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The Mandan City Commission met in regular session at 5:30 p.m. on March 15, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Braun, and Laber. Department Heads present were Finance Director Welch, Police Chief Ziegler, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Assessor Shaw, and Building Official Lalim. Absent: Planner Decker.

B. APPROVAL OF AGENDA: Commissioner Braun moved to approve the Agenda. 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 interested to speak for or against any items on the Agenda to come forward. Wayne Papke came forward and commented on the 2015 budget noting that six departments carried forward budget monies. It is his opinion this has gotten out of control, (with the exception of past construction projects, etc.). What needs to happen with this type of action is that the City of Mandan needs to redefine the current mills to bring it back down to line up with those dollar amounts, or did the departments over-budget? This is a consistent feature that occurs year after year. If funds are carried forward, that means the taxpayers paid too much last year. He requested that these items should be re-evaluated. Setting a new baseline is what Mr. Papke indicated needs to happen. By that he means going into the next year, the dollar amounts that were carried forward need to reduce the net effect of their current year budget. Wherein by saying the budget went up 3%, it actually went up 10% because of the dollars carried forward. The City Commission needs to redefine this process so the public is not misled by the numbers. Carrying forward from a previous year does not provide an accurate picture of what the budget actually is. Mr. Papke also commented that in regards to the Mandan Growth Fund position, this has been something that he has always been opposed to. He said he opposes any permanency of that position going forward due to the economic condition of the city and state. So a full-time position is not warranted at this time.

Mayor Van Beek provided a second announcement for anyone to come forward to speak on the Agenda. Hearing none, this portion of the Public Communications was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission of March 1, 2016 regular meeting.* Commissioner Laber 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:

1. *Consider approving Resolution determining insufficiency of protests for Street Improvement District 205, Project 2015-06(Old Red Trail).* Planning & Engineering Director Froseth provided a summary of this project. This is the Old Red Trail NW project that the City has put forward to reconstruct the portion of Old Red Trail between

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Highland Road Northwest and approximately 500 ft. west of 40<sup>th</sup> Avenue Northwest. On 2/2/16 the City Commission approved the creation of the district and approved the resolution approving Engineer's Report, plans and specs and the Resolution of Necessity. The notice was published in the Mandan News in accordance with the State's Century Code (NDCC). Letters were sent out to all property owners of record within that district. The protest period ended 3/7/16. There were 7 letters of protest received for this project which is less than one-third of a percent of the area that could protest. It was recommended to move forward with the street improvements for this project.

Mayor Van Beek stated this is a public hearing and invited anyone interested to come forward to speak for or against the project request for a Resolution determining insufficiency of protests for Street Improvement District 205, Project 2015-06 (Old Red Trail). A second announcement was made for anyone to come forward to speak for or against the project. Hearing none, this portion of the Public Hearing was closed.

Commissioner Laber moved to approve the Resolution determining insufficiency of protests for Street Improvement District 205, Project 2015-06 (Old Red Trail). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

F. BIDS:

1. *Consider award of bid and approving Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 204, Project 2016-06 (Lakewood 9<sup>th</sup> Addition).* Planning & Engineering Director Froseth said that three bids were received on 3/1/16 for this Lakewood 9<sup>th</sup> Addition project and Northern Improvement Company was the low bidder in the amount of \$1,549,422.20. The engineer's estimate was \$2,218,163.00. The bid was 30% lower than the engineer's estimate. With administrative costs the project total would come to \$2,091,719.97. The project will be paid for by special assessments from the benefiting properties within the district. It was recommended to approve the bid award to Northern Improvement Company in the amount of \$1,549,422.20.

