
The Mandan City Commission met in regular session at 5:30 p.m. on March 6, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Rohr, Frank, and Jackson. 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 Bechtel, and City Assessor Barta. Absent: Commissioner Tibke and Director of Public Works Wright.

MINUTES: *Consider approval of the minutes for February 21, 2012 regular meeting.* Commissioner Jackson moved to approve the minutes of the February 21, 2012 regular meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing to consider an Ad Valorem tax exemption for Jessara Properties, LLC.* City Assessor Barta stated that this project was at one time going to be on 40th Avenue; however they, (Jessara Properties, LLC), have moved it to 27th Street Northwest in the area of Terra Vallee. There have been no protests received by the City Assessor’s Office. The other public entities have been notified and there has been no response received from them. Barta stated that he recommends approving the project based on the Mandan Growth Fund (MGF) recommendation. The MGF has requested that the Board rescind the request that was passed last year and that there be a repayment provision if the facility would be sold to a tax exempt entity within five years from expiration of the exemption period.

Mayor Helbling announced that this is a public hearing and asked for comments from the public.

Mark Bitz, an apartment complex owner, came forward and requested that the Commission vote “No” on this matter. As he previously pointed out, apartment buildings do not create jobs or create any sales taxes which are two of the “main ingredients” for property tax exemptions to be granted. He commented on the Mayor’s statement at the last meeting regarding changing the policy. He clarified that the group he was with was not requesting any change in policy but merely to grant the exemption, do nothing, or somewhere in between. The request is to deny the request for tax exemption. The other comment that was made was that it wouldn’t be fair to the staff if the Commission voted no on this. The process leading up to the public hearing has to go through the staff. There is no other opportunity for anyone to support or protest tax exemptions if the process is not followed. Bitz again requested that the Ad Valorem tax exemption for Jessara Properties, LLC be rejected.

Susan Beehler, a resident at 702 14th St NW, Mandan ND 58554, came forward and stated: I object to a tax exemption being given for these reasons:

1. The exemption needs to be done in the county or city it is in: if this land is not already annexed into the city then this application is premature. The city does not have

jurisdiction until the annexation is done. Bring back at the next meeting when the annexation is done.

2. If you are putting off roads because of Measure 2 then why not a moratorium on tax exemptions. Dot Frank and Jim Neubauer both were in attendance when hearing from the communities in Glen Ullin what they would have done differently if they would have known what they know now. We were told don't give away your land, your services, and it is okay to declare a moratorium on whatever, till you get a handle on how this boom will affect you.

3. Century Code 40-57.1 clearly states there must be a declaration and finding of public purpose. It is questionable whether housing is a public purpose. It is the intent of the legislative assembly that political subdivisions and the state board of equalization in their determination of whether the tax exemptions authorized by this chapter shall be granted shall give due weight to their impact and effect upon existing industry and business to the end that an unfair advantage shall not be given to new or expanded enterprises which is to the substantial detriment of existing enterprises.

Later on tonight you will receive a BMDA report one of the lowest scoring items for businesses was the assessing of their property taxes, this is not good for businesses to shoulder the cost of housing in the form of their property tax increases.

1. The funding of housing will cast the tax burden to other property tax paying properties in our community. It would not just be the \$116,000 lost in revenue from the exemption it could be increased cost to the taxpayers if these 96 apartments bring in families with 1 to 2 children this will cost the tax payer about 5,000 per school age child each year so if we have an additional 100 children attending our schools this could end up being \$500,000 in taxes needed to pay for their school and if we don't have room it will be another 18 mils to finance a school, their rent will not be paying for the use of the schools even after the tax exemption expires the rest of the property owners are left to pick up the tab.. This would be like raising our mil levy by 10 mils (if a mil is worth about \$60,000) for 96 units, when we have streets in need of desperate repair? It will take an additional 300 \$100,000 homes* to equal the amount of cost this could be for the taxpayers to support these multi units. These buildings the way I look at it could cost us 28mils. Will they build without the exemption? My guess is yes. Why give an incentive when the demand for housing is already here?

2. Does multi-unit housing meet the definition of public purpose?

3. At what cost are we as taxpayers supposed to support growth and when is it unfair?

4. Every dollar taken out of my pocket to subsidize another business is one less dollar I have to invest in my business and my property.

*If \$100,000 home brings in \$2000 in taxes it would take 300 homes to make up the lost revenue for the exemption and the increase cost if they have children using our school system.

