

AGENDA
MANDAN CITY COMMISSION
JULY 19, 2016
ED "BOSH" FROEHLICH MEETING ROOM,
MANDAN CITY HALL
5:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
- B. APPROVAL OF AGENDA:
- C. PUBLIC COMMUNICATIONS:
- D. MINUTES:
1. Consider approval of the minutes from the July 5, 2016 Board of City Commission Regular Meeting.
- E. PUBLIC HEARING:
- F. BIDS:
- G. CONSENT AGENDA:
1. Consider approval of the monthly bills.
 2. Consider for approval replat of Lots 10 and 11, Block 1, Keidel's South Heart Terrace Second Addition.
 3. Consider approval of We Got Hope games of chance at The Drink from August 1 through October 1, 2016.
 4. Consider approval of pledge of securities reports as required by NDCC 21-04.
 5. Consider Police Department transfer of funds in 2016 budget.
- H. OLD BUSINESS:
1. Consider signing contract with TL Stroh Architects for architectural services of Mandan Fire Station 3.
- I. NEW BUSINESS:
1. Consider Young Professionals Network commitment to develop park concepts for expansion of Richard M. Longfellow Veteran's Park.
 2. Lower Heart Water Resource District update on levee system
 3. Consider recommendations from the Community Beautification Committee (CBC) regarding advertising benches in the downtown area.

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4. Consider Growth Fund Committee recommendations:
 - i. Storefront Improvement application for 122 E Main St by HB Properties
 - ii. Updates to the Restaurant Rewards program overview
 5. Consider an expedited emergency fix for a segment of sanitary sewer that is not properly graded.
- J. RESOLUTIONS AND ORDINANCES:
1. Second consideration of Ordinance No. 1248 creating Chapter 26 of the Mandan Municipal Code related to code enforcement
 2. First consideration of Ordinance 1245 adding and enacting Article 5 to Chapter 18 of the Mandan Municipal Code related to abandoned, found, recovered and unclaimed property.
 3. Second consideration of Ordinance 1246 rezoning Lot 3, Block 1 Sylvester's Industrial Park 3rd Addition.
 4. Second consideration of Ordinance No. 1247 amending and reenacting Sections 18-2-2 through 18-2-5 of the Mandan Code of Ordinances related to juvenile curfew.
- K. OTHER BUSINESS:
- L. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. August 2, 2016
 2. August 16, 2016
 3. September 6, 2016 (5 p.m.)
- M. ADJOURN

Public Communication

A scheduled time for public participation has been placed on the agenda at Mandan City Commission meetings. The Board desires to hear the viewpoints of citizens throughout the City. Individuals wishing to address the Board are encouraged to make arrangements with the Board President or the City Administrator prior to the meeting. Comments should be made to the Board and not to individuals in the audience and be related to City operations and programs. The Board will not hear personal complaints against any person connected with the City. If a citizen would like to add a topic to the agenda, arrangements must be made in advance with the City Administrator or Board President. The Board reserves the right to eliminate or restrict the time allowed for public participation. The Board requests that comments are limited to three (3) minutes or less. Groups of individuals addressing a common concern are asked to designate a spokesperson.

The Mandan City Commission met in regular session at 5:30 p.m. on July 5, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota.

1. *Ceremonial Swearing in of Mayor Helbling and Commissioner Davis.* City Attorney Brown requested Mayor Helbling, Commissioner Braun and Commissioner Davis stand and repeat the oath of offices for the duties of Mayor and City Commissioner, respectively, for the City of Mandan, North Dakota.

2. *Roll call of all City Commissioners:* Commissioners present were Helbling, Rohr, Braun, Davis, and Laber. Department Heads present were Finance Director Welch, Police Chief Ziegler, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Principal Planner Decker, Assessor Shaw, and Building Official Lalim.

Mayor Helbling extended a thank you to Mayor Van Beek for his 4 years of service and dedication to the City of Mandan. He also extended a thank you to Commissioner Tibke for her many years of service to the City of Mandan as City Commissioner. He extended a thank you for the successful 4th of July Celebration to the City staff including the Police Department, the Fire Department, City crews, Rodeo Committee, Art in the Park Committee - MPO, Road Race Committee, the Parade Committee and many more committees and people too numerous to mention.

B. APPROVAL OF AGENDA:

C. PUBLIC COMMUNICATIONS:

D. MINUTES:

1. *Consider for approval the minutes from the June 21, 2016 Board of City Commission regular meeting.* Commissioner Laber moved to approve the minutes as presented. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of the following games of chance: (i) Catholic Foundation for the People of Bismarck Diocese games of chance at Prairie West Golf Course on July 18, 2016; (ii) Dakota Zoological Society at Prairie West Golf Course on August 5, 2016.*
2. *Consider for approval plat of Big Sky 6th Addition.*
3. *Consider approval of previously provided land acquisition support as local match for Flex PACE interest buy down for Family Wellness*
4. *Consider approval to auction Planning and Engineering Department’s 1996 GMC Yukon.*

5. *Consider employment contract between Board of City Commissioners & City Administrator.*

Commissioner Braun moved to approve the Consent Agenda as presented. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

H. OLD BUSINESS:

1. *Discussion regarding new home construction first \$75,000 exemption.* City Administrator Neubauer stated this item was discussed previously by the Commission on June 21st and it was requested to bring it back to this meeting for further discussion. In the previous discussion, these options were presented for consideration: (i) Continue with the exemption as it stands today; (ii) Discontinue the exemption; (iii) Set a cap by limiting the exemption to buyers that take the opportunity afforded by the First Time Home Buyers Program; (iv) Allow the exemption for homes with a purchase price of equal to or less than a determined dollar amount; and (v) Phase out the exemption over time. There have been discussions held with the Bismarck Mandan Home Builders Association. He said that Dot Frank, Executive Director of the Home Builders Association is present and is prepared to discuss this matter.

Commissioner Rohr stated that this issue has been discussed on several occasions including keeping in mind that the budget will need to be intact while having the funds available for 1st time homebuyers. He said that some of the homebuilders have reported that the exemption has made a difference to some home buyers to purchase a home. He commented on the pros and cons of the program and encouraged discussion by the City Commission as to how to address the exemption for future purposes.

Commissioner Laber stated that she views this matter as a subsidy rather than an exemption. She pointed out that the schools, the County and the City do not receive funds when those exemptions are given vs. a new restaurant incentive and other incentives that are a stronger push for the community. She recommended the program phase out by 2018 giving the home builders and others time to be aware of the program phasing out. She would rather re-prioritize community funding and move this program off the list.

Commissioner Davis commented that he is in favor of incentives for families who want to move to Mandan. He said that a budget review is in line to see where the City is for the upcoming year with regard to state distribution of funds.

Commissioner Braun stated that he utilized this program when he purchased his home and that the exemption provided the extra funds needed for him to move into his house. He was looking for clarification on how many new homes were built last year that utilized the exemption. Administrator Neubauer reported that in 2014 (which are the exemptions for 2015) there were 128 residential units and 8 condo units that benefited from the first \$75,000 exemption. For homes under \$200,000 there were 42; between \$200,000 - \$250,000 there were 83; between \$250,000 - \$300,000 there were 45;

between \$300,000 - \$350,000 there were 20; between \$350,000 - \$400,000 there were 11; and over \$400,000 there were 5. Commissioner Braun summarized that the data reported by Administrator Neubauer show that people are using this program and that it does bring people to Mandan. He said he would consider continuing the program and that he is leaning towards increasing the exemption amount. Mayor Helbling stated that he knows of residents that have utilized this exemption that have moved from Bismarck to Mandan who gave that as a reason for moving here. He said that to overcome what Bismarck has in place, the 1% tax for roadways, if it passes; Mandan will need to get over the obstacles and that the exemption should be left in place for now. He recommended that we give it another 6 months and see how the figures come out.

Commissioner Laber commented that the risk for that recommendation is that a budget needs to be developed for 2017 so if it is not reviewed for 6 months, we need to budget for it. Mayor Helbling clarified that the big picture needs to be reviewed, not just this one line item on the budget. He said he would like further information before making a decision now on this matter.

Dot Frank, Bismarck Mandan Home Builders Association (BMHBA) came forward and stated that with the options available, the BMHBA would like to see the option as allowed by the state, be increased to \$150,000. She stated that the \$75,000 currently in place goes back to the 1990's and at that time the price of a new home was about \$75,000. She provided stats from 1992 wherein the average price of a new home was \$54,000 and now in 2016 the average price of a new home is \$236,000. The incentive remains the same at \$75,000. She stated that housing should be treated as a high priority pointing out that housing is what fills the schools, restaurants and businesses with ongoing business. She encouraged the Commissioners to think of this program not as a budgetary item but rather as an opportunity to grow the City of Mandan. Commissioner Laber said that if this matter is delayed past the budgetary cycle, she would be comfortable delaying further discussion until the January 17, 2017 City Commission meeting.

Commissioner Laber moved to table this item until the January 17, 2017, City Commission meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

I. NEW BUSINESS:

1. *Consider approval of amendment to the Dakota Central Communications Joint Powers Agreement.* Fire Chief Nardello presented a request to consider an amendment to the Central Dakota Communications Center (CenCom) current Joint Powers Agreement (JPA). He said that a large portion of funding needed for operations of CenCom comes from the \$1 dollar 9-1-1 fee collected from cellular and landline telephone users. For every \$1 dollar collected and of that, 15% is retained by the ND Association of Counties (NDAC). The 9-1-1 Strategic Technology Planning Subcommittee met on April 20, 2016 and voted to reduce the NDAC obligation of 9-1-1 fees from 15% to 10%, which will result in an additional 5% allocation of 9-1-1 fees toward the CenCom operational budget. The current CenCom JPA provides 15% of 9-1-1 fees to be allocated to the

NDAC and the JPA needs to change to reflect the proposed 10% allocation effective January 1, 2017. He explained that the additional funding towards the CenCom operational budget should reduce the general fund obligation for the City of Mandan. Chief Nardello recommended approval of the proposed amendment to the CenCom JPA of 10% rather than 15% to the ND Association of Counties.

Commissioner Rohr moved to approve the proposed amendment to the CenCom JPA changing NDAC contribution from 15% to 10%. Commissioner Braun seconded the motion. Mike Dannenfelzer, Communications Director of CenCom, explained that instead of paying the Association of Counties to the Statewide Wireless contract the money is kept locally. This is an agreement to use that 5% towards the operating budget.

Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Presentation for information on Bis-Man Transit revised routes.* Justin Froseth, Planning and Engineering Director informed the Commission of the proposed route and other changes to the Bis-Man Transit System. The Bis-Man Transit believes there is a need for revisions to increase ridership and to make the system more economically viable for its customers. Roy Rickert, Bis-Man Transit Director, has spearheaded this effort and will present the proposed changes and why the changes are necessary.

Roy Rickert, Executive Director of the Bismarck-Mandan and Capital Area Transit Systems, came forward to inform the Commission of the proposed changes for consideration, noting that the City of Mandan is a major stakeholder in the system. He explained that there are two systems, but with separate services. The Paratransit System is a per ride basis and the Capital Area Transit (CAT) is the fixed route which runs whether there is one person or 20 people. He provided statistics as to data on use of the systems and provided comparisons that have been done with cities of same population for ridership counts. The goal is to refinance funding and put resources where they are needed. More money has been put into the Paratransit System than the fixed route system. The need for revisions are due to federal and state funding cuts over the past year and that concern has been expressed about the sustainability of the public transportation systems provided by Bis-Man Transit. These concerns have prompted the organization to take a look at its structure and at how resources are dedicated in that structure. These also included capital expenses stating that the life of the buses has passed 60% of their life expectancy according to the FTA and need to be replaced. Changes are expected to be made over the next four years due to the cutback in funds that were received in the past from state and federal sources. Those funds will not be received in the near future. The size of the geographical footprint of the routes will be reduced as well. Mr. Rickert provided a brief summary of the provisions for the following categories:

- (1) *Fixed Route System Changes (Overview of Fixed-Route Service)*
- (2) *Route Examination – Black, Blue, Green, Red, Brown, Purple*
- (3) *Demand Response System Changes (Overview of Paratransit Service)*

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- (4) *Overview of Extended and Sunday Services*
 - (5) *Proposed Revisions Addendum*
 - (6) *Review vs. Expense Projection*

Commissioner Davis requested clarification on the funding and ADA eligibility qualifications. Mr. Rickert explained the yearly formula funding cycle and that they might get it for 2015. But that they probably wouldn't get it in the future. The ADA Federal eligibility is intended for those who ride the Paratransit System who are physically or mentally incapable of independently riding the fixed route service. It's not to make it convenient or easier. It is intended for those who really need the service because they have no other way. Commissioner Laber recommended that those who have questions or concerns attend the Bismarck City Commission meeting on July 12th where there will be a Public Hearing on these changes.

Mayor Helbling extended a thank you to Mr. Rickert for the Bis-Man Transit transportation presentation and directed any comments from the public to call Mr. Rickert at his office for additional information. This is an informational item only wherein no action is required by the Commission at this time.

3. *Consider approval of Engineering Service Agreement with AE2S for Sunset Booster Station and Distribution Control Improvements.* Justin Froseth, Planning and Engineering Director presented a request for consideration to enter into an Engineering Service Agreement with AE2S for Sunset Booster Station and Distribution Control Improvements. He stated that this project has two main components and that these components have enough relatability to warrant one project and take advantage of economics in bidding one larger project. In summary, he explained the two parts:

(1) The Sunset Booster Pump Station is located just off of Old Red Trail near 37th St. NW and serves the northwest area of Mandan. This area of the city is experiencing rapid growth increasing demands on the water system. There are periods of time when the pumps see high demands, and it was determined that an upgrade to the system will ensure demands are met. Phase I will allow the pump station to meet all current peak flow demands for the new growth areas.

(2) The growth in the Mandan system has resulted in new demands being placed on the distribution system. To provide better operational data and meet the growing service needs, the Instrumentation and Controls (I&C) system needs to be upgraded to match I&C upgrades that have been done in the Water Treatment Facility improvements. The water system demand increases have created the need for the pump stations, meters and check points to operate in a more complex manner in order to accurately monitor and adjust system variables. The five remote pump stations and reservoir sites currently in place are not properly equipped to handle the new system challenges. This project will upgrade the current I&C equipment and integrate it into the overall system.

Director Froseth said that AE2S is already familiar with our facility and systems needs that will be addressed within this project. They were also instrumental in applying for and receiving a State Water Commission (SWC) grant for this project at 60%. AE2S was selected earlier this year as the water system consultant for the next three years. Because

of that selection process and because of their familiarity with the project the Engineer's Office recommends selecting AE2S for this effort without another selection process. In assessing what the City may need as part of the project, AE2S has increased the preliminary estimate from what was initially discussed. In 2015 an estimate was used to submit to the State Water Commission (SWC) for the grant request that the City was successful in getting. Because of this increase, city staff is recommending that we agree to preliminary engineering design at this time. The agreement would be adjusted later when there is a final design and the bidding process has been completed. The agreement for the preliminary design services for this project estimates the cost to be \$32,600. The City will pay AE2S hourly up to that amount. If necessary, this matter will come back to the City Commission for approval if the amount is expected to exceed that. The State Water Commission grant assumes the funding responsibility for 35% of design and 65% for construction. The city's share based on this estimate would be $\$32,600 \times 65\%$ which comes out to approximately \$21,190 for this agreement. This amount is currently budgeted for and will come out of the utility fund. It was recommended to enter into an agreement with AE2S.

Commissioner Laber inquired about I&C upgrade, which usually consists of a new computer that is attached to the pumps for regulation purposes. Director Froseth explained that this project is separated into two parts and the Sunset Booster pump is the larger of the two parts which is separate from the I&C part of the project. More of the planning and construction would be in the Sunset booster pump part of the project. The second component is the instrument and implementation controls portion of the project and that is the overall system implementation of I&C. AE2S will help the City with this part of the design. The preliminary assessment will make sure that the City is covering the growth seen over the last several years in its pace of growth. The 2007 Master Plan was used previously and will probably not meet the needs going forward.

