
The Mandan City Commission met in regular session at 5:00 p.m. on September 6, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Rohr, Braun, Davis, and Laber. Department Heads present were Finance Director Welch, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Principal Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: Police Chief Ziegler.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider for approval of the minutes from the August 16, 2016 regular City Commission meeting and the August 16, 2016 Hub City Working Session meeting.* Commissioner Laber moved to approve the minutes as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Public hearing regarding application by La Sagrada Familia Apartments, LLC, for property tax relief for an affordable family housing project at 406 4th Street NW (see New Business No. 1).* Business Development & Communications Director Huber presented a request to conduct a public hearing regarding an application for Payments in Lieu Of Taxes (“PILOT”) by La Sagrada Familia Apartments, LLC, (the Commonwealth Companies); and to consider a Mandan Growth Fund (MGF) Committee recommendation regarding the application. Director Huber provided the following information by explaining that at an August 29, 2016 meeting, the MGF received an overview of the proposed redevelopment of the former junior high school at 406 4th Street NW and reviewed the PILOT application. The Commonwealth Companies of Fond Du Lac, Wisconsin have formed the LLC for the purposes of acquiring the former junior high property from Mother Teresa Outreach, LLC, which is affiliated with the Spirit of Life Church in Mandan. Commonwealth plans to submit an application by September 30, 2016 to the ND Housing Finance Agency for the Low Income Housing Tax Credit Program. That is a program that utilizes federal tax credits that are sold to investors to generate equity for the project. The overall plan is to invest approximately \$8.3 million into renovation of the property for 39 units of affordable housing. The application will pay \$20,000 in property taxes for the building improvements for the first 15 years following the proposed renovation.

Representatives from Morton County, Mandan School District and Park District were all in attendance at the Mandan Growth Fund meeting. The county was neutral on the topic and the school and park representatives approved of the request. The property currently has a value of \$494,100, \$270,000 (land) and \$224,100 (structures). The structures are generating \$3,137 in property taxes using the 2015 levy of 280 mills. The land is eligible for property tax exemption. Under the proposal, the renovated buildings will generate

\$20,000 annually in taxes for the first 15 years of the project which is an approximate 36% reduction from the \$31,220 using the present tax rate that would otherwise be due given its estimated value of the property upon completion of \$2.5 million.

Director Huber introduced Erin Anderson, Vice President of Development for the Northwest Region from the Commonwealth Development Corporation. She invited Ms. Anderson to come forward for the presentation of the plans for reconstruction of the former Mandan Junior High Building as well and to give an overview of the intent and the reasoning for the request for an application for payments in lieu of taxes (PILOT).

Ms. Anderson provided the following information: The Commonwealth Development Corporation is Wisconsin-based and was established in 2001. They offer full service development, construction, architecture and property management. She reviewed points of history of success across the country wherein they have established over 40 affordable housing tax credit entities in six states. They have multifaceted experience that includes new construction, acquisition / rehabilitation and historic adaptive reuse. They have multiple successful partnerships with nonprofit and for profit entities. Project selection and flexibility supported by vertical integration are their key success factors. Ms. Anderson has been involved in several projects throughout the state of North Dakota, including Lakewood Townhomes and Library Square II in Mandan. She explained that Commonwealth will be purchasing the former Mandan Junior High Building from the church that currently owns it and they will work with Metro Plains Management LLC to provide property management services. She said that 39 units of affordable housing will be created. Six of those units will be designated for families experiencing homelessness of which the Spirit of Life Church will be providing support to those families. She provided information on the rental fee for the various options that will be available. There will be 87 total parking stalls. The project cost is estimated to be \$8.3 million and most of the resources are from a tax credit equity obtained through the ND Housing Finance Agency.

Amenities will be available such as a wellness center, elevator, office, chapel, playground, community rooms and additional landscaping & greenspace. She reviewed concerns such as resident profile and crime. Residents are screened based on certain criteria. She said Commonwealth is requesting property taxes at market assessed value and they are requesting a payment in lieu of taxes of \$20,000 for 15 years. ND Housing Finance Agency (NDHFA) requires Debt Service Coverage Ratio (DSCR) of 1.1 ratio in year 15. If property taxes are higher they will not break even. The state statute permits nonprofit affordable housing a partial property tax exemption, which requires at least 50 percent ownership by a non-profit and first right of refusal to purchase at the end of 15 years. Commonwealth is for-profit, but if the project were being pursued by a non-profit it would only generate about \$14,000 in taxes. Commonwealth is also requesting a Letter of Support from the City of Mandan and a deferred loan in the amount of \$83,186 which is 1% of the total development costs as a local match for Flex PACE loan through the NDHFA. CommunityWorks will be contributing \$89,905 of the local share needed for the interest rate buy down that will bring the interest rate down 5 points and the balance would be from the Mandan Growth Fund. The BND will provide \$321,454 in addition to

what the MGF and CommunityWorks contributes. She reviewed the timeline of the project with submission of applications September 2016, construction starting in February 2017, and plans to complete construction by February 2018.

