
The Mandan City Commission met in regular session at 5:30 p.m. on May 15, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. The meeting recessed at 6:55 p.m. for the Board of Equalization meeting and reconvened at 7:50 p.m. The meeting recessed at 8:55 p.m. for Executive Session. Commissioners present were Helbling, Tibke, Rohr, Jackson, and Frank (excused from the meeting at 8:49 p.m.). Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta.

MINUTES: *Consider approval of the minutes for May 1, 2012 regular meeting.*

Commissioner Jackson moved to approve the minutes of the May 1, 2012 meeting. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *A Public Hearing to consider an Ad Valorem tax exemption for Glass Concrete Construction.* City Assessor Barta reviewed with the Board a request for a tax exemption from Glass Concrete Construction at 2111 Third Street Southeast, Mandan, ND, which is right next to another property owned by Glass Concrete Construction. There has been no opposition to the tax exemption received. The Mandan Growth Fund (MGF) Committee recommended approval with the conditions of 100% Year 1 and Year 2; 75% Year 3; 50% Year 4 and 25% Year 5. Barta recommends accepting the MGF recommendations as presented. The total exemption is approximately \$9,000 per year. Joe Glass was available for clarification and stated that the front part has been leased out to Today’s Homeworks (home improvement company) with approximately 10-15 employees hired. He said that Glass Concrete employs approximately 70 people. He mentioned that all the property will eventually be hard surfaced.

Mayor Helbling stated this is a public hearing to consider an Ad Valorem tax exemption for Glass Concrete Construction. He invited anyone to come forward to comment.

Linda Morris from the Morton County Tax Equalization Office came forward. She asked what type of business will be in this location. Mayor Helbling stated that according to Mr. Glass, part of the building will be leased and the other section will be housed by Glass Concrete Construction Company. Morris had a question referencing the application at No. 16 (c) and (d) as to whether that is the full market value? Barta said that it is the taxable value is @ \$20,000 (5% of \$400,000). Morris stated that on previous applications the full market value was entered at (c) & (d). So the market value is \$400,000 on the exemption? Barta replied that is correct.

Morris inquired on No. 24 that includes an answer “We had a tax incentive on our first building”. What address is that? Barta replied that it is 2201 Third Street Southeast, Mandan, ND. Morris asked if that incentive has expired. Answer: It is over 20 years old. Morris requested clarification on No. 17, it is checked warehousing. Should that be retail or service? The reason for the questioning is that the City of Mandan Commercial

property tax exemption policies and guidelines it states that projects primarily warehousing would not receive incentive. Mayor Helbling replied that was discussed that the wrong box was checked and it would belong in the service group. Morris inquired on No. 25 as to whether there is any similar business being conducted by other operators in the municipality and it is checked “no”. Is this the only one in Mandan? Barta replied that when he had indicated “warehouse” it probably fit but when it was changed to service, “yes” there are other operators that are service related. Morris stated that she has been asked to follow up on these matters for accuracy in completing the requests and that the correct exemptions should be given. Barta clarified No. 16 (c): The full market value is entered in this area when the request is presented. When that happens, Barta explained he leaves that alone and enters the data in the area below.

Mayor Helbling once again stated this is a public hearing and invited anyone to come forward to speak regarding this matter. A second invite was given. Hearing none this portion of the public hearing was closed.

Commissioner Frank suggested the Board follow Linda Morris’ advice in reviewing the application for accuracy when completed. Commissioner Frank moved to approve the Ad Valorem tax exemption for Glass Concrete Construction of 100% Y1 and Y2; 75% Y3; 50% Y4 and 25% Y5 under the City of Mandan’s criteria for property tax exemption policy and guidelines and also under state statute with the caveat that it is fully completed to reflect the change from warehousing to retailing services as well as fully describing the activities mentioned that will take place on the form and that the application reflects that there will be hard surfacing that applies to the property site. Commissioner Jackson seconded the motion.

Commissioner Jackson asked if under the policy this qualifies for the 100% exemption for five years. Business Development and Communications Director Huber stated that at the Mandan Growth Fund Committee meeting it was not indicated that a portion of the building was going to be leased to Today’s Homeworks and so what they were looking at were the employees of Glass Construction that were going to be operating from the building so at that time it did not appear to meet that criteria so that is not being requested right now from the MGF. Huber stated that based on the information the MGF had at their meeting was the 100% Y1 and Y2; 75% Y3; 50% Y4 and 25% Y5. Commissioner Jackson asked City Attorney Brown about No. 25. “Is any similar business being conducted by other operators in the municipality? If that gets changed from “no” to “yes”, does that change the ability to give the 5-year ad valorem tax exemption? Attorney Brown replied “No”. Assessor Barta stated there has been no opposition received.

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

2. *A Public Hearing to consider for approval the resolution to vacate the public right-of-way of the east quadrant of the intersection of 6th Avenue NE and 9th Avenue NE,*

as platted in Helmsworth-McLean Addition. Engineering Project Manager Bechtel presented a request for the approval of a resolution to vacate the public right of way of the east quadrant of the intersection of 6th Avenue NE and 9th Avenue NE. The property owners have removed a single stall garage and would like to facilitate an addition to their home but cannot do so because of the set-backs. Bechtel stated his office is in support of the approval for the vacation. Commissioner Jackson inquired how the lots to the east and north of the subject property would get access to the area. Bechtel stated there is an alley to the south that runs east-west and on the east side of the area there is a right of way that also accesses those lots. From the city's standpoint, the alleyways in this area go to nothing because of the terrain of the properties and the encroachments are allowed to remain.