Commissioner Braun moved to approve the Preliminary Design Engineering Services Agreement with AE2S for the Sunset Booster Station and Distribution Control Improvements project. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Consider commission portfolio and committee assignments.* City Administrator Neubauer presented the portfolio and committee assignments for the Board of City Commissioners. One additional assignment was made and inserted in the Amended report, (the Finance Committee), and it will be assigned to Mayor Helbling. Mayor Helbling will be assigned the Mandan Progress Organization for now and that can be reviewed at a later time if necessary.

Commissioner Braun moved to approve the portfolio and committee assignments as discussed. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

5. *Consider Reappointment of Sue Balcom & Cameo Skager to the Dakota Media Access Board of Directors.* City Administrator Neubauer presented for reappointment a Mandan and a Morton County resident to the Dakota Media Access (DMA) Board of Directors. DMA serves both Bismarck and Mandan and is represented on their Board of Directors by residents from both communities. DMA President, Jack McDonald, is requesting Morton County resident Sue Balcom, and Mandan resident Cameo Skager, be reappointed to the DMA Board as Mandan representatives to a term ending July 1, 2020.

Commissioner Laber moved to approve the reappointment of Sue Balcom and Cameo Skager to the DMA Board of Directors to a term ending July 1, 2020. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration of Ordinance 1244 annexing property at 2300 14th Ave. SE.* Principal Planner Decker said that as brought forward at the last meeting, this is a request by the property owners to be annexed into the City of Mandan so they can obtain water and sewer services from the City. Commissioner Laber moved to approve the Second consideration of Ordinance 1244 annexing property at 2300 14th Ave. SE.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

2. *First consideration of Ordinance 1246 rezoning Lot 3, Block 1 of Sylvester's Industrial Park 3rd Addition.* Principal Planner Decker presented a request to review a previous action of restricted uses allowed in this CC zoning district. This proposed ordinance removes those restrictions. In 2008 restrictions were placed on the uses that could be developed in this area. The intent was to limit uses to less intense commercial uses, rather than more intense industrial uses. The categories of uses that were excluded were so broad that commercial uses that were considered appropriate for the area were excluded. In 2013 the use restrictions were removed from the adjoining properties in order to allow commercial uses. This request is to remove the use restrictions from this property in order to allow development of a national chain tire sales and auto repair store.

This use is part of Service Group B. This is an allowed use in the CC district and will be a business located within the building. Business Development and Communications Director Huber has discussed this proposed development with the developer and stated she is in favor of this rezoning. The use is compatible with neighboring uses. The Land Use and Transportation Plan recommended that this area be developed with commercial uses and this is a commercial use. It was recommended to approve this Ordinance by the Planning and Zoning Commission.

Commissioner Laber moved to approve the First consideration of Ordinance 1246 rezoning Lot 3, Block 1 of Sylvester's Industrial Park 3rd Addition. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner

Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

3. *First consideration of Ordinance 1247 amending and reenacting Sections 18-2-2 through 18-2-5 of the Mandan Municipal Code related to juvenile curfew.* Principal Planner Decker presented a request to revise the language within this code. The violation statements contained in 18-2-4 have been moved to 18-2-2. The current language only applies to 18-2-4 and is meaningless; Also, 18-2-5 has been renumbered to 18-2; and the word offense has been replaced with violation explaining that an offense is a type of violation.

Commissioner Braun moved to approve the First consideration of Ordinance 1247 amending and reenacting Sections 18-2-2 through 18-2-5 of the Mandan Municipal Code related to juvenile curfew. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

4. *First consideration of Ordinance 1248 adding and enacting Chapter 26 of the Mandan Municipal Code related to code enforcement.* Planner Decker explained that this proposed ordinance establishes uniform procedures for enforcing the code. Code enforcement currently involves working with several department directors. Duties will expand over time to include additional departments. It is appropriate to create a separate code enforcement chapter that establishes uniform procedures for dealing with violations of the municipal code in order to manage it better. Joseph A. Camisa Jr., City Code Enforcement Officer came forward and explained how the process works stating that the individuals that comply are typically cleared up in a very short time. Those who do not comply are taken through Municipal Court process. This provision will impose a fine of \$500 for repeat offenders. Any property that receives a \$500 fine or less would be assessed against the property.

The last component will create an appeals court. Residents will have 5 days to contact the code officer or correct the problem. If not corrected within the 5 days, another 5 days is given to correct. Extensions are granted if the request is reasonable. This does not eliminate the process of a legal court action. The ultimate goal is to achieve compliance with the code. City Attorney Brown commented that the work done on this revision is appropriate. It is designed to keep cases out of the court system and resolved in a timely fashion through an administrative process. If it does not work through the Code Officer, the issues would come before the City Commission which is an administrative body. Commissioner Laber requested that a determination be made as to the number of members appointed to this group, that it be determined to be either 3 or 5, and that the decision be made soon so it is in place.

Commissioner Braun moved to approve the First consideration of Ordinance 1248 adding and enacting Chapter 26 of the Mandan Municipal Code related to code enforcement.

Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

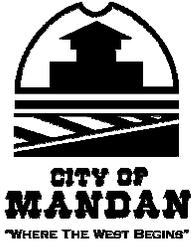
K. OTHER BUSINESS:

1. Mayor Helbling extended a thank you to Del Wetsch and the Mandan Progress Organization for their hard work during the 4th of July weekend festivities. Chief Nardello reported that there were approximately 5 grass fires and 1 structure fire during the 4th of July weekend, so that it was a fairly quiet weekend for the 4th of July.

There being no further actions to come before the Board of City Commissioners, Commissioner Braun moved to adjourn the meeting at 7:00 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Robert Decker, P.E., Principal Planner
SUBJECT: Consider for approval replat of Lots 10 and 11, Block 1, Keidel's South Heart Terrace Second Addition

STATEMENT/PURPOSE:

This request is to split Lot 11 so that each half lot can be sold to the adjoining lots.

BACKGROUND/ALTERNATIVES:

The property owners of Lots 10 and 12 each wish to purchase half of Lot 11.

Since the half lots being created by this plat are narrower than allowed by the zoning requirements, a note has been added indicating that these are not buildable lots.

There is a utility easement created by plat running along the boundary between Lots 10 and 11. There are no utilities in the easement and responses have been obtained from all utility companies indicating that they do not need the easement. Lot 10 is shown on this replat so that the portion of the utility easement located on Lot 10 can be vacated with this replat.

An easement is being added to the front of these lots since there are utilities running along the front of these lots. No easement was created with the original plat.

ATTACHMENTS:

1. Current plat
2. Replat

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION:

Recommend approval.

SUGGESTED ACTION:

Move to approve replat of Lots 10 and 11, Block 1, Keidel's South Heart Terrace Second Addition.

REPLAT OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION

LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION IN THE SOUTHWEST
 QUARTER OF SECTION 34, TOWNSHIP 139 NORTH, RANGE 81 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF
 MANDAN, MORTON COUNTY, NORTH DAKOTA



SURVEYOR:
 ARNOLD J. KEIDEL
 4888 4TH STREET
 BISMARCK, NORTH DAKOTA 58503

OWNER:
 JENNY M. BENZ
 1000 MONTE DR
 BISMARCK, ND 58503

OWNER:
 JENNY M. BENZ
 1000 MONTE DR
 BISMARCK, ND 58503

DESCRIPTION

LOT 10
 BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION AS RECORDED IN DOCUMENT NO. 444605.
 RECORDED AT THE MORTON COUNTY RECORDERS OFFICE.

LOT 11A
 S/4 TRACT CONTAINS 1.989 SQUARE FEET OR 0.310 ACRES, MORE OR LESS.

LOT 11B
 S/4 TRACT CONTAINS 1.032 SQUARE FEET OR 0.186 ACRES, MORE OR LESS.

OWNERS CERTIFICATE AND DECLARATION

I, JENNY M. BENZ, OWNER OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION AS RECORDED IN DOCUMENT NO. 444605, RECORDED AT THE MORTON COUNTY RECORDERS OFFICE, HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

STATE OF NORTH DAKOTA
 COUNTY OF BURLINGHAM

ON THIS _____ DAY OF _____, 2016, WE, THE UNDERSIGNED, PERSONALLY APPEARED, JENNY M. BENZ, OWNER OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION AS RECORDED IN DOCUMENT NO. 444605, RECORDED AT THE MORTON COUNTY RECORDERS OFFICE, AND WE EXECUTED THE WITHIN CERTIFICATE AND WE ACKNOWLEDGED TO ME THE DATE INDICATED ON THE FACE THEREOF.

NOTARY PUBLIC

APPROVAL OF CITY ENGINEER

I, JUSTIN PROSETH, CITY ENGINEER OF MANDAN, NORTH DAKOTA, HEREBY APPROVE THE PLAT OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION, CITY OF MANDAN, NORTH DAKOTA, AS SHOWN ON THE PLAT.

JUSTIN PROSETH
 CITY ENGINEER

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF MANDAN, NORTH DAKOTA, HAS REVIEWED THE SUBMISSION OF THE PLAT OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION, CITY OF MANDAN, NORTH DAKOTA, AND HAS APPROVED THE PLAT OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION, CITY OF MANDAN, NORTH DAKOTA, AS SHOWN ON THE PLAT.

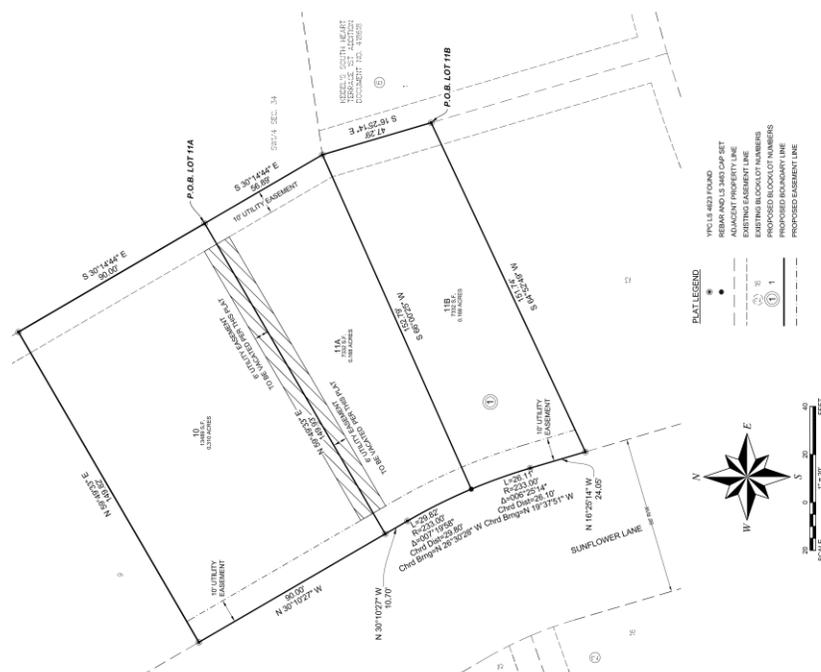
JENNY M. BENZ
 OWNER OF LOT 10

JENNY M. BENZ
 OWNER OF LOT 11

STATE OF NORTH DAKOTA
 COUNTY OF _____

ON THIS _____ DAY OF _____, 2016, APPEARED BEFORE ME, JENNY M. BENZ AND ROBERT A. BENZ, KNOWN TO ME TO BE THE PEOPLE WHOSE NAMES ARE SUBSCRIBED TO THE ABOVE CERTIFICATE AND WE ACKNOWLEDGE TO ME THAT THEY EXECUTED THE SAME AS THEIR OWN FREE ACT AND DEED.

NOTARY PUBLIC



PLAT LEGEND

- TPC IS 4623 FOUND
- REBAR AND/LS 3403 CAP SET
- EXISTING EASEMENT LINE
- PROPOSED BLOCK LOT NUMBERS
- PROPOSED EASEMENT LINE

PLAT INFORMATION

NOTE: UNITS ARE IN INTERNATIONAL FEET. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO ROUNDING. THIS PLAT IS A REPLAT OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION, CITY OF MANDAN, NORTH DAKOTA, AS RECORDED IN DOCUMENT NO. 444605, RECORDED AT THE MORTON COUNTY RECORDERS OFFICE. THIS PLAT IS A REPLAT OF LOT 10 AND LOT 11, BLOCK 1, KEIDEL'S SOUTH HEART TERRACE SECOND ADDITION, CITY OF MANDAN, NORTH DAKOTA, AS RECORDED IN DOCUMENT NO. 444605, RECORDED AT THE MORTON COUNTY RECORDERS OFFICE.



7/19/2016 10:52 AM



LOCAL PERMIT OR CHARITY LOCAL PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 LICENSING SECTION
 SFN 17926 (10/2012)

Consent No. 3

Type: Local Permit * Charity Local Permit

Permit Number
2016-40

Name of Organization We Got Hope		Date(s) Authorized (Read instruction 2)		
Contact Person Carol Hanson	Business Phone Number	8/1/2016 Beginning	to	10/1/2016 Ending
Mailing Address		City	State ND	Zip Code
Site Name The Drink	Site Address 4007 S Bay Dr Se			
City Mandan	State ND	ZIP Code 58554-0001	County Morton	
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.				
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*				
Restriction:				
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor and Office of Attorney General within 30 days of the event.				
Date 7/6/2016	Signature of <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor	Printed Name of City or County Auditor Patrick B Haug		Auditor Telephone Number (701) 667-3250

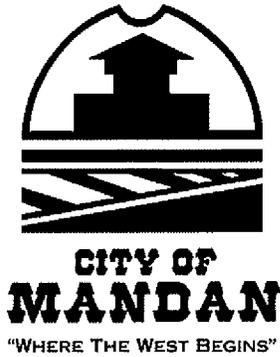
Please see the instructions on the backside of this form on how to complete the Permit.
 For a raffle or calendar raffle, read "Information Required to be Preprinted on a Standard Raffle Ticket" below.

cut along this line

INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:

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

Name _____	FUNDRAISER At The Drink at Lakewood October 1, 2016	REFUND#
Address _____	1. 2017 Boat Slip Lakewood Marina (\$500)	
Phone _____	2. Gadget Goodness (\$ 500)	\$15.00
Ticket # 1	3. 4-Dinner for 4 (\$100) Must be 18 to win. Need not be present to win. Drawing Oct. 1 at The Drink	Ticket # 1
\$15.00	Proceeds go to Bismarck Cancer Center Foundation <i>Draft</i>	



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 13, 2016
SUBMITTING DEPARTMENT: Finance
DEPARTMENT DIRECTOR: Greg Welch
PRESENTER: Greg Welch, Finance Director
SUBJECT: Pledge of Securities Reports

PURPOSE

To consider approval of pledge of securities reports.

BACKGROUND

The board of any public corporation may accept from any financial institution, as security for repayment of deposits, a pledge of securities in lieu of a personal or surety bond. When securities are so pledged to the board of any public corporation, the board shall require security in the amount of one hundred ten dollars for every one hundred dollars of public deposits (NDCC 21-04-09).

The board of the public corporation, upon the acceptance of any securities as a pledge for repayment of deposits, shall make a complete and detailed record of such acceptance and approval and shall preserve the same with its other records. Such securities must be reapproved by the board at least semiannually (NDCC 21-04-11).

The City of Mandan currently utilizes the following financial institutions for banking services which meet the pledge of security requirements:

- Wells Fargo Bank
- Starion Financial

ATTACHMENTS

Pledge of securities reports:

- Wells Fargo Bank
- Starion Financial

FISCAL IMPACT

None

STAFF IMPACT

None

LEGAL REVIEW

In accordance with the provisions of NDCC 21-04.

RECOMMENDATION

To approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial

SUGGESTED MOTION

Move to approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial



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

CITY OF MANDAN
ATTN: GREG WELCH
205 2ND AVE NW
MANDAN ND 58554-3125

ACCOUNT SUMMARY

Date : 06/30/2016
Account : .