Mayor Helbling announced this is a public hearing regarding an application from La Sagrada Familia Apartments, LLC, for property tax relief for an affordable family housing project at 406 4th Street Northwest in Mandan. He invited anyone to come forward to speak for or against the project.

DeNae Kautzmann came forward to speak. She voiced concerns about the project as presented. Of the 39 units, 12 of them are at a low affordable rate and the developer is presenting that there is a gap of affordable housing in the community. In a recent newspaper article they allege these are low market rates based on doing an online analysis, as they indicated at the Growth Fund Meeting. In the newspaper, she said a one bedroom is advertised as \$595. They indicate the two bedrooms are \$690. For comparison, there is a two bedroom being advertised in Mandan for \$675. She said she spoke with a realtor who is aware of a building in Bismarck where a 2 bedroom apartment of 1,200 square feet, which 2 years ago rented for \$850, is now renting for \$700. This is only \$10 more than what they are saying is below market value. She stated that Bismarck's rates are typically 10% higher rates than Mandan rates.

Ms. Kautzmann suggested the developer to go back and redo their research because the information provided to the Commission is inaccurate as to what is going on in the housing industry in Mandan. She stated that at the MGF Committee meeting, the developer said there was going to be a fixed rate for the payment in lieu of taxes. She does not believe the City can award a fixed rate. Under NDCC 40-57.1-03, it is incumbent upon the City to look at what those values are going to do over the course of the 15 years they are requesting. It is going to increase in value. Even if you do not put that in the agreement then the City still has the right under the statute to revoke whatever the city decides to do when making its decision tonight. If that property value goes up, the City will have a right to set a different rate. She encouraged including verbiage to that effect in the agreement so that the citizens of Mandan are well represented by the Board.

Mark Bitz came forward to speak. He said that he has been a property manager, owning and managing rental properties in Bismarck-Mandan for over 20 years. He reiterated the comments made by Ms. Kautzmann. He said there are many apartment rentals in Mandan vacant at this time, including low income units that were previously built. He said that Commonwealth is a for-profit business and their rental fees are on an average of \$150 higher than he charges for his rental units. He has never asked for any tax exemptions in the 20 years he has been renting properties.

Carla Barrios, a Mandan resident came forward to speak. She pointed out that the annual income presented by Commonwealth to rent these units, will exceed a 2-adult income assuming that each makes at least \$10 an hour. That will put them at or near the top of the income level requirement to rent these units. Thus, many residents will not even

qualify to rent them. She reminded the Commission that years ago the Mandan residents were told that the Mandan Junior High building was not structurally sound, would be very expensive to remodel and get up to current code, and that it could not accommodate an elevator for ADA requirements. She said this is why we built the new middle school. So, now there will be an elevator, it can be brought up to code and it can house 100-plus people fulltime. But yet it could not house 100-plus students fulltime for the part time use of the building. Has this been addressed with the Mandan School Board in regard to possibly remodeling it and turn it back into an elementary school that is needed versus creating more affordable housing that we are hearing there are plenty of in the city? She asked who the targeted residents of this affordable housing unit are.

Amy Jacobson came forward to speak. She said that she has lived across the street from the former middle school for over 20 years. She voiced concern about the building in its current state as being a safety risk. She said she believes affordable housing is a need in Bismarck-Mandan and stated she wholeheartedly supports this project.

Susan Beehler, a Mandan resident, came forward to speak. She said she is in support of having something done with the former Junior High Middle School and believes that it was understood from the past, that the building would no longer be used by the School District. She believes affordable housing is needed in the community. She said she has a problem with the definition of affordable housing and the rates provided by Commonwealth are not meeting the needs of the very low income people in the community. She questioned if the \$20,000 will stay the same amount each year. In the contract, does this for profit have to hold on to the property for that time period? Or, can it become a non-profit and the City would receive no taxes for it? Also, with the \$20,000 and with families filling the building what is the burden on the school system as far as with the taxes, how is that \$20,000 divided out? Will it be the same percentage or will it go strictly to the City? She asked for further clarification of how “in lieu of taxes” works, so the public understands it. What happens after the 15 years? Does it go on to the regular property tax rolls? If we have people coming in that are homeless and by designating housing to homeless, how will that burden our social services budget?

Lisa Quintus a Mandan resident came forward to speak. She said she has lived within 2 blocks of the old junior high building for 17 years. She said that since the building has been vacated that the area has deteriorated. She is excited to have a plan in motion for the building and supports the upcoming plans for renovation.

Shelly Gable, a Mandan resident came forward and stated she has lived in the area of the former junior high school neighborhood for 21 years. She said that the building has deteriorated to the point it is appalling. She referenced the attempts by previous individuals to develop the building into affordable housing which have failed and she questioned why this plan will work any differently so that it will not fail. She does not think the City should invest very much money into the project. She hopes the Commission does not buy into the need for affordable housing that is being proposed for this project.

