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The Mandan City Commission met in regular session at 5:30 p.m. on October 7, 2014 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, and Laber. 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 & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, and Building Official Lalim. Absent: Commissioner Braun and Assessor Shaw.

B. APPROVAL OF AGENDA: Commissioner Tibke motioned to approve the Agenda as presented. Commissioner Rohr 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.

Cheryl Dillon, 1604 Sunset Drive, came forward and stated she was here to discuss the specials assessed on the street improvements and storm sewer improvements. She stated she believes this should be paid for by the federal government because it is a main artery into Mandan. It is a major road used by Mandan. Even though they paid quite a bit of the costs she believes they should pay all costs involved. She stated the road was badly constructed and is very bumpy and the curbing is chipped and cracked which were brand new last year. She stated that traffic is very heavy and noisy on that road. She feels that she should not have to pay specials on the road. Also, for the water and sewer improvements she was charged \$3,419.75, which she believes is very excessive compared to others in Mandan who had the same service done who paid an average of approximately \$700.00.

Ted Flemmer, 1602 Sunset Drive, came forward and stated that he has lived in his home for approximately 55 years. He inquired if the Commission would object if the State Highway Department would take over Sunset Drive as a State Highway due to #1 the tax issue and #2 the road will just get worse. He stated he called the Highway Department and they said Sunset Drive should be under state regulation. Commissioner Tibke suggested residents call their state representatives to discuss the matter about it being a state road and regarding an increased contribution based on increased traffic.

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 September 16, 2014 and Special Meeting held October 2, 2014.* Commissioner Laber moved to approve the minutes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

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E. PUBLIC HEARING:

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of games of chance for Morton County Friends of NRA at the Seven Seas Hotel on October 23, 2014.*
3. *Consider for approval Out of State Travel for International Code Council training Classes for Building Official Lalim.*
4. *Consider proclaiming October, 2014 National Disability Employment Month in the City of Mandan.*
5. *Consider for approval replat of Lot 1, Block 1, Meadow Ridge 3<sup>rd</sup> Addition*
6. *Consider relinquishment of interest in 611 W Main St.*
8. *Consider approval to close the State Small Business Credit Initiative bank account at Starion Financial.*
9. *Consider approval of Sunday Openings for Mandan Eagles Club for October 12<sup>th</sup>, October 19<sup>th</sup>, and November 30<sup>th</sup>, 2014.*
10. *Consider budget amendment to the 2014 Street Department Capital Outlay budget.*
11. *Consider budget transfer from 2015 Street Department Capital Outlay budget to 2014 budget.*
12. *Consider for approval Amendment No. 3 to the Engineering agreement with AE2S for 2014 Central Alarm System Upgrade.*
13. *Consider advertising for bids for the construction of the Grounds Maintenance Building at the Cemetery.*
14. *Consider Reallocation of Capital Outlay funds to replace Sanitary Lift Station pump.*

Commissioner Rohr moved to approve the Consent Agenda items 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14 as presented. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

The following two Consent Agenda items were removed for discussion:

2. *Consider confirmation of special assessments for Storm Sewer Improvement District #32, Street Improvement District #161 Street Improvement District #163, Street Improvement District #174, Street Improvement District #180, Street Improvement District #187, and Water & Sewer Improvement District #61.* Commissioner Rohr commented on the allocations obtained from the Federal and State to help support the projects. The City Staff attempts to obtain the matching funds given the restrictions there are in place for obtaining Federal monies. The State prioritizes projects for up to three, four, or five years and then a determination will be made as to what the City can apply for as far as funding. City staff works the best they can to get whatever funds are available to help pay for Mandan's street improvement projects because it would be too expensive for people to pay that amount of money without that funding.

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Cheryl Dillon came forward to speak and said she does not understand why the Federal or State funds do not cover the entire cost of the road expenses because of all the traffic that goes by her home such as school buses, dump trucks and semis. Commissioner Rohr explained that the Federal government uses a formula to determine the amounts allotted towards street improvement projects. He suggested that an alternative solution would have to be determined by long-term planning in order to handle or divert the traffic flow from Sunset Drive to another place or have a better routing of the traffic flow. Mayor Van Beek said that there are traffic studies that can be conducted in this area; however, Collins Avenue and Sixth Avenue are our main thoroughfares that go north. He concurred with Commissioner Rohr that the City Staff has done a good job in doing what they could to help lessen the burden of this project by getting as much State and Federal funding as possible to defray the project costs. Ms. Dillon commented that with regard to being charged \$3,400 for the new sewer and water and that there are residents down the street that only had to pay \$700. She does not understand why there is such a difference in assessments.

Kim Fettig, Engineering Project Manager, replied that the difference in assessments is because Ms. Dillon's residence is located within both the water and sewer projects and that resulted in an assessment of \$3,419.75. In the area down from her residence, those residents were assessed \$659.96 because that only involved the water project costs and they were not a part of the sewer project.

