
The Mandan City Commission met in regular session at 5:30 p.m. on December 17, 2013 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, and Assessor/Building Official Lalim.

B. APPROVAL OF AGENDA: Commissioner Braun motioned to approve the Agenda as presented. Commissioner Rohr 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, excluding the Public Hearing item.

DeNae Kautzmann came forward and stated she is representing her partners in Kautzmann Land. She indicated that she would like to address the Resolution pursuant to 21.09.13(22b) regarding fees for the park district. She requested a clarification. This is going forward, correct, on the new subdivisions? Because Chapter 21.09 regulates subdivisions so this will be going forward and not affect subdivisions that are already in place. So if there are any empty lots in the City anyone who builds on them would not be assessed a \$500 fee; for example, a single family dwelling. Would that be correct? City Attorney Brown replied that discussions have implied that it would not be appropriate to apply that to existing subdivisions. He stated that it is a Commission decision. Kautzmann stated that Chapter 21.09 regulates the subdivision of land and she requested clarification of that.

Kautzmann stated that the second item she wishes to address is regarding the zoning for Christianson’s and she will address that at the Public Hearing portion of the meeting.

Dakotah Maixner from North Valley Homes came forward to comment. She missed the Planning and Zoning meeting that was held when the zoning on Meadows Sixth was addressed. When the Meadows Sixth Addition was changed from Commercial to R7 which excludes manufactured homes, it was actually mistakenly done that way. It was supposed to have been changed to the RMH which allows manufactured homes in there. She stated she feels it is important to continue with what zoning is already there. She stated that a manufactured home can be placed anywhere in Mandan unless a covenant restricts it per se. The only requirement is to have something around the perimeter to have it mock a modular. She stated that she is proposing that it is good to have an area that is designated for manufactured homes. She provided pictures and requested that each be identified as manufactured or modular. The point she brought out was that the intent was to be for manufactured homes, which are almost as expensive as any other home in that area. She stated that is what they, (North Valley Homes), intends to place there. She requested that the Commission reconsider. She mentioned that she had talked to Planner Decker who recommended a “Not Pass” at the Planning and Zoning meeting because of the drainage issue. The Inspection Department stated that it’s really not an

“issue” but is actually mandatory by federal and state guidelines that there be proper drainage under the manufactured homes. Another point she brought forward is that in the covenants there is a specific type of skirting which would make it appear to be a modular home. They have skirting that looks like painted concrete on the homes where one cannot tell the difference other than the \$10,000 cost to the homeowner. She requested the Commission reconsider the zoning.

Steve Mott, a Mandan resident who lives on 37th Avenue NW stated he was at the meeting where the Board declined to approve the change in the covenants and the planning. The first of a couple points he brought forward: Trailer homes come in on wheels. At the last Board meeting, the Board struck down the coding on it. He stated that there is a new school in this area that the residents of Mandan are paying for and now they have another subdivision they want to turn into a trailer park. He also indicated that the area was zoned a certain way for a reason. He does not feel the City Commission should override or change this policy that the Board has already laid down.

Mayor Van Beek once again invited anyone to come forward to speak. Hearing none, this portion of the public communications comment period was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held December 3, 2013.* Commissioner Tibke moved to approve the minutes as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

E. PUBLIC HEARING:

1. *Consider approval of a zoning change for Christianson’s First Addition. (First consideration of Ordinance #1136) (See Ordinances No. 5).* Planner Decker stated this is the rezoning of the area they have already approved for a final plat. This is the Phase 1 area. It is shown as R7. Initially the developers were looking at multi-family north of Boundary Road. In discussions with them it was pointed out that Commercial zoning would allow multi-family but would also give us the opportunity to bring Commercial along Boundary which will eventually become the frontage road for I-94. He indicated that is how the adjustment was made to make that a commercial zone.

Mayor Van Beek announced this is a public hearing on the request for a zoning change for Christianson’s First Addition. (First consideration of Ordinance #1136) and invited anyone to come forward to speak for or against the request.

DeNae Kautzmann representing Kautzmann Land came forward to speak. She stated their property is to the southeast of Christianson’s First. She indicated that she is not particularly concerned with the zoning but what she is concerned with is the Storm Water Management plan. Chapter 14.01 of the Mandan Municipal Ordinances addresses storm water management. The partners of Kautzmann Land are concerned about storm water run-off. She mentioned she had spoken to Planner Bob Decker and he told her that the

developer was probably going to be using local retention ponds. She requested the maps of where the ponds would be located but was told that the locations were not decided yet and so there is nothing to view. In reviewing Chapter 14.01.03 it requires that the storm water management plan be approved before a subdivision is approved and it is her understanding this subdivision has already been approved. She indicated that they are concerned about erosion, sediment control and what measures are going to be used for this? What direction and what is the rate of storm water runoff? Where will the storm water be collected? Will storm sewers be utilized? There is a coulee that routes through her property and runoff is going through there right now and they are concerned about a river and concerned about their land being eroded away. Their property abuts the Park property and there may be concerns about that as well in the future. She stated that it is the City's responsibility to have a storm water system in place that is analyzed in order to protect the public as well as other property owners from adverse impact. The other concerns are the local retention ponds within the city limits which brings up health issues as well as other issues of public concern. She requested this matter be looked at before looking at a zoning ordinance is granted and requested this matter be tabled until the Storm Water Management Plan is in place.