Erin Anderson from Commonwealth Development Corporation returned to the podium to respond to comments made. She explained that the rent needs to be set at a minimum of 10% below market. That was obtained through independent market research, through third party analysts and the Bismarck-Mandan Market Study Housing Needs Analysis Report that was done in October 2015. That also involved conducting a property survey of other affordable housing developments in the area that have comparable amenities and utilities and take all of that into account when determining the rent. She stated that the target market is likely single parents or small families.

Mayor Helbling asked whether the \$20,000 would stay the same for the 15 year period. Ms. Anderson replied that Section 42 of the IRS Code outlines that if you are the owner and the developer, you have to maintain that ownership for a minimum of 15 years. The compliance period is actually 30 years so the rents are going to be restricted for at least 30 years. Their specific ownership will be a minimum of 15 years, most likely 30 years.

Mayor Helbling said the other question had to do with the split on the taxes. At the Mandan Growth Fund Committee meeting, the split on the \$20,000 taxes will be between the City, Schools, County, and the Park District in the normal pro-rata share. The Mandan School Board does support this project.

Ms. Anderson addressed the previous projects that failed. She noted that the difference has to do with those projects attempting to use the market rate, rather than this project which is planning the affordable housing rates. She said their plan is to stay below both the restricted and non-restricted amounts when setting rates.

Commissioner Rohr inquired if the developer could become a non-profit at any period of time? Ms. Anderson replied that she did not think so. She said they are a well-established company throughout the country and does not believe they have any intent to do so.

Commissioner Laber asked for clarification about the negative trending at year 15 and income growth. Ms. Anderson explained that the income grows at 2% per year and the expenses grow at 3% per year and that is a mandated trending projection. All ND Housing & Financing Agency and every other state agency in the country use a 2% income, 3% expense and the incomes are rising at a lesser rate so at some point there is that negative trend. The net operating income gets less and less every year because of that. This is the tool they have utilized and it is based on evaluating rates since 1980 when the housing program started.

Rob Knoll, came forward to speak, noting he is a lifelong Mandan resident. He said he worked with one of the first developers to look at this project when it initially became available. But he was unable to bring it to fruition. The project was very similar to the one being presented tonight using the same tools. He said he attended the neighborhood meeting and said that the building and surrounding area has deteriorated significantly. He suggested either leave it alone or do something with it. He believes there is a need for more affordable housing in Bismarck/Mandan and he is in favor of this project.

Regarding the value, they will assess this property at the market rate rent. Not on affordable housing rent and that's why the developers need the break.

Mayor Helbling announced this is a public hearing and invited anyone to come forward to speak for or against the application by La Sagrada Familia Apartments, LLC, for property tax relief for an affordable family housing project at 406 4th Street Northwest, Mandan, North Dakota. A second announcement was made to come forward. Hearing none, this portion of the public hearing was closed.

Mayor Helbling commented that he does not think the School District wanted the City or Community to be in this position dealing with this property. He believes the City Commission has to address it and to make the neighborhood whole again. What will happen if it does not go through? Will it go back for taxes? We don't want to see it sit any longer and if the City gets it back for taxes, that will ultimately cost the taxpayers to maintain or tear it down. This group has come forward with a good plan and it is an \$8.3M project. The property manager who will manage the property has a good presence in the community. If the area gets redeveloped it allows the area to support a street improvement project and get the streets back into drivable condition.

E. BIDS: None.

F. CONSENT AGENDA

1. *Consider Proclaiming November 1, 2016 as "Extra Mile Day" in the City of Mandan.*
2. *Consider confirmation of special assessments for Street Improvement District #198 and #200.*
3. *Consider P.E.O. International, Chapter Ak, Mandan, ND games of chance at Baymont Inn and Suites on September 24, 2016.*
4. *Consider allowing out-of-state travel for PD employee Bryce Klein to attend training in South Dakota.*
5. *Consider Change Order for time extension on Emergency Generator Project.*
6. *Consider approval of a correction in 2015 True & Full Value for Diversity Homes Inc.*
7. *Consider Declaration of Appreciation declaring Sunday, September 11, 2016 be set aside to recognize the Emergency Responders in Mandan, ND.*
8. *Consider agreement with CommunityWorks North Dakota for origination and servicing of loan to La Sagrada Familia Apartments, LLC.*
9. *Consider approval of a correction in 2014 & 2015 True & Full Value for Redwing Dr. LLC.*
11. *Consider approval of the purchase of two (2) patrol rifles for the Mandan Police Department.*
12. *Consider proclaiming September 17, 2016 as National Gymnastics Day in the City of Mandan.*

Commissioner Laber moved to approve the Consent Agenda items 1 through 12 as presented, with the exception of item No. 10 to be removed for discussion.

Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

Consent Agenda item removed for discussion:

10. *Consider a temporary removal of cap on comp time accruals for exempt PD officers, and temporary removal of cap on vacation accruals for all Mandan Police Officers.* Commissioner Laber requested doing a temporary approval of this item. Deputy Chief Bier explained that the Mandan Police Department has been assisting the Morton County Sheriff's Department during the state of emergency. They have also been providing a lot of support from our administrative staff and also the police officers for the field. This was requested by the Sheriff Department and the time and expenses will be reimbursed by the county. This has created some problems with the police department in that exempt employees can only accrue up to 60 hours of comp time and after that the cap that time is lost. Also comp hours each year by City Ordinance need to be used by the last day of the calendar year. The other issue is vacation time accruals. When the officers are unable to use the hours and bring the limited amount down to 120 hours, the maximum carry over hours. When they are unable to use these hours we will have employees going over the 120 hours and run into their anniversary date and they are unable to use that time. These are the reasons we are asking for the temporary removal of the cap and also an extension for the time that employees can use up those hours.

Commissioner Laber stated that she would like to recommend that there is no cap on this for the next 30 days and that Officer Bier and Chief Ziegler to come up with a plan that is either tied to an event or tied to a projection of what it would take to manage the police officers for time off.

Commissioner Laber moved to approve a temporary removal of the 60 hour comp time cap for exempt employees of the Police Department and removal of the December 31, 2016 deadline as well as the 6-month extension to the officer's anniversary dates for those officers whose anniversary dates fall on or before December 31, 2016, for the purpose of vacation time accruals and that 6-months comp time cap ends the day that the Declaration Emergency ends. Commissioner Rohr seconded the motion.

Commissioner Rohr commented that this will need to be managed creatively so there does not end up being a block of time that has not been used by any officer for any given reason. Commissioner Davis said that because we are in the emergency declaration now it is important to note that we need to be fair and to keep the officers healthy. The reimbursement costs for pay and comp time we want to be fair to our officers. Commissioner Rohr suggested having Chief Ziegler provide a periodic update on costs and comp time along with an update on how the resources are being used.

Mayor Helbling stated that if the Declaration Emergency goes beyond 30 days the Board will have to discuss obtaining reimbursement for these costs and how and when the

police officers will be able to use their vacation and comp time without short-staffing the police force at any given time.

Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations presented by Business Development Communications Director Huber:*

(i) Application for property tax relief via payments in lieu of taxes (PILOT) by La Sagrada Familia Apartments, LLC. See: Public Hearing above.

Director Huber stated that none of the other developers for this property formally applied for the incentive programs and no project ever reached the state to go forward so there have been no incentives awarded. In other previous situations where there had been some sort of tax relief given, occasionally there was a claw back clause in those that said if sold to a nonprofit within a certain period of time, the applicant would be required to pay back the amount of exemption or relief received to date. The MGF voted 7-0 to recommend approval of the request for payments in lieu of taxes in the amount of \$20,000 annually for the first 15 years following renovation of the buildings at 406 4th Avenue NW for La Sagrada Familia Apartments, LLC. The notice of the public hearing was published in the Mandan News on August 12 & 19, 2016. Email notices were sent to Morton County, the Mandan Public School and Park Districts regarding the Growth Fund Committee meeting date for consideration of the application along with the public hearing date. The applicant will need to enter into a Business Incentive Agreement with the City of Mandan and they will need to submit the required annual jobs verification report for 5 years during the period of property tax exemption. An automatic door will also be required. Attorney Brown has reviewed the application.

Commissioner Laber stated she discussed this matter with Director Huber previously due to concerns with the \$20,000 flat amount being as though that amount will be charged for 15 years and there are 39 households and you are delivering water, sewer, fire, if a 3% annual increase would be doable in this case? In deferring to the developer, there was a nod that it would be doable. Director Huber said the developer has submitted its pro forma projections.

Erin Anderson replied that the 3% increase is an industry standard for the low income housing tax credit program. So that's how it was underwritten as a 3% increase on all expenses because it is already included in the expenses at this point. Linda Morris, from the Morton County Tax Equalization Office, (along with City Assessor Shaw), were present to answer questions if it is administratively feasible and it was confirmed that it is. Commissioner Laber stated she is in agreement to leaving the payments in lieu of taxes at \$20,000 for the first 5 years. This project is needed in that neighborhood. She is in favor of leaving it at \$20,000 for the first 5 years and then a 3% escalator thereafter for

years 6 thru 15.

Commissioner Laber moved to approve the request for payments in lieu of taxes in the amount of \$20,000 annually for the first 5 years with a 3% escalator in years 6 through 15, thereafter following the renovation of the buildings at 406 4th Avenue NW, Mandan, ND for La Sagrada Familia Apartments, LLC. Commissioner Braun seconded the motion.

Commissioner Davis inquired of Director Huber how the funding assistance programs are utilized for this project. Director Huber stated that Commonwealth has worked with these tools for redevelopment and repurposing such as this project and they are planning to apply for the federal historical tax credits. That is why they need to leave the oldest of the two gymnasiums because that goes back to approximately 1919, wherein the newer gym can be removed to allow for parking and fire truck turnaround, etc. They are also applying for housing trust funds for the homeless to move them into permanent housing.

Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

(ii) Application for the local match for a Bank of North Dakota Flex PACE interest buy down for La Sagrada Familia Apartments, LLC. This is a request presented on behalf of the Mandan Growth Fund (MGF) regarding an application by La Sagrada Familia Apartments, LLC, for a portion of the local match required to receive a Bank of North Dakota (BND) Flex PACE interest buy down for affordable housing. At a meeting held on August 29, 2016, the MGF received an overview of the proposed redevelopment of the former junior high school at 406 4th Street NW. The overall project cost is \$8.3 million for renovation of the property that will provide for 39 units of affordable housing. The MGF application is for \$83,186 or 1% of total project costs, to be applied toward the 35% local share required for a BND interest buy down. The proposal is to provide the funding in the form of a repayable loan at a 0% interest rate for the 15-year buy down period and a 10-year repayment period thereafter; for a total loan period of 25 years. The applicant is requesting that the City of Mandan assist with 1% of projects costs with the loan for the local match of an interest buy down because of its application to the ND Housing Finance Agency for tax credits. This is a competitive process with 5 key points awarded for local support. To receive 1 point requires a commitment of assistance in the amount of 1% of project costs. To get the full 5 points requires assistance with 5% of the costs an amount beyond the MGF's current capacity.

The applicant has been approved for the remainder of the local match in the amount of \$89,904.20 that will be provided in the form of a loan from Community Works ND (CWND). The approval is contingent upon the approval of the City of Mandan match. The BND would be providing 65% of the buy down or \$321,453.50. The buy down is for a mortgage for a portion of the project costs of \$929,628. The MGF balance of uncommitted funds is \$102,708. If this request is approved, the uncommitted balance would be reduced to \$19,522. The funds requested from the MGF would be structured as

a repayable loan at 0% interest rate. The loan would be for 25 years, including the buy down period of 15 years and a 10-year repayment period thereafter. CWND has agreed to loan the applicant the funds needed for the 35% local match for the BND interest buy down, contingent upon approval by the City of Mandan for its requested share. They have also agreed to administer and service the loan for the MGF for a flat fee of \$1,500 to be paid by the applicant. City Attorney Brown has reviewed the application. The applicant will be required to enter into a Business Incentive Agreement with the City of Mandan and they will need to submit the required annual jobs verification report for 5 years during the period of property tax exemption. An automatic door will be installed.

The MGF voted 7-0 to recommend approval of the request for by La Sagrada Familia Apartments, LLC, for \$83,186 to be provided toward the local share of an interest buy down with the funding structured as a repayable loan at a 0% interest rate over a 15 year buy down period and a 10 year repayment period after that.

Commissioner Davis moved to approve the request to loan \$83,186 to La Sagrada Familia Apartments, LLC, at the rate and terms outlined, contingent upon approval of overall financing and advancement of the project in 2017 as well as the need for the remainder of the local match to be provided by CommunityWorks North Dakota.

Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

(iii) Removing earmark on funding for Memorial Highway Storefront & Landscape Improvement Program. This is a request from the Mandan Growth Fund (MGF) to remove an earmark on funds for the Memorial Highway Storefront and Landscape Improvement Program. An amount of \$140,000 remains in funds not committed to any specific project. These dollars could be moved to the overall economic development projects column on the balance sheet. The program could remain available but without guaranteed funding, recognizing it would compete with other programs and projects with applicants considered on a first-come, first-served basis.

The MGF balance of uncommitted funds was \$102,708 as of August 25, 2016. If the request for the Flex PACE buy down for affordable housing is approved at this meeting, the uncommitted balance would be reduced to \$19,522. Removing the earmark on uncommitted Memorial Highway Storefront Improvement Program funds would increase the amount of uncommitted funds for overall economic development projects to \$159,522. City Attorney Malcolm Brown has reviewed the documentation and was present at the MGF meeting where the recommendation was approved. The MGF voted 7-0 to recommend removal of an earmark on funds not approved for specific projects under the Memorial Highway Storefront Improvement Program.

Commissioner Rohr moved to approve removal of the earmark on \$140,000 in uncommitted funds available under the Memorial Highway Storefront Improvement Program. Commissioner Laber seconded the motion. Roll call vote: Commissioner

Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

(iv) *Update on interest buy down guidelines.* This is a request from the Mandan Growth Fund (MGF) Committee to revise interest buy down guidelines to reflect a new recommended procedure. The MGF discussed the opportunity to further collaborate with the Lewis and Clark Regional Development Council (LCRDC) for the sourcing of funds for the local share of standard, new and expanding business projects applying for a Bank of North Dakota Flex PACE interest buy down. Businesses have the option to apply directly to the LCRDC for the local share of a buy down through the Mandan Intermediary Relending Program (IRP) revolving loan pools. These loan pools were established in 2007 and 2009 with a \$250,000 match each time from the MGF to obtain long-term loans of \$750,000 from the USDA Rural Development Program. The use of loan proceeds must comply with the IRP program requirements. Interest rates and terms would be determined by the LCRDC Capital Fund Board for the IRP funds. The recommended action will alleviate demand for loans from the Mandan Growth Fund and shift demand to the LCRDC. This will allow the MGF to retain unallocated funds for projects with assistance beyond a repayable loan period. City Attorney Malcolm Brown has reviewed the documentation and was present at the MGF meeting where the recommendation was approved. The MGF voted 7-0 to recommend updating MGF interest buy down guidelines to direct requests for the local share of a Bank of North Dakota (BND) Flex PACE interest buy down to apply for financing from revolving loan pools established for Mandan businesses with the Lewis and Clark Regional Development Council.

Commissioner Davis moved to approve updating MGF interest buy down guidelines to direct requests for the local share of a Bank of North Dakota (BND) Flex PACE interest buy down to apply for financing from revolving loan pools established for Mandan businesses with the Lewis and Clark Regional Development Council. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Acting as Board of Adjustment, consider for approval variance request to reduce required on-site parking from 2 spaces per dwelling unit to 1.5 spaces per dwelling unit for redevelopment of 406 4th St. NW (former junior high school).* Principal Planner Decker reviewed a project to redevelop the former junior high school into 39 apartments. The request is to reduce required on-site parking from 2 spaces per dwelling unit to 1.5 spaces per dwelling unit and to take credit for additional parking provided in the boulevard that brings the total available parking to 2.2 spaces per dwelling unit. He explained that the parking requirements for this area were changed about 3 years ago from a minimum of one space per dwelling unit to a minimum of two spaces per dwelling unit which was done in response to the large number of boats, RV's, cars and pickups that were being parked in the public right-of-way in new subdivisions. The residents in this project will be renters with fewer vehicles than property owners in a newer subdivision. Some residents will rely on public transportation. Properties in the

neighborhood rely on parking pads developed in the boulevard. This project will provide an increase in available neighborhood parking.

Commissioner Braun moved to approve the variance request for 406 4th St. NW to reduce the required on-site parking from 2 spaces per dwelling unit to 1.5 spaces per dwelling unit. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

3. *Consider the Morton Mandan Public Library's 2017 Budget.* Kelly Steckler, Library Director, presented the Morton Mandan Public Library 2017 Budget as follows: The Morton Mandan Public Library serves all citizens of Morton County and the City of Mandan, and is governed by a Board of Trustees which is appointed by the County Commission and the City Commission. The Library is fiscally dependent upon the County and the City because the County Commission and the City Commission consider the Library's budget, levies taxes, and must approve any debt issuances. The Library is reported as a component unit in the City of Mandan's audited financial statements.

The Library's Board of Trustees approved the 2017 Budget on August 29, 2016. The Director presented the Library's 2017 Budget to the Morton County Commission on September 1, 2016.

The City of Mandan will levy the maximum of 7 Mills or \$563,235 as requested by the Morton Mandan Public Library for the 2017 Budget. The City also provides \$10,650 annually to the Library for their share of the City's State Aid Distribution revenue from the State of ND.

According to the 2006 Memorandum of Understanding (MOU) between the Morton County Public Library and Mandan Public Library, the funding formula from each entity for the Library's budget is to be "*based on population statistics*" and "*if in the future the population statistics shift, the future board would then determine the most equitable formula.*" At the time the MOU was approved, the contribution formula was "*2/3 city and 1/3 county since the City of Mandan is approximately 2/3 of the population of Morton County.*"

The most recent population estimates released in 2016 by the U.S Census Bureau (as of July 1, 2015) were as follows:

- Morton County = 30,310
- City of Mandan = 21,382

Based on the recent population statistics above, the City of Mandan's population is 70.5% of the population of Morton County.

The Library's 2017 Budget reflects the following funding contributions from each entity:

- Morton County = \$203,056 or 25.5%
- City of Mandan = \$592,181 or 74.5%

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- Total = \$795,237

Since the Morton County Commission, on September 1, 2016, recommended to not increase the funding for the Library's 2017 Budget, the City's funding contribution percentage would increase to 74.5% or 4.0% more than the City's current portion of the recent population estimate for Morton County. Consequently, the City's funding contribution for the Library's 2017 Budget would be approximately \$108K more than required under the MOU based on Morton County's funding contribution for 2017. As a result, the City would need to retain the \$108K from the Library during 2017 until the Library Board of Trustees reviews and provides recommendations to the Morton County Commission and the City Commission for joint approval concerning the contribution or funding formula for the Library's 2017 Budget and for future budgets.

Ms. Steckler reviewed a summary of line items of the budget expenses and incomes. She said the library remains in compliance with all regulations. She said if the 7 mills are cut, the library will lose some state aid from the state library and possibly other funding agencies as well.

