

The Mandan City Commission met in regular session at 4:00 p.m. on November 6, 2012 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, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Kim Fettig, and City Assessor Barta.

2. *Employee Service Awards:* Mayor Van Beek presented the following awards:

40 YEARS OF SERVICE:

Gary Schmidt Water Plant Operator III

35 YEARS OF SERVICE:

Richard Barta Assessor/Building Inspection Official

Lori Flaten Police Lieutenant/CID

30 YEARS OF SERVICE:

Dennis Braun Firefighter

25 YEARS OF SERVICE:

Jon Benz Senior Appraiser/Inspector

Terry Piper Circulation/Technical Service Assistant

Chris Miller Police Lieutenant/Information Technology

Ed Boehm Equipment Operator II

Steve Himmelspach Wastewater Plant Superintendent

20 YEARS OF SERVICE:

Greg Welch Finance Director

Bruce Beehler Fire Captain

Ray Eckroth Firefighter/Safety Officer

15 YEARS OF SERVICE:

Steve Kilen Fire Captain

Daniel Poppe Police Field Training Officer

Gerald Getz Equipment Operator II

10 YEARS OF SERVICE:

Calvin Bullinger Animal Control Officer

5 YEARS OF SERVICE

Nancy Moser Administrative Assistant

Deb Zodrow Administrative Technician

Eddy Olson Senior Building and Grounds Worker

Clayton Schaff Firefighter/EMT

Linda Austin Children’s Program Coordinator

Patrick Haug Police Sergeant

Peter Czapiewski Police Detective

Robert McClure Equipment Operator I

MINUTES:

1. Consider approval of the following minutes from the Board of City Commission meetings: October 16, 2012 – Regular meeting and October 31, 2012 – Special Meeting.

Commissioner Tibke moved to approve the minutes of the October 16, 2012 Regular meeting and the October 31, 2012 Special Meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

1. (Scheduled for 4:30 p.m.) *Public Hearing to consider an Ad Valorem tax exemption for Mandan Hotel Group – Comfort Inn.* City Assessor Barta reviewed with the Board a request from the Mandan Hotel Group to consider a 5-year tax exemption for the development of a new 86-room hotel structure. The County, School District and Park Board were notified and there was no opposition received. The property is located at 2801 Sunset Drive Northwest. Barta stated that the Mandan Growth Fund has recommended approval of the exemption with conditions of 100% exemption in years 1 and 2, 75% in year 3, 50% in year 4, 25% in year 5 due to the number of jobs created all pursuant to the City of Mandan's Commercial Property Tax Exemption policy and guidelines and also under state statute. He estimated the taxes to be approximately \$100,000. Don McGuire from the Mandan Hotel group came forward and commented that the cost of the project will be approximately \$8.5 million and that it will generate approximately \$5 million revenue to the community.

Mayor Van Beek announced that this is a public hearing and invited comments from the public. A second announcement was made to invite comments from the public. Hearing none, this portion of the public hearing was closed.

BIDS:

CONSENT AGENDA:

1. *Approve the MOU with the Mandan School District for the School Resource Officer Program.* The Board approved of the MOU with the Mandan School District for the School Resource Officer Program.
2. *Consider approval of a variance for Douglas Bohl.* The Board approved of a variance for Douglas Bohl.
3. *Consider for approval the final plat of Titan Addition.* The Board approved of the final plat of Titan Addition.
4. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications for Street Improvement District No. 176, Project No. 2012-20 (Lakewood 6th & 7th Additions).* The Board approved of the creation of, approval of the feasibility report for, approve the plans and specifications for Street Improvement District No. 176, Project No. 2012-20 (Lakewood 6th & 7th Additions).
5. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications for and authorize a call for bids on Water & Sewer Improvement District No. 60, Project 2012-21 (Lakewood 6th & 7th Additions).* The Board approved of the creation of, approval of the feasibility report for, approve the plans and specifications for and authorize a call for bids on Water & Sewer Improvement District No. 60, Project 2012-21 (Lakewood 6th & 7th Additions).

6. *Consider budget amendment to the 2012 Forestry Department Budget to replace old Chipper.* The Board approved of the budget amendment to the 2012 Forestry Department Budget to replace the old Chipper.
7. *Consider closing Administrative offices day after Thanksgiving.* The Board approved of the closing of the Administrative offices the day after Thanksgiving.
8. *Consider games of chance for Bucks for Bales at the Broken Oar from November 6, 2012 through December 17, 2012.* The Board approved of games of chance for Bucks for Bales at the Broken Oar from November 6, 2012 through December 17, 2012.
9. *Consider transferring Capital Outlay funds from the 2013 Street Department Budget to purchase Front End Loaders and snow removal equipment in 2012.* The Board approved the transferring of Capital Outlay funds from the 2013 Street Department Budget to purchase Front End Loaders and snow removal equipment in 2012.