Commissioner Rohr moved to approve the confirmation of special assessments for Storm Sewer Improvement District #32, Street Improvement District #161 Street Improvement District #163, Street Improvement District #174, Street Improvement District #180, Street Improvement District #187, and Water & Sewer Improvement District #61. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

7. *Consider approval of change order for Street Improvement District 186, Project 2013-22 (Macedonia Hills First Addition).* Planning & Engineering Director Froseth stated this is a request for a change order due to extra sub-base aggregate material under the asphalt. In discussions with the project inspector he stated there was an error in the estimate because the design engineer who put this project together did not account for the sub-base material in their estimate. However they did in their detail of the street costs but not in their estimate of the material under the curb and gutter. Not just the asphalt section of the street. The curb & gutter will add another two feet on each side of the street and that is the base material that was not included the estimate. The asphalt numbers are running about \$20,000 lower than the estimate and that's the factor the engineer put in. Commissioner Laber said that with a change order this large, (\$53,000), it will make a difference in the specials assessed and it should be discussed. But if they are balancing in other ways, that is understandable. But with the tough terrain throughout Mandan, a more diligent job should be done.

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Commissioner Laber moved to approve the change order for Street Improvement District 186, Project 2013-22 (Macedonia Hills First Addition). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

At this point in the meeting, Commissioner Tibke left due to a prior engagement.

H. OLD BUSINESS:

1. *Consider request for extension by Mandan Hotel Group for deadline to complete project for property tax exemption.* Business Development & Communications Director Huber stated that on November 6, 2012, a property tax exemption was approved by the City Commission for the Mandan Hotel Group at its 27<sup>th</sup> Street NW location for a Comfort Inn and Suites. The City of Mandan Commercial Property Tax Exemption Policy and Guidelines in effect at that time stated “An exemption that has been granted will be considered lapsed and invalid if construction has not begun in one year and completed in two years.” Director Huber stated that this project will not be completed by November 6, 2014 and the Mandan Hotel Group has submitted a letter requesting an extension to July 1, 2015 for the Commission to review. The delays are due to design and financing for the project as well as employment shortage throughout the community. They are asking for consideration for the extension. This project would be considered as grandfathered-in prior to the November 2013 legislation going into effect which would have been August 1, 2013. Director Huber recommended approval of the request for extension to July 1, 2015. Don McGuire, President, Mandan Hotel Group was present to answer questions about the project. He clarified that concentration is on the parking lot right now before winter arrives and then the interior of the building will be completed. He stated that a Certificate of Occupancy may be possible prior to July 1, 2015.

Commissioner Laber moved to approve the request for extension by the Mandan Hotel Group to July 1, 2015 or upon receipt of the Certificate of Occupancy with regard to the previously approved property tax exemption. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

I. NEW BUSINESS:

1. *Consider for approval replat of Lots 2 – 4, Block 1 Lakewood Commercial Park Second Replat.* City Planner Decker stated that this matter is a follow-up to the recently approved PUD Ordinance and this is the plat that goes with that. Additional parking will be provided along the streets for guests as discussed at the Planning and Zoning Commission meeting.

Commissioner Laber moved to approve the replats of Lots 2 – 4, Block 1 Lakewood Commercial Park Second Replat. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

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2. *Consider request to move up deadline for bid opening for SID projects requesting funding by special assessment method.* Planning & Engineering Director Froseth stated that at the end of the 2013 construction season, six street improvement district projects did not meet their contractual completion deadlines. The projects were bid late in the season in July and August. In February 2014 the Engineering Office brought a recommendation to set a bid opening deadline of July 1<sup>st</sup> for 2014 projects for new development SIDs requesting funding by special assessment method. Those plans worked well as the SIDs yet to be paved has been reduced dramatically. In addition to proactive planning and on time completions, generally the earlier the bid opening for street projects, the better the bid price will be because contractors are less likely to have full schedules. The Engineer's office recommends setting a bid opening deadline for the 2015 Street Improvement District projects that request funding by the special assessment method by June 1, 2015. The June 1<sup>st</sup> date would require that the plans and specifications be approved at or before the May 5, 2015 City Commission meeting date. The developers would have the option to build their streets outside of a lot assessed SID if they so choose and would not be bound by this deadline and that would be accomplished by three-way agreement..

Mayor Van Beek commented this is forward thinking and encouraged Director Froseth to continue the bid opening process in this manner in the future.

Commissioner Rohr moved to approve moving up the deadline for 2015 bid opening for SID projects requesting funding by special assessment method as presented.