It was recommended to consider the Morton Mandan Public Library's 2017 Budget and retain \$108K from the Library during 2017 until the Library Board of Trustees reviews and provides recommendations to the Morton County Commission and the City Commission for joint approval concerning the contribution or funding formula for the Library's 2017 Budget and for future budgets.

Commissioner Braun moved to consider the Morton Mandan Public Library's 2017 Budget and retain \$108K from the Library during 2017 until the Library Board of Trustees reviews and provides recommendations to the Morton County Commission and the City Commission for joint approval concerning the contribution or funding formula for the Library's 2017 Budget and for future budgets. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Presentation by Erin Pringle, Executive Director of ServeYES!*

Erin Pringle, Program Director for ServeYES! (formerly RSVP+ ND), a federally funded volunteer matching agency, came forward and stated that on August 31st, the 45th Annual Volunteer Recognition Event was held. At that time a ceremonial check was presented representing the number of hours that volunteers in the Mandan area have contributed to the community within the last year. Ms. Pringle presented the ceremonial check to Mayor Helbling, Mayor for the City of Mandan City for the volunteer efforts that Mandan residents have contributed to the community. The check is for 23,550.5 hours. She extended a thank-you to the City Commission for the hours of service the City of Mandan residents provide.

Commissioner Rohr stated that he had served on the Board when it was known as RSVP+ for a period of time. He encouraged residents to participate in this worthwhile volunteer

program as their time permits. Mayor Helbling extended a thank you to Erin Pringle for the presentation.

5. *Consider request to locate Municipal Court Judge and clerks' workspace to Morton County Courthouse.* City Administrator Neubauer reviewed a request for space for the Mandan Municipal Judge and the office clerks in the Morton County Courthouse. Administrator Neubauer explained that security needed for judicial staff has increased over the last several years and that Morton County has upgraded their security systems at the Courthouse where the Municipal Court is held. There have been preliminary discussions with Morton County Commissioner regarding moving the court clerks and the elected judge to the courthouse. Having all court functions held in the same building makes sense from a security and efficiency standpoint and is less confusing for the public. If this request is approved, City Attorney Brown will be requested to draft a lease agreement with Morton County. Administrator Neubauer recommended approval to begin discussions with the appropriate staff from Morton County to draft a lease agreement for office space related to the operations of Mandan Municipal Court. He said that information will be brought back to the City Commission for consideration.

Commissioner Laber moved to approve authorizing City Commission staff to begin discussions with Morton County staff to draft a lease agreement with Morton County for office space related to the operations of Mandan Municipal Court and to be brought back to the City Commission for consideration. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

6. *Consider approval of Old Red Trail Reconstruction project change order #3.* Justin Froseth, Planning and Engineering Director presented a request for a change order #3 for Street Improvement District No. 205, Project No. 2015-06 (Old Red Trail). The segment of Old Red Trail between 37th Street and where the current Old Red Trail reconstruction starts, south east of Highland Road, will remain as an asphalt segment between the concrete segments. The reason it wasn't selected for reconstruction as part of this project is that it exists with adequate width and curb and gutter. It is in fair shape. It was decided not to include this segment within the reconstruction limits in order to go as far west with the reconstruction as possible while utilizing the federal highway aid funds. The project scope includes only pavement markings (striping) and signing for this paved segment in order to layout a three lane section.

This segment would benefit from a less costly approach of mill and overlay. It is in fair shape but there are areas of roughness and cracking. Without a project for this particular segment and considering the advantages of having a contractor already on the job such as no extra mobilization cost and traffic control in place, it would be a good time to perform such a mill and overlay. The construction cost of this work to complete is estimated at \$147,820.20 and after adding the administration and engineering costs the total project is estimated to be \$177,384.24. The DOT would have to approve the project since it is a federal aid project contract.

Director Froseth said that since the federal match for this project is at the maximum before this change order proposal, the City would need to fund the entire change order. In discussion with the Finance Office, it was suggested that the City Sales Tax Fund can be used in lieu of adding to already special assessment allocations. Mayor Helbling commented that he requested this project be brought forward since it is a smaller project and there is work being done in that area with the barricades set up, etc. We can look at 50% out of sales tax and 50% special assessments which equals about \$75 per parcel.

Commissioner Laber moved to approve the change order #3 for Street Improvement District 205 Project #2015-06 (Old Red Trail). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

7. *Consider approval of Beer Garden application for Spirit of Life Church on September 10, 2016.* City Administrator Neubauer said that the City is anticipating an application for the beer garden for an event that will happen on September 10th. However we have not received that application yet but we are trying to avoid calling you together for a special meeting when the application is received. This is similar to applications for the same event from previous years. There will be no street or road closure. The request is contingent upon receipt of the application with indication the event will be similar in nature as previous years.

Commissioner Laber moved to approve the Beer Garden application for Spirit of Life Church on September 10, 2016 pending actual receipt of said application. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

I. RESOLUTIONS AND ORDINANCES:

1. *Consider a resolution of support for La Sagrada Familia Apartments affordable family housing project.* Business Development Communications Director Huber presented a resolution in support for the plan for rehabilitation of 400 4th Avenue NW for reuse as affordable housing by La Sagrada Familia Apartments LLC.

