



AGENDA
MANDAN CITY COMMISSION
DECEMBER 3, 2019
ED "BOSH" FROEHLICH MEETING ROOM,
MANDAN CITY HALL
5:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
- B. APPROVAL OF AGENDA:
- C. MINUTES:
1. Consider approval of the minutes from the November 19, 2019 Board of City Commission regular meeting.
- D. PUBLIC HEARING:
- E. BIDS:
- F. CONSENT AGENDA:
1. Consider approval of changing the 90 minute parking zone on the west side of the 100blk of 2nd Ave NE from the alley, south to East Main St. to a no timed parking zone.
 2. Consider approval of the final plat for Evergreen Heights 3rd Addition
 3. Consider formally declaring Lonesome Dove painted sign grandfathered upon adoption of Ordinance 1326 related to murals
 4. Consider personnel actions related to the Program Coordinator
 5. Consider approval of a charity raffle permit for Mandan Kachina Dance Parent Club at Mandan High School on 12-7-2019.
- G. OLD BUSINESS:
- H. NEW BUSINESS:
1. Consider the creation of street improvement district, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).
 2. Consider conversion of the City Administrator contractual position to a regular full time employee position.
 3. Consider reappointing Amber Larson and the appointment of Chad Peterson to the Mandan Architectural Review Commission.
- I. RESOLUTIONS AND ORDINANCES:

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1. Consider approval of Resolution establishing revised fee schedule for Engineering and Planning-related applications beginning January 1, 2020
2. Introduction and First Consideration of Ordinance 1330 which will amend and re-enact the penalty sections of 24-1-2, 24-10-1, 24-12-8, 24-15-19, and 24-16-1 of Mandan Code of Ordinances to double the fine amount for each section.
3. First Consideration of Ordinance 1331 to amend and reenact Article 2 Section 111-2-1 of the Mandan Code of Ordinances.
4. Second and final consideration of Ordinance 1326 related to murals
5. Consider Springing Agreement between Uniti and the City of Mandan

J. OTHER BUSINESS:

K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. December 17, 2019
2. January 7, 2020
3. January 21, 2020

L. ADJOURN

The Mandan City Commission met in regular session at 5:30 p.m. on November 19, 2019 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order.

A. ROLL CALL:

1. *Roll Call of All City Commissioners.* Present were Mayor Helbling, Commissioners Braun, Davis, Larson and Rohr. Department Heads present were, Finance Director Welch, Fire Chief Nardello, Planning & Engineering Director Froseth, Principal Planner Van Dyke, Business Development and Communications Director Huber, Police Chief Ziegler, City Administrator Neubauer, Director of Public Works Bitz and Attorney Brown. Absent: Assessor Markley, Human Resource Director Cullen, Building Official Ouradnik

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the November 5, 2019 Board of City Commission regular meeting.* Commissioner Braun moved to approve the minutes as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Consider approval of the first consideration of Ordinance 1326 related to murals.* City Planner Van Dyke stated this is the ‘second’ first consideration of Ordinance 1326 related to murals. He stated that the draft mural ordinance as presented in the Exhibit 1 was agreed upon by the City Commission and legal counsel and it fulfills the interest of the City in preserving public safety, traffic and pedestrian safety, property values and will withstand constitutional muster. Note: Exhibit 1 indicates all the changes marked in “red” from the first consideration. The mural ordinance does not regulate the residential districts because neighborhood homeowners associations will address this issue internally. He explained that a permitting process is required to ensure that any mural not painted directly onto a building is affixed safely and meets building code. Murals painted directly on buildings requires a permit to ensure that the materials used to paint onto the structure are adequate to withstand North Dakota weather well into the future and to document the original condition of the mural. If a mural painted directly to a building fades, chips, or peels and adequate upkeep is not conducted, the aesthetics of the building degrade and the building may become an eyesore. A lack of maintenance negatively affects property values. The standards for murals ensure that they are not applied directly to significant architectural elements. The limitation on the total number of murals and size restriction on the street-fronting side has been removed from the previous first consideration. If specific problems arise, the ordinance may be adjusted to address problems. Future court cases filed by other jurisdictions may provide more insight into the matter. Making these adjustments will ensure the ordinance is not challenged moving forward and allow the City to focus its efforts more pressing, areas. Existing murals, including Lonesome Dove’s painted sign, will be grandfathered in if this ordinance is ultimately adopted by City Commission. This ordinance will

only apply to new murals following its adoption and release of the temporary restraining order that is currently in-place.

The Planning and Zoning Commission recommended approval at their August 26, 2019 meeting. The ordinance has been reviewed and approved by legal counsel.

Mayor Helbling announced this is a public hearing and invited anyone to come forward to speak for or against the first consideration of Ordinance 1326 related to murals. Mayor Helbling announced again that this is a public hearing and invited anyone to come forward to speak for or against the first consideration of Ordinance 1326 related to murals. A third and final announcement was made for anyone to come forward to speak for or against the Ordinance. Hearing none, this portion of the public hearing was closed.

Commissioner Larson spoke in favor of approving the first consideration of Ordinance 1326, in particular, she stated: “I’ve seen this ordinance to be a major point of interest and frustration. Therefore, please bear with me as I take a few minutes to share thoughts relative to it. First off, I think it is important to highlight my connection to Mandan’s Mural Ordinance. I have worked in advertising, communications and marketing in Bismarck/Mandan for 15 years. My husband is employed as a full-time artist. We also own a commercial property in downtown Mandan. I share all these details to hopefully illustrate if not my qualification to discuss the challenges we’ve faced relative to freedom of speech, artistic freedom, and commercial vs. artistic expression, then at least to show why these three topics are vitally important to me. As a communications professional, I’ve been taught the difference between freedom of speech and regulation of commercial expression. That distinction has been illustrated in the way our Federal government regulates the placement of billboards along the highway to protect our safety while driving. It is also evident in the way the Federal government has been allowed to mandate disclaimers on medication and tobacco advertising to warn the public of health risks associated with these products. It is even shown in fines to public broadcast stations for indecent or explicit content. The City of Mandan is only asking for the same ability to provide safety and health to our citizens. I’ve also been a member the Mandan Architectural Review Commission for the past four years. That committee of unpaid community members, which includes representatives from Mandan businesses, contractors, architecture, home builders and realtors, as well as some City Staff. It is where the need for defined mural guidelines originated. We also have committee members who are passionate about encouraging art in our community and wanted to provide a clear channel for private investment in public art. I know it seems ironic now but let me reiterate, the discussions around murals all centered around an intent to provide private businesses with an avenue to follow to get clear guidance and approval for public art investment. Therefore, we developed the mural guidelines in collaboration with representatives from local businesses and the local arts community. We also realize the effect visual distractions can have on public safety. Those visual distractions can take many forms from your own cellphone to a sign too close to the road, as the Federal Highway Administration shows by regulating billboards. Our effort with the Mural Ordinance is to preserve public safety while providing opportunities for artistic expression. A key part of my role as a commissioner is to provide channels for communications and access to our citizens. My deepest hope is that they use the opportunities available to them to get involved. While it is unfortunate that this effort to encourage artistic expression in our community has turned into frustration, I believe everyone involved who has represented the City of Mandan throughout this process has sought to protect

the safety of our citizens, encourage private investment in public art and incorporate opportunities for feedback and compromise. Compromise should be at the center of our efforts... from both the City and the valued Mandan businesses. That is why I support the adjusted mural ordinance as presented here tonight.”

Commissioner Braun concurred with Commissioner Larson’s statement and recommendation for approving the Ordinance. Commissioner Davis commented that he agrees with Commissioner Larson’s position and that he appreciates her business profession as it relates to this issue. He added that the City of Mandan is very pro-business which has been demonstrated over the last several years and he expressed the necessity to have safety components in place. Commissioner Rohr commented that he has been on the City Commission for several years and he believes the Commission has not been overly bureaucratic. He is interested in assuring this Ordinance is amenable to the City of Mandan. Mayor Helbling also concurred with the Commissioner’s statements provided however, he indicated that this matter may come up from time to time in the future and the circumstance will have to be dealt with when that happens. He extended a thank you to the MARC Board for their work on this along with all the other individuals involved as well as Commissioner Larson’s efforts in this matter.

Commissioner Rohr moved to approve the first consideration of Ordinance 1326 related to murals. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

E. BIDS:

Consider the Raw Water Intake, Phase I bid results and recommendation to deny the low bid. Planning and Engineering Director Froseth presented a request to consider bids for the Raw Water Intake, Phase I project. He stated that Mandan City staff and refinery staff have met in regular meetings over the last several months. AE2S completed plans and the city advertised for bids for the Raw Water Intake, Phase I project. Phase I includes the intake structure, the electrical and mechanical equipment, including the pumps, and improvements to the Water Treatment site and the Refinery’s site needed to receive the water however, not included with this initial project is the transmission pipe from the new intake site to the Water Treatment Facility. Those plans are being finalized as part of Phase II, which is the transmission plate.

Director Froseth reported that the bid opening for Phase I was held on October 29, 2019. There was only one bid received for each of the portions of the project. Bids were to be obtained separately for the general contract, the mechanical and the electrical contract. The mechanical contract bid was the smallest scope of work within Phase 1 and was \$15,000 over the engineer’s estimate. The electrical contract was 25% over the estimate. The total general construction was \$8 million over the estimate with the bid coming in \$21 million.

Due to the bid coming in much higher than estimated, AE2S has had some conversations with the bidder on the general construction portion of the project and they have relayed those conversations to staff. Director Froseth reported that there is discussion occurring now with AE2S about how the city can retool the bid package and some of the elements of design in ways that would minimize that risk. A pre-bid meeting was held with all the contractors being present

for discussion. The concern that keeps coming up is risk, in particular, risk associated with the river level is part of that, but there is risk due to project scope including drilling or laying pipe out into the river channels some 400 or 500 ft. That was put in the general contract but it was suggested to separate out the portions and that subcontractors be contacted. Assuming AE2S can identify ways to bring the bids down the target date to rebid would occur in early 2020. The city is working with its funding partners the State Water Commission (SWC) and Marathon throughout this process. A memo will be forthcoming on items that can be controlled however, the river is the biggest factor in those results.

Mayor Helbling inquired if Phase II would start without doing Phase 1 first. Director Froseth stated that at this time there is no purpose in going forward with Phase II. It has not been determined if bids should be obtained now or later, due to the high river level at this time. He believes that the river is the primary factor in the cost escalation. Mayor Helbling stated that knowing the river being high these factors should have been caught sooner so it is a concern if the estimate was a bad estimate to start with. He believes the cost to redesign it should be negotiated. Director Froseth said that the fashion in which the bids will go out again has not yet been determined whether it will be one project or several projects opened up to subcontractors. Commissioner Larson stated that the advantage to the city is that the water is high so the city is not pushing forward at this time and the concern still remains if it is entirely the water level that is creating this additional level of cost. Director Froseth stated that much of this is lump sum work so no sub-information was provided and would not be because that is not part of the bidding process. Commissioner Larson said that another concern is that while it is believed the river level is a problem, to have only one bid packet come in seems atypical. It has not truly been identified that the water level is the reason for the single bid coming in. Director Froseth replied that it is not the only reason but has been more weight than the other reason(s). The size of the caisson and the high river levels affect that and requires more work. It's interrelated with the other risk concerns.

Director Froseth recommended rejecting the bid because it is over the projected project estimates.

Commissioner Davis moved to reject all bids for the Raw Water Intake, Phase I project. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*

MONTANA-DAKOTA UTILITIES	32,876.16
MONTANA-DAKOTA UTILITIES	20,858.17
POST BOARD	45.00
ND DEPARTMENT OF TRUST L	32.18
ADVANCED ENGINEERING SVC	2,260.50
BANK OF NORTH DAKOTA	172,033.77
BEAVER CREEK TREE SERVIC	2,700.00
BIS-MAN CONVTN & VISITOR	6,653.84
BISMARCK POLICE DEPARTME	6,362.70
BRANDOZ CONCRETE INC	1,164.13
CENTURYLINK	1,620.89

DIRK PLUMBING & HEATING	460.00
FETZER ELECTRIC, LLC	80.00
FIRESIDE OFFICE PRODUCTS	110.00
GRAYMONT (WI) LLC	12,551.70
GRIMSLEY/BREANNA	319.73
HUBER/ELLEN	10.00
MANDAN PARK BOARD	168,895.55
MANDAN PROGRESS ORGANIZA	570.00
MISSOURI VALLEY PETROLEU	8,407.35
MISSOURI WEST WATER SYST	50.45
MUNICIPAL CODE CORPORATI	350.00
ND HEALTH DEPT CHEMISTRY	1,024.86
ND HEALTH DEPT MICRO DIV	400.00
NORTHERN IMPROVEMENT CO	13,271.23
NORTHWESTERN POWER EQUIP	250.00
PREMIER HOMES	300.00
PRESORT PLUS	4,693.43
RAZOR TRACKING INC.	450.00
RENNER'S LAWN SPRINKLING	1,300.00
SCHLOSSER EXCAVATING INC	1,800.00
STRAUB/RANDALL	95.14
SWANSTON EQUIPMENT CORPO	56,380.42
T & R CONTRACTING, INC	5,500.00
THE CREATIVE TREATMENT L	816.75
WATER SMITH, INC	1,385.52
MERCHANTS CAPITAL RESOUR	203,000.00
MONTANA-DAKOTA UTILITIES	35,324.73
ADVANCED ENGINEERING SVC	17,179.57
ARMSTRONG SANIT & ROLL O	103,248.38
AT & T	380.16
BALABAN LAW OFFICE	1,500.00
BANK OF NORTH DAKOTA TRU	11,774.52
BARANKO BROTHERS INC.	1,928.15
BLH, INC	1,000.00
BROOKE/PATRICK	50.00
BURLEIGH COUNTY	81,480.95

2. *Consider approval of Special Use Permit to allow the Water Treatment Facility new Raw Water Intake to be located at the proposed site.*
3. *Consider approval of Miller Addition minor plat.*
4. *Consider holding a public hearing for the vacation of a portion of 18th Ave. SE*
5. *Consider approval of Special Event Permit for the Santa's Arrival Event on November 30, 2019.*

Commissioner Rohr moved to approve the Consent Agenda items No. 1 through 5 as presented. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS

1. *Consider Mandan Growth Fund Committee recommendations:*

(i) Storefront Improvement Application for 1702 E Main Street:

Business Development & Communication Director Huber presented a request to consider a Mandan Growth Fund (MGF) Committee recommendation for approval of a Storefront Improvement application for 1702 East Main Street. She reported that the MGF met on November 14, 2019, to consider an application by the Olson Trust for matching funds towards exterior building improvements at 1702 East Main St. for two sides of the building viewable

from the public right of way. Trust representatives Jon Sperl and John Weeda submitted plans to invest \$123,250 in the east and south facing sides of the building for exterior wall panels, eight additional windows, and new doors including one with an automatic door opener.

Other exterior improvement plans include removing some sidewalk adjacent to the building and replacing it with decorative gravel or rock with landscape planters. This plan includes new windows plus an exterior patio or seating area and exterior lighting. The dumpster currently on the building's south side will be relocated to the space north of the building and screened from public view. There are plans for improvements to the building's interior for use as multi-tenant office space. There is one new confirmed tenant with other prospects. Dakota Wholesale Supply has outgrown the space and is moving to the former Runnings building on Memorial Highway. The target completion date is April 2020.

The exterior building improvements received approval from the Mandan Architectural Review Commission. The application indicates a request for \$60,000 match. Storefront Improvement Program guidelines, in the program summary state the following: "Interested commercial property owners may apply for a forgivable loan, not to exceed \$30,000, for up to 50% of their investment in rehabilitating a building façade. The MGF approved an amendment to a motion for a recommended approval on a 6-2 vote to limit the match to \$30,000. John Weeda was present to answer questions regarding this request and extended a thank you to the Commission for considering this request. He stated the building was constructed in 1975 and the walls and roof are still in good condition but is due for an upgrade to improve the aesthetics of that area.