ACCOUNT DETAIL

Investment : Repurchase Agreement

From Date : 06/30/2016
To Date : 07/01/2016

Rate : .01000000 %
Principal : \$ 13,402,055.11
Interest : \$ 3.72

REPURCHASE AGREEMENT DETAIL

Collateralized By : \$ 13,938,607.26
FHG-3 : G08641
% Due : 3.50 %
Maturity Date : 05/01/2045

CUSIP : 3128MJWB2
Sequence : 063015
Price : 105.474002
Accrued Interest : \$ 40,654.27

INVESTMENTS NOT FDIC INSURED



BNY MELLON

Broker/Dealer Services
One Wall Street, Fourth Floor
New York, NY 10286

Date: 06/30/16

000375 XBGSCD51
ATTN: GREG WELCH, FINANCE DIRECTOR
CITY OF MANDAN
205 2ND AVE NW
MANDAN, ND 58554

Account Id: Tax Id Number:

This advice is supplied as part of the Tri-Party Collateral agreement among the Customer, Wells Fargo Bank, N.A. and The Bank of New York Mellon. Any questions should be directed to Winnette Frater, Senior Associate, BDS/Tri-Party Services,

As agent we confirm the following collateralized deposit information received from Wells Fargo Bank, N.A. as of close of business the last business day of the month.

Date: 06/30/16

The collateral segregated on your behalf on 06/30/16 is as follows:

CUSIP	DESCRIPTION	QUANTITY	MARKET VALUE
3138M8WD1	FNMA FNMS 3.000% 09/01/42	249,211.00	179,644.73
3138W1GE1	FNMA FNMS 3.000% 02/01/43	94,296.00	74,875.51
TOTAL MKT VALUE			254,520.24

Pledges By Pledgee And Maturity



Pledged To: City of Mandan

Starion Financial - Mandan, ND

As Of 6/30/2016

Page 13 of 48

Receipt# Safekeeping Location	CUSIP	ASC 320	Description Maturity Prerefund	Pool/Type Coupon	Moody S&P	Original Face Pledged Percent	Pledged			
							Original Face	Par	Book Value	Market Value
WELL: WELLS FARGO	091608MH9	AFS	BISMARCK SD #1-REF ND 17 05/01/17	3.00	Aa2	550,000.00 100.00%	550,000.00	550,000.00	550,000.00	550,902.00
WELL: WELLS FARGO	3136G1F53	AFS	FNMA AGENCY - 1X 08/28/18	1.25	AA+	1,250,000.00 100.00%	1,250,000.00	1,250,000.00	1,250,000.00	1,260,875.00
WELL: WELLS FARGO	31381U4F1	AFS	FNMA Conv <7 Act/360 Balloon 07/01/19	471622 1.86		993,673.00 100.00%	993,673.00	914,109.49	924,750.03	928,776.50
WELL: WELLS FARGO	3138L3AC9	AFS	FNMA Conv <7 Act/360 Balloon 03/01/20	AM2702 1.94		1,500,000.00 100.00%	1,500,000.00	1,405,668.20	1,427,141.33	1,432,802.52
WELL: WELLS FARGO	892864DN6	AFS	TRAILL WTR RES DIST ND 21 05/01/21	1.55		300,000.00 100.00%	300,000.00	300,000.00	300,000.00	308,970.00
WELL: WELLS FARGO	31419GSJ4	AFS	FNMA 15YR 10/01/25	AE5920 3.50		1,725,000.00 100.00%	1,725,000.00	453,302.57	472,228.65	480,506.24
WELL: WELLS FARGO	3138ASS94	AFS	FNMA 15YR 09/01/26	AJ1443 4.00		1,075,000.00 100.00%	1,075,000.00	430,528.55	460,940.01	458,314.35
WELL: WELLS FARGO	3138E0KF5	AFS	FNMA 15YR 12/01/26	AJ7493 3.00		1,000,000.00 100.00%	1,000,000.00	446,368.25	461,486.44	467,392.61
WELL: WELLS FARGO	31417AM30	AFS	FNMA 15YR 12/01/26	AB3977 4.00		1,500,000.00 100.00%	1,500,000.00	476,145.72	502,900.30	507,324.33
WELL: WELLS FARGO	31417ARL5	AFS	FNMA 15YR 12/01/26	AB4090 3.00		2,421,513.00 100.00%	2,421,513.00	959,126.84	983,388.55	1,004,303.99
WELL: WELLS FARGO	3138E7TW4	AFS	FNMA 15YR 02/01/27	AK3264 3.00		1,000,000.00 100.00%	1,000,000.00	432,388.66	445,703.32	452,818.12
WELL: WELLS FARGO	3138ELYF4	AFS	FNMA 15YR 10/01/28	AL4309 4.00		1,077,457.00 100.00%	1,077,457.00	606,657.94	644,920.78	641,039.31
WELL: WELLS FARGO	3138ENV55	AFS	FNMA 20YR 05/01/34	AL6035 4.00		1,465,000.00 100.00%	1,465,000.00	1,179,259.65	1,290,859.13	1,278,271.84

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

Pledges By Pledgee And Maturity



Pledged To: City of Mandan

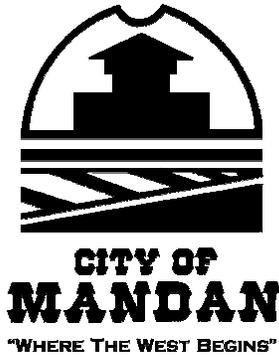
Starion Financial - Mandan, ND

As Of 6/30/2016

Page 14 of 48

Receipt# Safekeeping Location	CUSIP	ASC 320	Description Maturity Prerefund	Pool/Type Coupon	Moody S&P	Original Face Pledged Percent	Pledged			
							Original Face	Par	Book Value	Market Value
WELL: WELLS FARGO	3137AMNN3	AFS	FHR 4012 JK 12/15/40	3.50		1,000,000.00 100.00%	1,000,000.00	472,927.17	491,531.07	499,531.22
WELL: WELLS FARGO	3136AGPP1	AFS	FNR 2013-105 PJ 11/25/41	3.50		1,575,000.00 100.00%	1,575,000.00	995,625.84	1,033,982.52	1,054,316.49
WELL: WELLS FARGO	36179MLL2	AFS	GNMA II 5x1 08/20/42	MA0331 2.50		1,900,000.00 100.00%	1,900,000.00	748,481.90	775,575.00	768,413.92
16 Securities Pledged To: 170 - City of Mandan							20,332,643.00	11,620,590.78	12,015,407.13	12,094,558.44

Although the information in this report has been obtained from sources believed to be reliable, its accuracy cannot be guaranteed.
6/30/2016 11:30 AM - JHK / BISM



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Police Department
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: Chief Jason Ziegler
SUBJECT: Transfer of funds in 2016 budget

STATEMENT/PURPOSE: To consider the transfer of \$2,000.00 from the Police Department's Salary fund to the Equipment Repairs and Maintenance fund for the maintenance of our traffic radar and lidar units.

BACKGROUND/ALTERNATIVES: The police department's traffic radar and lidar units are in need of calibration and recertification as part of normal and routine maintenance. The cost for this will be approximately \$2,000.00 and was inadvertently omitted by the Police Department for our 2016 Budget request to the City last year.

ATTACHMENTS: None

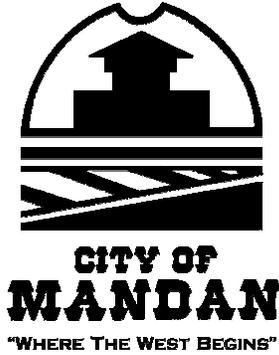
FISCAL IMPACT: Finance Director Welch indicated there is unused money/ savings in the Police Department's salary fund to cover this request. The unused money is from unfilled positions the Police Department has had up to this point of the year.

STAFF IMPACT: None

LEGAL REVIEW: None

RECOMMENDATION: I recommend approval of the money transfer between funds.

SUGGESTED MOTION: Move to approve the request for transfer of \$2000.00 from the Police Department's 2016 Salary fund to the 2016 Equipment Maintenance and Repair fund.



Old Business No. 1

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 14, 2016
SUBMITTING DEPARTMENT: Fire
DEPARTMENT DIRECTOR: Steve Nardello, Fire Chief
PRESENTER: Steve Nardello, Fire Chief
SUBJECT: Contract of Architectural Services

STATEMENT/PURPOSE: To consider approval of contract with TL Stroh for architectural services of fire station 3.

BACKGROUND/ALTERNATIVES: The Mandan Fire Department advertised and received proposals for architectural services of fire station 3 in February 2016. An architectural selection committee recommended TL Stroh for the design of station 3 and the Mandan City Commission awarded the project on June 7, 2016. TL Stroh submitted a contract for architectural services and City Attorney Brown has reviewed the proposed contract. It is now recommended to enter into a contractual agreement for fire station 3 designs with TL Stroh.

ATTACHMENTS: Architectural contract for fire station 3 design services will be available upon request at the meeting. (The contract is 100+ pages.)

FISCAL IMPACT: TL Stroh architectural design fees are \$82,500 with funding provided through the Mandan City allocation of Oil Impact Fund for "hub cities". The proposed design fees would move the project to the construction document phase and not through the bidding process until such time when the City of Mandan is ready to complete the entire construction project.

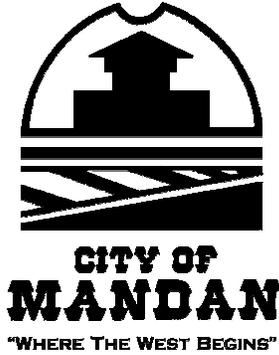
STAFF IMPACT: Fire department staff will need to dedicate numerous meeting dates to meet with TL Stroh staff so that we may provide facility needs.

LEGAL REVIEW: City Attorney has reviewed the contract with TL Stroh.

RECOMMENDATION: Should the Mandan City Commission continue to have adequate funding and see the need for the construction of fire station 3, I recommend the Commission accept the contract with TL Stroh Architect & Design for the amount of \$82,500.

Board of City Commissioners
Agenda Documentation
Meeting Date: July 19, 2016
Subject: Architectural Services
Page 2 of 2

SUGGESTED MOTION: Move to approve a contract with TL Stroh Architect & Design for the amount of \$82,500 to complete fire station design only, not to include bidding or construction.



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Young Professionals Network Request

STATEMENT/PURPOSE: To consider having the Bismarck-Mandan Young Professionals Network (YPN) develop a park concept for the expansion of Mandan's Longfellow Veteran's Park.

BACKGROUND/ALTERNATIVES: From March 3, 2015 City Commission Agenda Documentation:

We have been in discussion with the NDDOT regarding the property that lies between the south side of Liberty Memorial Bridge and Pirates Cove (condominiums). Much of the west side of the Missouri River is in private hands which limits the public's opportunity to enjoy its benefits.

This property was acquired for the construction of the Liberty Memorial Bridge and was used as a staging area while the bridge was under construction. Rather than selling the property NDDOT has determined that retaining ownership of this land is essential for future maintenance, repair and ultimately replacement of the bridge, and that it would be in the best interests of the public to have the City of Mandan manage this land as part of Richard M. Longfellow Veterans Park.

NDDOT would retain ownership of the property and the right to enter to conduct maintenance, repair and replacement activities on the bridge. We have asked that NDDOT provide us with 48 hours advance notice if any activity were to take place (other than at times of emergency).

Improvements to the property would be the responsibility of the City of Mandan with maintenance of the park the responsibility of the Mandan Park District. This would mirror the arrangement we have with the current Longfellow Park.

Should the Commission approve of this amendment, we would then begin planning improvements to the area with potential funding coming from the Visitors Fund.

A member of the YPN, Dave Lehman, approached us looking for a project they could become involved in. I suggested the idea of having the YPN involved in developing a park concept for this 2 acre site. The YPN, through its diverse membership, and many skillsets represented would be committed to leading and / or supporting the project from concept to completion. The YPN would assemble a committee to moving this project forward. In addition to the YPN leading this effort we have suggested representation from adjacent property owners (Pirates Cove, Bridgeview Bay Homeowners Assn.) along with City of Mandan and Mandan Park District (as the Mandan Park District has agreed to the maintenance of the area).

Potential schedule would be:

2016 Summer/Fall develop concepts, make proposal to Visitors Committee

2016 Fall/Winter develop plans and specs

2017 Spring/Summer – bid and construct

ATTACHMENTS: June 30, 2016 Letter from Stacey Thomas, YPN President

FISCAL IMPACT: unknown at this time, but would request funding from the Mandan Visitors Fund.

STAFF IMPACT: time

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend having the YPN lead efforts on developing park concepts for the expansion of Richard M. Longfellow Veterans' Park.

SUGGESTED MOTION: I move to have the YPN lead efforts on developing park concepts for the expansion of Richard M. Longfellow Veterans' Park.

Board of City Commissioners
Agenda Documentation
Meeting Date: July 19, 2016
Subject: Young Professionals Network Request
Page 3 of 3

6/30/2016

Stacey Thomas
President
Bismarck-Mandan Young Professionals Network
1640 Burnt Boat Dr
Bismarck, ND 58503

Mr. Jim Neubauer
City Administrator
205 2nd Ave NW
Mandan, ND 58554

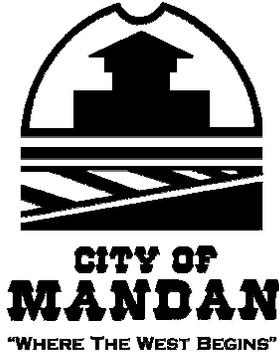
Dear Mr. Neubauer

On behalf of the Bismarck-Mandan Young Professionals Network (YPN), I would like to express our interest in committing network resources to develop a park concept and to help in any way feasible to make the expansion of Mandan's Longfellow Veteran's park a reality. We feel the diverse network membership (from recreational minded young adults to families) offers a wide range of perspectives that would lead to an exciting park concept fitting many different lifestyles. Also, there are many skillsets represented within the network which may be synergistic to this collaboration as well. Given the opportunity, the network would be committed to leading and/or supporting the project from concept to completion. For your approval, I propose the YPN assemble a committee dedicating to moving this project forward. This committee would include YPN members and any appropriate individuals from outside the network seen as instrumental to successfully completing the park. Please let me know if this is of interest to the city of Mandan, and we will proceed accordingly. Please contact me at 400-1474 with any questions you may have. Thank you for your consideration.

Sincerely,

Stacey Thomas

Stacey Thomas
President
Bismarck-Mandan Young Professionals Network



New Business No. 2

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Bill Robinson, Chair, Lower Heart Water Resource District (LHWRD)
SUBJECT: Update on Levee System

STATEMENT/PURPOSE: To update the City Commission regarding activities of the LHWRD related to the levee system and possible changes.

BACKGROUND/ALTERNATIVES: Attached is a memo provided to the City Commission from Mr. Robinson in March 2016 related to the current levee system. The LHWRD met this past Thursday, July 14. Mr. Robinson will provide an update from this meeting.

ATTACHMENTS: March 2016 Memo; a full copy of the Lower Heart River Hydraulic Analysis, February 2015, prepared by Bolton & Menk is available upon request.

FISCAL IMPACT: unknown at this time

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: n/a

SUGGESTED MOTION: n/a

To: **City of Mandan**
 Jim Neubauer, Administrator
 Arlyn VanBeek, Mayor
 City Commissioners

From: **Lower Heart River WRD**
 Bill Robinson, Chairman

As you are aware, the City of Mandan is protected from the 100 year flood plain within the city limits through the accreditation of its current levee system. Presently, the properties within the city remain protected with the current levee design and structure. The Federal Emergency Management Agency (FEMA) has performed a recent study that projects this accreditation to fall short of their modified criteria in the face of an ice jam event. This study impacts many communities within the State of ND including Fargo and Minot. The result of this study, for the City of Mandan, is it has been determined that without improvements to the flood protective system FEMA will ultimately withdraw its certification of adequate flood protection thus putting an estimated 1800 properties into the 100 year flood plain.