Mike Wachter, Jessara Properties, LLC, came forward to speak in support of the request for a property tax exemption for Jessara Properties, LLC. He stated that the annexation and the platting is on the Agenda and will be voted on tonight. He stated that this matter was looked at last year and was voted on as two 24-unit apartment buildings in Lakewood and due to the flood the project was put on hold. He stated that consideration was given to building the complex in Bismarck but because of the tax incentive he decided to build in Mandan instead. The goal is to get a higher density on the taxes on the land. In summary, the City will get more tax revenue out of the 24/36 unit building as opposed to an 8/10 unit building.

Commissioner Frank commented that by bringing in green space as part of the development plan as an important aspect of the project stating that by accommodating families it will bring retail and eventually population growth to the community.

Mayor Helbling announced that this is a public hearing and invited anyone in favor or opposition to come forward. A second announcement was made and hearing none, this portion of the hearing was closed.

Mayor Helbling asked City Attorney Brown about the Susan Beehler testimony No. 1: *The exemption needs to be done in the county or city it is in: if this land is not already annexed into the city then this application is premature. The city does not have jurisdiction until the annexation is done.* City Attorney Brown concurred and stated that Resolutions and Ordinances No. 3 is on the Agenda for review and discussion and final passage which is the annexation of this area. He suggested that if the Commission is inclined to grant the exemption that it is acted upon after the adoption and final passage of that Ordinance.

Mayor Helbling asked for clarification from City Attorney Brown regarding Susan Beehler's testimony No. 3: *Century Code 40-57.1 clearly states there must be a declaration and finding of public purpose.* Brown stated that the chapter on granting exemptions is very broad and he believes that any city or county entity has plenty of leeway to grant or deny. It is consistent with the policy that the Commission adopted previously.

Commissioner Jackson stated that for apartment complexes, he understands the policy that has been adopted by the City and this request is in line with the policy. In previous action, when the Wachters brought the Lakewood area forward it passed unanimously. He stated that the Commission has set the policy, thus this request should be approved

even though he is not in total agreement with the terms of the policy as written for apartment complexes.

Commissioner Rohr stated that he recalls voting in favor of the action brought last year when the Wachters requested the exemption in the Lakewood area. He agreed with Commissioner Jackson's view on allowing these exemptions for apartments; however, it is policy that has been established by the Commission.

Commissioner Jackson noted:

- (1) Although he does not agree with the policy he agrees with the purpose of the policy.
- (2) At this point the policy exists and Jessara Properties is looking at developing the property in part because of the policy that the Commission passed. If the Commission were to deny the request based on the policy that exists, which is free for everyone to read, and that is where his concern lies with this particular request.

Mayor Helbling stated that the third point of reference from Ms. Beehler's testimony is related to Measure 2, infrastructure and roads. The City's stance to this point is telling all the developers not to look for the City to special assess in these developments for streets, roads, etc. until we know the outcome of Measure No. 2. There is one exception and that is the Chad Wachter property south of town because that had already started and all laws have to be followed accordingly.

Commissioner Jackson moved to approve the two-year Ad Valorem Tax exemption for Jessara Properties LLC and rescind the previous Ad Valorem Tax exemption that was granted to Jessara Properties in approximately June 2011 subject to repayment if the facility would be sold to a tax exempt entity within five years from the expiration of the exemption period. Commissioner Frank seconded the motion.

Commissioner Frank commented on Ms. Beehler's comment on Measure 2: We need to keep in mind that incentives such as this are what make sense for Mandan right now since Mandan is a community that is in competition; knowing that there may be a possibility of the elimination of property taxes and we should take advantage of marketing in our community while the opportunity exists. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Public Hearing to consider the vacation of the Pioneer Industrial Park Plat.* Engineering Project Manager Bechtel reviewed with the Board a request from WW Ranch, Mike and Pat Wachter, to vacate portions of Pioneer Industrial Park. Bechtel provided an overhead view of the request. He stated there was a request from the

Planning and Zoning Committee to vacate this plat. City Attorney Brown clarified that the proposed resolution indicates it was requested by “Mike Wachter” and that is the way it will be recorded. He advised that if WW Ranch is the requesting entity that the document be recorded as such. It needs to be the same (entity) as the deed to the property.