Commissioner Braun moved to approve providing \$30,000 in matching funds for the Storefront Improvement project by the Olson Trust for 1702 E Main St. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

(ii) Appointment of committee members for 2020-2022 terms.

Business Development & Communications Department Huber presented a request to consider appointments to the Mandan Growth Fund Committee (MGF) for a 2020-2022 term. She stated there are two positions up for consideration with the following preferences: one representing the Memorial Highway/east Mandan area and a position representing the community at large. Terms are three years ending on December 31, 2022. Members may be representatives of the business community through ownership or employment with a Mandan business or Mandan residents. Letters of interest were sought with a requested deadline for responses of November 1, 2019 or until positions are filled. Members whose terms expire on December 31, 2019 are: Jeremy Bauer (2nd term) and Curtis Patzell (2nd term). The MGF met November 14, 2019 and Agenda items included consideration of recommendations for 2020 appointments. The individuals who submitted letters of interest were Chad Peterson, Rocky Reddig and Jarrett Selzler. Peterson and Selzler are Mandan citizens while Reddig represents a business operating in the area of north Mandan and the I-94 corridor. A noted factor in the discussion and the committee's decision was that Selzler intends to move to Fargo before expiration of the term to continue his education at NDSU. Committee members and staff encouraged Selzler to continue to pursue other aspects of community involvement. The MGF recommends the appointment of Chad Peterson and Rocky Reddig for a three-year term from 2020 through December 31, 2022.

Commissioner Davis moved to appoint Chad Peterson and Rocky Reddig for a three-year term from 2020 through December 31, 2022 to the Mandan Growth Fund Committee (MGF).

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

Mayor Helbling extended a thank you to the two outgoing members, Jeremy Bauer and Curtis Patzell for the years they served on the Mandan Growth Fund Committee (MGF).

2. *Consider acceptance of purchase agreement for parcel 65-3156000.*

City Planner Van Dyke presented a request to consider acceptance of an offer for purchase of parcel 65-3156000. He reported that Jake Axtman provided an offer of \$6,500 for the purchase of parcel 65-3156000, Lots 4-6 (-4166), Block 59, First Northern Pacific Addition. The property is located near the intersection of 2nd St. NE and 6th Ave. NE. The property does not have access and will require a road extension in order to be developed. Right-of-way has been dedicated to the City when Northern Pacific Addition was platted. The property lies on relatively steep topography. A specials balance of \$993.12 exists on the property. Per the purchase agreement, following proration for this year's installment, the buyers will be responsible for the remaining balance.

Planner Van Dyke stated that based on the topography and road extension required to be developed, City staff believes the offer of \$6,500 is fair and recommended acceptance (original list price was \$10,000). He said that the City Commission may accept, reject, or counter the offer provided by Mr. Axtman. The Engineering and Planning Department recommends accepting the offer for \$6,500 for the purchase of parcel 65-3156000.

Commissioner Rohr moved to accept the offer for parcel 65-3156000 as presented in Exhibit 1. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider possible DOT Transportation Improvement Program applications.*

Planning and Engineering Director Froseth stated that on an annual basis, the Metropolitan Planning Organization (MPO) coordinates funding requests for NDDOT Transportation Improvement Program (TIP) roadway projects. These projects are eligible for federal funding assistance because they are on the functional classification system as an arterial or collector roadway. They are prioritized at that time. The Engineering Department could move either forward with applications for any of the projects listed below, or would take any suggestions for other projects. If there are any other suggestions staff would need to know by November 29, 2019 to meet the MPO's application deadline of November 27, 2019.

The DOT is soliciting applications for 1) The Urban Roads Program 2) The Urban Regional Program 3) The Urban Grant Program and 4) The Highway Safety Improvement Program. These are the main programs the NDDOT has to offer when it comes to securing federal funds for

collector and arterial roadway improvements.

2024 Urban Roads Program (URP) – most competitive of the programs.

These projects are eligible for up to 80% federal funding with about a 20% local match required. About \$4 million is designated to the MPO each year for URPs, therefore the \$4 million is shared between City of Mandan, City of Bismarck, City of Lincoln and Burleigh and Morton Counties. In the recent past, when the city of Mandan applied, we have only been successful with projects on the existing system even though extension projects are eligible. Some examples of recent projects through this program include the reconstruct of McKenzie Drive in 2017, the reconstruct of Old Red Trail near the Red Trail elementary school in 2016 and the reconstruct of Sunset Avenue in 2013. Some projects the City of Mandan applied for recently that scored low have little chance of being programmed in area of the extension of Sunset Drive north of the Middle school, the extension of Boundary Road west of Sunset Drive and the extension of Division to the east of 8th Avenue east to Mandan Avenue.

After discussing and reviewing the City of Mandan needs and conditions shown from recent assessments, chances of being programmed in, input from commissioners and the public and input from Mandan developers, the Engineering Department put an ordered list together that addresses needs and reflects the best chance of having projects selected in the URP. Each MPO jurisdiction is limited to three applications, therefore the city can only put together applications for any three below. The city has been unsuccessful in recent years with this program noting that the city is currently in the process of finalizing the Metropolitan Transportation Plan (MTP) which is planned to set the top projects in this program through the next eight years. The top priority expressed by the steering committee is reconstructing 43rd Avenue in Bismarck so getting a project in the city of Mandan in this application cycle looks unlikely. The plan is to apply for the projects outlined.

1. Reconstruction of 8th Ave. NW from Old Red Trail to 27th St. NW.

The purpose of this project is to provide a viable alternate route to access new residential and commercial development as well as provide another route for the middle school traffic originating from the east to avoid the intersection of Sunset and Old Red Trail. The existing roadway is not a full width section and is badly deteriorated. This project has been applied for in the past. Estimate = \$2 million. There are no federal funds for this now, but possibly would be in 2024.

2. Reconstruction of Old Red Trail from 40th Avenue (where the 2016 reconstruct project left off) to 56th Avenue.

The purpose of this project is to address currently fair to poor pavement conditions with a long-term solution while improving capacity by introducing turning lanes to newly developed areas and areas prime for new growth. This project has been applied for in the past. Estimate = \$8.0M.

3. 3rd Avenue NE from Main Street to 5th Street NE (part of the mid-town project).

The purpose of this project is to reconstruct a segment of 3rd Avenue NE that is in fair to poor condition. The focus would be to improve the condition. Given the extent of the deterioration, a reconstruct is necessary. This project has been applied for in the past. Estimate = \$2 million. There may be federal funds possibly available in 2024.

Director Froseth said his recommendation for the URP would be to revise the dates in the items if the city determines revisions are needed and then to resubmit those. The other segments are ideas that have been brought up in the past. Extension projects do not come in high priority. Federal funds are to go to correcting current systems that need it.

Mayor Helbling commented on 8th Avenue NW to Old Red Trail that funds should be used for that project. The adjacent property owners need to take care of that. There was never a street put in with the development so it should be spread to those property owners. He believes that Third Street is more important than 8th Avenue.

Director Froseth stated if we do not resubmit this one, it would be recommended that there would be a reconstruct of Division Street from Collins to Sunset. It would be the recommendation to remove 8th Avenue Northwest and then an application can be created for Division ~~from~~ Collins to Sunset. Commissioner Larson commented that the property owners in that area already have \$15,000-\$20,000 in specials from the new development. There is traffic passing through Old Red Trail that continues on to the other development, outside city limits to the north. Mayor Helbling clarified he was referring to a short stretch from 8th Avenue to Old Red Trail.

Director Froseth brought up the MTP Study process in that there is a public input meeting for the public to look at all the priorities. No official date has been set for that but it may be held the 2nd or 3rd week in January, 2020. When that is announced he will put it out on the website. That would be an opportunity for the public to comment on the segments that were selected and they will be priority ranked by that time.

Mayor Helbling suggested of the three projects that are selected, two of them may be constructed before the City receives the money and it's not clear how they will look at that if they are constructed and funded. That one may have to be moved further down the list because two of the three in that situation may be of concern. Director Froseth said that the city has been able to submit every year with the MTP and that will be adopted early next year because the theory by that group is to get away from submitting every year and just lock in a handful of projects for future years.

Mayor Helbling commented that the suggestion to bring Division Street in as one of the three projects is a good suggestion since it is a major thoroughfare through town.

~~4. 3rd Street mill and overlay from 10th Avenue West to Memorial Highway.~~

~~This segment of 3rd Street is currently in fair to good condition. However, in certain segments, it is showing signs of wear. Unlike the previous few projects listed, it is believed the city can address it with a timely mill and overlay project to get another ten plus years out of the life of the road sub-structure given that it is not excessively deteriorated. Estimate = \$1.3 million.~~

2024 Urban Regional Program.

This is separate from the URP as it is the Urban Regional Program which is also under the umbrella of the TIP. These projects are eligible for more funding assistance since they are on routes that are part of the state highway network, in particular 1806 Mandan Avenue past the new sports complex up to 27th. There are three funding phases because it is a very large project

for a funding program. The main street traffic signals are part of this plan and there is a new plan for signals and concrete replacement and repair of 6th Avenue SE from main street down to the sitting bull bridge river crossing for 2022.

Director Froseth commented that the city has been very successful as of late with getting urban regional projects programmed in comparison to the urban roads program.

Mayor Helbling commented that is a good recommendation with the limited amount of money available Mandan has received a fair share. Sitting on the MPO he stated that there are other cities in line for projects.

Urban Grant Program (UGP) Applications.

The UGP was added to the toolbox in 2017. In summary this program's main intent is to fund transportation projects that include items that improve the vitality of downtown districts of cities. The program gets its roots in the Governor's Main Street Initiative. Mandan's Downtown Subarea Study, completed in 2018, identified a couple of projects in the core downtown area that fit under this program. The city has received commitments under that program for about \$3 million to improve and reallocate Main Street and to address the Avenues and 1st Street west of Collins. Those projects are to be constructed in 2020 and 2021 respectively. He recommended holding on this project for this year. Mayor Helbling agreed there are plenty of projects in process that it would be suggested slowing down.

Highway Safety Improvement Program (HSIP).

The HSIP has primarily been used for rural highway safety projects, so it has an afterthought compared to the previously mentioned programs. There are ideas in the Local Road Safety Program (LRSP) completed in 2015, many of which the city has already tapped into. Though not listed on the LRSP, the city intends to put together an application for Rapid Rectangular Flashing Beacons (RRFBs) in various locations throughout the city. Bismarck has been successful with those as evidenced by the current TIP. It was recommended to put together an application for this project.

Director Froseth recommended moving forward with the highlighted projects and the Division Street project instead of the 8th Avenue project.

Commissioner Larson moved to support Engineering Staff's intent to send applications for the projects listed above with the one change of 8th Street project to Division Street project.

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

4. *Discussion of a plaque in memory of Crawford Peltier.*

City Administrator Neubauer presented a request to place a memorial plaque for Crawford Peltier to be placed upon a city park bench. He said that Mr. Crawford passed away on November 6, 2019. For those of who do not recognize the name, Mr. Crawford would give the "Yee Haw" and get folks to honk while he sat on a bench on Sunset Drive while he gave a hearty wave. The city has received requests to honor Mr. Crawford by placing a plaque upon one of the

benches in the area frequently occupied by Mr. Crawford along Sunset Drive. He reported that organizations are willing to assist in the design and funding of such a plaque. The action would be for the city to approve this. Mayor Helbling recommended cleaning up the area by installing a new bench and landing. The Commission approved of the request as presented.

I. RESOLUTIONS AND ORDINANCES

1. *Consider approval of the second and final consideration of Ordinance 1329 to amend and re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Drug Paraphernalia (Marijuana).* Attorney Brown stated this is the second consideration and it brings the ordinance in line with state law. Commissioner Larson moved to approve the second and final consideration of Ordinance 1329 to amend and re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Possession of Drug Paraphernalia (Marijuana). Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Consider Resolution Authorizing Issuance of \$352,967.18 Street Improvement District No. 207 Definitive Improvement Warrant.* Finance Director Welch provided a request to consider the Resolution Authorizing Issuance of \$352,967.18 Street Improvement District No. 207 Definitive Improvement Warrant. He said that the issuance of the Warrant is necessary to provide the City with financing for the new asphalt street construction on 8th Avenue NW north of 27th Street NW. Installation of an asphalt street and storm sewer occurred with this project. The construction was completed in 2017 and the project was assessed in 2018. The city looked for financing and a proposal was received from Starion Bank to finance this project at interest rate of 3.29%.

Commissioner Davis moved to approve the Resolution Authorizing Issuance of \$352,967.18 Street Improvement District No. 207 Definitive Improvement Warrant. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider Resolution Authorizing Issuance of \$181,045.08 Street Improvement District No. 208 Definitive Improvement Warrant.*

Finance Director Welch presented a request to consider the Resolution Authorizing Issuance of \$181,045.08 Street Improvement District No. 208 Definitive Improvement Warrant. He said the issuance of the Warrant is necessary to provide the City with financing for the street construction on McKenzie Drive SE from Bismarck Expressway to 46th Avenue SE. Installation of new curb and gutter, street pavement, storm sewer, street lights and shared use path occurred with this project. The construction was completed in 2018 and the project was assessed in 2018. A proposal from Starion Bank was received to provide financing for this project at an interest rate of 3.05%.

Commissioner Braun moved to approve the Resolution Authorizing Issuance of \$181,045.08 Street Improvement District No. 208 Definitive Improvement Warrant. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes;

Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *Consider Resolution Authorizing Issuance of \$225,623.11 Street Improvement District No. 211 Definitive Improvement Warrant.* Finance Director Welch presented a request to consider the Resolution Authorizing Issuance of \$225,623.11 Street Improvement District No. 211 Definitive Improvement Warrant. He said that the issuance of the Warrant is necessary to provide the City with financing for the new asphalt street construction on Amari Loop NW. The project consisted of installation of new curb and gutter, asphalt pavement, storm sewer, street lights, and chip seal occurred with this project. The construction was completed in 2019 and the project was assessed in 2019. A proposal from Starion Bank was received to provide financing for this project at interest rate of 3.34%.

Commissioner Braun moved to approve the Resolution Authorizing Issuance of \$225,623.11 Street Improvement District No. 211 Definitive Improvement Warrant. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

5. *Consider Joint Resolution between Morton Mandan Public Library (MMPL) & City of Mandan related to improvements to the MMPL and Downtown Parks.* City Administrator Neubauer presented a request to consider a joint resolution between the Morton Mandan Public Library (MMPL) and the City of Mandan (City) to authorize the North Dakota Community Foundation (NDCF) to pay invoices related to the MMPL & Downtown Parks project. He reported that Energy Transfer has donated \$3 million to the City of Mandan for making improvements to the MMPL and Downtown Parks. The funds have been deposited in the MMPL building fund that was in existence with the NDCF. In order to access these funds this Joint Resolution authorizes the City to authorize the NDCF to pay invoices direct to the vendors. This has been reviewed by Attorney Brown and the NDCF in conjunction with Library Director Jackie Hawes. He explained that the process will be to have the MMPL consider approval of payments made for library related issues and then to the City for its consideration for approval before submitting an invoice to NDCF for payment. Items related to the Downtown Parks would simply be presented to the City for authorization to NDCF for payment to vendors. It would require City Commission approval.

Commissioner Rohr moved to approve the Joint Resolution between the Morton Mandan Public Library (MMPL) & City of Mandan related to improvements to the MMPL and Downtown Parks. Commissioner Davis seconded the motion. Commissioner Larson commented that her employer is one of the vendors working on this project. Mayor Helbling did not believe that would qualify for Commissioner Larson as being exempt to vote on this matter.

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

J. OTHER BUSINESS:

- (1) Mayor Helbling extended a thank you to all the contestants that participated in the Business Pitch Challenge last week along with a thank you to Director Huber and the Chamber of Commerce.
- (2) Small Business Saturday is scheduled for November 30, 2019.
- (3) Santa’s Arrival is on November 30, 2019.

