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The Mandan City Commission met in regular session at 5:00 p.m. on February 21, 2012 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson. Department Heads present were Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, and Engineering Project Manager Bechtel. Absent: City Assessor Barta, Finance Director Welch.

MINUTES: Consider approval of the minutes for January 31, 2012, Special Meeting and February 7, 2012 regular meeting. Commissioner Rohr moved to approve the minutes of the January 31, 2012 Special Meeting and the February 7, 2012 regular meeting. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

1. *Presentation of bids for flood removal projects:* Brent Erickson, PE, Project Manager for Kadrmas, Lee and Jackson presented the following information:  
(i) *Hesco & various earthen levees: Flood Protection Removal Package #12 Earth Levee Removal, Hesco Barrier Removal, Sandbag Removal, Disposal and Restoration.* Erickson stated that the bids were opened on Feb. 17, 2012 and a total of 12 bids were received. The low bidder was Park Construction Company of Minneapolis, with a bid of \$354,970.00. Erickson recommended not awarding the bid until discrepancies are cleared up that may affect the FEMA reimbursement eligibility for the project. Contact has been made with DES/FEMA.

Commissioner Jackson moved to table the bid for the Hesco & various earthen levees - Flood Protection Removal Package #12 Earth Levee Removal, Hesco Barrier Removal, Sandbag Removal, Disposal and Restoration pending further investigation efforts to be conducted by Kadrmas, Lee and Jackson with DES/FEMA. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

(ii) *Bridgeview Bay: Flood Protection Removal Package #11 Bridgeview Bay Clay Plug Removal.* Erickson stated that the bids were opened on Feb. 17, 2012 and a total of 11 bids were received. The low bidder was Park Construction Company of Hampton, Minnesota with a bid of \$321,177.50. Erickson recommended not awarding the bid until discrepancies are cleared up that may affect the FEMA reimbursement eligibility for the project. Contact has been made with DES/FEMA. For the public’s information, Mayor Helbling pointed out that the Engineer’s estimate was between \$1,330,000 and \$1,550,000.

Commissioner Jackson moved to table the bid for Bridgeview Bay: Flood Protection Removal Package #11 Bridgeview Bay Clay Plug Removal pending further investigation

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efforts to be conducted by Kadmas, Lee and Jackson with DES/FEMA. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

(iii) *Marina Bay: Flood Protection Removal Bid Package #8 – Marina Bay Clay Plug Removal.* Erickson stated that the bids were opened on Feb. 16, 2012 and a total of 14 bids were received. The low bidder was H & S Contracting, Moorhead, Minnesota with a bid of \$414,920.00. Erickson recommended awarding the bid to the low bidder. He stated that the removal would not proceed until the load restrictions on the roads are removed. The intent is not to do the removals while the load restrictions are in place because it would be cost prohibitive wherein damage to the streets may occur. Erickson said the City would have to issue the notice to proceed. He indicated that it would be his recommendation to award the bid tonight. He clarified that the City would still have to issue the Notice to Proceed even if the bid is awarded tonight. The contractor will have ten days to proceed once the Notice to Proceed is issued and the contractor would have 45 days to complete the project.

City Administrator Neubauer recommended tabling the award of the bid for two weeks in order to allow additional time to see what the weather conditions are like at that time; in particular, to be certain the risk of ice jams has passed. He explained that upon award of the bid, the Commission has an additional thirty days to execute the Notice to Proceed with the project. The Army Corp of Engineers has determined a deadline of 5/10/12. Erickson stated he has conducted background checks with other cities regarding the licensing and bonding, etc. of the companies that have submitted bids and he has found them to be reliable and credible. He pointed out that, unlike last fall, there are liquidated damages in place in the contract if they do not complete the project on time. The contractor does not have an open calendar to drag these projects on.

