



AGENDA
MANDAN CITY COMMISSION
JULY 10, 2012 *SPECIAL DATE*
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

-
- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the following minutes:
 - i. June 19, 2012 - Regular meeting
 - ii. June 26, 2012 – Special meeting (Organizational)
- C. PUBLIC HEARING:
1. Public Hearing to consider the vacation of the Acteva Addition Plat.
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider for approval the application for beer garden and street dance event.
 2. Consider for approval the final replat of part of Lot 2 Block 1, Lakewood 1st Addition.
 3. Consider for approval the final plat of Keidel's South Heart Terrace 2nd Addition.
 4. Consider for approval the final plat of Lark Commercial Park 4th Addition.
 5. Consider for approval the final plat of Heart Ridge 2nd Addition.
 6. Consider approval of the pledge of securities reports as required by NDCC 21-04.
 7. Consider Acceptance of Grant from Dept. of Human Services for the Enforcement of Underage Drinking, Contract #2012-1.
- F. OLD BUSINESS:
- G. NEW BUSINESS:
- H. RESOLUTIONS & ORDINANCES:
1. *Consider second consideration and final passage of Ordinance No.1124 Zone Change for Heart Ridge Addition – 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 resolution to vacate Acteva Addition plat.*

Agenda
Mandan City Commission
July 10, 2012
Page 2 of 2

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. July 17, 2012
2. August 7, 2012
3. August 21, 2012

K. ADJOURN

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

The Mandan City Commission met in regular session at 5:30 p.m. on June 19, 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 Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, and Engineering Project Manager Bechtel. Absent: City Assessor Barta, Director of Public Works Wright and Business Development and Communications Director Huber.

MINUTES: *Consider approval of the minutes for June 5, 2012 regular meeting and the Departmental Planning Meeting held on June 18, 2012.* Commissioner Rohr moved to approve the minutes of the regular meeting held on June 5, 2012 and the Departmental Planning Meeting held on June 18, 2012. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Consider approval of Heart Ridge Addition Zone Change. (First consideration of ordinance #1124).* Engineering Project Manager Bechtel reviewed with the Board a request to consider change of zoning of Lots 27-32, Block 1 and Lots 1-3, Block 4, Heart Ridge Addition from RM (multi-family residential, restricted to 5 units per acre) to RM (multi-family residential, restricted to 10 units per acre). On May 29, 2012, the Planning & Zoning Commission met and unanimously approved of the request with the following restrictions: (i) Height of buildings are controlled and allowed a 2-story maximum. No parking underneath. (ii) Maximum of 4 units per building and (iii) Minimum 20’ setback from adjacent single family. Bechtel indicated on the overhead map the area referred to is in the area of Ft. Lincoln School. Commissioner Frank stated that this matter was discussed about 1 year ago; in particular to Lots 31 and 32. She stated that the main concern from residents at that time was how traffic would be controlled. She inquired what new information has been obtained for the residents to control the traffic. Bechtel replied that he is not aware of any City plans to control traffic because the traffic will come regardless. There will be restrictions as to how many units will be allowed as well as the density seen from the units; 19th and 8th are arterials and their intent is to move traffic. Traffic problems will have to be addressed in the future as they come up. Bechtel stated that there is only a portion of those acres that is developable. Some of the lots will only accommodate two buildings. There is a total of 23.9 acres on all the lots. It may be possible that there will be 3-4 buildings on one parcel and none on another.

Mayor Helbling announced this is a public hearing and invited anyone to come forward to speak for or against the request for zone change of the Heart Ridge Addition.

Dave Patience, from Swenson, Hagen and Company Engineering came forward stating that he is representing Wachter Development, (Chad and Lance Wachter), in this matter. He mentioned that even though they could put a 30 unit apartment building on Lot 31 and could put either 22 or 24 unit apartment buildings on Lot 32, the interest they were getting was for 4 unit buildings. Lots 27, 28, 29 are all 1-acre lots and under 5 units per acre, only one 4 unit building could be constructed. Someone has shown an interest in constructing twin homes or 4 unit buildings on Lot 31 on it versus a 30 unit building

referenced previously. There has been more interest in the 2 or 4 unit buildings. The reason for going to 10 units per acre is because of a mobile home park across from this property that has 8 units per acre. So it was felt it was a compromise on the part of Wachter to go up to 10 units per acre and only 2 or 4 units per building. The bigger lots do not get as efficient use out of them in comparison to the smaller ones. Even though the density is being increased, the building size is being cut down from a 30 unit to a 2 or 4 unit.

Jim Davis, Mandan City resident, came forward to comment. He said that Lot 31 is the main lot of contention, which is right across the street. With the addition of the units that were presented for consideration there will be concerns for parking and it will be saturation housing on those 1.2 acres. He concurred with Commissioner Frank's previous comment about issues with entering and exiting the property.

Janet Frost, a resident who lives on 8th and 16th Street came forward to speak. She asked if it would be possible for the City to present plans before any approvals are made so that the current residents in that area who have been paying taxes would have some sort of an idea what will transpire. There is a concern as to saturation and bottle-neck of traffic when exiting; safety and parking issues; and basic saturation of concrete and buildings. She requested clarification if there will be multi-plan units on those lots, and if they are going to be owned units or rental units. Everything around this area is single-family units which is the reason of concern from current residents. How many people are you trying to put on one parcel of land?

Mayor Helbling again announced this is a public hearing and invited anyone to come forward to speak for or against the request for zone change of the Heart Ridge Addition. Seeing and hearing none, this portion of the public hearing was closed.

Mayor Helbling clarified that the Commission cannot tell the owners of the property who can live on the property (young or old) or who can own or rent a parcel. The only thing the commission can do is set the parameters of the district which is RM and restrictions, of which there are some on the property.

Commissioner Frank requested the developer of the property come forward to address the parking concerns regarding Lot 31 and how many parking spaces there will be per unit. Patience replied that the twin home units will have 2 or 3 stall garages plus either 2 stall or 3 stalls in front of the unit in the driveway. So approximately six parking spots per unit. The private street will be a 30' wide street and may be used for parking. All units will have double garages so there will be at least four parking spots per unit. Commissioner Frank questioned how many developable acres on the property are within the area lot. Patience replied that on approximately 6 acres, there will be approximately 6 units per acre. The benefits to the Wachters will be when they get to put two buildings on one lot rather than four buildings.

Commissioner Jackson inquired of Jim Davis: you said at the end of your testimony that this was the compromise and the residents accepted the compromise. Is that accurate?

Davis replied that they said that the 10 units per acre was doable but the concern was with the photo that depicted a cloverleaf, where you would drive in and it would be saturated with buildings, and you have all this on one property. That is not six acres that he is developing. Those houses are on a smaller percentage of that big lot. Commissioner Jackson asked if the residents would rather have numerous smaller structures rather than one larger structure. The opinion of most of the people out there is they would like smaller structures. The residents were trying to keep that area as a residential area, not multi-family.

Commissioner Jackson questioned Dave Patience, representative for the Wachters, concerning what changed from last year? The understanding was this could be economically viable at 5 units per acre? Patience replied that he has been in this business for 40 years and during that time he has never seen a five unit per acre multi-family development. He said that 5 to 7 units are normally what are seen for single family residences. Twin homes are 12 units per acre and apartment buildings are approximately 30 units per acre. Patience said it is not economically feasible for a developer to put 5 units per acre. Commissioner Frank referenced the City Commission board minutes from June 21, 2011, wherein a Swenson-Hagen representative was present speaking on behalf of the Wachters who stated that although there was the agreement on the restriction of 5 units per acre for a multitude of lots that were changed over from single to multi-family, he did say that the developer would be considering a density of ten units per acre on these specific lots and they would come back before the Commission for re-consideration.

Mayor Helbling commented that if the Commission puts too many restrictions on this parcel, this same issue will be back here in 30 years wherein five homeowners may have to pay half million dollars for street repairs. So careful consideration needs to be given to the outcome of this matter.

2. *Consider approval of Collins Avenue West Zone Change. (First consideration of ordinance #1125).* Engineering Project Manager Bechtel reviewed with the Board on an overhead map a request from Steve Kilen to change lots 1-3, Block 1, Collins Avenue West from R 7 (Single-family Residential) to RM (Multi-Family Residential). There was also a large group of people at the Planning and Zoning Committee meeting held on May 29, 2012, who were against the zoning. There was a motion to deny the request and it failed. A second motion was made with some restrictions on the lot: (i) Building maximum height from finished grade not to exceed 20', (ii) Building is to be pushed up the east setback line, and (iii) A mandatory 8' privacy fence along west property line. It passed with a 7-2 vote. Background: Lots 1-3 Block 1, Collins Avenue were the lots in question. After Zachmeier Addition was platted, these lots more or less became "no-man's land". When Collins Avenue was constructed after that, following a need for an 80' right-of-way, the city engineer was instructed to check into platting that additional piece as it was assumed to be a right-of-way. Only the north lot was deeded to the owner, the south lot was not. The 7 ft. lot was intended to be deeded to Geri Cody (Lot 3, Block 1). For future consideration that lot should be deeded to her. There is no recommendation regarding this from the City Engineer's office because this took place about one year prior to this and it was turned down. The decision was left up to the

Planning & Zoning Commission to see where they fell with it. Bechtel stated that City will support the recommendation of the Planning & Zoning Commission in this matter.

Mayor Helbling announced that this is a public hearing regarding the approval of Collins Avenue West zone change (First consideration of ordinance #1125). He invited anyone to come forward to speak in support or opposition of the request.

Lorraine Sauter, a resident who has resided on 11th street for almost 54 years came forward to speak. She said that on 11th, 12th and 13th Streets, there have never been multiple-family housing units there. They are planning to put the apartment complex straddling on the larger lots plus three garages on either side. She said that the lots there are approximately 60' x 130' and that about 10' feet is property that MDU has access to so the homeowners were told they could never do anything with that 10'. Now they are planning on putting an apartment complex there and it does not go with the neighborhood and there is insufficient room. The homeowners there gave a petition to the Planning & Zoning Commission and a large majority of the people in the neighborhood are against it. They would be in favor if one or two homes were built on those lots.

Geri Cody, a resident who resides in this area came forward to speak. She stated she does not understand why a mistake in the surveying that was done many years ago is an issue now. She accepted the 7' that was offered to her, but she understood it was written somewhere that "we refused it" which would be extremely strange. Steve Kilen's uncle built that house and she bought it as a 60' x 120' lot and now she said she does not understand why she has to fight to get the 7' back, but she does not want an apartment building there. She claimed that they have lived there all this time and was never told that. Attempts were made to purchase the empty lots and the City repeatedly said they were not available. Now, all of a sudden, they are available.

Wade Bachmeier came forward to speak in support of Steve Kilen's proposed zone change. He stated he presented the following at the Planning and Zoning Commission meeting: Collins Avenue is one of three major arterial north-south roadways. Traffic count on Collins increases every year. This property has been for sale for a long time and no one came forward to purchase it to build a home on these lots. The land area can support the footprint that Kilen is proposing. He has complied with the apartment building and the garage structure. The footprint of the building is less than 2,500 sq. feet. Two homes on the property would be in comparison. Apartment buildings are all the way up and down Collins Avenue. In his opinion, RN zoning makes the most sense for this property on this roadway.

Commissioner Tibke asked what the circumstances were that changed from last year to this year when it was approved. Steve Kilen spoke up and said nothing has changed. He said that Zachmeier was the one who brought this forward last year; however, there has not been any changes made to the Blueprints since that time. Commissioner Tibke inquired as to what the discussion was by the Planning and Zoning Committee that changed from denying the request in April 2011 to now when it was approved? Kilen stated he did not know. Bachmeier stated that it is his understanding that when Planning

& Zoning Committee discussed it in 2012, where the property is located on Collins Avenue, on a major arterial roadway and with all the surrounding RM and commercial zoning that this request made sense. He thinks there was a misconception that this was going to be a 3 or 4 story building with 36 or more units but in actuality the footprint is not larger than an actual home. Commissioner Tibke commented that she understands from the neighborhood residents that their concerns are that the property will not be zoned as single family in conjunction with the properties next to it. Bachmeier questioned Bechtel on a point of clarification. It was assumed that the City owned that land but in actuality the Zachmeier family owned it and he is not sure if it was zoned up until the time the City re-platted it. Regarding the 10” MDU access, Kilen stated that MDU was contacted and they were going to vacate that easement and disconnect the gas line today.

Bechtel stated that regarding the Planning and Zoning Commission denying the request last year to approving the request this year; it had to do with two new members coming on the Planning & Zoning Committee. They led the discussion, and by compromising by putting the restrictions in place, it pulled the Committee in the direction of voting in favor of the request. He stated that he is not aware of any changes in the project from last year to this year.

Mayor Helbling again announced that this is a public hearing regarding the approval of Collins Avenue West Zone change (First consideration of ordinance #1125). He invited anyone to come forward to speak in support or opposition of the request. Hearing none this portion of the public hearing was closed.

3. *A public hearing to determine the sufficiency of protests for Street Improvement District No. 161, (North Mandan Street Improvement).* Engineering Project Manager Bechtel reviewed this matter with the Board having to do with determining the sufficiency of protests for Street Improvement District No. 161. The resolution to protest was advertised on May 11, 2012, and ran for a 30-day period which expired June 6, 2012. Approximately 1,096 letters were sent out as part of the affected parcels in this district and 278 valid protests were received which equaled 28.4% of which 50% is required to protest out the district. Bechtel reviewed the procedure used to determine the special assessments for the district with the assistance of Toman-Wenck Engineering. The protestable area of these districts is based on square footage even though the district encompassed more parcels than the letters that went out to the protested area. These were just the lots receiving the letter. We received some complaints that the letters did not have great information in them, but per law we are only required to put the information in the newspaper. Letters were sent out as a courtesy to provide additional information to those homeowners affected.

Susan Beehler, a Mandan resident came forward and read the following from a document she requested be made a part of these meeting minutes (*in italics*): *I protest and I object to the process of the special assessment district. On May 22 I sent this email to Dave Bechtel: I could not make heads or tails out of the map in the Mandan News, what are the streets in the improvement district boundary, what will be done and how much will this*

cost? Did you give notice to those in this district? Why if this was approved in November 2011 is it just coming out in the paper now? May 23 I make a note: He said he was going to get me a copy of the letter. He could not tell me the boundaries when I asked. I guess he needed a map in front of him. Today I had a person tell me they got a letter saying they were going to get special assessed \$7000 to \$10,000 he lives a couple blocks from me on 17th ST NW. I have talked two members of the special assessment committee they do not know what it is about either, but if the city just sent letters out, you will only have till June 3 or 4 to protest. I cannot tell where the boundaries are on the map. I would like to display the map. You can see the map does not distinguish North or South.

On May 25 to Dave, Jim: Hi! Dave, I still have not received a copy of the letter you sent for the District 161 street improvement, I cannot read the map in the newspaper and I would like a copy of the letter you sent out and also the street boundaries and what is included in the District 161 along with the estimated cost and what this project includes.

To me May 25 Reply from Dave: I sent a pdf of the letter yesterday morning to this account. I am not nor will not be in the office until Wednesday to resend it to you.