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Braun motioned to adjourn the meeting at 6:42 pm. Commissioner Davis seconded the motion. The motion received unanimous approval of the members present.

James Neubauer
City Administrator

Tim Helbling, Mayor
Board of City Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 22, 2019
SUBMITTING DEPARTMENT: Police Department
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: Chief Jason Ziegler
SUBJECT: 90 Minute Parking Zone 100blk 2nd Ave NE

STATEMENT/PURPOSE: Consider changing the 90 minute parking zone on the west side of the 100blk of 2nd Ave NE from the alley, south to East Main St to no timed parking restriction.

BACKGROUND/ALTERNATIVES: A request was made by Dan Anderson of Legacy Law Firm to the Mandan Parking Authority Board on July 30th, 2019. He will be constructing a business in the 100blk of 2nd Ave NE. At that time, he requested a 90 minute parking zone on the west side of the 100blk of 2nd Ave NE from the alley, south to East Main St. This request was approved by the Mandan Parking Authority Board at the meeting. It was placed on the consent agenda for the August 20, 2019 Commission meeting. The request was approved by the Commission at that meeting. At the November 5, 2019 Mandan Parking Authority Board meeting, Dan Anderson came back to the board. He said he had gotten the design of his new building finalized and felt that unlimited timed parking would work best for his business. He asked that his request for the 90 minute parking which had been approved be changed back to no timed parking. The Mandan Parking Authority Board voted to approve his request.

ATTACHMENTS: Mandan Parking Authority Board minutes from November 5th, 2019 meeting.

FISCAL IMPACT: None. No signage had been placed as of this date.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Recommend changing the 90 minute parking zone on the west side of the 100blk of 2nd Ave NE from the alley, south to East Main St. to a no timed parking zone.

Board of City Commissioners
Agenda Documentation
Meeting Date: December 3, 2019
Subject: 90 Minute Parking Zone 100blk 2nd Ave NE

Page 2 of 2

SUGGESTED MOTION: Move to approve changing the 90 minute parking zone on the west side of the 100blk of 2nd Ave NE from the alley, south to East Main St. to a no timed parking zone.

PARKING BOARD AUTHORITY MEETING
NOVEMBER 5, 2019

A meeting of the Mandan Parking Authority was held in the Veterans' Room at City Hall at 7:45 a.m.

Members attending: Edgar Oliveira, Julie Haibeck, Al Kuntz and Crystal Tretbar. Absent was Larry Goetzfridt. Others in attendance: City Administrator Jim Neubauer, Business Development Director Ellen Huber, Public Works Director Mitch Bitz, Commissioner Dennis Rohr, Police Chief Jason Ziegler, Deputy Chief Lori Flaten, Parking Enforcement Allan Decker and Records Technician Cheryl Kroh. Guests in attendance: Dan Anderson – Legacy Law Firm

Meeting Agenda

1. INTRODUCTIONS
 - a. None were needed.

2. MINUTES
 - a. Review and consider for approval the minutes from July 30, 2019 meeting
Motion was made by Al Kuntz to approve the minutes. Seconded by Julie Haibeck. Motion carried.

3. OLD BUSINESS
 - a. None

4. NEW BUSINESS
 - a. Consider letters of interest of parties wanting to serve on the Parking Board.
 1. Only letters of interest to be on the Parking Board were received from Edgar Oliveira and Julie Haibeck.

 - b. Consider re-appointment of members to the Parking Board. Two terms will expire in December 2019 – Edgar Oliveira and Julie Haibeck. Terms are for 3 years.
 1. Since the only letters received were from Edgar Oliveira and Julie Haibeck, a motion was made by Al Kuntz to recommend the re-appointment of Edgar and Julie to the Parking Board for 3 year terms. Seconded by Crystal Tretbar. Motion carried.

 - c. Dan Anderson from Legacy Law Firm is requesting to reconsider Second Ave NE parking to have unrestricted instead of 90 minutes
 1. Dan Anderson said as tenants are signing leases in his building they are concerned about the 90 minute restricted parking that will be posted in the area of the new building. Some of the tenants may meet with their clients for a lesser time but some may possibly meet 2 hours or more. Dan also showed the board and others in attendance a map of the area in question and a picture of the building when built. Motion was made by Al Kuntz to reconsider the change from 90 minute restriction to unrestricted. Seconded by Crystal Tretbar. A board member, Julie Haibeck, opposed the change. Show of hands were needed in voting. Three board members and Commissioner Rohr were in favor of the change (4) and (1) board member opposed the change. Change will be made and the motion passes.

5. OTHER BUSINESS

a. NONE. However, Ellen Huber mentioned that the new downtown parking maps are completed. Allan Decker was asked how the parking enforcement is doing. Allan responded that it is going good and violations are slowing down. Also he mentioned that the signs located in the area of NAPA as well as the signs by the Morton County Courthouse have been changed to 90 minute restricted parking.

6. NEXT MEETING DATE

a. Next date will be in February or March 2020. Everyone will be notified.

7. ADJOURN

a. Motion to adjourn meeting was made by Al Kuntz and seconded by Crystal Tretbar.
Adjourned at 8:04 a.m.



Consent No. 2

Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 25, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM
SUBJECT: Final plat for Evergreen Heights 3rd Addition

STATEMENT/PURPOSE: Consider approval of the final plat for Evergreen Heights 3rd Addition.

BACKGROUND/ALTERNATIVES: Val Renner and Janet Dykshoorn are seeking to plat their property near 19th St. SE and S. 1806 for the purposes of commercial development. The subject property completed an annexation, preliminary plat, zone change to CA – Neighborhood Commercial, and masterplan subdivision review. The final plat totals 4.04 acres.

The preliminary plat was conditioned upon the vacation of an approach that would serve proposed Lot 3, Block 1 and a ten (10) foot utilities easement along 1806 S (See Exhibit 1). Both are addressed through the plat via easement and non-access line as seen in the final plat (See Exhibit 2).

Planning and Zoning further recommended that an application for vacation to North Dakota Department of Transportation be filed as a condition of approval of the final plat and a plat note outlining this condition be placed on the final plat, if approved by the Board of City Commissioners.

The final plat is found to meet the standards outlined in Sec. 109-2-6 (c) and the conditions placed upon the preliminary plat by the Board of City Commissioners.

Staff is recommending approval of the final plat as presented in Exhibit 2, subject to the condition outlined in Exhibit 3.

Planning and Zoning recommended approval at their November 25 meeting.

ATTACHMENTS:

Exhibit 1 – Conditions of Preliminary Plat Approval
Exhibit 2 – Evergreen Heights 3rd Addition Final Plat
Exhibit 3 – Condition of Final Plat Approval

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document has been reviewed and approved by Attorney Brown.

RECOMMENDATION: The Planning and Zoning Commission recommend approval of the request for final plat as presented in Exhibit 2 subject to the condition outlined in Exhibit 3.

SUGGESTED MOTION: I move to approve the request for final plat as presented in Exhibit 2 subject to the condition outlined in Exhibit 3.

EXHIBIT 1

Requirements of Final Plat (Purpose)

- No access onto 1806 S other than by way of existing driveway approach presently serving proposed Lot 2, Block 1 of Evergreen Heights 3rd Add. (Safety)
- Approach solely serving proposed Lot 3, Block 1 of Evergreen Heights 3rd Add. shall be vacated to meet the current North Dakota Department of Transportation standards for minimum distance between approaches. (Safety)
- Montana-Dakota Utilities (MDU) requests an easement along properties abutting 1806 S of ten (10) feet to adequately provide services to the proposed lots. (Utilities)

EXHIBIT 2

EVERGREEN HEIGHTS THIRD ADDITION

PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION AND PART OF SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST

TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF MANDAN, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF MANDAN, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF MANDAN, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE DAY OF _____ 2019.

JIM NEUBAUER--CITY ADMINISTRATOR

TIM HELBLING--MAYOR

APPROVAL OF CITY ENGINEER

I, JUSTIN FROSTH, CITY ENGINEER OF THE CITY OF MANDAN, NORTH DAKOTA, HEREBY APPROVE "EVERGREEN HEIGHTS THIRD ADDITION", MANDAN, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

JUSTIN FROSTH
CITY ENGINEER

DESCRIPTION

ALL THAT PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION OF THE SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST, CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 BLOCK 2 REPLAT OF EVERGREEN HEIGHTS 2ND; THENCE NORTH 00 DEGREES 00 MINUTES 31 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 256.67 FEET TO THE NORTHEAST CORNER OF LOT 1 BLOCK 1 EVERGREEN HEIGHTS; THENCE NORTH 89 DEGREES 53 MINUTES 40 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 129.87 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF LOT A OF E1/2, SW1/4 SECTION 35, T139N, R81W; THENCE NORTH 00 DEGREES 01 MINUTE 22 SECONDS WEST, ALONG EAST LINE OF SAID LOT 1 OF LOT A OF E1/2, SW1/4, A DISTANCE OF 258.17 FEET TO THE SOUTH RIGHT-OF-WAY OF 15TH STREET SE; THENCE NORTHEASTERLY AND TO THE RIGHT, ALONG SAID RIGHT-OF-WAY, ON A 204.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 58 DEGREES 38 MINUTES 59 SECONDS EAST, AN ARC LENGTH OF 33.78 FEET; THENCE NORTH 40 DEGREES 50 MINUTES 14 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 90.42 FEET TO THE WEST RIGHT-OF-WAY OF HIGHWAY 1806; THENCE SOUTH 38 DEGREES 47 MINUTES 51 SECONDS EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 329.06 FEET; THENCE NORTH 51 DEGREES 25 MINUTES 12 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 5.16 FEET; THENCE SOUTH 38 DEGREES 42 MINUTES 43 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 285.14 FEET; THENCE SOUTH 51 DEGREES 17 MINUTES 17 SECONDS WEST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET; THENCE SOUTH 38 DEGREES 48 MINUTES 49 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 163.24 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 25 SECONDS WEST, A DISTANCE OF 427.70 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 3.70 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, LARRY J. SMITH, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____ 2019, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA)
COUNTY OF _____) SS

SES GEOMATICS
2321 HARDING AVENUE
BISMARCK, NORTH DAKOTA
58501

LARRY J. SMITH
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 2363



SCALE: 1"=50'
OCTOBER 23, 2019
MONUMENT IN PLACE

NOTES

BASE OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.
PLAT IS SUBJECT TO EASEMENTS,
COVENANTS, AND RESTRICTIONS OF RECORD.

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT JANET DYKSHOORN AND VALAN RENNER, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "EVERGREEN HEIGHTS THIRD ADDITION", MANDAN, MORTON COUNTY, NORTH DAKOTA.

STATE OF NORTH DAKOTA)
COUNTY OF _____) SS

JANET DYKSHOORN
1601 HIGHWAY 1806 S
MANDAN, ND 58554

ON THIS _____ DAY OF _____ 2019, BEFORE ME PERSONALLY APPEARED JANET DYKSHOORN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC
COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

STATE OF NORTH DAKOTA)
COUNTY OF _____) SS

VALAN RENNER
4655 HIGHWAY 6
MANDAN, ND 58554

ON THIS _____ DAY OF _____ 2019, BEFORE ME PERSONALLY APPEARED VALAN RENNER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC
COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

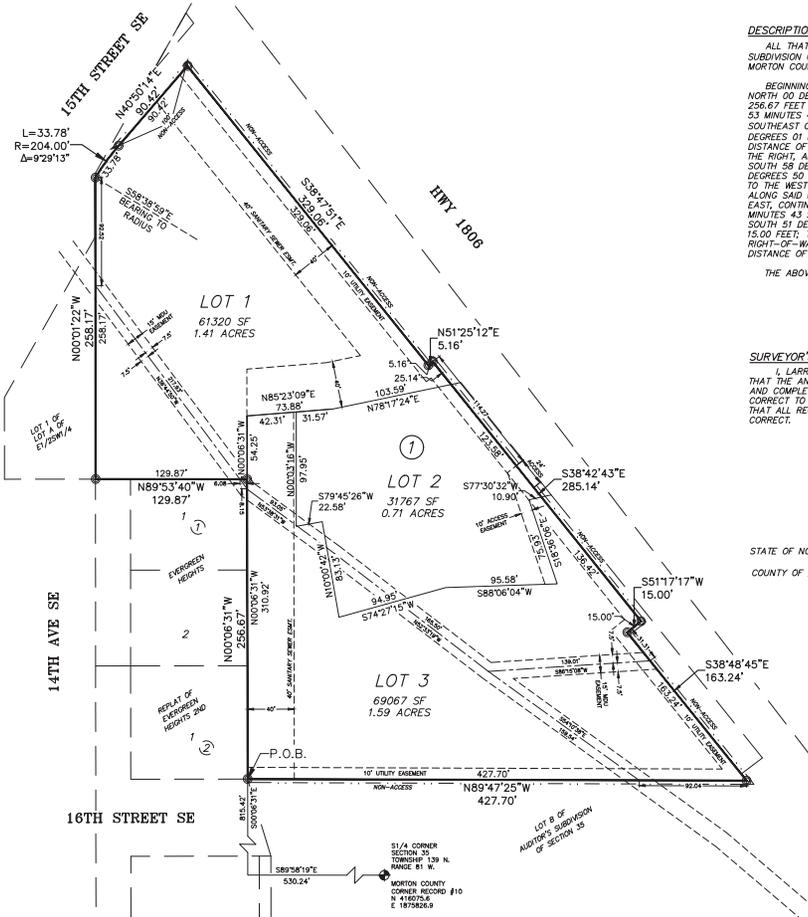


EXHIBIT 3

- A plat note is to be included outlining the requirement to formally submit application for vacation of the approach presently serving Lot 3, Block 1 of proposed Evergreen Heights 3rd Addition to North Dakota Department of Transportation or other procedure as required to effect the same by said agency.



Consent No. 3

Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 25, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM
SUBJECT: Formally declare Lonesome Dove painted sign grandfathered upon adoption of Ordinance 1326 related to murals

STATEMENT/PURPOSE: Consider approval to formally declare Lonesome Dove painted sign grandfathered upon adoption of Ordinance 1326 related to murals.

BACKGROUND/ALTERNATIVES: To ensure there is no question with regard to the state of the Lonesome Dove painted sign upon adoption of Ordinance 1326 related to murals, attorneys are seeking a formal, documented decision clarifying said issue.

ATTACHMENTS:

N/a

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document has been reviewed and approved by legal counsel.

RECOMMENDATION: N/a

SUGGESTED MOTION: I move to declare: “The hand-painted, western-themed Lonesome Dove sign located at 3929 Memorial Highway is considered as it currently exists to be a conforming ‘mural’ under the newly adopted mural Ordinance 1326.”



Board of City Commissioners

Agenda Documentation

MEETING DATE:	December 3, 2019
PREPARATION DATE:	November 26, 2019
SUBMITTING DEPARTMENT:	Administration
DEPARTMENT DIRECTOR:	Jim Neubauer, City Administrator
PRESENTER:	Jim Neubauer, City Administrator
SUBJECT:	Program Coordinator, Job Title and Pay Grade Amendment

STATEMENT/PURPOSE: To consider a position grade change and title change for the position of Program Coordinator.

BACKGROUND/ALTERNATIVES: The Program Coordinator position was created in 2014. At the time the position had several items in the description as “assist with...” We have made several amendments to the job description and are allowing for more control/ownership over tasks vs. being an assistant and supporting the tasks. This increases the responsibility of the position, which would support a reclassification. The role now includes more communications duties, too.

We have also reviewed a similar position in West Fargo as far as duties and responsibilities. In conducting that review, we also compared the pay grade. While West Fargo Grade numbers differ from ours the pay range equivalent to this to West Fargo’s Grade 9 (start \$19.47; mid \$23.26; top \$27.25), is equivalent to our Grade 16 (start \$19.37; mid \$24.57; top \$29.77).