Commissioner Laber moved to approve the resolution of support for La Sagrada Familia apartments affordable family housing project. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

2. *First consideration of Ordinance 1250 amending and reenacting PUD District 2015-01 related to Lakewood 9th Addition.* Planner Decker presented a request to add a requirement to PUD District 2015-01 specifying a side yard setback for Block 1. This requirement was requested by the developer but omitted when the ordinance was drafted.

This area is east of Prairie West Golf Course and south of Kist Livestock Auction. A copy of the code language that was proposed for modification was presented @ Section 105-3-1 R7 Residential District. The computational difficulty built into the current standard does not provide any benefit over a specified minimum width. A side yard setback is partly based on a consideration of how a building is to be constructed for fire safety. A 5 foot setback that creates a minimum of 10 feet between structures meets the requirements contained in the adopted state building code for not requiring a fire rated wall. This includes an allowance for up to 2 feet for the roof eave overhang. The request is to set the minimum side yard setback in Block 1 at 5 feet. The Building Official would prefer this single standard since it removes the computational difficulties when applying the current variable standards to irregularly shaped lots. This is the same setback that was approved for Block 2. Sec. 105-4-3 (e) specifies the requirements for amending a PUD district. This proposed ordinance meets those requirements. The Planning and Zoning Commission, at their August 29, 2016 meeting, voted unanimously to recommend this ordinance be adopted. Staff recommends adoption of this ordinance.

Commissioner Laber moved to approve the First consideration of Ordinance 1250 amending and reenacting PUD District 2015-01 related to Lakewood 9th Addition. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

3. *Consider the introduction and first consideration, and call for a public hearing of Ordinance No. 1249 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2017, and ending December 31, 2017, and making the annual tax levy for the year 2016.*

Mayor Helbling commented that due to School Board following in a few minutes, he requested that the 2017 Preliminary Budget presentation be brought back at the September 20, 2016 City Commission meeting since it is a very important information piece for the public to fully understand the budget. He thanked Finance Director Welch and City Staff for all their hard work in putting this information together. He also commended them for working hard to keep within budget and keeping things reasonable; and yet not raising everyone's taxes like other boards are doing.

Finance Director Welch said that state law requires the City to have a preliminary budget statement prepared annually on or before September 10th. He said the City issued a press release of the 2017 Budget last week which highlighted the major points of the Budget for the citizens and taxpayers of Mandan. The City of Mandan is required to prepare the annual Budget in accordance with the North Dakota Century Code, Chapters 40-40 and 57-15. In addition, the City's Budget Policies provide further direction and guidance to the budget development process. The Budget is coordinated by the Finance Department under the direction of the City's Budget and Finance Committee with the assistance from Commissioners, Department Managers, Supervisors and staff. The City continues to be a growing community and with growth come the challenges and responsibilities to deliver and provide quality services to citizens in an effective and efficient manner while at the

same time offering those services at an affordable cost to taxpayers and customers. The Budget achieves the goal of balancing services with cost. The Budget is submitted as a recommendation from the City's Budget and Finance Committee. The City will publish a Notice of Public Hearing on September 16, 2016 for the second and final consideration of Ordinance No. 1249 adopting the 2017 Budget on October 4, 2016. The Preliminary 2017 Budget will also be posted on the City's website.

The annual cost for City services for an existing \$250,000 residential property with a valuation increase of 12.7% and using 8 units of water per month, excluding special assessments:

Property Taxes:

- 2017 Budget = \$750
- 2016 Budget = \$750
- Annual increase = \$0

Utility Bill:

- 2017 Budget = \$1,012
- 2016 Budget = \$995
- Annual increase = \$17

Total:

- 2017 Budget = \$1,762
- 2016 Budget = \$1,745
- Annual increase = \$17

Commissioner Laber moved to approve the introduction and first consideration, and call for a public hearing of Ordinance No. 1249 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2017, and ending December 31, 2017, and making the annual tax levy for the year 2016. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Consider for approval the Resolution amending fees and charges administered by the Public Works Department.* Director of Public Works Wright presented a request for the approval of the resolution amending fees and charges by the Public Works Department. There will be no change in costs only this minor clarification. He said there were changes (bold and underlined) to the hourly rates for curb stop shut off and turn on rates to better clarify the \$50 charge to shut off and \$50 charge to turn on. This verbiage would be consistent with the delinquent account letters.

Commissioner Laber moved to approve the Resolution amending fees and charges administered by the Public Works Department. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes;

Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Yes.
The motion passed.

J. OTHER BUSINESS:

K. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners,
Commissioner Laber moved to adjourn the meeting at 7:03 p.m. Commissioner Rohr
seconded the motion. The motion received unanimous approval of the members present.
The motion passed.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/ Timothy A. Helbling

Timothy A. Helbling,
President, Board of City
Commissioners