On May 29 Susan Beehler 9:29 AM: Email sent May 29 to Dave, City: I want to know the boundaries of District 161 and a copy of the letter you sent out to residents in this area. What is the cost of special assessments? Please send me the information as the deadline is fast approaching for protest! I have enclosed the newspaper clipping; just write the boundaries on it if you do not have a better map, please. On May 29 I finally received a more readable map: I never received any costs until today, June 19, by email. I find the costs include a parking lot for the Mandan High School, Yet no one on Sunset Drive nor the School is included in the district. Now today I find out there is a project cost sheet and there is 6 Maps I never received any when I requested. I just found out today they - I was trying to determine if I was in the district, Dave just said if I didn't get a letter I am not in the district, clearly my street is in the area but a red line is drawn threw it. He said this line excluded my street. If special assessments are to be based on the benefit to your property how can you willy nilly draw lines around the city and put some properties in and then throw in a Parking lot outside the scope of the project.

I asked Dave what Century Code was being used, I got two answers. The first he sent by mistake, I guess, than he sent <http://www.legis.nd.gov/cencode/t40c22-1.pdf> he stated this was the correct one, but when I read it is to be used only for a commercial district, Now as residents are they doing this because of Wal-Mart!? And the paper has a third. Which assessment district are you defining? which law is giving your authority to draw these boundaries? If we go back to the original ad the third law which Dave never gave me it states CC 40-22-01 point 2. The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisitions, opening, widening, grading, graveling.....etc. Yet clearly the details of the project simply appear to be paving, their appears to be nothing as the resolution states adopted back in November 2011, which was: Consider the creation of approve the feasibility report for and authorize the advertisement of the Resolution of Necessity for Street Improvement District No 161 Areas A & B #2010-03 & 2011-12. Engineering Project Manager

Bechtel reviewed with the Commission a request to create the special assessment districts and authorize the required paperwork for the requested projects. District 161 is the expanded Diane's Project that now includes areas north and west. District 161B is separate district that is in the northwest area of Mandan. This area has had deterioration of the street due to groundwater over the last several years. Bechtel clarified that this would not include every street within this district and the assessments would be limited to the streets under repair. He pointed out the areas where ground water studies are being conducted to determine the source of the water problems and those areas would be included within the cost of this project.

Today I emailed: Why isn't this project considered a paving project under <http://www.legis.nd.gov/cencode/t40c56.pdf> Or <http://www.legis.nd.gov/cencode/t40c22>. PDF and is under instead this link you sent <http://www.legis.nd.gov/cencode/t40c22-1.PDF> ? Do you have copies of the ground water studies and what streets exactly, the list of them are having groundwater issues? If you did a study what was the cost of this study and who did it?

What streets exactly a list of them are included in this area or all included except those red-lined on the map ? Did all homeowners, businesses, school in this district get a notice of the proposed increase in special assessments? Are any properties exempt from this project such as the nursing home, the proposed Wal-mart, the new assisted living center, Golden Age services, Medcenter One properties, the Hide Away, the churches, the schools; any properties exempt, if so why? No ground water studies were done "studies take months if not years and that is not what was done on this project." Yet he stated according to these November 11 minutes "ground water studies are being conducted." " So if these streets are put in and assessed are we going to have future ground water problems with them?

I guess the city sent out 1097 notices for this special assessment district. Depending on which law you are assessing under be streets which could be excluded from the project. Century Code 40-22-18 states: a majority of any separate property area included with the district, such protests shall be a bar against proceeding with the portion of such improvement project". I went through the protested letters and found more than 50 % of these people protested in Area 1 and Area 2 the others I did not have time to thoroughly look at as I just received copies of the protest letters late yesterday afternoon. Streets I believe have sufficient protest are: Area 1: Linda Drive, 18 th St NW, 9th Ave NW, 15th St NW, 6th Ave NW. Area 2: 4th Ave NW, 5th Ave NW, 16th ST NW, 2nd Ave NW, 15th ST NW. Also a note was on a 1st AVE NW letter said it was not in the 161 District yet Area 2 does show 1st Ave NW remove and replace. Area 3: 11th ST NW. Century Code allows 30 years to pay off special assessments. Century Code also ONLY allows a % of debt to the taxable property. What is our debt limit? We have a couple of developers who are on my Foreclosure Forecast, Mitzel is looking like he will have to cough up close to a million dollars this is close to the projected costs of Area 4,

Commissioner Jackson called a Point of Order. Mayor Helbling directed Ms. Beehler to address only the issues being discussed about the street project. He stated that this is a

public hearing to determine the sufficiency of protests for Street Improvement District No. 161.

(Beehler): This has to do with homeowners property taxes - my gut feeling is Area 4 is property the city wants to foreclose on some day, so they can develop it, just like the land near the new middle school just came back for non-payment of special assessments.

Mayor Helbling interrupted Beehler for a second time directing her once again to address the street improvement discussion only.

(Beehler): Area 2 is a similar cost. If the city would not be assessing these properties and have them come back in property foreclosure the rest of us who have been loyal taxpaying residents would not have to pick up the tab and would be willing to pay for street assessments. Policies like these are a hindrance to keeping our residents physically fit. We as residents of Mandan have accumulated enough debt already from developers close to \$100 MILLION according to an interview with our Mayor.

Mayor Helbling interrupted Beehler again directing her to address the street improvement discussion only, if not she will be asked to sit down.

(Beehler): Of that debt 60% to 70% is developer driven, property tax pays this debt off. Why as a citizen moving here 20 years ago should I now have a legacy to leave my children a debt and if they don't pay they would not be able to keep the home of their youth?

Commissioner Jackson requested a Point of Order because Beehler is not talking about the street assessments.

(Beehler): Go back and scope down these projects. Why is the city picking up the cost of a school parking lot? And on the other hand exempting properties which could bring residents to share in the cost of schooling their children? I really feel the City Commission has done a huge disservice to its citizens. We had some of the highest number of our citizens in North Dakota voting for Measure 2 to eliminate property tax. Prove to us we can have some local control and go back to the drawing board, down scale these projects, give a proper resolution of necessity don't wait 6 months before publishing a district. Give the people due process, don't try and make the project so huge the voices of the people get lost in this.

Today is Juneteenth day this was the actual day slavery ended, please do not bind us, we as residents know what we can afford if we protested; it was because the proposal was beyond our means, PLEASE do not continue with instituting more and more taxes on us, it is unsustainable!! At what cost are you, the city commissioners trying to grow our city?"

Commissioner Jackson asked Beehler if she is within the district. Beehler replied "I don't have a clue". She requested the whole assessment process start over.

Mayor Helbling asked City Attorney Brown if this process has been done legally and according to the N.D.C.C. Attorney Brown referenced N.D.C.C. Chapter 40-22 “Improvements by Special Assessments”. It covers the sewer, storm system, water, paving streets, and any kind of improvement that the City is going to do and it is paid for by assessments against any of the property that it will benefit. Storm water and sewer and water improvement districts cannot be protested out. Street improvement districts can be if the majority of the property owners protest and the majority would be more than 50%. The protests for this project are approximately 28%. He stated he read the map in the newspaper notice and that he did not have a problem figuring out what it said. Mayor Helbling (to Beehler) stated that is the legal advice the City follows as provided by the City Attorney who knows the century code and the commission follows his opinion. At no time does the City Commission try to violate the law in any way, shape or form. If the City Attorney advises otherwise, the City Commission would definitely not be proceeding. This is a very complex project and has taken this long because of the cost of the project. It started in the Diane’s area because the streets are bad. The cost was high so a second look at the costs was conducted. Because of the complexity, an outside engineer was hired to look at it and to provide other alternatives. That engineer’s office came back and the costs were still very high. An attempt was then made to make the area larger and try to get more bids in order to bring the costs down in that way. What is in front of us today shows that the costs have not come down, and they will continue to go up. If we put it off for another year, will the costs be another 30% higher then? Again, everything is published. The City is not required to send out the letters or draw up the maps. However, that was done so everyone would be informed to the best of the City’s ability to get the information out to residents so whether or not you are for or against the district, you will have the information in front of you. In fact, the amount of the documentation that is requested to be sent to Ms. Beehler by the City is probably equivalent to a full-time position. You (Beehler) are requesting documentation after documentation and that uses a lot of staff time that it has become overwhelming with staff to keep up with providing documentation requests in addition to their regular duties. You continuously ask the Commission to keep the taxes down; however it is difficult for the City Commission to do that when unnecessary requests are burdensome to staff. It is hard on the Commission and it is very hard on the staff. Please keep your comments to the item at hand and we will deal with that only. Mayor Helbling directed Ms. Beehler to sit down.

Mayor Helbling stated again that this is the time and place set for a public hearing to determine the sufficiency of protests for Street Improvement District No. 161, (North Mandan Street Improvement). He invited anyone to come forward at this time to speak.

Dennis Kary, a resident who lives on 11th Street came forward to comment. His question was regarding the 3 major arterial streets referenced earlier. From the refinery west to Collins – that is Old Red Trail, correct? According to the map that area will be fixed. However, large numbers of people are using that road so why can’t they help with the cost? Across the street is a large oil transport company and they are using that road all the time. Bechtel stated that question has come up before and the City does contribute money to arterials. Old Red Trail is one of those arterials but the City did not apply for

federal money because Tesoro and property owners are in that area and the City chose to use them as a mechanism for special assessments. It is a simple overlay and it appeared that the costs to Tesoro and the adjacent property owners would not be excessive enough to go outside the district to special assess. Tesoro owns the parcel at Collins and 1806 so they are being assessed. Bechtel stated that the City has requested federal funds to help with costs to realign and relocate that entire section of road over the next 5 years and that project will be assessed to a larger district area at that time.

Lorraine Sauter, a resident who resides on 11th street came forward and commented that two years ago the water and sewer was done on that street and when they finished they only paved half the street. She asked why the whole street was not paved at that time? Mayor Helbling replied that with the sewer and water project, if the project is a repair project they are paid for out of the Utility Fund and the City does not apply special assessments. That was one of those projects and the City repaired only what was disturbed and the property owner was not assessed. There is another project going up in that area and the City will be using utility funds for that project in order to keep the costs down for the homeowners.

Jerome Dietrich who resides north of Division Street on 4th Avenue Northeast came forward and stated that the street has been there approximately 21 years. He indicated that only minor repairs have been done in those 21 years, the most recent being about 10 years ago when some tar was dumped on the cracks. He questioned why the street has not been maintained on a more regular basis. Mayor Helbling replied that there is now a plan in place wherein the newer areas of town will be crack sealed on a regular basis. Funding and staffing are issues that are being dealt with but a plan is in place.

John Mindt who resides at 13th and 6th came forward and commented that the refinery road was damaged when the sandbagging was done by the gravel and sand trucks during the flood. He suggested they be included in fixing that road. He voiced concern that he has been noticed twice because he has a corner lot and he will be assessed twice as much as his neighbor. Mayor Helbling commented that with regard to the refinery road, that road was badly in need of repair before the sandbagging occurred. The City attempted to get funds from the federal government and that request was denied. Amoco refinery, Tesoro refinery and the property owners to the west will be assessed for the Old Red Trail Road repair. Bechtel addressed the corner lot homeowners stating that those people were assessed approximately one-half of what a normal lot would be indicating that they would have one-half from one street and one-half from another. Bechtel will review the assessments Mindt questioned, at about \$8,000 - \$9,000.

Janice Frank, a resident who lives on the corner of Linda and Boundary came forward and questioned whether Boundary Road is going to be maintained? She inquired if the water table issue will be studied because the water is so high. Bechtel replied that Boundary Road is on the list of roads that will be repaired and the water table will be addressed at that time.

Sheila Froehlich, a resident on 7th Street and John's Drive, came forward and voiced concern that her assessment will be \$5,000 - \$7,000 for John's Drive and 7th Street will be about \$10,000 so she is concerned about \$20,000 in assessments. She is on a corner and she is okay with that. However, there are only 4 homes on 7th street sharing the assessment costs. She suggested that all homeowners in that development area who use 7th Street should be assessed too. She voiced concern that not enough notification time has been given to the homeowners to protest this out stating that less than a month is not sufficient when the City has been working on the whole project since 2011. She commented that she thought it was not appropriate not to allow Susan Beehler to ask questions (earlier in this meeting). She commented that the City is here to serve the public and that citizens have a right to request whatever documentation they want. Mayor Helbling acknowledged that the City is to serve the public; however, he replied that Ms. Beehler requests the same documentation from different departments thus duplicating efforts of City staff. Mayor Helbling said that some processes can be improved to assist residents, one of them being putting more information on-line at the City's website.

Darlene Kautzman a resident who resides at 2nd Avenue and 11th Street came forward and recommended that no matter where anyone lives within the City, that one assessment be imposed so everyone pays the same amount. Mayor Helbling commented that Minot assesses a property tax that everyone pays into thus there are no special assessments. In Mandan, over the last 50 years the streets were not kept up so how does the City switch over to a system like that? If one started with a clean slate or could borrow all the money needed to cover all the outstanding and upcoming projects, that would work nicely to implement such a program.

Alice Ereth a resident who resides at the corner of 6th Avenue and 15th Street Northwest came forward and voiced concern that she lives across the street from Lewis and Clark school. She objects to being taxed for both streets because school buses along with many people use the streets that she pays the specials on.

George Walker a resident who resides at 412 11th Street Northwest concurred with the previous residents testimonies. He stated he protests this assessment. As does Betty Thorson a resident who lives on the corner of 400 15th Street across from Liberty Heights who voiced concern that the estimate she was given for her assessment will be \$32,000.

Claudia Dietrich a resident who resides at 4th Avenue Northeast came forward to speak. She requested an explanation of where the tax money has been going all these years. She noted that the protest period was about a week and she did not think that was sufficient time for homeowners to gather information and provide something in written format. City Attorney Brown stated that all that is required by law to notify people about the creation of a special improvement district is the resolution and map that is published in the local newspaper and that gives an outline when to protest. The letter is provided as a courtesy notice to residents regarding the special assessments, not what they are going to be. That letter is not required by state law. The City is following state law under Chapter 40-22 "Improvements by Special Assessment". Whatever special assessment the

homeowner receives is determined by the Special Assessment Commission when the project is done if in fact it goes through. Under Chapter 40-22 the purpose of the Assessment Commission is to determine to what extent each particular piece of property in the improvement district is benefited by the improvement. It is not a tax; it is an assessment for the costs of the improvement. Can that Commission take the costs of that project and have everybody pay something for 7th Street? Yes, they could do that. He commented that with regard to the letter that was sent out allowing for time to protest – the letter is not a requirement, thus any timeframe would be moot. Mayor Helbling commented that this matter has been pushed ahead in order to get a contractor locked in to complete the project yet this year.

Sheila Froehlich came back to the podium and commented about getting contractors from out of state indicating that we should try to keep the business local. She asked how one would go about getting a city-wide assessment put to vote? She also requested an explanation as to where the tax money has been going if it has not been going to street maintenance. Mayor Helbling replied that all major arteries have been updated over the last several years. Mandan property taxes were low for several years and as a result the road work was not done. He stated that since he became a Commission member 14 years ago, none of the infra-structure had been kept up. The water plant and waste water plants were both in trouble. Commissioner Rohr indicated that when he came to Mandan in 1986, the No. 1 concern of the citizens at that time was Mandan streets and it came up again and again with the City growing. The street portfolio was handed to Commissioner Rohr when he became a commissioner in 2010. He mentioned that the staff at the service department is about the same number as it was 30 years ago for maintaining streets and equipment. He pointed out that by delaying the project now, the City will more than likely see increased costs later. Mayor Helbling commented that there are about 28% in opposition to this project. However, he said he has received just as many comments from people who are in favor of pushing the project ahead. Froehlich recommended starting this project over and to check into a city-wide assessment that would also include regular maintenance on the streets.

