

The Mandan City Commission met in regular session at 4:00 p.m. on November 5, 2013 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development and Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Engineering Project Manager Fettig, and Assessor/Building Official Lalim. Absent: Director of Public Works Wright.

2. *Employee Service Awards:*

40 YEARS OF SERVICE

Dennis Bullinger	Chief of Police	07/16/73
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35 YEARS OF SERVICE:

Darlene Forderer	Utility Billing Coordinator	02/06/78
Roger Arenz	Firefighter	07/27/78
Richard Zander	Assistant Fire Chief	10/01/79
Gregory Moos	Police Officer	07/01/78
Gerald Bernhardt	Equipment Operator II	12/21/78
Randy Frohlich	Utility Operator II	03/27/78

25 YEARS OF SERVICE:

Jim Lawler	Airport Manager	01/04/88
Bruce Beehler	Firefighter	12/16/01

20 YEARS OF SERVICE

David Mills	Police Sergeant	11/22/93
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15 YEARS OF SERVICE

Diane Leingang	Senior Accounting Technician	09/08/98
Steven Nardello	Fire Chief	07/06/98
Brad Braun	Firefighter	11/25/98
Kasey Burt	Firefighter	11/25/98
Wayne Friesz	Fire Captain	09/23/98
Dan Miller	Firefighter	01/28/98
Dave Walth	Fire Captain	05/26/98
Barry Kiemele	City Forester	03/30/98

10 YEARS OF SERVICE

Sandra Tibke	City Commissioner	04/01/03
George Railsback	Appraiser/Inspector	02/05/03
Jonathan Benzinger	Firefighter	09/01/03

5 YEARS OF SERVICE

Chad Boehm	Equipment Operator I	06/17/08
Devon Beehler	Firefighter	05/14/08

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Jared Hopkins	Firefighter	06/05/08
Jordon Sivertson	Firefighter	04/01/08
Jason Neuberger	Field Training Officer	03/10/08
Dean Schmidt	Utility Operator I	01/03/08
Erick Schantz	Water Plant Lab Tech I	01/28/08

B. APPROVAL OF AGENDA: Commissioner Frank motioned to approve the Agenda as presented. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. PUBLIC COMMUNICATIONS: No one came forward. This portion of the public communications was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held on October 15, 2013 and Special Working Session held on October 29, 2013.* Commissioner Tibke moved to approve the minutes as presented.

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

E. PUBLIC HEARING:

F. BIDS:

1. *Consider approval of bid for Project: S-TNU-1-810(023)000 – ND 810 from Memorial Bridge Interchange to the Expressway Bridge (Landscape Enhancements).* Engineering Project Manager Fettig reviewed with the Board a request for approval to move forward with the DOT to award the bid for the project for the enhancement from Memorial Bridge Interchange to the Expressway Bridge. The project involves screening for the residential area and enhances the new roadway of the industrial area. There will be a variety of 566 trees planted. The low bid was submitted by Hoffman & McNamara Company of Hastings, MN in the amount of \$380,831.98. The City's share of this project is estimated to be \$11,243.29. Fettig recommended awarding the bid to Hoffman & McNamara as presented.

Commissioner Rohr moved to award the bid for the project S-TNU-1-810(023)000 – ND 810 from Memorial Bridge Interchange to the Expressway Bridge to Hoffman & McNamara Company of Hastings, MN in the amount of \$380,831.98. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

G. CONSENT AGENDA

1. *Consider for approval the final Re-plat of Lot 1, Block 3, Sunset Commercial Park.*

2. *Consider for approval the final Plat of Christianson's First Addition.*

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3. *Consider for approval the final Re-plat of Lot 1, Block 2, Meadow Ridge 3<sup>rd</sup> Addition.*
  4. *Consider approval of Sunday Openings for Mandan Eagles Club for December 1, 2013 and December 8, 2013.*
  5. *Consider approval of 2 liquor license transfers for Captain Jack's Mandan and Bill's Liquor to Coborn's Inc.*
  6. *Consider approval of new Class D liquor license for Bayside LLC. at 2721 46<sup>th</sup> Ave SE.*
  7. *Consider proclaiming Myron Schulz Day in Mandan, ND.*
  8. *Consider the following Homestead Credit Exemptions: (i) Dorothy Faas (2011) (ii) Dorothy Faas (2012)*
  9. *Consider charitable raffle permit for Ty Breuer NFR Sendoff Party at Seven Seas for November 16, 2013.*
  10. *Consider Proclaiming November 30, 2013 Small Business Saturday in Mandan.*
  11. *Consider closing Administrative offices day after Thanksgiving.*
  12. *Consider approval of Contract Documents for Mandan Water Treatment Plant, Phase II Optimization Project.*