Under the new FEMA guidelines during an ice jam event, the levee is missing the required 3 feet of freeboard at high water flow. Without the improvements to the levee system to accommodate the changes, FEMA will change its flood maps of the City to indicate the new inundation areas. This will, again, expose approximately 1800 properties to the 100 year flood plain.

Lower Heart River WRD has been working with the engineering firm of Bolton & Menk, Inc. to perform hydraulic analysis of suggested options to improve the protective system at the projected required levels for FEMA. Kevin Bittner is the staff engineer we have been working with and his resume includes time with the ND State Water Commission and the US Army Corps of Engineers. Included with this memo is the analysis he has performed with the options reviewed and the concept of improvements we have chosen to date. The concept chosen met our initial criteria of accommodating the FEMA required flow levels and cost/benefit in exchange for doing nothing in improving the system capacity.

This draft was provided to the ND State Water Commission, USACE, and FEMA for feasibility. They have reviewed it over the summer and fall months of 2015. We have received a comment from each on our concept and all have agreed it has enough corrections and improvements to address the FEMA changes to continue moving forward. We received the last of these comments at the end of November 2015. The government agencies will not provide a full endorsement until we get to the point of full field survey work and submitting a FEMA Conditional Letter of Map Revision (CLOMR). The CLOMR submission is required before any construction work begins. Assuming FEMA approves the CLOMR, the project would then have the green light to commence. We are at this point prior to field survey work. Cost estimates are being worked up at this time for CLOMR application costs.

I have also included the Hazard Modeling from Emergency Management describing the property counts and dollar values applied to damages in a flood event. This information was pulled in to further determine cost/benefit.

Concept Cost/Benefit:

LHRWRD intends to use the NDSWC cost share program of 1/3 - 2/3 funding. We provide 1/3 of the project cost or \$13,000,000.

Special Assess Bond:	\$13,000,000
Rate:	@ 5.5%
Term:	10 years
Annual Installment:	\$1,725,000

Using the 1800 properties, this is \$960/year. An estimate of the average home in the 100 year flood plain premium is \$2,400 to \$3,600/year.

The special assessment has a sunset, the flood insurance premium does not.

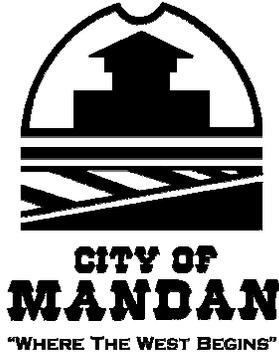
The worst-case scenario indicates that if the entire \$36,000,000 project was to be assessed over the same 1800 properties, the annual installment would be \$2,000/year over 15 years. Because of the sunset feature of this cost to the property owner, it still remains affordable when stood next to the no-end feature of flood insurance.

Property Value Cost/Benefit:

	Average Home Price/Value =	\$250,000
Purchase/Sales Price	=	\$250,000
Loan Amount	=	\$200,000
Term of Loan	=	30 years
Monthly P&I @ 4.50%	=	\$1,013/month

When accommodating a Flood Insurance Premium of \$200/month in the Buyers DTI ratio for financing, this same home would have to sell for \$200,560 or \$49,440 less to a Buyer requiring flood insurance. In this scenario, the property value would be exposed to a 20% hit to value if exposed to the 100 year flood plain.

Obviously, this would not be across the board for all 1800 properties in the projected plain but property values would decrease because of the insurance premium requirement to all Buyers that receive financing.



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Downtown Advertising Benches

STATEMENT/PURPOSE: To consider recommendations from the Community Beautification Committee (CBC) regarding benches in the downtown area.

BACKGROUND/ALTERNATIVES: The CBC has formed a subcommittee to review enhancements possible for the downtown area. Examples of items being considered include additional decorative street lights, trees, brick kiosks, benches, trash receptacles etc.

As the subcommittee reviewed the benches downtown and the state of disrepair many of them are in, the 1988 contract with Signs and Wonders was reviewed. Contact was made with Rick Knodel, Signs and Wonders for him to appear at the April 14 CBC meeting. John NarDawahl, NarDawahl's Tattoo Emporium; Mary Ann and Lance Preble, Preble Medical Services, Inc.; and Rick and Kathy Knodel, Signs & Wonders, attending the meeting. Mr. NarDawahl, Mary Ann and Lance Preble currently rent bench signs from Mr. Knodel. The excerpt from minutes from the April 14 meeting is as follows:

At the last meeting, the committee moved to recommend terminating the contract for advertising benches. Representatives of Signs & Wonders, the company that owns the benches, and business owners using the benches for advertising spoke to the committee.

Knodel plans to refurbish the signs. He suggested relocating them to other main thoroughfares throughout the community, where people may be waiting for public transportation. Neubauer said the City has to abide by ND Department of Transportation regulations for those areas. Brian Dehnert suggested Signs & Wonders work with the City and the DOT to determine where benches would be of best use.

Knodel said other parties have been moving the benches to places that would not be of benefit to businesses, such as facing the buildings rather than streets. He asked why nobody has contacted Signs & Wonders with concerns. Most signs have the company's logo on the back. The only way to move the benches is to lift them, which results in wear and tear on the wood and concrete. He is apprehensive to improve the benches, as he is concerned they will continue to be damaged. He requested the City contact Signs & Wonders if they need to be moved.

At a recent meeting of the Mandan Architectural Review Commission, it was decided all portable signs should be clearly labeled to identify ownership and a point of contact. Ellen Huber recommended having a placard on each bench that clearly indicates ownership. She further recommended creating points of contact at both Signs & Wonders and the City for any questions regarding sign placement or repair. She suggested, if the benches stay, that the City work with Signs & Wonders to use the benches for promotion of community events.

Signs and Wonders representatives indicated the benches showcase Mandan businesses. They said they only promote ad placements to Mandan businesses. Some advertisements are paid in advance. HIT, Inc. has paid for advertising through January 2017. There is no provision within client contracts addressing the possibility of contract termination with the City. The average cost for advertisement is \$40 per month. The maintenance of the sign is the responsibility of Signs & Wonders.

NarDawahl uses a bench to advertise for his business. He says it is the best use of signage that follows the city sign policy. City policy does not allow for signs below 6 feet. The bench is very conveniently placed for advertisement. He feels it has drawn a lot of attention and helped direct traffic to his business, which is located on a lower level. It provides small businesses with an affordable form of advertising. He sees people sitting on the benches. He would like to see the benches repaired. He pays \$42 per month.

Mary Ann Preble uses a bench to advertise for Preble Medical Services, Inc. Employees use the bench for visual way-finding at the corner of Collins Avenue to direct customers to the business. They would like to see the bench stay. They have a commitment through March 31, 2017.

Knodel suggested allowing individuals who would like to keep the benches to purchase them and phase out the other benches. He offered to remove the signs not being rented from Main Street. Huber said there are issues with allowing private items in the public right-of-way.

Committee members discussed the advertising benches. Huettl said he doesn't view the well-maintained benches, such as the NarDawahl and Preble benches, as eyesores or problems. Dehnert suggested leaving the signs used by businesses downtown for key advertising and moving the other signs to public transit areas in the community. Bob Decker said if benches are allowed, it should be linked in some way to the sign code. Lalim will look into signage options for basement businesses.

Huber suggested leaving the benches in place through March 31, 2017. It would allow notice for existing advertisers and provide time for research into other possible placements. It would allow for the sign policy to be reviewed and potentially revised. Decker suggested eliminating the bench contract and modifying the sign ordinance.

The committee discussed temporary signage. Lalim and the Mandan Architectural Review Commission are working to develop an ordinance to better address temporary and temporary off-premise signage.

Huber moved to recommend allowing the advertising benches to stay through March 31, 2017. In the interim, any benches being used for advertising must be repaired within 60 days. Those not being for advertising would be removed from Main Street with the opportunity for possible relocation to areas conducive with the CAT bus route. Dehnert seconded. The motion passed unanimously.

Further discussion at the May 19, 2016 meeting was held and a clarification of previous motion was made

Dehnert moved to require removal of advertising benches not under an existing contract within 60 days from first notice. Froseth seconded. The motion passed unanimously.

ATTACHMENTS: 1988 Contract with Signs & Wonders

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: Attorney Brown has reviewed the contract and indicated that to be sure we give written notice of the termination.

RECOMMENDATION: The recommendation from the CBC is as follows:

The contract between the City of Mandan and Signs and Wonders be terminated as of March 31, 2017, in the meantime, any benches being used

for advertising (advertisement for Signs & Wonders is not considered advertising) be removed within 60 days of first notice.

SUGGESTED MOTION: I move that the contract between the City of Mandan and Signs and Wonders be terminated as of March 31, 2017, in the meantime, any benches being used for advertising (advertisement for Signs & Wonders is not considered advertising) be removed within 60 days of first notice.

AGREEMENT FOR SIGNS & WONDERS ADVERTISING
TO INSTALL BENCHES ON CITY SIDEWALKS
IN THE CITY OF MANDAN, N.D.

WHEREAS, the City Commission of the City of Mandan, North Dakota ("City") has received a request from Rebecca D. Fischer, DBA Signs & Wonders of Bismarck, North Dakota for permission to establish, construct, and install benches on various public property within the corporate limits of the City of Mandan; and

WHEREAS, the City finds it desirable for adequate benches be placed for the convenience of shoppers and pedestrians in the City;

NOW, THEREFORE, in consideration of one dollar, and other good and valuable consideration, it is agreed between the City and Signs & Wonders as follows:

Section 1. Permit. Signs & Wonders is granted the exclusive right, privilege and permission at its own expense to install, place and maintain courtesy benches at various locations upon the public right of way convenient for shoppers and pedestrians on a portion of the city street between the curb and the adjacent property line as may be approved by the City.

Section 2. Construction, Design and Location. The material, construction, design and location of such benches shall be approved by the City and the property owners adjacent to each requested location.

Section 3. Advertising Revenue. Signs & Wonders shall have the right to place and maintain on said benches, display advertising and material, and shall be entitled to revenue received therefrom provided however that Signs & Wonders shall donate free rental for one out of every 10 benches located therein for public service displays as may be agreed upon between

said parties. Such public service display advertising copy shall not be changed more than once every 6 months.

Section 4. Removal of Benches. Signs & Wonders agrees to remove said benches from any location within 15 days after requested to do so by the City.

Section 5. Indemnity. Signs & Wonders agrees that it will defend, save harmless and indemnify the City, its officers, agents, and employees from any claim, demand, action, liability, damage or judgment which may arise or accrue out of the operation, maintenance and use of said benches.

Section 6. Liability Insurance. Signs & Wonders shall obtain and deposit with the City, policies providing public liability and property damage insurance which name the City as an additional insured, which provide for the protection of patrons and other users of said benches, with responsible insurance companies approved by the City; the amount of the indemnity of such policies shall not be less than \$50,000 for injury to one person, and not less than \$100,000 for injuries to more than one person in any one accident; the amount of indemnity for property damage in such insurance policies shall not be less than \$5,000. Such policies shall also contain a provision requiring the insurer to notify the City at least fifteen (15) days before the expiration of such policy, either by cancellation or limitation.

Section 7. City and State Laws. Signs & Wonders shall abide by any and all requirements of City ordinances resolutions and State laws and regulations relating to the location of said courtesy benches on public right-of-ways.

Section 8. Default. If Signs & Wonders fails to keep any or all of the covenants and agreements contained in this agreement, then this agreement shall be come null and void at the option of the City; provided, however, that the City shall first give

notice to Signs & Wonders at least thirty (30) days written notice of its intention to terminate this agreement and shall set forth therein the specific breach of the agreement, and of the City's intention to declare this agreement terminated if such breach continues.

Section 9. Named Representative. Signs & Wonders shall file a written notice with the City with a name of a representative of Signs & Wonders to whom all calls, correspondence, etc., may be referred as it relates to the purpose of this agreement. Said notice shall contain the name, address and phone number of said representative.

Section 10. Notice. Any other notice provided herein shall be given by certified United States mail, postage paid, addressed, if to the City, to it at 205 2nd Avenue NW, Mandan, ND 58554, if to Signs & Wonders, to the person and at the address set forth below in this agreement. The person and place to which notes are to be mailed may be changed from time to time by either party by written notice given to the other party.

Dated this 10 day of ^{October} ~~September~~, 1988.

CITY OF MANDAN

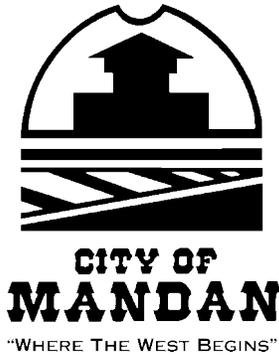
By Robert Dykshoorn
Robert Dykshoorn, Mayor
President, Board of City Commission

ATTEST:

Anna Paul
City Auditor

SIGNS & WONDERS

By Robert Fisher
422 N. 11th St.
Bismarck, ND 58501



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 14, 2016
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: HB Properties Application for Downtown Storefront Improvement Program

STATEMENT/PURPOSE: To consider a Mandan Growth Fund Committee recommendation for approval of a Downtown Storefront Improvement Program application by HB Properties for 122 E Main Street.

BACKGROUND/ALTERNATIVES: The Mandan Growth Fund Committee met July 14, 2016 to consider the subject application. The estimated cost of the proposed storefront improvement project is \$82,920. The application is for the maximum \$30,000 in matching funds. The application outlines plans to replace all windows in the building including two openings presently boarded up on the building's north side; adding stucco to the exterior in a tan color and brick about 3 feet high around the building's base. Garage doors will be painted tan. A landscaping wall and planter will extend from the building's west wall to the sidewalk, eventually to feature vines once growth is established, but initially hanging plants. A pole sign for Dakota Crop Insurance is planned for the corner of the lot at Main Street and First Ave NE to include a landscaped area at its base with a rock between the sign poles for the business Rocks That Talk. (Note: The building is within a downtown area where construction is allowed lot line to lot line.)

To help assure that all signs of blight are addressed on the site, the applicant is also going to improve a portion of the lot on the north side of the parcel that is currently graveled. The plan is to install a cedar screening fence immediately behind the building (for the storage of boulders for the rock engraving business) and hard surfacing the remainder of the area for overflow parking. The owners may add on to the building's north side shop area in the future.

The applicant is planning additional investment in interior building renovation and other project components not eligible for the Storefront Improvement program such as new concrete and the hard surfacing of the non-fenced portion of the gravel lot. These costs will likely exceed \$20,000.

The site and building renovation plan received approval from the Mandan Architectural Review Commission on July 12, 2016. The placement of the pole sign and rock need further review to be sure they do not intrude on the sight triangle as per the sign policy.

ATTACHMENTS: Application.

FISCAL IMPACT: The request is for \$30,000 in matching funds. All funds previously earmarked within the Mandan Growth Fund for the Downtown Storefront Improvement program are expended and committed. Funding for this application would need to come from unallocated funds for economic development projects as a whole. This balance stands at \$122,718.

STAFF IMPACT: Minimal staff time is required for application processing and finalization

LEGAL REVIEW: Attorney Brown has reviewed the application. Per local ordinance, an automatic door is required on at least one entrance to the building. A business incentive agreement is also required for projects exceeding \$25,000 in assistance.

RECOMMENDATION: The Mandan Growth Fund Committee voted 9-0 to recommend approval of the application for up to \$30,000 in matching funds for the storefront improvement project by HB Properties at 122 E Main Street.

SUGGESTED MOTION: I move to approve providing up to \$30,000 in matching funds for the storefront improvement project by by HB Properties at 122 E Main Street.