George Walker approached the podium again. He questioned whether all corner lots are assessed and based the same? Bechtel commented that it depends on the lot size and they are normally assessed approximately one-half of what a normal lot would be indicating that they would have one-half from one street and one-half from another.

Jerry Roth a resident on Linda Drive came forward and said he didn't respond because he couldn't figure the map out and wondered if others didn't respond for the same reason.

Charles Lachenmeier a resident who resides at 11th Street Northwest came forward and inquired if the residents on Collins would not be assessed for this work because they were already assessed? Bechtel replied that is correct. Lachenmeier asked why they were assessed on it from Collins to 6th and then from Collins to the northeast. Bechtel replied that as explained earlier, what the City does with arterial is the costs are spread into a district half way to the next arterial. So with Collins it would be 6th Avenue where the high school is so it would be half that and then into the other direction, Mandan Avenue

would be the next arterial so it would be half way from Collins to Mandan Avenue. Lachenmeier stated he would like to see all specials divided out between all the citizens of Mandan. Mayor Helbling replied that in a perfect world that would be an ideal plan. Before that could happen, all current outstanding specials would have to be paid by the homeowner plus these specials on this large project would be added to any existing specials owed plus any upcoming projects in other parts of the City would have to be split and added to existing specials currently owed. Lachenmeier concurred with the previous residents testimonies in opposition to the assessment. He stated he protests this assessment.

Susan Beehler approached the podium again. She stated one of the things she wanted to bring up N.D.C.C. 40-22-18 requesting City Attorney Brown to review a portion that says “If the governing body finds a protest to contain the names of the owners of the majority of the area of the property included within the improvement district the protest shall be a bar against proceeding further.” If the governing body finds the protest to contain the names of the owners of a majority of any separate property, that’s why she listed those streets because she believes that a separate property could be protested out too. She asked if this is correct. So this means if 11th street protested out they could be excluded, (that is her legal interpretation). She questioned Attorney Brown as to his legal interpretation on this section. Attorney Brown stated that is his interpretation of the law as well. He also stated that according to Mr. Bechtel, there was not a majority of protests received in any given area that would be sufficient to protest out any area. Bechtel replied that is correct and since he has been in his position, the district “lives and dies” as a whole. The project was divided into six areas by the engineering firm and the protests were aligned with those six areas. The most in any area within the district was 40%, all others being less than that. Bechtel stated that a group from 15th Street Northwest has protested and the City is working with them on it. They agree the work needs to be done and the City has been working with them to cut down costs to more than half.

Mayor Helbling again announced that this is the time and place set for a public hearing to determine the sufficiency of protests for Street Improvement District No. 161, (North Mandan Street Improvement). He invited any more residents to come forward at this time. Hearing none this portion of the public hearing was closed. City Attorney Brown recommended there be a finding as to whether the protests were sufficient or not. According to the information provided by Engineering Project Manager Bechtel there was insufficient protests received.

Commissioner Frank motioned to declare that there were insufficient protests received to protest out for Street Improvement District No. 161, (North Mandan Street Improvement). Commissioner Tibke seconded the motion. Commissioner Frank extended an acknowledgement to all homeowners who came and spoke on behalf of this assessment. She noted that even though this will be a huge undertaking at this time, that it is an investment into the future of generations to come. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

4. *Public Hearing to consider an Ad Valorem tax exemption for TRUENORTH STEEL, Inc.* City Administrator Neubauer reviewed with members a request for a tax exemption for TRUENORTH STEEL, INC. The request is for a new shop addition to the existing building. There was no opposition received. The County, Park and School Districts were given notice. The Mandan Growth Fund Committee (MGF) reviewed and unanimously approved the request for a 100% 5 year exemption dependent upon the claw back conditions regarding if the facility would be sold to a tax-exempt entity within 5 years from expiration of the exemption period and also under state statute. Luke Richter, TRUENORTH STEEL, INC. was present to answer any questions. Commissioner Frank inquired why the MGF Committee approved this at 100% at 5 years rather than in the increment exemptions. Neubauer replied that it appeared that the business met the criteria required under the City of Mandan's policy for new/expanded businesses for job creation and number of employees, etc.

Commissioner Rohr moved to approve an Ad Valorem tax exemption for TRUENORTH STEEL, INC. at 100% exemption for up to 5 years dependent upon meeting the claw back conditions subject to repayment if the facility would be sold to a tax-exempt entity within 5 years from expiration of the exemption period and also under state statute. Commissioner Tibke seconded the motion. Commissioner Frank commented that the Commission should follow protocol established by policy for these matters as far as consistency in granting 100% exemptions if the jobs requirements are met for years 3 through 5.

Mayor Helbling announced this is a public hearing to consider an Ad Valorem tax exemption for TRUENORTH STEEL INC. and invited anyone to come forward to speak for or against the request. A second invite was extended. Hearing none, this portion of the public hearing was closed. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Helbling: Yes; Commissioner Jackson: No. The motion passed.

BIDS:

1. *Consider bids for the purchase city-owned property and demolition of former water reservoir adjacent to 8th Avenue NW.* City Administrator Neubauer stated that there have been no bids received for the sale of this property and it would be his recommendation to facilitate the sale of the property once again. Mayor Helbling suggested putting the property on multiple listings, set a fixed price, and maybe the staff could determine their recommendation for that price for the next meeting. Administrator Neubauer recommended that the listings contain the same conditions as outlined in the previous listing.

Commissioner Jackson moved to approve putting the city-owned property and demolition of former water reservoir adjacent to 8th Avenue NW up on multiple listings with the same contingencies that were previously listed. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

2. *Consider bids for Class D & Class D-1 alcohol licenses.* City Administrator Neubauer stated that at the 5/15/12 meeting the Commission approved of issuing one additional Class D license and two Class D-1 licenses. He recommended awarding the Class D license to Ozark Spirits (Walmart Stores) for \$80,000 and awarding a Class D-1 license to Missouri Valley Petroleum (looking at the Sunset Tesoro station) for \$36,001 and a Class D-1 license to Petro USA (formerly known as the old Village Mart location in southeast Mandan) for \$40,711.

Commissioner Frank moved to approve the award of the Class D license to Ozark Spirits (Walmart Stores) for \$80,000; to award a Class D-1 license to Missouri Valley Petroleum for \$36,001 and a Class D-1 license to Petro for \$40,711. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. Finance Director Welch stated that the money collected for these license fees will be deposited into the City's General Fund.

3. *Consider award of bids for Street Improvement District #161 (North Mandan Street Project).* Engineering Project Manager Bechtel reviewed with the Board the two bids received on May 31, 2012, for this project from Northern Improvement and Mariner Construction. The Engineer's bid from the consultant was \$8,860,707.00. Bechtel recommended awarding to low bidder Northern Improvement for \$8,978,372.48. With regard to 15th Street, the costs were cut back due to a change to a mill and overlay. That area is a cul-de-sac and there are 11 homeowners in that area who basically use that street thus it was an option to cut back costs in that area. Bechtel stated that he will continue to review the other areas within that district for cost savings for homeowners. Commissioner Jackson expressed concern that the work to be done on 6th Avenue Northeast will be spread out equally. Bechtel replied that the City does have some flexibility in revising the contract later (through change orders) stating that most contractors are easy to work with in that regard. Commissioner Jackson inquired as to what other funding is available in addition to the Urban Roads Funding from a state and federal funding participation for this project? Bechtel replied that he is not aware of any other funding availability. The consultants said they would research that for us. Bechtel indicated that those funds would have to be in place before the bids are accepted. Mayor Helbling noted that the arterial streets such as Division Street were done with federal monies in order to keep the cost of this project down and in the last couple years the City did expend monies available that were spent on those streets. Bechtel said that Division Street, 3rd and 14th Streets were part of the stimulus-era funding and 6th Street was also but the funds ran out beforehand. That's the reason why this project was not done with the federal funding and due to the constraints the DOT puts on, (timeframes to apply for those funds which is usually 3-5 years out), this project did not make that list for those funds. However, 6th Street is included in this project this time around. Commissioner Jackson inquired if there are any funds available for non-arterial streets? Bechtel replied that he is not aware of any.

Kevin Magstadt from Wenck Associates came forward to clarify. He stated that this project is considered a maintenance project thus there are no federal or state funds

available for it unless the City is within impact oil zones and Mandan is not considered as such.

Commissioner Frank inquired why Mandan High School parking lot is on the list of improvement projects. Bechtel replied the School Board made a request to have it improved and it is within this district. The School District will be funding this portion of the project.

Mayor Helbling went back to a previous question regarding Susan Beehler's property, whether it is within this district. Bechtel replied that it is within the district boundary but she is not receiving any benefits from the improvement within the district.

Commissioner Frank moved to approve the bid award to the low bidder Northern Improvement for Street Improvement District #161 (North Mandan Street Project) in the amount of \$8,978,372.48. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Mayor Helbling commented on the implementation of larger special assessment projects, in particular, the Commission has the authority to allow special assessments for up to 30 years. He provided some examples such as that anything under \$10,000 worth of assessments be allowed up to 10 years and any assessments over \$10,000 be allowed up to 30 years. He suggested that some kind of staggered type of assessment payment program should be considered by the Commission as options for homeowners when the project is assessed out.

Mayor Helbling extended an apology to Susan Beehler in regards to the reprimand issued to her earlier in the meeting. Commissioner Rohr, in support of Mayor Helbling's apology, commented that during his experience as Police Chief, similar situations for continuous and/or repeated requests were received by the Police Department and stated that at times there is a line one needs to draw between what is reasonable and unreasonable.

CONSENT AGENDA:

1. *Consider approval of monthly bills. The Board approved of the monthly bills.*
2. ~~*Consider approval of authorized check signers.*~~
3. *Consider entering into an Engineering Services Agreement with Advanced Engineering for the Waste Water Treatment Plant Effluent Lift Station and Outfall Pipeline Rehabilitation. The Board approved of entering into an Engineering Services Agreement with Advanced Engineering for the Waste Water Treatment Plant Effluent Lift Station and Outfall Pipeline Rehabilitation.*
5. *Consider entering into an Engineering Services Agreement with Advanced Engineering. The Board approved of entering into an Engineering Services Agreement with Advanced Engineering.*

6. *Consider approval of annual liquor licenses for July 1, 2012 through June 30, 2013.* The Board approved of annual liquor licenses for July 1, 2012 through June 30, 2013.

7. *Consider approval of annual Special Sunday openings.* The Board approved of the annual Special Sunday openings.

Commissioner Frank moved to approve the Consent Agenda items No. 1, 3, 5, 6 and 7 as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

Mayor Helbling requested this item be removed for discussion:

4. *Consider for approval, a request by St. Alexius Medical Center to close a portion of Main Street on August 7th, 2012.* Engineering Project Manager Bechtel reviewed a request from St. Alexius to close a portion of Main Street on August 7th for a co-sponsored event with Kohl's. Mayor Helbling commented that since this is a private business he does not agree with closing Main Street for the event. Perhaps a side street might be considered but a Main Street closure is not something he feels the City should be allowing. Commissioner Tibke concurred with Mayor Helbling. Commissioner Rohr motioned to deny the request from St. Alexius to close a portion of Main Street on August 7, 2012. The motion received unanimous approval of the members present. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider authorizing a change order on Street Improvement District No. 168, Project No. 2011-09 (Heart Ridge Addition Phase I).* Engineering Project Manager Bechtel reviewed with members a request for a change order for the Keidel's South Heart Terrace project. He stated that the contractor is in agreement to accept the work and extend the prices from the District #167 and forego the bidding process. Bechtel recommended approval of the request. City Attorney Brown indicated that he is not aware of any reason not to proceed with the change order as presented.

Commissioner Frank motioned to approve the authorization for a change order on Street Improvement District No. 168, Project No. 2011-09 (Heart Ridge Addition Phase I) as presented. 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.

2. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications for, and authorize a change order for Street Improvement District No. 171, Project No. 2012-10 (Heart Ridge, Phase II).* Engineering Project Manager Bechtel reviewed with the Board a request for the creation and approval of the feasibility report for, approve the plans and specifications for, and authorize a change order for Street Improvement District No. 171, Project No. 2012-10. The developer is requesting special assessments of street costs to the benefitting properties for the development of an

additional phase. The project will take place on 14th Street SE, 7th Avenue SE and 14th Street NE. This phase will bring another 11 single family residential lots and 6 multi-family lots online for building. Bechtel recommended approval of the request.

Commissioner Frank motioned to approve the creation of, approval of the feasibility report for, approve the plans and specifications for, and authorize a change order for Street Improvement District No. 171, Project No. 2012-10 (Heart Ridge, Phase II). Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *Consider the execution of a 3-way agreement for the installation of water & sewer in Heart Ridge Addition Phase II.* Engineering Project Manager Bechtel reviewed with the Board a request to approve the execution of a 3-way agreement for the installation of water & sewer in Heart Ridge Addition Phase II. This request is in conjunction with the project on 14th Street SE, 7th Avenue Southeast and 14th Street Northeast. A letter of credit has been received in support of this request.

Commissioner Jackson moved to approve the execution of a 3-way agreement for the installation of water & sewer in Heart Ridge Addition Phase II. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

4. *Consider approval for advertising the RFP for the Comprehensive Plan.* Engineering Project Manager Bechtel reviewed with the Board a request to approve advertising for an RFP for the Comprehensive Plan to qualified consultants interested in providing professional services. Commissioner Frank mentioned the delineation of housing, land use and transportation as the key topics that were brought up. But how are the other components that need to be addressed going to be conveyed as to their importance? Bechtel replied that the RFP and the top elements will be discussed with each consultant. Bechtel stated that he will visit with the Park and Recreation District for their input and if necessary modify the RFP to meet their needs. Commissioner Frank stated that the Park District is open to contributing to the costs in order to incorporate their requests. Commissioner Rohr commented that with these studies it is the responsibility of the Commission to make sure the action plans are addressed by respective departments. Commissioner Frank concurred with Commissioner Rohr and suggested that after the Comprehensive Plan is in place, that it be brought down to the committee level and subsequently brought before the Commission with recommendations.

Commissioner Tibke moved to approve advertising the RFP for the Comprehensive Plan. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

5. *Consider creation of a Mandan Youth Commission.* Commissioner Frank reviewed with the Board a recommendation to the creation of a Youth Commission. She explained that the Youth Commission will represent Mandan's youth in public hearings and provide testimony that reflects the youth perspective. Members will work with the City, non-profits, community organizations, and private entities to develop strategies to improve the lives of Mandan's youth. The Commission also will advise the Mayor, City Commission, Mandan Schools, Mandan Parks and Recreation and other key decision makers inside and outside city government. The Commission will be comprised of 11 voting members, 5 non-voting members, middle school, high school and college age level. It is anticipated that the Commission will utilize city staff for assisting with putting out notices and meeting minutes. Fundraising would be the source of finances for any projects associated with this.