Commissioner Jackson motioned to table Marina Bay: Flood Protection Removal Bid Package #8 – Marina Bay Clay Plug Removal. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

(iv) *Borden Harbor: Flood Protection Removal Bid Package #9 – Borden Harbor Clay Plug Removal.* Erickson stated that the bids were opened on Feb. 16, 2012 and a total of 14 bids were received. The low bidder was Rachel Contracting, St. Michael, Minnesota with a bid of \$153,338.00. Erickson recommended awarding the bid to the low bidder and to hold the bid for up to thirty days. Commissioner Jackson motioned to table Borden Harbor: Flood Protection Removal Bid Package #9 – Borden Harbor Clay Plug Removal. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

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(v) *Lakewood Harbor: Flood Protection Removal Bid Package #10 – Lakewood Harbor Clay Plug Removal.* Erickson stated that the bids were opened on Feb. 17, 2012 and a total of 13 bids were received. The low bidder was Tom’s Backhoe Service, Inc. Brainerd, Minnesota with a bid of \$166,500.00. Erickson recommended awarding the bid to the low bidder and to hold the bid for up to thirty days.

Commissioner Jackson motioned to table Lakewood Harbor: Flood Protection Removal Bid Package #10 – Lakewood Harbor Clay Plug Removal. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Mayor Helbling commented that with regard to the bids received there were bids from local contractors. However, they were not awarded the bid because they were not the low bidders on the projects.

~~Removed: 2. ——— Consider the award of Concrete and Asphalt crushing project at the Landfill.~~

CONSENT AGENDA:

1. *Consider approval of Meadow Ridge 1<sup>st</sup> Addition Zone Change. (First consideration of ordinance #1110).* The Board approved of Meadow Ridge 1<sup>st</sup> Addition Zone Change. (First consideration of ordinance #1110).
2. *Consider approval of monthly bills.* The Board approved of monthly bills.
3. *Consider the following abatements: (i) Norrie – new construction (ii) Schmidt – new construction.* The Board approved of the abatements as listed.
4. *Consider approval of out-of-state travel for Fire Department Instructors Conference (FDIC).* The Board approved of the out-of-state travel for Fire Department Instructors Conference (FDIC).
5. *Consider approval for out-of-state travel for the Police Department for the FBI Bakken Oil and Gas Law Enforcement Summit.* The Board approved of out-of-state travel for the Police Department for the FBI Bakken Oil and Gas Law Enforcement Summit. Commissioner Rohr stated that this item is partially reimbursable.

Commissioner Tibke moved to approve the Consent Agenda items No. 1 through No. 5 as presented. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

*Consent Agenda Item No. 6 - Requested to be removed for discussion by Commissioner Tibke: Consider approving the plans & specifications and allow for the advertisement for bids for Street Improvement District No. Project #2010-03 (NW Mandan).* Commissioner Tibke stated that Finance Director Welch had brought up concerns regarding this project surrounding what could or could not happen with Measure 2. The concerns are: We do not have the certainty to pay for the improvements through long term financing. At this point in the debate there are too many unknowns surrounding Measure 2 and whether the city will have adequate security, general funds, city sales tax funds, etc. in the future to

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provide its lenders for financing purposes, for new special assessment projects if property taxes are not available to cover delinquent assessments. Finance Director Welch felt that perhaps the project might be tabled and suggested waiting until after the June vote on Measure 2, although Engineering Project Manager Bechtel suggested the City move forward with the option to reject the bids if Measure 2 passes.

City Administrator Neubauer commented that there are different opinions on this matter wherein some communities have decided not to move forward on special assessment projects and there are communities that have decided to move forward. He recommended moving forward with this project and put it out for bids due to the size of the project and because it is urban in nature.

Engineering Project Manager Bechtel stated that the City will have to stay within the recommendations outlined by state law and the city will push to advertise the project in order to allow for the 21 day window and to consider awarding the bid and leave the 30 day window open for the Commission to award or reject. The whole timeline would be set so that once we get past the Measure 2 vote and whether we have a yes or no vote so we can award or reject as needed following that date. Bechtel indicated that by waiting until mid-June we'd probably significantly detriment the project if it would be done at all this year at that point. Commissioner Rohr stated that he has been approached by residents as to the status of the project, thus he would hesitate pushing it off any longer than necessary.

