
The Mandan City Commission met in regular session at 5:30 p.m. on October 2, 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 Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Interim Engineering Project Manager Kim Fettig, and City Assessor Barta. Absent: Finance Director Welch; Business Development and Communications Director Huber.

MINUTES: *Consider approval of the minutes for September 18, 2012 Regular meeting minutes and approval of the minutes for September 18, 2012 Special Working Session meeting minutes.* Commissioner Tibke moved to approve the minutes of the September 18, 2012 regular meeting minutes and the September 18, 2012 Special Working Session meeting minutes. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

1. *Public Hearing to consider an Ad Valorem tax exemption for BOS Solutions Inc.* City Assessor Richard Barta reviewed with the Board a request from BOS Solutions, Inc. for a 5-year tax exemption for a commercial structure at 2916 - 34th Street Northwest, Mandan. The plan is to construct a steel 6,600 sq. ft. warehouse (shop area) with 2,200 sq. ft. that will be utilized as office space. The building will have steel siding with a brick front. Barta stated there was no opposition from any competitors received. A representative from BOS Solutions came forward and explained that BOS Solutions is a company whose principal business is the rental of well-site fluid handling equipment related to the oil and gas industry. Equipment will be brought to Mandan to be overhauled, repaired and serviced and then sent back out to the oil fields.

Mayor Van Beek announced that this is a public hearing and invited anyone from the audience to come forward to speak for or against the Ad Valorem tax exemption for BOS Solutions Inc.

Linda Morris, Morton County Tax Director came forward to represent the Morton County Commission’s vote of 5-to-0 on 9/18/12 in opposition to this request, noting the following:

1. With the business being a service, what amount, if any would the City of Mandan receive in sales tax revenue?
2. The net incomes of \$9.1 million for year one and \$9.7 for years 2 through 5 does not justify the need for an exemption.
3. The business estimates 80 employees with a payroll of \$895,470 which equates out to \$11,193 annual salary. Years 2014 through 2017 indicate the same amount for salary. The County Commission believes that amount is below minimum wages.

BOS Solutions replied that there will be 15 – 20 employees from the local area when the business starts up. The plan is to increase employees to 80 and then in 2014 to 114 with

anticipation to hold that employee number steady for years down the road. The company will be seeking individuals from the Mandan area to fill the positions.

Tim Spilman, Mandan Growth Fund Chairman, came forward to speak in favor of granting the tax exemption request to BOS Solutions Inc. He stated that the Mandan Growth Fund recommended approval of this exemption due to the jobs creation from the business function. Management personnel are going to be located in this building. He mentioned that his understanding is that some of the salaries for these positions created by this business will be in excess of \$100,000. They will have a presence at BSC and some of the employees are or will be instructors at BSC. The MGF recommended 100% for five years based on meeting the criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines. Some of their employees are already in field operations throughout western North Dakota. Spilman reiterated that the MGF voted unanimously to approve this tax exemption. Commissioner Rohr pointed out the fiscal impact of a business that draws sales tax revenue into the city, whereas this is not a service that will bring in sales tax to assist the city in a form of revenue. However, the employees will most likely take up residence in Mandan; therefore they will be contributing to property taxes.

A second invitation was extended by Mayor Van Beek for any comments from the public. Hearing none, this portion of the public hearing was closed.

2. *Public Hearing to consider an Ad Valorem tax exemption for Diversity Homes Inc.* City Assessor Richard Barta reviewed with the Board a request from Diversity Homes to consider a 5-year tax exemption for a commercial structure at 2101 46th Avenue Southeast, Mandan. The structure will be a 1,906 sq. ft. garage and a 4,086 sq. ft. office space. They are requesting the tiered tax exemption plan at 100% for the first 2 years and then 75% in year 3, 50% in year 4 and 25% in year 5. The MGF Committee recommends approval of the tax exemption request. Commissioner Tibke requested clarification as to the request for 100% for 5 years as is noted on page 1 of the application.

Mayor Van Beek announced that this is a public hearing and invited anyone from the audience to come forward to speak for or against the Ad Valorem tax exemption for Diversity Homes, Inc.