Commissioner Laber moved to approve the award of bid and approving Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 204, Project 2016-06 (Lakewood 9<sup>th</sup> Addition) to Northern Improvement Company the low bidder in the amount of \$1,549,422.20 and to approve the Resolution approving Contract and Contractor's Bond. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider award of bid for the 2016 Water main Replacement Project.*

Director of Public Works Wright said that four bids were opened on 3/3/16 for the 2016 Water Main Replacement project located in northeast Mandan; mainly north of 1<sup>st</sup> St. and between 8<sup>th</sup> Ave. NE and 4<sup>th</sup> Ave. NE. Two bids were opened for the materials for the project. Typically bids are received from local suppliers for water main materials. The

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project is also a “preempt” to Phase 2 of the Street Improvement Project. This year’s improvement project is estimated to be \$404,000 which includes labor, equipment and materials including bedding material, asphalt and concrete replacement that is needed outside the proposed street improvement project. It also includes any lead service line replacements found during the project and the repair or replacement of any curb stops. They are recommending removing area B3 from the bid to allow us to stay within our budget after all city provided item expenses are added to the bids. Pursuant to the low bids received from Markwed Excavating which would include areas B1, B2, C and D in the amount of roughly \$260,000 for equipment and labor costs; Ferguson Waterworks for materials for areas B1, B2, and C; and Dakota Supply Group for area D in the amount of \$49,925.87 for material costs. The total project cost would come to approximately \$310,000. Director Wright recommended awarding the bids as outlined.

Commissioner Laber asked about the area that might be eliminated from the project. Director Wright said that as of last year, some of the areas that were eliminated then are included in this year’s projects. Therefore, any areas that are eliminated from this year’s projects will go into next year’s.

Commissioner Braun moved to approve the award of bid for the 2016 Water Main Replacement Project to Markwed Excavating with areas B1, B2, C and D for total equipment and labor cost of \$260,000 and award Ferguson Waterworks areas B1, B2, and C and Dakota Supply Group area D for a total materials cost of \$49,925.87.

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

3. *Consider award of bid for the Big Sky Sanitary Sewer Extension Project.*

Director of Public Works Wright stated that on 3/3/16 six bids were opened for this year’s Big Sky Sanitary Sewer Extension project which is the project wherein a temporary lift station would be eliminated and hook up a gravity sewer that runs to Sunset Drive. By eliminating the lift station it would save yearly operating and maintenance costs such as electricity. It would also provide for the needed pump and control panel upgrades to the lift station. The engineer’s estimate for the project was \$48,200. Weisz and Son’s was the low bidder at \$43,079. It was recommended to award the bid to Weisz and Son’s for this project in the amount of \$43,079.

Commissioner Tibke moved to approve the bid award to Weisz and Son’s in the amount of \$43,079 for the Big Sky Sanitary Sewer Extension Project. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

G. CONSENT AGENDA

1. *Consider approval of monthly bills.* MONTANA-DAKOTA UTILITIES - 21,802.18; ADVANCED ENGINEERING SVC - 6,000.32; BANK OF NORTH DAKOTA - 924.65; BANK OF NORTH DAKOTA - 138,388.94; BASARABA EXCAVATING & DI - 5,802.40; BIS MAN