STOREFRONT IMPROVEMENT APPLICATION

PRIMARY CONTACT INFORMATION FOR THIS APPLICATION

Name: Holly Campbell
 Address: 711 Canyon Rd SW, MANDAN, ND 58554
 Phone: 701.226.2653 Fax: _____
 E-mail: dakotaexpinsurance@gmail.com

Applicant Name:
(name of person/entity to receive grant) H B Properties
Property Owner: Holly Campbell + Branden Brandt
Property Address: 123 E. MAIN Street, Mandan ND 58554
Architect/Firm:
(if applicable) _____

Description of Property
(until June 30th)
 Current tenant(s): Commercial Schlusser Home Contracting
 Residential # occupied: _____ # vacant: _____
Building History (if available): _____

Total Cost of façade renovation: \$82,920 w/ screening fence **Forgivable Loan Amount of Requested:** \$ 30,000

Is the façade renovation part of a larger project?
 Yes No, the façade is the only work I am doing

If yes, please describe comprehensive project.
Plans are to put NEW Concrete in drive way,
Remodel office AREA, (update floor, Add Cabinets + paint)
General repairs in Shop AREA (paint + patch walls)

Summary of Existing Condition of Façade: (please attach pictures – Attachment 1)

Please see next page for summary

Summary of Proposed Scope of Work: (materials, color schemes, etc.) Please attach colorized drawings that include pre- and post- rehab detail, indicating specifically what will be modified and how (Attachment 2). Bids or official estimates from licensed commercial contractors or other providers of needed services and materials are required. (Attachment 3)

Please see next page for summary

Historic Character: How will proposed project affect historic character? (if applicable)

No historic information available

How will your project complement downtown redevelopment efforts?

Please see next page for summary

For more information, call Business Development Director Ellen Huber at 701-667-3485.

Signature of applicant: Holly Campbell Date: 6-27-2016

Signature of property owner: Holly Campbell Date: 6-27-2016
(if different than applicant) [Signature] 6-27-2016

Special Notices

- 1) Properties are eligible only once to receive Storefront Improvement funds.
- 2) Voters in the Nov. 4, 2008, election in the City of Mandan approved an initiated ordinance that states, "Installation of electric handicap accessible entrance doors are required on every building open to the public that has received public funds in any form whatsoever." Any property receiving Storefront Improvement funds since Nov. 14, 2008, is subject to the requirement. Include an estimate for an automatic door at least for the main entrance if you do not have one.

Summary of Existing Conditions of Façade:

See Attachment 1 for Pictures

This is an older building located downtown on main street offering office and shop space. Building is structurally sound but in dire need of updates to extend the life of the building.

Summary of Proposed Scope of Work: (materials, colors, schemes, etc.)

Please attach colorized drawings that include pre- and post-rehab, detail, indicating specifically what will be modified and how.

(Attachment 2)

Completed project will feature an updated building with tan stucco and darker brown banding (around the door, windows and upper roof line). Darker brown stone will complement the stucco as it will be placed from the ground to 3' high. The windows and walk-in doors will be replaced and an automatic opener will be added to the office walk-in door along with the garage doors to be painted brown/tan tone to complement the stucco (3 panels will be replaced on the south garage door as they are damaged currently). The north wall currently has 2 window openings that are covered with wood and metal that will be replaced with windows. The North wall (back of building) will be painted the same color as the tan colored stucco to match the rest of the building. Landscaping will complement the lighted sign in the southeast portion of the lot along with the southwest portion of the lot (from the corner of the building out to the sidewalk). Around the sign (SE corner of lot) we will have a planter box out of brick (stone that will match the stone on the building if possible) that is 18-24 inches high proportional to the sign (12'L x 4'W. This planter box will be filled

with rock and various plants. On the southwest portion of the lot we plan to do another planter box (24'L x 4'W x 3'H)(and if possible match the stone on the building)) and fill this with rock and plants. We would like to build a lattice wall off of this planter box (24'Lx 13'Hx1'W (depending on requirements)) that will be a growing station for climbing vines such as clematis's and ivy or and other climbing vines. Until the vines are mature we will place hanging planters on the lattice wall.

Bids or official estimates from licensed commercial contractors or other providers of needed services and materials are required.

(Attachment 3)

See bid from Diversity Home Renovations.

How will your project complement redevelopment efforts?

The completed project will promote an updated and attractive building that will be very appealing. It will be occupied with businesses that will help attract customers to downtown Mandan.

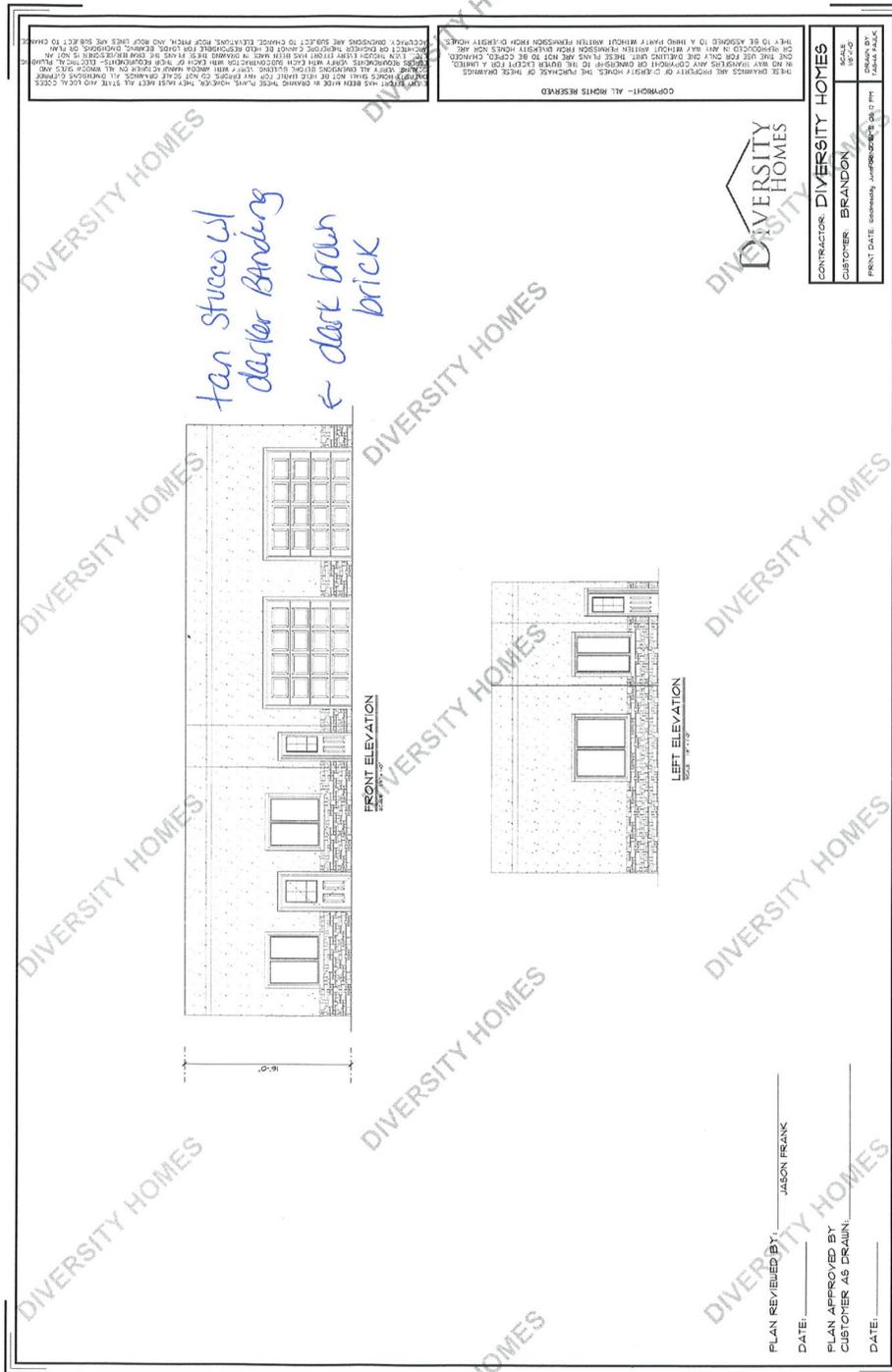
Stucco - tan w/ darker banding
darker Stone - 3' from ground

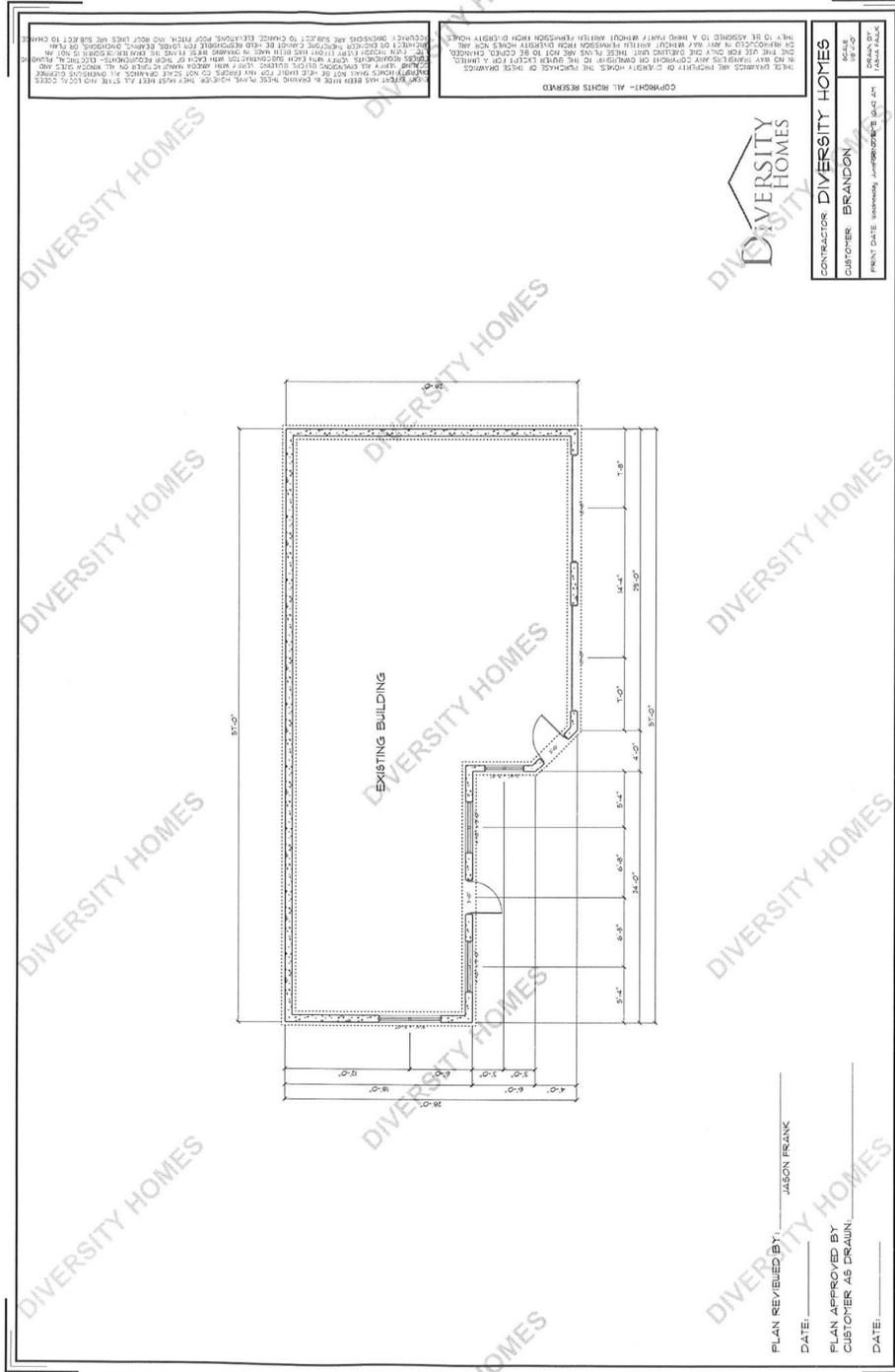


- * install 2 NEW windows
 - Currently window ~~holes~~ ARE covered w/ wood (outside)
+ metal (inside) openings
- * - North Wall (back of bldg) will be painted to match stucco



*from corner of our bldg out to sidewalk (24' L x 3' H x 4' W)
build a planter box out of brick - Above that build A lattice/landscaping
wall for hanging planters and climbing vines.







- logo will be engraved in a 4-5' boulder & placed between sign poles.

SE Corner of Lot

INDIGO SIGNWORKS
www.indigosignworks.com

Dakota Crop Insurance

Address: MO
 Suite # 29255

Date: 6-20-16
 Revised Date:

Sales Representative:
 Brad Paulson

Drawn by: Melissa Orner

Page Scale: 1/2" = 1'-0"
 Page Size: 11x17

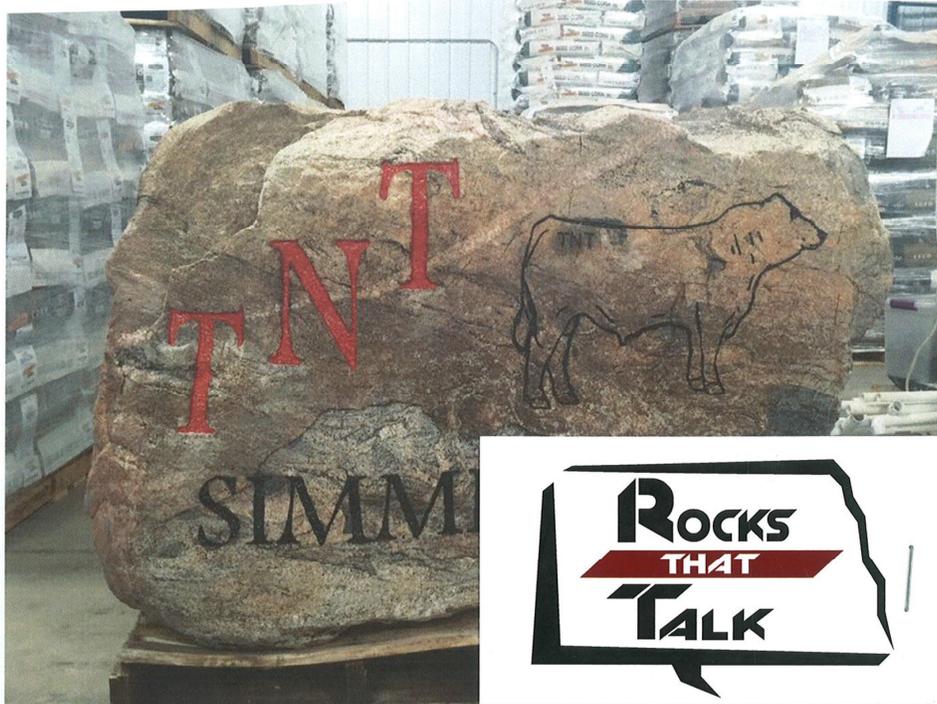
Illustrated Edition

Quantity: 1
 Size: 48" x 132"
 Double Sided
 Cabinet Color: Black
 Face Material: Polycarbonate
 Background Color: White
 Copy: Dakota Crop Insurance (Logo)
 Copy Color: Black (F25) 3) Orange vinyl and Green (D63) 20) translucent vinyl
 Illumination Type: White LED
 Voltage: 120V

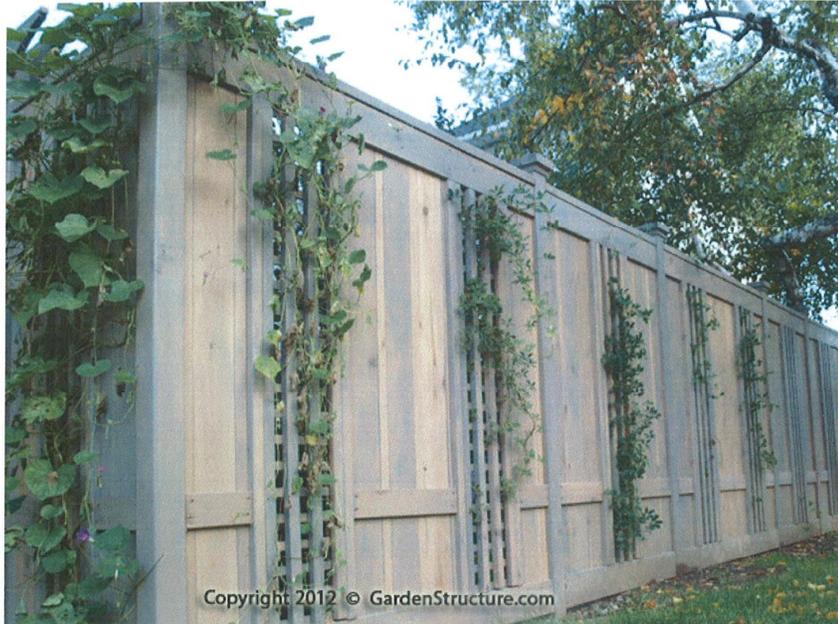
INSTALL:
 Mounting: Between poles
 Overall Height: 17'

INDIGO SIGNWORKS
 3231 Memorial Hwy | Mandan, ND 58534
 P.O. Box 9774 | Bismarck, ND 58102
 (701) 250-6996 | (701) 250-8686

(Around the sign poles)
 * build a 18-24" high x 12'L x 4'W planter box filled w/ rock & plants. This will also ~~B~~ Have a 4-5' high boulder w/ "Rocks thatTalk" logo engraved on it.