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

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Update of Sunset Drive reconstruction project.* Planning & Engineering Director Froseth reported that the Sunset Drive project is wrapping up and the roadway was opened up on November 1<sup>st</sup>. City staff will do an on-site review with the project engineer from Houston Engineering along with the contractor of Knife River Construction. Any items that remain undone will be completed in the spring of 2014. This is an informational item and no action is required.

2. *Update on Street Improvement District Projects that have yet to be completed.* Planning & Engineering Director Froseth reported that this construction season has been challenging due to the amount and lateness of precipitation. Due to that fact there are several street projects that remain uncompleted. Northern Improvement Company, the contractor for six of these projects contacted the City requesting a time extension until 2014. The Engineering Department is working with contractors, developers, engineers and other entities to find a path forward that will work for all parties involved in the projects. Discussions have occurred to consider temporary aggregate roads in order for the developers to continue with the building projects throughout the winter season. A meeting is scheduled for November 6<sup>th</sup> with Northern Improvement to determine what can be done with aggregate base in order to allow construction. Froseth stated that there will not be any change orders requested that would create any price increase to these projects. If they cannot meet the conditions requested by the City in order to allow

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building over the winter, the City will seriously look at assessing damages per the contracts for these six projects. All projects are assessed at \$100 per day in which the contracts contain a clause allowing the City to use discretion if paving projects are not completed within the timeframes given.

3. *Consider approval of Owner and Engineer Agreement for Mandan Water Treatment Plant new intake study.* Planning & Engineering Director Froseth stated that in 2008 Advanced Engineering & Environmental Services (AE2S) completed a preliminary investigation into the potential location for a new conventional intake. The investigation suggested locating a new intake about 2 miles south of the Water Treatment Plant within a self-cleaning portion of the river channel. The preliminary investigation has been the basis for requesting funding assistance from both the Drinking Water Revolving Fund and the State Water Commission Water Program. The City has requested AE2S to study the potential intake improvements. The timeline for the study is expected to run from mid November 2013 through March 2014.

City Administrator Neubauer explained that they are looking at an area just north of the former Car-Bodies, or archery range area, looking for a hard point in the river that will not silt in so we do not have to worry about a supply of water coming into the plant in the future. There wasn't such a hard point further north of the plant. He explained that there is a bend in the river, and the channel seems to stay there and not move. The channel is moving from the east side of the river to the west side of the Missouri and when the channel moves to the east side, that's when they have difficulty at the Water Treatment Plant in keeping the intake clear. Froseth referred to page 5 of the Engineering Services Agreement to review a breakdown of the tasks of their services for this study.

Commissioner Frank moved to approve the Standard Form of Agreement Between Owner and Engineer for study and report phase professional services. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider making city-owned property west of library available for sale and development.* Business Development and Communications Director Huber stated that she has received an expression of interest in city owned property on Main Street, west of the Morton-Mandan Public Library for a retail store that meets a targeted community need. The interested party is Link Golz, True Value Hardware, who would like to locate a hardware store in Mandan. Golz has looked at other sites in the community and has circled back to this area on Main Street. He requested the City make this property available for sale and he recognizes there may be competition with other entities. The site is approximately 26,000 sq. ft. which would allow for the construction of a 9,000 sq. ft. building on the site with off street parking.

Del Wetsch, Executive Director of the Mandan Progress Organization will assist in working with the Art in the Park Committee in finding alternative parking for vehicles that use this area during that event. Mary Henderson, Interim Library Director has been

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contacted and does not have any significant concerns with the proposed construction project. Huber reviewed the proposed layout for the hardware store square footage and the parking plan. Huber recommended this site be made available to the public and to request proposals for its purchase and development. Huber reviewed other options for the property. Commissioner Frank commented that if there was any time where we could produce the best results and highest purchase price for this particular lot is probably now with the increased interest in our community and with the interest to build on Main Street.