Commissioner Frank moved to approve to vacate the requested portions of Pioneer Industrial Park. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

BIDS:

CONSENT AGENDA:

1. *Consider approval of budget amendment to the 2012 Alarm Equipment-Reserve.* The Board approved of the budget amendment to the 2012 Alarm Equipment-Reserve.
2. *Consider approval of Games of Chance - Junior Achievement for May 18, 2012.* The Board approved of the Games of Chance - Junior Achievement for May 18, 2012.
3. *Consider site authorization for Mandan Hockey Club, Inc. at Captain Freddy's Inc. from March 1, 2012 through June 30, 2012.* The Board approved of the site authorization for Mandan Hockey Club, Inc. at Captain Freddy's Inc. from March 1, 2012 through June 30, 2012.
4. *Consider the following proclamations: (i) Designating May 19, 2012 as "STRIDES: Lions Walk for Diabetes Awareness" Day. (ii) Designating April 30th – May 5th, 2012 as "Spring Clean-Up Week" in the City of Mandan.* The Board approved of the proclamations as listed.
5. *Consider out-of-state travel request from Steve Himmelspach, Waste Water Treatment Plant Superintendent.* The Board approved of the out-of-state travel request from Steve Himmelspach, Waste Water Treatment Plant Superintendent
6. *Consider for approval the final plat of Meadow Ridge 1st Addition.* The Board approved of the final plat of Meadow Ridge 1st Addition.
8. *Consider to advertise for sale a Bauer Mariner E3 air compressor.* The Board approved of the request to advertise for sale of a Bauer Mariner E3 air compressor.
10. *To consider for approval funding local match for Missouri River Geomorphic Assessment.* The Board approved of funding local match for Missouri River Geomorphic Assessment.
12. *Consider for approval a site authorization for Ducks Unlimited at the Seven Seas Hotel and Waterpark on March 21, 2012.* The Board approved of the site authorization for Ducks Unlimited at the Seven Seas Hotel and Waterpark on March 21, 2012.
13. *Consider approval of the Fire Hydrant Painting agreement with HIT Inc.* The Board approved of the Fire Hydrant Painting agreement with HIT Inc.

Commissioner Jackson moved to approve the Consent Agenda items No. 1 through 6, 8, 10, 12 and 13 as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

Commissioner Frank requested Items No. 9 and No. 11 be removed from the Consent Agenda for discussion:

9. *Consider approval to dispose of a 1993 Cushman Scooter.* Police Chief Bullinger reviewed with the Board a request to dispose of a 1993 Cushman Scooter. He reviewed the problems the machine has had and the research conducted to attempt to repair the machine and/or trade it off.

Commissioner Frank suggested that further conversation be had with TurfWerks, the company who has tried to repair the scooter, and the City may enter into an agreement with them to dispose of the machine in an attempt to get a little more value out of the machine. The Chief replied that negotiations were attempted and the end result was that TurfWerks offered a salvage credit of \$500 (reducing the invoice to \$1,455 for parts and labor already expended). He also stated that extensive inquiries have been made to find an engine for the machine but to no avail.

Commissioner Frank moved to approve the request from the Police Department to relinquish ownership of the Cushman Scooter to TurfWerks, Sioux Falls, SD. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

Commissioner Frank moved to approve the budget transfer request in the amount of \$1,955 from the 2011 Police Budget into the 2012 Parking Authority Budget. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

11. *Consider an abatement for Richard and Pearl Rhone.* The Board approved of an abatement for Richard and Pearl Rhone. Commissioner Frank requested City Assessor Barta provide background on this. Assessor Barta stated that abatements are now funneled through the county then to the city for their consideration. In this case, Mr. Rhone had the abatement filled out for \$13,900 and he agreed to leave it at that if the City came up with \$13,900. However, the City came up with \$14,000 abatement. It was noted that even though the City's value was the \$14,000 the homeowner only accepted \$13,900. Commissioner Frank stated that the City will deviate from the numbers given them from the Assessor's office as determined when it comes to the reduction in value in discussion with the owner.

Mayor Helbling stated that at a previous meeting, there was a taxpayer looking for a reduction in value due to damages from the flooding. He asked City Assessor Barta how he determined these two were different. Barta explained that in this circumstance, there was actual damage done in the finished basement and with the other individual's there was a 100 sq. ft. area finished and that is why he did not get a reduction because of basement damage.