The reclassification from a Grade 14 to a Grade 16 is considered a promotion. The promotion policy would allow for up to a 5% increase or the minimum of the new pay grade, whichever is higher. Then after successful completion of a 6-month probationary period for the promotion, a second increase up to 5% may be granted.

To more accurately reflect the position duties (Program Coordinator is quite vague) we also recommend a change to the title of Communications & Community Services Coordinator.

ATTACHMENTS: Revised Job Description

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Program Coordinator, Job Title and Pay Grade Amendment

Page 2 of 2

FISCAL IMPACT: If approved a 5% increase would amount to \$1.05/hour for 6 months plus up to another 5% (\$1.10) upon successful completion of the six month probationary period.

STAFF IMPACT: n/a

LEGAL REVIEW: HR Director Cullen has worked closely with Ellen and me on these revisions.

RECOMMENDATION: I recommend changing the Program Coordinator job title to Communications & Community Services Coordinator and adjusting the pay grade from a 14 to a grade 16 with the corresponding pay adjustment in accordance with the promotion policy.

SUGGESTED MOTION: I move to change the Program Coordinator job title to Communications & Community Services Coordinator and adjusting the pay grade from a 14 to a grade 16 with the corresponding pay adjustment in accordance with the promotion policy.

City of Mandan

Program Communications & Community Services Coordinator

Revised/Approved:	Orig. 6/2014; 6/2017; 10/2019
Department:	Administration
Reports to:	City Administrator and Business Development & Communications Director
Pay Grade:	<u>Current grade 14; New grade 16?</u>
FLSA Classification:	<u>Non Exempt</u>
Department Manager:	
Human Resource:	
Finance Director:	
City Administrator:	
Employee Signature:	

1. DESCRIPTION OF WORK

- 1.1. General Statement of Duties: ~~Performs responsible administrative work~~ Executes the City's external communications program and assists with community services under the direction of the City Administrator and Business Development & Communications Director. Provides Responsible for public information and program assistance related to business development and overall city services.
- 1.2. Supervision Received: Works under supervision of the City Administrator and Business Development & Communications Director
- 1.3. Supervision Exercised: None

2. EXAMPLES OF WORK

~~D~~ Overall program assistance:

- ~~• Issue meeting notices and make arrangements as needed including preparation of agendas and minutes for various boards, including but not limited to Renaissance Zone Committee, Growth Fund Committee, Community Beautification Committee, and Mandan Tomorrow Leadership, Pride & Image Committee.~~
- ~~• Act as a liaison with departments, outside agencies, customers and commissioners.~~
- ~~• Assist in preparation of commission meeting agenda documentation.~~
- ~~2.1. Coordinate meetings and outreach activities.~~
- ~~2.2.2.1. Communications & marketing assistance:~~
 - ~~2.2.1. Assist with developing and implementing~~ Carry out an effective public information program for the City Commission and City departments that :
 - ~~2.2.2.2.1.1. Proactively promotes~~ City accomplishments and activities.
 - ~~2.1.2. Primary r~~ Responsibility for monthly City newsletter ~~to include~~ ing researching and writing ~~of~~ articles, editing ~~of~~ submitted articles, ~~preparation creating~~ of graphics, and publication layout and design.
 - ~~2.1.3. Create, edit and publish content on the website and social media including City of Mandan and community marketing sites including on Facebook, Instagram, Twitter and LinkedIn.~~
 - ~~2.1.4. Assist with media relations, including writing and distributing news~~

- releases, coordinating media interviews and occasional on-call service for emergency or urgent situations.
- 2.1.5. Develop brochures, flyers and other graphical materials for print and online publication.
- ~~2.2.3.2.1.6. Photograph and film various city events.~~
- ~~2.2.4. Assist with research, writing and distribution of news releases.~~
- ~~2.2.5. Assist with website updates and maintenance. Post information and updates to social media sites including a City of Mandan Facebook informational page and a Made in Mandan community marketing page.~~
- 2.2.6.2.1.7. Assist with implementation of overall community marketing strategy as determined by the Mandan Tomorrow – Leadership, Pride and Image Committee and Business Development and Communications Director.
- ~~2.2.7. Draft print or online ads for review and approval.~~
- 2.1.8. Assist with organization and execution of various special events such as community clean-up day, awards ceremonies, workshops and training sessions.
- 2.1.9. Assistance with Develop presentation materials for the Mayor and other Ceity leaders and staff as needed.

- 2.2. Overall city services and program assistance:
 - 2.2.1. Responsible for meeting arrangements and record keeping for various boards, including but not limited to Renaissance Zone- Committee, Growth Fund Committee, Community Beautification Committee, and Mandan Tomorrow – Leadership, Pride & Image Committee.
 - 2.2.2. Act as a liaison with departments, outside agencies, customers and commissioners.
 - 2.2.3. Prepare commission meeting agenda documentation as needed.
 - 2.2.4. Coordinate meetings and outreach activities.

- 2.3. Business development assistance:
 - 2.3.1. Maintain ~~of~~ business database (Excel and online) and available commercial properties list.
 - ~~2.3.2. Maintain of available commercial properties list.~~
 - 2.3.2. Assistance with administration of following incentive programs: Renaissance Zone (RZ), Storefront Improvement, Property Tax Exemptions for New & Expanding Businesses, Retail Incentive, and Restaurant Rewards. — Reviewing applications; scheduling & organizing committee meetings; compile ing meeting minutes; preparedrafting agenda documentation;
 - 2.3.3. S; submittal of project summaries to the Sstate for RZ projects; Compile tracking of projects for various reporting requirements and fulfillment of obligations (deadlines, investment levels, scope of project, jobs creation, sales tax generation, automatic doors, etc) to receive or continue to receive incentives; compile annual RZ report for state.

- ~~2.3.3.1. Renaissance Zone~~
- ~~2.3.3.2. Storefront Improvement Program~~
- ~~2.3.3.3. Property Tax Exemptions for New & Expanding Businesses~~
- ~~2.3.3.4. Retail & Restaurant Incentive Program~~
- ~~2.3.3.5. Restaurant Rewards Program~~

- 2.4. -Receptionist and clerical duties:
 - 2.4.1. Answer telephone and greet visitors; provide information and assistance; takes messages; direct to appropriate personnel.
 - 2.4.2. Compose and draft a variety of correspondence.
 - 2.4.3. Develop fillable PDF forms for online placement.
 - 2.4.4. Maintains office records and files.
 - 2.4.5. Inventory and purchase office supplies and equipment.
- 2.5. Handle confidential and non-routine information and explain policies when necessary.
- 2.6. Independent judgment is required to plan, prioritize and organize diversified workload.
- 2.7. Perform other duties of a comparable level/type as required.

3. MINIMUM QUALIFICATIONS

3.1. Education and Experience:

3.2.

~~3.3.3.1. Required:~~ Bachelor's degree in communications, public relations, marketing, business administration, business management, or similar field required. One year of work experience in public information, communications, advertising, marketing, and/or public relations.

~~3.4.3.2. Area of residence:~~ Residency in Mandan or Morton County is helpful, but not required.

~~3.5.3.3. Required Knowledge, Skills and Abilities:~~

~~3.5.1.3.3.1. Skill in oral and written communication, including knowledge of proper grammar, syntax, style, spelling, and punctuation.~~

~~3.5.2.3.3.2. Knowledge of customer service techniques and policies.~~

~~3.5.3.3.3.3. Skill in mathematical computation.~~

~~3.3.4. Skill in applying customer service techniques.~~

~~3.3.5. Ability to communicate information in a manner easily understood by the general public.~~

~~3.3.6. Knowledge of principles and practices of marketing communications, including public relations, print and digital media.~~

3.3.7. Experience in Adobe InDesign, Photoshop, Illustrator, and/or similar programs.

3.3.8. Ability to create and maintain effective working relationships with peers, superiors, other City departments, media, vendors, contractors, external government agencies and organizations.

3.5.4.3.3.9. Knowledge of journalism and writing in Associated Press style.

4. The physical activities of this position are:

- 4.1. Climbing: Ascending or descending ladders, stairs, scaffolding, ramps, poles, and the like, using feet and legs, and/or hands and arms. Body agility is emphasized. This factor is important if the amount and kind of climbing required exceeds that required for ordinary locomotion.
- 4.2. Stooping: Bending body downward and forward by bending spine at the waist. This factor is important if it occurs to a considerable degree and requires full use of the lower extremities and back muscles.
- 4.3. Kneeling: Bending legs at knee to come to a rest on knee or knees.
- 4.4. Crouching: Bending the body downward and forward by bending leg and spine.
- 4.5. Reaching: Extending hand(s) and arm(s) in any direction.
- 4.6. Pushing: Using upper extremities to press against something with steady force in order to thrust forward, downward or outward.
- 4.7. Pulling: Using upper extremities to exert force in order to draw, drag, haul or tug objects in a sustained motion.
- 4.8. Lifting: Raising objects from a lower to a higher position or moving objects horizontally from position-to-position. This factor is important if it occurs to a considerable degree and requires the substantial use of the upper extremities and back muscles.
- 4.9. Fingering: Picking, pinching, typing or otherwise working primarily with fingers rather than with the whole hand or arm as in handling.
- 4.10. Grasping: Applying pressure to an object with the fingers and palm.
- 4.11. Talking: Expressing or exchanging ideas by means of the spoken word. Those activities in which they must convey detailed or important spoken instructions to other workers accurately, loudly, or quickly.
- 4.12. Hearing: Perceiving the nature of sound with no more than a 40 db loss @ 500 Hz, 1,000 Hz and 2,000 Hz with or without correction. Ability to receive detailed

information through oral communication and to make fine discriminations in sound, such as when making the fine adjustments on machined parts.

4.13. Repetitive motions: Substantial movements (motions) of the wrists, hand and/or fingers.

4.14. Light Work: Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds frequently, and/or a negligible amount of force constantly to move objects. If the use of arm and/or leg controls requires exertion of forces greater than that for Sedentary Work and the worker sits most of the time, the job is rated for Light Work.

~~4.15.~~

~~4.16.~~ The visual acuity requirements including color, depth perception and field of vision for this position are:

~~4.17.~~

~~4.18.~~ 4.15. MACHINE OPERATORS (including inspection), INSPECTION, CLOSE ASSEMBLY, CLERICAL, ADMINISTRATIVE: This is a minimum standard for use with those whose work deals largely with preparing and analyzing data and figures, accounting, transcription, computer terminal, extensive reading, visual inspection involving small parts, operation of machines (including inspection), using measurement devices, assembly or fabrication of parts at distances close to the eyes.

~~4.19.~~

~~4.20.~~ The conditions the worker will be subject to in this position are:

~~4.21.~~

~~4.22.~~ 4.16. The worker is subject to both environmental conditions: Activities occur inside and outside.



LOCAL PERMIT OR CHARITY LOCAL PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

LICENSING SECTION

SFN 17926 (10/2012)

Type: Local Permit * Charity Local Permit

Permit Number

2019-53

Name of Organization Mandan Kachina Dance Parent Club		Date(s) Authorized (Read instruction 2)	
Contact Person Carla Barrios	Business Phone Number (701) 426-9351	12/7/2019 Beginning	to 12/7/2019 Ending
Mailing Address 1200 3rd Ave Ne	City Mandan	State ND	Zip Code 58554-0000
Site Name Mandan High School	Site Address 905 8th Ave Nw		
City Mandan	State ND	ZIP Code 58554-0000	County Morton County
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*			
Restriction:			
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor <u>and</u> Office of Attorney General within 30 days of the event.			
Date 12/2/2019	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor	Printed Name of City or County Auditor Lori Flaten	Auditor Telephone Number (701) 667-3455

Please see the instructions on the backside of this form on how to complete the Permit.

For a raffle or calendar raffle, read "Information Required to be Preprinted on a Standard Raffle Ticket" below.

cut along this line

INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:

1. Name of organization;
2. Ticket number;
3. Price of the ticket, including any discounted price;
4. Prize, description of an optional prize selectable by a winning player, or option to convert a merchandise prize to a cash prize that is limited to the lesser of the value of the merchandise prize or four thousand dollars. However, if there is insufficient space on a ticket to list each minor prize that has a retail price not exceeding twenty dollars, an organization may state the total number of minor prizes and their total retail price;
5. For a licensed organization, print "office of attorney general" and license number. For an organization that has a permit, print the authorizing city or county and permit number;
6. A statement that a person is or is not required to be present at a drawing to win;
7. Date and time of the drawing or drawings and, if the winning player is to be announced later, date and time of that announcement. For a calendar raffle, if the drawings are on a same day of the week or month, print the day and time of the drawing;
8. Location and street address of the drawing;
9. If a merchandise prize requires a title transfer involving the department of transportation, a statement that a winning player is or is not liable for sales or use tax;
10. If a purchase of a ticket or winning prize is restricted to a person of minimum age, a statement that a person must be at least "___" years of age to buy a ticket, or win a prize;
11. A statement that a purchase of the ticket is not a charitable donation;
12. If a secondary prize is an unguaranteed cash or merchandise prize, a statement that the prize is not guaranteed to be won and odds of winning the prize based on numbers of chances; and
13. If a prize is live beef or dairy cattle, horse, bison, sheep or pig, a statement that the winning player may convert the prize to a cash prize that is limited to the lesser of the market value of the animal or four thousand dollars.



New Business No. 1 – REVISED ON 12-3-19

Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 26, 2019
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: Consider the creation of street improvement district, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

STATEMENT/PURPOSE: To move forward with the resolutions necessary to approve the Mid-Town East Street Improvement District project.

BACKGROUND/ALTERNATIVES: Engineering staff has been working with Moore Engineering on a project feasibility report since they were hired for the job in September. Some of the notable tasks that have been done since include survey and assessment of the streets' current conditions including soil boring geotechnical analysis. Basically, in addition to assessing the conditions that can be seen from the surface, we also have a good understanding of what is underneath in order to best assess the right scope of work for each block. Based on the scopes of work that will give us confidence in the long-term life of the road, cost estimates were produced. We invited property owners within the district via individual mailers to a presentation and open house at Mandan City Hall held on the evening of November 6th. We had a good turnout at that meeting with approximately 50 attendees. The meeting started with about a 30-40 minute presentation which was followed by questions and answers for the remainder of the two hours. We have been diligently looking at all properties within the district for fairness in assessment. We have used our assessment policy to guide us in this and pending the results of the meeting tonight, will send out letters to each property with their estimated assessment amount.

If the necessary resolutions are approved tonight, a 30 day protest period will start during which we will accept letters of protest. In addition to the state requirement of posting in the Mandan News, we will also post on our website and social media as well as send another round of letters to property owners with their individual estimate of assessment. After the 30 day protest period we would then bring the results of the protest period back

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Consider the creation of, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

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before the board in January to determine sufficiency. If insufficient protests, we would work on final drawings and advertise the project for bid in the spring for 2020 construction. Along with the steps to initiate the project, we are also recommending to commit to buying-down the assessment portion of the costs by 20% with the use of Municipal Infrastructure Funds (aka, Prairie Dog Funds).

ATTACHMENTS:

- 1) Resolution Creating Street Improvement District
- 2) Resolution approving Engineer's Report
- 3) Feasibility Report
- 4) Resolution of Necessity
- 5) District Map
- 6) Moore Engineering Project Concept (aka; Feasibility) Report without appendices (appendices available upon request, 163 pages).

FISCAL IMPACT: The total project cost that would be divided among district participants if no other funding support, is estimated at \$5,547,800. With Municipal Infrastructure Funds (formerly Prairie Dog Funds) buy down at a rate of 20%, that amount would be reduced by \$1,109,560 and would become \$4,438,239. Water and sewer improvements would not be part of the assessment costs as per our traditional funding formula. To pay for those water and sewer needs is an estimated \$2,540,102.50. The amount of needs identified in the water and sewer system through the preliminary design far exceeds the estimated amount of \$800,000 thought to be needed before preliminary design. After discussion with Administration, Finance and Public Works, we propose to pay for the project as shown in the table below. This table considers other projects that we have tabbed for Municipal Infrastructure Fund uses that have yet to come before the board for a final decision.