Mayor Helbling stated that this is a public hearing for approval of the resolution to vacate the public right-of-way of the east quadrant of the intersection of 6th Avenue NE and 9th Avenue NE, as platted in Helmsworth-McLean Addition. He invited anyone to come forward to speak.

DeNae Kautzmann came forward and stated she is the property owner directly to the north. She stated she does not want this street vacated because it gives her access to her property. She disagreed with Mr. Bechtel whether or not a road can be put in there. She stated she and other property owners need access to the road. She mentioned that regarding the alley that Mr. Bechtel talked about - there is no alley. She said that right now she has not had a problem reaching her property, but at some point she may and she might want that 4th Street to go in.

Deborah Holter came forward and stated she is the owner of the lots immediately to the east. She indicated there are a couple procedural problems and referenced them on the maps provided by Bechtel. The only access to her lots is the 4th Street access. She is opposed to the vacation. She stated she sees two problems: (1) There is a half block that is not vacated in between two; and (2) She will not have access to her property. Mayor Helbling inquired if the City put 4th street in as a public point of access, would you protest the special assessments? Holter replied that is not relevant because the engineer said it cannot be done. Mayor Helbling clarified if the vacation is not granted, should the City proceed to put 4th street in? Holter replied that in case she needs access in the future, she does not want the vacation granted.

Sanela Alagic came forward and stated that she and her husband purchased a problematic piece of land. Referencing a map she pointed to a woody and hilly area that is unused. She stated that as it is right now, they do not have any access to the property they bought and have requested a right of way.

DeNae Kautzmann stated that there needs to be full access to the street.

Mayor Helbling again stated that this is a public hearing for approval of the resolution to vacate the public right-of-way of the east quadrant of the intersection of 6th Avenue NE and 9th Avenue NE, as platted in Helmsworth-McLean Addition.

Deborah Holter stated that the Alagic's property faces 9th Avenue and they have full access.

Mayor Helbling again invited anyone to come forward and hearing none, the public hearing was closed.

Mayor Helbling asked City Attorney Brown if it would be possible to vacate half of the property. Attorney Brown said it would be possible to do that but there would be a survey process to go through.

Commissioner Jackson questioned Bechtel as to whether he has determined where the right of way actually is located in relation to where the garage was? Bechtel stated he has looked at the property and stated that when the garage was there it was on the right of way.

Commissioner Jackson motioned to deny the request to vacate the public right of way of the east quadrant of the intersection of 6th Avenue NE and 9th Avenue NE, as platted in Helmsworth-McLean Addition. Commissioner Rohr seconded the motion.

Commissioner Rohr stated that there are two definite conflicting needs: (1) The possibility of a road for future needs in that area and to keep it open for that; and (2) If it's not feasible and there will never be a road through there. Mayor Helbling stated that another option could be to request an alley be put in and to build their garage facing the alley. Bechtel stated from his view point it would not be feasible to build a road there due to costs and grades to put it in.

Commissioner Jackson stated that there may be a possibility in the future that Ms. Holter would sell the lots, to the right person, who would be interested in putting in a road, despite the cost. This is the only true full road going into that portion and he would not like to see the City vacate an area that would allow a property owner to privately develop it if they so wish. Bechtel stated that the best access is the east-west alley and the north-south alley.

Deborah Holter stated she disagreed with Bechtel in that the whole area has been vacated on 10th Avenue and the grade is the same as on the east half of the 1000 block on 4th Street. Commissioner Frank stated it appears there is more discussion warranted within the department on this matter as to what the best options are for all parties involved as all of them would benefit from increased access. Mayor Helbling concurred and stated that if there is a request for access and there is a dedicated street and a dedicated alleyway; if the property is not vacated, the City has an obligation to open up the dedicated street or the dedicated alley. Either way, to vacate or not vacate there is a responsibility to provide access to the property.

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

3. *A Public Hearing to revoke the Class A Liquor and Beer License No. 23 (Little Chicago, LLC) as Licensee has ceased doing business at the location licensed.* City Attorney Brown stated that Little Chicago was operating the LLC with Mysteria Theatre and there has been no business activity there for a period of time as certified to by Ms. Motl who is in charge of liquor licenses. The City ordinance has a provision to revoke a license if it is not being used with notice given by registered mail which was given to the agent of Little Chicago LLC as registered with the Secretary of State. The notice came back as undeliverable. Attorney Brown stated that he attempted to find the agent in which he did find a street address in Minot. Mayor Helbling stated that one of the reasons for revoking is that the licenses are opened up in July for renewal so this one would be available at that time.