Commissioner Tibke moved to approve the Consent Agenda 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.

OLD BUSINESS:

1. *Request to vacate resolutions approved September 18th, 2012, for Project # 2012-20 Street Improvement District 176 (Lakewood 6th & 7th) and Project # 2012-21 Water and Sewer District 60 (Lakewood 6th & 7th).* Engineering Project Manager Kim Fettig reviewed this project with the Board. She stated that errors were discovered in this project that was approved on September 18, 2012. The Engineer's Report had numbers that were incorrect, street name information that was wrong and the legal description of districts was not included. In addition, the petition was not signed. She stated this is brought back before the Commission to vacate the action taken on September, 18, 2012. Once vacated, the project will be brought back for approval that will include the correct information.

Commissioner Frank moved to vacate the resolutions approved September 18th, 2012, for Project # 2012-20 Street Improvement District 176 (Lakewood 6th & 7th) and Project # 2012-21 Water and Sewer District 60 (Lakewood 6th & 7th). 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.

NEW BUSINESS:

1. *Introduction of new Police Officers:* Chief Bullinger introduced new officers:
 - i. *Jared Lemieux:* Officer Lemieux is a graduate of Dakota College in Bottineau where he earned an Associate's Degree in Liberal Arts. He completed the Law Enforcement Training Program. His previous work experience includes working security at the ND State Capitol with the Highway Patrol office, a Residential Treatment Advisor with Dakota Boys Ranch and a School Detention officer at Wachter Middle School in Bismarck. Chief Bullinger and Mayor VanBeek extended a welcome to Officer Lemieux.

ii. Joshua Pastir: Officer Pastir is a graduate of Northland Community College in Thief River Falls and earned an Associate's Degree in Criminal Justice. He completed the Law Enforcement Training Program. He has served with the US Army in both Iraq and Afghanistan. Chief Bullinger and Mayor VanBeek extended a welcome to Officer Pastir.

2. *Consider authorizing a work change order on Street Improvement District No. 174, Project No. 2012-16 (Plainview Heights 13th Addition).* Engineering Project Manager Kim Fettig stated this project is brought before the Commission for approval to change the work order. The purpose for the change is to accommodate weather conditions and to provide paved construction access through the winter season.

Commissioner Tibke moved to approve authorizing a work change order on Street Improvement District No. 174, Project No. 2012-16 (Plainview Heights 13th Addition). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

~~3. *Reviewing addresses for Keidel South Terrace Development (Duplicate - see New Business No. 9.)*~~

4. *Consider approval of a Class F beer and wine liquor license for Cory Zimmer at 210 W. Main Street formerly known as Mysteria Theatre.* City Administrator Neubauer reviewed with the Board a request from O.N.E. for a Class F liquor license. He stated that all the background checks have been conducted and came back clear and that all paperwork is in order. The owners are present if the Board wishes to ask any questions of them. A O.N.E. representative, Scott Bennett, stated that the plan is to host concerts, symphony, comedy and dinner theatre type events and they would like to have the option of offering liquor at the venue. Commissioner Frank inquired if the events would include events wherein all-age groups would be included and there would not be a set menu. A Class F license is one that is intended for restaurants so there would be a proportionate amount of food as the beverages served. Cory Zimmer of O.N.E. indicated that a set menu would not be determined until the chef has an idea of what the customer interest is. Commissioner Frank inquired if there is a plan in place to keep track of how much food vs. liquor is sold. Zimmer replied that there will be a P.O.S. system in place that will track the sales. Commissioner Frank inquired how the establishment will handle under-age drinking if there are concerts held. Zimmer stated that they have inquired and were told they would have to rope off the sections, in which they have a plan in place. They also indicated they will have Bis-Man security staff on the premises for such events.

Commissioner Tibke moved to approve the approval of a Class F beer and wine liquor license for Cory Zimmer at 210 W. Main Street formerly known as Mysteria Theatre. 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.

5. *Consider Growth Fund Committee recommendation on a property tax incentive for a new business – Mandan Hotel Group at for construction adjacent to 27th Street NW.* Business Development and Communication Director Ellen Huber stated that the Mandan Growth Fund met on October 29, 2012 to review the application by the Mandan Hotel Group. She concurred with the figures provided by Mr. McGuire that the hotel projected hospitality taxes are estimated at \$45,000. She stated that The Ridge was the last hotel to be constructed in Mandan and that was in 1983. Bismarck has issued building permits for 6 new hotels since 2010. She stated that the recommendation from the Mandan Growth Fund is within the criteria for a property tax exemption of the 100% in years 1 and 2, 75% in year 3, 50% in year 4, 25% in year 5.