DEVELOPMENT ASSO - 105.00; BIS-MAN CONVNTN & VISITOR - 2,155.68; BOERGER, LLC - 5,000.68; CENTRAL MECHANICAL INC - 13,622.40; D & F TELEPHONE - 51.00; DAKOTA SANITATION, INC - 33,511.38; ELECTRO WATCHMAN, INC - 900.00; HUB INTERNATIONAL OF ND - 101.00; INTEGRATED PROCESS SOLUT - 595.00; MANDAN PARK BOARD - 1,500.00; MARILY CHRISTENSEN ESTAT - 75.00; MORTON COUNTY AUDITOR - 3,764.32; MUNICIPAL FINANCE OFFICE - 30.00; ND LEAGUE OF CITIES - 25.00; NORTHERN IMPROVEMENT CO - 109,057.18; PRESORT PLUS - 2,427.53; SUNGARD PUBLIC SECTOR - 15,730.00; SWANBERG CONSTRUCTION IN - 120,086.00; UPPER MIDWEST COMM. POLI - 475.00; VAULT1440, LLC - 1,875.00; WEST DAKOTA SWAT - 5,901.00; MONTANA-DAKOTA UTILITIES - 36,413.18; A-1 TREE SERVICE - 1,100.00; ADVANCED ENGINEERING SVC - 32,531.54; AT & T - 739.25; BALABAN LAW OFFICE - 1,500.00; COMPANION LIFE - 10.00; DAKOTA MEDIA ACCESS - 9,704.00; ETHANOL PRODUCTS - 686.61; FETZER ELECTRIC, LLC - 860.46; FORT DEARBORN LIFE - 1,766.46; GLASS/THOMAS J. - 1,500.00; GREAT NORTHERN ENVIRONME - 1,800.00; KELSCH KELSCH RUFF & KRA - 4,000.00; LAKESIDE EQUIPMENT CORP - 411.74; MORTON COUNTY SHERIFF - 5,600.00; ND PERS - 111,594.04; ND STATE DEPT OF HEALTH - 320.00; ND WATER & POLLTN CONTRO - 20.00; ROERICK/ROXANNE - 450.00; SUNGARD PUBLIC SECTOR - 812.59; WORKFORCE SAFETY & INSUR - 90,911.23; PHAT BROTHERS BAKERY, IN - 1,875.00; WELLS FARGO COMMERCIAL C - 152,895.04; BOBCAT OF MANDAN INC - 31,999.02; ACS/XEROX BUSINESS SER. - 1,240.00; ADVANCED ENGINEERING SVC - 9,973.45; ARMSTRONG SANIT & ROLL O - 83,257.80; AXIEN ENGINEERING, PC - 68,979.50; BIS-MDN TRANSIT BOARD - 41,632.81; BOB'S CUSTOM SERVICES - 680.00; CBI BUSINESS SERVICES - 7,434.91; COMPUTER PROFESS UNLIMIT - 93.00; CROWLEY FLECK PLLP - 4,500.00; CUSTER DISTRICT HEALTH U - 1,075.00; DAKOTA SANITATION, INC - 33,416.18; DAKOTA'S BEST COFFEE - 81.00; ELECTRONIC COMMUNCIATION - 10,437.50; FETZER ELECTRIC, LLC - 267.93; INFORMATION TECHNOLOGY D - 613.30; INTERGOVERNMENTAL SHOP - 4,836.98; KADRMAS, LEE & JACKSON, - 6,719.37; MANDAN AIRPORT AUTHORITY - 83,265.82; MANDAN MUNICIPAL COURT - 2,605.00; MANDAN PROGRESS ORGANIZA - 45.00; MISSOURI WEST WATER SYST - 100.24; MORTON MANDAN PUBLIC LIB - 160,715.98; MUNICIPAL GOVERNMENT ACA - 160.00; MY GOV, LLC - 1,050.00; ONE CALL CONCEPT INC - 29.30; POSIE PAINTING & REMODEL - 710.26; PRESORT PLUS - 1,594.80; RAILROAD MANAGEMENT CO I - 579.63; RAZOR TRACKING - 425.00; SCHLOSSER EXCAVATING INC - 1,607.00; SIMPLEXGRINNELL - 701.88; VANGUARD APPRAISALS, INC - 275.00; WEHRI/RADEANNA - 400.00.

2. *Consider request from Finance Department to approve expenditure budget amendments for fiscal year 2015 and expenditure budget transfers from fiscal year 2015 to fiscal year 2016.*
3. *Consider request from Assessing Department to transfer expenditure savings from 2015 Budget to 2016 Budget.*
4. *Consider request from Information Technology Department to transfer expenditure savings from 2015 Budget to 2016 Budget.*
5. *Consider request from Business Development and Communications Department to transfer expenditure savings from 2015 Budget to 2016 Budget.*
6. *Consider the following proclamations: (i) Designating May 6, 2016 as Arbor Day in the City of Mandan. (ii) Designating March, 2016 as General Aviation Appreciation Month in the City of Mandan. (iii) Designating May 2-6, 2016 as Project HOPE Week in the City of Mandan.*

