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The Mandan City Commission met in regular session at 5:30 p.m. on January 8, 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, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Kim Fettig, and City Assessor Barta. Absent: Director of Public Works Wright.

MINUTES:

1. Consider approval of the following minutes from the Board of City Commission meeting held on December 18, 2012 - regular meeting. Commissioner Tibke moved to approve the minutes of the December 18, 2012 regular meeting. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

1. Consider approval of Riverwood Commercial Park 3<sup>rd</sup> Zone Change. (First consideration of ordinance #1139). Engineering Project Manager Fettig reviewed with the Board a request from Riverwood Commercial Park Addition and Lot 3, Block 2, Riverwood Commercial Park First Addition for a change of zoning from MB (Heavy Industrial / Heavy Commercial) to MA (Light Non-Nuisance Industrial / Heavy Commercial). The request was approved by the Planning and Zoning Commission on December 19, 2012. The reason for the zone change is to address the set back with MA. There is no front set back. With the MB they are required to have a 50 ft. set back.

Mayor Van Beek announced this is a public hearing for approval of Riverwood Commercial Park 3<sup>rd</sup> Zone Change (First consideration of ordinance #1139) and invited comments from the public. A second announcement was made to invite comments from the public. Steve Thilmony, one of the developers, came forward and stated that he is available to answer questions regarding the project. There were no other comments. This portion of the public hearing was closed.

BIDS:

1. Consider the bid for Street Improvement District 163 Project # 2012-01, Water and Sewer Improvement District 61 Project# 2012-24 and Storm Sewer District 32 Project 2012-23. (Sunset Drive NW). Engineering Project Manager Fettig reviewed the bid for Street Improvement District 163 Project #2012-01. She stated the Engineer’s Office recommended rejecting the bid. Fettig mentioned that the total bid for all the work was 8% under the Engineer’s estimate; however, there are 3 separate Special Assessment Districts (Street, Storm Sewer, and Water & Sanitary Sewer). According to NDCC 40-22-29, before adopting or rejecting any bid filed under the provisions of this chapter the governing body shall require the engineer for the municipality to make a careful and detailed statement of the estimated cost of the work for which proposals were advertised under section 40-22-19. The governing body may not award the contract to any bidder if the engineer’s estimate prepared pursuant to this section exceeds the engineer’s estimate of the cost of the work prepared pursuant to subsection 1 of section 40-22-10 by 40% or

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more. As a result the bid for water and sanitary sewer portion of this project exceeded this statutory limitation by 8% (48% vs. 40%).

Commissioner Frank moved to reject the bid for Street Improvement District 163 Project # 2012-01, Water and Sewer Improvement District 61 Project# 2012-24 and Storm Sewer District 32 Project 2012-23. 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.