Commissioner Frank moved to approve the abatement for Richard and Pearl Rhone from \$137,600 to \$123,700 due to structural damage to the foundation. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke:

Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Commissioner Jackson requested Items No. 7 and No. 14 be removed from the Consent Agenda for discussion:

7. *Consider out-of-state travel request from Richard Barta, City Assessor.*

City Assessor Barta stated that this is the annual NCRAAO Conference that he has attended for approximately 25 years. He indicated that if the conference is held in North Dakota, South Dakota or Minnesota he will have another employee attend with him. Commissioner Jackson moved to approve an out-of-state travel request from Richard Barta, City Assessor to attend the NCRAAO Conference in Kansas City, MO, the week of June 11, 2012. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

14. *Consider approval of Class E Liquor License for Holli Lang at Captain Freddy's.* Commissioner Jackson inquired whether Captain Freddy's already has a liquor license; and if so, what kind of license is it. City Administrator Neubauer stated that Captain Freddy's has a Class A liquor license but they are looking at putting a restaurant in a portion of the building which would require a Class E license. So there would have to be two licenses for that establishment. He stated that parts of the upstairs and downstairs will be used as a restaurant during the day and then turned over to a bar later on in the day. There is only one other Class E license in existence and Class E licenses are not limited. The only requirement is that more than 50% of the sales are in food. City Attorney Brown clarified that individuals under 21 years of age cannot be admitted to a Class A licensed establishment. The ordinance also requires a certain separation between the areas where those under 21 years are permitted in the restaurant and the bar area. Neubauer indicated that there will be a separate operator for the restaurant and a separate operator for the bar. Attorney Brown stated that he is not aware of any limitations within the Ordinance that would prohibit more than one liquor license within an establishment. Mayor Helbling questioned whether would be any problem with the Police Department or other areas of the City should any incident occur on the property or any other property that may have a similar situation? Brown stated that there is a provision in the Ordinance that outlines serving food and liquor where minors are permitted.

Commissioner Jackson moved to approve a Class E Liquor License for Holli Lang at Captain Freddy's. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

OLD BUSINESS:

1. *Consider award of bids for flood removal projects including, Hesco & various earthen levees, Bridgeview Bay, Marina Bay, Borden Harbor and Lakewood Harbor.* City Administrator Neubauer stated that this matter was tabled from the last meeting in order to research irregularities that existed. He stated those problems have been resolved and the matter is now ready to move forward.

Mayor Helbling mentioned that he takes the same position as previously in that no response has been received from FEMA, and he would suggest not awarding the bids until it is received. He stated that the 30 days are up on the bids on March 15th so a Special Meeting may be needed. Neubauer stated that there is a Special Meeting date already set for March 15th and the Commission could wait until that time to award the bids.

Commissioner Jackson stated that his concern about tabling the matter again would be that several bids have come in as reasonable and indicated that he would not be in favor of taking the chance of the Commission not meeting on that date for whatever reason.

Brent Erickson, PE, Project Manager for Kadrmas, Lee and Jackson, said that by awarding the bids tonight that does not mean that the Notice to Proceed would have to occur. The Notice to Proceed has been set up when load restrictions have been removed for the final time in the spring or when directed by the City. It will take 14-21 days to put together contracts, obtain bonding and insurance in order to issue the Notice to Proceed.

Mayor Helbling commented that the FEMA concern involves the risk of flooding. It is not known when the two rivers are going to open up completely. If they do not grant the extension we will have to move forward with the load restrictions in place and damage would occur to the streets. We have to wait until FEMA gets back to us and it is to the City's benefit to wait as long as possible. Damage to the streets is not reimbursable from FEMA. The way the bids were written the City does not have a say as to when the project starts. Erickson said he does not believe anyone would require the plugs be removed if there is a flooding situation. Mayor Helbling indicated that is what the City is waiting for FEMA to determine.

Erickson stated that he would recommend the City award the bids (tonight) and direct Kadrmas, Lee and Jackson to start the contracts and to put insurance and bonding in place with the Notice to Proceed issued by the City in the future. Erickson stated that if the Commission prefers to wait until March 15th to move on this action - that would also be acceptable to him.

