
The Mandan City Commission met in regular session at 5:30 p.m. on October 21, 2014 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota.

Commissioners present were Van Beek, Tibke, Rohr, Laber, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, and Building Official Lalim, Absent: Director of Public Works Wright and Assessor Shaw.

B. APPROVAL OF AGENDA: Commissioner Tibke 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: Mayor Van Beek invited anyone to come forward to address items on the Agenda excluding public hearings. A second announcement was made to come forward to speak for or against items on the Agenda. Hearing none, this portion of the Public Communications forum was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission regular meeting held October 7, 2014.* Commissioner Braun moved to approve the minutes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of monthly bills.* POST BOARD - 45.00; EILER/CHAD J - 2,950.00; MONTANA-DAKOTA UTILITIES - 19,589.40; SUNSET DEVELOPMENT, LLC - 122,500.00; MONTANA-DAKOTA UTILITIES - 29,737.29; ADVANCED ENGINEERING SVC - 42,889.19; AQUA-PURE INC. - 315.00; BALABAN LAW OFFICE - 1,500.00; BIS-MAN CONVTN & VISITOR - 5,282.00; BOERGER, LLC - 3,407.60; CENTRAL DAKOTA FORENSIC - 80.00; COMPANION LIFE - 10.00; DAKOTA MEDIA ACCESS - 8,332.25; EILER/CHAD J - 2,800.00; ETHANOL PRODUCTS - 1,127.11; FETZER ELECTRIC, LLC - 7,894.82; FORT DEARBORN LIFE - 483.21; GLASS/THOMAS J. - 1,500.00; HDR ENGINEERING, INC - 398.65; HUBER/ELLEN - 226.00; HURJU/KRISTA - 13.25; JABLONSKI/EMMA - 150.00; JACOBSEN/CARL - 35.00; KADRMAS, LEE & JACKSON, - 51,586.20; KELSCH KELSCH RUFF & KRA - 4,000.00; KLEIN/MILTON - 18.52; LALIM/DOUG - 77.00; LASER SPECIALIST - 39.00; MANDAN PARK BOARD - 12,500.00; MANDAN PROGRESS ORGANIZA - 700.00; MANDAN TIRE CENTER - 7,491.96; MARINER CONSTRUCTION INC - 517,726.25; MIDWEST TESTING LAB INC - 7,539.25; MORTON COUNTY HIGHWAY DE - 7,603.35; NALCO CHEMICAL CO - 1,402.96; ND DEPT OF