#### CONSENT AGENDA:

1. *Consider authorizing a work change order on Street Improvement District No. 173, Project No. 2012-14 (Meadow's 5<sup>th</sup> Addition).* The Board approved of authorizing a work change order on Street Improvement District No. 173, Project No. 2012-14 (Meadow's 5<sup>th</sup> Addition).
2. *Consider authorizing a work change order on Street Improvement District No. 174, Project No. 2012-16 (Plainview Heights 13th Addition).* The Board approved of authorizing a work change order on Street Improvement District No. 174, Project No. 2012-16 (Plainview Heights 13th Addition).
3. *Consider approval of street name Douglas Lane SE changed to Verity Lane SE. (First consideration of ordinance 1138)(Resolutions and Ordinances: No. 3).* The Board approved of the street name Douglas Lane SE change to Verity Lane SE.
4. *Consider confirmation of special assessments for Storm Sewer Improvement District #28, Street Improvement District #155-Area A, Street Improvement District #155-Area B, Street Improvement District #156-Area A, Street Improvement District #156-Area B, Street Improvement District #156-Area C, Street Improvement District #162, and Water & Sewer Improvement District #57.* The Board confirmed special assessments for Storm Sewer Improvement District #28, Street Improvement District #155-Area A, Street Improvement District #155-Area B, Street Improvement District #156-Area A, Street Improvement District #156-Area B, Street Improvement District #156-Area C, Street Improvement District #162, and Water & Sewer Improvement District #57.
5. *Consider amendment to Cost Participation & Maintenance Agreement with ND Dept. of Transportation for micro-surfacing Memorial Highway.* The Board approved the amendment to Cost Participation & Maintenance Agreement with ND Dept. of Transportation for micro-surfacing Memorial Highway.
6. *Consider annual leave carryover allowance for Planning & Engineering Project Manager Fettig.* The Board approved of the annual leave carryover allowance for Planning & Engineering Project Manager Fettig.
7. *Consider re-appointment to Renaissance Zone Committee.* The Board approved of the re-appointment to Renaissance Zone Committee.
8. *Consider the following abatements:*
  - i. *Quinn Messer – New Construction & Veteran's Exemption*
  - ii. *Todd Brady – New Construction Exemption*
  - iii. *Boilermakers Lodge 647 – Nonprofit Lodge Exemption*
  - iv. *Barry Koch – New Construction Exemption*
  - v. *Basin Electric Power Co. – Subject to "in lieu" Taxes*

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- vi. *Esther Rasch – Blind Exemption*
  - vii. *Steve Mariner – Reduction in Land Value*
  - viii. *Steve Barreth – Reduction in Structure Value*
  - ix. *Carol Jorgenson – Reduction in Structure Value*
  - x. *Richard Tentis – Reduction in Structure Value*
  - xi. *Jeff & Tara Hatzenbuhler – Disabled Veteran’s Exemption*
  - xii. *Roger Cahoon – True & Full Value*
  - xiii. *Mike & Kari Hatzenbuhler – Correction in Assessment Value*
  - xiiii. *Curtiss Kovash – Correction in Assessment Value*
  - xiv. *Loretta Joerz – Homestead Credit Exemption*
  - xvi. *Kevin Trehus – Homestead Credit Exemption*
  - xvii. *Mary Kaye Mann – Reduction in Structure Value*

The Board approved of the abatements listed.

Commissioner Tibke moved to approve the Consent Agenda as presented. Commissioner Braun seconded the motion. Commissioner Frank stated she had a call from a resident regarding a confirmation of a special assessment. She indicated she wants to make the public aware of the resources if they do have questions regarding a special assessment. The City department heads and City Administrator are available to answer any questions regarding assessments. City Administrator Neubauer stated that the process would be to call or send an email to the City Administrator’s office. The future plan is to have all the maps out on the website for residents to research and navigate on their own should they choose to do so.

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

#### OLD BUSINESS:

1. *Consider proposals for redevelopment of city-owned property at corner of Collins Ave & Main Street.* Mayor Van Beek referred to the information previously distributed to the Board members along with updated offers from the two entities interested in the property, BNC National Bank and Dakota Commercial. He suggested resolving this matter.

Commissioner Rohr commented that the BNC Bank proposal of paying the full price for the property with no incentives requested is appealing to him, while commenting that he thought the design of the bank building would make a nice addition to that area. As to the apartment complex proposal, he stated that the taxation value would be welcomed as well. He commented that he anticipates parking problems with the apartment complex and having to deal with those issues will most likely be ongoing. He mentioned that he found out that another bank may be going into the Iverson Building. Thus he is not sure having banks caddy-corner to each other would be advisable. He stated that he sees pros and cons of each interested party and that it will depend on what the decision is to do with the downtown area: business/commercial vs. residents living in the downtown area.

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Commissioner Tibke inquired about the retail space currently available in downtown Mandan. Business Development & Communications Director Huber replied that that information is not tracked on a total square foot basis. There is more property being sold and leased at this time. However, it would take research to come up with the retail space currently available.