Consent Agenda Item No. 6: Commissioner Tibke moved to approve moving forward with the plans & specifications and allow for the advertisement for bids for Street Improvement District No. Project #2010-03 (NW Mandan). Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

1. Consider the annexation of a tract of land being a part of the NW ¼ of Section 22, Township 139N, Range 81W. (Ordinance 1111). Engineering Project Manager Bechtel reviewed with the Board a request from Mike Wachter, WW Ranch. He stated that this is an 8.5 parcel of land to be annexed to the City. Right now it is zoned Residential Multi-Family and the plan is to construct apartments on the property. The annexation is a smaller piece of the property and there may be additional requests in the future to annex more of the property as it is developed. The property location is directly to the east of Terra Vallee Subdivision, five blocks east of the Mandan Middle School and to the west of Collins/Hwy 1806. Bechtel stated that there were no protests received in opposition to this annexation. See: Resolutions and Ordinances No. 2.

2. *Consider Renaissance Zone Committee recommendations.* Business Development and Communications Director Huber reviewed the following items with the Board:

(i) *Purchase with improvement project at 301 First St NE by 1802 Wooddale Drive, LLC.* The scope of the project is primarily the second story renovations and painting of the exterior south wall. This would meet the 20% minimum investment needed to receive a 50% property tax exemption. Wooddale Drive is a property holding company for Wenck Associates. The City Assessing Department has determined that the estimated improvements will increase the property's value by \$60,000 bringing the 86% of the building eligible for exemption to \$734,154. The Renaissance Committee unanimously voted to recommend approval of the application with the five-year 50% property tax exemption on the building and the 100% state income tax exemption. Huber stated that Kevin Magstadt is available to answer any questions regarding the project.

Commissioner Tibke moved to approve the purchase with improvement project at 301 First St NE by 1802 Wooddale Drive, LLC as a Renaissance Zone project with the five-year 50% property tax exemption on the building and the 100% state income tax exemption. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

(ii) *Rehabilitation of 101 E Main by Al Leingang.*

This request is presented by Al Leingang and his development partner Loran Galpin for extensive plans to renovate the building as a professional office center. The initial investment for the Renaissance Zone application is \$2.1 million to include exterior remodeling of the building shell, windows, elevator tower, and renovation of the first floor. This far exceeds the minimum 50% requirement of \$76,050. The current value of the building is \$152,100.

Loran Galpin came forward and presented the plan for a downtown Mandan project referred to as "Plaza Square Redevelopment." Information provided included:

- (1) Stage 1, 2, 3
- (2) Development Concept
- (3) Design theme and goals
- (4) History
- (5) Project details
- (6) Estimated Project Schedule
- (7) Tenant Mix
- (8) Reasons for participating in the Renaissance Zone and requesting designation of Plaza Square as Renaissance Zone Project
- (9) Plaza Square on Main request from Renaissance Zone Committee
- (10) How does the project meet the Renaissance Zone Objectives and Standards?
- (11) Core Standards
- (12) Expected Project Costs and commitment to the community

Mayor Helbling and Commissioner Tibke commended the developers for their interest in bringing this project to reality after commenting that projects such as this have been in the works for several years now. Commissioner Jackson commented that this is exactly what the goal of the Renaissance Zone rehabilitative program is all about, restoring the older, architecturally aesthetic buildings. Business Development & Communications Director Huber stated that this project has been informally previewed by the Mandan Architectural Committee and is subject to their final approval for the issuance of a building permit. The building's value is projected to be \$1,815,275 after Renaissance Zone Improvements. The estimated annual property tax as improved is \$86,578 for a projected 5-year savings of \$182,890. The estimated state income tax exemption for lease of space in the building is \$4,000 for a 5-year savings of \$20,000. The applicant has completed a Business Incentive Agreement. The applicant has applied for the Storefront Improvement forgivable loan tax incentive, and those applications will come at a later time for consideration. The Renaissance Committee unanimously voted to recommend approval of the application with the five-year 100% property tax exemption on the building and the 100% state income tax exemption.