TRANSPORTATIO - 205,931.68; ND FIREMENS ASSOCIATION - 130.00; ND PERS - 98,997.95; NDACO RESOURCES GROUP - 1,235.12; NORTH VALLEY HOMES - 2,077.45; NORTHERN IMPROVEMENT CO - 125,059.00; POST BOARD - 315.00; QUAM CONSTRUCTION CO INC - 247,619.84; RENNER'S LAWN SPRINKLING - 759.15; RITTENBACH/PAUL - 15.93; SRF CONSULTING GROUP - 161.95; STARION BOND SERVICES - 570,601.67; THIRKETTLE CORPORATION - 247,152.72; TOMAN ENGINEERING CO - 1,554.25; TRAFFIC SAFETY SERVICES - 535.36; VOGELPOHL/STEVEN L - 3,621.00; WELTIKOL/SHANE - 292.63; WENCK ASSOCIATES, INC - 16,958.86; WINKS/LOREN K - 35.00; LAW ENFORCEMENT ASSOCIAT - 2,400.00; RADER/RYAN - 453.95; WELLS FARGO COMMERCIAL C - 329,494.50; MONTANA-DAKOTA UTILITIES - 19,286.75; ADVANCED ENGINEERING SVC - 41,253.65; ADVANCED WEIGHING SYSTEM - 1,500.00; AQUA-PURE INC. - 12,578.80; AT & T - 746.50; BAISH/SCOTT - 1,086.53; BISHMAN CONVTN & VISITOR - 6,824.05; BIS-MDN TRANSIT BOARD - 898.49; CBI BUSINESS SERVICES - 7,247.37; CENTER FOR FAMILY MED - 397.00; CITY OF MANDAN - 169.85; COMPUTER PROFESS UNLIMIT - 89.00; CONNOR/RUSS - 133.19; CROWLEY FLECK PLLP - 4,500.00; CUSTER DISTRICT HEALTH U - 1,060.45; EDLING ELECTRIC INC - 41,768.89; EILER/CHAD J - 5,000.00; ETHANOL PRODUCTS - 157.80; FERGUSON WATERWORKS #251 - 76.30; FETZER ELECTRIC, LLC - 12,995.45; FOUR SQUARE CONCRETE LLC - 802.75; GERHARDT STORAGE - 195.00; GRAYMONT CAPITAL INC - 11,257.65; HARPER/TIM - 5.03; HAWKENSON/MIKE - 33.45; HEPPEL OLSON ARCHITETS - 6,132.00; HUB INTERNATIONAL OF ND - 9,996.00; INFORMATION TECHNOLOGY D - 1,393.41; INTERGOVERNMENTAL SHOP - 17,006.38; INTERSTATE ENGINEERING - 14,563.34; KADRMAS, LEE & JACKSON, - 1,695.85; MANDAN AIRPORT AUTHORITY - 1,797.06; MANDAN MUNICIPAL COURT - 1,240.00; MANDAN PARK BOARD - 219,110.04; MARINER CONSTRUCTION INC - 536,954.23; MIDWEST TESTING LAB INC - 7,156.70; MISSOURI VALLEY PETROLEU - 18,313.73; MISSOURI WEST WATER SYST - 77.08; MORTON COUNTY AUDITOR - 5,882.95; MORTON COUNTY RECORDER - 29.00; MORTON MANDAN PUBLIC LIB - 16,487.38; MY GOV, LLC - 700.00; ND FIREMENS ASSOCIATION - 65.00; ND STATE DEPT OF HEALTH - 48.00; NDACO RESOURCES GROUP - 1,043.22; NEUBAUER/JAMES - 127.68; NORTHERN IMPROVEMENT CO - 487,769.12; PKG CONTRACTING INC - 72,367.88; PRESORT PLUS - 3,961.37; ROHR/DENNIS - 290.10; SANITARY SEPTIC SERVICE - 430.00; SRF CONSULTING GROUP - 92.26; ST. ALEXIUS MEDICAL CENT - 604.50; STARION BOND SERVICES - 125,142.00; TRAFFIC SAFETY SERVICES - 425.00; WEHRI/RADEANNA - 200.00; WENCK ASSOCIATES, INC - 14,384.47;

2. *Consider for approval the special assessments for Weed Cutting of 2014, Sidewalks of 2014 and, Health and Safety of 2014.*
3. *Consider for approval the assessment of delinquent accounts for 2014.*
4. *Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation (NDDOT), Traffic Safety Office.*
5. *Consider approval of change order for Lakewood 6th and 7th Addition street improvement project.*

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6. *Consider proclaiming November 29, 2014 as Small Business Saturday in Mandan.*
 7. *Consider NDDOT agreements and easements relative to Main Street ADA Project 9-999(304), PCN 20268.*
 8. *Consider approval of the following Games of Chance: (i) Welcome House Inc. at Welcome House Inc. from Oct. 27, 2014 to Dec. 21, 2014; (ii) Kiwanis Club of Mandan at Mandan Eagles Club from December 6, 2014 to June 30, 2015.*

Commissioner Laber moved to approve the Consent Agenda as presented for No. 1-7 and amended her motion to include Consent Agenda Item No. 8. Commissioner Rohr seconded the motion and the amended motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Presentation regarding Law Enforcement Retirement Plan.* Peter Czapiewski, a Mandan Police Officer representing the police officers of the department requested the City switch to the ND Law Enforcement PERS defined benefit plan effective January 1, 2015. He explained the PERS Retirement Program is specific for law enforcement sworn officers and certified correctional officers. The contribution rates that are now in effect that will pertain include a mandatory 7.93% contribution by the employer (City of Mandan) in addition to a 1.14% health care contribution. The health care contribution will help with the purchase of health care coverage during retirement. The employee contribution level will be 5.5% which is the minimum the employee will contribute for this plan. A total of 9.07% is what the City of Mandan will have to contribute to this plan which is less than what the Commission had budgeted for 2015. He stressed the importance of going with this plan basically has to do with recruitment and retention of officers to the police force. He stated that the City of Mandan Police Department is the only agency in the area that does not have a defined benefit retirement plan. The Morton County Sheriff's Department participates in the ND Law Enforcement PERS plan and so does the Burleigh County Sheriff Department and Lincoln Police Department.