7. *Consider approval of the 2016 Fire Hydrant Painting agreement with HIT Inc.*
8. *Consider Furry Friends Rockin Rescue games of chance at Stage Stop March 16, 2016 through May 7, 2016.*
9. *Consider the letter of intent and Rule G-17 letter from Dougherty & Company LLC as the Underwriter for the Refunding Improvement Bonds of 2016.*
10. *Consider an Abatement for 2014 & 2015 for Frank & Sharon Kuntz Paraplegic Disabled Credit Application.*
11. *Consider approving Amended Engineering Services Agreement with KLJ for Old Red Trail Reconstruction Street Improvement District 205 Project 2015-06.*
12. *Consider request from Planning and Engineering Departments to transfer expenditure savings from 2015 Budget to 2016 Budget.*
13. *Consider request from Public Works Department to transfer expenditure savings from 2015 Budget to 2016 Budget.*
14. *LEC Building Improvement Fund Request.*

Commissioner Rohr commented on Mr. Papke's statement by suggesting that there might be extenuating reasons for transferring accumulated funds from one year's budget to the next. One example he can think of would be the Police Department being budgeted for a certain amount of police officers. With a high turnover and having difficulties of hiring police officers, there could very well be a large surplus in the budget. It's not an easy balancing act at times because there are many factors that are involved in the budgeting process.

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

#### H OLD BUSINESS:

##### I. NEW BUSINESS:

1. *Ceremonial swearing in of Police Chief.* Mayor Van Beek called upon Police Chief Jason Ziegler to come before the City Commission with an invitation to his wife Sonya, and daughters Amanda and Sara to also come forward. The Police Chief Oath was given by Mayor Van Beek and was acknowledged by Chief Ziegler.

2. *Chief of Police presentation on retirement plan options for the Mandan Police Department.* Police Chief Ziegler stated that at the January 5, 2016 City Commission meeting, by a unanimous vote of 5-0, it was requested that I, the Chief of Police, conduct a study of the current retirement plan and the effects of recruiting or retention for the Mandan Police Department vs. North Dakota Public Employees Retirement System (NDPERS) and other agencies in Morton and Burleigh County area. The study presented included an overview of all the components for consideration of a defined benefits plan that will offer stability of retirement benefits that would allow officers to retire at 55 years of age. A health insurance element was attached to the NDPERS plan. Chief Ziegler stated that he is a product of a defined benefit program, (in a previous

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employment), wherein it gives him piece of mind knowing that if something happens to him, the citizens of the that community will take care of his family. He stated that is one of the greatest employment benefits afforded to a law enforcement officer for risking their life every day.

The NDPERS would require the City to contribute 9.07% of the employee's salary (current contribution 10%, provided the employee contributes at least 4%) for each sworn law enforcement officer that elects to move over to NDPERS. The employee would contribute 5.5% of their salary to their retirement. A survey conducted during the research period showed that 93% of the employees prefer NDPERS to the current retirement plan. Included in the survey was a question regarding what the employee may do if the City elects not to move to the NDPERS plan. 9.68% indicated they would leave; 25.81% were not sure but may stay; 12.90% not sure but may leave if NDPERS is not the retirement plan. Chief Ziegler pointed out that turnover not only impacts the officers working for the agency, but it also affects the quality of service provided to the citizens in the community.

Chief Ziegler extended a thank you to all those involved in the research of this matter including the Mandan Police Officers, the City Staff along with the Mayor and the City Commissioners. Sparb Collins, Executive Director of NDPERS and Mary Jo Steffes, Benefit Program Administrator of NDPERS were both in attendance for the presentation and were available to answer questions in regard to the NDPERS Retirement Program.

Commissioner Tibke extended a thank you to Chief Ziegler and NDPERS for the presentation. She stated she is in support of providing the Mandan Police Department with a defined benefits retirement plan. Commissioner Laber thanked Chief Ziegler for a fabulous job on this research project. She recommended this information be published on the City of Mandan website for easy access by the public. Ms. Steffes of NDPERS was requested to explain the benefits provided for survivor benefits (spouse and family) coverage under the plan. She explained that if an employee is not vested in the plan they would get a lump sum payout of the employee contributions that went into the plan and any vested employer contributions through the Portability Enhancement Provision (PEP) program. If a member is vested in the plan and they are married, they would have a 50% calculated benefit of the single life benefit that the member would have had. If a member is vested in the plan and they also have met normal retirement at age 55 or have met the Rule of 85 then they would have the option of the 100% joint and survivor benefits. Vesting is at 3 years and is set by the plan. Members are requested to update their beneficiaries in the case of divorce and remarriage. In such case, the new (current) surviving spouse would be paid the ongoing defined benefit plan. However, there may be terms within a divorce decree that may provide clarification such as a qualified domestic order on file if any monies are to be paid out to an ex-spouse. In the case of a member retirement, it would depend on the selection that was made as far as paying out if that member dies.

