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The Mandan City Commission met in regular session at 5:30 p.m. on April 21, 2015 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Rohr, Laber, Braun, and Tibke (via teleconference call). Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim.

B. APPROVAL OF AGENDA: Commissioner Rohr moved to approve the Agenda as presented. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. PUBLIC COMMUNICATIONS:

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held on April 7, 2015 and Board of Equalization meeting held on April 14, 2015.* 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:

1. *Hold public hearing to consider subdivision development agreement, plat and zoning for Volochenko Addition.* City Planner Decker stated this is a request to consider a subdivision agreement, plat and zoning for the Volochenko Addition. He said that the request is to rezone so the zoning is limited to residential uses with a few minor commercial uses, no heavy commercial and no industrial. This was discussed at the last meeting, along with Planning & Zoning meetings and is now being brought forward for rezoning. The floor was opened for questions.

Mayor Van Beek announced this is a public hearing and invited anyone to come forward to speak for or against the subdivision development agreement, plat and zoning for Volochenko Addition.

Ken Hartleib, 1708 4<sup>th</sup> Street Northeast came forward to speak. He said that the last time he was here there was an agreement of easement, a berm being built, and certain things being done. He said he believes all those things have been broken. He said that he (Kevin Fisher) has a berm built within the stakes of his (Hartleib’s) property lines within a foot. Mr. Fisher has torn up the storm sewers and they are probably plugged by now. He also took a pay loader and tore out a tree root and took the cap right off the storm sewer. He does not think the storm sewers work there anymore because of the damage that was done. There are professional people that do this work and he does not think Kevin Fisher is one of them. Hartleib is concerned if there is flooding there and who will be responsible. He said he will not discuss Volochenko because he is currently involved in a lawsuit with him.

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Dave Patience with the Swenson and Hagen engineering firm came forward and stated that he laid out this subdivision and there is a grading plan in place, as well as a storm water plan in place. The City Engineer has these documents. Mr. Volochenko is cleaning up the property and so, in essence, there will be a mess during that process. He said stakes were put on the property lines so people could see where their property lines are. If the subdivision, zoning and plat, etc. are approved, this will fall into City jurisdiction and will no longer be agricultural land. It will give the City more leverage to get the job done. He said that Kevin Fisher is interested in buying the property and turn it into a twin home development. There is a berm, etc. in the landscaping and Volochenko said he was going to build that berm. However, if Mr. Fisher buys the property and puts in all housing there will be no fencing or landscaping as those would not be required. He said that there has been progress made on cleaning up this property over the last 3 months.

Ken Zander, 1700 4<sup>th</sup> Street NE, came forward and talked about the setbacks on the borderlines. The dirt has been pushed up to the property lines along with garbage, sandbags, tree roots, and concrete chunks. He's been hauling garbage into that area ever since he bought the property. It's just a garbage pit. He is doing what he wants to do, not what the City wants him to do or what the City expects to be done. This has been a problem since Day One and everyone is frustrated with it. We get a letter in the mail that our taxes are being raised 35%-40%. Why? Because we have a dump ground behind us?

Commissioner Rohr stated that the City will try to intervene and enforce City ordinances to bring the property owner into compliance with the City requirements. He should fulfill his promises and the City will do what is possible to make sure he follows through. Mayor Van Beek commented that the neighbors are in favor of getting this property platted so this matter is taken care of properly. Commissioner Laber said that the setbacks that were agreed to don't happen until there is a plat. Because those easements and those buffer zones are engaged when there is a plat that can be recorded. That is part of the process of changing it to a Planned Unit Development and getting a plat. That way the easements are of record; and what was agreed upon is in writing, and is in agreement with the City. That is part of the reason why the City needs to have an instrument that directly outlines the easements in these areas.

Ken Hartleib came back up to the podium and indicated that he wanted the Commission to review a letter. Mayor Van Beek indicated this is not the time and place for reviewing the contents of the letter. He reassured the residents that this matter will be resolved in the proper way when the property is re-platted which will give jurisdiction to the City to work through these problems.