This is just an example of the engraved rock. The one that we will put in the landscaping area will be a black/grayish granite rock that will be cut on both sides to show a very professional & smooth faced rock. There will be lights shining down on the rock to help for night display. This rock will be placed between the dual post on the main sign. I have attached a business card to show the logo that will be placed on both sides of the boulder/rock.



Example of landscaping wall that will be placed along the **SW corner of the lot**. There will be a 3' high planter (if possible the stone on the front of the planter will match the stone on the building exterior) filled with plants. The Trellis part of the wall will have climbing vines such as clematis's (#1 picture on next page). (Until the clematis's are established I will fill the area with hanging plant baskets). There will be lights that shine up on the wall to help illuminate the landscaping and greenery at night (#2 picture on next page).



Just some ideas of different climbing vines & greenery to be placed in Landscaping Wall



H B Properties, LLC.
Exterior Renovation Proposal

Address: 122 East Main Street

Price: **\$78,030.00**

Renovation Includes:

- Stucco exterior per plan
- Install stone per plan
- Add and replace windows
- Material and labor to install window trim and casing
- Labor to install windows and doors
- Replace and install exterior walk-out doors to include automatic opener
- Labor and material to replace and paint garage door panels
- Labor and material to install dual pole sign
- Labor and material to update and add on to electrical
- Labor and material to landscape area per plan

OFFICE: (701) 663-9656
 mastelsfence@gmail.com
 www.mastelsfence.com

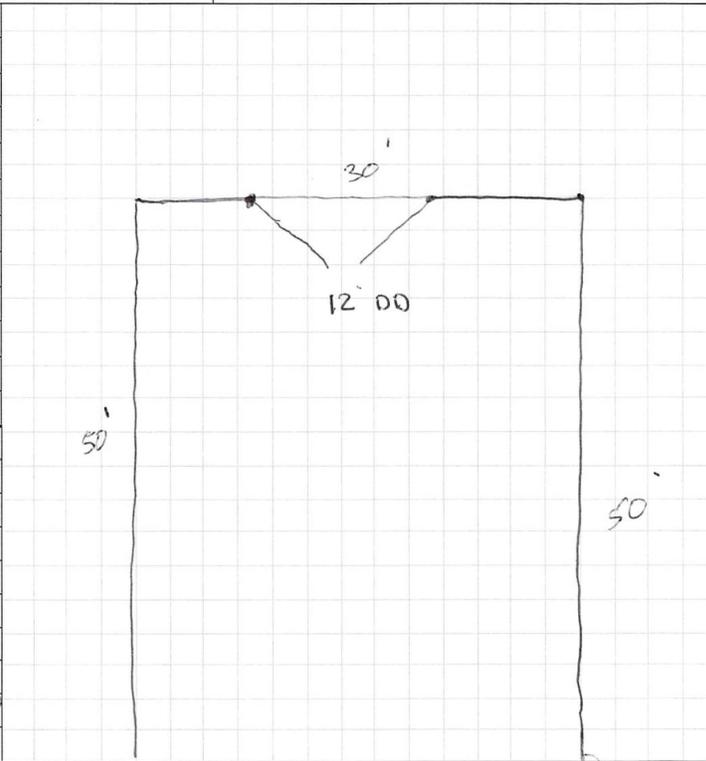


2306 Memorial Highway
 Mandan, ND 58554

Date: 7/13/16
 Cell: 701 527 0040

Name: HB Properties	Cell: 701 527 0040
Address: 122 E. Main	Other:
	Email:
	Special Instructions:

FENCE TYPE
Cedar
FENCE STYLE
privacy
FENCE HEIGHT
6'
FENCE FOOTAGE
130'
GATES
1 DD
MISC
QTY.
SECTIONS
EXTRA POSTS
GATE & HDW
GATE & HDW \$1250. ⁰⁰
TAX
MISC.
MATERIALS - TOTAL
LABOR \$3,640. ⁰⁰
PROJECT TOTAL \$4,890. ⁰⁰

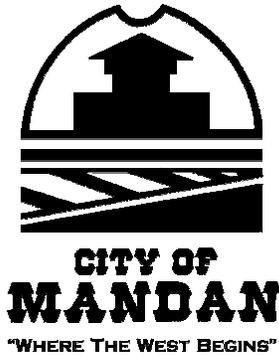


TERMS: Unforeseen project complications (i.e. digging conditions, sprinkler repair, etc.) can occur. In the event additional labor is warranted, customer consent is required for approval of potential cost increases.
 Due to the nature of work, minimal but necessary impact to landscaping may result. In addition, Mastel's Fence Company is not liable for sprinkler damage, locating property pins, and / or unmarked private utilities.

\$ 2,445.⁰⁰ is due along with a signature below to order material and acceptance of the contract.
 The remainder will be due upon a successful completion of the project.

 Signature

 Date



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 14, 2016
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Updates to Restaurant Rewards Program

STATEMENT/PURPOSE: To consider a Mandan Growth Fund Committee recommendation to update and clarify the Restaurant Rewards Program Overview.

BACKGROUND/ALTERNATIVES: The Mandan Growth Fund Committee met July 14, 2016. Among agenda items was circling back to some language that had been flagged as pending in the Restaurant Rewards Program description. Specifically, the third item under Conditions still has the following statement:

Pending further discussion — First-time restaurant operators or applicants that have been in business for less than one year must submit application to the local N.D. Small Business Development Center office and after start-up participate in quarterly consultations with the SBDC or another approved business consultant.

The committee determined that this requirement is not needed given that the Restaurant Rewards Program components are low risk, so the MGF Committee does not need to be highly involved in assessing an applicant's probability for success. This is because 1) the sales tax rebate is performance-based, meaning there's no reward unless there are sales; and 2) the interest buy-down component requires approval of the base loan by a lead commercial lender and the Bank of North Dakota.

The committee reviewed additional proposed changes in verbiage to put the program description in present tense as was approved, instead of future tense or a hypothetical context as it was proposed.

ATTACHMENTS: Program overview with proposed updates and clarifications.

FISCAL IMPACT: None

STAFF IMPACT: Minimal staff time is required to update program information in hard copy and online.

LEGAL REVIEW: Attorney Brown has reviewed the proposed changes.

RECOMMENDATION: The Mandan Growth Fund Committee voted 9-0 to recommend approval of the program overview updates.

SUGGESTED MOTION: I move to approve the updates as proposed to the Restaurant Rewards Program Overview.



Adopted April 5, 2016;
Amended April 19, 2016
Updates Proposed July
14, 2016

RESTAURANT REWARDS Sales Tax Rebate & Interest Buy-Down Incentive Program

PROGRAM OVERVIEW

Restaurant businesses are an integral part of the Mandan community. Having convenient access to a variety of eateries is important to the quality of life for area residents and to the quality of experience for people visiting our community for various events and attractions. Convenient access to restaurants is also important to the attraction and retention of other types of businesses.

Mandan's demand for restaurants outstrips the supply. According to a 2016 Nielsen opportunity gap analysis, there is a \$263 million gap between expenditures and supply or store sales for the category of foodservice and drinking places in Morton County, our primary trade area. Breaking this down further, the analysis shows a near \$109 million gap for full-service restaurants, a \$7.68.8 million gap for limited-service eating places, and a \$6.7 million gap for special foodservices.

The Mandan City Commission, in cooperation with the Mandan Growth Fund Committee ~~in cooperation with the~~ and City of Mandan Business Development Department is ~~proposing offering~~ a new program to provide financial assurances for new and expanded restaurant facilities to locate and operate in our underserved market. The program is structured to help reduce both start-up and initial operational costs.

The program is available to qualified retail and restaurant businesses new to or expanding in the City of Mandan. Mandan welcomes unique, one-of-a-kind restaurants as well as national franchise and corporate concepts. The program is open to restaurants that are full-service restaurants (table side service), limited service (order w/ cashier, food brought to tables), and fast food (counter service or drive-up only). Restaurateurs may choose any location within the City.

The program is offered through the City of Mandan's Business Development Office through March 31, 2017; at which time the program will be evaluated for a potential one-year extension. The funding source is a portion of the City's 1 percent sales tax revenue. Approval may depend on availability of funds in the Growth Fund at the time of application. Funding for qualified applicants is encumbered on a first-come, first-served basis. Approved applicants will be required to enter into a participation agreement and a business incentive agreement with the City of Mandan.

PROGRAM STRUCTURE & BENEFITS

Sales tax rebate. Restaurants in Mandan collect a total of 3.25% in local taxes from customers:

- 1.75% - City of Mandan sales tax. Of this total, a 1% amount is for uses such as economic development, property tax reduction, infrastructure and debt reduction. The remaining share, 0.75%, is dedicated to a Mandan Park District sports complex approved by voters in June 2015.
- 1% - City of Mandan restaurant and lodging tax. Funds may be used for capital construction and promotion projects to attract visitors to the community to use travel and tourism facilities.
- 0.5% Morton County sales tax. Funds are dedicated to a joint jail project with Burleigh County.

The City of Mandan will rebate back 100% of the collections of the 1% city sales tax for qualified restaurant owners for 5 years.

Example: A restaurant generating \$1 million in annual taxable sales would receive a rebate of \$10,000.

Interest buy-down. The City of Mandan ~~will~~has set aside \$162,000 in the Mandan Growth Fund to provide the local match in the form of a forgivable loan of up to \$53,846 for qualified restaurants seeking a Bank of North Dakota Flex PACE interest buy-down. Funds ~~will be~~are available on a first-come, first-served basis. The restaurant must obtain preliminary approval from their commercial lender and the Bank of North Dakota.

Flex PACE utilizes a partnership between financial institutions and the Bank of North Dakota through a participatory lending arrangement in which half of the loan amount is provided by the lead lender and half by the Bank of North Dakota. Funds are used to reduce the interest costs to borrowers by up to 5 percent below the lead lender's rate to a rate as low as 1 percent.

The program requires a local match, which in Mandan's case is 35 percent. If the principal amount of a project warrants it, the program maximum allows for a buy-down of \$153,846 with the state bank providing \$100,000 and the City of Mandan required to provide \$53,846.

Absent this special program, Mandan Growth Fund Committee policy generally requires repayment of the principal of the local match after the term of the buy-down is complete (usually 5 years). The interest rate and repayment terms are determined based on the nature of the project and public benefits provided. Criteria include jobs creation, job quality, contribution to the local economy, project scope and level of private investment, generation of sales tax, and extent to which the borrower is provided a product or service missing or in greater need in the community. Priority projects in the areas of primary sector businesses, retail, child care and affordable housing will generally be considered for a 0% interest rate.

Eligibility

1. Application must be reviewed and have full approval by the Mandan Growth Fund Committee AND the Mandan City Commission prior to the opening of the restaurant or the expansion of an existing restaurant. Applications after the actionable event are not eligible.
2. Applications will be considered for first-time restaurateurs, new and expanding concepts by existing restaurateurs, and expansion by restaurateurs from outside the City. An inter-city relocation is not eligible for the sales tax rebate without expansion as compared to the previous location.
3. For an expansion of an existing restaurant, any sales tax rebate would be measured as the increase in sales above reported quarterly sales for the prior two years.
4. Delivery or take-out only concepts are not eligible.
5. At least 50% of revenue from any enterprise, including beverage sales, must be generated by prepared food sales on an annual average.
6. The Mandan Growth Fund Committee will review each application on a case-by-case basis and reserves the right to make other exclusions if the use is not consistent with approved City redevelopment and development plans; if it does not benefit the health, safety and welfare of the community; or if the business activity does not meet the objectives of this program.

Conditions

1. In lease situations, a minimum 3-year agreement is preferred.
2. Restaurant must be open for business a minimum of 30 hours per week. If an applicant proposes to be open fewer hours, justification must be presented with the application.
- ~~3. Pending further discussion — First-time restaurant operators or applicants that have been in business for less than one year must submit application to the local N.D. Small Business Development Center office and after start-up participate in quarterly consultations with the SBDC or another approved business consultant.~~
- 4.3. Installation of an automatic door is required for at least a main entrance to the building as required by Mandan Municipal Code Section 111-2-9.

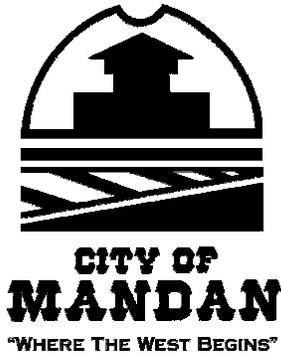
Application Process

1. Submit the application and all required attachments to the City of Mandan's Business Development Office ~~(application to be developed pending approval of program proposal).~~
2. City staff will make every effort to review completed applications (along with all necessary supporting documentation required for the application process) within a 2-week period.
3. The Mandan Growth Fund Committee will meet to review application and make recommendation to the Mandan City Commission. MGF meetings are scheduled as needed. Applicants will be notified of the meeting and asked to attend to present their request for assistance.
4. An application recommended for approval will be forwarded to the Mandan City Commission for consideration. The City Commission meets the first and third Tuesdays of the month at 5:30 p.m. Applicants will be notified of the meeting and asked to attend to represent their request.
5. Recommendations of the Growth Fund Committee will be presented to the City Commission for consideration of final approval within 45 days after a complete application is submitted.

Implementation Procedures

1. Business has 1 year from City Commission approval to be open and operational. This includes having a certificate of occupancy and being compliant with all laws and health regulations. The applicant may request an extension in writing to the City Commission. The extension may or may not be approved based on documentation of progress toward the goal. If the extension is not approved or the deadline passes without a qualified restaurant opening, the amount allocated to the applicant will be forfeited by the applicant.
2. An approved restaurant will be required to provide the N.D. Tax Department with authorization to release data to the City of Mandan regarding its quarterly sales tax remittance. It will also be required to submit a copy of its monthly or quarterly sale tax remittance report to the City of Mandan.
3. The City of Mandan will provide the sales tax rebate to the approved restaurant on an annual basis.
4. Applicant (and landlord in lease situations) must be current on all municipally applied taxes, special assessments, utility bills, or loans. Payments will cease if either party fails to be current on these obligations.
5. Payments cease if applicant discontinues the business, moves the business from Mandan, or fails to comply with any and all building, fire, health or zoning codes or regulations applicable to the business.
6. The subsidy will be structured as an interest-free loan that will be pro-rated and forgiven over the course of 5 years from date of opening, provided the restaurant remains in continuous operation within the City of Mandan. A participating restaurant that locates outside the City before this time shall repay a pro-rata share of the subsidy.
7. Following the first 12 months of subsidization and through the fifth year of operation, each applicant will be required to submit an annual report to the Business Development Office to provide information about full-time and part-time employment, wages and benefits.

~~Application form and template legal agreement pending.~~ For more information, contact the City of Mandan Business Development Office, phone 701-667-3485.



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: 40th Avenue and 24th Street SE Emergency Sewer Fix

STATEMENT/PURPOSE: To promptly fix a section of sanitary sewer that is improperly sloped.