Mayor Van Beek extended a thank you to Chief Ziegler for putting together a good plan based on the research he did. He stated that he is in support of a defined benefits plan

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and expressed the need for such a plan to be in place to cover our law enforcement that put their lives on the line for the protection of residents within our communities.

Commissioner Rohr also extended a thank you to Deputy Chief Leingang for the initial time and effort he put in to move this forward.

Commissioner Tibke moved to approve the retirement plan presented by NDPERS for the Mandan Police Department. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Commissioner Laber commented that the last time this matter was presented she did not feel that it was presented in a way that she could understand. The way the cost and benefits of the plan were presented today was explained in a much clearer fashion for her. She encouraged citizens that if they are curious why the Commission did such an “about face” they should read the report presented today. She requested that it be put on the city website. If there are questions on the retirement plan for law enforcement, citizens can contact any City Commission Member or the Chief of Police.

3. *BMDA – update on activities.* Brian Ritter, President/CEO of the Bismarck-Mandan Development Association (BMDA) presented a summary of the work in progress on the many projects being handled by the BMDA. He explained the projects of the main areas of concentration that affect or include the City of Mandan, summarized as follows:

(i) Entrepreneurial Development is taking an organic and grassroots approach to create synergies. BMDA is working on programs with North Dakota, South Dakota and Minnesota (aka OTA) to start-up a business in a weekend and other events to help foster entrepreneurial activities.

(ii) Business Retention and Expansion Program: Proactively working to identify the issues addressed in the business community, working closely with Ellen Huber, Business Development Communications Director.

(iii) Business Attractions: To bring new wealth into the community and we need to be very targeted and focused for the greatest chance to success.

(iv) Job shadowing for students to learn a career, will teach them the benefits of deciding on a career. He noted that not every job position in Mandan-Bismarck requires a 4-year degree. We need to educate the students of the trades that are available out there and we need to work with parents, teachers and educational systems.

Mr. Ritter extended a thank you to the City Commission and the city staff for their support of the BMDA and the projects that are moving forward. Commissioner Rohr commented that attention needs to be given to creating a good work ethic training for employees (students in particular) so they have the opportunity to grow with any given company in which they will learn to become reliable so that they will have longevity with the company. Mr. Ritter replied that BMDA has focused on experiential learning because a lot of experience is gained by exposing students to a number of careers that will motivate and drive them to develop a successful work ethic.

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4. *Consider appointment to Mandan Community Beautification Committee – Edgar Oliveira.* City Administrator Neubauer stated there is one at-large position open on the Beautification Committee. There were two positions open last fall and only one was filled. Mr. Edgar Oliveira is from the Harvest Bavarian Grill and Station West and has expressed interest in filling the at-large position. He is a local downtown business owner and will have good ideas to bring forward. The Beautification Committee met with Mr. Oliveira and they have recommended that he be appointed to fill the position to complete the term through December 31, 2018.

Commissioner Laber moved to approve the appointment of Edgar Oliveira to the Beautification Committee to fill the open at-large position to complete the term through December 31, 2018. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider approving the Resolution creating district, approving Resolution approving Engineer's Report, approving Resolution of Plans and Specifications, approving Resolution determining sufficiency of petition, approving feasibility report and Resolution directing advertisement for bids for Street Improvement District No. 201, Project No. 2015-11 (Meadowlands Addition).* Planning & Engineering Director Froseth stated that these Resolutions are giving them the authority to advertise for a bid for Meadowlands Addition street improvement district in the area of Memorial Highway and 3<sup>rd</sup> Street Southeast. This would include the Resolution to build the street that will become the future 18<sup>th</sup> Avenue from 3<sup>rd</sup> Street North to the west that will connect to Frontier to allow for two ways in and out of the development. The developer is in the process of installing storm sewers as part of the three-way agreement that was before this Board last fall. This project will be for the pavement and the curb & gutter. The engineer's estimate cost of the project is \$477,321 with Engineering and administration costs adding \$167,062 for a total project cost of \$644,384. The project would be special assessed to the benefiting properties with an estimated cost of \$0.42 per square foot. This is a 55-year old and older community and it was approved by Planning and Zoning Committee previously.