<u>FUNDING</u>	<u>TOTAL</u>	
MUNICIPAL INFRASTRUCTURE FUND	\$ 1,109,560	20% OF TOTAL STREET IMPROVEMENT DISTRICT
MUNICIPAL INFRASTRUCTURE FUND	\$ 997,355	WATER AND SEWER
WATER AND SEWER UTILITY FUND	\$ 800,000	2020 BUDGET
WATER AND SEWER UTILITY FUND	\$ 742,748	ADDITIONAL FUNDING FOR WATER AND SEWER
SPECIAL ASSESSMENTS	\$ 4,438,239	
TOTAL	<u>\$ 8,087,902</u>	

STAFF IMPACT: Significant time and effort working alongside Moore Engineering on this project.

LEGAL REVIEW: All Commission documents have been forwarded to City Attorney for review.

Board of City Commissioners

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RECOMMENDATION: Approve the resolutions necessary to move the Mid-Town East project forward.

SUGGESTED MOTIONS:

1. Move to approve the resolution creating the district, approve the engineer's report, approve the feasibility report and approve the resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).
2. Move to approve the dedication of Municipal Infrastructure funds towards the project at a rate of 20% of the amount to be assessed to the district and up to \$997,355 for the water and sewer needs
3. Move to approve the dedication of an estimated \$742,748 from the water and sewer fund for additional water sewer costs that exceed the 2020 budget and the Municipal Infrastructure Fund allocations.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Consider the creation of, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

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**RESOLUTION CREATING
STREET IMPROVEMENT DISTRICT NO. 215
Project No. 2019-05**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. There is hereby created Street Improvement District No. 215 (the "District")(Project# 2019-05) of the City of Mandan for the purpose of making an improvement project of the type specified in Section 40-22-01(2), N.D.C.C., to improve those parts of the municipal street system listed below. The improvement to said streets within this improvement district shall include, but not be limited to, Collins Avenue, 1st Avenue NE, 2nd Avenue NE, 3rd Avenue NE, 4th Avenue NE, 1st Street NE, 2nd Street NE, 3rd Street NE, 4th Street NE, and 5th Street NE as well as the paved alley ways between, and includes asphalt resurfacing by reconstruction and mill and overlay, spot repair of curb and gutter, and related work.

2. Consultation with respect thereto having been had with the City Engineer, as to the property to be benefitted by said improvement project and the most practical size, form and location of said District, said District shall include all the lots, tracts and parcels of land lying within the City of Mandan and its additions within the following boundary lines: namely:

That part of Section 27, Township 139 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota, described as follows:

Beginning at the southwest corner of Block 6, Plat of MANDAN, according to the recorded plat thereof on file and of record in the office of the Recorder, said Morton County; thence northerly along the easterly line of Collins Avenue to the northwest corner of Lot 4, Block 74, FIRST NORTHERN PACIFIC ADDITION, according to the recorded plat thereof on file and of record in the office of said Recorder; thence easterly along the northerly line of said Lot 4 and its easterly extension to the easterly line of the alley in said Block 74; thence northerly along the easterly line of said alley to the south line of Block 7, NORMA'S FIRST ADDITION, according to the recorded plat thereof on file and of record in the office of said Recorder; thence easterly along the south line of said Block 7 to the southerly extension of the east line of the west 20.00 feet of Lot 3, said Block 7; thence north along the east line of said west 20.00 feet and its southerly extension to the south line of Sixth Street Northeast; thence east along the south line of said Sixth Street Northeast to the southerly extension of the east line of First Avenue Northeast; thence north along the east line of said First Avenue Northeast and its southerly extension to the easterly extension of the north line of Lot 4, Block 4, said NORMA'S FIRST ADDITION; thence west along the north line of said Lot 4 and its easterly extension to the east line of the alley in said Block 4; thence north along the east line of said alley to the easterly extension of the south line of Lot 9, said Block 4; thence west along the south line of said Lot 9 and its easterly extension to the east line of Tower Place Road; thence north along the east line of said Tower Place Road to the north line of Eighth Street Northeast; thence west along the north line of said Eighth Street Northeast and its westerly extension to the easterly line of said Collins Avenue; thence northerly along the easterly line of said Collins Avenue to the south line of Division

Board of City Commissioners

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Street Northeast; thence east along the south line of said Division Street Northeast to the west line of Third Avenue Northeast; thence south along the west line of said Third Avenue Northeast to the westerly extension of the north line of Lot 16, Block 2, , DIANE'S FIRST ADDITION, according to the recorded plat thereof on file and of record in the office of said Recorder; thence east along the north line of said Lot 16 and its westerly extension to the northeast corner of said Lot 16; thence south to the northwest corner of Lot 3, said Block 2; thence east along the north line of said Lot 3 to the west line of John's Drive; thence south along the west line of said John's Drive to the westerly extension of the north line of Lot 25, Block 4, said DIANE'S FIRST ADDITION; thence east along the north line of said Lot 25 and its westerly extension to the northwest corner of Lot 3, said Block 4; thence south along the east line of Lots 3, 4 and 5, said Block 4 to the southwest corner of said Lot 5; thence east along the south line of said Lot 5 to the west line of Fourth Avenue Northeast; thence north along the west line of said Fourth Avenue Northeast to the westerly extension of the north line of Lot 17, Block 5, said DIANE'S FIRST ADDITION; thence east along the north line of said Lot 17 and its easterly extension to the northeast corner of said Lot 17; thence north along the east line of Lots 2, 3, 4 and 5, said Block 5 to the westerly extension of the north line of Lot 2, Block 6, said DIANE'S FIRST ADDITION; thence east along the north line of said Lot 2 and its westerly extension to the west line of Sixth Avenue Northeast; thence south along the west line of said Sixth Avenue Northeast to the westerly extension of the north line of Lot 14, Block 7, said DIANE'S FIRST ADDITION; thence east along the north line of said Lot 14 and its westerly extension to the northeast corner of said Lot 14; thence south along the west line of Lots 2 and 3, said Block 7 to the southwest corner of said Lot 3; thence east along the south line of said Lot 3 to the west line of Seventh Avenue; thence north along the west line of said Seventh Avenue to the westerly extension of the north line of Lot 24, Block 8, said DIANE'S FIRST ADDITION; thence east along the north line of said Lot 24 and its westerly extension to the northeast corner of said Lot 24; thence south along the east line of said Lot 24 to the northwest corner of Lot 5, said Block 8; thence east along the north line of said Lot 5 to the west line of Eighth Avenue Northeast; thence south along the west line of said Eighth Avenue Northeast to the westerly extension of the north line of Lot 9, Block 9, said DIANE'S FIRST ADDITION; thence east along the north line of said Lot 9 and its westerly extension to the northeast corner of said Lot 9; thence south along the east line of said Block 9 to the most southerly corner of Lot 12, said Block 9; thence northwesterly along the southwesterly line of said Lot 12 to the southeasterly line of said Eighth Avenue Northeast; thence southwesterly along the southeasterly line of said Eighth Avenue Northeast to the southeasterly extension of the northeasterly line of Lot 13, said Block 8; thence northwesterly along the northeasterly line of said Lot 13 and its southeasterly extension to the northwesterly line of said Eighth Avenue Northeast; thence southwesterly along the northwesterly line of said Eighth Avenue Northeast to the northeasterly line of said Sixth Avenue Northeast; thence southeasterly along the northeasterly line of said Sixth Avenue Northeast to the northerly extension of the southeasterly line of Lot 29, Block 3, said DIANE'S FIRST ADDITION; thence southerly along the southeasterly line of said Lot 29 and its northerly extension to the most southerly corner of said Lot 29; thence southeasterly along the easterly line of Lot 28, said Block 3 to the south line of said DIANE'S FIRST ADDITION; thence east along the south line of said DIANE'S FIRST ADDITION to the east line of said Section 27; thence south along the east line of said Section 27 to northerly line of Third Street Northeast; thence westerly along the northerly line of said Third Street Northeast to the northerly extension of the easterly line of Block 30, said

Board of City Commissioners

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Plat of MANDAN; thence southerly along the easterly line of said Block 30 to the northerly line of Second Street Northeast; thence westerly along the northerly line of said Second Street Northeast to the northerly extension of the west line of the west 35.50 feet of the east 60.00 feet of Lot 12, Block 27, said Plat of MANDAN; thence southerly along said west line and its northerly extension to the northerly line of Lot 11, said Block 27; thence easterly along the northerly line of said Lot 11 to the west line of the alley in said Block 27; thence southerly along the west line of said alley to the northerly line of Lot 9, said Block 27; thence westerly along the northerly line of said Lot 9 to the west line of the east 50.00 feet of said Lot 9; thence southerly along the west line of said east 50.00 feet to the northerly line of Lot 8, said Block 27; thence westerly along the northerly line of said Lot 8 to the east line of the west 50.00 feet of said Block 27; thence southerly along the east line of said west 50.00 feet to the north line of First Street Northeast; thence easterly along the north line of said First Street Northeast to the northerly extension of the west line of the east 50.00 feet of Lot 18, Block 2, said Plat of MANDAN; thence southerly along said west line and its northerly extension to the north line of Lot 17, said Block 2; thence easterly along the north line of said Lot 17 to the west line of a north-south alley in said Block 2; thence southerly along the west line of said alley to the south line of an east-west alley in said Block 2; thence easterly along the south line of said alley to the west line of Fifth Avenue Northeast; thence southerly along the west line of said Fifth Avenue Northeast to the north line of Main Street East; thence westerly along the north line of said Main Street East to the point of beginning.

3. Pursuant to section 40-22-10 of the North Dakota Century Code, the City Engineer is hereby authorized and directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of the probable cost of the improvement.

4. This resolution shall be in full force and effect from and after its passage.

President, Board of City Commissioners

ATTEST:

City Administrator

Date of Passage: December 3, 2019

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Consider the creation of, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

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**RESOLUTION APPROVING ENGINEER'S REPORT AND
AUTHORIZING PREPARATION OF THE DETAILED PLANS
AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE
IMPROVEMENT IN STREET IMPROVEMENT DISTRICT NO. 215**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. That the report of the City Engineer with respect to the general nature, purpose, and feasibility of the proposed improvement and the estimate of the probable cost of the work to be done in Street Improvement District No. 215 (Project # 2019-05), as required by section 40-22-10 of the North Dakota Century Code, and hereto filed in the office of the City Administrator, is hereby accepted and approved and the proposed improvement project within said District is hereby determined and declared to be feasible.

2. The probable costs of the of the improvement project are estimated to be as follows:

a. Construction costs:	\$6,221,463
b. Other costs including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; cost of publication of legal notices; printing of warrant bonds; and all expenses incurred in the making of the improvement and levy of assessments therefor:	\$1,866,439
c. Total estimated costs of the improvement:	\$8,087,902

3. The Engineer is hereby authorized and directed to prepare detailed plans and specifications for the project to be constructed.

4. This resolution shall be in full force and effect from and after its passage.

Dated this 3rd day of December, 2019

President, Board of City Commissioners

ATTEST:

City Administrator

**FEASIBILITY AND EVALUATION OF IMPROVEMENTS
FOR STREET IMPROVEMENT DISTRICT #215, PROJECT #2019-05**

1.) General Nature of Project

The District has been created to allow for street improvements to Collins Avenue, 1st Avenue NE, 2nd Avenue NE, 3rd Avenue NE, 4th Avenue NE, 1st Street NE, 2nd Street NE, 3rd Street NE, 4th Street NE, and 5th Street NE as well as the paved alley ways between, and includes asphalt resurfacing by reconstruction and mill and overlay, spot repair of curb and gutter, and related work.

2.) Location of Proposed Construction

The proposed construction will take place on Collins Avenue, 1st Avenue NE, 2nd Avenue NE, 3rd Avenue NE, 4th Avenue NE, 1st Street NE, 2nd Street NE, 3rd Street NE, 4th Street NE, and 5th Street NE as well as the paved alley ways between.

3.) Environmental Impact

It is anticipated that there will be some dirt, noise and pollutants during the construction period as a result of the use of the necessary equipment. There will also be some surplus or waste construction materials that will need to be disposed of by the contractor at his or her expense. The contractors will be responsible for leaving the area in an attractive and neat condition. Sensitivity to contaminants from construction will be addressed with the contractor of the job as part of the storm water management permitting procedures.

4.) Feasibility of Project

In the opinion of the undersigned this project is feasible and needed throughout the indicated area as an improvement to streets that have deteriorated to the point of inadequacy.

5.) Estimates of Costs

Attached is a map showing the area and district boundary. The construction costs are estimated at \$6,221,463. Other costs of making the improvement including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; publication of legal notices printing of warrants; and all expenses incurred in the making of the improvement and levy of assessments therefore are estimated at \$1,866,439. The total cost for the improvement is estimated at \$8,087,902.

Dated this 3rd day of December, 2019



Justin Froseth
Planning and Engineering Director

**RESOLUTION DECLARING THE NECESSITY OF AN
IMPROVEMENT PROJECT IN AND FOR
STREET IMPROVEMENT DISTRICT NO. 215 OF THE CITY OF MANDAN
TO BE PAID BY THE LEVY OF SPECIAL ASSESSMENTS
ON PROPERTY BENEFITTED THEREBY**

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. It is hereby found, determined and declared that it is necessary for the City of Mandan to construct a street improvement project of the type specified in Subsection 40-22-01(2), North Dakota Century Code, in and for Street Improvement District No. 215 (Project #2019-05) of said City. Said improvement project shall include, but not be limited to the improvements of streets and storm sewer, as well as all other work and materials which are necessary or reasonably incidental to the completion of the project; all in accordance with and as described in the resolution creating said district adopted December 3, 2019; which is on file in the offices of the City Engineer and open for public inspection by anyone interested therein. The project may be more commonly known as the Mid-Town East Street Improvement Project. Most of the proposed construction will take place on streets between Main Street to 5th Street NE and between Collins Avenue and 4th Avenue NE all in the City of Mandan.
2. The cost of said improvement project shall be paid for by special assessments to be levied against the respective lots, tracts and parcels of land within said improvement district benefitted by the improvement in amounts proportionate to and not exceeding such benefits and the Board of City Commissioners reserves the right to provide for the payment of a portion of the costs of such improvement from such other funds as may be properly available for such purpose.
3. The City Administrator is authorized and directed to cause this resolution, together with a map of the City showing the improvement district, which is attached hereto, to be published once each week for two (2) consecutive weeks in the official newspaper of the City.
4. The owners of property within said improvement district and liable to be specially assessed for said improvement shall be afforded the opportunity to file written protest with the City Administrator at any time within thirty (30) days after the first publication of this resolution. The City requires written protests only and must clearly contain the property that protests along

Board of City Commissioners

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Subject: Consider the creation of, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

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with the name and signature of the owner of record. Written protests must be submitted to the City Administrator no later than 4:30 pm, local time, January 6, 2020. The Board of City Commissioners shall, at its next meeting after the expiration of said period, to wit January 7th, 2020 at 5:30 o'clock p.m., meet at the City Hall, 205 2nd Avenue N.W., Mandan, ND, to hear and determine the sufficiency of any of the protests so filed and to take such other and further action with reference to said improvement district as may then be deemed necessary and expedient.

