
The Mandan City Commission met in regular session at 5:30 p.m. on August 5, 2014 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Laber, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, and Planner Decker. Absent: Director of Public Works Director Wright, Assessor Shaw, and Building Official Lalim.

B. APPROVAL OF AGENDA: Commissioner Rohr motioned 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: Mayor Van Beek invited anyone to come forward to address items on the Agenda.

Michael Blasco came forward to speak. He stated his interest for coming forward is on behalf of the Airport Authority assignment for a commissioner. He stated that he submitted a resume for an open position and his concern is that he did not receive any acknowledgment for his resume. He stated he is not challenging any decisions made or to be made at this meeting. He stated he is a resident of Mandan with a great interest in aviation and he feels that people that are interested should be recognized that their resume was turned in. He voiced concern that this Commission should be aware of taking into consideration all aspects of the airport authority duties and obligations and to make sure the FAA regulations are being followed due to the growing community for the safety of the citizens using the airport. He inquired if all the people who submitted resumes were contacted and told they were not selected. He stated he did not receive any notification from the City.

Mayor Van Beek asked how the process works. Jim Lawler, Manager of the Mandan Municipal Airport stated that he did not contact any of the people who submitted resumes. He apologized for not following up. Commissioner Tibke clarified the process as being that the applications and resumes are reviewed by the Mandan Airport Authority Committee who in turn will submit a recommendation to the City Commission. Manager Lawler concurred. Commissioner Tibke suggested that in the future, each applicant should be notified. Lawler stated that the criteria is to have an interest in aviation, prior knowledge is helpful but not required, and that basically any interested person can serve on the Mandan Airport Authority Committee.

Nate Vollmuth, Paces Lodging-Mandan Development Company came forward to ask permission to speak when his item is presented to answer any questions and provide further input on the matter.

A second announcement was made to come forward to speak for or against items on the Agenda. Hearing none, this portion of the Public Communications forum was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held July 15, 2014.* Commissioner Braun moved to approve the minutes as presented. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

1. *Consider award of bid for UV Disinfection Equipment Pre-procurement for wastewater treatment plant optimization project.* Planning & Engineering Director Froseth reviewed with the Commission a request for the award of bid for UV Disinfection Equipment to Trojan Technologies, Inc. He stated that two bids were received and opened on July 22nd for the UV Disinfection Equipment needing replacement at the Wastewater Treatment Plant. The equipment to be installed is a part of a larger project to improve several areas of the wastewater treatment plant. As part of the analysis of bids, AE2S has conducted a design-life analysis in order to best evaluate the two bids over the expected life-cycle of the equipment. The result of that analysis, provided in the attachment, is a recommendation to award the bid to Trojan Technologies, Inc. despite the fact that their bid for capital-cost-only of the equipment was higher by \$159,100 compared to the \$147,000 for the Xylem Water Solutions USA, Inc. bid. The engineers estimate for the equipment was \$350,000. Director Froseth stated that the Trojan System is recommended because it is a more efficient system that uses less energy to operate as determined by AE2S during the life cycle analysis process.

Commissioner Braun moved to approve the bid for UV Disinfection Equipment Pre-procurement for wastewater treatment plant optimization project to Trojan Technology. 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.

2. *Consider award of bid for SID # 190, Project 2014-02 (Keidel's South Heart Terrace 3rd Addition).* Planning & Engineering Director Froseth reviewed with the Commission the award of bids for Street Improvement District No. 190, Project 2014-02 (Keidel's South Heart Terrace 3rd Addition). Director Froseth stated that there were two bids received on July 8 for the project and Mariner Construction was the low bidder. The bid amount was \$1,609,514.53. The Engineer's estimate was \$1,501,155.00. The bid is 7.2% higher than the engineer's estimate. At the June 17th meeting, the City Commission requested that the developer provide a letter of credit for the cost of development above \$30,000 per lot for the street portion of the project and for the entire amount of the storm sewer improvements. Since then, the developer has petitioned to annex the property he owns to the south of this development so that a portion of storm sewer that would benefit that area can be assessed to it. The Letter of Credit was submitted by e-mail yesterday, August 5th.

Subsequently, City staff had questions and concerns that were relayed to the developer yesterday afternoon, August 4th. The developer revised the Letter of Credit to address those questions and concerns and sent the revision back by email later this morning.