City Administrator Neubauer indicated that he has been working with FEMA, DES and other entities on this matter and the possibility of requesting an extension to leave the plugs intact. If they say "no" to an extension that means that the City will have to award the contracts and allow for enough time for the contractor(s) to remove the material hauling smaller loads which potentially will drive up the cost and do more damage to the roads, etc. That's why the granting of an extension is saving a lot of time, money and resources in the long run. It also allows for us to see what kind of precipitation occurs in March and April in order to make a better decision when to remove the plugs. He stated that the City has one year in which to remove the temporary structures. The congressional delegation has also requested an extension on Mandan's behalf, thus the City continues to await word from FEMA. Commissioner Jackson stated that if the wait to award bids continues much longer, the bid pricing will more than likely go up. Brent Erickson stated that by awarding the bids under contract this is not a Notice to Proceed

with the work. That part of the process will not occur until all contracts are signed, insurance and bonding is in place and the City designates when to proceed which can be as late as June 1, 2012.

Brent Erickson stated that the contracts were originally bid with the completion date of April 15, 2012 and that the work was intended to be done before load restrictions applied. There was an alternative starting date of May 15, 2012 with the completion done within 45 days. During the bid periods, bids were let in January and they were going to be opened in February. Load restrictions went on during the bid period resulting in that original completion date not being practical. A Bid Addendum was issued that included language that would allow the contract to start after load restrictions were lifted as to not specifically say they were going to start basically after May 1st which was past the FEMA deadline. Which at that point we still hadn't had moved. The way it was bid gave the Commission the greatest flexibility with the constraints presented at the time the Addendum was written.

Mayor Helbling reminded the Commission members that physical presence at a meeting is not required wherein presence can be acknowledged via telephone or approved meeting means in order to award the contract(s).

Commissioner Jackson moved to approve awarding low bidders on each of the projects:

Bid Package # 8 – Marina Bay Clay Plug Removal, H & S Contracting, Moorhead, Minnesota with a bid of \$414,920.00.

Bid Package #9 - Borden Harbor Clay Plug Removal, Rachel Contracting, St. Michael, Minnesota with a bid of \$153,338.00.

Bid Package #10 – Lakewood Harbor Clay Plug Removal, Tom's Backhoe Service, Inc. Brainerd, Minnesota with a bid of \$166,500.00.

Bid Package #11 Bridgeview Bay Clay Plug Removal, Park Construction Company of Hampton, Minnesota with a bid of \$321,177.50.

Bid Package #12 Earth Levee Removal, Hesco Barrier Removal, Sandbag Removal, Disposal and Restoration, Park Construction Company of Minneapolis, with a bid of \$354,970.00.

Commissioner Rohr seconded the motion.

Commissioner Frank stated that she takes issue with the fact that if it is delayed until March 15th we make the Mayor more comfortable and we buy ourselves some more time to get communications from FEMA. Plus we are still within that 30-day deadline.

Mayor Helbling commented his displeasure with the Kadrmas, Lee and Jackson Engineering firm for not including that alternative in the bid package. It put the City in a

position it should not have to be in. It would have eliminated what the discussion has been and we may have had two different bid amounts and then whatever FEMA would have decided, the City would have been covered.

City Administrator Neubauer stated there has been communication with DES regarding removal of the sand from the plugs to the river. In turn they will deny the request for reimbursement for that and the City can in turn not concur with their finding and move that. We can appeal their decision. We have requested access to the river. At that time we will contact the congressional delegation to get that covered.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: No; Commissioner Helbling: No; Commissioner Jackson: Yes. The motion failed.

City Attorney Brown stated that the motion failed. The Commission can consider the subject again if there is another motion or go on to another item. The item on this Agenda was to award the bids. You voted to not award the bids. You have not rejected the bids. It is still an open issue. It can be put on the Special Meeting Agenda for March 15th.

Commissioner Rohr motioned to put the award of bids on the March 15th Special Meeting Agenda. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

2. *Discussion regarding liquor licenses.* City Administrator Neubauer stated he has worked with City Attorney Brown on this matter. He stated there are several possible amendments that may need revising. Attorney Brown stated that any revisions would be prospective, not retroactive.

Mayor Helbling mentioned that he has a relative in the City who holds a liquor license in Mandan; however he does not have a financial interest attached to the business. However, he does have an interest in the building.

It was recommended that a distinction be determined between the Class licenses so that there are specifics for each of them (Class A, Class B, Class C, etc.) The staff was directed to come up with criteria. Attorney Brown suggested that a Class A or Class 1 is a blended traditional license. He stated he will work with staff on defining the classes.