Curtis Kovash came forward and stated that he is in opposition to the Christianson's Subdivision not developing the land in general. But rather he does believe issues are not being addressed as they should in that area. He commented that any changes on Division Street should be addressed before this Subdivision is allowed to go forward. He cited previous excerpts from Park Board meetings wherein there was discussion addressing they do not want it going through the park, they want it on the section line and the Park does not want it there. He inquired as to why these issues are not addressed before approving a subdivision?

Mayor VanBeek announced again that this is a public hearing on the request for a zoning change for Christianson's First Addition. (First consideration of Ordinance #1136) and invited anyone to come forward to speak for or against the request. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr inquired as to what has been done to consider water run-off and what assurance has been given that this will not be a problem? Has that been given full consideration?

Decker commented that the final design work for the construction plan is progressing and planning for that is in that phase right now. None of the activities will go forward until there are design plans that show the proper amount of drainage and retention. That is the next step in this process of the construction plans with the developer. He stated that the issue now is to approve the final plat however with the actual construction of the subdivision – there are several other steps that have to go forward before any dirt is moved.

Commissioner Rohr inquired if these issues need to be considered before approval and will things fall into place properly before moving forward? City Attorney Brown

clarified that what is before the Board to decide now is the zoning issue. The Subdivision plat has been approved. Brown stated that Ms. Kautzmann is correct in stating that the Storm Water Management Plan should have been submitted with the plat before the plat was approved. Mr. Decker stated that no building permits will be issued until there is a Storm Water Management Plan. The issue before the Board is the question of whether the zoning should be R7 and CA or not?

Commissioner Frank commented that the testimony on this topic brought up points specifically geared towards further growth west of town. She stated she would like to see more discussion and further insight from the Planning Department regarding conversations surrounding Division Street. The way the zoning is proposed with the light commercial north of Boundary does provide for heavier traffic but the questions keep coming up about Division Street.

Planner Decker stated that there is a North Mandan plan for streets and that is included with the options for going farther to the west. The plan is to consider that as a minor arterial to connect with Main Street. There is a plan in place that has that plan identified and as that plan goes forward that will be addressed with the right of way that is required on any of those streets so that street can be developed further to the west.

Commissioner Frank inquired if an R7 zoning will inhibit traffic or is that associated with the infrastructure and not the street? Decker replied that in the case of Boundary they required the developer to redesign the alignment so that there are no residential lots fronting on Boundary. There is a separate local street that is their primary access. There will be restricted access from residential property. The development of this project will take 2 – 3 years to complete. As this is developed, water and sewer lines will have to be put in all the way to the lower end so they can make connection so when the streets are graded out there will be a secondary access available.

Commissioner Tibke questioned whether the Storm Water Management Plan will come before the City Commission before the building starts in the next couple of years? Decker replied that there is detailed criteria that must be looked at by the Engineering and Planning Department who will then sign off on those requirements. Commissioner Tibke voiced concern that the whole project plan was not properly brought before the Commission and she is wondering how that will be rectified because the Final Plat was not done in order? Attorney Brown clarified that Chapter 14.01.02 is very comprehensive and as Mr. Decker says it establishes responsibility of all the items in that ordinance to be followed. It is one of those things where staff has guidelines to follow.