Commissioner Tibke motioned to approve of the creation of a Mandan Youth Commission. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

RESOLUTIONS & ORDINANCES:

1. *Consider first consideration of Ordinance No.1124 Zone Change for Heart Ridge Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the first consideration of Ordinance No.1124 Zone Change for Heart Ridge 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 Frank seconded the motion. Commissioner Jackson commented that the residents grudgingly agreed to this and the question to the Commission is if they have any control over what the developer puts up there. The answer is "kind of". You can go in front of the Architectural Review Commission which will have to approve it. That's when some, but not all, of those issues can be addressed as related to the layout and the appearance at that time. Commissioner Rohr commented that when attending conferences that relate to cities experiencing growth, one of the comments heard is that you have to have higher density. Commissioner Tibke commented that she is frustrated with this discussion because it is not the Commission's role to make the developer money. It is their job to look at appropriate development of the property. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Consider first consideration of Ordinance No.1125 Zone Change for Collins Avenue West – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the first consideration of Ordinance No.1125 Zone Change for Collins Avenue West – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

Commissioner Frank had a question with regard to a policy/procedure. She stated that she is not sure if she should abstain from voting on this matter because her husband

periodically works for Steve Kilen. City Attorney Brown indicated that it should not cause a conflict with her position as a member of this Commission. Commissioner Rohr asked Kilen how the building structure will look, appearance-wise. Kilen replied that the blueprint is basically the same as the one down south except the decks will be different. Commissioner Jackson stated that the area across the street is zoned CA and it appears that they may have apartment complexes on them too. He said that it appears that one could not do much with those lots other than multi-family or a single residence and it does not appear to have a need for any restrictions based on the way he has it planned. Commissioner Frank stated that she lives in this neighborhood and she commented that this would be a nice transition for single family and multi-family homes and also that throughout that area there are already several duplex and 4-flex properties. Commissioner Jackson stated that it is his understanding that the Commission cannot make this contingent on the 7' lot being deeded to Ms. Cody. Mayor Helbling stated that his position has not changed from last year and indicated that he does not think it fits the neighborhood and with one of those concerns being access points. Bechtel reviewed a copy of the blueprint of the construction plans. The 20' restriction goes from the finished floor height.

Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: No; Commissioner Frank: Yes; Commissioner Helbling: No; Commissioner Jackson: Yes. The motion failed.

OTHER BUSINESS:

1. *Consider extension request from Scott Johnson for building renovations at 116 East Main Street.* City Administrator Neubauer reviewed with members a request from Scott Johnson owner of 116 East Main Street, for an extension to complete the building renovations. Neubauer reviewed the work that has been completed on the building thus far and stated that it is his recommendation that the request for the extension be granted to Mr. Johnson.

Commissioner Jackson moved to approve the extension request from Scott Johnson for building renovations at 116 East Main Street until September 1, 2012. 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.

1. *Consider for approval the Abstract of Votes cast by the Voters of City Mandan in the Consolidated Primary Election held the 12th day of June A.D. 2012.* Commissioner Jackson moved to approve the Abstract of Votes cast by the Voters of City Mandan in the Consolidated Primary Election held the 12th day of June A.D. 2012. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Presentation of award to Commissioner Thomas Jackson:* On behalf of the City of Mandan, Mayor Helbling extended a *thank you* to Commissioner Jackson for his work and participation on the City Commission over the last four years.

Presentation of award to Mayor Tim Helbling: On behalf of the City of Mandan, Vice-President Tibke extended a *thank you* to Mayor Tim Helbling for his 22 years of service to the City of Mandan, 8 years with the Mandan Park Board and 14 years with the City Commission.

There being no further actions to come before the Board of City Commissioners, Commissioner Jackson moved to adjourn the meeting at 8:51 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City
Commissioners

The Mandan City Commission met in special session at 5:30 p.m. on June 26, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Newly elected Mayor Van Beek was sworn into office prior to the Commission meeting. Commissioners present were Van Beek, Tibke, Frank, and Rohr. Department Heads present were Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, and Engineering Project Manager Bechtel. Absent: Finance Director Welch, City Assessor Barta, and Commissioner Braun.

CONSENT AGENDA:

1. *Consider approval of authorized check signers.* Commissioner Rohr moved to approve Arlyn Van Beek as Board President and Jim Neubauer as City Administrator as authorized check signers for the City of Mandan. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

NEW BUSINESS:

1. *Consider commissioner portfolio and committee assignments.* Commissioner Van Beek reviewed the current portfolio and committee assignments. Discussion was held on the various portfolios and committee assignments.

Commissioner Tibke moved to approve the proposed changes to the commissioner portfolios and committee assignments. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Absent; Commissioner Rohr: Yes; Commissioner Van Beek: Yes. The motion passed.

<u>Portfolio</u>	<u>June 26, 2012</u>
Cemetery	Braun, Mike
Health Inspection	Braun, Mike
Mandan Parking Authority	Rohr, Dennis
Business Development	Braun, Mike
Fire	Van Beek, Arlyn
Public Buildings	Frank, Dot
Police	Van Beek, Arlyn
Mandan Public Library	Tibke, Sandy
Assessing	Frank, Dot
Building Inspection	Frank, Dot
Municipal Court	Frank, Dot
Planning & Zoning	Frank, Dot
Engineering	Rohr, Dennis
Water and Sewer Treatment	Rohr, Dennis
Streets forestry	Rohr, Dennis
Waterline & Sewerline Maintenance	Rohr, Dennis
Solid Waste Utility	Rohr, Dennis
Street Light Utility	Rohr, Dennis

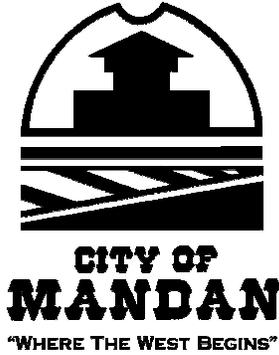
<u>Portfolio</u>	<u>June 26, 2012</u>
Finance	Tibke, Sandy
Mandan Airport Authority	Tibke, Sandy
<u>Committee Assignments</u>	
Renaissance Zone	Braun, Mike
Dakota Media Access	Frank, Dot
Combined Law Enforcement Committee	Van Beek, Arlyn Braun, Mike
Mandan Event Center Committee	n/a
Mandan Growth Fund	Braun, Mike
Mandan Planning & Zoning Commission	Van Beek, Arlyn
Mandan Supplemental Environmental Projects Trust	Helbling, Tim
Mayor's Committee on Employment of People with Disabilities	Neubauer, Jim
Metropolitan Planning Organization	Van Beek, Arlyn
Visitor's Committee	Van Beek, Arlyn
Library Board	Tibke, Sandy
Community Center Advisory Board	n/a
Morton County Planning & Zoning	Rohr, Dennis Frank, Dot
Parking Authority	Rohr, Dennis
Budget/Finance Committee	Tibke, Sandy
Airport Authority	Tibke, Sandy

Selection of a Vice President. Commissioner Van Beek requested a motion for selection of a Vice President for the Board of City Commissioners. Commissioner Rohr asked for clarification from City Attorney Brown as to whether this position was appointed by the Mayor or through a motion from the Board? Attorney Brown indicated that it was a motion through the commission. Commissioner Tibke indicated she was interested in continuing in that roll. Commissioner Rohr motioned to approve Commissioner Tibke as Vice President of the Board. Commissioner Frank seconded the motion. Roll call vote: Commissioner Frank: Yes; Commissioner Braun: Absent, Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Van Beek: Yes. The motion passed.

There being no further actions to come before the Board of City Commissioners, Commissioner Rohr moved to adjourn the meeting at 5:42 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Arlyn Van Beek,
President, Board of City
Commissioners



Public Hearing No. 1

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10, 2012
PREPARATION DATE: July 5, 2012
SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Public Hearing to consider the vacation of the Acteva Addition plat

STATEMENT/PURPOSE: To vacate the Acteva Addition plat

BACKGROUND/ALTERNATIVES: Michael Schmitz, managing partner of Acteva LLC, have made a request to vacate the Acteva Addition plat on file with the City of Mandan. The plat was approved on August 22, 2011.

ATTACHMENTS: 1. Map of the requesting vacated plat
2. Resolutions

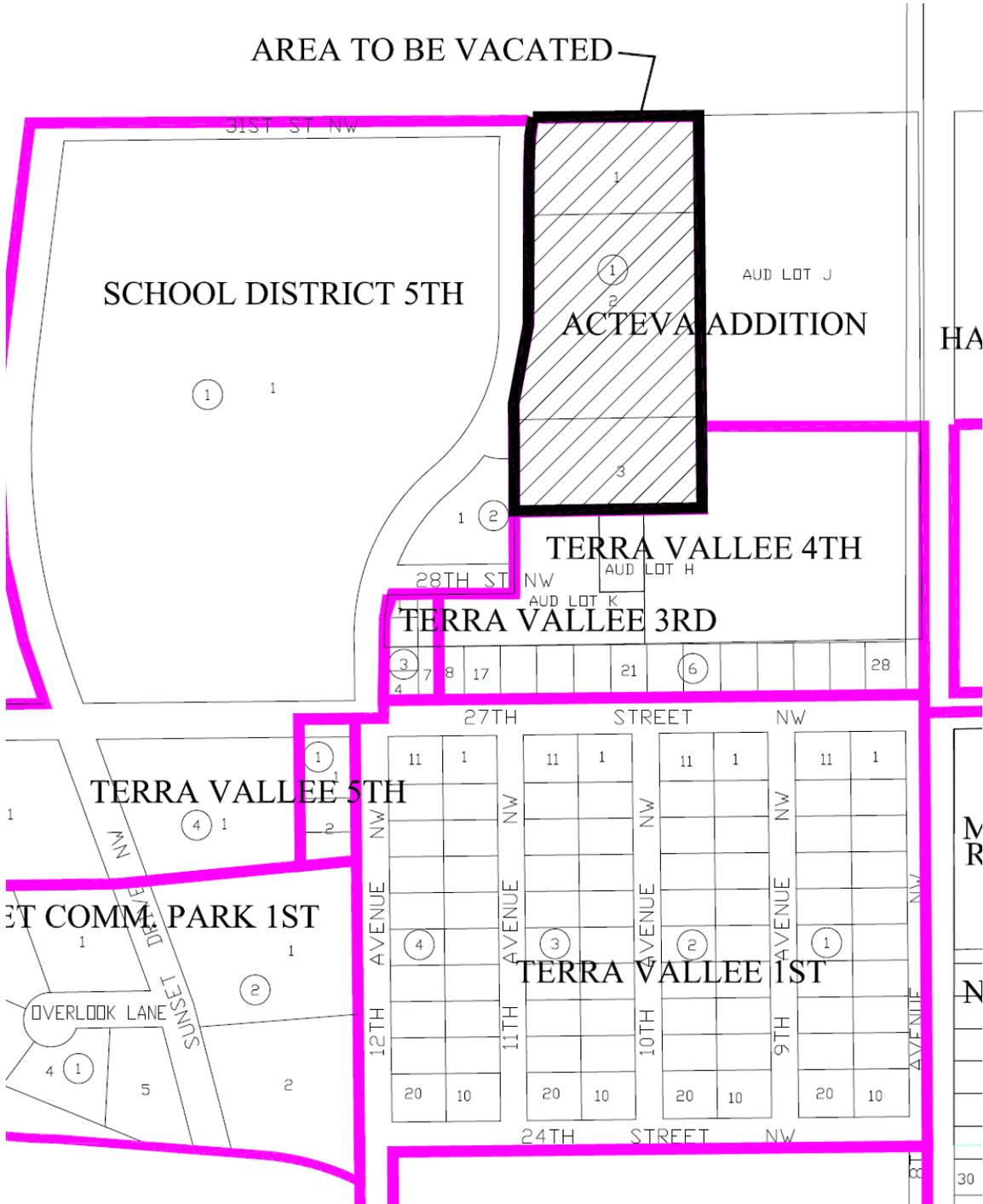
FISCAL IMPACT: minimal

STAFF IMPACT: minimal

LEGAL REVIEW:

RECOMMENDATION: Approve the vacation of Acteva Addition plat

SUGGESTED MOTION: Move to vacate the plat of Acteva Addition in its entirety.



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

WHEREAS, Michael Schmitz has submitted to the Board of City Commissioners of the City of Mandan a verified petition asking that Acteva Addition plat, of Section 16, T139N, R81W of the 5th Principal Meridian, City of Mandan, Morton County, North Dakota be vacated. Fully described as follows:

Acteva Addition plat in its entirety, located in the south $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 16, Township 139N, Range 81W.

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 July 10, 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 10th day of July, 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, North Dakota, that the requested portions above described as Acteva Addition, 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.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Public Hearing to consider the vacation of the Acteva Addition Plat.

Page 4 of 6

Approved and passed July 10th, 2012, by at least two-thirds vote of all the members of the Board of City Commissioners.

President, Board of City Commissioners

ATTEST:

City Administrator

Public Notice Dates: June 15th, 22nd, 29th and July 6th, 2012

Public Hearing: July 10th, 2012

Final Passage: July 10th, 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 plat vacation 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 plat 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 10th day of July , 2012.

James Neubauer, City Administrator
City of Mandan, North Dakota

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Public Hearing to consider the vacation of the Acteva Addition Plat.

Page 6 of 6

**PUBLIC NOTICE OF
VACATION**

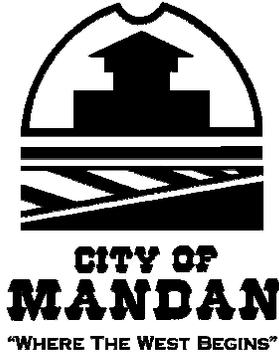
Notice is hereby given that the Mandan City Commission, on Tuesday, July 10th, 2012, following a public hearing, approved a resolution vacating Acteva Addition, in the City of Mandan, Morton County, North Dakota more fully described in the resolution.

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

Dated this 10th day of July, 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 utility vacation resolution.



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10, 2012
PREPARATION DATE: June 29, 2012
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider for approval the application for beer garden and street dance event.

STATEMENT/PURPOSE: To consider approval of the requested beer garden and street dance activities.

BACKGROUND/ALTERNATIVES: Representatives of the Police Dept., Fire Dept, Custer Health, and the Engineering Dept. reviewed the above listed beer garden and street dance application and found them to be in compliance with the ordinance governing their operations. In this round of applications, we have 1 applicant requesting 1 event.

The Drink @ Lakewood – July 14 – 7PM to 1AM

These requests are similar to past years and have been reviewed by the appropriate City officials for compliance. The application appear to be in order and requirements appear to be met for the events.

ATTACHMENTS: 1 Application

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 beer garden and street dance requests as attached.

SUGGESTED MOTION: I move to approve the beer garden and street dance application as recommended by the departments.

City of Mandan

1. Type of license being applied for:
Street Dance _____
Beer Gardens: _____
Both: _____

2. Applicant:
Name: Kacie Johnson
Address: 2300 8th Ave SE Mandan, ND 58554
Date of Birth: 4-12-87
Social Security or Driver's License: _____

3. Name of individual or individuals who will manage or conduct the event:
Name: Kacie Johnson Name: Karla Sadowski
Address: 2300 8th Ave SE Address: 1807 N 7th St Bismarck
Date of Birth: Mandan, ND Date of Birth: _____
S.S. or D.L.: _____ S.S. or D.L.: _____

4. Have any of the individuals listed in answer to questions #2 or #3 ever had a license of any kind revoked or cancelled by any municipal, state or federal authority?
____ Yes No. If yes, explain in detail on a separate sheet giving the date, place and type of business.

5. Have any of the individuals listed in answer to questions #2 or #3 ever been convicted of any crime relating to the sale of alcoholic beverages or controlled substances?
____ Yes No. If yes, explain in detail on a separate sheet giving the date, place and type of business.

6. If you should be applying for a public dance or concert permit has any of the individuals in answer to questions #2 or #3 been convicted within the past five years of any crime against persons, including assault, disorderly conduct, sexual assault, rape and murder.
____ Yes No. If yes, explain on a separate sheet.