Mayor Van Beek made another announcement to come forward to speak for or against the plat and zoning for Volochenko Addition. Hearing none, this portion of the public hearing was closed.

2. *Hold public hearing to consider plat and rezoning for Meadowlands Addition.* Planner Decker stated this property is located at 3<sup>rd</sup> Street Southeast and south of Memorial Highway. This is an open parcel of land and is adjacent to the existing mobile

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home court. The owner of the mobile home court is a brother to the person applying for this project. The Planning and Zoning Commission recommends approval of the project. The developer is looking at a 55+ senior manufactured home park and he is encouraging similar activities for the other parcels. Planner Decker recommended going forward with the platting and rezoning as presented.

Mayor Van Beek announced this is a public hearing and invited anyone to come forward to speak for or against the platting and rezoning for Meadowlands Addition. A second announcement was made to come forward to speak for or against the platting and zoning for Meadowlands Addition. Hearing none, this portion of the public hearing was closed.

3. *Consider Resolution determining insufficiency of protests for, approve plans and specifications for, and approve resolution directing advertisement for bid for Street Improvement District No. 199, Project No. 2014-28 (NE Downtown Area).*

Planning & Engineering Director Froseth stated that last month the Commission approved the creation of the district No. 199 and approved the Resolution of Engineer's report and the Resolution of Necessity. Protests were due by 4/13/15 and approximately 28% were received which is less than the 50% needed to cancel the project under NDCC Rules. The project is to reconstruct the roads within the district. The City Engineer's Office recommends moving forward with the project.

Mayor Van Beek announced this is a public hearing and invited anyone to come forward to speak for or against the Resolution determining insufficiency of protests for, approve plans and specifications for, and approve resolution directing advertisement for bid for Street Improvement District No. 199, Project No. 2014-28 (NE Downtown Area).

Cy Fix, General Manager/CEO of Tri-Energy Cooperative came forward. He stated they have two properties involved in the project at 107 8<sup>th</sup> Avenue NE and at 710 East Main Street. He said the letter stated the project cost is estimated at \$3.5 million and he said he will have to pay \$98,000 in specials which is 136<sup>th</sup> of the whole project. He inquired how much the City would be paying and what others would be responsible for? He does not believe improving the alley way will make any difference in that area in light of the expense it will cost. He indicated that he is against the project as it will hurt his business overall because of the specials he will be assessed.

Planning & Engineering Director Froseth commented that the Engineer's Office when setting up the distribution of assessments, (keeping in mind they are estimates), the final determination is made by the Special Assessment Commission's recommendation to the Board upon the completion of the project. He said that what has been determined to be fair is that 80% of the project cost will be spread among the properties depending on what street is adjacent to the property and 20% is set aside for commercial use property only with justification that they generate more traffic. The intended payback period on this project is 20 years.

A second announcement was made to come forward to speak for or against the Resolution determining insufficiency of protests for, approve plans and specifications for,

and approve resolution directing advertisement for bid for Street Improvement District No. 199, Project No. 2014-28 (NE Downtown Area). Hearing none, this portion of the public hearing was closed.