Commissioner Frank moved to approve the rehabilitation of 101 E Main as a Renaissance Zone Project with the five-year 100% property tax exemption on the building and the 100% state income tax exemption. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *Consider renewal of real estate listing contract for city-owned properties (100 Collins, 104 E Main, 106 E Main, 108 E Main and ~~116 E Main~~).* Business Development and Communications Director Huber presented a request for consideration of the renewal of a real estate listing contract for city-owned properties at the corner of Collins Avenue and Main Street (100 Collins, 104 E Main, 106 E Main, 108 E Main ~~and 116 E Main~~.) The City entered into an agreement for the listing of these properties with Pat Maddock and Karen Fleck of Oaktree Realty effective 2/17/11. The agreement was renewed on 8/16/11 and continued until 2/17/12. Karen Fleck stated she has had several inquiries on the lot but at this time does not have anything to bring before the Commission. She asked if the City would be interested in a co-listing with a firm such as Aspen Company because they deal with commercial properties that reach out nationally. Huber stated that the City is looking for a building of substance so it might consider reducing the asking price and provide an outline of expectations. Huber gave some examples of possible alternatives that could be considered:

- (1) Negotiating for a listing agreement to include representative by an additional commercial real estate agency.
- (2) Issuing an RFP for a real estate listing agreement & representation;
- (3) Issuing an RFP for development of Collins & Main parcels (See criteria)
- (4) Maintain a list of city-owned properties for sale on the city website and posted at City Hall.

Huber recommended that renewal of the contract with Oaktree Realty be taken under advisement in order to consider adaptations that the Commission may have to offer as well as possibly considering some of the options outlined in the documentation provided.

Commissioner Frank commented that as the Business Development portfolio holder, she had concerns about how aggressively we have been marketing this property to this point. However, with the new project going in across the street she concurs that it will be an opportune time to sell this property. She stated that she would be interested in pursuing Alternative #4 as outlined by Huber and to use the services of the Bismarck Mandan Development Association and retail attractions and to continue with the working relationship with Karen Fleck.

Commissioner Frank motioned to pursue Option No. 4 of maintaining a listing of city-owned properties for sale on the City website and posted at City Hall. She also recommended continuing to work with Karen Fleck, Oaktree Realty as well as the local development firms and not renewing at this time the listing but to continue discussions on opportunities. Commissioner Jackson seconded the motion. Commissioner Rohr commented that it will be important to have a relationship with a realtor (Oaktree Realty) somewhere during the process.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

4. *Discussion related to liquor licenses.* City Administrator Neubauer stated that he has checked into what other communities do without any limits on their liquor licenses. Grand Forks and West Fargo have been looked at. Grand Forks has an issuance fee system wherein there is no limit as to the number of liquor licenses distributed; rather, if a business applies for a license, an issuance fee would be established at that time. West Fargo does not have an issuance fee. The Commission will need to determine if it wants to open up additional liquor licenses or leave it as it is. Grand Forks has an initial issuance fee of \$67,000 and an annual fee after that.

Commissioner Jackson referred to the Agenda documentation which is for direction to create an ordinance from the discussion at the last meeting in January. Although he stated he would agree with the way Grand Forks issues licenses at the fee of \$67,145 may not be the market for Mandan. However, he inquired if the City would then also have the right to reject the application or would administration handle the matter? City Attorney Brown commented that the Grand Forks and West Fargo ordinances all require background checks and a whole application process and the City Council has the opportunity to reject the application. In summary, Commissioner Jackson said the way the Grand Forks ordinance is set up as a market driven analysis, someone isn't going to pay the fee if they are not serious about it. He would be in favor of emulating that plan. He suggested that a fee scale be drafted that would be more accurate for the City of Mandan, (vs. what Grand Forks has in place for their fee schedules). Commissioner Rohr stated that he would have no problem with following the Grand Forks format; however,

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he would recommend that additional time be granted to study a fee schedule that Mandan would implement. Commissioner Frank inquired if anyone had Bismarck's liquor license information available. Attorney Brown stated that Bismarck limits the number of major licenses for availability. He requested the Commission provide some guidance, in particular, if the number of Class A and Class B licenses should be limited.