7. List the place, date and hours of the proposed event (special not, all applications must be received 30 days in advance of the proposed event). The Drink @ Lakewood
4007 Southbay Drive, Mandan, ND, July 14, 2012
Start @ 7pm 12am.

8. Site Plan: See attached sheets.
 - a. Beer Gardens
 - b. Street Dance

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider for approval the application for beer garden and street dance events.

Page 3 of 4

9. Please provide an estimate of the number of persons that the person conducting the event has determined can be safely accommodated at the site and also an estimate of the number of persons expected to attend:

Maximum Capacity: _____

Expected Attendance: 3000

10. Is there going to be advance ticket sales? Yes _____ No

If yes, please list the maximum amount to be sold: _____

11. What plans are there to limit attendance if there are no advance ticket sales? _____

12. Please list the number and provide an on-the-site plan for the placement of sanitary toilet facilities.

Number of toilet facilities: 8 Restrooms in bar

13. Has the City Health Officer reviewed your plan to determine if your proposed toilet facilities are adequate to meet the attendance?

Yes No _____

14. Fencing and Barricades should be supplied on the site plan.

15. List below a description of the signing which is proposed to control pedestrian and vehicular traffic, parking and notices to the persons in attendance. will be signs showing appropriate and designated parking.

16. Security: Do you intend to use private security or city police officers.

Private City Police _____

17. List the number of security people you plan on using. Street dances provide for the use of police officers:

Private 2 bismans security City Police _____

18. Street Dances and Concerts: have you enclosed fees for the charges for city police officers? List the amount: _____

[Signature]
Signature of Applicant

June 18, 2012
Date

701-595-1516
Telephone Number

Telephone Number

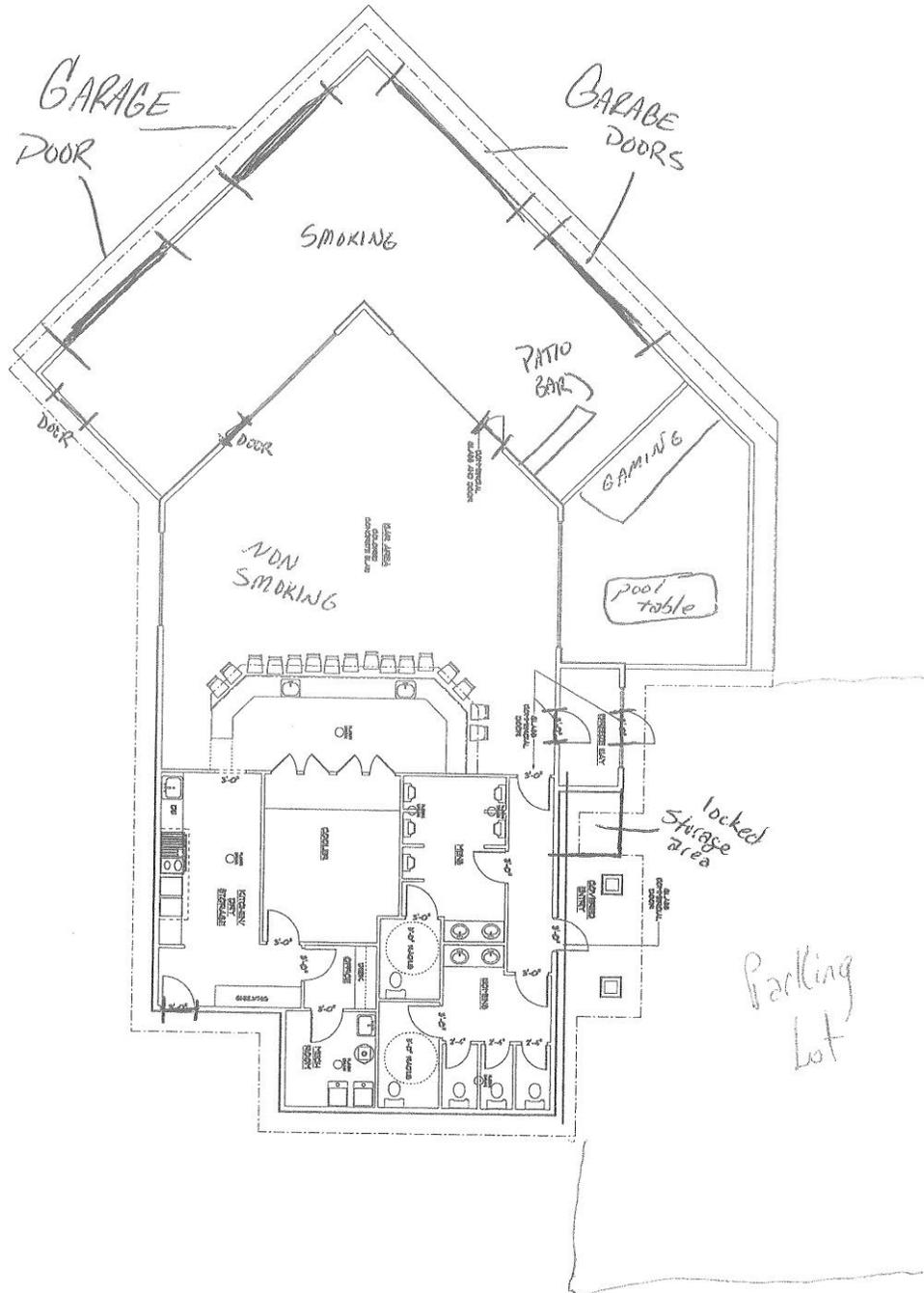
Board of City Commissioners

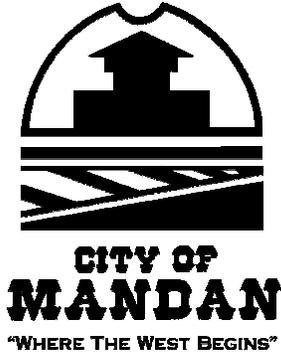
Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider for approval the application for beer garden and street dance events.

Page 4 of 4





Consent No. 2

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10th, 2012
PREPARATION DATE: July 3rd, 2012
SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider for approval the final plat of the Replat of part of Lot 2, Block 1, Lakewood 1st Addition

STATEMENT/PURPOSE: To accept the subject final plat.

BACKGROUND/ALTERNATIVES: Request from Red Door Homes. The Planning & Zoning Commission approved the final plat on June 25th, 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 Replat of part of Lot 2, Block 1, Lakewood 1st.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of the Replat of part of Lot 2, Block 1, Lakewood 1st Addition

Page 2 of 4

MANDAN PLANNING OFFICE REPORT

June 19, 2012

Applicant: Red Door Homes

Owner: same

Requested Action: Final plat approval.

Name of Subdivision: Replat of part of Lot 2, Block 1, Lakewood 1st Addition

Legal Description: Replat of part of Lot 2, Block 1, Lakewood 1st Addition in Section 6, Township 138N, Range 80W

Location: McKenzie Drive SE

Parcel Acreage: 1.96

Number of Blocks: 1

Number of Lots: 13

Preliminary Plat Approval: Short Form

Existing Land Use: vacant

Proposed Land Use: three plex residential

Adjacent Land Use:

Existing Zoning: CB (Heavy Commercial, restricted)

Proposed Zoning: same

Adjacent Zoning: CB (Heavy Commercial, restricted), RM (Multi-Family Residential), MA(Light Non-Nuisance Industrial/Heavy Commercial)

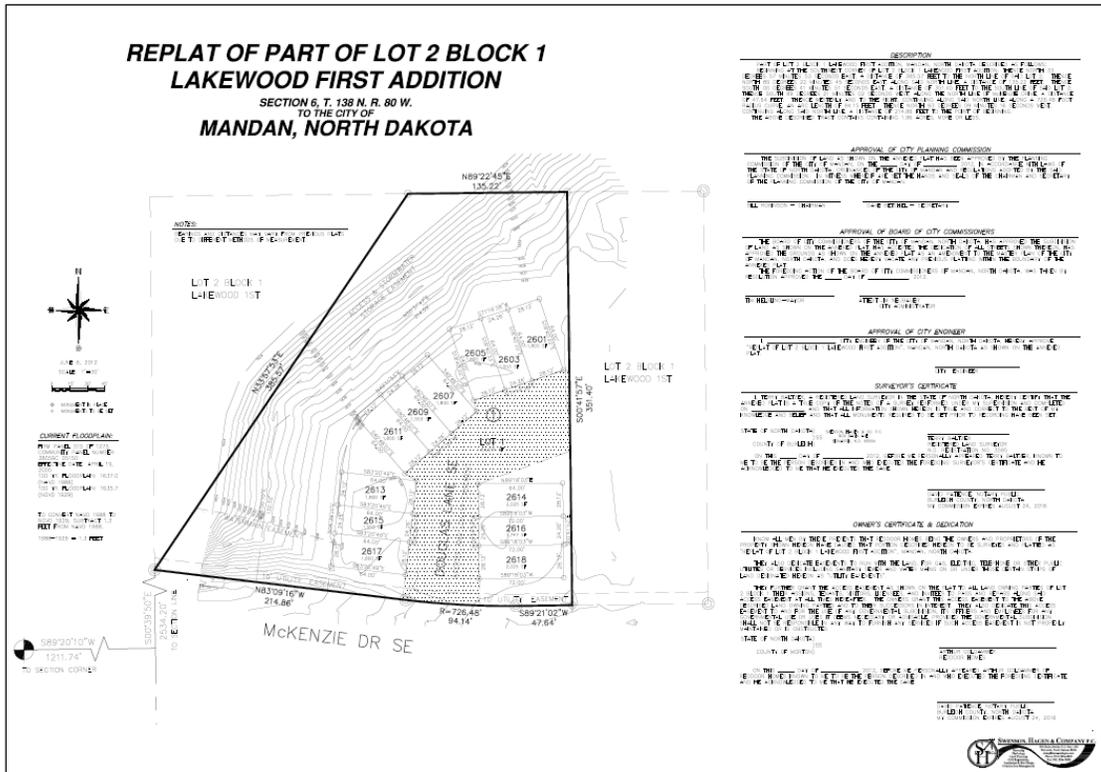
Fee Required: \$250.00

Date Received: June 6, 2012

Adjacent Property Owner Notification: June 14, 2012

Dates of Legal Notices: June 15th & 22nd, 2012

Recommendation: Planning office recommends approval.



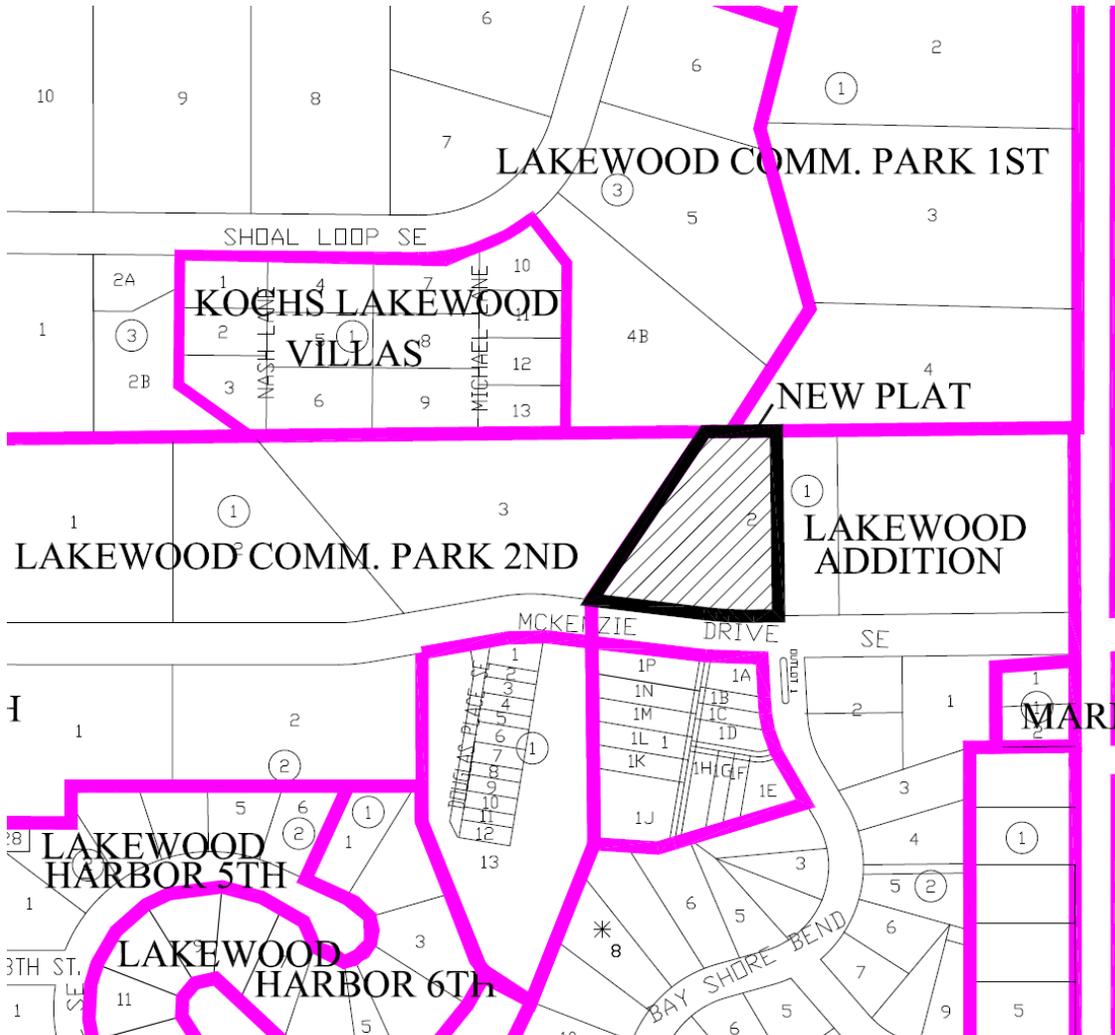
Board of City Commissioners

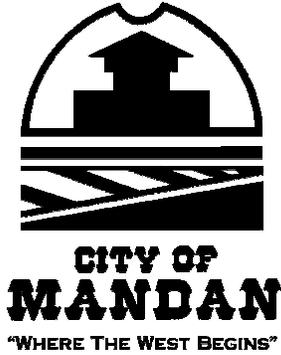
Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of the Replat of part of Lot 2, Block 1,
Lakewood 1st Addition

Page 4 of 4





Consent No. 3

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10th, 2012
PREPARATION DATE: July 3rd, 2012
SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider for approval the final plat of Keidel's South Heart Terrace 2nd Addition

STATEMENT/PURPOSE: To accept the subject final plat.

BACKGROUND/ALTERNATIVES: Request from Morty's LLC. The Planning & Zoning Commission approved the final plat on June 25th, 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 Keidel's South Heart Terrace 2nd Addition.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of Keidel's South Heart Terrace 2nd Addition

Page 2 of 4

MANDAN PLANNING OFFICE REPORT

June 19, 2012

Applicant: Morty's LLC

Owner: same

Requested Action: Final plat approval

Name of Subdivision: Keidel's South Heart Terrace 2nd

Legal Description: Replat of all of Blocks 1 & 2, Lots 1-29 of Block 3, all of Keidel Circle, part of Keidel Trail and part of the SW ¼ of Section 34, Township 139N, Range 81W.

Location: The property is the westward expansion of Keidel's South Heart Terrace residential development.