Greg Meidinger, Diversity Homes, came forward to clarify that Diversity Homes requested the tiered tax exemptions at 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5. He provided a brief summary of the background history of Diversity Homes. Jason Frank started the company in 2009 and prior to that time he was a home builder for 16 years. There are currently six employees at Diversity Homes. He reviewed the revenue generated from property taxes for the City of Mandan as a result of the homes that have been built by Diversity Homes since 2009 with most homes now being in the \$350,000 price range. He stated that in 2013 they will be bringing in a new line of homes that will be in the \$250,000 and under range. They will be adding more employees as they grow their business.

Tim Spilman, Mandan Growth Fund Chairman came forward to speak in favor of granting the tax exemption request to Diversity Homes for the tax exemption at 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5. Spilman provided an explanation of how the Mandan Growth Fund considers requests and aligns them with the policy guidelines. In summary, if the MGF feels a request may qualify under the guideline criteria for the 100% 5-year exemption, they will recommend it. If the business or entity fails to meet those requirements the tax exemption would default to the tiered tax exemption process. He stated that the MGF voted unanimously in favor of the request for tax exemption at 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5. Spilman recommended approval by the Board.

Linda Morris, Morton County Tax Director came forward to represent the Morton County Commission's vote of 5-to-0 on 9/18/12 in opposition to this request, noting the following:

1. There would be little, if any, sales tax revenue from this project.
2. The net income amount referred to does not justify the need for an exemption.
3. Questioned if Diversity Homes should be considered a "new business" project since it has been in existence since 2009.
4. With other competitors in this same market, this exemption would have an unfair advantage over other builders in the area.

A second invitation was extended by Mayor Van Beek for any comments from the public. Hearing none, this portion of the public hearing was closed.

3. *Public Hearing to consider an Ad Valorem tax exemption for Edgewood Management Group LLC.* City Assessor Barta stated that this is a facility for elderly housing and the company is looking at putting up a new commercial structure at 2801 39th Avenue Southeast, Mandan. They are requesting a 5-year tax exemption at 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5. Morton County submitted a letter in opposition to the exemption request. Barta recommended approval because the request is within the policy guidelines for Ad Valorem tax exemption.

Mayor Van Beek announced that this is a public hearing and invited anyone from the audience to come forward to speak for or against the Ad Valorem tax exemption for Edgewood Management Group LLC.

Rex Carlson, CFO and Treasurer of Edgewood Management Group came forward to speak in support of the tax exemption request. He provided a brief summary of the Edgewood Management Group indicating that they have 42 facilities operating in 7 states, two of which are located in Bismarck, housing approximately 390 residents with roughly 60 people on a waiting list. He stated that the unit to be built in Mandan will consist of 142 units, built in two stages. It will employ approximately 90 people. Carlson provided a summarized history of the Edgewood facilities throughout the United States and what they have to offer to residents and their families. Commissioner Frank commented that she read a news article in the paper from April 2012 wherein it was indicated that Edgewood would be building a 60 bed facility in Mandan. She inquired

why after the fact this request for a tax exemption now comes to this Board. Carlson replied that their competitor, Lakewood Properties (Mandan), was granted the tiered tax exemption plan for their facility. Carlson expressed what impact it would have on Edgewood if it would not be granted the same tiered plan. In particular, housing rates would probably be higher at Edgewood because they would not have the tax savings benefit allowing them to offer a lesser fee than what Lakeview has to offer.

City Attorney Brown asked Mr. Carlson if he was aware that with these types of tax exemptions the City of Mandan requires a claw back agreement in the event the Edgewood facility would be sold to a non-exempt, so that would require the repayment of any exemption that the facility was given? Carlson replied that he was aware of claw back requirements.

Linda Morris, Morton County Tax Director came forward to represent the Morton County Commission's position on this request:

1. Will the property be leased or owned property by Edgewood Management?
2. Will the company be expanding in the future?
3. Regarding Line 25 of the application, provide a clarification of which project this is in reference to.
4. Objected to the granting a five year 100% exemption but would not object to a "two year 100% property tax exemption".

Tim Spilman, Mandan Growth Fund Chairman, came forward to speak in favor of granting the tiered tax exemption in this matter. He stated that the MGF recommended approval of the tax exemption for Edgewood Management Group, LLC based on meeting the guideline criteria for 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5.

A second invitation was extended by Mayor Van Beek for any comments from the public. Hearing none, this portion of the public hearing was closed.