5. This resolution shall be in full force and effect from and after its passage.

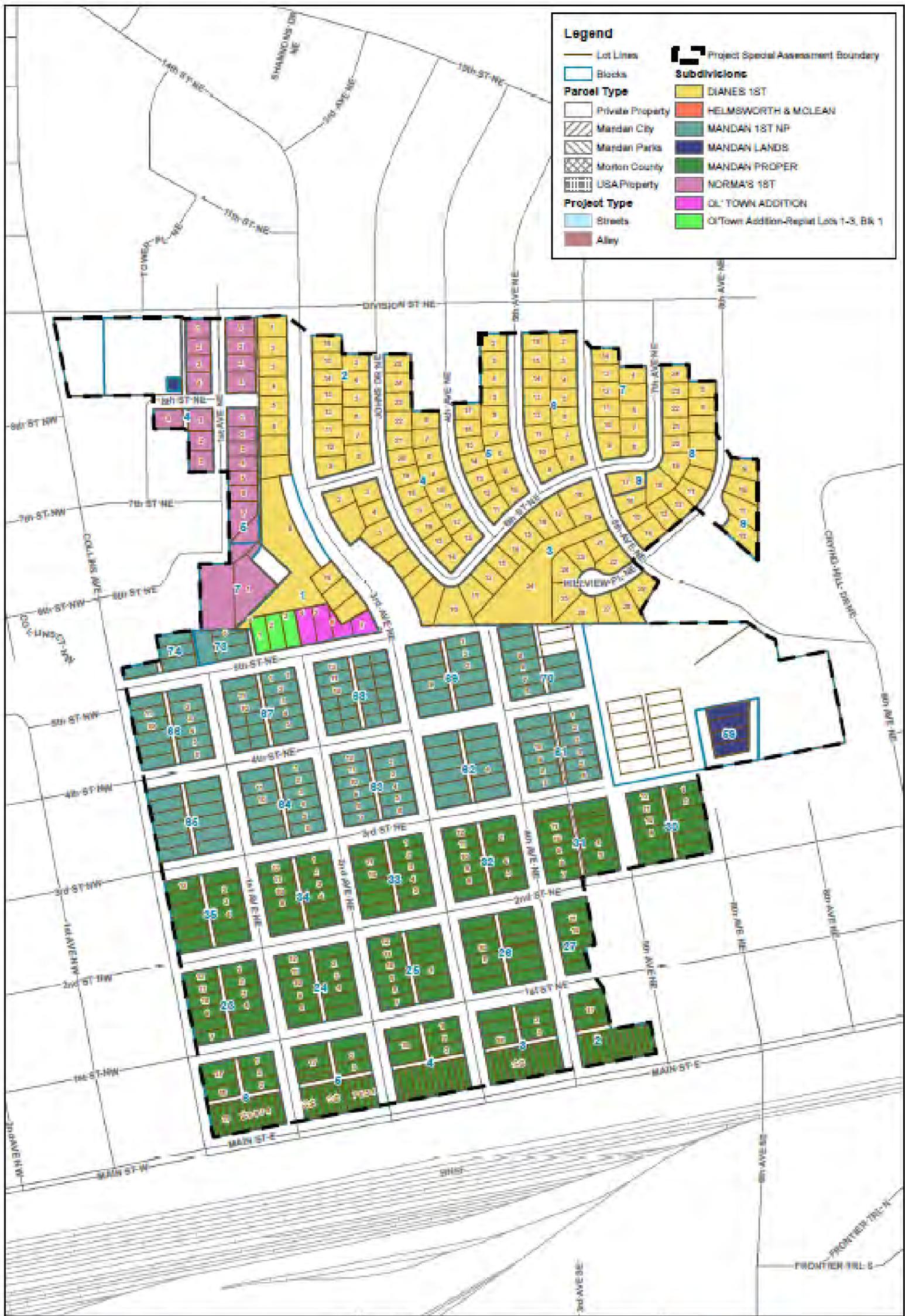
Dated this 3rd day of December, 2019.

President, Board of City Commissioners

ATTEST:

City Administrator

Publication Dates: December 6th & December 13th, 2019
Map of District Must also be published

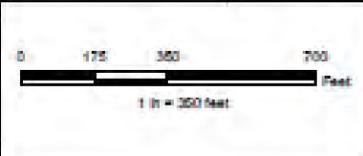


Legend

- Lot Lines
- Blocks
- Parcel Type
 - Private Property
 - Mandan City
 - Mandan Parks
 - Morton County
 - USA Property
- Project Type
 - Streets
 - Alley
- Project Special Assessment Boundary
- Subdivisions
 - DIANES 1ST
 - HELMSWORTH & MCLEAN
 - MANDAN 1ST NP
 - MANDAN LANDS
 - MANDAN PROPER
 - NORMA'S 1ST
 - OL' TOWN ADDITION
 - O'Town Addition-Repeat Lots 1-3, BK 1

Exhibit 1
Assessment District Boundary Map
Mid-Town East Street Improvement District 215, Project 2018-05
Mandan, North Dakota

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 Project: 2018-05 Mid-Town East Street Improvement District 215, Project 2018-05 Mandan, North Dakota
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ROADWAY RECONSTRUCTION/REHABILITATION

Mid-Town East Street Improvement District 215

Project 2019-05



**CITY OF
MANDAN**

"WHERE THE WEST BEGINS"

Prepared by

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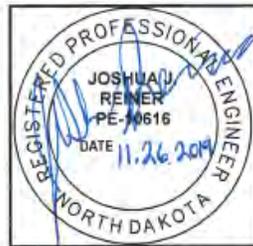
November 26, 2019

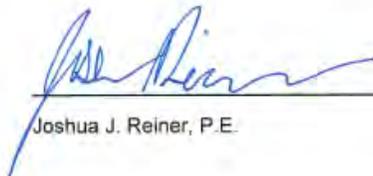
**MID-TOWN EAST STREET IMPROVEMENT DISTRICT 215
Project 2019-05**

Mandan, North Dakota

CERTIFICATION

I hereby certify that this report was prepared by me or under my direct supervision and that I am a duly registered professional engineer under the laws of the State of North Dakota. This document was originally issued and sealed by Joshua J. Reiner, Registration number PE-10616 on November 26, 2019 and the original document is stored at Moore Engineering, Inc., Minot, N.D.




Joshua J. Reiner, P.E.

11/26/2019
Date

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Consider the creation of, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

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Executive Summary

A. Project Description

City: City of Mandan, North Dakota
Project: City of Mandan Mid-Town East Street Improvement District 215
Limits: See attached Exhibit 1

B. Project Schedule

Project: City of Mandan Mid-Town East Street Improvement District 215
Plans Complete: March 2020
Bid Opening: April 2020

C. Setting of Project

The Mid-Town East neighborhood is a 35 block area centrally located in the City of Mandan just east-northeast of downtown. The low lying southern portion of the neighborhood is relatively flat and has a mixed use of residential and commercial areas. The northern portion of the neighborhood has very steep terrain and is generally residential. Within the neighborhood you will find a post office, St. Joseph Roman Catholic Church and School along with apartments, office buildings, gas stations and other businesses as the area transitions into downtown Mandan.

Being one of the oldest neighborhoods in the community, the City of Mandan has identified this as an area in need of improvements and has commissioned this study to identify the existing deficiencies and provide recommendations for addressing deficiencies and costs associated with the improvements. Similarly to what Mandan has done in the past, neighborhoods are evaluated as a whole, as it is more efficient and cost effective to properly plan the improvements through detailed studies and then address all of the deficiencies in a single coordinated project.

D. Purpose of Project

The driving factor for prioritizing this neighborhood is the severely deteriorated asphalt and concrete pavement conditions and the primary purpose of the project will be to rehabilitate the existing roadways. In addition, several other aging and/or insufficient infrastructure components including curb and gutter, sidewalks, street lighting, pavement markings, street signage, water mains, sanitary sewer mains, and storm sewer are evaluated.

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Roadways

The intention will be to provide recommendations for an improvement project that will achieve a 20 year design life of the roadways, with proper maintenance. Through careful evaluations of surface conditions, geotechnical evaluations of subsurface conditions, assessments have been made and varying treatments recommended from more minor seal coat work to more major full pavement reconstruction work.

Curb and gutter

Concrete curb and gutter within the neighborhood is generally in fair condition. The intention is to identify replacement areas necessary to install curb ramps, for curb inlet replacement/installation, in areas where drainage improvements may be needed or to address overall deteriorated conditions in conjunction with street improvements.

Sidewalks

Overall condition and replacement of the existing concrete sidewalks were not the primary focus of the study. The City of Mandan has a separate process for evaluating and replacing sidewalks on an annual basis. However, along with the street improvement project several upgrades to sidewalks and installation of pedestrian ramps in intersections will need to be installed as required by the Americans with Disabilities Act (ADA).

Street Lighting

The existing street lighting will be evaluated within this report to determine if any known deficiencies exist and if any upgrades are needed to bring this important part of the cities infrastructure into compliance with current city standards.

Pavement Markings and Driver Vision at Intersections

Safety improvements for vehicles and pedestrians will be considered with the use of pavement markings. Highly traveled pedestrian areas will be considered and evaluated for crosswalk striping. Street intersections will also be evaluated for visibility and safety deficiencies.

Storm Sewer

As identified in the City of Mandan Stormwater Master Plan previously prepared by Houston Engineering and supplemented by Stormwater Design Report prepared by Moore Engineering Inc. included in Appendix D of this report, properties along the south side of the project area currently are susceptible to localized flooding. Impacts of the larger runoff events analyzed begin to impact structures. This is due to a lack of capacity of the trunk storm sewer system running east and west along 1st Street NE and Main Street NE. Additionally, capacity issues within the local storm sewer collection system exist as detailed in the Stormwater Design Report. This report will include an analysis of the associated costs and impacts of storm sewer improvements detailed in the referenced reports.

Water Distribution and Wastewater Collection

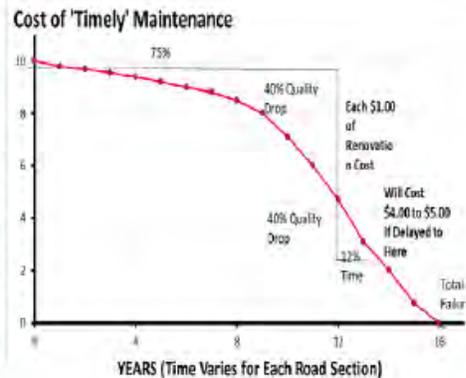
While work is being planned in the neighborhood to replace the streets with a goal of a life expectancy of 20 years it is important to consider the age and condition of the below ground infrastructure. For the water system, we rely heavily on the city's infrastructure maps and interviews with the public works department to assess conditions. For the sewer mains, we rely on video evidence to assess conditions. The intention is to replace below ground infrastructure that has outlived its life expectancy or will reach its life expectancy in the near future.

E. Need for Project

Roadways

The majority of the streets within the neighborhood are comprised of asphalt pavement, with several isolated blocks of concrete pavement. Due to limited records, it is uncertain when the asphalt pavements were installed or had its last significant rehabilitation. During a site visit one resident on 4th Avenue Northeast mentioned that no significant work had been completed since he moved in in 1982, and it is believed that it has been well over 25 years since the last major improvement project. Since original construction of the streets in the neighborhood the City's public works department has completed maintenance such as patching, sealcoating and crack sealing.

Asphalt pavement generally has a finite life expectancy and deteriorates over time. We expect pavements to move as temperatures rise and fall (expand and contract), crack (transverse, longitudinal, block and alligator) in specific ways at certain ages, and deteriorate at differing rates according to factors such as adequacy of drainage, underlying moisture conditions, thickness (proper design strength), pavement loadings and timeliness of maintenance. It is generally assumed that the life expectancy of an asphalt pavement roadway is around 20 years if constructed properly and timely maintenance is performed. To the right is a graph that illustrates the relationship between pavement deterioration and time.



Cores were drilled through the existing street section at 48 locations to the bottom of the presumed aggregate base to investigate the pavement thicknesses, underlying aggregate base thicknesses and subgrade soil conditions. A wide range of results were encountered from 1.75 inches of asphalt pavement to more than 5.3 inches of asphalt pavement on varying depths of base material from 0 inches to 8 inches. Detailed results and recommendations for pavement reconstruction are included in the Geotechnical Evaluation Report Prepared by Braun Intertec, Corporation included in Appendix E of this report. In addition to taking the 48 pavement samples, visual inspections of the streets were made. The pavements were evaluated according to the Pavement Surface Evaluation and Rating (PASER) system, a common system used to rate and manage pavement conditions originally developed by the Transportation Information System of the University of Wisconsin-Madison. Maps of the PASER evaluation and geotechnical coring data can be found in Exhibit 2 and Exhibit 3 respectively.

Primarily because of their age, the condition of the 35 blocks of streets and 18 blocks of alleys in the project area are very poor. Recently reconstructed in 2015, two blocks are in very good

condition and will require only minor resurfacing work. However, the majority of the streets are in a much further deteriorated condition and will require more extensive work including full reconstruction.

Curb and gutter

There will be select locations of curb and gutter replacement needed to reduce drainage problems, replace damaged segments, install storm inlets, install curb & gutter at locations where it may not currently exist and installation of pedestrian ramps for sidewalks in the intersections to make them ADA compliant. A large portion of the curb and gutter replacement also comes from the replacement of the concrete streets. The concrete curb & gutter and the street pavement were poured monolithically making salvaging the curb impractical. All of the curb & gutter is scheduled for replacement on these blocks. Overall, approximately 30% of the curb & gutter within the neighborhood is scheduled for replacement.

Sidewalks

When this neighborhood was originally constructed the American Disability Act's had not been established yet. Today, federal law requires roadway improvement projects to bring the pedestrian sidewalk access into compliance with ADA requirements by installing curb ramps. Most of the sidewalks at the roadway do not have pedestrian ramps. This law generally affects the sidewalks in the intersections only, and these short pieces of sidewalks will need to be modified to include pedestrian ramps.

The intention of this project is not to address all of the sidewalks throughout the neighborhood. However, obvious tripping hazards requiring short segments of sidewalk replacement may be addressed. Due to the drastic elevation changes in the neighborhood there are areas of the sidewalk that have existing concrete stairways. These existing stairways clearly do not provide an accessible route. For guidance on what improvements to these areas are required to be made Rocky Mountain ADA Center was consulted along with consideration of Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG).

Street Lighting

The below ground electrical wiring feeding the existing street lights is aging and becoming unreliable. The City's public works department has already spliced the system several times in the past. During the construction of a project of this scale, the underground wiring is extremely likely to be damaged and which will require more splicing, creating weak points in the wiring. Considering the age of the wiring and anticipated damage to the system during construction, it is prudent to replace all the wiring at once to provide the City with reduced maintenance and more reliability to their street lighting system. It is much more cost effective to replace the below ground conduit and wiring during the reconstruction of the streets than to do it in the near future after restoration is complete. Additionally, several other minor items related to the street lighting system will be addressed including replacement of all remaining wooden light poles, and retrofitting of existing lights not already equipped with LED light fixtures with energy-efficient LED lamps.

Pavement Markings and Driver Vision at Intersections

Within the neighborhood there is a school and a post office which generate a substantial amount of pedestrian traffic including young children. Proper crosswalk marking will aid in warning drivers of the pedestrian traffic. An evaluation of intersection visibility did not raise any major concerns

that will be addressed within this report. There is a need to make these minor adjustments to enhance safety for the neighborhood.

Storm Sewer

The existing local storm sewer system is in poor condition (i.e. damaged inlet grates, deteriorated structure conditions, issues with plugging, etc.) and does not meet the current city capacity standards. Additionally, as outlined in the City of Mandan Stormwater Master Plan – Problem Site O provided by the City of Mandan the southern portion of the neighborhood is susceptible to localized flooding during runoff events. Installation of the storm sewer proposed in the above referenced Master Plan will upgrade the deteriorated/damaged infrastructure, help to alleviate drainage deficiencies and the localized flooding along with increasing the capacities of the local collection system and removing runoff from the surface more efficiently which will ultimately extend the life of the new pavements.



Figure 1: Old Cast Iron Water Pipe

(Example Photo, Not this project)

Water Distribution and Wastewater Collection

Approximately 7,600 LF of water main was identified within the project area to consist of a material & age that is at or beyond its life expectancy. Additionally, approximately 800 LF of water main looping was identified, which will provide redundancy, improve stagnant water and improve fire flows to portions of the neighborhood.