Commissioner Frank moved to approve the zoning change for Christianson's First Addition. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of monthly bills.* MAYHEW/LANCE - 2,923.25; ADVANCED ENGINEERING SVC - 24,197.49; AQUA-PURE INC. - 7,363.20; AYRES ASSOCIATES - 196.00; BLACK BOX NETWORK SERVIC - 77.33; BOERGER, LLC - 3,318.00; CENTURYLINK - 222.76; CITY OF MANDAN - 1,000.00; DIRECTMED - 19.98; EILER/CHAD J - 4,950.00; ENTERPRISE SOLUTIONS INC - 7,905.00; FETZER ELECTRIC, LLC - 6,539.35; HACH COMPANY - 4,348.07; HDR ENGINEERING, INC - 1,253.10; INTERSTATE ENGINEERING - 12,257.54; MANDAN PROGRESS ORGANIZA - 3,780.00; MORTON COUNTY AUDITOR - 13,720.46; MVTL LABORATORIES, INC - 56.00; ND STATE BOARD OF LAW EX - 380.00; ND WATER & POLLTN CONTRO - 170.00; NORTHERN LAKE SERVICE, I - 1,120.00; POST BOARD - 25.00; POUR MOR INC. - 31,548.20; QUAM CONSTRUCTION CO INC - 2,700.00; SMITH RANCH HAY AND STRA - 84.00; STANTEC CONSULTING SERVI - 26,124.94; URS CORPORATION - 6,725.67; WATER ENVIRONMENT FEDERA - 69.00; MONTANA-DAKOTA UTILITIES - 32,389.76; AT & T - 685.64; NDPERS - 1,430.32; NORTHERN IMPROVEMENT CO - 185,946.85; AT & T MOBILITY - 486.41; BALABAN LAW OFFICE - 1,500.00; COMPANION LIFE - 10.00; DAKOTA MEDIA ACCESS - 6,658.08; FORT DEARBORN LIFE - 462.22; GLASS/THOMAS J. - 1,500.00; KELSCH KELSCH RUFF & KRA - 4,000.00; ND PERS - 92,946.14; POSTMASTER - 850.00; TARGET BANK - 27.43; CENTURYLINK - 4,124.86; A & B PIZZA INC. - 187.58; ACME ELECTRIC - 621.20; ADVANCED BUSINESS METHOD - 134.69; ADVANCED ENGINEERING SVC - 17,779.42; AIRE MASTER OF ND - 105.00; ALLIANCE AG BISMARCK AGR - 322.50; AMERICAN WELDING SUPPLIE - 23.40; AMERIPRIDE LINEN & APPAR - 387.77; ARMSTRONG SANIT & ROLL O - 40,906.43; ARROWHEAD CLEANERS & LAU - 672.45; ASC CONSTRUCTION EQUIPME - 52.40; AYRES ASSOCIATES - 144.00; BILL BARTH FORD INC - 78.38; BIS-MDN TRANSIT BOARD - 244.02; BISMARCK POLICE DEPARTME - 25,000.00; BISMARCK TRIBUNE/THE - 3,772.03; BOBCAT OF MANDAN INC - 634.92; BOILER INSPECTION PROGRA - 50.00; BORDER STATES INDUSTRIES - 2,408.51; BRADY, MARTZ & ASSOCIATE - 1,860.00; BROWN & SAENGER, INC. - 641.27; BURLEIGH COUNTY SHERIFF - 25,000.00; BUTLER MACHINERY COMPANY - 2,846.10; C S DOORS INC - 167.48; CAPITAL TROPHY INC - 65.00; CBI BUSINESS SERVICES - 6,964.25; CENEX- FUOC BISMARCK-MAN - 81.66; CENTRAL DAKOTA FORENSIC - 80.00; CENTURYLINK - 1,865.94; CHARVAT/TANA - 26.00; CITY AIR MECHANICAL INC - 1,144.78; CITY OF BISMARCK - 1,783.77; CITY OF MANDAN - 237.60; COAST TO COAST OFFICE MA - 3,600.00; COLE PAPERS INC - 91.68; COMPUTER PROFESS UNLIMIT - 83.00; CONNECTING POINT COMPUTE - 483.18; CRA PAYMENT CENTER - 134.70; CRIMSON FIRE, INC. - 149.35; CROWLEY FLECK PLLP - 4,500.00; CURTIS/JEREMY - 1,013.36; CUSTER DISTRICT HEALTH U - 1,037.02; CUSTOM TRUCK ACCESSORIES - 200.00; D & E SUPPLY COMPANY INC - 629.14; DAKOTA FLUID POWER INC - 863.77; DAKOTA STAFFING SOLUTION - 159.08; DAKOTA TOWING - 95.00; DAN'S SUPERMARKET - 29.72; DOUGHERTY & COMPANY LLC - 1,500.00; EDLING ELECTRIC INC - 180.90; ELECTRIC PUMP INC - 9,916.38; ENTERPRISE