BIDS:

1. *Consider awarding Infrastructure Grant projects to Swanberg Construction Co.* Director of Public Works Wright reviewed with the Board the bids received for flood control structure improvements. He stated that in May 2012 this Board approved up to a \$1 million local match to participate in infrastructure to improve flood control structures in Mandan. This came as a result of the flood of 2011 of the Missouri River. The grant is a 50/50 match and the projects were designed by Interstate Engineering in the Marina Bay and Riverbend Addition. Bids were sent out in August and 3 bids were received back in September with the low bidder being Swanberg Construction for \$270,710. The engineer's estimates for the projects were \$254,802. Recently the other part of this project, the Wastewater Treatment Plant outfall bid project was awarded. The cost for both of these projects together are under the \$1 million estimated cost. Wright recommended awarding the Infrastructure Grant projects to the low bidder, Swanberg Construction Co. in the amount of \$270,710 to do the work needed for the flood infrastructure.

Commissioner Frank moved to approve the bid award for flood structure improvements project as part of an Infrastructure Grant, to the low bidder, Swanberg Construction Company for a total of \$270,710. 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.

CONSENT AGENDA:

1. *Consider approval of a site authorization for Horse Race North Dakota at Dean's Steakhouse, LLC from Oct. 1, 2012 through Dec. 31, 2012.* The Board approved of a site authorization for Horse Race North Dakota at Dean's Steakhouse, LLC from Oct. 1, 2012 through Dec. 31, 2012.
2. *Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Traffic Safety Office.* The Board approved of the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Traffic Safety Office.
3. *Consider games of chance for Sons of Norway-Sverdrup Lodge #107 at the Mandan Eagles Club on November 16, 2012.* The Board approved of the games of chance for Sons of Norway-Sverdrup Lodge #107 at the Mandan Eagles Club on November 16, 2012.
4. *Consider for approval the final plat of Meadows 6th Addition.* The Board approved of the final plat of Meadows 6th Addition.
5. *Consider for approval the final plat of Missouri Valley Addition.* The Board approved of the final plat of Missouri Valley Addition.
6. *Consider for approval the final plat of Ramblewood 13th Addition.* The Board approved of the final plat of Ramblewood 13th Addition.
7. Requested to be removed by Commissioner Rohr for further discussion.
8. *Consider proclamation designating October 6, 2012 as Nickelodeon Worldwide Day of Play in the City of Mandan.* The Board approved of a proclamation designating October 6, 2012 as Nickelodeon Worldwide Day of Play in the City of Mandan.
9. *Consider proclamation designating September 24, 2012 as Family Day – A Day to Eat Dinner with Your Children in the City of Mandan.* The Board approved of a proclamation designating September 24, 2012 as Family Day – A Day to Eat Dinner with Your Children in the City of Mandan.
10. *Consider approval of the employment contract for the Business Development & Communications Director.* The Board approved of the employment contract for the Business Development & Communications Director.
11. *Consider budget amendment to the 2012 Water and Sewer Utility Fund to upsize water main in Plainview Heights 13th Addition.* The Board approved the budget amendment to the 2012 Water and Sewer Utility Fund to upsize water main in Plainview Heights 13th Addition.

Commissioner Frank moved to approve the Consent Agenda items No. 1 thru 11, removing no. 7 for discussion as presented. 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.

7. *Removed for discussion: Consider for approval the final plat of Sunrise View Estates 1st Addition.* Commissioner Rohr pointed out that on the map that is provided of the property in discussion, the plat is actually on the opposite side of an area that is in the county, not within the city. He stated from 27th Street is delineation where the properties or most of the properties just south of that is city limits. So you have an existing group of properties here with another area to be platted. The question is, is approving this plat premature at this time? He suggested looking at the other properties to see how they are going to fit in the scope of things later on in this project in terms of bringing them into the city.

City Attorney Brown agreed with Commissioner Rohr that it is premature. The problem is that there is a subdivision outside the city limits. The lots of which are too small for a septic tank system which would require a sanitary sewer system; so, by approving the plat, the city would provide those services and it is not part of the city. There is about a half a mile or a mile to the city limits. It would be appropriate to plat the property once it is located inside city limits.