Commissioner Laber moved to approve the Resolution creating district, approving Resolution approving Engineer's Report, approving Resolution of Plans and Specifications, approving Resolution determining sufficiency of petition, approving feasibility report and Resolution directing advertisement for bids for Street Improvement District No. 201, Project No. 2015-11 (Meadowlands Addition). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Consider reappointment of Bob Leingang to Planning and Zoning Commission.* Planning & Engineering Director Froseth stated that Mr. Leingang's term on this Committee expired the end of 2015. He has been serving on this Committee for 37 years

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and has requested reappointment for another 5-year term. A notice was published for this position and there were no other interested parties.

Commissioner Rohr moved to approve the reappointment of Bob Leingang to the Planning and Zoning Commission for another five year term commencing January 1, 2016. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

7. *Consider Engineering Service Agreement with AE2S for Water Treatment Facility High Service Pumps project.* Planning & Engineering Director Froseth presented a request to hire AE2S Engineering firm to provide services for the Water Treatment facility High Service Pump project. He explained that new pumps are needed to meet the near future projected water demands because many of the pumps that are in place are 30 to 40 years old and are due for replacement. Another component to this project is to add to and reconfigure the facilities office and lab space. There are additional parts to this project including an access platform for the residual building, process pipe modifications including instrumentation and control changes. Director Froseth stated that AE2S is familiar with the facility needs to be addressed as they were successful in applying for and obtaining a grant of 60% from the State Water Commission (SWC) for this project. This was one of the SWC projects for which AE2S was selected at the last commission meeting to provide engineering services for projects for the City of Mandan. The Agreement for professional services is based on standard hourly rates and not to exceed \$252,000. For these preconstruction activities the SWC approved 35% in grant monies towards this project with the local share that will be paid for by the City's Utility Fund. Director Froseth recommended approval of the agreement with AE2S for the Water Treatment Facility High Service Pumps project. Commissioner Laber requested that future information presented be broken down into further details so the Commission is aware of what the percentages represent.

Commissioner Braun moved to approve entering into an Engineering Service Agreement with AE2S for Water Treatment Facility High Service Pumps project. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

8. *Consider Mandan Growth Fund Committee recommendations.* Business Development & Communications Director Huber presented the following:

(i) *Application for Retail Incentive by Dakota Promotions & Printing, LLC:*

This is an application for the location at 105 Third Avenue Northwest. The business was started in 2012 as a home based business and recently rented space in the Lewis and Clark Apartment building. The business sells things such as glassware, mugs, pens, calendars, caps, clothing, etc. The owner plans to add equipment such as an embroidery machine and a heat press for printing t-shirts and other items. Installation of an automatic door will be required. The application was for the maximum \$5 per sq. ft. of stipend allowed under the program. The Growth Fund Committee rated the application on the 13

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criteria requirements such as to the extent that it filled a retail gap in the community including potential jobs creation, qualifications of owner and management, curb ability, business plan and financial history. It was rated an average of 3.6 on a scale of 1-5 with 5 being the best. This garners the square feet requirement. Director Huber explained how that equates out under the criteria requirements. The Growth Fund Committee recommended approval of the application contingent on the acquisition of the equipment listed associated with the expansion of services, the installation of the automatic door, as well as a commitment for the painting of the storefront. The incentive rate would be \$3.75 per sq. ft. totaling \$4,253 to be paid in 12 installments based on all contingencies outlined being met. The proprietor Jane Halverson was available to answer questions about the application.