Commissioner Frank moved to approve a property tax exemption for the Mandan Hotel Group at its 27th Street NW location for years 1 and 2 at 100%; and years 3, 4, and 5 at 75%, 50% and 25% respectively. 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.

City Administrator Neubauer stated that he has met with members of the Mandan Growth Fund and they have put together a revised draft of the policy (Property Tax Exemptions) with plans to bring it to the Board the first part of December.

6. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for Street Improvement District No. 163 Project # 2012-01 (Sunset Drive NW).* Engineering Project Manager Kim Fettig stated this request is brought for approval to create a special assessment district and to authorize the paperwork for the project. The project has been created to allow for new street work on Sunset Drive NW including new curb and gutter, asphalt or concrete street, storm sewer, street lights and chip seal.

Commissioner Frank inquired of the percentage of homeowners who will be affected with assessments for this project and the northwest project. Fettig replied that the office has not had a chance to determine the assessment cost per lot or the overlap for the streets being affected. Commissioner Frank inquired as to what would be the arterial to the west of Sunset Drive that will be accessible for homeowners in that area. City Administrator Neubauer stated that Lohstreter Street.

Commissioner Frank asked whether there is any flexibility without knowing what the assessment cost will be? Neubauer stated that the DOT has the project out for bids and they can hold those bids for 30 days. He explained that once the assessment district is approved, you are unable to go in and change those boundaries. The costs are being worked on and a letter will be sent to the homeowners in that district for a range of what those costs will be within a week or two. Because Collins Ave is a main arterial a combination of funding sources will be utilized including sales tax, city wide mill levy, federal and state matching funds and a portion special assessed, thereby bringing down the costs to the homeowner. Commissioner Frank stated that it will be important not to overburden the costs to the residents. Houston Engineering explained how the detour route will be

placed during the construction phase. Commissioner Rohr inquired about parking. Casey Einrem of Houston Engineering replied that off street parking will be allowed in that area on a temporary basis – based on their canvassing of those living along Sunset Drive, 90-95% of those in favor of off street parking at the public input meeting.

Commissioner Tibke moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for Street Improvement District No. 163 Project # 2012-01 (Sunset Drive NW). 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.

7. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for Storm Sewer Improvement District No. 32 Project # 2012-23 (Sunset Drive NW).* Engineering Project Manager Kim Fettig stated this request is to create a special assessment district and to authorize the paperwork for the project. It has been created to add sewer inlets, manholes, and pipe storm water that is running down Sunset drive causing erosion and some flooding of private properties. Commissioner Frank inquired if there are any cost estimates for this district. Fettig replied that the project cost has been determined but individual resident cost assessments have not yet been determined.

Commissioner Frank moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for Storm Sewer Improvement District No. 32 Project # 2012-23 (Sunset Drive NW). 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.

8. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for Water & Sewer Improvement District No. 61 Project # 2012-24 (Sunset Drive NW).* Engineering Project Manager Kim Fettig stated this request is to create a special assessment district and to authorize the paperwork for the project. It has been created to replace the aging water and sewer mains along Sunset Drive NW. The water mains in that area have several breaks and have become unreliable in providing water and fire protection in that area.

Commissioner Tibke moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for Water & Sewer Improvement District No. 61 Project # 2012-24 (Sunset Drive NW). 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. *Consider approval of residents requesting to re-establish their previous house number changes in the new Keidel's South Terrace development.* Wayne Muth, one of

the residents who filed the request to re-establish their previous house number changes in the new Keidel's Development came forward to speak in support of this request. He stated the four homes involved recently received a letter advising them their house numbers were going to change. He mentioned they did not have an opportunity to provide input and they do not see any reason to change the numbers. He referenced a letter that was signed by all four parties and sent to the City Commission on October 15, 2012 in opposition to the house number changes. He indicated they were concerned about the costs involved to the four parties if the numbers were to change. He said there were at least four occasions in which he discussed his housing plans with the City Assessor; in particular, what the house number would be on his home. He said their request before the Commission is to allow the six house numbers that would be affected be exempt from the number changes.