BACKGROUND/ALTERNATIVES: During the installation of sewermain to serve the Lakewood 8th addition, it was observed that the 8-inch sewermain stubbed to the west of 40th along 24th Street corridor (formerly Shoal Loop), is not at proper grade to drain towards the 40th Avenue sewermain. This was verified using survey instruments that showed the west side connection point invert to be 0.45 feet lower than the invert at the 40th Avenue manhole. It should actually be 0.6 feet or more above in order to properly drain towards 40th Avenue.

There were two projects for which this segment of sanitary sewer was constructed, the first 40 feet from the 40th Avenue main was constructed in 2005 by Robert Gibb and Sons with Swenson-Hagen Engineering involved as the engineer for both design and inspection. The next 110 feet was constructed by Bowers Excavating with Toman Engineering involved as the engineer for both design and inspection.

Our office has sent notice letters to all four entities involved with these past projects to give them a chance to correct at no cost to the city. Three of the four have agreed to dedicate their resources to making the fix, Robert Gibb and Sons responded saying that they will not participate and do not feel responsible for this issue.

This fix comes with urgency for a few reasons;

- 1) There are apartment buildings to the south of this sewermain that are using the existing line and have been since 2012. To our knowledge they have not backed up, but they do run an increased risk of sewer backup in the lines current state of improper slope.
- 2) A relatively large apartment complex is being built just north of this segment that will need to tie into this main. The apartment's targeted move in date is August 15th.

The goal would be to get this fixed by August 5th in order to beat that August 15th date.

- 3) The Lakewood 8th Street Improvement project, currently under contract, cannot finish until this problem is resolved.

Given the urgent nature, we believed it qualifies as an emergency fix. Given the emergency classification, we believe it is necessary to have an abbreviated request for quotes with several contractors familiar with the area being asked for quotes to do the work. Our office has invited a few contractors to submit lump sum quotes to make this fix. We estimate the fix to be approximately \$50,000. We have asked that the contractors submit their quote by 4:00 on Tuesday, July 19th. **Note; expect an update with those quotes by Tuesday's commission meeting.** We would recommend taking the low quote and authorizing the contractor to start with the fix as soon as possible, foregoing our typical formal contract process.

Update: One bid was submitted. That bid was submitted by Basaraba Excavating & Dirt Works, LLC. Their bid to do the work is for \$175,000. After receiving the bid, I talked to Brent Basaraba. He said that the depth, wet conditions, high amount of utility conflicts, and tight timeline all culminate to make this a very challenging project which is reflected in the price. He said that taking the resurfacing of 40th out of the scope would bring it down some. No specifics on how much at this time.

Going forward we would recommend to negotiate with the contractors we notified for this work while also working with the apartment building to push their move-in date back or tying into the existing sanitary line even though it is not graded properly as a short-term solution.

ATTACHMENTS: 1) Map of the area with the issue

FISCAL IMPACT: The funds for the fix would be paid for out of the utility fund. Our department anticipates working with the city attorney to recoup the cost from the original installer not willing to participate in the fix. The estimate is for this fix is \$50,000. **Expect the actual quote to be in by Tuesday's meeting.**

STAFF IMPACT: Coordination of two different engineering consultants and possibly two different contractors to make this fix.

LEGAL REVIEW: Our department has kept the city attorney updated on this issue.

RECOMMENDATION: Our office recommends rejecting the low bid given the very high amount.

SUGGESTED MOTION: I move to reject the low bid provided given the very high costs.

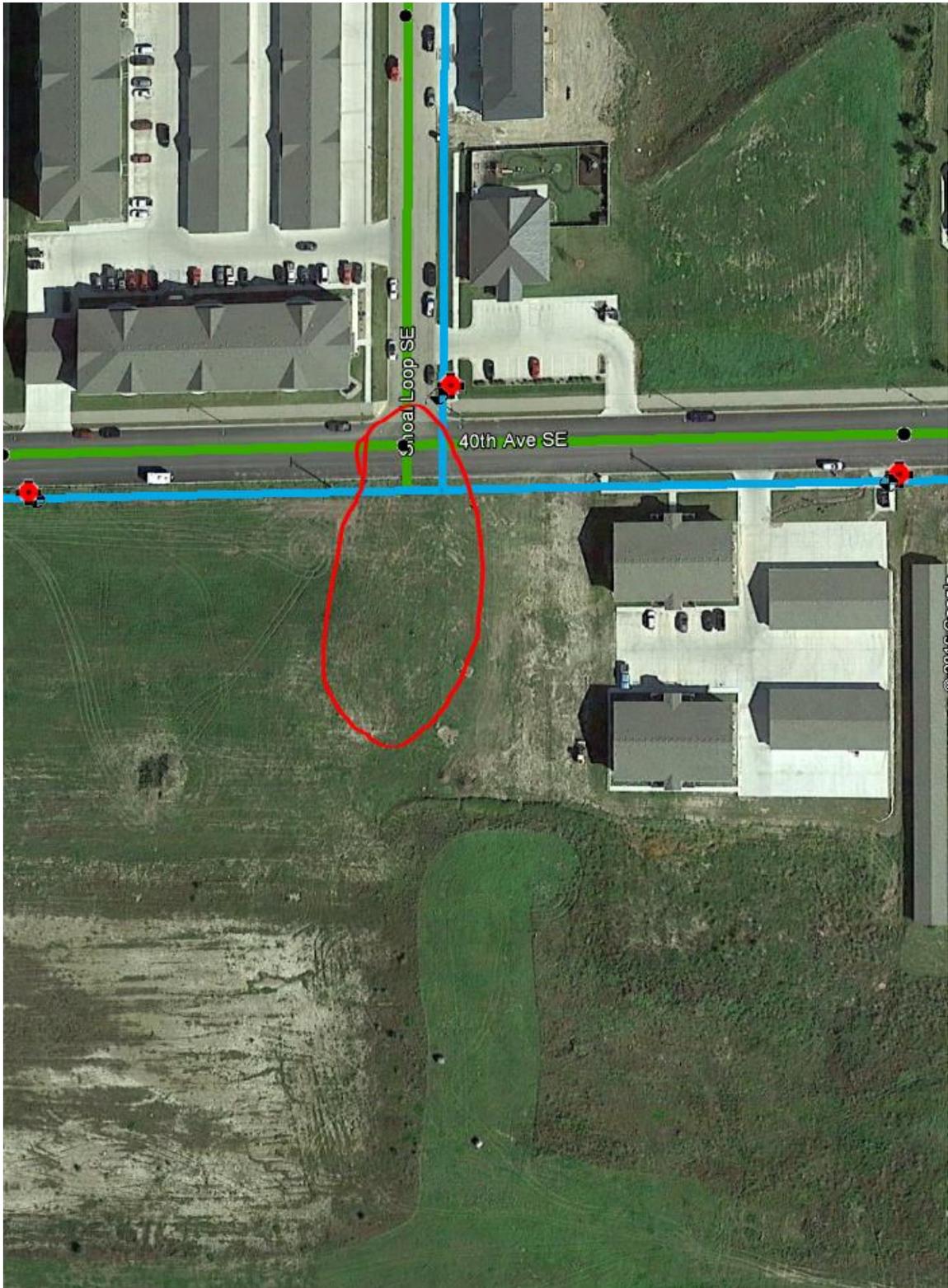
Board of City Commissioners

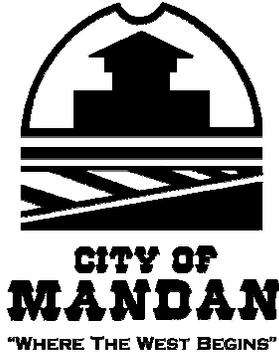
Agenda Documentation

Meeting Date: July 19, 2016

Subject: 40th Avenue and 24th Street SE Emergency Sewer Fix

Page 3 of 3





Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR: Justin Froseth
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- 2) A relatively large apartment complex is being built just north of this segment that will need to tie into this main. The apartment's targeted move in date is August 15th. The goal would be to get this fixed by August 5th in order to beat that August 15th date.
- 3) The Lakewood 8th Street Improvement project, currently under contract, cannot finish until this problem is resolved.

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ATTACHMENTS: 1) Map of the area with the issue

FISCAL IMPACT: The funds for the fix would be paid for out of the utility fund. Our department anticipates working with the city attorney to recoup the cost from the original installer not willing to participate in the fix. The estimate is for this fix is \$50,000. **Expect the actual quote to be in by Tuesday's meeting.**

STAFF IMPACT: Coordination of two different engineering consultants and possibly two different contractors to make this fix.

LEGAL REVIEW: Our department has kept the city attorney updated on this issue.

RECOMMENDATION: Our office recommends going forward with the sanitary sewer fix as described.

SUGGESTED MOTION: I move to authorize the low quote submitted by TBD to fix the sanitary sewer slope issue.

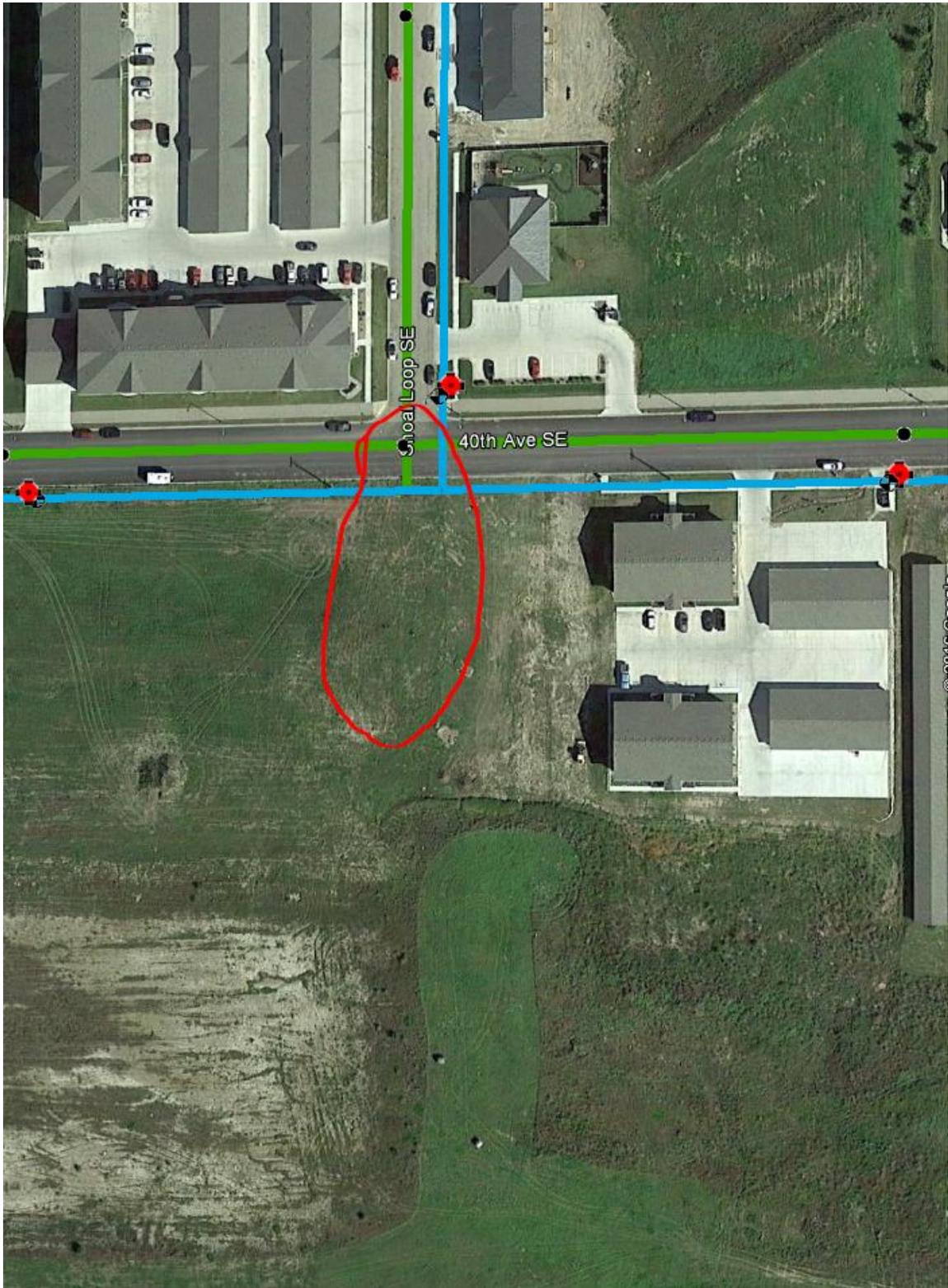
Board of City Commissioners

Agenda Documentation

Meeting Date: July 19, 2016

Subject: 40th Avenue and 24th Street SE Emergency Sewer Fix

Page 3 of 3



SUGGESTED MOTION: Move to approve the second consideration of Ordinance No. 1248 creating Chapter 26 of the Mandan Municipal Code related to code enforcement.

ORDINANCE NO. 1248

An Ordinance to Add and Enact Chapter 26 of the Mandan Municipal Code related to code enforcement

WHEREAS, The Mandan Municipal Code has multiple requirements that periodically require enforcement actions, and

WHEREAS, The city has employed a code enforcement officer to provide enforcement of city code requirements, and

WHEREAS, It is necessary to establish a standard set of requirements and procedures for dealing with enforcement issues.

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

Section 1. Chapter 26 is created to read.

Chapter 26: Municipal Code Enforcement

Article 1. - Administration

Sec. 26-1-1. – Authority and Powers, right of entry

- (a) **Authority and powers.** The Code Enforcement Officer or designee shall have the authority and powers necessary to gain compliance with this code. These powers include issuing violation notices and citations, inspecting public and private property and using whatever administrative and judicial remedies are available under this code or state and federal law.
- (b) **Right of entry.** The Code Enforcement Officer or designee is authorized to enter any building or premises for the purpose of making an inspection or to enforce any ordinance, subject to constitutional limitations and the procedures described in Section 2-2-1 of this code.

Sec. 26-1-2. – Areas of Responsibility

The code enforcement program is responsible for the enforcement of those requirements of this code deemed appropriate by the city administrator and city commission in order to ensure the protection of the public's health, safety, welfare and quality of life. The code enforcement

officer shall work with department directors to develop an enforcement procedure in the following areas of responsibility:

- (1) Municipal nuisance
- (2) Building and property maintenance
- (3) Zoning and land use
- (4) Public places and rights-of-way

Sec. 26-1-3. – Duties

(a) ***Investigation and action.***

- (1) The code enforcement officer or designee shall investigate complaints received by the city concerning potential violations on public or private property. If a violation is found, the Code Enforcement Officer or designee shall notify the violator and grant reasonable time to correct the violation.
- (2) The code enforcement officer or designee shall monitor activity within the city and, if a possible violation is identified, verify the validity of the violation. Once the violation has been verified, the code enforcement officer or designee shall take appropriate action to correct the violation.
- (3) Depending on the nature of the violation, the code enforcement officer or designee shall issue a notice of violation and demand for corrective action for a non-criminal violation or issue a citation into municipal court for a criminal violation of city code. The code enforcement officer or designee may also seek a civil penalty or other judicial relief to recoup city costs for mitigation of the violation or to obtain a court order to force the property owner to mitigate the violation.
- (4) Should a violation present an immediate threat to public health or safety or when there is a declared emergency, the code enforcement officer or designee may take immediate action to mitigate any threat to public health or safety caused by the violation.