Commissioner Frank moved to have the City issue a Request for Proposals for the purchase and development of the lot west of the library with a 45 day deadline for responses. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance No. 1165, An Ordinance to Amend and Re-enact Section 16-03-12 of the Mandan Code of Ordinances Relating to Unlicensed Dogs and Cats.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No. 1165, An Ordinance to Amend and Re-enact Section 16-03-12 of the Mandan Code of Ordinances Relating to Unlicensed Dogs and Cats. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Second consideration and final passage of Ordinance No. 1166, An Ordinance to Amend and Re-enact Chapter 20-15 of the Mandan Code of Ordinances Relating to All-Terrain Vehicles.* Commissioner Tibke moved to approve the Second consideration and final passage of Ordinance No. 1166, An Ordinance to Amend and Re-enact Chapter 20-15 of the Mandan Code of Ordinances Relating to All-Terrain Vehicles. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Second Consideration and final passage of Ordinance No. 1167 Zone Change for Auditor's Lot A, less the east 34' thereof and Lot E in the SE ¼ in Section 4 Township 139 North Range 81 West (east of 1806 and north of County 37<sup>th</sup> Street North) – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Tibke moved to approve the Second Consideration and final passage of Ordinance No. 1167 Zone Change for Auditor's Lot A, less the east 34' thereof and Lot E in the SE ¼ in Section 4 Township 139 North Range 81 West (east of 1806 and north of County 37<sup>th</sup> Street North) – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes;

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Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes.  
The motion passed.

4. *Introduction and first consideration of Ordinance No. 1172, An Ordinance to Amend and Re-enact Chapter 7-01 of the Mandan Code of Ordinances Relating to Fire Code.* Fire Chief Nardello presented the 2012 International Fire Code Edition, published by the International Code Council which is reviewed every 3 years and revisions are made as necessary. This Code is used for the inspection of commercial properties within the City of Mandan. The State of North Dakota has adopted the 2012 Code so the Building and Fire Department will be adopting that code too. Nardello recommended adopting the 2012 Code with Amendments. There are two significant changes related to the Mandan: (1) Require sprinkler systems for establishments selling furniture that are over 5,000 square feet. (2) Require carbon monoxide detectors within residential property. Nardello reviewed several appendixes within the Code that will be adopted such as fire apparatus access roads, hazardous materials, LP gas on multifamily residential devices and Memory Lanterns which were also brought up for discussion. Nardello reviewed a proposed change to the Fireworks section that would include permitting the use of fireworks from the hours of 5 pm on December 31 to 1:00 am on January 1. Nardello reviewed the Fireworks Ordinance current and proposed revision.

Commissioner Frank moved to approve the Introduction and first consideration of Ordinance No. 1172, An Ordinance to Amend and Re-enact Chapter 7-01 of the Mandan Code of Ordinances Relating to Fire Code including Appendix Chapters A, B, C, D, as published by the International Code Council including striking the word “cooking” from 308.1.4 also including adding the Memory Lantern Fireworks to the banned fireworks along with bottle rockets. The motion died for lack of a second.

Commissioner Rohr motioned to reconstruct the previous motion with the exception to the Memory Lantern Fireworks wherein the motion would be to approve the Introduction and first consideration of Ordinance No. 1172, An Ordinance to Amend and Re-enact Chapter 7-01 of the Mandan Code of Ordinances Relating to Fire Code including Appendix Chapters A, B, C, D, as published by the International Code Council including striking the word “cooking” from 308.1.4.

Commissioner Braun seconded the motion. Commissioner Frank reiterated the danger of the open flame contained within the Memory Lantern Fireworks item poses a danger similar to the bottle rocket that has been banned. Mayor Van Beek suggested that the City should stiffen the fines for the people abusing the policy and lighting it off at times when it is not permitted. Fire Chief Nardello stated that there have been fires around the country caused by the Memory Lantern Fires (not in the Bismarck/Mandan Community). Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Introduction and first consideration of Ordinance 1173, An Ordinance to Amend and Re-enact Section 12-02-11 of the Mandan Code of Ordinances Relating to Alcoholic*

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*Beverage License Expiration.* City Administrator Neubauer stated that when reviewing the Ordinances related to Alcoholic Beverages it was discovered that a party could acquire a license and could hold on to it for as long as he/she wanted to. The proposal to this revision creates a 6-month time period on that license in which it must be utilized.