SOLUTIONS INC - 5,294.00; ETHANOL PRODUCTS - 1,266.84; FACTORY MOTOR PARTS COMP - 62.25; FASTENAL COMPANY/THE - 807.36; FERGUSON WATERWORKS #251 - 18.03; FETZER ELECTRIC, LLC - 1,275.96; FLECK/VICKI - 120.35; GRAND CENTRAL, INC. - 351.92; GRAY OIL COMPANY - 1,398.88; GREAT NORTHERN ENVIRONME - 3,511.60; GUARDIAN LOCK & SAFE - 3.50; HAGEMEYER NORTH AMERICA, - 116.44; HALFTONED APPAREL INC. - 469.98; HAWKINS INC - 5,337.18; HEDAHL'S OF MANDAN INC - 1,392.56; HOGAN/BONNIE - 40.00; I-DEAL LLC - 1,500.00; INFORMATION TECHNOLOGY D - 1,262.32; INTERGOVERNMENTAL SHOP - 13,931.24; INTERSTATE ALL BATTERY C - 17.10; INTRNTL SCTY OF ARBORICU - 265.00; ISAKSON/CHARLES - 100.00; JEROME DISTRIBUTING, INC - 43.40; JOHN HENRY FOSTER MN INC - 210.70; KELLER MACHINE - 66.00; KUPPER CHEVROLET INC - 148.37; LIBERTY BUSINESS SYSTEM - 462.00; MAINTENANCE ENGINEERING - 579.31; MANDAN AIRPORT AUTHORITY - 488.24; MANDAN FIRE DEPARTMENT - 583.33; MANDAN MUNICIPAL COURT - 345.00; MANDAN PARK BOARD - 800.00; MANDAN TIRE CENTER - 5,027.56; MATHISON COMPANY - 256.44; MATTHEW BENDER CO - 60.43; MIDCONTINENT COMMUNICATI - 272.29; MIDWAY MACHINING, INC. - 140.76; MIDWEST TESTING LAB INC - 461.50; MISSOURI VALLEY PETROLEU - 1,731.10; MISSOURI WEST WATER SYST - 47.71; MOR-GRAN-SOU ELECTRIC CO - 10,767.09; MORTON COUNTY AUDITOR - 8,217.90; MORTON COUNTY RECORDER - 35.00; MORTON COUNTY SHERIFF - 25,223.68; MORTON MANDAN PUBLIC LIB - 14,196.84; MVTL LABORATORIES, INC - 1,352.00; NALCO CHEMICAL CO - 1,402.96; NAPA AUTO PARTS - 350.23; ND BUREAU OF CRIMINAL IN - 25,000.00; ND STATE DEPT OF HEALTH - 320.00; ND YOUTH CORRECTIONAL CE - 714.50; NDACO RESOURCES GROUP - 1,098.47; NELSON LEASING INC DBA - 1,620.76; NORTHERN IMPROVEMENT CO - 139,868.99; NORTHERN PLAINS EQUIP CO - 2,254.63; NORTHWEST INDUSTRL SUPPL - 573.50; NORTHWEST TIRE AND RETRE - 165.64; NSC MINERALS - 9,163.36; O'REILLY AUTOMOTIVE, INC - 45.67; ONE CALL CONCEPT INC - 165.00; ONE SOURCE LIGHTING INC. - 324.00; PAHLKE STEEL, INC. - 166.17; PETTY CASH - 228.09; PORTSCHELLER/BEAU - 325.00; POST BOARD - 110.00; POUR MOR INC. - 5,355.90; PRAXAIR - 41.08; PREBLE MEDICAL SERVICES - 0.00; PRESORT PLUS - 785.53; PRO BUILD COMPANY - 73.90; PUKLICH CHEVROLET INC - 1,086.40; R K ELECTRIC - 406.84; RDJ SPECIALTIES INC - 94.15; RIVERWEST DEVELOPMENT - 200.00; ROTO-ROOTER SEWER & DRAI - 90.00; ROUGH RIDER INDUSTRIES - 88.64; RUNNING'S SUPPLY INC - 1,528.33; SRF CONSULTING GROUP - 75.15; SRS CRISAFULLI - 388.25; STEIN'S INC - 167.88; SURE SHRED - 270.00; TAND CONSTRUCTION LLC - 22,030.87; THREE-D SPECIALITIES INC - 275.00; TITAN MACHINERY INC - 2,807.74; TOTAL SAFETY USA - 176.07; ULTRAMAX - 1,196.00; UNIFORM CENTER & EMBROID - 2,096.76; VERIZON WIRELESS SERVICE - 1,971.95; WASTE MANAGEMENT OF ND, - 29,432.20; WD LARSON COMPANIES LTD, - 2,042.60; WE-SHIP-ETC.INC - 11.40; WEHRI/RADEANNA - 500.00; WELLS FARGO REMITTANCE C - 9,713.02; WESCO DISTRIBUTION INC - 13,191.05; WEST DAKOTA UTILITY SERV -

600.68; WILLIAM E. YOUNG CO., IN - 450.00; ZANDER BODY SHOP INC - 2,395.07.

2. *Consider reorganization in Building Inspection, Assessing & Finance personnel.*
3. *Consider approval of Special Sunday Openings for Bayside Tesoro for January 5, 2014 – June 29, 2014.*
4. *Consider amendment for increased allocation under U.S. Treasury State Small Business Credit Initiative.*
5. *Consider approval of the City of Mandan Voting Locations for the June 10, 2014 Election.*
6. *Consider the following abatements/exemptions: (i) Homestead Credit abatement – Henry Gustin (ii) Homestead Credit abatement – Mardella Meske (iii) Missed property Tax exemption – new or expanding Business – Jessara Properties, LLC (Assessor error).*

Commissioner Frank moved to approve the Consent Agenda as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

1. *Discussion relative to activities of the Morton Mandan Combined Communications Center.* Tom Doering, Morton County Emergency Management, stated he is representing the Communications Advisory Committee regarding consideration of three items pertaining to the Mandan/Morton Combined Communications Center (MMCCC). (1) Consideration of adding members to the Communications Advisory Board. (2) Consideration of using the Bismarck/Burleigh Computer Aided Dispatch (CAD) and accepting a Memorandum of Agreement. (3) Consider amending the 2014 alarm fund budget to include costs associated with a CAD system.