Commissioner Laber moved to approve the Resolution determining the insufficiency of protests for, approve the Resolution approving plans and specifications for, and approve resolution amending engineer's report, and approve Resolution directing advertisement for bid for Street Improvement District No. 199, Project No. 2014-28 (NE Downtown Area). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of monthly bills.* MONTANA-DAKOTA UTILITIES - 22,867.47; ADVANCED ENGINEERING SVC - 22,005.16; BIS MAN DEVELOPMENT ASSO - 105.00; BIS-MAN CONVTN & VISITOR - 155.50; BOB'S CUSTOM SERVICES - 1,190.00; ETHANOL PRODUCTS - 1,614.45; GREAT PLAINS SECURITY SY - 1,985.00; HAWKINS INC - 880.00; HERSCH FLOOR COVERING - 2,619.60; KENDALL/NOLA - 37.95; LIGHT AND SIREN - 2,873.01; MORTON COUNTY AUDITOR - 2,368.74; ND WATER & POLLTN CONTRO - 40.00; NELSON LEASING INC DBA - 85,300.00; PRESORT PLUS - 2,362.90; RINI/EVELYN - 200.00; ROUGH RIDER INDUSTRIES - 1,760.45; TOMAN ENGINEERING CO - 12,836.95; FORT DEARBORN LIFE - 1,231.99; MORTON COUNTY AUDITOR - 6,729.59; MONTANA-DAKOTA UTILITIES - 34,163.19; QUALITY FLOW SYSTEMS INC - 57,510.00; AT & T - 812.59; BALABAN LAW OFFICE - 1,500.00; COMPANION LIFE - 10.00; DAKOTA MEDIA ACCESS - 8,055.00; FORT DEARBORN LIFE - 1,574.00; GLASS/THOMAS J. - 1,500.00; KELSCH KELSCH RUFF & KRA - 4,000.00; ND PERS - 99,851.70; WELLS FARGO COMMERCIAL C - 131,137.14; POST BOARD - 45.00; ADVANCED ENGINEERING SVC - 28,891.57; AUCH/DAVID J. - 0.00; BIS MAN DEVELOPMENT ASSO - 35.00; BIS-MDN TRANSIT BOARD - 31,747.79; BOB'S CUSTOM SERVICES - 3,430.00; CBI BUSINESS SERVICES - 7,267.04; CENTRAL DAKOTA FORENSIC - 80.00; COMPUTER PROFESS UNLIMIT - 89.00; CROWLEY FLECK PLLP - 4,500.00; CUSTER DISTRICT HEALTH U - 1,075.00; D & F TELEPHONE - 48.50; DAKOTA WEST CONTRACTING - 6,750.00; DOUGHERTY & COMPANY LLC - 9,500.00; DR. BOYD ADDY - 50.00; FETZER ELECTRIC, LLC - 942.22; FRIED'S FLOORING INC - 6,530.00; HAWKINS INC - 6,071.88; HDR ENGINEERING, INC - 498.55; HUB INTERNATIONAL OF ND - 585.00; INFORMATION TECHNOLOGY D - 1,392.41; INTERGOVERNMENTAL SHOP - 8,750.91; JLG ARCHITECTS - 7,500.00; KOSTELECKY/EVE - 500.00; MANDAN AIRPORT AUTHORITY - 63,495.70; MANDAN MUNICIPAL COURT - 2,638.15; MANDAN PARK BOARD - 500.00; MILLER/CASEY - 1,638.33; MISSOURI WEST WATER SYST - 67.12; MORTON COUNTY AUDITOR - 8,131.28; MORTON COUNTY RECORDER - 13.00; MORTON COUNTY SHERIFF - 27.68; MORTON MANDAN PUBLIC LIB - 129,432.51; MY GOV, LLC - 700.00; ND ASSOC OF ASSNG OFFCRS - 30.00; ND CHIEFS ASSOCIATION - 70.00; ND PLANNING ASSOCIATION - 50.00; ND STATE DEPT OF HEALTH - 320.00; OLYMPIC SALES, INC. - 47,800.00; ONE CALL CONCEPT INC - 59.40; POST BOARD - 25.00; PRESORT PLUS - 1,684.17; RAILROAD MANAGEMENT CO I - 562.75; RAZOR TRACKING - 400.00; SCHLOSSER EXCAVATING INC - 5,400.75; SPRING CREST DRAPERY - 650.00; STARION BOND SERVICES - 5,616,738.19; STURN/MARGARET - 200.00; WEHRI/RADEANNA - 300.00.