Commissioner Rohr moved to approve the Introduction and first consideration of Ordinance 1173, An Ordinance to Amend and Re-enact Section 12-02-11 of the Mandan Code of Ordinances Relating to Alcoholic Beverage License Expiration. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Introduction and first consideration of Ordinance 1174, An Ordinance to Create a New Section 12-02-08(4) of the Mandan Code of Ordinances Relating to Transfers of Licenses Limited.* City Administrator Neubauer explained that this proposed revision relates to preserving some value in the licenses already in existence that a member of the public may have acquired. This revision will allow for a one-time transfer of that license which preserves the value of those currently in existence. Thereafter the City would issue a new license after that one time transfer and that is where the fee being assessed would come into play.

Commissioner Frank moved to approve the Introduction and first consideration of Ordinance 1174, An Ordinance to Create a New Section 12-02-08(4) of the Mandan Code of Ordinances Relating to Transfers of Licenses Limited. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

7. *Introduction and first consideration of Ordinance 1175, An Ordinance to Amend and Re-enact Section 4-06-10 of the Mandan Code of Ordinances Relating to Administration of Salary Plan.* Finance Director Welch stated this is a housekeeping item related to the City Code. The purpose of the change is to align the Code with the City's practices and procedures and the administration of the salary plan. There are three main changes: (1) the word performance replaced step increases due to the City's adoption of a new salary structure as of July 1, 2013. For the 2013/2014 budget the percentage for performance increases is the same for step increases and the only change is the terminology to match the current policy. (2) Changing the words Civil Service to Human Resources since the Civil Service Commission does not perform the day to day administration of salary increases. (3) To replace the words Board which is the City Commission with Personnel Director or City Administrator for the final approval of the employee performance increase since the Board does not perform the day to day administration of salary increases.

These changes do not take away any of the current authority or power that currently resides with the Civil Service Commission or the Board of City Commissioners. These changes have been reviewed and discussed with the City Department Managers, Human

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Resources and the City Administrator. Administrator Neubauer clarified that the Employee Grievance process still allows an employee to appeal to the Civil Service Commission.

Commissioner Braun moved to approve the Introduction and first consideration of Ordinance 1175, An Ordinance to Amend and Re-enact Section 4-06-10 of the Mandan Code of Ordinances Relating to Administration of Salary Plan. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

8. *Introduction and first consideration of Ordinance 1176, An Ordinance to Amend and Re-enact Section 4-09-05 of the Mandan Code of Ordinances Relating to Pension Contributions of the City.* Finance Director Welch stated this is a housekeeping item to bring the City Code to current practice. The Code was not updated in 2002 when the contribution increase to 6% which the current City Code reflects or the increase in 2003 to 7% and now the July 1, 2013 rate of 8%. Therefore the revision is to change the 6% to the current practice of 8%. Commissioner Frank moved to approve the Introduction and first consideration of Ordinance 1176, An Ordinance to Amend and Re-enact Section 4-09-05 of the Mandan Code of Ordinances Relating to Pension Contributions of the City. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

9. *Resolution Approving Contract Documents for Mandan Water Treatment Plan, Phase II Optimization.* Commissioner Tibke moved to approve the Resolution Approving Contract Documents for Mandan Water Treatment Plan, Phase II Optimization. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

10. *Resolution Approving Contract Documents for Mandan Water Treatment Plant Intake Study and Report.* City Attorney Brown stated that this item does not need action as the City Commission had already approved the contract. Attorney Brown and Justin Froseth discussed this matter on 11/4/13.

#### K. OTHER BUSINESS

1. Mayor Van Beek announced that a Comprehensive Plan Land Use & Transportation Plan public input meeting is scheduled for Tuesday, November 12, 2013 at 7:00 p.m. at Mandan City Hall, 205 2<sup>nd</sup> Ave. NW, Mandan, ND. He encouraged all commissioners and citizens to attend.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 5:08 p.m. Commissioner Frank

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seconded the motion. The motion received unanimous approval of the members present.  
The motion passed.

/s/ James Neubauer

James Neubauer,  
City Administrator

/s/ Arlyn Van Beek

Arlyn Van Beek,  
President, Board of City  
Commissioners