Commissioner Frank commented that the No. 1 concern for the Bismarck-Mandan community is housing. We need to keep in mind how to address that as well as the ability to operate businesses. Mandan is in a unique position to claim a downtown that Bismarck would like to have. Having that housing component is conducive to downtown Mandan. She agrees with Commissioner Rohr that a decision has to be made as to what downtown should look and feel like based on the resident expectations. Her perspective is to have further discussion with Dakota Commercial.

Mayor Van Beek reviewed the two projects:

1. BNC National Bank
2. Dakota Commercial that will have a main floor commercial business and the 2<sup>nd</sup> and 3<sup>rd</sup> floors will be apartments for rent.

Commissioner Rohr commented that one consideration to remember is that Dakota Commercial will not start building until they have a tenant on the first floor. Thus we do not want the project held up for a long time. He recommends that strong stipulations be in place if the City approves of this project. Development Director Huber stated that Kevin Ritterman indicated that if the Commission chose this project, consideration would be given for a six-month limitation in the agreement for a tenant or occupant for the main floor commercial space.

Commissioner Rohr questioned Chief Bullinger regarding the downtown parking issues, whether an apartment complex was built there; how would that affect the parking situation in that area? Chief Bullinger replied that it would create problems for the Police Department because of the need for parking space downtown right now. There would be approximately 20-24 parking spaces east of the fire department that could be utilized. However, parking spaces would have to be found for those residents living in the apartment complex. Commissioner Frank commented that parking has always been and always will be a concern. Tenants and apartment residents will have to make decisions on parking options. Business Development Director Huber stated she is not aware of any parking on the south side of the street. She noted that in the proposal that was issued there was a summary of the parking situation on this property. There would be parking spaces available for rent in the Fire Department Parking lot. She noted that the developer has expressed willingness to offer on-site parking (approximately 13 spaces) and there are several 90-minute on-street parking spaces in that area. Huber reviewed other potential parking spaces that may be available or become available in the future.

Mayor Van Beek reviewed the Dakota Commercial proposal: To purchase the land for \$1.00 per square foot, or \$16,250, request Renaissance Zone exemptions for 5 years on the commercial portion (1/3 of the project) and a two-year 100% exemption on the

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housing component (2/3 of the project) with construction to commence when a main floor tenant is secured.

Mayor Van Beek asked for further comments or questions, or a motion. Commissioner Frank motioned to move forward with a development agreement for the Dakota Commercial proposal and directed city staff to prepare a draft contract. Commissioner Tibke seconded the motion.

Carla Barrios, a Mandan resident came forward to comment. She stated she is confused why this is such a hard decision. She indicated that there is a mixed use building one block down from this property and that building has never had a commercial resident in it yet. How will they find one for this building when they have not had one for the other building? If they find a commercial resident – put them in the other building. She mentioned that the city has an interested party who wants to come in and pay the price for the land, pay taxes, hire 15 people plus plans for future jobs and development planned for the north and south sides of Mandan. She requested the Commission present their long term plans and the vision for Mandan's future. Barrios said that it is her opinion that Mandan residents want local control over the community decisions and that it is not necessary to bring in consultants costing the city \$100,000 to do a study on high density. She indicated she would favor BNC Bank as the entity to be granted this property.

Commissioner Frank commented that when it comes to that space there is some concern with Dakota Commercial vacancy in the building but there is vacancy throughout downtown Mandan. She pointed out that one of the commercial spaces is being rented and there is still some square footage available in that building. Development Director Huber stated that approximately half of the commercial space on the main floor is available and half has been leased to Morton County Parole and Probation through the state. There has been interest in the other half of the space and the landlord is searching for a long term quality tenant for that space. Commissioner Frank commented that she believes Barrios was alluding to Measure No. 2 and Commissioner Frank stated that as a commission local contact has been a practice and will continue to be a factor in addressing the needs of the Mandan residents. For clarification, Stantec Consultants is not an international company, it is located in Minnesota and they have an understanding of what North Dakotans want. Commissioner Rohr commented that he believes by staying in contact with citizens it is important to make sure the Commission has an idea as to which direction the citizens want to go. He stated that some decisions are easier to make than others. City Administrator Neubauer indicated that there has not been a formal contract with Stantec and they have not been involved in any of these decisions in any shape or form.

