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The Mandan City Commission met in regular session at 5:30 p.m. on January 7, 2014 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, Assessor Shaw, and Building Official Lalim.

B. APPROVAL OF AGENDA: Commissioner Rohr motioned to approve the Agenda as presented. Commissioner Tibke 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. A second announcement was made to speak for or against items on the Agenda. Seeing none, this portion of the Public Communications was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held December 17, 2013.* Commissioner Frank moved to approve the minutes as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval for advertising for bids for District No. 186 Project 2013-22 (Macedonia Hills 1<sup>st</sup> Addition). See Resolution No. 2.*

2. *Consider for approval the final Replat of Lots 1-3, Block 1, Ol’ Town Addition.*

3. *Consider for approval the Proposal from Banyon Data Systems for Utility Billing Software.*

4. *Consider finalizing Infrastructure Grant project completed by Swanberg Construction Co. and approve final pay estimate request.*

5. *Consider approval of the Homestead Credit abatements.*

6. *Consider approval of abatements for: (i) Complete Reassessment of Properties – Jeromchek & Kraft; (ii) Unbuildable lot – Riverwood Commercial Park, LLC; (iii) Missed Property – Assessor Error – Wolff; (iv) 2-year Exemption – New Construction – Boyce.*

Commissioner Tibke 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.

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H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Consider proposal for purchase and development of 611 W Main Street:*  
Business Development and Communications Director Huber reported that after the issuance of a Request for Proposal for the purchase and development of the property at 611 West Main Street, a proposal was received from Link Golz for the construction of a True Value Hardware Store. This property is located between the Morton Mandan Public Library on Main Street and the Cass Clay distribution center. It is a 25,798 sq. ft. property. Mr. Golz was present to outline his proposal. Matt Appleby from True Value Hardware Store was also present. A key point included in the offer is for \$2.50 per sq. ft. to construct a 9,072 sq. ft. True Value Hardware Store and discussions regarding this matter began in 2011 with Mr. Golz.

A hardware store has been a major demand in this community. Matt Appleby came forward and introduced himself and Link Golz. Link Golz stated that he has been in the hardware business for 25 years having owned a hardware store for almost 17 years in Ashley, North Dakota. He indicated that it is his desire to own and operate a larger store and to assist the City of Mandan and Morton County fulfill their needs for a hardware store in the community.

Matt Appleby mentioned that True Value Hardware stores are one of the largest hardware coop's in the world with service to 54 countries and over 5,000 stores and 12 distribution centers. The wholesale sales in 2013 were \$1.8 billion. Destination True Value is the new floor format for the stores which is the design that will be used in the Mandan store. The Planning Department has been involved with the layout of the building on the property to optimize the building and land to which it will sit on. Services will also be provided such as key cutting, window repair and glass cutting and possibly small engine repair. Project costs are estimated at \$1.7 million when factoring in the inventory and such. Investments are in the form of personal funds of Mr. Golz; True Value will provide \$262,808 in inventory; a True Value equity loan of \$200,000; SBA loans and some private lender loans. Mr. Appleby stated the Mr. Golz is requesting the 5-year property tax exemption under the Renaissance Zone program. With regard to a timeline, the proposed plan is to break ground in March (2014) with building construction to be completed in June; merchandising would be completed by August with a final plan for a Grand Opening in September. It is projected that 8-12 employees will be hired. Mr. Appleby stated the offer is contingent on the recent closing of the Central Market grocery store as that type of business will be necessary for traffic flow to the hardware store. Mr. Golz requested the opportunity to opt out of the current project with a full refund of any money paid to the City if a new grocery store for the property has not been secured by the time Mr. Golz is ready to start construction.

Commissioner Frank asked whether True Value Cooperatives conducts their own research for their businesses and how confident are they with the sales projections. Also, are they conservative in nature? Mr. Appleby replied that they are conservative. They do

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their own market studies and that is brought before their Board before decisions are made to invest. He noted that since True Value is a co-op, the members own True Value.

Commissioner Frank inquired about the contingency with regard to the loss of Central Market and the short timeframe for this business to start construction. She asked Business Development Director Huber about the possibility of placing a store in the Central Market building with the close construction time period for True Value? Huber replied that there are a number of variables including the fact that the Central Market property is privately owned so the owner of that property has the prerogative of entering into purchase or lease agreements with parties they choose as long as it fits within the city's zoning perimeters. The City is in communication with those owners and they are aware of the efforts to attract another grocery store to that location. They will also be doing their own research and whether the City will know the future use of that property by March is difficult to say at this point.