2. *Consider the following proclamations: (i) Designating May 1, 2015 as Arbor Day in the City of Mandan.; (ii) Designating May 17, 2015 as STRIDES: Lions Walk for Diabetes Awareness Day.*

3. *Consider replat of Lots 5 & 6, Block 1, Meadow Ridge 3<sup>rd</sup> Addition.*

4. Consider replat of Lot 8, Block 2, Meadow Ridge 3<sup>rd</sup> Addition.
5. Consider replat of Lot 11, Block 2, Meadow Ridge 3<sup>rd</sup> Addition.
6. Consider approval of annual Liquor License, Special B Liquor Permit and Special Sunday Permits for Dacotah Speedway from May 1, 2015 through October 31, 2015.
7. Consider replat of Lot 5, Block 2, Meadow Ridge 3<sup>rd</sup> Addition.
8. Consider approval of Liquor license transfer for UniStop Inc. to Superpumper LLC at 1410 Collins Ave.
9. Consider approval of Sunday openings for Superpumper, LLC.
10. Acting as the Board of Adjustment, consider for approval driveway apron width variance for 1509 Canyon Rd. SW.
11. Acting as the Board of Adjustment, consider for approval driveway apron width variance for 1703 Canyon Rd. SW.
12. Consider for approval games of chance for West River Rodeo Bible Camp at Kist Livestock from 4/22/2015 to 5/17/15.
13. Consider replat of Lots 1, 2 & 3, Block 2 and Lots 1, 2 & 3, Block 3 Macedonia Hills 1<sup>st</sup> Addition.
14. Consider approval of the following Site Authorizations: (i) American Foundation for Wildlife at The Lakewood Bar and Grill from July 1, 2015 through June 30, 2016; (ii) American Foundation for Wildlife at the Last Call Bar from July 1, 2015 through June 30, 2016.
15. Consider approval of games of chance for Gold Prospectors Association of America ND at the Mandan Eagles Club from April 22, 2015 to October 10, 2015.
17. Consider approval of agreement with KLJ engineers for design and pre-bid services for Old Red Trail reconstruction project.
18. Consider proclaiming May 4-8, 2015 PROJECT HOPE WEEK in the City of Mandan.
19. Consider Police Department requests for out of state travel: (i) Officer Nick Pynnonen (May 4 through May 7, 2015) and (ii) Sergeant Pat Haug (August 30 through September 4, 2015).

Commissioner Laber moved to approve Consent Agenda Items excepting No. 16 as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

*Consent Agenda Item No. 16: Consider approval of reassessment of property – Wachter Development, Inc. for 2014.* Commissioner Laber requested City Assessor Shaw explain the abatement. City Assessor Shaw stated this matter was to be tabled until the next meeting. Commissioner Laber moved to table this item until the next City Commission meeting and place it under New Business. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

#### H. OLD BUSINESS:

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I. NEW BUSINESS:

1. *Consider Growth Fund Committee recommendation for approval of an application for interest buy-down for Developers, LLC.* Business Development & Communications Director Huber stated this project involves the permanent financing for Memorial Square Shopping Center. It's a 14,000 sq. ft. building under construction on the east end of Memorial Highway. The applicant is seeking an interest buy-down for permanent financing for this retail and service center that will utilize the BND Flex PACE Program for local communities use. The BND will provide 65% or \$100,000 of the amount with the local community required to provide 35% or \$53,846. The buy-down is on a principal amount of \$2,898,750 with the total project financing at \$4 million.

This project is Phase 1 of a building project for retail and service sector space. This particular building will have up to 8 units ranging between 1,000 and 2,000 sq. ft. each. The permanent financing for the project will not go into place until August 2016 because the lender has allowed a 12-month lease-out period from the time of anticipated completion which is August 2015. It is anticipated to be a 2-year interest buy-down. The building will be subject to full property tax. The applicant estimates tax revenue of \$63,000 annually and will create approximately 98 jobs. The money is available in the Growth Fund and the buy-down will require a local match of \$53,846. The buy-down would be structured as a loan with an interest rate of 2% beginning after the buy-down period ends approximately in 24-25 months and then repayable within two years thereafter. The loan length will be approximately 4 years. The Lewis and Clark Regional Development Council, (LCRDC), will handle the servicing of this local loan of \$53,846 with a 1% origination fee with all hard costs paid by the borrower plus a 1 percent servicing fee going to LCRDC for payments collected after the buy-down period ends. There will be no pre-payment penalty. The recommendation from the MGF was to recommend approval of the interest buy-down for Developers LLC by a vote of 6-0 with a local match of \$53,846 to be structured as a loan repayable within two years after the buy-down period with a 2% interest rate. Randy Rhone, Developers LLC was available to answer any questions.