Mayor Helbling stated this is a Public Hearing to revoke the Class A Liquor and Beer License No. 23 (Little Chicago, LLC) as Licensee has ceased doing business at the location licensed and invited anyone to come forward to speak for or against this matter. A second announcement was made to come forward. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr moved to approve revoking the Class A Liquor and Beer License No. 23 (Little Chicago, LLC) as Licensee has ceased doing business at the location licensed. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

BIDS:

1. *Consider award of bids for the demolition and installation of radiant heating system at the Water Treatment Plant.* Duane Friesz, WTP Superintendent reviewed with the Board a request to consider the bid for demolition and installation of a radiant heating system at the Water Treatment Plant. He stated that the current system was updated in 1985 and has deteriorated now to the point where the heat exchanger steel tubing has developed extensive corrosion. He indicated that one bid was received in the amount of \$109,956 in which \$105,000 was budgeted for.

Commissioner Frank moved to approve a Budget Amendment transfer in the amount of \$4,956 from the Water and Sewer Utility Capital Improvement Reserve to the WTP 2012 Capital Outlay budget and to accept the bid of \$109,956 from Cooling and Heating Unlimited, Inc. for the demolition and installation of a radiant heating system project. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

CONSENT AGENDA:

1. *Consider approval of monthly bills.* The Board approved of the monthly bills. Checks #55944 – 56198: OPEN ROAD HONDA - 3.50; PIZZA RANCH - 75.00; POWERPLAN - 448.73; PRAIRIE BUSINESS - 702.00; PRAXAIR - 25.30; PREBLE MEDICAL SERVICES - 85.00; PRECISION SERVICES INC. - 1,564.50; PRESORT

PLUS - 669.72; PRINT ON IT - 261.88; PRO BUILD COMPANY - 164.32; PRO FORMS - 95.84; PUBLIC AGENCY TRAINING - 275.00; QUALITY SERVICE - 20.00; RATH/JAMIE - 7.50; RETAIL ATTRACTIONS, LLC - 3,000.00; RUNNING'S SUPPLY INC - 255.26; SCHANTZ/ERICK - 7.50; SCHMIDT/GARY - 7.50; SCHWAN BUICK GMC CADILLA - 144.66; SIMPLEXGRINNELL - 453.00; SPIFFY BIFFS - 1,236.00; STARION - 750.00; STEIN'S INC - 230.91; SWANBERG CONSTRUCTION IN - 146,714.00; SWANSTON EQUIPMENT CORPO - 1,189.62; TRUE NORTH STEEL - 144.10; UNIFORM CENTER & EMBROID - 11,786.95; URS CORPORATION - 251.61; VERIZON WIRELESS SERVICE - 1,822.92; WASTE MANAGEMENT OF ND, - 20,412.29; WD LARSON COMPANIES LTD, - 97.66; WEHRI/RADEANNA - 630.00; WELLS FARGO REMITTANCE C - 9,133.34; WENCK ASSOCIATES, INC - 3,345.90; WESCO DISTRIBUTION INC - 6,538.80; WITMER PUBLIC SAFETY GRO - 48.00; WOODMANSEES INC - 388.97; WRIGHT/JEFF - 100.00; ZEP SALES & SERVICE - 159.82; MONTANA-DAKOTA UTILITIES - 6,209.74; ADVANCED ENGINEERING SVC - 18,891.32; ADVENTURE DIVERS INC - 1,389.00; BIS-MAN CONVTN & VISITOR - 324.11; BIS-MDN TRANSIT BOARD - 1,752.30; BROWN/MALCOLM H. - 382.80; BULLINGER TREE SERVICE - 2,525.00; CAPITAL TROPHY INC - 65.00; CITY OF BISMARCK - 1,522.38; COLE PAPERS INC - 31.70; DAN'S SUPERMARKET - 82.50; EIDE BAILLY - 3,000.00; ELECTRIC PUMP INC - 160.10; ELECTRONIC COMMUNICATION - 12,150.00; ENVIRONMENTAL PRODUCT & - 56.88; FERGUSON WATERWORKS - 848.40; FETZER ELECTRIC, LLC - 6,151.03; GALLS, AN ARAMARK COMPAN - 29.98; GREAT PLAINS FIRE - 119.88; HOUSTON ENGINEERING, INC - 68,194.84; INSULATION N COATING, IN - 1,255.80; INTERSTATE ALL BATTERY C - 179.90; INTERSTATE ENGINEERING - 17,198.00; JAKE'S AUTO GLASS INC - 374.00; JASPER ENGINEERING & EQU - 199.53; JERRY'S VACUUM CENTER IN - 12.00; LASER SPECIALIST - 48.00; MANDAN AIRPORT AUTHORITY - 3,505.69; MANDAN PARK BOARD - 129,881.99; METAL ARTS - 1,101.37; MIDWAY MACHINING, INC. - 40.00; MISSOURI VALLEY PETROLEU - 6,645.24; MORTON COUNTY AUDITOR - 284.77; MORTON MANDAN PUBLIC LIB - 19,476.76; MVTL LABORATORIES, INC - 56.00; NARDELLO/STEVEN J - 50.00; NDACO RESOURCES GROUP - 955.43; NELSON AUTO CENTER - 26,543.00; NEUBAUER/JAMES - 45.00; OHMS CAFE - 77.35; PETERSON SPRAYING INC - 3,000.00; PREBLE MEDICAL SERVICES - 450.00; PRINT ON IT - 51.50; ROUGH RIDER INDUSTRIES - 201.60; S & S TRANSMISSION - 319.57; SCHLOSSER EXCAVATING INC - 375.00; SHEET METAL SPECIALTIES - 38.68; STARION - 25,483.69; STEIN'S INC - 1,150.64; SWANSTON EQUIPMENT CORPO - 2,074.49; TITAN MACHINERY INC - 338.63; TOMAN ENGINEERING CO - 7,638.75; WEST DAKOTA UTILITY SERV - 2,279.28; WESTERN FIRE & SAFETY IN - 303.79; MONTANA-DAKOTA UTILITIES - 40,605.40; AT & T - 697.75; CENTURYLINK - 5,859.41; ACE 24 HR TOWING - 90.00; AT & T MOBILITY - 450.08; BALABAN LAW OFFICE - 1,500.00; CENTURYLINK - 111.20; COMPANION LIFE - 10.00; CO2 SYSTEMS, INC - 11,075.00; DAKOTA MEDIA ACCESS - 6,302.17; ENTERPRISE RENT-A-CAR - 17.50; EVIDENT CRIME SCENE PROD - 402.00; FORT DEARBORN LIFE - 435.21; GLASS/THOMAS J. - 1,500.00; HAGEMeyer NORTH AMERICA, - 1,726.15;