Development Director Huber's recommendation is to enter into an Option to Buy Agreement with Mr. Golz for an agreeable period of time that would give the appropriate amount of time for him to continue his work and to continue to monitor the situation to see if he would have that confidence to wanting to enter into full-fledged Purchase and Development Agreements. The initial recommendation was for Purchase and Development Agreements but the Option to Buy Agreement would give him control of the property for some agreed upon period of time as the various aspects in business dynamics develop on west Main Street. Development Director Huber stated that one other item is to summarize the types of business programs that would be pursued for this project –all would be subject to the application review and approval process. The Mandan Growth Committee is working on a policy that pertains to the request for local match for a Bank of North Dakota (BND) FlexPACE loan. The caps the BND has on this type of loan mean the local share amounts to just slightly over \$50,000. The Mandan Growth Fund Committee is looking at policy that would indicate in most situations the local match would be provided at 0% interest loan repayable once the interest buy-down term of the loan is complete. Local communities have the option of providing that as a grant or a loan, also determining the interest rate, if a loan. The policy has not been adopted formally just yet, but was the direction given to bring back for future consideration.

Commissioner Rohr commented that it is a fact that certain businesses attract other businesses and he would like to see that end of Main Street developed and moving forward. Business Development Director Huber stated that the Central Market property is one of the largest square footage retail sectors in the Mandan Community and she stressed the importance of filling that area with retail that attracts customers on a daily basis. She indicated that moving forward with an agreement be it an Option to Buy or Purchase and Development Agreements to secure a hardware store would be a move in the right direction in helping to fill the other location.

City Attorney Brown commented that in view of the contingency Mr. Golz wants to put on this, that an Option to Buy; (that, if exercised, would have the Development Agreement, Purchase Agreement, and everything that you would normally do without a

contingency), would be more appropriate. It could be 90 days, or probably six months would be more appropriate. That would give him some time and also some time for the development of the Central Market site.

Commissioner Frank moved to authorize staff to work on an Option to Buy Agreement for the 611 West Main Street property for sale to Link Golz for the development of a hardware store. 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.

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

(i) *Rehabilitation by Andra Miller of 106 11<sup>th</sup> Ave NE:* Huber provided photos of the plans for the rehabilitation of a 1930's home converting into an office space. There are plans to demolish the two smaller detached buildings. Photos were also provided of what the building will look like after remodeling has been completed. Ms. Miller is planning to invest approximately \$119,000 for the rehab of this structure and wants to convert it from use of a single family home to a commercial property for the use as office headquarters for her two businesses. Renaissance Zone requirements for rehab of a structure to qualify for property and state income tax exemptions require at least 50% of a building's value be reinvested back into it, primarily into capital improvements. The majority of this will be in the capital improvement area with new siding, windows, awnings, and trusses over a flat roof, soffit, gutters, electrical, air conditioning, plumbing, insulation, flooring, cabinets, counters, and the requirement of an automatic door. The building value is \$25,200 so the proposed investment exceeds the minimum requirements. The estimated value of the property with improvements is \$144,000 which would be approximately \$2,400 in property tax value for a 5 year total of approximately \$12,000. The estimated state income tax exemption would be on lease income from the structure is \$380 annually and \$1,900 for 5 years. The Renaissance Zone Committee voted to recommend approval of the application for rehab as a Renaissance Zone project with a 5-year 100% property tax exemption and 5-year 100% state income tax exemption. Andra Miller was present to answer any questions.

Commissioner Tibke moved to approve the application for the Rehabilitation by Andra Miller of 106 11<sup>th</sup> Ave NE as a Renaissance Zone Project for the 5-year 100% property tax exemption and 5-year 100% state income tax exemption. 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.

(ii) *Lease by M3 Home Designs of 106 11<sup>th</sup> Ave NE:* Business Development and Communications Director Huber explained that this is one of Ms. Miller's businesses that specialize in residential home building and remodeling. Miller would be relocating her existing business from Bismarck to this location and 500 ft. would be leased. She has 1 full time employee and several sub-contractors. The estimated state income tax exemption is \$1,333 annually for a total of \$6,665 over 5 years. The Renaissance Zone

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Committee voted to recommend approval of the application for lease of this space as a Renaissance Zone project with the 100% 5-year state income tax exemption.

Commissioner Rohr moved to approve the application for lease by M3 Home Designs of 106 11<sup>th</sup> Ave NE a building being renovated as a Renaissance Zone Project for the 5-year 100% state income tax exemption. 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.

*(iii) Lease by ND Real Estate Brokers of 106 11<sup>th</sup> Ave NE: Business* Development and Communications Director Huber explained that this is another one of Ms. Miller's businesses that is a real estate agency that primarily deals with residential property. This would be relocation of an office from Bismarck to this location and it would lease the remaining 500 ft. of the property. The estimated state income tax exemption is \$1,333 annually for a total of \$6,665 over 5 years. The Renaissance Zone Committee voted to recommend approval of the application for lease of this space as a Renaissance Zone project with the 100% 5-year state income tax exemption.

Commissioner Tibke moved to approve the application for lease by ND Real Estate Brokers of 106 11<sup>th</sup> Ave NE a building being renovated as a Renaissance Zone Project for the 5-year 100% state income tax exemption. 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.