Parcel Acreage:

Number of Blocks: 4

Number of Lots: 82

Preliminary Plat Approval: Short Form

Existing Land Use: vacant

Proposed Land Use: single family residential

Adjacent Land Use: single family residential, agricultural, USDA plots

Existing Zoning: A (Agricultural) and R7 (Single Family Residential)

Proposed Zoning: R7 (Single-Family Residential)

Adjacent Zoning: A (Agricultural) and R7 (Single Family Residential)

Fee Required: \$250.00

Date Received: June 4th, 2012

Adjacent Property Owner Notification: June 12th, 2012

Dates of Legal Notices: June 15th & 22nd, 2012

Recommendation: Planning office recommends approval.

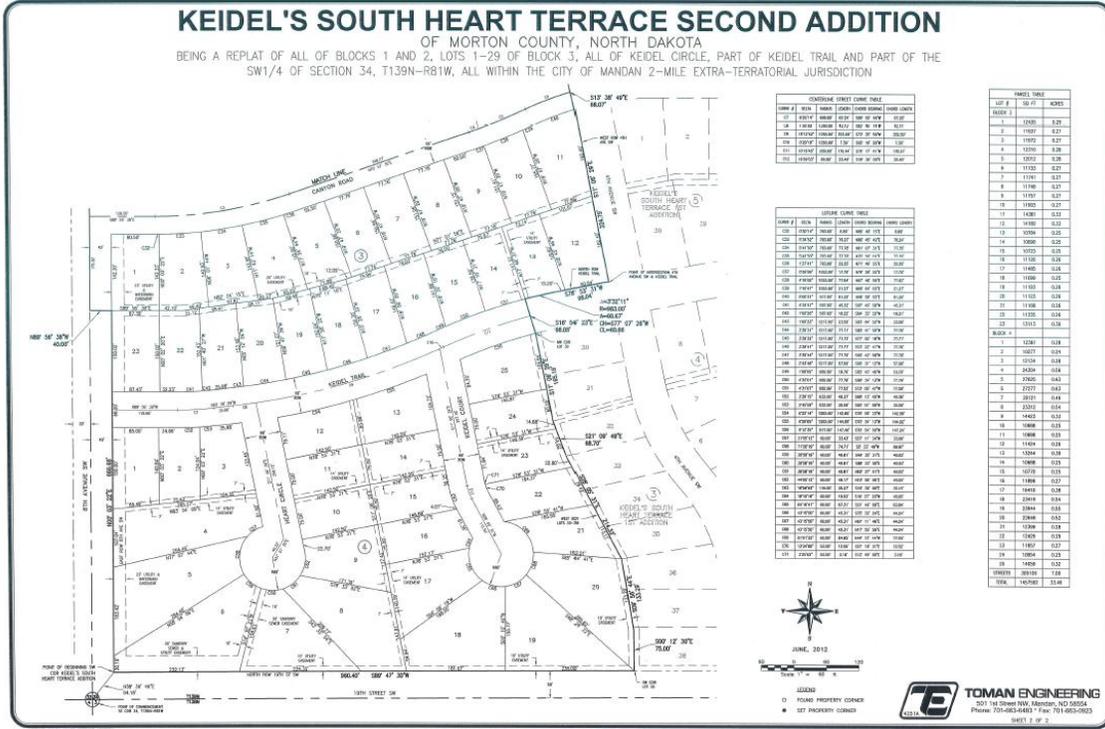
Board of City Commissioners

Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of Keidel's South Heart Terrace 2nd Addition

Page 3 of 4



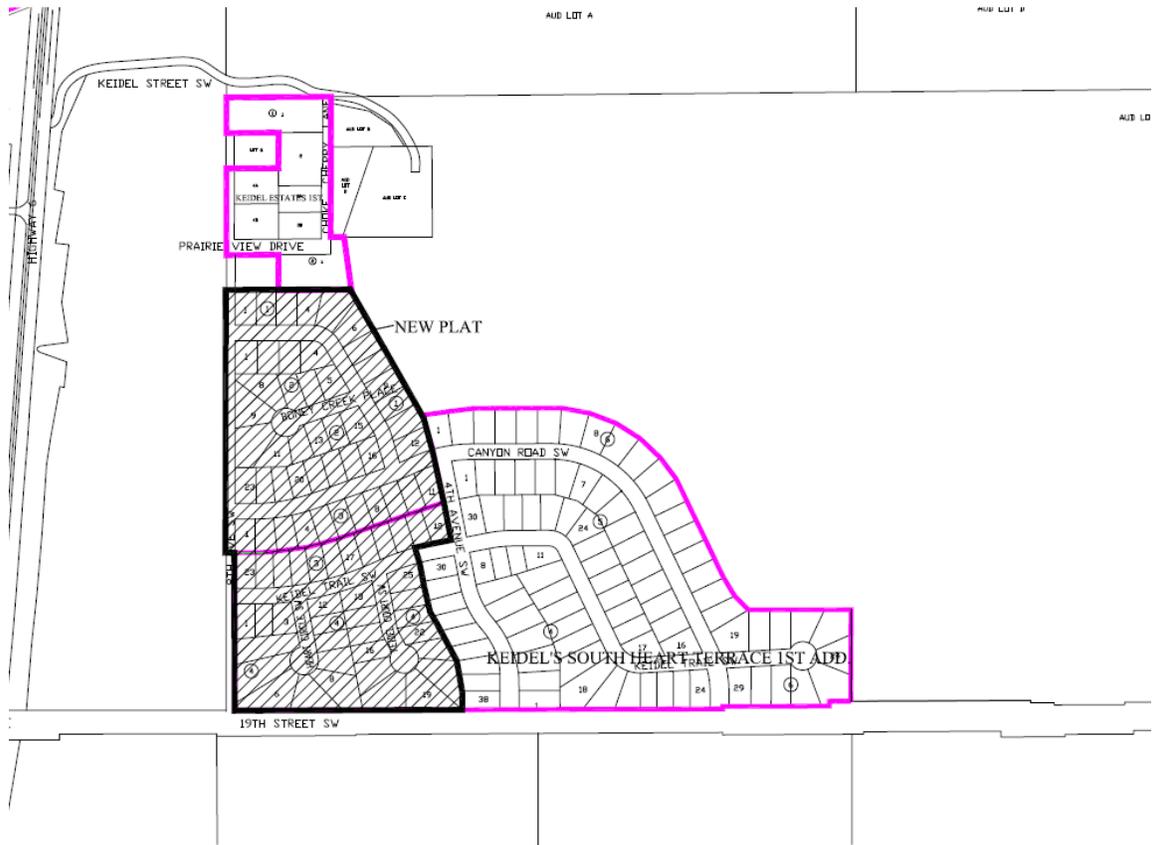
Board of City Commissioners

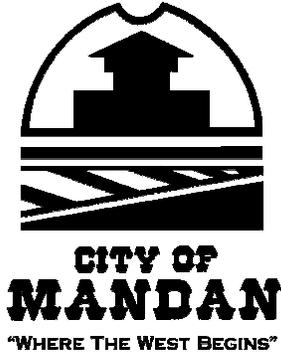
Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of Keidel's South Heart Terrace 2nd Addition

Page 4 of 4





Consent No. 4

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10th, 2012
PREPARATION DATE: July 3rd, 2012
SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider for approval the final plat of Lark Commercial Park 4th

STATEMENT/PURPOSE: To accept the subject final plat.

BACKGROUND/ALTERNATIVES: Request from Joseph Glass, Jr. The Planning & Zoning Commission approved the final plat on June 25th, 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 Lark Commercial Park 4th

MANDAN PLANNING OFFICE REPORT
June 19, 2012

Applicant: Joseph Glass, Jr

Owner: same

Requested Action: Final plat approval.

Name of Subdivision: Lark Commercial Park 4th

Legal Description: all of Lots 1-4, Lots 9A-9D, the vacated portion of 5th Street SE and part of Lot 9, all in Block 1, Lark Commercial Park 2nd in Section 35, Township 139N, Range 81W

Location: 3rd Street SE

Parcel Acreage: 2.06

Number of Blocks: 1 Number of Lots: 6

Preliminary Plat Approval: Short Form

Existing Land Use: vacant

Proposed Land Use:

Adjacent Land Use: Agricultural, Industrial, Heavy Commercial

Existing Zoning: CC (Heavy Commercial)

Proposed Zoning: same

Adjacent Zoning: A (Agricultural), MC (Light Non-Nuisance Industrial/Heavy Commercial), MB (Heavy Industrial/Heavy Commercial), CC (Heavy Commercial)

Fee Required: \$250.00 Date Received: June 8, 2012

Adjacent Property Owner Notification: June 12, 2012

Dates of Legal Notices: June 15th & 22nd, 2012

Recommendation: Planning office recommends approval.

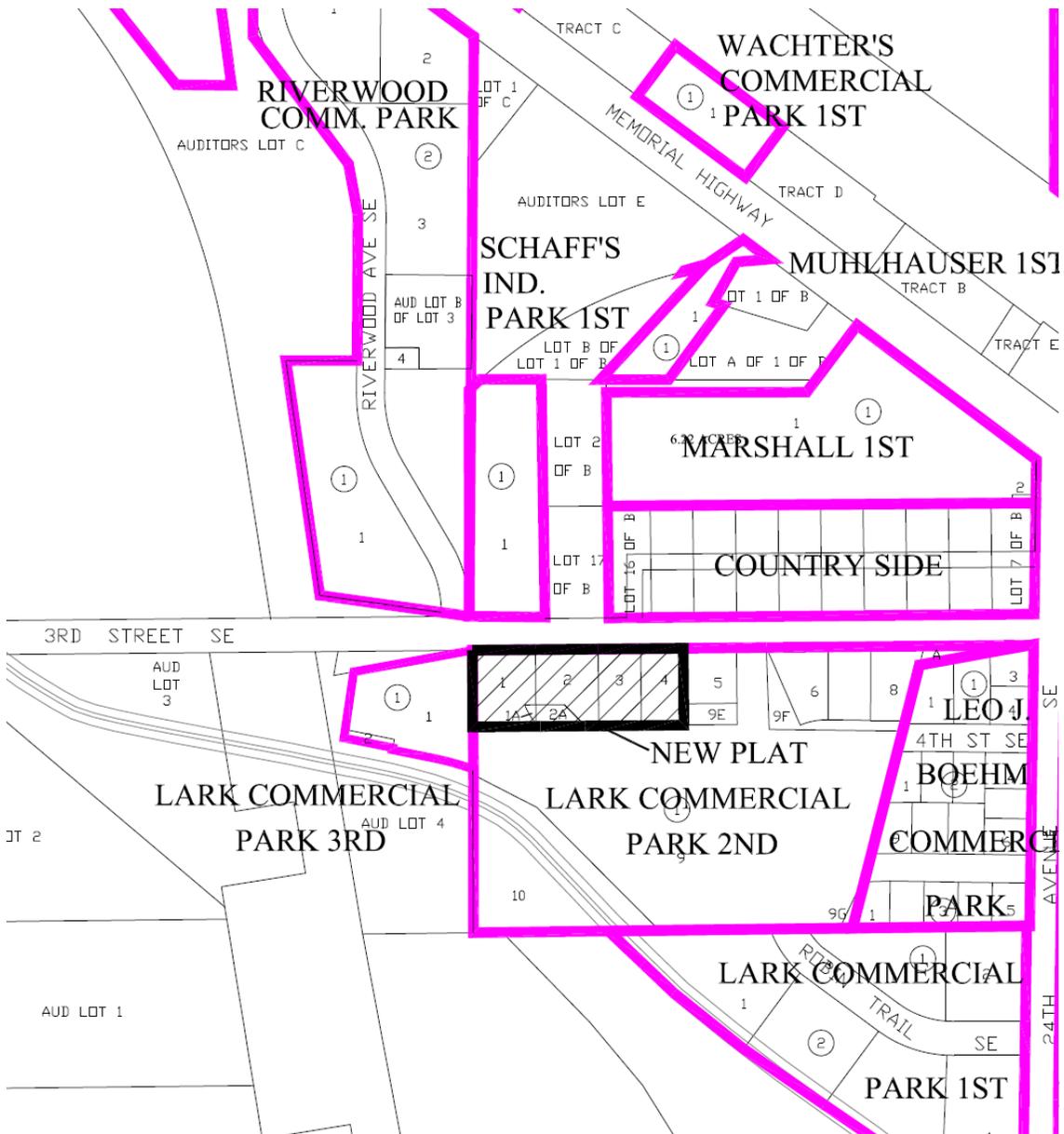
Board of City Commissioners

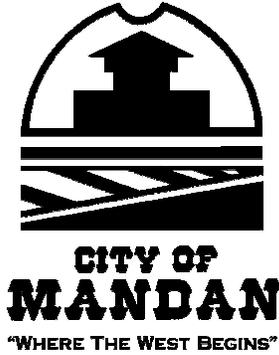
Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of Lark Commercial Park 4th

Page 4 of 4





Consent No. 5

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10th, 2012
PREPARATION DATE: July 3rd, 2012
SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider for approval the final plat of Heart Ridge
2nd Addition

STATEMENT/PURPOSE: To accept the subject final plat.

BACKGROUND/ALTERNATIVES: Request from Wachter Development. The Planning & Zoning Commission approved the final plat on June 25th, 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 Heart Ridge 2nd Addition

MANDAN PLANNING OFFICE REPORT
June 20, 2012

Applicant: Wachter Development

Owner: same

Developer:

Land Surveyor:

Requested Action: Final plat approval.

Name of Subdivision: Heart Ridge 2nd Addition

Legal Description: Part of Lot A of and Lots 1-4, Block 5, Heart Ridge Addition

Location: 19th Street SE

Parcel Acreage: 57.69

Number of Blocks: 4 Number of Lots: 71

Preliminary Plat Approval: Short Form

Existing Land Use: vacant

Proposed Land Use: single family residential

Adjacent Land Use: agricultural and residential

Existing Zoning: A (Agricultural) and R7 (Single Family Residential)

Proposed Zoning: R7 (Single Family Residential)

Adjacent Zoning: A (Agricultural) and R7 (Single Family Residential)

Fee Required: \$250.00 Date Received: June 8, 2012

Adjacent Property Owner Notification: June 14, 2012

Dates of Legal Notices: June 15 & 22, 2012

Recommendation: Planning office recommends approval.