Doering provided a background/alternative summarized as follows: (1) The Communications Advisory Committee voted to add a representative from Metro Ambulance, A Mandan City Commissioner and a Morton County Commissioner to the Board and is requesting approval from the Mandan City Commission. (2) The Mandan/Morton dispatch center is in need of a CAD system with no provisions for such a purchase within the 2014 budget. The Mandan Fire Department has been authorized to add 4 new full time firefighters to staff Station No. 2 which requires an immediate need for a CAD. Fire Chief Nardello reported that Morton/Mandan could become a user of the Bismarck/Burleigh CAD at a minimal cost. The minimal cost for interface and mobile licensing is far less than purchasing one. A Memorandum Agreement has been reviewed by the Morton County State's Attorney with suggested modifications. The Morton/Mandan Communications Advisory Committee believes that cooperation between the two communication centers regarding the CAD will build strong relations for future joint purchases. A budget amendment for the associated cost is \$15,793 was requested. At the present time there is \$58,000 in the Alarm Fund to cover the costs. Training will be provided at no cost. Doering recommended approval of the members to the Mandan/Morton Communications Advisory Board and to approve the use of the

Bismarck/Burleigh CAD to include approval of the MOA and approve the requested budget amendment.

Mayor Van Beek asked for comments or questions from the commissioners. Commissioner Rohr asked if the Bismarck program changes if that will entail additional expenses at a later time? Doering stated that it is a 5-year agreement with an option to withdraw annually.

Commissioner Tibke stated she is comfortable moving forward with partnering for the CAD system for the Fire Department. In the interim she suggested that Mike Seminary from the Bismarck City Commission who is the Chair of the MBBM Committee be brought in along with the Sheriffs, the Police Chiefs, and the Emergency Managers to start discussing future collaborations in regards to all the additional stuff that was discussed at the last meeting. Commissioner Frank stated that she would support adding a representative from the City and County Commissions and the ambulance service. She volunteered herself to represent the Mandan City Commission. She disagreed with Commissioner Tibke with moving forward with the CAD system until there is discussion with several people involved in this subject in particular computer assisted dispatch. Doering stated that he understands that Bismarck does not have any intentions within the next 5 years to change CAD systems.

Mike Dannenfelzer, Bismarck/Burleigh Combined Communications Center Director came forward and commented that there is no plan within the next 5 years to replace their CAD system. He clarified there are problems with every system, and the mobile environment operates differently than the CAD system and that it is not tied directly to the network. The SunGard system has been in place since 2000 and upgrades and maintenance occur on a regular basis. Eight hours of training is given to newly hired employees and typically those individuals do not have any experience in dispatch. Based on experience of Mandan/Morton employees, four hours of training should be sufficient training for dispatchers. There is also a CAD training module available for everyone's use.

Commissioner Frank motioned to approve of the revision of the Memorandum of Understanding establishing the Morton/Mandan Combined Communications Center. Doering clarified the recommendations presented by the Communications Advisory Committee. Commissioner Frank revised her motion to add a representative from Metro Ambulance, a Mandan City Commissioner and a Morton County Commissioner to the Communications Advisory Committee. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Commissioner Tibke moved to approve the use of the Bismarck/Burleigh CAD system. Commissioner Braun seconded the motion. Commissioner Frank commented that this matter is one that should have additional discussion if this is the right system for Mandan/Morton. She feels there is a much broader opportunity to work with a State system and recommended further discussion occur on a CAD system, just not this one in

particular. Commissioner Tibke clarified that the CAD system is not what the State is working on; rather the State is working on a Records Management System. For the CAD system, the Fire Chief would like to see it. The Advisory Committee has approved it. Bismarck has been using it for years with good success. It is a good first step while also addressing the larger issue records management system moving forward.

Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Commissioner Tibke motioned to appoint Commissioner Frank to the Communications Advisory Committee as the Mandan City Commission representative. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Commissioner Tibke motioned to approve an amendment to the 2014 Alarm Fund Budget to include expenditures associated with implementing a CAD system of \$15,793.91. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

I. NEW BUSINESS:

1. *Consider approval of Engineering Services Agreement with Houston Engineering for construction observation of Sunset Drive.* Planning & Engineering Director Froseth presented a request for the approval of an Engineering Services Agreement with Houston Engineering for construction observation of the Sunset Drive reconstruction project. He reviewed the project background from the 2009 original agreement at which time it was decided to remove the construction observation and administration out of the agreement but agreed to other items in the agreement that included product design and production of bid documents. In the spring of 2013 the project bid was awarded to Houston Engineering. There was no amendment to the original Engineering Service Agreement or a new ESA specifically for the construction observation that was brought forward by the City Commission. Froseth reviewed the estimate prepared by Houston Engineering for construction and observation costs and administration estimated cost of \$617,746. This went up from the estimate in 2009 of \$450,000 due to material testing services, NDDOT requirement of full time construction observation and a 6-day work week throughout the project and a 12.5% increase in wages between 2009 and 2013. Commissioner Frank commented that based on the oversight of this matter, would be any possibility that the increased costs could be assessed to those involved with the oversight? Froseth stated that he would not consider the City as absorbing these costs because the staff did look at how the assessment district reviewed with the finance office and determined there was enough to cover construction in this amount, not necessarily the 2009 dollar amount.