KELSCH KELSCH RUFF & KRA - 4,000.00; MISSOURI VALLEY PETROLEU - 21,086.69; MORTON COUNTY AUDITOR - 2,439.80; ND DEPT OF TRANSPORTATIO - 910.25; ND PERS - 80,966.07; POSTMASTER - 2,300.00; SHIELDS COMPANY INC - 6,928.84; TARGET BANK - 79.10; VOGELPOHL/STEVEN L - 4,319.82; HOPFAUF CUSTOM BUILDERS - 100.00; NDAAO - 125.00; ACME ELECTRIC - 561.94; ADVANCED BUSINESS METHOD - 186.08; ADVANCED ENGINEERING SVC - 3,694.35; AIRE MASTER OF ND - 70.00; AMERICAN WELDING SUPPLIE - 130.20; AMERIPRIDE LINEN & APPAR - 146.72; ARMSTRONG SANIT & ROLL O - 36,871.63; ARROWHEAD CLEANERS & LAU - 651.55; AVENET WEB SOLUTIONS - 1,000.00; BAILEY NURSERIES INC - 7,834.10; BILL BARTH FORD INC - 414.64; BIS-MAN TRACTORS & EQUIP - 16.66; BISMARCK TRIBUNE-JEANS D - 13.00; BISMARCK TRIBUNE/THE - 5,554.20; BOBCAT OF MANDAN INC - 121.16; BORDER STATES INDUSTRIES - 478.27; BOWERS EXCAVATING, LLC - 3,905.00; BROWN/MALCOLM H. - 4,500.00; BUTCHER BLOCK MEATS - 67.84; C S DOORS INC - 818.89; CBI BUSINESS SERVICES - 6,717.25; CENTURYLINK - 1,706.83; CHESAK SEED HOUSE - 210.00; CITY AIR MECHANICAL INC - 434.00; CITY OF MANDAN - 308.90; CNA SURETY - 50.00; COAST TO COAST OFFICE MA - 392.93; COMPUTER PROFESS UNLIMIT - 80.00; CRESCENT PRNT & OFFICE P - 2,222.95; CUSTER DISTRICT HEALTH U - 1,014.17; CUSTOM CAGE - 1,380.00; D & E SUPPLY COMPANY INC - 0.00; DAKOTA COMMUNICATION SVC - 218.90; DAKOTA FLUID POWER INC - 52.70; DAKOTA STAFFING SOLUTION - 90.90; DAKOTA TOWING - 0.00; DAN'S SUPERMARKET - 164.32; DIGITAL ALLY INC - 423.00; DIRECTMED - 166.64; DIRK PLUMBING & HEATING - 133.14; ECOLAB PEST ELIIMINATION - 139.94; EIDE FORD, MERC, LCLN IN - 275.31; ELECTRIC PUMP INC - 47,904.37; EMERGENCY REPORTING - 1,548.00; ENTERPRISE SOLUTIONS INC - 5,482.50; ETHANOL PRODUCTS - 2,558.19; FACTORY MOTOR PARTS COMP - 110.69; FARGO WATER EQUIPMENT CO - 6,531.78; FASTENAL COMPANY/THE - 704.64; FERGUSON WATERWORKS - 2,553.06; FETZER ELECTRIC, LLC - 2,169.78; FRIESZ/DUANE - 5.00; FUSION INTEGRATED TECHNO - 1,202.18; GEORGE STROH TRUCKING IN - 3,443.75; GERDAU AMERISTEEL - 71.42; GLENN'S WELDING & TRAILER - 864.12; GRAND CENTRAL, INC. - 34.72; GRAY OIL COMPANY - 1,886.10; H & S CONTRACTING, INC. - 71,081.87; HAGEMEYER NORTH AMERICA, - 569.48; HAIBECK/KRYSTAL - 100.00; HARVEST LLC - 1,666.00; HAWKINS INC - 6,715.89; HEDAHL'S OF MANDAN INC - 856.33; HIRSCH FLORIST INC. - 100.00; HOFFMAN PLUMBING & HEATI - 115.00; INFORMATION TECHNOLOGY D - 1,502.74; INLAND TRUCK PARTS - 1,085.24; INTERGOVERNMENTAL SHOP - 15,624.48; INTERSTATE ALL BATTERY C - 11.99; KEY'S CRANE SERVICE - 140.00; KLESALEK EXCAVATING - 4,560.00; KNIFE RIVER - 787.85; KOSTELECKY/EVE - 516.00; KUPPER CHEVROLET INC - 34.88; L-TRON CORPORATION - 1,322.50; LASER SPECIALIST - 48.00; LEINGANG/BEN - 42.44; LILLIS ELECTRIC INC. - 104.40; MANDAN FIRE DEPARTMENT - 583.33; MANDAN MUNICIPAL COURT - 1,610.00; MANDAN NW PIPE FITTINGS - 20.64; MANDAN PARK BOARD - 2,100.00; MANDAN PLUMBING & HEATIN - 30.45; MANDAN PROGRESS ORGANIZA - 500.00; MANDAN TIRE CENTER - 130.00; MARSHALL LUMBER