Sparb Collins, Executive Director NDPERS came forward to explain the PERS Plans. He stated that there are six defined benefit plans and defined contribution plans on behalf of the state and political subdivisions. The Law Enforcement plan is part of the Public Employees Retirement system but its costs are determined based upon that specific plan. It is not part of the main retirement system which has state and political subdivisions in it, of which there are about 18,000 actives. Each plan has a different contribution rate that is established for each plan based upon the actuary experience of the group. Outside the PERS trust there is one specific for the Highway Patrol and a separate one for Job Service of which all those are also actuary determined separate. The reason they are separate is because each have certain variances in the plan design. For example, this law enforcement system is very much like the main retirement system except it has an earlier

retirement date so its benefits are slightly different than the other plans. The goal is to match the costs of the plan with the terms and benefits of the plan.

Commissioner Tibke stated that the legislature is going to discuss defined contribution and defined benefit plans in the upcoming legislative session. If the legislature moves forward and eliminates defined benefit and moves to defined contribution how would that affect this pool of money for law enforcement? Right now it is affordable but that could be questionable in the future if that were to change. She questioned how changes may affect city budgets that have joined this program? Mr. Collins replied that there has been discussion about changing the main retirement system for state employees that provides retirement for the employees of the state of North Dakota and participating political subdivisions. About half the clients in the main retirement system are political subdivisions and the remaining are state employees. The state is talking about changing it to include state employees only in that system. That is one of the reasons why the law enforcement plans are separate from the main state employee retirement system. There has been ongoing conversation at the state since 1999, at which time a defined contribution plan was put into place for non-classified state employees. At the last legislative session the decision was made to make a defined contribution plan optional for all state employees. 90% have moved toward the defined benefit plan.

Mayor Van Beek asked City Administrator Neubauer or Finance Director Welch if, in their opinion, are there any negatives or positives to the plan presented? Director Welch replied that within his conversations with Moody's, not knowing what the pension obligation or unfunded pension liability in this case would be for the City, he stated that he could not quantify what that impact would be. However, the question of if the City participates in a defined benefit plan is asked and the response is noted in the bond analysis for the City. Director Welch stated that other concerns he has with this plan include the long term plan stating that currently the City has a 100% funding level (in other words, we pay as we go) so the City would not be responsible for any long term unfunded benefits when it comes to pension. The question is whether the City can sustain any market adjustments that would cause significant losses to a defined benefit plan and who would be responsible for making up those losses? More than likely, it would be the City and that is of concern.

Commissioner Laber stated that according to the Agenda this matter was a presentation of a retirement plan, indicating that she feels she has not seen enough presented to make an adoption of a plan or not adopt a plan. City Attorney Brown replied that this is a presentation of a retirement plan pursuant to a request from the Mandan Police Department for a retirement proposal. He stated he did not believe action is necessary at this time to approve or not approve the retirement plan. He said that the Commission is open to do what they wish at this time. The presentation can be accepted and require additional information or study on it at a future time.

Commissioner Tibke asked Chief Bullinger about the costs incurred to train an officer? Chief Bullinger replied that cost is estimated by salaries and equipment for approximately 3 months, which is about \$25,000. There have been 5 or 6 new hires this year (2014).

The typical number of new hires per year has averaged between 3 and 5 over the last 7 years. Officers generally stay about 3 years and then move on to other agencies. One of the main reasons for moving on are for better benefits that would include not only a retirement but health insurance too.