The water main in the neighborhood consists of several different materials with various ages including:

- Cast Iron Pipe (CIP) – 1960's and prior
- Asbestos Cement Pipe (ACP) – 1979
- Polyvinyl Chloride Pipe (PVC) – 1998-2012

The sanitary sewer in the neighborhood is composed of vitrified clay pipe ranging in sewer main sizes from 8 inch to 12 inch. The City provided televising for approximately 43% of the sewer mains which was evaluated to provide recommendations on what repairs are needed. This pipe material is brittle and susceptible to cracking and even collapsing. Also, the gaskets deteriorate over time causing infiltration of ground water and soils into the sewer system which puts additional loading on the sewer treatment system. The infiltration of soils is likely to cause sink holes if it is severe enough. Full deterioration of the gaskets can allow for excessive movements of the pipe causing uneven joints along the main which can obstruct flow within the pipe. Through review of the televising reports locations of pipe sags were identified along with broken pipe which are recommended to be addressed with this project prior to the roadway improvements being complete. Additionally, root intrusions, protruding taps, and other deficiencies were identified which will be addressed through trenchless technology at a later date.

To address the deteriorated sewer infrastructure long-term, the City is planning a large scale Cured-In-Place Pipe (CIPP) lining project. This is a trenchless pipe rehabilitation method that forms a new pipe inside the old one while eliminating the need for excavation however in order for this process to be done spot repairs are typically required in locations where the pipe may have already failed or other deficiencies may exist. The City's intention is to address spot repairs

and other problem areas with this project prior to the street work taking place in order to reduce the risk of excavation being required when completing the CIPP project in the near future.

In addition to evaluation of the condition of the existing sanitary sewer mains it was identified that there are approximately 7 sanitary sewer services that are +/- 300' long on 1st Avenue NE between 4th Street and 3rd Street NE. This is due to there not being an existing sanitary sewer main in this block. These existing services are connected to a sewer main on private property which is underneath the St. Joseph's building complex. Allowing this portion of the system to remain as is leaves a risk of not having access to maintain or repair portions this sewer main and/or portions of the services should a pipe failure or blockage occur. In order to alleviate this issue a new sewer main is needed along 1st Ave NE to serve these properties and should be installed with this project prior to the roadway improvements. This will also require installation of a half block of sewer main on 3rd Street NE to connect to the existing main.

Additionally, a block of sewer main on 4th St NE between 1st and 3rd Ave NE was identified to have a slope of +/-0.1%. This flat of slope does not allow the sewage to flow properly causing it to settle in the pipe leading to a higher probability of sewage backing up into people's homes if additional maintenance and flushing of the main is not performed. In order to replace this sanitary sewer main at a proper slope it will be required to replace the sanitary sewer main between 3rd and 4th Street NE in the alley between 2nd and 3rd Avenue NE in order to have a proper outlet pipe elevation at the manhole.

F. Scope of Work

Roadway Improvements

The intention is to provide the maximum value and minimize project cost in order to meet the project goal of a 20 year pavement design life. It is important to complete the appropriate type of improvements for example, less expensive treatment options, such as mill and overlay, are not appropriate if the street has failed or lacks adequate structural capacity to perform this treatment. If improperly designed, we risk having excessive pavement failures during construction due to the heavy traffic during construction. This would result in high change order costs and more importantly would likely lead to early failure of the pavements shortening the life expectancy of the new pavement. The Geotechnical Evaluation Report included in Appendix E of this report includes a detailed evaluation of the existing pavement sections and soil conditions in the project area.

The scope of work for street improvements throughout the project area includes varying treatments including:

- Reconstruct (Curb & Gutter Replacement locations to be detailed in final design)
- Seal coat

See Exhibit 4, Proposed Roadway Treatment Map, for the designation of which type of pavement treatment each street is scheduled for.

Exhibit 5 includes typical pavement sections as recommended in the Geotechnical Evaluation Report which were used in development of the Preliminary Engineers Opinion of Probable Cost.

The roadways to receive base replacement will be sub-cut and have geotextile reinforcement fabric and aggregate base material installed prior to paving operations. The installation of the geotextile reinforcement fabric and the gravel base will provide a stable section to support the new asphalt pavement.

Additionally, it is recommended that all roadways to receive new pavement within the project receive a sealcoat the following year. This will eliminate the need for a separate project to perform this work in the near future.

Alley Improvements

Similarly to the street pavement conditions nearly all of the alley pavements have also deteriorated to a level of needing full reconstruction. Alleys with existing gravel surfacing will not include improvements in this project. The scope of work for the alley improvements is shown in Exhibit 4.

Sidewalks

The scope of the street improvements portion of this project will require installation of pedestrian ramps at intersections within the project area where not already present. These improvements will be made in accordance the Americans with Disabilities Act (ADA) and NDDOT Standards.

Relating to the existing stairways within the sidewalk alignments throughout the neighborhood Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) provides guidance on improvements to be made. Through a review of PROWAG it was determined that existing stairs within a sidewalk alignment are not required to be eliminated unless if that portion of sidewalk is being altered. It is recommended however improvements are provided above this guideline where determined to be reasonable. Appendix H of this report includes additional detail on determining reasonability of recommended improvements and an evaluation of each identified stairway on a case by case basis.

Street Lighting Improvements

The proposed street lighting improvements consist of:

- Replacement of 14 existing wooden light poles with the current city standard pole type
- Retrofitting of 33 street lights with LED lamps
- Replacement of approximately 20,000 LF of wiring and 20 junction boxes
- Note: No additional street lights will be installed

Exhibit 6 included in this report identifies the locations of deficiencies needing to be addressed as identified above.

Pavement Marking Improvements

Cross walk striping is proposed to be installed at the intersections around St. Josephs and the post office as shown in Exhibit 7.

Storm Sewer Improvements:

The storm sewer system design shall be based upon the City of Mandan Stormwater Master Plan – Problem Site O provided by the City of Mandan and supplemented and recommended by Stormwater Design Report included in Appendix D of this report. The scope of storm sewer work will be confined to the limits of the street project, not extending out of the neighborhood east along

1st Street NE at this time. The improvements within the project area will meet the intent of the overall system when the City proceeds with the downstream capacity upgrades at a later date. Additional details related to the alternatives considered and recommendations for storm sewer improvements are included in Appendix D. See Exhibit 8 for a layout of proposed improvements.

Water Main Improvements:

Approximately 7,600 LF of deteriorated water main was identified within the project area which need to be replaced along with an additional +/-800 LF of water main looping. Approximately 240 water services will be reconnected to the new water main and seven hydrants replaced with two more added to improve fire protection coverage. All new water main will be 8 inch diameter. The existing PVC water main within the project area will not be replaced and will remain in service. The 20 inch ductile iron pipe along 2nd St NE will not be replaced or modified. Costs associated with the water main improvements will not be included in the assessments related to this project. These improvements however will be coordinated with this project. Exhibit 9 includes locations of proposed improvements.

Sanitary Sewer Improvements:

In order to properly set up this neighborhood for a sewer rehabilitation project that will be completed by the city in the near future isolated spot repairs will be done to correct the deficiencies requiring excavation to address. Approximately 1-1/2 blocks of new sewer main will be added to serve the properties on 1st Ave NE between 4th and 3rd St NE. Their existing sewer services will be connected to this new main. Two additional blocks of sewer main will be replaced to alleviate the slope issue identified on 4th Street NE between 1st and 3rd Avenues. All of the manhole castings will be replaced. See Exhibit 10 for layout of proposed improvements. It should be noted that only approximately 43% of the sewer mains within the neighborhood have been televised, and it is believed that the City's public works department will televise the remaining blocks this winter. It is assumed that additional spot repairs will be necessary and additional quantities are budgeted into the engineer's opinion of cost for potential additional repairs.

G. Description of Alternatives

1. Alternative A: No Build

This alternative does not meet the goals of the project. A no build alternative does not address the already deteriorated roadway conditions, drainage issues or aging infrastructure within the neighborhood. This alternative would result in higher maintenance costs while allowing the roadways to further deteriorate. This will create the possibility of more extensive work being required in the future.

2. Alternative B: Build

This alternative includes roadway improvements as designated in Exhibit 2. The roadways to receive base replacement will be sub-cut and have geotextile reinforcement fabric and aggregate base material installed prior to paving operations. The installation of the geotextile reinforcement fabric and the gravel base will provide a stable section to support the new asphalt pavement. Curb and gutter replacement varies throughout the project. Asphalt roads will have curb and gutter spot repairs

done while reconstructed concrete roads with integral curb and road will have all of the curb and gutter replaced.

It is recommended that the street improvement portion of the project is bid to include an alternate option of the use of Cement Stabilized Base in lieu of the traditional fabric and gravel base section. This alternate base section can be more economical than traditional gravel base sections and can lead to faster construction timelines.

Pedestrian ramps will be installed at intersections within the project area where not already present along with improvements to the Pedestrian Access Routes as identified in Appendix H.

The existing lighting infrastructure will be updated to provide a more efficient and reliable lighting system.

The existing local storm sewer system will be upgraded to the current city standards. Additionally trunk storm sewer piping will be installed to meet the intent of Mandan's Stormwater Master Plan.

Aging water mains will be replaced to reduce the risk of failures in the near future.

Sanitary sewer main repairs will be made along with installation of new sewer mains to more properly serve homes. Two blocks of sewer main will be replaced to achieve proper slopes that will reduce the likelihood of blockage issues in the sewer main.

3. Summary of Environmental and Site Issues

Alternative A: No Build

This alternative raises the environmental concern of continued deterioration of the existing roadways. Allowing the existing roadways to continue to deteriorate will lead to further displeasure of the roadway users and possible damage to vehicles.

The existing street lights will consume higher levels of energy than the proposed LED street lights. While the wiring for the lighting system will also remain in place leading to additional maintenance and reliability issues.

The existing storm sewer will continue to be undersized as identified in Stormwater Design Report. The existing local and trunk storm sewer system will continue to be undersized ultimately putting off storm sewer improvements through this project area to a later date when a future project is done to increase the trunk storm sewer capacity.

There is increased risk of failure of the existing aging water mains which will increase the likelihood of repairs being required which could lead to long periods of water service interruption.

The repairs needed to the existing sewer main will be put off until the city is ready to perform the CIPP project in the near future. The sanitary sewer in private property under the building would be very difficult to repair if an issue occurred and the sewer main with flat slopes will continue require higher maintenance. Both of these circumstances lead to higher risk for wastewater backing-up into a resident's house.

Alternative B: Build

This alternative raises environmental concerns from impacts of the construction activities including erosion control, dust, road closures, noise etc. In order to alleviate these concerns provisions need to be put in place in the drawings and specifications for the project. These provisions could include but are not limited to installation of erosion control devices, temporary access, dust control and working hour restrictions.

4. Easements / ROW Issues

All street and sidewalk improvements associated with this project are anticipated to be within already established ROW. However temporary construction easements may be needed to install sidewalks and tie into existing properties.

H. Preliminary Estimated Project Costs and Preliminary Special Assessments

Preliminary Estimated Project Costs are summarized in Table 1 below. Detailed project cost estimates for all proposed improvements are included in the Appendices. These project costs are established based upon our past experiences with projects of similar scope however the costs may be susceptible to change in the development of a final design. The costs include estimated construction costs along with indirect costs outlined in the detailed project cost estimates.

Preliminary special assessment rates based upon the Preliminary Estimated Project Costs are shown in Table 2 below. These special assessment rates are developed by using methods summarized below.

Assessment Methodology Summary

Roads:

- Interior Lots: Full Front Footage
- Corner Lots: ½ of the sum of the Front Footage and Side Yard Footage

Alleys:

- Interior Lots: Full Front Footage
- Corner Lots: Sum of the Front Footage and Side Yard Footage

Area Impact Factor:

- 15% of the total roadway improvements will be assessed to all commercial properties receiving roadway improvements based on the commercial parcel area

Storm Sewer Improvements:

- Storm Sewer costs will be assessed based on contributing watershed area and benefiting area and a Land Use Coefficient as shown in Table 3 below to the benefitting properties.

Table 1 - Summary of Estimated Costs

Improvement Category	Estimated Construction Cost	Indirect Costs *	Total Cost
Roadway Improvements	\$2,838,825.00	\$851,647.50	\$3,690,472.50
Residential Alley Improvements	\$298,958.00	\$89,687.40	\$388,645.40
Commercial Alley Improvements	\$169,190.00	\$50,757.00	\$219,947.00
Lighting Improvements	\$196,125.00	\$58,834.50	\$254,962.50
Water Main Improvements	\$1,368,900.00	\$410,670.00	\$1,779,570.00
Sanitary Sewer Improvements	\$585,025.00	\$175,507.50	\$760,532.50
Storm Sewer Improvements	\$764,440.00	\$229,332.00	\$993,772.00
Total Project Cost to City			\$8,087,902.00

* Indirect Costs are associated with Project Contingencies, Legal Fees, Engineering Fees, Administration Fees, Etc.

Table 2 – Summary of Preliminary Special Assessment Rates

Improvement Category	Assessment Rate
Street Improvements (\$/FF)	\$212.30
Residential Alley Improvements (\$/FF)	\$58.89
Commercial Alley Improvements (\$/FF)	\$62.48
Area Impact Factor (\$/SF)	\$1.65
Storm Sewer Improvements - (\$/SF)	\$0.17

Table 3 – Land Use Coefficient

Land Use	Coefficient
Commercial	2.428571429
Residential	1
Parks	0.285714286

I. Public Concerns / Need for Public Input

Table 4 – Summary of Comments

Topic	Questions and Answers
Storm Sewer	1. Will there be more storm sewer added in project? A. The existing storm sewer system will be replaced with bigger pipe sizes. It will not be expanded significantly.
Storm Sewer	2. Will the storm pipe discharging on 4 th Ave north end be connected to a system? A. No, the current scope of improvements will leave this as it is.
Storm Sewer	3. How is the storm assessment boundary created? A. The land assessed is determined by the watershed area. So properties with water run-off that eventually makes its way into the storm sewer improvements are assessed based on the area of the property.
Storm Sewer	4. Are there different assessments for commercial (paved properties)? A. Yes, there has been for past projects. The preliminary calculations shown tonight do not factor that in and assess all properties at a flat rate.
Storm Sewer	5. Does storm sewer assessment only pay for the storm sewer costs? A. Yes.
Storm Sewer	6. Is the storm sewer done in 2015 north of 4 th Ave going to be redone or reworked? A. The costs shown tonight do not include any improvements to that system.
Storm Sewer	7. Why is Diane’s Addition included in this storm sewer project but no one helped on that storm sewer project? A. The formal Special Assessment Policy was adopted in 2016 and the Diane’s Addition improvement were completed in 2014. So the assessments at that time would not have been required to follow the current policy.
Storm Sewer	8. Will Mid-town be assessed for storm sewer again when more storm sewer improvements made downstream in the watershed area or if the watershed area changes?

Board of City Commissioners

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	A. According to the City’s assessment policy it is possible.
Storm Sewer	9. How many times can a property be assessed for the ongoing storm assessments? A. Depends on the circumstances.
Storm Sewer	10. What if only a portion of my property is in the assessment boundary? A. Your assessment will be calculated based on the total area that is in the boundary.
Storm Sewer	11. What is the benefit to the yellow area? A. The run-off from Diane’s Addition makes its way into the storm sewer system improvements as part of this project. The size of the storm sewer needs to be increased due to, in part, the run-off from Diane’s Addition.
Funding	1. Is there any grant money for this project? A. Unfortunately, no grant money is available for street work.
Funding	2. Is Prairie Dog money used for this project? A. The City possibly could allocate Prairie Dog bill money for this project.
Funding	3. When would the Prairie Dog money be chosen to be allocated toward the project? A. Prairie Dog money will be brought up to commission if project is brought to City Commission in December.
Funding	4. When will the first assessment put on residents A. 2021
Funding	5. Will the project costs be accruing interest in in 2020? A. No. Interest wouldn’t begin accruing until its special assessed. The property owner has the option to pay full assessment up front and avoid interest.
Funding	6. Are these special assessment costs final?