COMPANY - 24.87; MATTHEW BENDER CO - 157.44; MET PRO CORPORATION - 7,167.69; MIDCONTINENT COMMUNICATI - 52.50; MIDWEST BUSINESS SYSTEMS - 99.99; MISSOURI VALLEY PETROLEU - 1,230.50; MISSOURI VALLEY VET CLIN - 60.00; MISSOURI WEST WATER SYST - 45.54; MORGRAN-SOU ELECTRIC CO - 8,081.80; MORTON COUNTY AUDITOR - 30,000.00; MORTON COUNTY HIGHWAY DE - 15,626.06; MORTON COUNTY RECORDER - 73.00; NALCO CHEMICAL CO - 934.96; NAPA AUTO PARTS - 314.13; ND FIREMENS ASSOCIATION - 160.00; NDACO RESOURCES GROUP - 982.37; NEWMAN TRAFFIC SIGNS - 500.00; NORTHERN PLAINS EQUIP CO - 18,401.72; NORTHWEST TIRE AND RETRE - 537.04; O'REILLY AUTOMOTIVE, INC - 79.93; ONE CALL CONCEPT INC - 420.00; PIZZA RANCH - 66.00; POWERPLAN - 43.08; PRAXAIR - 63.52; PREBLE MEDICAL SERVICES - 441.00; PRESORT PLUS - 670.35; QUEST ENGINEERING INC - 117.30; R.G. MFG. WELDING & REPA - 1,500.00; REGIONAL MEDICAL CENTER - 25.00; REISER/JOHN - 179.64; RETAIL ATTRACTIONS, LLC - 3,000.00; RUNNING'S SUPPLY INC - 562.06; SPECIALTY SLING COMPANY - 80.00; STARION - 18,636.00; STEIN'S INC - 538.35; TOMAN ENGINEERING CO - 8,819.48; TOTAL SAFETY USA - 248.00; TRAFFIC SAFETY SERVICES - 350.00; TRANSTRASH - 4,800.00; TRUE NORTH STEEL - 124.45; UNICOM - 300.00; UNIFORM CENTER & EMBROID - 873.48; VERIZON WIRELESS SERVICE - 1,770.84; VISION TECHNOLOGY INC - 37.50; WASTE MANAGEMENT OF ND, - 26,442.14; WE-SHIP-ETC.INC - 54.81; WEHRI/RADEANNA - 675.00; WELLS FARGO REMITTANCE C - 14,882.01; WESCO DISTRIBUTION INC - 1,217.35; WOODMANSEES INC - 329.16;

2. *Consider permission to accept the ND Board of University and School and Lands Flood Impacted Political Subdivision Infrastructure Development Grants.* The Board approved granting permission to accept the ND Board of University and School and Lands Flood Impacted Political Subdivision Infrastructure Development Grants.
3. *Consider for approval applications for beer garden and street dance events.* The Board approved of the applications for beer garden and street dance events.
4. *Consider approval of Sunday openings for Stryker Enterprises LLC for May 20-June 24, 2012.* The Board approved of Sunday openings for Stryker Enterprises LLC for May 20-June 24, 2012.
5. *Consider proclaiming May 19, 2012 as National Kids to Parks Day in the City of Mandan.* The Board approved of proclaiming May 19, 2012 as National Kids to Parks Day in the City of Mandan.
6. *Consider approval of Sunday openings for Captain Jack's Liquor for all Sundays between May 20 and June 24, 2012.* The Board approved of the Sunday openings for Captain Jack's Liquor for all Sundays between May 20 and June 24, 2012.
7. *Consider approval of the annual (July 1, 2012 through June 30, 2013) site authorizations for the Mandan Hockey Club at Captain Freddy's, Old Town Tavern, Vicky's Sports Bar, The Ridge Motel, and The Silver Dollar.* The Board approved of the annual (July 1, 2012 through June 30, 2013) site authorizations for the Mandan Hockey Club at Captain Freddy's, Old Town Tavern, Vicky's Sports Bar, The Ridge Motel, and The Silver Dollar.