Jason Arenz, a Mandan city resident who serves as a Commissioner on the Mandan Park District, came forward to speak. He is a representative of BNC Bank and stated that at the last meeting BNC Bank presented the cash analysis, cash flow, etc. and the benefit is that the property goes back on the tax role. As a comparison, Dakota Commercial is looking at a 35-year break even project. That is not a financially correct decision. As a point of clarification, Bismarck banks are right across from each other. On a personal

note, downtown apartments do not belong on Main Street. He stated that BNC attempted to present a two or three floor building but that would not have been financially logical. He expressed a thank you to the city staff for the decisions they are making on behalf of the residents of Mandan.

Commissioner Tibke clarified that since 2003 the City has been following the URS study and part of that study was to build housing in downtown Mandan. She is hoping that by adding resident housing to downtown Mandan that will attract businesses and restaurants to that area as well. She addressed the fiscal impact that utilizing only revenue from the sale of property and potential property tax (current mill levies) revenue from both projects as proposed, BNC project value utilized is \$1M and Dakota Commercial \$3M (1/3 commercial and 2/3 residential):

	BNC	Dakota Commercial
5 yr.	\$261,000	\$39,404
10 yr.	\$359,500	\$413,701
15 yr.	\$458,000	\$709,201
20 yr.	\$556,500	\$1,004,701

Commissioner Tibke stated that after review of the numbers she will make a decision based on what is best for the Mandan residents in the long term.

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

NEW BUSINESS:

RESOLUTIONS & ORDINANCES:

1. Consider second consideration and final passage of Ordinance No.1136 Zone Change for Christianson’s 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 Frank moved to approve the second consideration and final passage of Ordinance No.1136 Zone Change for Christianson’s 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 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.

2. Consider second consideration and final passage of Ordinance 1137, 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 S21-T139N-R81W). Commissioner Tibke moved to approve the second consideration and final passage of Ordinance 1137, An ordinance annexing certain adjoining lands to the City of

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Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of S21-T139N-R81W).

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.

3. *Consider first consideration of Ordinance No.1138 to change street name Douglas Lane SE to Verity Lane SE. –An Ordinance changing the name of certain street or parts thereof situated within the City of Mandan, Morton County, North Dakota.*

Commissioner Tibke moved to approve the first consideration of Ordinance No.1138 to change street name Douglas Lane SE to Verity Lane SE. –An Ordinance changing the name of certain street or parts thereof situated within the City of Mandan, Morton County, North Dakota.

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 first consideration of Ordinance No.1139 Zone Change for Riverwood Commercial Park 3<sup>rd</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 moved to approve the first consideration of Ordinance No.1139 Zone Change for Riverwood Commercial Park 3<sup>rd</sup> Addition for a change of zoning from MB (Heavy Industrial / Heavy Commercial) to MA (Light Non-Nuisance Industrial / Heavy Commercial). An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

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.

OTHER BUSINESS:

1. An unidentified Mandan City resident came forward to talk about a concern she has with the increase in special assessments for properties. She was told by a city staff member that there is no budget to maintain streets and that it is all done on special assessments. What are the short term goals to help residents now?

Commissioner Rohr replied that he holds the Street Maintenance portfolio and there has been some reluctance in the past in having a good maintenance program. However, sometimes there are some roadways that qualify for both state and federal monies and the city has to then follow those respective plans. He explained it is difficult to plan a budget and then have to designate what areas get attention. He encouraged the resident to contact him for additional information if needed.

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