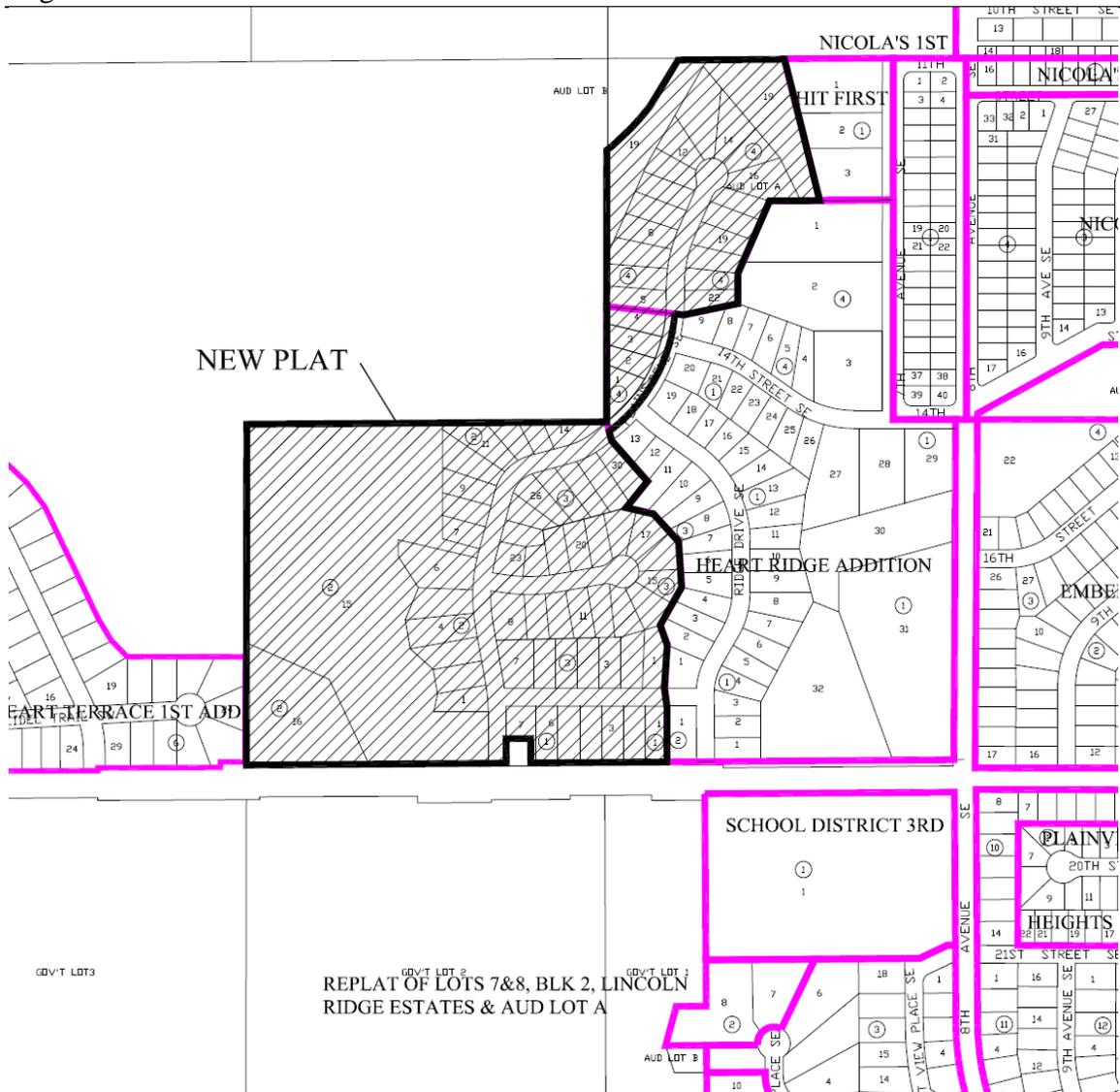
Board of City Commissioners

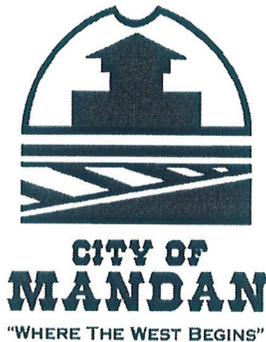
Agenda Documentation

Meeting Date: July 10th, 2012

Subject: Consider for approval the final plat of Heart Ridge 2nd Addition

Page 4 of 4





Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10, 2012
PREPARATION DATE: July 5, 2012
SUBMITTING DEPARTMENT: Finance
DEPARTMENT DIRECTOR: Greg Welch
PRESENTER: Greg Welch
SUBJECT: Pledge of securities reports.

PURPOSE

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

BACKGROUND

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

ATTACHMENTS

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

FISCAL IMPACT

None

STAFF IMPACT

None

LEGAL REVIEW

In accordance with the provisions of NDCC 21-04.

RECOMMENDATION

To approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial

Board of City Commissioners
Agenda Documentation
Meeting Date: July 10, 2012
Subject: Pledge of securities reports.
Page 2 of 2

SUGGESTED MOTION

Move to approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial



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

CITY OF MANDAN
205 2ND AVE NW
MANDAN ND 58554

ACCOUNT SUMMARY

Date : 06/29/2012
Account : 1390030007

ACCOUNT DETAIL

Investment : Repurchase Agreement

From Date : 06/29/2012
To Date : 07/02/2012

Rate : .02000000 %
Principal : \$ 7,950,735.79
Interest : \$ 13.25

REPURCHASE AGREEMENT DETAIL

Collateralized By : \$ 8,305,082.12
FHG-3 : C03823
% Due : 3.50 %
Maturity Date : 04/01/2042
CUSIP : 31292LG82
Sequence : 062912
Price : 105.024784
Accrued Interest : \$ 23,415.72

INVESTMENTS NOT FDIC INSURED



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

FAX

To:	Greg Welch	From:	Janice Richter
Company:	City of Mandan	Pages:	4
Fax #:	701-667-3223	Date:	7-2-12
RE:	Pledge Report		

• The following is the pledge report for the month of June 2012. *This report lists all securities currently pledged for your deposit account(s).*

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

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

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

Thank you.

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

Pledges By Pledgee And Maturity



Pledged To: City of Mandan

Starion Financial - Mandan, ND

As Of 6/30/2012

Page 14 of 49

Receipt# Safekeeping Location	CUSIP	Description Maturity Prerefund	Pool/Type Coupon	Moody S&P	Original Face Pledged Percent	Pledged			
						Original Face	Par	Book Value	Market Value
WELL: Wells Fargo	387370VB2	GRANITE FALLS MINN 12/01/12	2.00	N/A N/A	400,000.00 100.00%	400,000.00	400,000.00	400,000.00	400,340.00
WELL: Wells Fargo	372082FG7	GENEVA ILL PK DIST-AMBA 12/30/13	3.40	WR AA+	350,000.00 100.00%	350,000.00	350,000.00	350,000.00	355,131.00
WELL: Wells Fargo	431389AY1	HILL CITY SD SCH DIST-AGI 01/15/14	3.70	Aa3 N/A	230,000.00 100.00%	230,000.00	230,000.00	230,000.00	233,907.70
WELL: Wells Fargo	087787JX6	BEULAH ND 05/01/14	1.00	N/A N/A	285,000.00 100.00%	285,000.00	285,000.00	285,000.00	285,450.30
WELL: Wells Fargo	97072NAJ7	WILLISTON ND SALES TAX I 05/01/15	3.00	A2 N/A	155,000.00 100.00%	155,000.00	155,000.00	156,045.74	164,887.45
WELL: Wells Fargo	091933CY5	BISMARCK ND PK DIST 05/01/16	2.90	N/A N/A	195,000.00 100.00%	195,000.00	195,000.00	195,000.00	203,644.35
WELL: Wells Fargo	841344HY3	SOUTHEAST CASS WTR RE 05/01/16	3.20	Aa2 N/A	245,000.00 100.00%	245,000.00	245,000.00	245,000.00	249,750.55
WELL: Wells Fargo	596782RJ3	MIDDLETON WIS 09/01/17	3.00	Aa1 N/A	250,000.00 100.00%	250,000.00	250,000.00	260,582.30	274,632.50
WELL: Wells Fargo	924478BS8	VERNON COUNTY WIS-NAT 04/01/18	4.20	A1 N/A	250,000.00 100.00%	250,000.00	250,000.00	258,545.48	265,767.50
WELL: Wells Fargo	31377PLA0	MBS FNMA-382921 12/01/18	382921 7.24		1,421,500.00 100.00%	1,421,500.00	1,215,712.53	1,287,019.82	1,425,556.67
WELL: Wells Fargo	091933DK4	BISMARCK ND PK DIST 05/01/20	3.00	N/A N/A	280,000.00 100.00%	280,000.00	280,000.00	280,000.00	284,382.00
WELL: Wells Fargo	31417YQM2	MBS FNMA 10-YR 07/01/20	MA0459 4.00		1,000,000.00 100.00%	1,000,000.00	572,232.70	599,532.93	609,301.93
WELL: Wells Fargo	952753DG3	WEST FARGO ND WTR & SV 11/01/20	5.40	Aa3 N/A	235,000.00 100.00%	235,000.00	235,000.00	235,000.00	262,215.35

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

6/28/2012 8:08 AM - JHK / BISM

Pledges By Pledgee And Maturity



Pledged To: City of Mandan

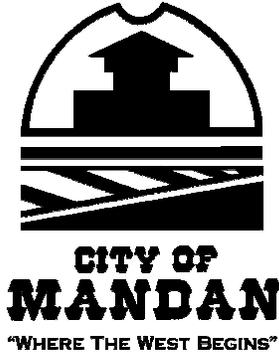
Starion Financial - Mandan, ND

As Of 6/30/2012

Page 15 of 49

Receipt# Safekeeping Location	CUSIP	Description Maturity Prerefund	Pool/Type Coupon	Moody S&P	Original Face Pledged Percent	Pledged			
						Original Face	Par	Book Value	Market Value
WELL: Wells Fargo	385443K54	GRAND FORKS ND 12/01/21	2.80	Aa2 N/A	165,000.00 100.00%	165,000.00	165,000.00	164,276.71	180,574.35
WELL: Wells Fargo	144537NV5	CARRINGTON ND 05/01/22	4.05	N/A N/A	160,000.00 100.00%	160,000.00	160,000.00	160,000.00	169,676.80
WELL: Wells Fargo	672132AG2	OAKES ND SALES TAX 11/01/23	4.30	N/A N/A	400,000.00 100.00%	400,000.00	400,000.00	400,000.00	415,168.00
WELL: Wells Fargo	307489LR3	FARGO ND PK DIST 04/01/24	4.00	Aa1 N/A	230,000.00 100.00%	230,000.00	230,000.00	236,152.12	259,663.10
WELL: Wells Fargo	672121FS4	OAKES ND 05/01/24	3.00	N/A N/A	275,000.00 100.00%	275,000.00	275,000.00	275,000.00	284,924.75
WELL: Wells Fargo	31417VPZ0	MBS FNMA 15-Yr AC8539 12/01/24	AC8539 4.00	N/A N/A	1,300,000.00 100.00%	1,300,000.00	594,367.50	613,467.99	631,129.13
WELL: Wells Fargo	31294MBC4	MBS FHLMC Gold 15 Yr 10/01/25	E02735 3.50		1,000,000.00 100.00%	1,000,000.00	584,205.67	606,245.51	612,475.38
WELL: Wells Fargo	31410FYY5	MBS FNMA Conv 11/01/25	888227 5.00		1,700,000.00 100.00%	1,700,000.00	503,499.59	537,384.86	545,637.47
WELL: Wells Fargo	3138ASS78	MBS FNMA 15-Yr 09/01/26	AJ1441 3.50		1,000,000.00 100.00%	1,000,000.00	850,820.51	883,129.11	902,278.13
WELL: Wells Fargo	3138E7TW4	MBS FNMA 15-Yr 02/01/27	AK3264 3.00		1,000,000.00 100.00%	1,000,000.00	974,397.88	1,014,077.25	1,019,093.51
23 Securities Pledged To: 170 - City of Mandan						12,526,500.00	9,400,236.38	9,671,459.82	10,035,587.92

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



Consent No. 7

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 10, 2012
PREPARATION DATE: July 5, 2012
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Dennis A. Bullinger
PRESENTER: Chief Dennis A. Bullinger
SUBJECT: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

STATEMENT/PURPOSE: The Mandan Police Department is requesting Board approval in the acceptance of a grant through the Department of Human Services administered by the North Dakota Highway Patrol in the enforcement of underage drinking, through May 31, 2013.

BACKGROUND/ALTERNATIVES: The police department has been awarded a contract in the anticipated amount of \$1,000.00 to fund overtime in the enforcement of underage drinking. Two programs support by the grant are "Point of Purchase" or Off-site enforcement. The police department generally conducts off-site saturation patrols scheduled to emphasize enforcement during community events that have a high probability of underage drinking.

ATTACHMENTS: Agreement for Participation.

FISCAL IMPACT: Up to \$1,000.00. Funding is in the police 2012 and 2013 proposed budget.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approve the acceptance of the contract addressing the enforcement of underage drinking.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 2 of 12

SUGGESTED MOTION: Move to approve the acceptance of Contract #2012-1 from the Department of Human Services in the enforcement of underage drinking.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 3 of 12



Colonel James J. Prochniak, Superintendent
State Capitol, 600 E Boulevard Ave. Dept. 504
Bismarck, ND 58505-0240
Telephone: 701-328-2455

North Dakota Highway Patrol



Jack Dalrymple
Governor
State of North Dakota

June 27, 2012

Chief Dennis Bullinger
Mandan Police Department
205 1st Avenue NW
Mandan, ND 58554-3162

Dear Chief Dennis Bullinger,

Enclosed is your grant agreement for the Enforcement of Underage Drinking Laws. The North Dakota Highway Patrol has agreed to assist the Department of Human Services in the administration of this funding made available through the Office of Juvenile Justice and Delinquency Prevention.

Please have this agreement reviewed and signed by an authorized individual from you government entity and return to the North Dakota Highway Patrol. Please note that the agreement does not take effect until all parties have signed the contract. **The money granted to your agency must be used by May 31st 2013 and the final voucher is due June 10th 2013.** An electronic copy of the reimbursement voucher is available on our website at www.nd.gov/ndhp. Click on Links Tab and then in the bottom Misc. column select "Underage Drinking Grant Voucher". This is the same version as what we used last year; so please pay special attention when filling out the reimbursement forms, as we will not accept the older versions. If you have a new email address please let me know. When you submit the voucher please include any news articles or media that would be related to the activities that were held. Also don't forget to include the funding source "OJJDP" in the media ads.

Upon the return of the grant agreement, we will sign it and return a copy to you. Or, if you have chosen not to take part in the program, please return the unsigned agreement and specify that. We will then redistribute your funds to other local agencies.

I have also enclosed a brochure of **free** materials that can be obtained through the Prevention Resource & Media Center and how to access a prevention coordinator in your area. If you need more brochures please let me know.

Regards,

A handwritten signature in cursive script that reads "Elizabeth A. Johnson".

Elizabeth Johnson
Research Analyst
North Dakota Highway Patrol
600 E. Boulevard Ave. Dept. 504
Bismarck, ND 58505-0240
eajohnso@nd.gov
701-328-4256 office

Fax: 701-328-1717 ~ E-mail: ndhpinfo@nd.gov ~ NDHP Website: www.nd.gov/ndhp ~ ND State Website: www.nd.gov
An Internationally Accredited Law Enforcement Agency Providing Professional Service

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 4 of 12

CONTRACT #2012-1

GRANT AGREEMENT

The State of North Dakota, acting through its North Dakota Highway Patrol (NDHP) (Grantor), has determined the services identified in the Scope of Service paragraph below from an appropriate basis for the expenditure of funds allocated to Grantor.

Mandan Police Department, 205 1st Avenue NW, Mandan ND 58554-3162, proposes to provide those services.

Grantor and Grantee therefore enter in to the following:

1. TERM OF GRANT

- a. This contract becomes effective when all parties have signed and expires on May 31, 2013. This grant may be terminated at any time by mutual consent of both parties, or upon 30-days written notice by either party, with or without cause.

2. SCOPE OF SERVICE

- a. Grantee shall utilize grant funds to fund overtime enforcement programs that enforce underage drinking laws. These programs can either be point of purchase programs or off-site programs. Point of purchase enforcement refers to programs such as Cops in Shops, Server Training, Shoulder Taps, and Compliance Checks. Off-site saturation patrols will be strategically scheduled to emphasize enforcement during community events that have a high probability of underage drinking.
- b. Grantee shall submit enforcement activity reports, in the form of the Statistical Data portion of SFN 52208, to the Grantor on a monthly basis by the by the 15th day of each month with the final report due fifteen (15) days after the expiration or termination of this grant.