8. *Consider games of chance for Bismarck/Mandan Tennis Association at Mandan Middle School from May 1 through July 13, 2012.* The Board approved of the games of chance for Bismarck/Mandan Tennis Association at Mandan Middle School from May 1 through July 13, 2012.

Commissioner Tibke moved to approve the Consent Agenda as presented. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

OLD BUSINESS:

1. *Consider Purchase & Business Incentive Agreements with Riverwest Development, LLC, for development of property at 1403 27th Street NW (approximately 3.10 acres).* Business Development and Communications Director Huber reviewed with the Board the Purchase and Business Incentive Agreements to facilitate the sale and development of the land at the intersection of Sunset Drive and 27th Street Northwest in Mandan. The Purchase and Business Incentive Agreements have been developed. Huber provided a summary of the key items that included:

- i. The agreed upon price of \$2 per sq. ft. /\$270,000;
- ii. That construction will begin in 2012;
- iii. That there is a minimum investment of \$2.3 million in commercial property with at least 22,300 sq. ft. of office, retail and restaurant building; Ms. Spilman requested the terminology be included “or residential buildings” – possibly mixed use.
- iv. An irrevocable letter of credit for \$100,000 to insure timely development as indicated in the original proposal (could be released by 2018).

Huber recommended approval of the Purchase and Business Incentive Agreements with RiverWest Development, LLC. Mayor Helbling commented that if Spilman is requesting residential units, it should be restricted so they are not single family or townhouse residential. The suggestion is a mixed use combination might be acceptable but not stand alone residential. City Attorney Brown recommended defining what type of residential use would be permitted. Mayor Helbling recommended spelling out the mixed use. Commissioner Frank agreed with Huber to use the term mixed use which is a common term in development that would allude to commercial, retail, and the combination with the residential included would be sufficient. Attorney Brown was directed to draft an Addendum to include the definition of mixed use.

Commissioner Frank moved to approve the Purchase & Business Incentive Agreements with RiverWest Development, LLC, for development of property at 1403 27th Street NW (approximately 3.10 acres) as presented with the addition of an Amendment that will include the definition of residential being restricted to mixed use. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Consider moving into executive session under North Dakota Century Code Section 44-04-19.1 for attorney consultation regarding contract negotiations and instructions related to the Don McGuire and John Shultz proposal for development of city-owned property.* Commissioner Jackson moved to recess into executive session under North Dakota Century Code Section 44-04-19.1 for attorney consultation regarding contract negotiations and instructions related to the Don McGuire and John Shultz proposal for development of city-owned property. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. Attorney Brown, Administrator Neubauer and Business Development and Communications Director Huber will attend the executive session.

NEW BUSINESS:

1. *Consider request to advertise for bids a new fire truck.* Fire Chief Nardello reviewed with the Board a request to replace a 1989 pumper truck. He stated the main reason for replacement is for the safety of the staff. The balance in the equipment reserve fund is \$246,691 and in September an additional \$59,300 will be received from the ND Insurance Department. The estimated cost of the new fire engine is between \$300,000 and \$350,000. The old truck will be written into the specifications as a trade, but if it does not meet those specifications, other avenues will be taken to dispose of the truck. Nardello stated that the average delivery time for a new truck is one year from the acceptance of the successful bidder. Commissioner Tibke commented that money is set aside every year into an equipment reserve and this reserve has a master plan to provide for future fire apparatus needs.

Commissioner Jackson moved to approve the request to advertise for bids a new fire truck. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Consider invitation for bids for sale of former water reservoir property off of 8th Avenue NW.* Business Development and Communications Director Huber reviewed with the Board a request to issue a bid for the sale of the former water reservoir property located at the intersection of Old Red Trail and 8th Avenue Northwest. She stated that the water reservoir has not been used for many years and the demolition of the reservoir will improve the surrounding area. The proposal calls for sealed bids by June 15, 2012 at 11 a.m. Huber recommended approval of the invitation for bids of sale of the former water reservoir property off 8th Avenue Northwest. Duane Friesz, WTP Supervisor stated that he agrees with the proposal as presented. He indicated that the WTP does not have any use for the property.

Commissioner Rohr moved to approve the invitation for bids for the sale of the former water reservoir property off of 8th Avenue NW. Commissioner Jackson seconded the motion. Commissioner Frank stated that when it is put out for bids that it should be clear as to what the zoning may ultimately become and it would make sense to go through any

zoning process prior to putting it out on bid. Huber stated she would not recommend the re-zoning until the adjacent and surrounding requests are addressed.

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

6:55 p.m. Commissioner Jackson moved to recess and suspend the meeting until the Board of Equalization meeting adjourns. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

7:50 p.m. Commissioner Jackson moved to reconvene the City Commission meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

3. *Consider process for awarding additional liquor licenses.* City Administrator Neubauer stated that since the passing of the ordinance allowing additional alcohol licenses for one additional Class D and two Class D-1's, a process needs to be developed for awarding those additional licenses. Discussion has led to a sealed bid process and that is what has been put together to address this. If the Board would like to make those licenses available we would begin the advertising for the bid process immediately using the sealed bid for a Class D-1 which is the off sale convenience store for \$7,500 (two of those) and one for the Class D General Alcohol Off Sale Beverage license for \$40,000 (one of those). Notices will be published on May 16 and May 25 and notices would also be placed in the Bismarck Tribune. Neubauer noted that the Class A license that was revoked this evening has not been added to this list; however, that could be done by sealed bid also. In order to be available July 1st, the sealed bids would be due on June 13th for the June 19th commission meeting. Mayor Helbling recommended the Class A license be discussed further and then handled at a later date.