Finance Director Welch explained that when the City estimated the cost of the project a percentage of the project was calculated. As a result of approving this, the property

owners receiving the letter won't be paying any more as a result of what was stated in the letter. The City needs to finish the steps with the consultant engineer on this project. Finance Director Welch indicated that both parties share in the oversight, Houston Engineering for not making sure that an engineering contract should have been in place and the City should have made sure before these services were provided that we had a signed agreement in place with the consultant engineer. Froseth stated that since the project is nearing completion, they will be paid for services actually performed and not the \$617,746. Welch stated that the project is substantially complete and there is only a punch-list of items remaining and that he feels comfortable that the project costs remaining will be approximately \$30,000. Froseth commented that \$30,000 will clean up the punch-list and the record drawings that are needed to be completed that may conflict slightly with the plans. Commissioner Rohr commented that he did not think there was a possibility of negotiating the project at this point in time.

Commissioner Rohr motioned to approve of Engineering Services Agreement with Houston Engineering for construction observation of Sunset Drive. Commissioner Tibke seconded the motion. Commissioner Frank expressed frustration and urged another review of this matter in that the Commission has an obligation to pay attention to the commitments made with contractors and to appreciate any cost savings to the taxpayers in any circumstance. She commented it is hopeful that these situations do not occur in the future.

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

2. *Consider approval of amendments to water and sewer systems' Capital Improvements Plan.* Planning & Engineering Director Froseth presented a request for the approval of Mandan Water and Wastewater Master Plan Amendments. Froseth stated that review and discussions have occurred with AE2S to review the existing Capital Improvement Plans (CIPs) prepared as part of the previous Water and Wastewater Master Plans for the City of Mandan. The original CIPs rolled out improvement programs with a schedule and costs for the following three infrastructure systems: (1) Water Treatment Facility in 2006 (2) Water Distribution Facilities in 2007 and (3) Wastewater Treatment and Collection System in 2012. Froseth reviewed the prioritization and evaluation process for revised CIP plans. Froseth recommended the City of Mandan adopt the amendments modifying the Master Plans as outlined.

Commissioner Tibke commented that she appreciates the work put into the Master Plan which makes it easier on the budget plan when mapping out the funding to pay for these projects when they come up.

Commissioner Rohr moved to approve the amendments to water and sewer systems' Capital Improvements Plan as presented. Commissioner Tibke seconded the motion.

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

3. *Consider agreements with North Dakota State Water Commission for funding assistance for New Raw Water Intake and Water Treatment Plant Improvements Projects.* City Administrator Neubauer stated that to go along with the Amendments to the Water and Sewer System Improvements Plan, the City has obtained approval from the State Water Commission for \$1,996,000 dollars as a 50% grant on studying of a location on the new raw water intake project and also for high pressure pump improvements within the Water Treatment Plant. In 2015-2017 the City will be requesting additional funding for the project and also in 2017-2019. Commissioner Tibke extended a thank you to Neubauer and staff for their persistence in attending these meetings and keeping Mandan on the forefront for funding. The Intake structure is critical for the community.

Commissioner Tibke moved to approve the agreements with North Dakota State Water Commission for funding assistance for New Raw Water Intake and Water Treatment Plant Improvements Projects grant funds of \$1,996,000 and related contracts.

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

4. *Consider Renaissance Zone Committee recommendations.* Business Development and Communications Director Huber stated that the Renaissance Zone Committee met on 12/16/13 and presents the following recommendations:

(i) Lease by Sweet Beginnings Bakery/ We Ship & More of 300 W Main Street: This building rehab was Project No. 26 requested by Larry Goetzfridt in December 2007. He has a deadline of 12/31/13 to complete the project in order to qualify for Renaissance Zone exemptions. Sweet Beginnings Bakery/ We Ship & More is a business owned by Tami and Jim Helmers and Sweet Beginnings is currently located at 411 West Main. The Helmers are planning on expanding from 300 sq. ft. to 1,500 sq. ft. and will be adding more hours and more employees and a seating area. We Ship & More is currently located at 109 Collins Avenue NW and that business will expand from 500 sq. ft. with additional expansion to 1,100 sq. ft. Since both of these businesses are located within the Renaissance Zone and relocating, Renaissance Zone criteria are that the businesses must be expanding, which they are.. The Renaissance Zone Committee recommends approval of the lease by Sweet Beginnings Bakery and We Ship & More of 300 West Main with the contingency of providing a Certificate of Good Standing from the North Dakota Tax Department for the submission to the State and also that the building's rehab be completed by the building owner by the due date of 12/31/13.

Commissioner Frank moved to approve the application from Sweet Beginnings Bakery/ We Ship & More for the lease of 300 West Main Street as a Renaissance Zone Project.