Commissioner Braun moved to approve \$4,253 as an incentive for Dakota Promotions and Printing LLC, payable in 12 equal monthly installments provided all recommended contingencies are met. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

*(ii) Restaurant Rewards program proposal:*

The Mandan Growth Fund Committee has met twice at length on this matter exploring how to be more effective in Mandan's restaurant recruitments. Restaurant demand is the top demand by our residents in addition to another grocery store in the former Central Market location as well as a hardware store. Despite the growth of the city over the last few years, the restaurant business is still lacking based on the requests from the community to have more restaurants. The Growth Fund Committee has discussed the use of the Flex PACE program offered by the Bank of North Dakota to help communities meet their needs by leveraging up to \$100,000 in funds by the Bank of ND, to buy down the interest rate for financing of projects that are important to a community. The community would need to provide at least a 35% match requirement for the City of Mandan and that local match can be provided as a loan, as a grant, or a forgivable loan that acts like a grant. In recent years the City has gone to structuring the local match in the form of a forgivable loan that is repayable. However, a grant would be more appealing to a business seeking to locate or expand in the community. Discussions occurred on a sales tax rebate possibility that can be appealing from an economic perspective. That would not require any upfront cash and future sales tax may not exist for this incentive. Restaurant and property owners would have to pay property taxes unless it was pre-empted under the new and expanding business program prior to 2013 or as an approved Renaissance Zone project. It would pay the local sales taxes.

The portion of the rebate that is being discussed by the committee is only that 1% of which the home rule charter gives the City of Mandan flexibility for its use of economic development, property tax buy down, infrastructure, and debt reduction. The other taxes would still be paid by the restaurant. The restaurant has to be successful to receive rebates and if it does not perform well there will be little rebate involved. Most important in terms of marketing is that it will be easy to understand. A fast food restaurant that is up to industry standards might generate up to \$1M in annual sales and that would equate

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to a rebate of \$10,000 per year. The proposal from the Growth Fund Committee is to offer a rebate for 5 years for the first 5 years after the opening of a restaurant. The Committee discussed the full service restaurant vs. limited services and fast food and in the end recognized that all restaurant services are needed in Mandan. Overall, there is a \$23 million gap between the expenditures that originate from residents of Morton County as compared to the supply or the sales that occur within the same geographic region and that is split amongst all three categories. The restaurant owners will select the location they deem suitable for their establishment.

The recommendation is to establish a sales tax rebate application period for one year to end on March 31, 2017, to allow for 1% rebate of local sales tax for five years with the idea that the restaurant would need to apply and be fully approved within that time period. They would have one year after their date of the official City Commission approval to construct, if that were the case, or to make improvements to an existing building and would be open for service. The 2<sup>nd</sup> component of the program or recommendation would be to use the Flex PACE tool more assertively by setting aside \$162,000 in the Mandan Growth Fund Economic Development project category to be used for forgivable loans for interest buy-down, specifically for new and expanding restaurants. The balance in the Growth Fund uncommitted currently is approximately \$347,000. The amount of \$162,000 was one that was discussed in consultation with Finance Director Welch and City Administrator Neubauer as being a level that we could be comfortable with. Director Huber further explained that the local match requirement for a Flex PACE interest buy-down would be maximized so no more than \$53,846 per project. So the City could get at least 3 larger restaurant projects with that level of buy-down and potentially more if there were smaller concepts that came forward. The idea would be that the money would be encumbered on a first-come first-serve basis for qualified applicants. The Growth Fund Chairman Mark Weide was available to answer questions. Director Huber stated that both programs are recommended. There is one restaurant interested in locating in the community that, because of their particular financing situation, the Bank of ND Flex PACE program does not work for their particular arrangement. But a sales tax rebate might be appealing to that restaurant. The Mandan Growth Fund meeting agendas and minutes have been published and there has been some interest from the private sector. Discussions have occurred with commercial real estate agents in the area who look favorably upon the program.