Commissioner Jackson motioned to open one additional Class D (exclusive retail off-sale alcoholic beverages) and two Class D-1 (exclusive retail off-sale beer and wine) licenses and to award the additional licenses based on the sealed bid process with the award of bid being the highest bid and meeting all the requirements with the minimum in place.

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

4. *Consider recommendation from the Mandan Visitor's Committee regarding funding assistance for the Mandan Progress Organization & Musicians Association for picnic tables and concrete work in Dykshoorn Park.* City Administrator Neubauer reviewed a request from the Visitor's Committee that they received from the Mandan Progress Organization and Musician's Association for the purchase of new tables and concrete work at Dykshoorn Park. Neubauer stated that there are adequate funds in the Visitor's Committee Fund and that in addition the MPO, Musician's Association and Art

in the Park will contribute \$3,389 towards the project. The project could start immediately and could be completed by the Buggies ‘n Blues weekend events.

Commissioner Jackson motioned to approve the recommendation from the Visitor’s Committee for a grant to the MPO & Musicians Association for \$40,000 to be utilized for the purchase of picnic tables and concrete work in Dykshoorn Park. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

5. *Consider funding requests from the Mandan Progress Organization Funding Committee.* Del Wetsch, from the Mandan Progress Organization (MPO) reviewed with the Commission several funding requests presented by the MPO Funding Committee. He explained that the funding should add to the economic development and well-being of the community. Organizations must provide statements of where the funding awarded to them was spent. Each year the city budgets \$20,000 for this purpose. This money is provided with 50% in Mandan Bucks and 50% cash. The requests are limited and are no more than \$5,000.

Commissioner Jackson moved to approve the funding requests from the Mandan Progress Organization Funding Committee as presented. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

6. *Consider the approval of the feasibility report for, approve the plans and specifications for, and authorize the call for bids on Street Improvement District No. 169, Project No. 2012-06(Lincoln Ridge 5th Addition).* Engineering Project Manager Bechtel reviewed with the Board a previous request from Steve Thilmony requesting the special assessment of the remaining streets within the Lincoln Ridge 5th plat. The request was approved at the 4/3/12 meeting and the developer would like to obtain bids for the paving of the project.

Commissioner Jackson moved to approve the feasibility report for, approve the plans and specifications for, and authorize the call for bids on Street Improvement District No. 169, Project No. 2012-06 (Lincoln Ridge 5th Addition). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Commissioner Jackson stated that most of these lots have been sold and this is fitting into the previous conversations the Commission has had with special assessing done by the City versus the developer for special assessments.

7. *Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lincoln Ridge 5th Addition.*

Engineering Project Manager Bechtel stated this stems from prior agenda documentation allowing the developer to enter into a 3-way agreement for the water and sewer for that same development. Commissioner Jackson motioned to approve the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lincoln Ridge 5th Addition. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

8. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications for, and authorize a change order or call for bids on Street Improvement District No. 170, Project No. 2012-08(Keidels South Heart Terrace, Phase III).* Engineering Project Manager Bechtel stated this item is a follow-up from a previous meeting wherein Morty's LLC, Fargo, ND, requested a Phase III for the street improvement special assessment district to assess the costs back to the properties. The developer is requesting work be added to and be a part of the Street Improvement Project 2012-08 if the bids come back favorable and if not, to allow him to bid out this one as a separate project. This project will bring another 30 lots in addition to the Phase II project.

Commissioner Jackson asked how many lots from Phase III are sold. Bechtel was not sure but stated he was waiting until this project went through in which he has the permission to special assess those. The estimated specials for Phase III are \$14,000 per lot. With engineering administration, \$400,000 are the fees involved. It would seem that this particular request appears to implement the new policy. Commissioner Jackson stated that if the Commission decides to go forward with this, a policy should then be developed and a time set that it is going to change. Bechtel stated that the City is still pushing forward with such a policy and as discussed previously, to implement it after this construction season ends, with an implementation date of 1/1/13. Commissioner Jackson recommended a draft policy be reviewed by the Commission with the next two meetings.

Commissioner Jackson moved to approve the creation of, approval of the feasibility report for, approve the plans and specifications for, and authorize a change order or call for bids on Street Improvement District No. 170, Project No. 2012-08 (Keidels South Heart Terrace, Phase III). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

9. *Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition Phase III.* Engineering Project Manager Bechtel stated that this is to approve the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition Phase III by the developer. Commissioner Jackson moved to approve the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition Phase III. Commissioner Frank seconded the motion. Roll

