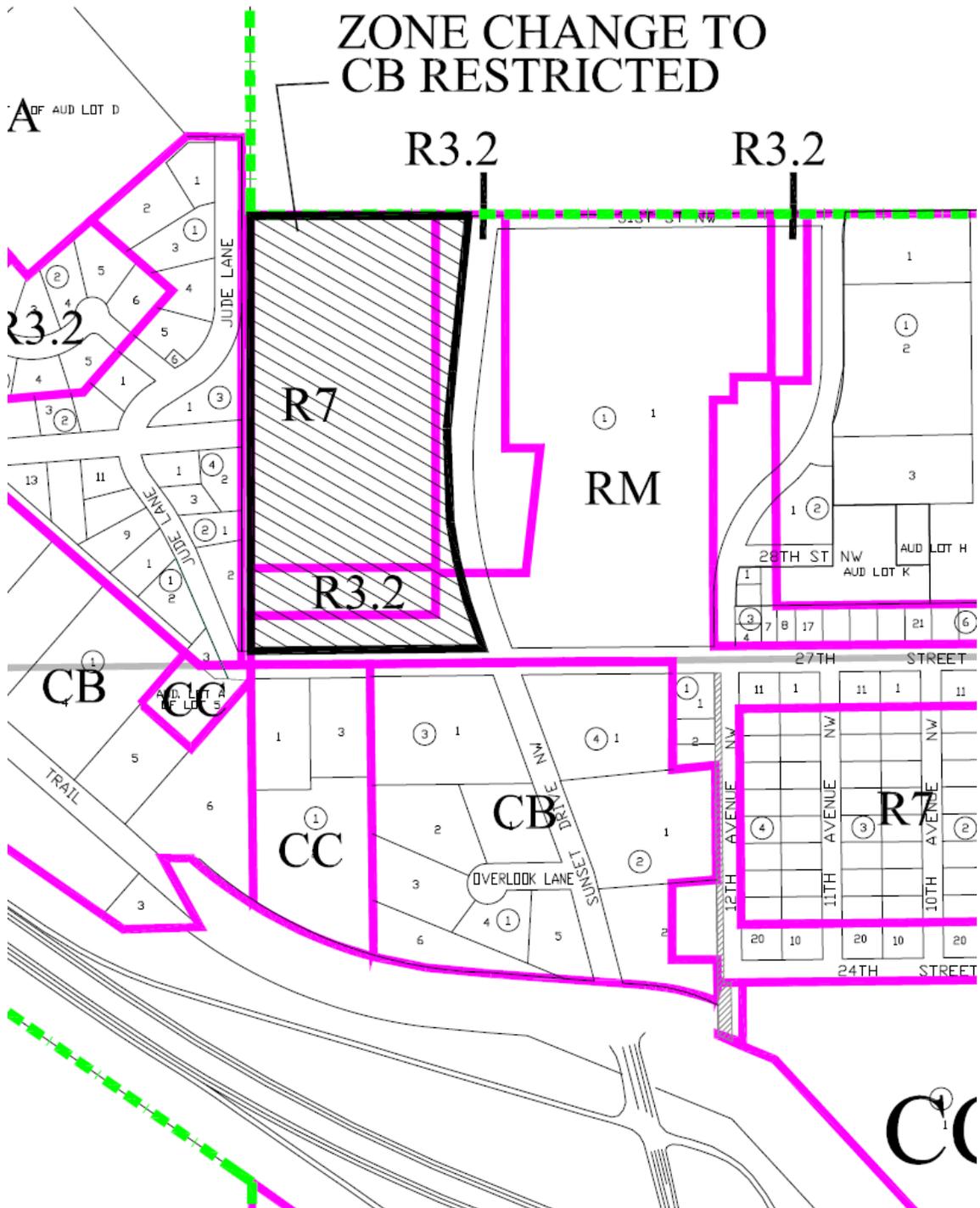
and as so amended said section is hereby reenacted. The purpose of the zone change is to allow for commercial development. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

\_\_\_\_\_  
President, Board of City Commissioners

Attest:

\_\_\_\_\_  
City Administrator

Publication Dates:	<u>February 17<sup>th</sup> &amp; 24<sup>th</sup>, 2012</u>
Public Hearing:	<u>February 27<sup>th</sup>, 2012</u>
First consideration:	<u>March 20<sup>th</sup>, 2012</u>
Second consideration and final passage:	<u>April 3<sup>rd</sup>, 2012</u>
Publication Date:	<u>April 27<sup>th</sup>, 2012</u>
Recording Date:	_____



**ORDINANCE NO. 1113**

**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 Municipal Code 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 A (Agricultural) zoning and shall be included in the RM (Multi-Family Residential) zoning namely,