Mayor Van Beek pointed out that the City of Mandan has to do something to entice businesses and restaurants to come to the Mandan Community. He said that Mandan has the population that is looking for this type of business for the community. He suggested bringing this discussion back in two weeks and holding a public hearing so the people who want to be heard can come forward and voice their opinions. Director Huber agreed to allow a two-week period so the public can absorb this proposal and provide comments. There have been some conversations with existing restaurants regarding the proposal and it would be good to hear from more. She indicated that the time sensitivity in terms of the Growth Fund Committee working very diligently and holding long meetings on this matter over the last several months, have also included making decisions for the 2016 construction season that we are in right now. Secondly, there is involvement with the

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annual participation of an International Council of Shopping Centers Trade Show and deal-making exposition coming up the end of May so the time to begin making appointments is now.

Commissioner Braun stated he serves on the Growth Fund Committee and reported that they look at the best interests for the City of Mandan. How do we entice restaurants, grocery stores, and those types of businesses to come to our community? The previous plan was in place and when our state was in the top three of the most prosperous states in the U.S., we did not have restaurant businesses knocking at our door.

Commissioner Laber stated she would be interested in having people come to a public meeting so that an explanation can be provided as to the financing and the risk opportunities of opening a business of that caliber. It would be helpful to have local business owners also speak as to how their businesses are functioning. If it is open to the public it will need to be balanced so that we hear from the side that is taking a risk and also make sure we are hearing all the potential input on this.

Mark Weide, Mandan Growth Fund Chairman, came forward and commented that one thing to touch on would be the Flex PACE program. The full fund is not at risk under the terms of the program if there is a successful business on hand. He provided a brief explanation on how that would affect the City of Mandan in transactions such as this.

Commissioner Braun moved to defer action on this item until the April 5<sup>th</sup> meeting and advertise the Growth Fund recommendations as a public hearing. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

9. *Consider transition of Business Development & Communications Director position from contractual to civil service position.* City Administrator Neubauer stated that the Business Development & Communications Director position was created in 2005- 2006. Ellen Huber was hired on 2/1/06. They think there is great value in the position. It has “morphed” from not only from “business development” but into “communications” and originally started out with some assistance provided to the Mandan Progress Organization as they were getting their full-time employees set up to go from a part-time organization to a full-time organization. This position has evolved over the last 10 years taking on many additional functions over that period of time. In comparison to the City of Bismarck’s Classification and Compensation Plan it has this listed as a position at Grade 30 with a salary range of 95% of \$82,323-\$123,484. Administrator Neubauer recommended working with Portfolio Commissioner Braun, Human Resources, Finance Director Welch and himself to create a salary for this position given the incumbent has been employed by the City of Mandan for 10 years.

Commissioner Rohr requested this matter come back before the Commission once the salary recommendation has been created. Commissioner Laber stated she is not clear what Commissioner Rohr is looking for. Commissioner Braun explained that the City of

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Mandan is trying to align this position with the City of Bismarck and based on what Director Huber has been doing over the last 2 years, the goal is to move her salary to 95%. Commissioner Rohr pointed out that Bismarck has not filled that position so that may not be a good comparison if that position is not actually in place at this time. Commissioner Tibke suggested putting together a range and job description and bring that information back for the Commission to approve the range and the job description since it is being moved from contract to permanent full time and move on. Commissioner Laber commented that this position is important as it is one that drives what people come to Mandan for. This is a key position in our community and it should be made a permanent position in the community.

Commissioner Laber moved to transition the position of Business Development and Communications Director from a contractual employee to that of a Civil Service Position and to create an appropriate job description and pay grade and to bring this matter back for approval to the City Commission. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

K. OTHER BUSINESS:

1. Commissioner Tibke announced that she will not be seeking re-election in June. She stated that she has served as a City Commissioner since 2003 and stated that she is ready to step down. Commissioner Tibke stated she has worked with three mayors and ten different commissioners and learned a lot from each and every one of them. She also has had the honor and privilege to serve with the hard working staff who are the backbone to the commission and the community. Everyone she has worked with has taught her a lot about commitment and perseverance during challenging times and good times. She has said for a long time that mayors and commissioners are replaceable but strong and spirited citizens of Mandan are not. Thank you to the citizens of Mandan for allowing me to serve them for the past thirteen years. Mayor Van Beek and the commissioners thanked Commissioner Tibke for her service and they will miss her. There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 7:30 p.m. Commissioner Laber 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