Commissioner Tibke stated she is comfortable with taking the information presented; however she is very interested in moving forward with addressing some of these issues discussed and balancing (the plan) with Finance (bond rating). The issues are much broader than what type of officers can we attract and also having a benefit plan available so they can retire when they need to. She extended a thank-you to the police officers for their hard work in doing the research and pulling this presentation together and to Mr. Collins for the helpful information. She stated she would like to review the information and also provide the other commissioners with additional time to look through the information presented. She would like to see a decision made prior to 1/1/15. She encouraged the people on these plans to contact their local legislators and discuss the importance of these plans, not only for law enforcement but city employees too. Senator Cook and Representative Toman and Representative Porter represent the City of Mandan.

Commissioner Rohr stated this matter has been before this Board before. He indicated that he would like to review the information closer and make sure the City Commission is well versed as much as possible and to resolve the matter and not push it off much longer. Mayor Van Beek concurred with Commissioners Tibke and Rohr's comments but he stated he would like to wait until after the legislative session to address it. He agreed that speaking to legislative representatives now is important but that he does not want to put the cart before the horse and have the state not fund it or whatever is decided. He stated he would like to see what they decide before the City puts the citizens at risk with this.

Commissioner Tibke mentioned that she thinks the legislature is putting the matter at risk, not the Mandan City Commission. Commissioner Laber stated she is concerned about the structuring of the plan as a mandatory requirement in a defined benefit for every single employee. The mobility of today's work force is not I get a job as a recruit when I am 18 and I retire in the same department in the same city when I'm 55. That does not happen anymore in today's world and she stated she would like to see more research conducted on this matter and she would spend more time in looking at this in today's workforce. Commissioner Tibke stated that Mr. Collins has offered to meet with Commissioners individually so he can answer questions and then a session with Finance Director Welch should be held in order to determine the overall balancing of the plan with the finances of the City.

Mayor Van Beek extended a thank-you to the police officers for their presentation. This matter will be discussed at a later date in order to allow time for the commissioners to review the plans and data provided and additional time to discuss with Mr. Collins.

2. *Update and presentation by AE2S on Water Treatment Plant Intake study.*
Planning & Engineering Director Froseth stated that last year the City entered into a agreement with AE2S Engineering for the purpose of studying the needs, possible

locations and costs associated with a proposed new intake for the Water Treatment Plant. AE2S has prepared a brief presentation on the findings of the work done since that time. The presentation follows a comprehensive Technical Memorandum Study that was submitted to the City staff.

Ken Weber, AE2S Engineering, came forward and provided a summary of the activities. He provided a brief history of the project and past studies of what has been done and what their current studies are and what is being done for current intake. He reviewed the next steps in the process stating that the project is in collaboration with Tesoro. There are some concerns, such as the intake is getting old. The infrastructure is continuously upgraded and there is decay from over the years. The ventilation is one of the more critical problems causing damage to the electrical equipment and it should be addressed. The doors and windows are in poor shape and that's what you see on the surface. The real issue is the intake. In 1964, when the Grant Marsh Bridge was built and now 30-40 years later, the channel at the particular intake has shifted to the east side. The sand bar has shifted and when it gets in front of the intake, the water is diminished and that is a problem. Every time this happens, the City has to get a permit from the Army Corp of Engineers and they are wondering why it is not being corrected. There were 3 previous studies done. 2002 was a filtration study and it stated the river has moved from west to east. The 2006 study tried to identify what types of intakes would be conducive for the City of Mandan. The study was conducted and it was recommended to look at a conventional intake.

Work is in progress on site selection. At the north end of the Riverbend addition, the channel is well defined, stable and armored. This is the preferred site. Mr. Weber stated the initial estimated costs were \$10 million about 7-8 years ago. Costs have since increased and they have been submitted to State Water Commission approximately \$18 million. In 2013, a 50% grant was received by the City of Mandan for the preliminary study. A funding application was submitted to the State Water Commission and initial results back would indicate the project could be partially (80%) funded through a loan. With that in mind, we need to move down the path as to what does or not does not make sense. There are several steps yet to be taken, however, we will schedule public meetings to discuss the project with the affected neighbors. The timeline indicated 5 years from whatever the point of preliminary engineering begins until the project is done. Mayor Van Beek stated this is an informational item only with no action required at this time.