Lakewood 6<sup>th</sup> Addition in Section 1, Township 138N, Range 81W

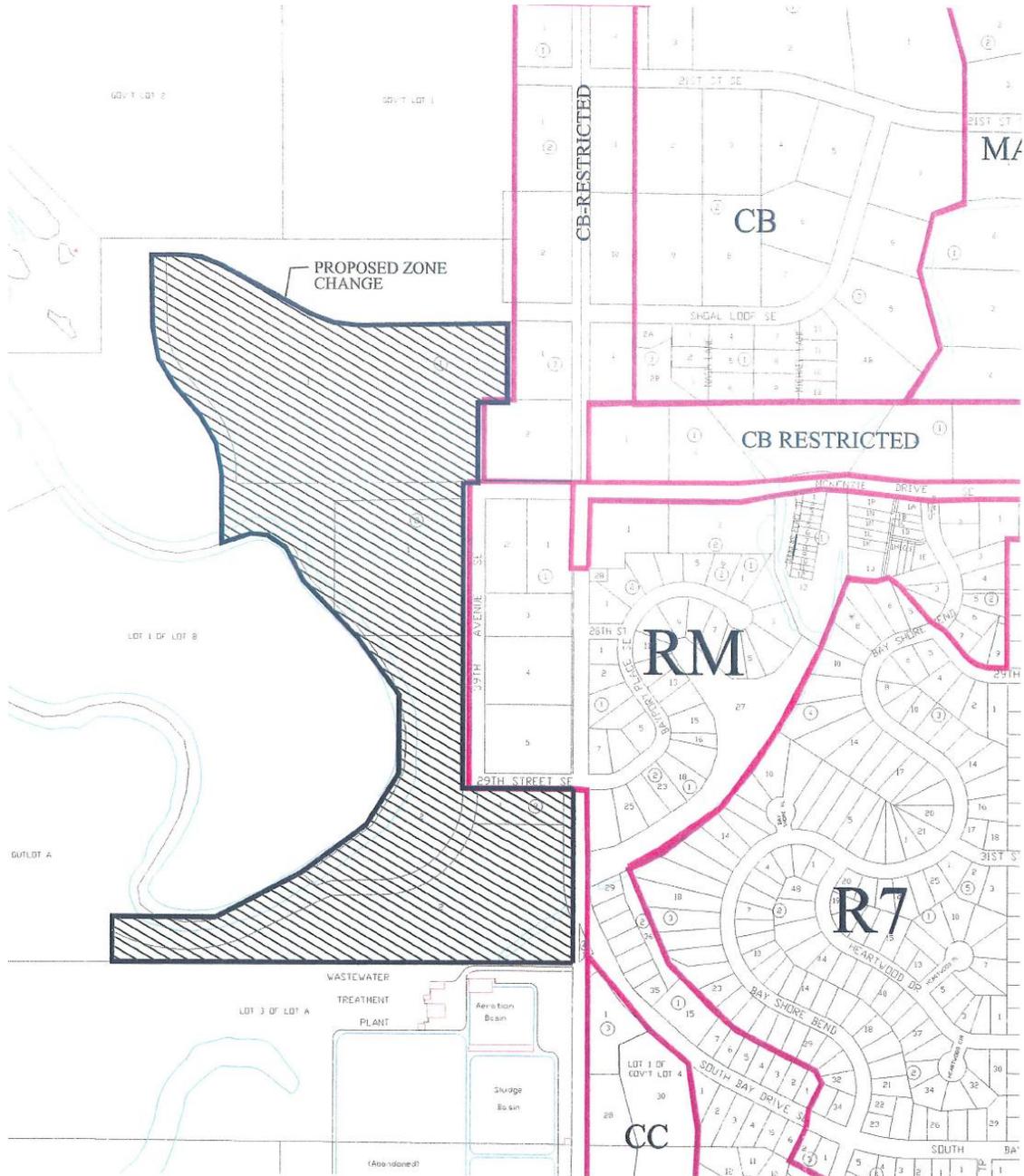
and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

\_\_\_\_\_  
President, Board of City Commissioners

Attest:

\_\_\_\_\_  
City Administrator

Public Hearing:	<u>February 27<sup>th</sup>, 2012</u>
First Consideration:	<u>March 20<sup>th</sup>, 2012</u>
Second Consideration and Final Reading:	<u>April 3<sup>rd</sup>, 2012</u>
Publication Date:	<u>April 27<sup>th</sup>, 2012</u>
Recording Date:	_____



**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 or Class D 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: \_\_\_\_\_  
Second Consideration  
and Final Passage: \_\_\_\_\_

**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.

By: \_\_\_\_\_  
President, Board of City Commissioners

Attest:

\_\_\_\_\_  
City Administrator

First Consideration: \_\_\_\_\_  
Second Consideration \_\_\_\_\_  
and Final Passage: \_\_\_\_\_

**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 minium 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: \_\_\_\_\_  
Second Consideration \_\_\_\_\_  
and Final Passage: \_\_\_\_\_

## 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 Dakota 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 Dakota 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 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 1<sup>st</sup> 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.

8. The number of Class A general retail on- and off-sale alcoholic beverage licenses shall be 17. The number of Class D exclusive retail off-sale alcoholic beverage licenses shall be 3. The number of Class D-1 - Exclusive retail off-sale beer and wine shall be 7.

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: \_\_\_\_\_  
Second Consideration \_\_\_\_\_  
and Final Passage: \_\_\_\_\_