(b) ***Notification.*** Notification of violation shall be delivered in person or by regular mail, unless otherwise stated in this code or state or federal law, rule or regulation. The letter shall indicate:

- (1) Location of the violation
- (2) Nature of the violation

- (3) Reference to applicable code
- (4) Time in which to correct the violation
- (5) How to request a reasonable extension of time to correct the violation
- (6) Potential penalties for noncompliance

Article 2. – Enforcement

Sec. 26-2-1. – Options

- (a) ***Selection.*** The code enforcement officer or designee may enforce this code through administrative, criminal or civil processes. The Code Enforcement Officer shall use discretion in determining the appropriate course of enforcement and shall, whenever possible, attempt to obtain compliance through personal contact and explanation of the issue before resorting to issuance of a formal notice of violation.
- (b) ***Administrative.*** The Code Enforcement Officer or designee is authorized to enforce provisions of this Code by initiating administrative proceedings to correct a violation.
 - (1) The code enforcement officer or designee may issue a notice of violation and order the correction of the violation by a specified date. The person to whom the notice of violation is being directed may be contacted by any means available including personal contact, email, social media account, telephone, posting a notice on the property or mailing a notice utilizing the United States Postal Service. The date specified for correction of the violation shall be reasonable based on the nature and severity of the violation. Violations that present an imminent threat to public health or safety may be ordered to be corrected within as short a period as several hours. Violations that do not present an imminent threat to public health or safety shall be given at least 5 days to be corrected. A notice to the effect that daily penalties of up to \$500 per day may be assessed if compliance is not accomplished within the time specified and that any penalty can be assessed against the property if unpaid.
 - (2) Except for violations that present an imminent threat to public health or safety, the person receiving the notice of violation may contact the code enforcement officer or designee and request an extension of time to mitigate the violation or file a written appeal challenging the order citing the specific grounds for reversal or modification of the order. A request for a time extension or an appeal must be filed with the code enforcement officer or other designated city representative before the date of compliance specified in the notice of violation. In the absence of a timely appeal, the findings of the Code Enforcement Officer or designee contained in the notice of violation shall be deemed true and final.

- (3) When a request for more time to comply is received, the code enforcement officer or designee may either grant or deny the request for an extension of time. Should the request for an extension of time be denied, the person who received the notice of violation may appeal to the appeals board within 15 days of the denial of a request for time extension.
- (4) If the violation is not corrected within the specified time, the code enforcement officer or designee shall issue a second notice of violation and specify that after the period allowed for compliance that a penalty of up to five hundred dollars (\$500.00) a day will be imposed for each day any violation is permitted to exist beyond the time for compliance. The code enforcement officer or designee may extend the time of compliance stated in the first notice of violation or state that daily penalties will commence on the date of issuance of the second notice of violation. The code enforcement officer shall also record a notice with the Morton County Recorder's Office of a pending action against the property.
- (5) Failure of the person issued a notice of violation to comply within the time specified may result in the city, at its option, taking action to mitigate the violation or referring the matter to municipal court.
- (6) If the city elects to take direct action to correct the violation the person will be billed for the actual costs incurred by the city plus administrative overhead and a penalty amount equal to the per day penalty assessment. Any bill remaining unpaid shall be assessed against the property in the manner used by the city for other unpaid bills.

(c) ***Criminal.***

- (1) ***City options.*** Depending on the seriousness of the violation, the city may seek corrective action and penalties in any court of competent jurisdiction.
- (2) ***Term of violation.*** Each day that a violation is allowed to continue shall constitute a separate violation that may be cited and prosecuted as a separate action before the court.
- (3) ***Prosecution of Criminal Violation.*** At the request of the code enforcement officer or designee, the city prosecutor or designee shall bring action in any court of competent jurisdiction to charge the violator and mitigate the violation.

(d) ***Civil.*** In addition to the authority to commence administrative proceedings for the purpose of imposing civil penalties, a judicial action seeking a civil penalty may be commenced by the City Attorney, who may also seek any other relief available to the

City. Any judicial action for a civil penalty may seek an award for attorney's fees, costs, expenses and disbursements.

Sec. 26-2-2. – Court Action

- (a) Taking any action to mitigate the violation using city resources or city contractors shall not preclude the city from taking any other action concurrently.
- (b) When a judgment is obtained by the City in an action for civil penalties, in addition to the appropriate methods of enforcement of the judgment established in the North Dakota Century Code and North Dakota Rules of Civil Procedure, such judgment for penalties shall be assessed and collected in the same manner as other unpaid bills or assessments.
- (c) The City Attorney may maintain an action in a court of competent jurisdiction to compel compliance with this code or to restrain by injunction the violation of this code.

Article 3. – Modifications to notice of violation

Sec. 26-3-1. – Time Extension

- (a) The person receiving a notice of violation may request and the code enforcement officer or designee may grant a time extension for compliance during the period of compliance specified in the first notice of violation.
- (b) Once the deadline for compliance stated in the first notice of violation or any extension granted by the code enforcement officer or designee has passed, no additional time extension may be granted unless authorized by the board of appeals after hearing an appeal.

Sec. 26-3-2 - Appeal

- (a) ***Stay of enforcement.*** Unless there is an imminent threat to public health or safety, receipt of an appeal shall stay any enforcement action by the city.
- (b) ***Action by code enforcement officer.*** Upon receipt of an appeal, the code enforcement officer or designee shall forward the appeal to the chairman of the board of appeals.
- (c) ***Action by the board of appeals.*** Upon receiving an appeal from the code enforcement officer or designee, the board of appeals shall schedule a hearing on the appeal. The hearing shall be held and a decision rendered no later than 30 days after receipt of the appeal by the board of appeals. Scheduling of the hearing shall be coordinated with the person filing the appeal. If the board of appeals fails to act within 30 days, the appeal shall be forwarded to the board of city commissioners for action.

Sec. 26-3-3. - Board of Appeals

(a) **Composition.** The board of appeals shall consist of three (3) or five (5) members appointed for 3 year terms with the initial appointments staggered so individual member's terms expire in different years. The city administrator shall recommend appointments to the board of appeals. The board of city commissioners shall appoint the members of the board of appeals. Members of the board of appeals shall be selected from people who submit applications to be appointed to the board of appeals. Members of the board of appeals must be city residents and may be a member of another appointed board, committee or commission within city government. Members of the board of appeals may not be elected officials or city employees.

(b) **Powers and Duties.**

- (1) The board of appeals shall address all questions of interpretation and enforcement of city code arising from a notice of violation issued by the code enforcement officer or designee.
- (2) The board of appeals shall adopt rules necessary to the conduct of its affairs.
- (3) Meetings shall be held at the call of the chairman or acting chairman.
- (4) Meetings shall be open public meetings.
- (5) Minutes shall be kept that record all actions taken by the board of appeals. The minutes shall document how each board member voted on any action taken. The minutes shall be open to public inspection.
- (4) The board of appeals, at its discretion and based on the nature of the violation, may individually notify neighboring property owners or others of the appeal hearing.
- (5) The board of appeals, at its discretion, may call expert witnesses to address technical issues regarding the notice of violation being appealed.
- (6) The board of appeals, at its discretion, may allow neighbors or other residents of the city to speak at the hearing.
- (7) The person filing the appeal may have legal and technical representation at the hearing. Those persons shall be allowed to speak at the hearing.

Sec. 26-3-4. – Appeal Board Decisions Reviewable

A decision of the board of appeals may be appealed to the board of city commissioners by either the aggrieved applicant or by any officer, department, or board of the city. The appeal must be filed with the city administrator within fifteen (15) days after notice of the decision of the board of appeals. The board of city commissioners shall fix a time, within thirty (30) days,

for the hearing of the appeal and shall give due notice of the hearing to the parties. The board of city commissioners shall decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing of the board of city commissioners on the appeal. The board of city commissioners may reverse the decision of the board of appeals, in whole or in part, or modify the order, decision, or determination appealed.

Section 2. Chapter 26 is enacted as presented.

Tim Helbling, President
Board of City Commissioners

Attest:

Jim Neubauer
City Administrator

First Consideration:
Second Consideration and Final Passage:
Publication Date:

July 5, 2016
July 19, 2016



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2016
PREPARATION DATE: July 15, 2016
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Jason Zeigler, Chief
PRESENTER: Robert Decker, P.E., Principal Planner
SUBJECT: First consideration of Ordinance No. 1245 creating and enacting Article 5, Chapter 18 of the Mandan Municipal Code related to abandoned, found, recovered and unclaimed property

STATEMENT/PURPOSE: The police department receives various items that must be retained for a period of time and then disposed of in conformance with state law.

BACKGROUND/ALTERNATIVES: This proposed ordinance updates and consolidates procedures and requirements.

ATTACHMENTS: Ordinance

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: A draft was submitted to department directors and other senior staff for review and comment. All recommended changes were incorporated in this final draft. Staff recommends adoption of this ordinance.

SUGGESTED MOTION: Move to approve the first consideration of Ordinance No. 1245 creating and enacting Article 5, Chapter 18 of the Mandan Municipal Code related to abandoned, found, recovered and unclaimed property.

ORDINANCE NO. 1245

An Ordinance to Add and Enact Article 5 to Chapter 18, of the Mandan Municipal Code related to abandoned, found, recovered and unclaimed property

WHEREAS, The Mandan Police Department receives numerous items in various ways,
and

WHEREAS, It is necessary to comply with state law in the retention and disposal of these items, and

WHEREAS, Updates are needed to the language contained in the Mandan Municipal Code.

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

Section 1. Article 5 of Chapter 18 is created to read.

ARTICLE 5. - Abandoned, found, recovered and unclaimed property.

Sec. 18-5-1. – Abandoned or unclaimed property.

Abandoned or unclaimed property, excluding contraband, vehicles and firearms, shall be disposed of in the following manner.

- (1) Held for not less than 15 days before being offered for public sale or disposed of.
 - a. Items that have a value of less than \$50 may be disposed of.
 - b. An item may be given to a city department that has use for the item.
 1. The department receiving the item shall take full possession of the item and log it into their inventory as appropriate.
 2. If the owner of the item appears within 6 months to lay claim to the item, the department receiving the item shall return it to the owner upon payment to the city of expenses incurred by the city in acquiring, storing and disposing of the item.
 - c. Items that have a value of \$50 or more that have not been transferred to a department under subsection b. shall be offered for sale.
- (2) Sale shall be either by local auction administered by the city or a contract agent or by an on-line auction administered by an on-line auction company.
- (3) Notice of sale giving time, place and contact information shall be published in a newspaper of general circulation in the city at least ten days prior to sale. Notice of the sale may also be posted on the city's web site.
- (4) Proceeds of sale shall be deposited in the general fund and an itemized record kept by the city finance director for 6 months of items sold and the value received.
- (5) If the owner of an item sold at auction appears within 6 months of the date of the auction and presents proof of ownership acceptable to the city, the city shall pay

to the owner the proceeds of the sale less any expenses incurred by the city in acquiring, storing and disposing of the item.

- (6) Should an item offered for sale not be sold, it may be donated by the city to any appropriate entity.

Sec. 18-5-2. – Fair treatment standards for victims and witnesses.

The city shall follow the provisions of NDCC 12.1-34-02 (9).

Sec. 18-5-3. – Return of recovered stolen or embezzled property.

The return of recovered stolen property that has entered the court system shall be governed by the requirements of NDCC 29-01-20 through 29-01-23.

Sec. 18-5-4. – Forfeiture of dangerous weapon or firearm by person arrested and convicted of crime.

In conformance with the provisions of NDCC 62.1-01-02, a dangerous weapon or firearm may be seized and disposed of by the city.

Sec. 18-5-5. – Finder-Depositary for hire - Assumption of ownership by finder.

A person who finds lost property or money and turns it in to the city may claim the property or money after it has been held by the city for 30 days and no one has appeared to provide suitable evidence of ownership. Should the person who turned in the property not return to claim it, the property shall be disposed of as provided in Sec. 18-5-1.

Sec. 18-5-6. – Compensation and reward to finder.

As set forth in NDCC 60-01-37, a person who finds and preserves lost property is entitled to compensation if the owner subsequently appears to claim the item.

Sec. 18-5-7. – Abandoned motor vehicle.

Abandoned motor vehicles shall be disposed of in conformance with the requirements of NDCC 39-26, except as noted below.

- (1) An abandoned motor vehicle may be disposed in the manner described in Sec. 18-5-1.
- (2) Once the city has reimbursed itself from the proceeds of the sale of an abandoned motor vehicle for expenses incurred in the towing, preserving or storing of the abandoned motor vehicle and expenses incurred in the issuance of notices or publication of notices in a newspaper of general circulation for the sale of the abandoned motor vehicle, any remaining amounts shall be deposited in the city's general fund.

Sec. 18-5-8. – Immediate ticketing and towing.

Nothing in this section shall prevent the city from immediately ticketing and towing a vehicle that is found to be blocking a public street travel lane, a private driveway, a fire hydrant or a fire lane.

Section 2. Article 5, Chapter 18 is enacted as presented.

Tim Helbling, President
Board of City Commissioners

Attest:

Jim Neubauer
City Administrator

First Consideration:

Second Consideration and Final Passage:

Publication Date:

SUGGESTED ACTION: Move to approve second consideration of Ordinance 1246 rezoning Lot 3, Block 1 Sylvester’s Industrial Park 3rd Addition.

ORDINANCE NO. 1246

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

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

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

The following described property located within the City of Mandan, Morton County, North Dakota shall be excluded from the CC Restricted zoning district (no railroad trackage, auto laundry, auto repair as a primary use, commercial parking lot/garage, off-premise advertising sign, steam bath, tire/battery repair, storage building/warehouse or any of the wholesale group) and shall be included in the CC zoning district:

Lot 3, Block 1, Sylvester’s Industrial Park 3rd Addition in Section 31, Township 139N, Range 80W in the City of Mandan, Morton County, North Dakota

SECTION 2. RE-ENACTMENT. Section 21-03-02 of the Mandan Code of Ordinances is hereby re-enacted as amended. The city principal planner is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

Tim Helbling, President
Board of City Commissioners

Attest:

Jim Neubauer
City Administrator

Public Hearing: June 27, 2016
First Consideration: July 5, 2016
Second Consideration and Final Approval: _____
Recording Date: _____

SUGGESTED ACTION: Move to approve the second consideration of Ordinance No. 1247 amending and reenacting Sections 18-2-2 through 18-2-5 of the Mandan Code of Ordinances related to juvenile curfew.

ORDINANCE NO. 1247

An Ordinance to Amend and Reenact Sections 18-2-2 through 18-2-5 of the Mandan Municipal Code Related to Juvenile Curfew

Be it ordained by the Board of City Commissioners:

An Ordinance to amend and reenact Sections 18-2-2 through 18-2-5 of the Mandan Municipal Code related to juvenile curfew is hereby enacted as follows:

Sec. 18-2-2. - Curfew hours.

- (a) It is unlawful for persons 14 years of age or less to loiter, idle, wander, stroll, play in or upon, or drive or ride about in a vehicle or be in or upon, the public streets, highways, roads, alleys, or public buildings, places or grounds between the hours of 10:30 p.m. and 5:00 a.m.
- (b) It is unlawful for persons 15 years of age to loiter, idle, wander, stroll, play in or upon, or drive or ride about in a vehicle or be in or upon, the public streets, highways, roads, alleys, or public buildings, places or grounds between the hours of 12:00 midnight and 5:00 a.m.
- (c) It is unlawful for a person at least 16 years of age but not yet 18 years of age to loiter, idle, wander, stroll, play in or upon, or drive or ride about in a vehicle or be in or upon, the public streets, highways, roads, alleys or public buildings, places or grounds between the hours of 1:00 a.m. and 5:00 a.m.
- (d) A violation of this section is an infraction. Each violation of this section shall constitute a separate violation.
- (e) Any minor who violates any of the provisions of this section shall be subject to arrest by any police officer without process.

Sec. 18-2-3. - Defense to prosecution.

- (a) It is a defense to prosecution that the minor was:
 - (1) Accompanied by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) Involved in an emergency;
 - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence, except that this defense does not apply to a violation of the curfew hours;
 - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (9) Married or had been married, or had disabilities of minority removed in accordance with law.
- (b) It is a defense to prosecution that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 18-2-4. - Responsibility of parents and persons owning or managing public places or businesses.

No parent, guardian or other adult having the care and custody of a minor shall knowingly permit such minor to be abroad, loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or any retail or wholesale business establishment, during the curfew hours, provided that the provisions of this section do not apply when the juvenile is accompanied by his parent, guardian or other adult having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.

By: _____
 Tim Helbling, President
 Board of City Commissioners

ATTEST:

 James Neubauer, City Administrator

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