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

(ii) Three appointments for the 2014-2016 term. Business Development and Communications Director Huber stated there are three committee members whose terms expire in 2013: Darren Haugen, a Mandan citizen is from Starion Financial representing the financial services section. David Leingang, a Mandan citizen and member-at-large. Bob Vayda, a Mandan citizen and a member-at-large. All three candidates have submitted letters of interest. Additional letters of interest were received from Jeremy Bauer and Curtis Patzell, both Mandan citizens. The Renaissance Committee met with the three individuals who were present at the meeting, another one was available via speaker phone, and the last individual was unable to attend. The Renaissance Zone Committee agreed that it is of benefit to have the experienced applicants to continue on the committee. There is a total of 7 members on the RZC and there are only 3 members who have had more than three years' experience. One of them (Pat Maddock) submitted a last minute resignation that will be dealt with in 2014 (from the real estate sector). The Committee voted to recommend reappointment of Darren Haugen, a financial representative, (there were no letters of interest from any others in financial services), and also the reappointment of David Leingang and Bob Vayda, both candidates are members-at-large. Huber noted that Bauer and Patzell both submitted letters of interest for the Mandan Growth Fund Committee, which also requested letters of interest for its vacancies at the same time as the RZC. However, the Growth Fund Committee has not met yet to discuss this matter.

Commissioner Tibke moved to approve the re-appointments of Darren Haugen, David Leingang and Bob Vayda to the Renaissance Committee for the 2014-2016 term. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Acting as Board of Adjustment, consider for approval the request to rezone Meadows 6th Addition from R7 Single Family Residential to RMH Residential Mobile Home Subdivision.* Robert Decker, Principal Planner, reviewed with the Board a request to rezone Meadows 6th Addition from R7 Single Family Residential to RMH Residential Mobile Home Subdivision. This comes at the advice of the City Attorney because the recommendation from the Planning Commission was negative. The applicant was not in attendance at the Planning Commission so that didn't give them an opportunity to make their case. Decker recommended following the recommendation of the Planning Commission – to recommend denial of the rezoning request. Decker provided a brief explanation of manufactured homes vs. modular homes which, as he explained, basically has to do with skirting. He explained there are State rules that require the unit to be built up so it drains sufficiently. He said that the real difference is in the cost of the wall around the unit costing about \$10,000 vs. the skirting.

Two Mandan residents came forward and spoke to the matter of the zoning discussion for Meadows 6th Addition. Lee Mitzel spoke in favor of the rezoning. Steve Mott requested the R7 Single Family zoning not be changed. Commissioner Frank inquired why there would only be manufactured homes on the east side of the street. Decker replied that is addressed in the covenants in Meadows 7th. Meadows 3rd, 4th, 5th, or 6th will not change.

Decker commented that it is unknown how the zoning changed from commercial.

Commissioner Frank motioned to grant the request for a rezoning of Meadows 6th Addition from R7 Single Family Residential to RMH Residential Mobile Home Subdivision. She commented that there is one home on the corner of 45th and 34th that falls into the RMH zoning area. She suggested there be a continuation of RMH zoning on the east side of the street in the proposed zone change map up to the RM designation, Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: No; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: No. The motion failed. (Attorney Brown explained that it requires 4 “yes” votes to change the decision of the Planning and Zoning Commission.)

City Attorney Brown stated that there will have to be an action to deny the appeal or affirm the action of the Planning and Zoning Commission.

Commissioner Tibke moved to affirm the action of the Planning and Zoning Commission. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Consider for approval an agreement with Morton County for administration of zoning and subdivision regulations in the Extraterritorial Zone.* Robert Decker, Principal Planner extended a thank you to Daniel Nairn, County Planner, for taking the lead on this matter and indicated that he met with Burleigh County and discussed how they arranged their Extraterritorial Zone. This is a simplified process explaining that the NDCC was amended in 2009 for administering an Extraterritorial Zone. The Amendments allowed jurisdictions to draft their own agreements that would supersede the formal process. Bismarck and Burleigh County have executed an agreement. Once this is adopted the City can amend the Resolution to adjust the properties to the jurisdiction of the zone. However, modifications can be made if needed depending on whose jurisdiction it falls under. Commissioner Rohr stated that he and Commissioner Frank are on the Planning and Zoning Committee and they are aware of the discussions that occurred on this matter. Decker said that issues have come up and this process provides assistance as to who is responsible and it gives the property owners certainty as to who to talk to. The City will be working closely with the County on the 911 system that was discussed earlier; for example, he explained how addresses are keyed into the zones so when those areas get annexed there will not have to be any changes to addresses.

Commissioner Rohr moved to approve the agreement and map with Morton County as presented. Commissioner Tibke seconded the motion. Commissioner Frank commented that this collaboration with the County will help to clarify who ultimately is responsible.

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

7. *Consider appointments to the MARC Committee.* Robert Vayda, President of the Mandan Architectural Review Committee (MARC) presented recommendations for the appointment of two individuals to the MARC Committee two vacancies for three year terms commencing January 1, 2014. Letters of Interest were received from four applicants - which were all interviewed by the MARC. The MARC recommends the appointment of Miles Mehlhoff and Paul Breiner to the Mandan Architectural Review Committee.