Mayor Helbling stated that he would like to limit the number of licenses given out based on housing units, not census numbers. For example, for every additional 500 units, another license could be opened up and that minimum fee be placed on each license. Then it could be opened up for public bids and the private sector could determine what the top dollar is. The goal is to generate revenue for the community. Commissioner Jackson recommended that if the process were to open it up for bidding, then the number of licenses would have to be limited.

Mayor Helbling recommended increasing the number of liquor licenses by one at this time with a minimum fee of \$40,000 effective July 1, 2012 and change from the population count to the living unit count and to use the date of December 31<sup>st</sup> as the cutoff date for determining the living unit count. He also recommended increasing the number of licenses available for the convenience stores by two; using a starting bid at the same fee as the last one that was issued.

Commissioner Jackson motioned to direct city staff to draft a policy similar to the Grand Forks City Council's policy with regard to liquor licensing. The motion died for lack of a second.

Commissioner Frank motioned to instruct city staff to put together information regarding liquor license measurement changes based on the number of household units versus population within the City of Mandan, and that December 31, 2010 is used as the base measurement. Part of that discussion would also include opening up a Class A liquor license as well as two additional Class D beer and wine licenses for convenience store off-sale. The discussion should address the specific dates needed to open additional licenses based on the population counts at the end of the year. Commissioner Tibke seconded the motion. Commissioner Frank stated that as this information is being put together we need to pay attention to the number of licenses being granted. She indicated she would be in favor of more of the convenience store licenses as opposed to Class A licenses that are open. Mayor Helbling noted that this will probably come back for discussion several times before finalizing.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

#### RESOLUTIONS & ORDINANCES:

1. *Consider first consideration of Ordinance No.1110 Zone Change for Meadow Ridge 1<sup>st</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner

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Jackson moved to approve the first consideration of Ordinance No.1110 Zone Change for Meadow Ridge 1<sup>st</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Consider first consideration of Ordinance 1111, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of the NW ¼ of 22-139N-81W).*

Commissioner Jackson moved to approve the first consideration of Ordinance 1111, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of the NW ¼ of 22-139N-81W). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *Consider second and final passage of Ordinance 1108 - An Ordinance to Amend Section 21-03-10 of the Mandan Code of Ordinances Relating to Automobile Parking.*

Commissioner Jackson moved to approve the second and final passage of Ordinance 1108 - An Ordinance to Amend Section 21-03-10 of the Mandan Code of Ordinances Relating to Automobile Parking. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. A copy of the ordinance is on file and open for public inspection during regular business hours in the Office of the City Administrator.

4. *Consider second and final passage of Ordinance 1109 – An Ordinance to Create and Enact Section 20-09-38 of the Mandan Code of Ordinances Relating to Use of An Electronic Communication Device By Minor Prohibited (Amended).*

City Attorney Brown commented that when the first consideration of this ordinance was voted on it referenced individuals over 14 yrs. and under 18 yrs. This amendment has been amended to state under the age of 18 years. The original ordinance contained a fine of \$100 and this has been amended down to \$20. Commissioner Jackson moved to approve the second and final passage of Ordinance 1109 – An Ordinance to create and enact Section 20-09-38 of the Mandan Code of Ordinances Relating to Use of an Electronic Communication Device by Minor Prohibited (Amended). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. A copy of the ordinance is on file and open for public inspection during regular business hours in the Office of the City Administrator.

OTHER BUSINESS:

1. There is a Community Blood Drive scheduled for March 1<sup>st</sup> at the combined law enforcement center.

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There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 6:49 p.m. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

/s/ James Neubauer

James Neubauer,  
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,  
President, Board of City  
Commissioners