Commissioner Rohr questioned whether there would be any repercussions if the numbers were left as they are? Tammy Lapp-Harris from Morton County Emergency Management explained that when the numbers start on that road in the 1800's, they then drop down to these lower numbers and then go back up to the 1500's. She said that the Police and Fire Departments were asked if the numbers could be confusing to them and they replied "yes" for the newer members of their departments that come on. That is what prompted the request to the City Assessor's office to change those house numbers. Barta explained that he used the 400 numbers initially because of the street that is in there. It is the emergency responders who are asking these 400 numbers be changed for consistency.

Mr. Muth stated that his contractor said the cost would be in excess of \$500 to change out the numbers. However, there are other costs involved such as driver's license address changes, legal documents, banking documents. There is a cost incurred every time you change an address. Commissioner Frank stated that it appears this was an error on the city's behalf. She inquired if it has been discussed as to how this would impact the needs of the citizens and the emergency services involved. Barta replied that it has been discussed with city staff, not the homeowners.

Fire Chief Nardello stated that the first responders do not see the address. He said he was made aware of the problem by the Emergency Management Department and in the future first responders should be part of the discussions on these matters. He stated that Bismarck had a similar problem. The homeowners corrected their information and provided Bismarck with the receipts of expenses and it was paid for out of the Building Permit Revenue fund. He stated that correct sequencing of house numbers is important for emergency responders. Commissioner Tibke commented that this actually happened to her at one time and she agreed that it was very frustrating. She recommended the changes be made consistent with the request of the Emergency Management and that the costs should come out of the City Assessor budget.

Commissioner Frank motioned to change the house addresses to reflect the request based on emergency services but also to have homeowners submit receipts to the City for their expenses directly associated with the changes. 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.

RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1133 Zone Change for Meadows 6th 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 motioned to approve the second consideration and final passage of Ordinance No.1133 Zone Change for Meadows 6th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider second consideration and final passage of Ordinance 1131, 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 2-138N-81W).*

Commissioner Tibke moved to approve second consideration and final passage of Ordinance 1131, 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 2-138N-81W). 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. *Consider introduction and first consideration of Ordinance No.1132 - An Ordinance to Create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition Against Occupying a Recreational Vehicle or Camper Vehicle for the Purpose of a Residence Within the City Limits of Mandan.* Police Chief Bullinger stated the purpose of Ordinance 1132 is to limit the use of camper vehicles and other non-permanent structures for permanent human habitation. This ordinance would allow for safe, comfortable and sanitary use of camper vehicles and other non-permanent structures for short term temporary use for human habitation purposes. This is an ordinance that the City of Williston recently adopted and passed.

For enforcement purposes, the Mandan Police Department will receive the call and contact City Assessor Barta's office for investigation; and, if necessary, turn it over to the City Prosecutor's office. Assessor Barta requested this policy include a provision so that it could also be utilized by an owner of the property (and not just limited to construction site workers). City Attorney Brown stated that this can be approved as written and the second consideration could address a property owner being allowed to place a recreational vehicle on his property for his use.

Commissioner Frank moved to approve, as drafted, the introduction and first consideration of Ordinance No.1132 - An Ordinance to Create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition Against Occupying a

Recreational Vehicle or Camper Vehicle for the Purpose of a Residence Within the City Limits of Mandan.

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.

4. *Consider Financing Resolution for Street Improvement District #161 (North Mandan Street Project). (Note: Bond sale was approved by the Board on October 31, 2012).* Finance Director Welch stated that this resolution and the following resolution are necessary to complete the action that was taken at the last meeting approving the bond sales. Commissioner Rohr motioned to approve the Financing Resolution for Street Improvement District #161 (North Mandan Street Project). (Note: Bond sale was approved by the Board on October 31, 2012). 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.

5. *Consider Resolution Authorizing Issuance of \$5,155,000 Refunding Improvement Bonds of 2012, Series B. (Note: Relates to Agenda item H.4).* Commissioner Tibke moved to approve the Resolution Authorizing Issuance of \$5,155,000 Refunding Improvement Bonds of 2012, Series B. (Note: Relates to Agenda item H.4). 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.

6. *Consider Resolution to correct an unnamed street on Lakewood 6th Addition plat. Approval of the Resolution will name the street 34th Avenue SE.* City Attorney Brown stated that when Lakewood 6th was platted there was a street on the west side that was not named and the street needs to be named. Commissioner Tibke moved to approve the Resolution to correct an unnamed street on Lakewood 6th Addition plat. Approval of the Resolution will name the street 34th Avenue SE. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

OTHER BUSINESS:

1. *Election Day 2012:* Mayor Van Beek reminded everyone to get out and vote today.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the regular meeting at 5:30 p.m. Commissioner Tibke 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