Commissioner Rohr motioned to approve the appointments of Miles Mehlhoff and Paul Breiner to the Mandan Architectural Review Committee (MARC). Commissioner Braun seconded the motion Commissioner Tibke extended a thank you and appreciation to the members who serve on the various committees for the City of Mandan. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Consider Financing Resolution for Water and Sewer Improvement Districts #57, #60, and Street Improvement Districts #158, #159, #162, #167, #168, #169, #170, #171, #173 Definitive Improvement Warrants. (Note: Bond sale was approved by the Board on December 3, 2013).* Finance Director Welch stated that Resolutions No. 1 and No. 2 are required Resolutions to complete the financing for the bond sale that was approved by the Board at the last meeting. Commissioner Tibke moved to approve the Financing Resolution for Water and Sewer Improvement Districts #57, #60, and Street Improvement Districts #158, #159, #162, #167, #168, #169, #170, #171, #173 Definitive Improvement Warrants bond sales approved by the Board on December 3, 2013. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider Resolution Authorizing Issuance of \$4,015,000 Refunding Improvement Bonds of 2013, Series C. (Note: Relates to Agenda item J.1.)* Finance Director Welch stated that this action authorizes a single bond issue that is required by law to complete the financing that was approved by the Board at the last meeting. Commissioner Frank moved to approve the Resolution Authorizing Issuance of \$4,015,000 Refunding Improvement Bonds of 2013, Series C. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider Resolution Authorizing Issuance of \$136,629.78 Sidewalk, Curb and Gutter Warrant of 2013.* Finance Director Welch stated that the purpose of this Resolution is to provide long-term financing for the improvements for the construction and repair for sidewalk, curb and gutters of 2013. Starion Financial has agreed to purchase this warrant at the interest rate of 2.75%. The warrant is for 10 years and it matches the assessment term for the improvements. Commissioner Braun moved to approve the Resolution authorizing issuance of \$136,629.78 Sidewalk, Curb and Gutter Warrant of 2013. Commissioner Frank seconded the motion. Roll call vote:

Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider Resolution authorizing a fee to be used for park land acquisition and development within the City of Mandan.* City Administrator Neubauer presented a Resolution which increases the fees from the \$100 per unit dwelling and \$100 for a commercial building which was set back in the early 1980's and have never been updated since that time. There has been discussion as to whether to do a land dedication or a cash transaction in lieu of an order to assist Park and Recreation Department in developing the property. It is the recommendation of the Park District to increase the fees for each multi-unit dwelling to \$250 and for each single unit dwelling to \$500 and for each commercial building to \$1,000. Neubauer stated that an earlier discussion today addressed assessing building fees and stated that going forward is when the changes will take effect. Commissioner Frank inquired if the City Commission has the authority to require that the new fees are effective for all building permits regardless of when those subdivisions were platted? City Attorney Brown replied "yes" to Commissioner Frank's question. Attorney Brown noted that last revision to this issue may not be included in the packets. He said that Item 1-A should read for each unit and a multi-dwelling unit.

Commissioner Braun moved to approve the Resolution authorizing a fee to be used for park land acquisition and development within the City of Mandan. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Introduction and first consideration of Ordinance 1136, an Ordinance for zoning change for Christianson's First Addition.* Commissioner Frank moved to approve the Introduction and first consideration of Ordinance 1136, an Ordinance for a zoning change for Christianson's First Addition. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS

1. *Consider allowing the sale of fireworks within City limits.* City Administrator Neubauer stated that when the City annexed some of the property surrounding the Tesoro Refinery 5-6 years ago there were some rental lease agreements in place for the sale of fireworks on the northeast corner of Collins and Old Red Trail. A Memorandum of Understanding was reached with the land owners regarding the sale of fireworks that the sales could continue until the development of the property starts to occur on the surrounding property. To date the property remains in the same state it was in 2006. The operator of the fireworks stand has inquired if he will be able to sell fireworks from December 26 through December 31st. In the past, the City requested permission from the property owner and requested that proof of city sales tax has been made and that has already been provided. They are currently concerned that there are fuel trucks parked on this property in which the landowner has agreed to move those vehicles off site. They will be allowed to put them offsite while the fireworks stand is there and no flame will be

utilized. Signs will be posted that fireworks will only be allowed to be lit off during the hours of 5 pm on December 31 through 1:00 a.m. on January 1st. Based on all the conditions having been met Neubauer recommended that Fireworks be sold at this location as requested for the time frame December 26 through December 31st.

Commissioner Tibke moved to allow the sale of fireworks within the City limits and to be allowed to operate a fireworks stand at the designated location from December 26th through December 31, 2013 provided all compliance is met for the conditions outlined above.

Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: No; Commissioner Van Beek: Yes. The motion passed.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 7:45 p.m. Commissioner Frank 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