The Commission addressed the following:

1. Mandan Code of Ordinances (MCO) Section 12-01-04(1) deals with the distance between license holders and schools, churches, etc. The current ordinance is not clearly defined where the 300 feet limit begins or ends. Therefore, it was recommended to adopt language similar to the City of Bismarck policy, which is property line to property line, in addition allows for the affected entity consents to the issuance of the license.

2. Mandan Code of Ordinances (MCO) Section 12-02-07(7) would be created to specifically allow drive up window sales. Nothing in the current ordinances prevents this and therefore it would be allowed. This ordinance will clarify that issue.
3. Mandan Code of Ordinances (MCO) Section 12-02-05.1 deals with certification of food sales a restaurant license holder would be responsible for providing a statement by a certified public accountant that the gross revenue from sale of food is equal or exceeds the gross revenue from the sale of alcoholic beverages (from Grand Forks).
4. Mandan Code of Ordinances (MCO) Section 12-02-02 licenses issued under this chapter are a privilege and do not constitute property rights.
5. Mandan Code of Ordinances (MCO) Section 12-02-08 relating to the transfer of licenses – no more than two licenses of each class may be issued to any applicant.
6. Mandan Code of Ordinances (MCO) Section 12-02-04 and 12-02-05 related to beverage licenses that were left blank:
 - a. Number of Class A – on-off sale licenses is currently at 17 and Class D (off sale beer and wine cooler) decision for the Board would be what number that would that change to?
 - b. Inserted language related to increasing the number of licensures after 500 additional living units are created as determined at the end of each calendar year.

City Administrator Neubauer reviewed with members the number of licenses within each class. He explained there is a distinction between liquor and beer & wine. He cautioned that when doing this the City needs to be cognizant of the state's rules on this subject matter. He stated he understands that the license class names can be re-named and defined as to what they really mean. If we want to have one additional off-sale liquor, beer, wine, whatever, both Class D's will increase by one.

Commissioner Frank stated that she has spoken with the Attorney General's Office and they voiced concern with the Mandan licenses that are issued. She recommended visiting with the state to clear up the separate classes and how they align with beer only, etc. Administrator Neubauer stated there are things that can be cleaned up by working with the Attorney General Office.

City Attorney Brown stated that this section of the Ordinance may have to be scrapped and a whole new policy be drafted.

It was recommended to draft one plan for each (liquor class) scenario:

- (1) Limited with an issuance fee (or not);
- (2) Limited number and some other options in the ordinance: (i) Sealed minimum bid; (ii) Live Auction (iii) Lottery

City Administrator Neubauer and City Attorney Brown were directed to put together options for discussion at the next meeting.

NEW BUSINESS:

1. *Bismarck Mandan Development Association (BMDA) Update.* Business Development and Communications Director introduced Russ Staiger, Richard Mower

and Brian Ritter, representatives from the BMDA to present the 2011 Annual Report.

(i) Russ Staiger extended a thank-you to the Commission for the support and involvement over the last year. He stated a lot of good things have happened in the face of diversity. He commended the Commission for their handling of the matters it had to deal with. A conclusion has been made to bring a large big box store in the form of the Super Wal-Mart store that is being constructed at the Terra Vallee site. Construction will begin in late summer and open for business in first quarter of 2013. It will open the door for additional retail stores in the community. The BMDA is in the process of putting together a list of hopeful contacts at the International Council Center in May, 2012 in hopes of bringing in additional development to Mandan. He provided the Commission with a copy of the 2011 Annual Report.

(ii) 2011 Business Retention & Expansion Programs:

a) Summary updates on Primary Sector Results (Brian Ritter)

Company Life Cycle

Company Sales

Market Share

Industry Capacity

Expansion Plans

Employment Needs

Workforce

Community Services

Strengths and Weaknesses

b) Summary updates on Mandan Retail & Service Sector (Richard Mower)

Trade Area Size

Increase, Decrease, stable sales

Company Expansion Plans

Workforce

Community Services Availability (Kudos to the Police, Fire, and Ambulance

Services for high scores in each of these)

Strengths and Weaknesses

c) Conclusions:

Overall Tone of 2010 BRE “cautiously optimistic”

Increases in taxable sales and purchases and sales tax collections

Increases in commercial and housing permits

Record airport boardings

U.S. lowest metropolitan unemployment rate

(iii) The BMDA 2012 Work Plan for Mandan presented by Richard Mower:

I. BMDA/Commission Communications

II. Industrial, Retail and Office Park Development Sites

III. Business Attraction and Marketing Program

IV. Business Retention and Expansion Program

V. Mandan Tomorrow

On behalf of the City of Mandan, Mayor Helbling extended a thank-you to the Bismarck Mandan Development Association for their efforts and participation in the Mandan Community and all they have contributed to community events and growth.