3. *Approval for advertisement of RFP for engineering services for downtown street improvement district for street reconstruction.* Planning & Engineering Director Froseth stated the Engineering Department has identified an area in downtown Mandan to conduct a street improvement district project located between 4th Avenue Northeast on the west and Mandan Avenue on the east and north of Main Street to approximately 4th Street, at the bottom of the hill. This is being addressed due to (1) The majority of the area streets are categorized as unsatisfactory on the 2012 pavement condition index assessment study; (2) Public Works Department has targeted this area for its annual water main replacements, indicating they will need to remove a fair amount of asphalt within this area in order to accomplish this. The Engineering Department recommends hiring an

engineering consultant to put together plans and specifications for this project as well as help with project administration. Director Froseth stated that it would be helpful to bring a consultant on board with the project before creating the resolution of necessity and general scope/estimate which are all requirements before advertising to solicit protests. Director Froseth presented a timeline of key dates for the projects between 10/24/14 and 4/21/15 with plans to construct the project in 2015. He suggested approval of a consultant at the upcoming 12/2/14 meeting with an engineer's report being provided at the second meeting in January.

Commissioner Braun moved to approve the advertisement of RFP for engineering services for downtown street improvement district for street reconstruction.

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

4. *Consider agreement with JLG.* City Administrator Neubauer reviewed with the Board a request to enter into a contract with JLG Architects for a Facility Needs Assessment. He provided a summary of this project stating that the Mandan Sales Tax Committee held a Facility Focus Group meeting in August to gather input from a cross-section of community members and recreational stakeholders to discuss potential improvement projects. Of approximately 30 focus group participants, 65% were in support of a sales tax increase. The projects receiving most support were a new indoor hockey arena, a new or improved City Hall and a Fire Station on the north side of Mandan. In August, the Mandan City Commission approved the issuance of a Request for Qualifications to firm up cost estimates for a renovation, a tear down and possibly rebuild on the present site or a completely new City Hall located on another property. Three of five firm proposals were selected for interviews and the consensus was to enter into an agreement with JLG. He explained that moving forward the plan is for internal meetings to be scheduled bi-weekly to review findings and prepare for public input meetings. The timeline of details would be firmed up during the first couple meetings with an anticipated first public meeting in January 2015 and another one in February 2015 with a final report on or before April 15, 2015. The cost associated for this analysis is a flat fee of \$50,000 of which the funds will come from the General Fund. This is part of the joint facilities task force that the Park District, the City of Mandan, and the School District have put together. Stephanie Smith from KLG was present to answer any questions.

Commissioner Tibke suggested holding one of the meetings over a noon hour since some families are unable to attend meetings in the evening hours. Administrator Neubauer stated that if there is a good turnout for the first two public input meetings and there is a clear cut direction based on those meetings, a third meeting may not be needed. However, if there is a lot of discussion going on after the first two, a third meeting could be scheduled to firm up which direction the City chooses to go.

Commissioner Braun moved to approve entering into an agreement with JLG for a Facility Needs Assessment analysis for the Mandan City Hall and a new Fire Station with

funding provided from the General Fund as outlined in the contract. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Consider adopting Ordinance 1194 imposing a moratorium on approval of any new medical facility within the City.* Robert Decker, Principal Planner, stated this is a matter that came up recently; in particular, there are no specific rules in the code related to opioid treatment facilities. He stated the legislature authorized the state to enter into agreements for this type of facility. The City of Mandan Ordinances do not address it and since there is a major rewrite of the Municode that will take several months to complete. The issues are complex and will require careful evaluation of whether or not there are changes to the zoning code needed. It is recommended that a 1 year moratorium be imposed on the review and approval of any request to locate a new opioid treatment facility in the City or its extraterritorial zone. Planner Decker stated that the City shares the extraterritorial zone with the County wherein the City does the 1st mile and the County does the 2nd mile. This is a request to hold on any requests.

Commissioner Laber moved to approve adopting Ordinance 1194 imposing a moratorium on approval of any new medical facility within the City and its extraterritorial zone. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 6:56 p.m. Commissioner Braun 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