3. COMPENSATION

- a. Grantor, upon receipt and approval of SFN 52208 Reimbursement Voucher or other form required by Grantor, shall reimburse Grantee for allowable expenses incurred. "Allowable expenses" include the overtime salary paid, not to exceed time and a half of the officer's normal salary. Mileage and administrative costs are not allowable expenses. The total amount paid under this grant may not exceed \$1000. No funds will be paid for services until they have been provided. Grantee shall submit its request for reimbursement to Grantor monthly by the 15th day of each month. Grantee

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 5 of 12

shall submit its final reimbursement request to Grantor no later than 15 days after the expiration or termination of this grant. Grantor may not pay Grantee until Grantee signs and returns to Grantor the Certification of the OMB Circular Information Guide, which is made a part of this grant by reference here.

- b. Payment for services under this grant may include federal monies. Anticipated funding at the time this grant is executed is listed below. The funding source of actual payments and the federal program can be verified by contacting NDHP Support Services Division.
 - i. Anticipated Funding:
 - 1. Federal \$1000
 - 2. State \$
 - 3. Other \$
 - 4. Unknown \$
 - ii. Catalog of Federal Domestic Assistance Number 16.727, Department of Justice, Enforcing Underage Drinking Laws.

4. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

- a. The Grantee understands that this grant is a one-time grant, and acknowledges that it has been furnished no assurances that this grant may be extended for periods beyond its termination date.

5. GRANTEE ASSURANCES

- a. This grant shall be construed according to the laws of the state of North Dakota. In connection with the furnishing of supplies or performance of work under this grant, persons who contract with or receive funds to provide services to the North Dakota Highway Patrol are obligated and agree to comply with all local, state and federal laws, regulations and executive orders related to the performance of this grant including but not limited to the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the North Dakota Human Rights Act, the Drug Abuse Prevention Treatment and Rehabilitation Act of 1970, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1992, the Pro-children Act of 1994, and the Drug-free Workplace Act of 1988.
- b. Unless otherwise authorized by federal law, the charges to be made by Grantee do not include costs financed by federal monies other than those generated by this grant.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 6 of 12

- c. The Grantee certifies by signing this grant that it is not presently debarred, declared ineligible or voluntarily excluded from participation in transactions with the State or Federal Government by any Department or Agency of the Federal Government.
- d. Grantee must be an approved vendor with the Office of Management and Budget within the State of North Dakota as required by N.D.C.C. § 54-44.4-09.
- e. Grantee assures that:
 - i. No Federal funds from this agreement will be paid by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Grantee agrees to complete and submit Standard Form –LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

6. AUTHORITY TO CONTRACT

- a. Grantee may not contract for or on behalf of, or incur obligations on behalf of, Grantor. Grantee may not subcontract.

7. INDEPENDENT ENTITY

- a. Grantee shall perform as an independent entity under this grant. Grantee, its employees, agents, or representatives are not employees of the Grantor for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers’ Compensation Act. No part of this grant may be construed to represent the creation of an employer/employee relationship between Grantor and Grantee. Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee’s activities and responsibilities under this grant.

8. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

- a. Grantee agrees to keep financial records necessary to fully disclose the complete financial status of the grant. Grantee must submit documentation supporting requests for reimbursement for review by Grantor or its agents, upon request. If Grantee has expended federal funds (when considering all sources) during Grantee’s fiscal year at the amount specified in OMB Circular A-133, Audits of State, Local Governments, and Non-Profit

Organizations, which is made a part of this grant by reference here, that Circular must be followed pursuant to the Single Audit Act of 1984, Public Law 98-502; and the Single Audit Act Amendments of 1996, Public Law 104-156. Grantee agrees to file a copy of the "Reporting Package" as described by the Circular referenced above with the NDHP Support Services Division within the time frame identified in that Circular.

- b. Additionally, Grantee agrees to spend all federal assistance received from Grantor in accordance with applicable laws and regulations such as: the Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government,; and OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, which are made a part of this grant by reference here.

9. RETENTION OF RECORDS

- a. Grantee agrees to retain financial records for three years from the date of submission of the final expenditure report, or if subject to audit, from the date the audit is completed and closed, whichever occurs later. Grantee must provide Grantor, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Grantee that are pertinent to the services provided under this grant. Program records must be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

10. TERMINATION OF GRANT FOR CAUSE

- a. The Grantor by written notice of default to the Grantee may terminate the whole or any part of this grant:
 - i. If the Grantee fails to provide services required by this grant within the time specified or any extension agreed to by the Grantor; or
 - ii. If the Grantee fails to perform any of the other provisions of this grant, or so fails to pursue the work as to endanger performance of this grant in accordance with its terms.
- b. The rights and remedies of the Grantor provided in the above clause related to defaults by the Grantee are not exclusive and are in addition to any other rights and remedies provided by law or under this grant.

11. TERMINATION FOR LACK OF FUNDING OR AUTHORITY

- a. The Grantor may terminate this grant effective upon delivery of written notice to the Grantee, or on any later date stated in the notice, under any of the following conditions:

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 8 of 12

- i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The grant may be modified by mutual consent of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this grant or are no longer eligible for the funding proposed for payments authorized by this grant.
 - iii. If any license, permit or certificate required by law or rule, or by the terms of this grant, is for any reason denied, revoked, suspended or not renewed.
- b. Termination of this grant under this section is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

12. CONTINGENT LIABILITY

- a. During the term of this grant, and for four years after this grant expires or is terminated, Grantee agrees to reimburse Grantor for any claims submitted by Grantor for federal financial participation in the cost of this grant to the extent those claims are disallowed by any federal agency for failure on the part of Grantee to comply with this grant or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Grantee prompt written notice of any disallowed claims subject to reimbursement by Grantee. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

13. INDEMNITY

- a. The Grantor and Political Subdivision (Grantee) each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

14. INSURANCE

- a. Grantee shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverage:
 - i. Commercial general liability, including premises or operations, contractual, and products or completed operations coverage (if applicable), with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 9 of 12

- ii. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
- b. Workers compensation coverage meeting all statutory requirements. The insurance coverage listed above must meet the following additional requirements:
- i. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Grantee. The amount of any deductible or self retention is subject to approval by the State.
 - ii. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
 - iii. The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State representative.
 - iv. The Grantee shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement.
 - v. Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.

15. NOTICE

- a. All notices or other communications required under this grant shall be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Mandan Police Department
205 1st Avenue NW
Mandan, ND 58554-3162

OR

North Dakota Highway Patrol
600 E Blvd Ave, Dept. 504
Bismarck, ND 58505-0240

16. INTEGRATION, MODIFICATION, AND SEVERABILITY

- a. This grant constitutes the entire grant between the Grantee and the Grantor. No alteration, amendment, or modification of this grant shall be effective

unless it is reduced to writing, signed by the parties and attached hereto. If any term of this grant is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the grant does not contain the illegal or unenforceable term.

17. COLLATERAL CONTRACTS

- a. Where there exists any inconsistency between this grant and other provisions of collateral contractual agreements that are made a part of this grant by reference or otherwise, the provisions of this grant shall control.

18. APPLICABLE LAW

- a. This grant is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this grant must be brought in the District Court of Burleigh County, North Dakota.

19. ASSIGNMENT

- a. Neither party may assign this grant or the party's rights under this grant without the written approval of the other party. Approval to assign may not be unreasonably withheld. This grant is equally binding on the respective parties and their successors and assigns.

20. WORK PRODUCT, EQUIPMENT, AND MATERIALS

- a. All work product, equipment or materials created or purchased under this grant belong to the Grantor and must be delivered to Grantor at Grantor's request upon termination of this grant. Grantee agrees that all materials prepared under this grant are "works for hire" within the meaning of the copyright laws of the United States and assigns to Grantor all rights and interests Grantee may have in the materials it prepares under this grant, including any right to derivative use of the material. Grantee shall execute all necessary documents to enable Grantor to protect its rights under this section. Grantor must provide written approval of Grantee's use of work product or materials for purposes outside the scope of this grant.

21. COMPLIANCE WITH PUBLIC RECORDS LAWS

- a. Grantee understands that, except for disclosures prohibited in Section 24, the Grantor must disclose to the public upon request any records it receives from Grantee. Grantee further understands that any records which are obtained or generated by the Grantee under this grant, except for records that are confidential under Section 24, may, under certain circumstances, be

open to the public upon request under the North Dakota open records law. Grantee agrees to contact the Grantor immediately upon receiving a request for information under the open records law and to comply with the Grantor's instructions on how to respond to the request.

22. ATTORNEY FEES

- a. In the event a lawsuit is instituted by the Grantor to obtain performance due of any kind under this grant, and the Grantor is the prevailing party, Grantee shall, except when prohibited by N.D.C.C. § 28-26-04, pay the Grantor's reasonable attorney fees and costs in connection with the lawsuit.

23. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

- a. The Grantor does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The Grantor does not waive any right to a jury trial.

24. CONFIDENTIAL INFORMATION

- a. Grantee agrees not to use or disclose any information that is confidential or exempt from mandatory public disclosure which it receives from the Grantor under this grant except as necessary to carry out the purposes of this grant or as authorized in advance by Grantor. The Grantor agrees not to disclose any information it receives from Grantee that the Grantee has previously identified as confidential and which Grantor determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of Grantor and Grantee to maintain confidentiality of information under this section continues beyond the term of this grant, or any extensions or renewals of it.

25. ACKNOWLEDGEMENT OF NDDHS AGREEMENT

- a. The local entity acknowledges the binding nature of the agreement between the North Dakota Highway Patrol and the North Dakota Department of Human Services dated June 1, 2012, to provide funding for the enforcement programs, with the terms of the NDHP/NDDHS agreement being incorporated within the terms of this agreement. A copy of their Grant Agreement can be requested at any time.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2012-1.

Page 12 of 12

LOCAL ENTITY

(TITLE) DATE

STATE OF NORTH DAKOTA
NORTH DAKOTA HIGHWAY PATROL

COLONEL JAMES J. PROCHNIAK
SUPERINTENDENT DATE

CAPTAIN BRANDON SOLBERG
SUPPORT SERVICES DIRECTOR DATE

ORDINANCE NO. 1124

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 RM (Multi-Family Residential, restricted to 5 units per acre) zoning and shall be included in the RM (Multi-Family Residential, restricted to 10 units per acre) zoning with the following restrictions: Buildings are height controlled with a two story maximum (no parking allowed underneath building), maximum of four units per building and a minimum 20' setback from adjacent single family residential, namely,

Lots 27-32, Block 1 and Lots 1-3, Block 4 of Heart Ridge Addition in Section 34, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota

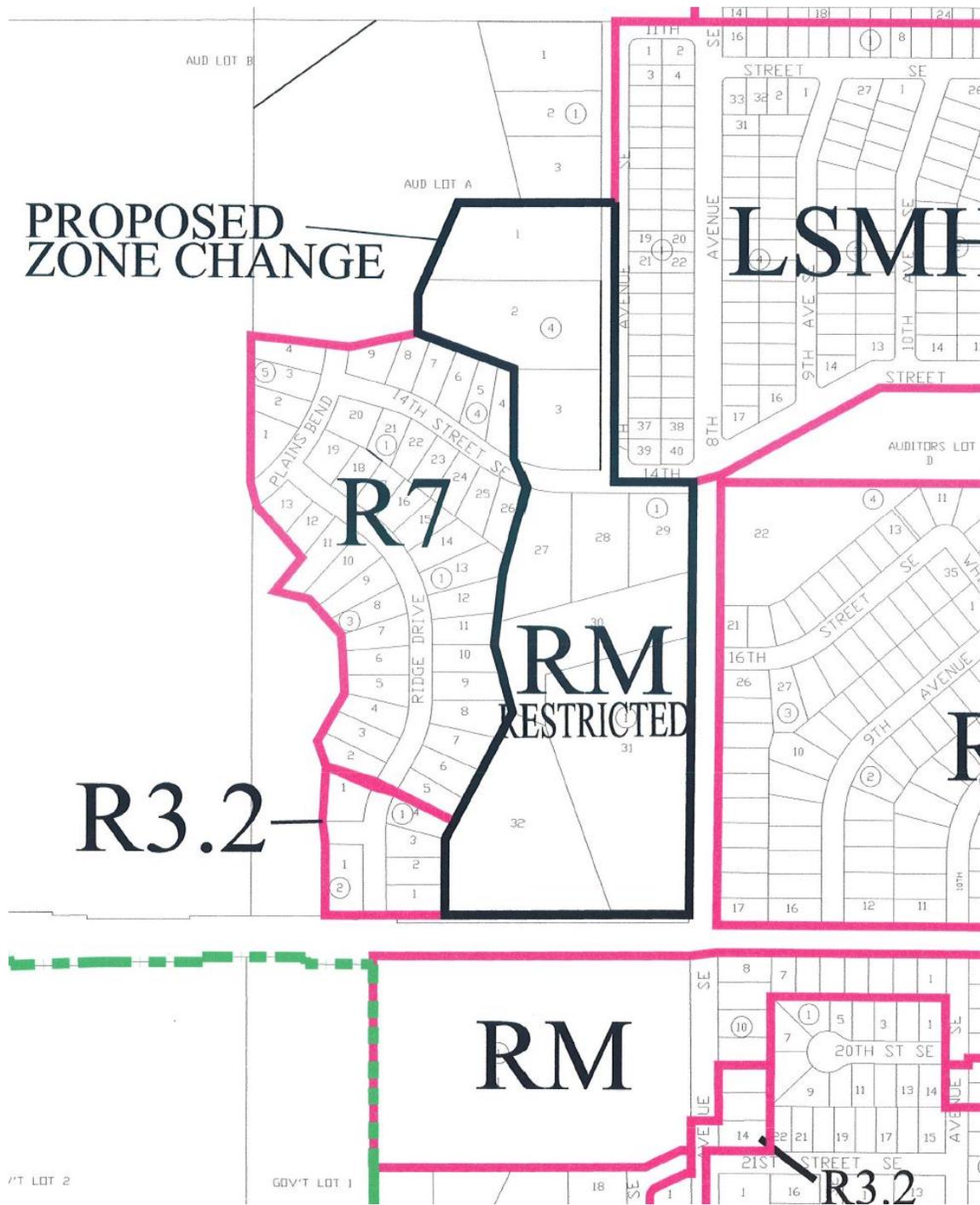
and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>June 19, 2012</u>
First Consideration:	<u>June 19, 2012</u>
Second Consideration and Final Passage:	<u>July 10, 2012</u>
Publication Date:	<u>July 27, 2012</u>
Recording Date:	_____



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

WHEREAS, Michael Schmitz has submitted to the Board of City Commissioners of the City of Mandan a verified petition asking that Acteva Addition plat, of Section 16, T139N, R81W of the 5th Principal Meridian, City of Mandan, Morton County, North Dakota be vacated. Fully described as follows:

Acteva Addition plat in its entirety, located in the south $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 16, Township 139N, Range 81W.

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 July 10, 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 10th day of July, 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, North Dakota, that the requested portions above described as Acteva Addition, 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.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 10, 2012

Subject: Public Hearing to consider the vacation of the Acteva Addition Plat.

Page 2 of 3

Approved and passed July 10th, 2012, by at least two-thirds vote of all the members of the Board of City Commissioners.

President, Board of City Commissioners

ATTEST:

City Administrator

Public Notice Dates: June 15th, 22nd, 29th and July 6th, 2012

Public Hearing: July 10th, 2012

Final Passage: July 10th, 2012

Publication Date: _____