2. *Presentation by Mike Manstrom, Dougherty & Company LLC, regarding the sale of \$1,490,000 Refunding Improvement Bonds of 2012, Series A. (See Resolutions #1).* Mike Manstrom presented a brief summary of the “Refunding Summary (Savings)” report with the Commission. The purpose of this action is to award the sale of \$1,490,000 refunding improvement Bonds of 2012, Series A, for the purpose of refunding the City’s refunding improvement bonds of 2005 Series C and Refunding Improvement of Bonds 2008, Series A. The refinancing of the old bonds is necessary in order to take advantage of the lower interest rates with the sale of the new bonds. Mayor Helbling inquired how Measure 2 will be affected. Manstrom stated that Measure No. 2 does not impact past issues and that anything that is in place remains in place. It involves general obligation bonds and Manstrom stated they will be doing special assessment bonds in the future but not as part of Measure No. 2. He recommended moving forward with all these bond issues at this point. Manstrom stated that the Moody’s rating remains intact in good standing.

3. *Consider preliminary request for tax increment financing for 101 E Main project.* Business Development and Communications Director Huber reviewed a request from developers Al Leingang and Loran Galpin for TIF consideration for the Plaza Square Development project. The form requested in this action is for property tax exemption in years 6-15. The property was approved at the last meeting for years 1-5 for an exemption under Renaissance Zone parameters and this is a request for additional funds due to the size of the project. If this request is approved, a full application and review will be conducted by the Growth Fund Committee, etc. This is the former John Iverson building and the proposed renovation is a complete renovation of the second and third stories. The estimated cost is between \$3.1 and \$3.6 million dollars. Huber reviewed the additional criteria for larger projects such as this in comparison to the more commonly seen regular sized projects both by state statute and city policy. The estimated value of the building will be approximately \$3.2 million when completed. There will be a \$5,000 deposit required to move forward. Huber recommended approval of the tax increment financing for this project.

Commissioner Jackson motioned to grant preliminary approval of tax increment financing (TIF) in the form of a property tax exemption for years 6 to 15 for improvements to the building at 101 E. Main Street project. Commissioner Frank seconded the motion.

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

RESOLUTIONS & ORDINANCES:

1. *Consider Resolution Awarding Sale of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.* Commissioner Frank moved to approve the Resolution Awarding Sale

of \$1,490,000 Refunding Improvement Bonds of 2012, Series A. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. A copy of the resolution is on file and open for public inspection during regular business hours in the Office of the City Administrator.

2. *Consider second consideration and final passage of Ordinance No.1110 Zone Change for Meadow Ridge 1st 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 Jackson moved to approve the second consideration and final passage of Ordinance No.1110 Zone Change for Meadow Ridge 1st 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 seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; 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

3. *Consider second consideration and final passage 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 second consideration and final passage 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 Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; 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. Commissioner Jackson reported that he and Assessor Barta met with the State Board of Equalization on March 1, 2012, regarding the reassessment process. Mandan was a test case for handling it internally versus hiring an outside entity to do it. He stated that they were satisfied with the results and how the City performed the tasks over the last two years.

2. Mark Bitz came forward and stated that as an interested party for a Class D beer and wine only license, (should they become available), he has some concerns about some of the comments he heard at this evening's meeting. One of them is that the Board feels it has an obligation as a City Commission to generate as much revenue as it can. He recommended that the businesses be allowed to generate the revenue for the City in the form of sales taxes. He asked if cigarette, building, and restaurant licenses would also be subject to open bidding? He stated that the bidding process would be unfair to the small business owner vs. going up against a large business owner. He stated that the lottery process would be fair in that everyone would have to qualify via application process and

then only the select few would be drawn which would be fair. He also questioned whether, if a bidding process would be implemented, would there be a dollar amount set as to what they think the bids would come in as?

3. Mayor Helbling stated that the “Measure 2” forum is set for Thursday, March 8, 2012 at 2:00 p.m. in the City Commission Room and encouraged attendance.

There being no further actions to come before the Board of City Commissioners, Commissioner Jackson moved to adjourn the meeting at 8:33 p.m. Commissioner Frank 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