3. *Consider Growth Fund Committee recommendations:*

*(i) Store front improvement application:* Development and Communications Director Huber stated that this application deals with the same structure at 106 11<sup>th</sup> Ave NE owned by Ms. Miller and this would deal with the exterior improvements to the property which are estimated at \$60,000 and the Storefront Improvement program now allows a match no greater than 50% not to exceed \$30,000 per property. Reimbursement is always contingent upon completion of the project as presented and documentation of the investment through invoices. The project was previewed today by the Architectural Review Committee that gave a general preliminary approval. Items that need to be addressed are the site plan to determine the off street parking location, sidewalks, ADA accessibility and additional landscaping and final signage plan were some of the items for review before a building permit can be issued.

The Building Inspection Department will also have to review the plan. The Mandan Growth Fund Committee recommended approval of the project. Because The property has been non-conforming as a residential property due to not meeting setback requirements, but would be conforming as a commercial property in CB zoning. This helps to address concern that the property could revert back to residential use, thus no clawback provision was recommended. Andra Miller was present to answer questions.

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Commissioner Frank commented on the construction plan as well as the use of funds for the type of structure outlined. Development Director Huber stated that if the City Commission is not comfortable with the proposal as presented it can be returned to the Growth Fund Committee for further consideration and dissection of particular items that may need to be carved out in terms of what is or is not eligible for the funds. The recommendation is for a match for up to 50% of eligible expenses not to exceed \$30,000 in forgivable loan. Landscaping is an eligible item; however, off street parking is an additional investment. Huber suggested the application be returned to the Committee for further review or the Commission has the authority to carve out any such items it is not comfortable with approving. Andra Miller came forward to address matters. She stated that in order to depict what her business is about, that it is important for them to show what a residential home is like. Part of the landscaping project includes demolition of the two buildings in the back that are not structurally sound and that would be considered part of the rehabbing of the property and making it more visually suitable.

Commissioner Tibke moved to approve the Store Front Improvement application of Andra Miller at 50% match rate to the actual investment, for up to \$30,000 in matching funds, to be provided as a forgivable loan upon project completion. 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) Committee appointments:* City Administrator Neubauer presented a recommendation from the Mandan Growth Fund Committee for the appointments of two open positions. He stated that an announcement was published in October 2013 asking parties to express their interest in becoming a member on or before December 6, 2013. He indicated that four letters of interest were received and reviewed by the MGF Committee. The Committee recommended that Jeremy Bauer and Curtis Patzell be appointed for 3-year terms. The terms would run from 1/1/14 to 12/31/16. The terms of Todd Steinwand and Dennis Friesz were up and they chose not to run again. They were extended a thank-you from the City of Mandan for their many years of service.

Commissioner Tibke moved to approve the appointment of Jeremy Bauer and Curtis Patzell to the Mandan Growth Fund Committee who shall be appointed for 3-year terms. The terms will run from 1/1/14 to 12/31/16. 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 placing for sale City owned property generally known as 211 W Main Street land only.* City Administrator Neubauer presented a request for placing for sale the City owned property at 211 West Main Street (land only) commonly known as Papa Murphy's and the Lisa's Gluten Free store. The land has been under a lease agreement with John Sayler who owns the building located at 211 West Main Street. Mr. Sayler inquired if the City would sell that property to him. Administrator Neubauer pointed out the advantages and disadvantages of selling the City owned property, in particular its

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prime parking location and that the City would have to maintain having access to the easement based on the Remediation Trust Project. He stated there was a Remediation Trust meeting recently in which the remediation consultants Leggette, Brashears & Graham, (LBG), provided a map of which areas of remediation where we could consider abandoning some of the wells.

Right now there is consideration of keeping most of them in this particular area active. Not necessarily running all the time, but that the City would have access to them for at least 3 – 5 years. He stated that if the property were to be sold that the City should retain an easement in order to get access to the wells if needed. He mentioned that he had also discussed with Mr. Saylor that if the City were to sell the property it would be opened up to anyone who may be interested in purchasing the property, not just him.

Commissioner Tibke recommended that the City hold off on selling the property until the time comes to shutting down the wells or that portion of the remediation process is deemed to be completed by LBG. Commissioner Rohr stated that he does not see any compelling reason to sell the property at this time. Commissioner Frank concurred with the recommendation to wait until the remediation process has been completed.

Commissioner Frank motioned to continue to lease the referenced property to Mr. John Saylor. 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.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance 1136, an Ordinance for zoning change for Christianson's First Addition.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance 1136, an Ordinance for zoning change for Christianson's First Addition. 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.

2. *Consider the Resolution Directing Advertising for bids for District No. 186 Project 2013-22 (Macedonia Hills 1<sup>st</sup> Addition).* Commissioner Frank moved to approve the Resolution Directing Advertising for bids for District No. 186 Project 2013-22 (Macedonia Hills 1<sup>st</sup> Addition). 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.

K. OTHER BUSINESS

1. Commissioner Braun stated that the feedback he received about the Fireworks Ordinance (allowing Fireworks on New Year's) was all negative. He recommended that this matter be addressed this summer concerning next year's New Year's fireworks.

There being no further actions to come before the Board of City Commissioners, Commissioner Braun moved to adjourn the meeting at 6:35 p.m. Commissioner Tibke

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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