Commissioner Rohr motioned to deny the request for approval of the final plat Sunrise View Estates 1st Addition. 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.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations on property tax incentives for new or expanding businesses:*
(i) *Diversity Homes, Inc. for a project at 2101 46th Avenue SE:* Following the discussion held at the public hearing, Mayor Van Beek asked if there were any comments for discussion from commissioners regarding this project. Commissioner Rohr pointed out that there have been conversations with the Mandan Growth Fund wherein there was discussion around the subject of profitability of companies and how that would pertain to qualifications for tax exemptions. He brought this up for a point of discussion.

Commissioner Frank moved to approve the request for a tax exemption for Diversity Homes, Inc. for a project at 2101 46th Avenue SE. 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5. Commissioner Rohr seconded the motion.

Commissioner Frank asked Greg Meidinger of Diversity Homes if it was his intention to request the tiered exemption plan. Meidinger replied that he followed the guidelines and he felt his request came under the tiered option. Commissioner Frank replied that the criteria for the full five years relates to job creation. She explained that when the Boards review these requests it is important that they keep into consideration that they are

affecting tax payer dollars when granting requests such as these. She recommended approval of the tiered system for this project which is what the applicant initially requested. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: No; Commissioner Van Beek: Yes. The motion passed.

(ii) *Edgewood Management Group, LLC, for a project at 40th Street SE & McKenzie Drive:* Following the discussion held at the public hearing, Mayor Van Beek asked if there were any comments for discussion from commissioners regarding this project. Commissioner Rohr motioned to follow the recommendation as set forth by Morton County granting a 2-year 100% tax exemption. The motion died for lack of a second.

Commissioner Braun motioned to approve a property tax incentive for new or expanding businesses for Edgewood Management Group LLC in accordance with the recommendation of the Mandan Growth Fund Committee for a tiered tax exemption at 100% for years 1 and 2, 75% for year 3, 50% for year 4, 25% for year 5 according to meeting all the criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and also under state statute. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

(iii) *BOS Solutions, Inc. for a project at 2916 34th Street NW.* City Administrator Neubauer commented that Tim Spilman, Mandan Growth Fund Chairman, spoke to this Board in support of this project and that the MGF recommended a 100% tax exemption for 5 years provided they meet the job requirements outlined in the City of Mandan's policy guidelines.

Commissioner Tibke commented that over a period of years the City has been trying to attract businesses such as this to build the community and she stated she supports this request as long as BOS Solutions meets the job requirements in years 3, 4, and 5. She stated she does not support their request of payments in lieu of taxes 2018 through 2033. Commissioner Rohr asked for clarification that this does not meet the definition of a warehouse since it is actually a workshop as explained. He agreed with Commissioner Tibke that there would be advantages for this business locating in Mandan.

Commissioner Frank moved to approve a property tax exemption for new or expanding businesses for BOS Solutions, Inc. in accordance with the recommendation from the Mandan Growth Fund Committee with the conditions of a 100% exemption for five years due to the number of jobs created in relation to the building investment subject to verification of meeting the minimum number of jobs on site in year 2 and sustained through year 5 and meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and under state statute. 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. Mayor Van Beek extended a welcome to BOS Solutions for choosing Mandan for its business location.

RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No. 1130 to change street names Wildrye Street and Meadow View Drive to Wildrye Circle NW. –An Ordinance changing the names of certain streets or parts thereof situated within the City of Mandan, Morton County, North Dakota.* Commissioner Tibke motioned to approve the second consideration and final passage of Ordinance No. 1130 to change street names Wildrye Street and Meadow View Drive to Wildrye Circle NW. – An Ordinance changing the names of certain streets or parts thereof situated within the City of Mandan, Morton County, North Dakota. 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.

OTHER BUSINESS:

1. Mayor Van Beek encouraged Mandan residents to participate in the Firemen’s Walk/Run scheduled for 8 AM Saturday morning.
2. Fire Chief Nardello announced that Fire Awareness Day sponsored by the Mandan Fire Department will be held on Tuesday, October 9, 2012, starting at 6:30 p.m. followed by an Open House from 7:00 to 9:00 at Fire Station #1.
3. Commissioner Frank provided a reminder that there will be a Morton County Commission Candidate Forum on Wednesday, October 3rd, at 6:00 p.m. in the Ed “Bosh” Froehlich Meeting Room followed by the Superintendent of Public Instruction candidate debate starting at 7:15 p.m. Both will be hosted by the League of Women Voters and will be aired on Dakota Media Access.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the regular meeting at 6:35 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