Randy Rhone came forward and stated that Mandan is lacking in the retail sector. The Shopping Center will allow for big national tenants to come to this area. The cost of construction in Mandan is comparable to Bismarck. This will set the precedence for future shopping centers in the Mandan community. Completion date is the end of July 2015.

Commissioner Braun moved to approve the application for the for interest buy-down for Developers, LLC for Memorial Square Shopping Center with the local match of \$53,846 to be structured as a loan with the term and rate as recommended. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

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2. *Consider approval of subdivision development agreement and plat for Volochenko Addition.* Commissioner Rohr commented that this has been a long-standing concern with many people involved to try to get a handle on what direction this should go in order for this piece of land to be presentable. Planner Decker stated that one of the opportunities is that the owner is now interested in selling this property. That was one of his motivations for coming to the City with a plan that includes hiring Swenson and Hagen, (Engineering Company), to be involved with doing an official design for this project. Mayor Van Beek concurred that with the involvement of Swenson and Hagen Engineers the project should move along and will alleviate the pressure felt by the neighborhood.

Commissioner Laber moved to approve the subdivision development agreement for the Volochenko Addition signed by Leslie Volochenko on April 16, 2015, as well as the Volochenko plat. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider approval of plat for Meadowlands Addition.* Commissioner Laber commented that a planned community for 55+ will be very successful. Planner Decker stated that the plan is to get the project started by this fall.

Commissioner Laber moved to approve the plat for Meadowlands Addition. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider requiring issuance of a permit and a fee for all work in public right-of-way.* Planning & Engineering Director Froseth stated that the Engineer's Office issues permits for sidewalk and apron work in the public right-of-ways, but not for other work in the public right-of-ways including utility cuts and tree removal/replacement. This request is to initiate a permit for any work within the City right-of-way. They feel this is appropriate to do. The City Ordinance does allow for excavating City work in the right-of-way but somewhere along the line the City may have gotten away from that. The Engineer's Office would work with the Public Works Department on inspections. Along with the permit there would be a permit fee of \$20 to cover administrative costs which may be subject to an increase, depending on the project. The contractor will be notified about requirements they may have such as furnishing a contractor's license and bonding for the projects. The focus of this is more for service lines servicing.

Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *First consideration of ordinance 1203 creating PUD District 2015-1 for Volochenko Addition.* Commissioner Rohr moved to approve the First consideration of

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ordinance 1203 creating PUD District 2015-1 for Volochenko Addition.

Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *First consideration of ordinance 1205 rezoning area platted as Meadowlands Addition.* Commissioner Tibke moved to approve the First consideration of ordinance 1205 rezoning area platted as Meadowlands Addition. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider adoption of resolution requiring a permit and establishing a fee for work in public property.* Commissioner Rohr moved to approve the adoption of resolution requiring a permit and establishing a fee for work in public property. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS:

1. *Upcoming Events:* On April 22, 2015, 6:30-8:00 pm at Hit, Inc., there is a Mandan Opportunities Forum. Registration can be done on line at [cityofmandan.com/register](http://cityofmandan.com/register) or by calling the Business Development & Communications Director Huber at 667-3485.

2. Mandan Community Cleanup Day is set for May 2<sup>nd</sup> at Dykshoorn Park. Gathering will start at 9 AM. Lunch and refreshments will be served and prizes will be given out throughout the day. Residents were encouraged to sign up at the City of Mandan website.

There being no further actions to come before the Board of City Commissioners, Commissioner Braun moved to adjourn the meeting at 6:35 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/ James Neubauer

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James Neubauer,  
City Administrator

/s/ Arlyn Van Beek

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Arlyn Van Beek,  
President, Board of City  
Commissioners