City staff still has questions and concerns to be addressed before accepting the low bid. Based on what has transpired the City Engineer's office is recommending not awarding the bid for this street improvement project. The developer was available to answer questions.

Director Froseth stated that the concerns are: (1) the expiration of the Letter of Credit is stated as 8/4/15. The assurance that the City is requesting is assurance that this development will continue to be built out, not just the immediate construction of the street and storm sewer improvements that should be done by that time. So the expiration of date of this time next year – there are questions as to what happens to it then? Are those amounts released back to the developer? (2) Along with the letter of credit the City is requesting a schedule of release of the amounts and other factors such as if the land transfers ownership, does that assurance follow to the new owner? The City would like to see the funds and Letter of Credit will be able to be cash to pay unpaid assessments. The City wants to make sure the requests for assurances are met and they have not been presented yet.

Nate Vollmuth, Paces Lodging, representing Mandan Development Company, came forward to speak. He provided an outline of where this project has gone and how he foresees it going forward. The bid came in on 7/8/14 and it was not received in his office until 7/14/14. The first meeting to have it approved was the 7/17/14. He stated in his experience that is not sufficient time to pull together a Letter of Credit together which is why the Letter of Credit was not presented at that time. The information has been sent to the banking institution. A draft Letter of Credit was received on 8/1/14 and that was sent to Director Froseth. There were some issues being resolved and a revised agreement was sent out on 8/4/14. There were some other continuing issues and if the issues outlined by Director Froseth are the ones of concern, Vollmuth stated he does not see any problems with them. He explained that their letters of credit are in effect for 365 days and then the City is charged with the request for it to be renewed. He indicated that is the normal process for their Letters of Credit; therefore, they all have to be renewed on an annual basis. Secondly, with regard to the schedule of release amounts, a formal document has not been prepared that outlines that, but there were some amounts included when the release of the first Letter of Credit was requested by the Commission. Vollmuth stated that their request would be for consideration to tentatively approve the Letter of Credit (with timelines attached) and tentatively approve the bid and contracts. He stated he has an up-to-date Letter of Credit redline version for the City to outline with their specific requirements and/or changes. If approved, a Developers Agreement would be prepared and sent to the City to redline by 8/6/14. Then, on 8/7/14 both parties could review and finalize them. On 8/8/14 it would be sent via overnight which would be 30 days from the bid date.

City Attorney Brown suggested that if the City does not follow the recommendation of City Engineer Froseth to deny the bid, that the matter should be tabled and a special meeting be held. He recommended not making a motion contingent on certain things that may or may not happen. If the plans, as presented, fall into place by Friday the Commission can be flexible and be available if you call a meeting, if the Commission wishes to do it that way. Commissioner Tibke commented she agrees with tabling the matter and stated she would be open to a meeting on Friday.

Commissioner Laber commented to Vollmuth that he was aware that the Commission requested, per the minutes, a Release or some kind of Schedule. Was there a rough draft of a Release Schedule included in Letter of Credit? Vollmuth replied that their Letters of Credit and that most Letters of Credit do not include the Release explaining that it is normally included in a separate document. He stated with other cities they provide a Letter of Credit and a Promissory Note and the City will provide a 1-2 page Developer's Agreement that will be signed or transferred at the same time. Those Releases never go on their Letters of Credit. He acknowledged they made an assumption they should not have. That's the issue with why those are not showing on the Letter of Credit. It should be prepared as a separate document. He clarified that he is requesting the Commission approve moving forward because they (Letters of Credit) are not signed until they get all their documents to the City.

Mayor Van Beek commented that if everything is provided to the City on Friday, there could be a Special Meeting held then or on Monday (next week) and the Commission will deal with those matter(s) at that time.

Director Froseth stated that the bid was opened on 7/8/14 and that this Friday (8/8/14) will be the 30-day mark. Commissioner Tibke stated she would like to have a second look at this due to all the variables for consideration before it goes to a vote.