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

10. *Consider the preparation of a Comprehensive Plan for the City of Mandan.* Engineering Project Manager Bechtel presented a request as a recommendation from the Planning and Zoning Committee. There has been discussion at that meeting to prepare a comprehensive plan for the City of Mandan. The last known plan was probably in 1976. It is an essential planning document for the City officials in planning that covers a wide range of decisions on land management. Ten or so items were ranked in importance. For example, infrastructure, transportation, City provided services were all in the first tier; housing, parks and recreation, economic development in the second tier; governmental design and urban development in the third tier. Comprehensive Plans can range in price from \$50,000 to \$100,000 depending on the items involved. Based on the Planning & Zoning Committee's recommendation, they would like to pursue that plan. Finance Director Welch stated that the \$100,000 would come from the available fund balance in the General Fund due to increase in City sales taxes, increase in state revenue sharing and also highway tax money. Commissioner Rohr asked if this is an urgent matter or if it can go through the normal budget process for the upcoming budget session. Bechtel stated that he feels it should be pursued at the earliest possible time due to the change in economics and developments coming in so fast. Mayor Helbling concurred that moving forward would benefit the county as well as the city and that we should outline our needs and best uses of the property. Commissioner Tibke stated she is in support of the plan in terms of development of properties throughout the city. She mentioned that from her years of experience on this Commission that it is important to have a Comprehensive Plan in place. She inquired if the Park Board will share in the costs involved? Bechtel replied that a cost-sharing conversation has not taken place yet. Commissioner Frank commented that she agrees with Commissioner Tibke's inquiry if the Park Board will assist in sharing the costs. Other discussions should also take place with the Chamber of Commerce, the BMDA before the City engages in any plan for these services. She reviewed the prioritization of the rankings stating that this Commission should review the list and come up with their priority. Bechtel stated that the rankings are not that important at this time because the City does have master plans in place for some of the long range plans. Bechtel stated that the City has received good examples of the RFP from the Planning & Zoning Committee. Mayor Helbling stated that the RFP can be modified and if any of the commissioners have any questions regarding this they should let Bechtel know.

Commissioner Frank motioned to approve the preparation of a Comprehensive Plan for the City of Mandan in the amount of up to \$100,000 and the allocation of funds. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

11. *Consider placing various city owned lots up for sale.* City Administrator Neubauer stated that the City owns three lots that are not buildable and the adjacent lot

owners in those areas may be interested in purchasing them. They are of no value to the City other than maintaining them.

Commissioner Jackson moved to approve the sale of the various city owned lots. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

12. *Consider entering into contract with Al Fitterer Architect PC for services related to heating and cooling system upgrades/replacements and possible renovations to Mandan City Hall.* City Administrator Neubauer stated that the last time the heating and cooling system in the building was updated was about 1977. He indicated there are issues with the boilers and over the last several years the City has looked at a replacement which will cost approximately \$300,000 - \$500,000. If the system is remodeled, an extensive remodel will have to be conducted throughout the building. The proposal is to enter into a contract with Al Fitterer for architectural services related to Mandan City Hall.

Commissioner Jackson moved to approve entering into a contract with Al Fitterer Architect PC for services related to heating and cooling system upgrades/replacements and possible renovations to Mandan City Hall up to \$15,000. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke:

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

RESOLUTIONS & ORDINANCES:

1. *First consideration of Ordinance No. 1122, a franchise granting to MDU Resources Group, Inc., a corporate, its successors and assigns, the franchise and right to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of the City of Mandan, Morton County North Dakota and electric distribution system for transmitting and distributing electricity for public and private use.* City Administrator Neubauer stated that MDU Resources Group and Mor-Gran-Sou Electric Cooperative, Inc. have worked out the details for transmitting and distributing electricity between themselves.

Commissioner Tibke moved to approve the first consideration of Ordinance No. 1122 a franchise granting to MDU Resources Group, Inc., a corporation, its successors and assigns, the franchise and right to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of the City of Mandan, Morton County North Dakota and electric distribution system for transmitting and distributing electricity for public and private use. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *First consideration of Ordinance No. 1123, a franchise granting to Mor-Gran-Sou Electric Cooperative, Inc., its successors and assigns, the franchise and right to*

construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of the City of Mandan, Morton County North Dakota an electric distribution system for transmitting and distributing electricity for public and private use. Commissioner Tibke moved to approve the first consideration of Ordinance No. 1123, a franchise granting to Mor-Gran-Sou Electric Cooperative, Inc., its successors and assigns, the franchise and right to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of the City of Mandan, Morton County North Dakota an electric distribution system for transmitting and distributing electricity for public and private use. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

OTHER BUSINESS:

1. *Purchase of iPads:* Mayor Helbling proposed the City purchase iPads for the Commissioners in recognition of the cost savings of paper waste and time spent when making copies by staff. City Administrator Neubauer was instructed to look into the possibility of this recommendation.
2. *Regular Meeting on July 3, 2012:* Commissioner Jackson moved to approve rescheduling the regular Board of City Commission meeting from July 3, 2012 to July 10, 2012. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

At 8:55 p.m. the Board recessed for the executive session (See Old Business No. 2).

At 9:25 p.m. the executive session ended. City Attorney Brown, City Administrator Neubauer and Business & Communications Director Huber were requested to negotiate terms with Don McGuire and John Schulz and bring back a recommendation to the Board of City Commissioners.

There being no further actions to come before the Board of City Commissioners, Commissioner Jackson moved to adjourn the meeting at 9:27 p.m. Commissioner Tibke 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