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

3. *Consider purchase of SolarBee equipment for wastewater treatment plant sludge pond.* Planning & Engineering Director Froseth stated that the City Wastewater Treatment Plant is currently working with AE2S Consultants on an optimization project. The SolarBee mixers are part of the project and Medora Corporation, Dickinson, ND, is the exclusive manufacturer of the mixers. The ND State Health Dept. has approved the mixers to be part of the State Revolving Fund (SRF) funded project. The new mixers will reduce bio-solids related odors by enhancing the sludge digestion and treatment process. The new mixing system will enhance neutral aeration while promoting sludge thickening. Enhanced thickness will reduce volume of sludge handled annually resulting in operation and maintenance savings to land application programs, reduced fuel consumption and reduced impact to lands receiving bio-solids application. The estimated cost of the mixers is about \$104,000 and will ultimately be paid for by the SRF which is to be applied for soon.

Commissioner Rohr stated that the City should develop solutions for reducing the odors due to the residents living in that area. At one time the WWTP was out there away from everything and now the area has been built up around it. It would not be economically feasible to move the Wastewater Treatment Plant. Director Froseth and Mr.

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Himmelspach stated that they believe two mixers will be sufficient to handle the treatment process as per the recommendation of the consultants.

Commissioner Laber moved to approve the purchase of the SolarBee equipment for Wastewater Treatment Plant sludge pond. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

4. *Consider a variance to allow installation of a concrete strip in right of way between parking lot and sidewalk at 173 Riverwood Avenue Southeast.* Planning & Engineering Director Froseth stated this is a request for a variance to start construction allowing a strip of concrete to be installed between the property line and the sidewalk along the length of the property. The property owner has been advised as to sidewalk safety. The developer has been working with the engineer to assure pedestrian safety. The Beautification Committee has asked them to set some landscaping or green space standards in zoning such as commercial and industrial. Another concern that was brought up was the water main that runs under the boulevard. If there is a break, the cost of removing and replacing the concrete would be paid for by the City. One step in this plan was to insert an expansion point on the property line so if the water main has to be accessed, it can be done so at that point. Based on the above explanation it was noted that the conditions to this variance are unique to this property.

Mark Fleck of Skytland Fleck Enterprise LLC came forward to speak and stated he is the property owner involved along with his partner, Rod Skytland. He said he has addressed the concerns noted above with Director Froseth regarding public and pedestrian safety and they are in agreement with what Director Froseth outlined. He also stated he has discussed with Director of Public Works Wright the water main that runs at the center of the sidewalk. He stated that if there would be a water main break he would be in agreement to cover the costs of re-pouring his sidewalk concrete and he will work with the City on a water main break should it ever occur. He said he has some disagreement with the beautification part of the project, stating that this is an industrial area and is zoned MA light industrial heavy commercial. Properties in the area have driveways with no curb and some sidewalk. He stated that if allowed to do so, they will pour concrete to the back of the sidewalk rather than place green space there.

Commissioner Laber questioned how we make sure this agreement runs with the land? Is there an easement that runs with the land? City Attorney Brown stated that a simple agreement signed by the City and the property owner(s) which would be recorded with the County Recorder which would thus be binding on any property owner in the future.

Commissioner Rohr said that he feels that a 2-foot area would not warrant a green space due to being such a small area. He clarified that for the A to E guidelines that exist for variances to zoning applications, the findings should apply to each one. In other words, compliance would have to meet each criterion. He stated the wording is confusing.

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Commissioner Laber recommended moving this discussion to the engineering side for review so that there are guidelines under the engineering methodology. Director Froseth said that aesthetic-wise, he had no strong objection to it and that it should be noted that it should be comparable with the variance.

Commissioner Laber moved to approve a variance to allow installation of a concrete strip in the right of way between parking lot and sidewalk with the condition that there is an agreement that ties the property title with addressing the water main repair expense cost sharing at 173 Riverwood Avenue Southeast. Commissioner Rohr seconded the motion.

Attorney Brown stated that as he understands the Agreement, that if the water main needs to be replaced it will be at the City's expense. The reimbursement would be the cost of replacing the hard surface to get to the water main would be that of the property owner, correct? Commissioner Laber responded "correct". She also added "remove and replace" to the motion.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Laber: Yes; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

K. OTHER BUSINESS

1. *"Save the Shade" Heritage Plaza Foundation:* Mayor Van Beek reported that with regard to the "Save the Shade" – the Heritage Plaza Foundation primary movers and shakers are Del Wetsch, from the Mandan Progress Organization, Vern Cermak from the Musicians Association and Sue Hoffman from Susie Q's Craft Emporium and Dakota Store. He stated that roughly \$5,000 has been donated to replace the trees in Dykshoorn Park and that last week Mandan Public Works employees planted 4 new trees. Donations have ranged from \$10 to \$1,000 from businesses and individuals from the Mandan/Bismarck area. Mayor Van Beek extended a thank you to all who have donated and participated in this project.

There being no further actions to come before the Board of City Commissioners, Commissioner Rohr moved to adjourn the meeting at 6:35p.m. Commissioner Laber 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