Commissioner Tibke moved to table the award of bid for SID # 190, Project 2014-02. Commissioner Braun seconded the motion. City Attorney Brown stated that Planner Decker pointed out there are 31 days in July. So 30 days would be up on 8/7/14. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

G. CONSENT AGENDA

1. *Consider sole source purchase for AV equipment.*
2. *Consider appointments of Mayor Van Beek to Morton Mandan Combined Communications Center Advisory Committee and Commissioner Laber as a Liaison to the Dakota Media Access Board of Directors.*
3. *Consider approval of Sunday Openings for Mandan Eagles Club for August 17, 2014 and August 31, 2014.*
4. *Consider approval of ad for bid for 2014 water system improvements.*
5. *Consider Change Order for UPS Backup Equipment for Lift Station Alarm System Upgrade Project.*

6. *Acting as the Board of Adjustment, consider for approval setback variance for Lot 17, Block 2 Lakewood Harbor 3rd Addition.*
7. *Consider Law Enforcement Records Management System Agreement.*
8. *Consider approval of games of chance for Pink it Forward at Mandan Municipal Golf Course on August 22, 2014.*

Commissioner Tibke moved to approve the Consent Agenda items as presented.

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.

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Presentation, Bismarck Mandan Development Association (BMDA) update.* Brian Ritter, President and CEO of BMDA presented the mid-year formal update. Mr. Ritter provided a brief summary of the roles and responsibilities of what the BMDA does, (and what it does not do). In summary the BMDA is a non-profit project organization indicating they are not a government entity. There four primary public partners, the City of Mandan, the City of Bismarck, Burleigh County and Morton County. Since 2009, this Commission has contributed to the organization \$100,000 each year which is very much appreciated. He reviewed the Board's duties and those entities that are members. He reviewed the strategic plans of the four main goals. Three are what he calls "External" Goals: (i) Business retention and expansion; identify companies that may require assistance from the BMDA. (ii) The breakdown of barriers that lead to disparity in particular transportation and infrastructure throughout the Bismarck-Mandan Communities as they continue to grow. (iii) Destination: BMDA is looking at what to do to reposition the entire community, the metro area, as a region for career in destination. The final goal he considers an "Internal" Goal: (iv) BMDA has been in existence since 1979 and the goal is to update and improve Bylaw changes in order to keep up with community growth. The goal is to have this completed in October by the Board of Directors. The BMDA and Chamber of Commerce have entered into a joint venture called the Prosperity Agenda in which three big picture issues have been identified: Place, Policy, and People. Those are the three areas of focus that will make up the Prosperity Agenda in the upcoming years. Mr. Ritter gave a summary of the plans for retail management and an up-to-date report from Mandan Tomorrow Committee. He also mentioned the Comprehensive Transportation Plan including the Fringe Area Road Plan. This is an informational item and no action is needed at this time.

2. *Presentation, North Dakota Missouri River Stakeholders Project Team.* Ryan Norrell, Executive Director of a new organization called the ND Missouri River Stakeholders. A brochure of the organization was provided. He provided a history of the Missouri River Stakeholders. The goal is to create unity and leadership for a North Dakota vision and voice on Missouri River issues. He reviewed the 2014 and 2015 conference schedules. He is here to seek engagement on behalf of cities, counties and Water Resource Districts to seek parties together to form a commission and determine

how to move forward with regard to the Missouri River. Norrell extended a thank you to City Administrator Neubauer for his involvement thus far on the Project Team and extended an invitation to anyone else who would like to come forward to be involved. Norrell stated he is working with the ND Association of Counties and the League of Cities.

This is an informational item and no action is needed at this time.

3. *Presentation by Mike Manstrom, Dougherty & Company LLC, regarding the sale of \$2,490,000 Refunding Improvement Bonds of 2014, Series A. (See Resolutions #1).* Mike Manstrom, Dougherty & Company reviewed with the Commission the sale of the \$2,560,000 Refunding Improvement Bonds of 2014, Series A for the purpose of refunding the City's Refunding Improvement Bonds of 2007, Series A. Manstrom stated that the refinancing of the old Bonds is necessary to take advantage of the lower interest rates with the sale of the new Bonds. The total Net Present Value Benefit (NPV) savings is estimated to be \$154,311.45 or 6.235%. This savings is net of the issuance costs. A common method to determine if the refunding is appropriate is that the savings, net of all issuance costs, should be at least 3% to 5% as a NPV percentage of the refunded bonds. The net savings from the refinancing will be passed on to the balances owed by the special assessment districts indicated above through lower interest rates effective August 15, 2014. Bond Counsel Steve Vogelpohl has reviewed the documentation and will prepare the legal paperwork. Finance Director Welch stated that the interest savings are passed on to the properties that are directly affected by this refinancing. Any outstanding specials will see a result from this bond sale. Manstrom stated that the original bonds were sold with Moody's A-1 rating and Moody's has reaffirmed the A-1 rating for all of the City's assessment bonds. Moody's spoke very highly of what is in place for the City finances.

Finance Director Welch stated that the actual sale of the bond has actually decreased. Manstrom explained that with the low interest rates in today's market it is very difficult to price the short term bonds the first 5 years. These bonds were sold at a premium meaning the investors that bought the bonds did not want to see a .50 interest rate on the 2015 maturity when they paid the premium. The premium dollars for the higher interest rate go back to the City right away. There is additional interest because of higher interest on the premium, the City gets it back right away and the size of the bond issue is reduced to \$2,490,000. The premium will reduce the size of the bond issued by \$68,000. The City is capturing getting the interest that would be paid immediately in the form of a premium which the investor is willing to pay. The investors understand they are receiving one-half percent yield because in the future they may wish to sell the bond themselves. Director Welch stated that the document before the Commission at this time is the correct amount for the bond sale which should be \$2,490,000.

4. *Consider City of Mandan proposal for a Facebook page.* Business Development & Communications Director Huber reviewed with the Board the establishment of a City of Mandan Facebook page to enhance public information services. She explained the purpose of the page would be to provide residents timely information about City of Mandan matters of importance including city meetings, programs, policies, projects and

other news and announcements. The Facebook page will serve as an additional public information conduit, complementing and interfacing with other public information delivery options including the website, newsletter and news releases. She reviewed with the Board the proposed terms of use and a general content plan of the Facebook page. Initially the page would be managed by Business Development and Communications Department staff, City Administrator Neubauer and additional administrators may be added at a future date. There would be no direct financial outlay for this but there would be some additional staff time involved. Mayor Van Beek commented that he believes this represents “forward” thinking and provides a great opportunity to communicate with the Mandan residents and others interested in the Mandan community as a whole.

Commissioner Braun moved to approve the creation of a Mandan Facebook Page with the Terms and Conditions of Use as outlined. 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.

5. *Consider Appointment of Mike Wagner to the Mandan Airport Authority.*

Jim Lawler, Mandan Municipal Airport Manager, extended a thank you to Commissioner Tibke for her service on the Airport Authority over the years. He welcomed Commissioner Braun as a new member. He stated there were three applicants. Commissioner Tibke commented that there is normally not much interested in serving on these types of Boards. She asked if there was discussion by the Airport Authority on interviewing the three applicants. Manager Lawler replied that no interviews were conducted. Commissioner Rohr commented that at times interviews may be warranted and conducted in a more in-depth manner based on necessary qualifications especially if there is more than one applicant in order to determine the best person for a particular Board. Mayor Van Beek concurred with the suggestions to have the applicants come before the Board to speak to their qualifications. He suggested future openings on the Board include an interview process.

Commissioner Braun moved to approve the appointment of Mike Wagner to the Mandan Airport Authority for a period of 4 years and 5 months ending December 31, 2018. 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.

J. RESOLUTIONS AND ORDINANCES:

1. *Consider Resolution Awarding Sale of \$2,490,000 Refunding Improvement Bonds of 2014, Series A.* Commissioner Rohr moved to approve the *Resolution Awarding Sale of \$2,490,000 Refunding Improvement Bonds of 2014, Series A.* 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. *Consider for approval adoption of revised resolution vacating a portion of 11th Ave. SW.* Planner Decker provided an explanation for the revision of this resolution in that it is a correction of the labeling of a sub-division. This is per the County's request. Commissioner Tibke moved to approve the adoption of revised resolution vacating a portion of 11th Ave. SW located adjacent to Lots 9 and 10, Block 14 of the Meads Addition. 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.

K. OTHER BUSINESS

1. Mayor Van Beek provided a reminder that the Wild West Grill Fest is scheduled for August 15-16, 2014. He extended an invitation for everyone to attend.

There being no further actions to come before the Board of City Commissioners, Commissioner Laber 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

James Neubauer,
City Administrator

/s/ Arlyn Van Beek

Arlyn Van Beek,
President, Board of City
Commissioners