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Consider the creation of, approval of the engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 215, Project No. 2019-05 (Mid-Town East).

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	<p>A. No, these costs are preliminary. The final assessment costs will be calculated after construction or near the end when final costs are determined.</p>
General	<p>1. Is there a cheaper option for construction?</p> <p>A. Alternatives to construction are designed by City and consultants and the contractors bid upon them all. The City would be able to choose the most economical of the alternatives.</p>
General	<p>2. Why do only property owners pay and not renters pay for streets?</p> <p>A. This is how the state law is written. Owners of apartment buildings pass costs along to their renters.</p>
General	<p>3. Is curb and gutter getting replaced as part of project?</p> <p>A. Yes, but only the damaged curb that is inhibiting drainage or cannot be salvaged as during construction. Or if significant grade changes are done to road then curb and gutter will have to be replaced as well.</p>
General	<p>4. Are the water services getting replaced to curb stop?</p> <p>A. No, only if it's a lead pipe. If the pipe is lead then the service will be replaced to curb stop at a minimum and the property owner will be notified allowed to replace the pipe into their property.</p>
General	<p>5. Where can you find the special assessment policy online?</p> <p>A. The document can be found by navigating from the Home screen at https://www.cityofmandan.com/ and following these directions:</p> <ul style="list-style-type: none">i. Under the Tab on Home Screen titled, "Government"<ul style="list-style-type: none">1. Boards & Committees<ul style="list-style-type: none">a. Special Assessment Commission<ul style="list-style-type: none">i. Special Assessment Policy
General	<p>6. How new is the special assessment policy?</p> <p>A. Formally adopted in 2016</p>
General	<p>7. How are corner lots assessed?</p> <p>A. Square foot basis for storm sewer assessment. A corner lot is assessed for 50% of the front footage and 50% of the side yard footage.</p>
General	<p>8. How is the 51% of disapproval recognized?</p>

Board of City Commissioners

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	<p>A. By written protest and if 51% by area in district including both blue and yellow areas shown on the map the project must not proceed. Instructions will be included in the letter notifying residents of the assessment and protest period.</p>
General	<p>9. If project were protested out again would project be modified or totally scraped?</p> <p>A. Both are possible and likely. Given the need for the project it probably will be modified but timing would be difficult to determine.</p>
General	<p>10. Who were the Prime Contractors for the previous comparable projects?</p> <p>A. The projects are awarded to the lowest responsible bidder. The past two projects have been awarded to Mariner Construction a Division of Strata.</p>
General	<p>11. Who oversees the construction of the project?</p> <p>A. The City staff and possibly with the assistance of an engineering consultant.</p>
General	<p>12. How is access provided to your property during construction?</p> <p>A. Residents with special needs can be given special consideration. However, it difficult to provide access to the properties on the street while it's under construction especially during inclement weather. The more requirements and restrictions placed on the contractor the more expensive a project gets so the City strives to find the balance. It's not uncommon for a resident to not be able to access their driveway for a week or more.</p>
General	<p>13. Is there warranty or accountability on contractors?</p> <p>A. A one-year warranty is an industry standard for the construction work but some materials and equipment may have longer warranties.</p>

Board of City Commissioners

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Table 5 – Comparison of Alternatives

Alternative	Advantages	Disadvantages
A	<ul style="list-style-type: none">• Lowest Initial Cost	<ul style="list-style-type: none">• Does not meet the purpose and need for this project• Streets will continue to deteriorate which will result in high maintenance costs.• Increased risk of underground infrastructure failures.
B	<ul style="list-style-type: none">• Enhances the condition of the existing roadways.• Addresses ADA issues throughout the project area• Addresses localized flooding• Reduced maintenance costs in comparison to Alternative A	<ul style="list-style-type: none">• Higher initial cost than Alternative A

J. City Decisions

Which alternative should proceed with the project?

_____ Alternative A – No-Build

(Estimated Initial Cost: \$0)

_____ Alternative B –Build

(Estimated Initial Cost: \$8,067,902.00)

Amendments/Comments for MID-TOWN EAST STREET IMPROVEMENT DISTRICT 215
PROJECT 2019-05:

Tim Helbling, Mayor, City of Mandan, North Dakota

Date



Board of City Commissioners

Agenda Documentation

MEETING DATE:	December 3, 2019
PREPARATION DATE:	November 27, 2019
SUBMITTING DEPARTMENT:	Administration
DEPARTMENT DIRECTOR:	Jim Neubauer, City Administrator
PRESENTER:	Mayor Helbling
SUBJECT:	Conversion of the City Administrator contractual position to a regular full time employee position

STATEMENT/PURPOSE: To consider making the position of City Administrator a regular position rather than a contractual one.

BACKGROUND/ALTERNATIVES: The position of City Administrator was created in the late 1990's after the then city auditor left for another job and the auditor duties were melded into the administrator position. The position was advertised for on two separate occasions, the most recent in the fall/winter of 1999. There were only a few City Administrator positions in North Dakota at the time (Bismarck, Fargo and maybe Wahpeton, and a few City Coordinators – Grand Forks) and the City Commission, determined a one year contract would be appropriate in order for them to evaluate the effectiveness of the position. Following the one year contract, a series of three year contracts have been entered into since that time.

In the past 19-20 years all major communities and several smaller ones in North Dakota have created the City Administrator position and view it as an effective use of personnel. I believe the worth of this position has been proven out over the past 19 years and approaching the beginning of my twentieth year would propose that the position become a regular full time employee vs the only contractual position within the City.

Attached is a job description that is a combination of an earlier Condrey (salary and job description) study, the existing contract, and the Bismarck City Administrator Job Description along with a Grade 35. The minimum salary at this grade (after Jan. 2020) would be \$103,846 with a maximum of \$159,587. The salary as of Jan. 1, 2020 would be approximately 4.5% above the minimum; therefore, there would be no fiscal impact to the 2020 budget. As a contractual employee I enjoy the same benefits as all other regular full time employees, this would be a non-issue.

ATTACHMENTS: Proposed Job Description

Board of City Commissioners .

Agenda Documentation

Meeting Date: December 3, 2020

Subject: Conversion of the City Administrator contractual position to a regular full time employee position

Page 2 of 2

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: City Attorney Brown and Asst City Attorney Oster have reviewed.

RECOMMENDATION: I recommend converting the City Administrator position from a contractual position to a regular full time position with the attached job description effective January 1, 2020.

SUGGESTED MOTION: I move to approve converting the City Administrator position from a contractual position to a regular full time position with the attached job description effective January 1, 2020.

City of Mandan
City Administrator

Revised: 12/2019
Department: Administration
Reports to: Board of City Commissioners
Grade: 35
Department Manager Signature: _____
Human Resources Signature: _____
Finance Director Signature: _____
City Administrator Signature: _____
Employee Signature: _____

1. DESCRIPTION OF WORK

1.1. General Statement of Duties:

This position serves as the Chief Administrative Officer for the City of Mandan. The purpose of this position is to administer the day-to-day operations of the City of Mandan. The work consists of varied management duties. The need to consider political factors contributes to the complexity of the position. Success in this position contributes to the efficiency and effectiveness of city government operations.

1.2. Supervision Received:

The Mayor and Board of Commissioners assign work in terms of city goals and objectives. The supervisor reviews work through conferences, reports, and observation of city activities.

1.3. Supervision Exercised:

This position has direct supervision over city department heads.

2. EXAMPLES OF WORK

- 2.1. Attends all regular and special meetings of the Board and department heads; delivers administrative and operational reports; develops and expedites the most economical and responsible achievement of public policy.
- 2.2. Makes recommendations to the Board of City Commissioners and administers policies and guidelines adopted by the Board.
- 2.3. Directs, coordinates, prioritizes, and assigns work to department heads and division managers as necessary to solve problems and accomplish operational goals, objectives, and special projects.
- 2.4. Directs the daily administration of the City of Mandan; develops and expedites public policies and programs; works with department heads to promote efficient and effective operations.
- 2.5. Initiates a long- and short-term strategic planning process to identify specific goals, objectives, and projects to improve the delivery of services to citizens of the city.
- 2.6. Prepares studies for the Board related to operational procedures, capital expenditures, and the strategic plan; prepares meeting memos and background reports for the Board.

- 2.7. Coordinates preparation of the annual budget and capital plan; presents proposed budgets and plans to the Board.
 - 2.8. Serves as Clerk of the Mandan Civil Service Commission.
 - 2.9. Serves as City Auditor.
 - 2.10. Serves as the city's representative on the governing boards of community organizations; attends various meetings and group functions.
 - 2.11. Participates in the selection process for department heads and other upper level administrative employee positions; makes hiring recommendations to the Board.
 - 2.12. Conducts annual performance appraisals of department heads.
 - 2.13. Performs other related duties as assigned.
3. Minimum Qualifications
- 3.1. Education and Experience:
 - 3.1.1. Knowledge and level of competency commonly associated with the completion of a master's degree in a course of study related to the occupational field.
 - 3.1.2. Experience sufficient to thoroughly understand the diverse objectives and functions of the subunits in the division/department in order to direct and coordinate work within the division/department, usually interpreted to require three to five years of related experience.
 - 3.1.3. Possession of or ability to readily obtain a valid driver's license issued by the State of North Dakota for the type of vehicle or equipment operated
4. Required Knowledge, Skills, and Abilities
- 4.1. Knowledge of local and state government operations.
 - 4.2. Knowledge of human resource regulations, guidelines, and practices.
 - 4.3. Knowledge of municipal budget development and administration.
 - 4.4. Knowledge of the principles and practices of management and supervision.
 - 4.5. Knowledge of computers and job related software programs.
 - 4.6. Knowledge of water and wastewater treatment systems.
 - 4.7. Skill in report preparation and records maintenance.
 - 4.8. Skill in the supervision of personnel.
 - 4.9. Skill in public and interpersonal relations.
 - 4.10. Skill in oral and written communication
5. The physical activities of this position are:
- 5.1. Climbing: Ascending or descending ladders, stairs, scaffolding, ramps, poles, and the like, using feet and legs, and/or hands and arms. Body agility is emphasized. This factor is important if the amount and kind of climbing required exceeds that required for ordinary locomotion.
 - 5.2. Stooping: Bending body downward and forward by bending spine at the waist. This factor is important if it occurs to a considerable degree and requires full use of the lower extremities and back muscles.
 - 5.3. Kneeling: Bending legs at knee to come to a rest on knee or knees.
 - 5.4. Crouching: Bending the body downward and forward by bending leg and spine.
 - 5.5. Reaching: Extending hand(s) and arm(s) in any direction.

- 5.6. Pushing: Using upper extremities to press against something with steady force in order to thrust forward, downward or outward.
 - 5.7. Pulling: Using upper extremities to exert force in order to draw, drag, haul or tug objects in a sustained motion.
 - 5.8. Lifting: Raising objects from a lower to a higher position or moving objects horizontally from position-to-position. This factor is important if it occurs to a considerable degree and requires the substantial use of the upper extremities and back muscles.
 - 5.9. Fingering: Picking, pinching, typing or otherwise working primarily with fingers rather than with the whole hand or arm as in handling.
 - 5.10. Grasping: Applying pressure to an object with the fingers and palm.
 - 5.11. Talking: Expressing or exchanging ideas by means of the spoken word. Those activities in which they must convey detailed or important spoken instructions to other workers accurately, loudly, or quickly.
 - 5.12. Hearing: Perceiving the nature of sound with no more than a 40 db loss @ 500 Hz, 1,000 Hz and 2,000 Hz with or without correction. Ability to receive detailed information through oral communication and to make fine discriminations in sound, such as when making the fine adjustments on machined parts.
 - 5.13. Repetitive motions: Substantial movements (motions) of the wrists, hand and/or fingers.
6. The conditions the worker will be subject to in this position are:
- 6.1. Light Work: Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds frequently, and/or a negligible amount of force constantly to move objects. If the use of arm and/or leg controls requires exertion of forces greater than that for Sedentary Work and the worker sits most of the time, the job is rated for Light Work.
 - 6.2. The worker is subject to both environmental conditions: Activities occur inside and outside.
7. The visual acuity requirements including color, depth perception and field of vision for this position are:
- 7.1. MACHINE OPERATORS (including inspection), INSPECTION, CLOSE ASSEMBLY, CLERICAL, ADMINISTRATIVE: This is a minimum standard for use with those whose work deals largely with preparing and analyzing data and figures, accounting, transcription, computer terminal, extensive reading, visual inspection involving small parts, operation of machines (including inspection), using measurement devices, assembly or fabrication of parts at distances close to the eyes.



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3rd, 2019
PREPARATION DATE: November 27th, 2019
SUBMITTING DEPARTMENT: Building Inspections
DEPARTMENT DIRECTOR: Shawn Ouradnik
PRESENTER: Shawn Ouradnik, Building Official
SUBJECT: 2020 Appointments to Mandan Architectural Review Commission

STATEMENT/PURPOSE: Consider appointments to the Mandan Architectural Review Commission (MARC).

BACKGROUND/ALTERNATIVES: The Mandan Architectural Review Commission is a nine-member commission responsible for reviewing site and building plans involving new construction, remodeling and alteration of commercial properties to assure such projects provide a desirable environment for their occupants, are compatible with the character of adjacent and surrounding developments, and are aesthetically of good composition, materials, textures and colors.

There are two positions up for consideration with the following preferences: The applicants shall be residents of the city, business owners/operators in the city, or owners of property within the city. The board, when making appointments, shall strive to include members of the design and construction industries or other related professions.

Two of the positions are full term positions beginning January 1st 2020 and expiring December 31st 2022.

Letters of interest were sought and four letters were received.

Members whose terms are expiring are:

- Amber Larson
- Chris Redman

Members voluntarily vacating terms are:

- Daniel Walter

The MARC met November 27, 2019. Agenda items included consideration of recommendations for 2020 appointments. People submitted letters of interest are listed below:

Board of City Commissioners

Agenda Documentation

Meeting Date: November 6, 2018

Subject: Storefront Improvement Addendum for 200 Third Ave NW by Al Fitterer

Page 2 of 2

- Amber Larson
- Chad Peterson
- Nicolas Cullen
- Robert Vayda

All of the applicants were in attendance at the MARC meeting.

The committee considered all letters and approved the reappointment of Amber Larson and appointed Chad Peterson as a new member of MARC.

ATTACHMENTS: Letters of interest

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: The MARC recommends the re-appointment of Amber Larson for a three-year term from January 1st 2020 through December 31st 2022.

The MARC recommends the appointment of Chad Peterson for a three-year term from January 1st 2020 through December 31st 2022.

SUGGESTED MOTION: I move to approve the recommendation, reappointing Amber Larson and the appointment of Chad Peterson to the Mandan Architectural Review Commission. Both for a three-year terms from January 1st 2020 through December 31st 2022.

AMBER LARSON
4601 Crown Point Rd. NW
Mandan, ND 58554
w: (701) 221-8406 | c: (701) 400-7451
amber.larson@bartwest.com

Carolyn Reisenauer
City of Mandan
205 2nd Avenue NW
Mandan, ND 58554

RE: MARC Letter of Interest

Dear Carolyn and Shawn:

By submitting this letter, I am stating my interest to continue serving on the Mandan Architectural Review Commission for another term if my fellow MARC members so choose.

Since 2015, I have enjoyed being part of MARC and contributing to that committee. I've had the chance to additionally volunteer my time and efforts to help craft our temporary sign ordinance, review our entire sign ordinance and be part of a joint sub-committee to work on our mural guidelines.

I hope my experience as a resident, business owner, manager within a local engineering firm and Mandan City Commissioner has brought value to the group, our discussions, and the City.

Thank you for your time and consideration of my letter of interest.

Kind Regards,

Amber Larson
Marketing Manager, Bartlett & West
Co-owner, Larson's Tattooing

October 9, 2019

City of Mandan
Attn: Kari Moore
205 2nd Ave NW
Mandan, ND 58554

Dear Kari,

I request the commission consider me for appointment to the Architectural Review Commission and the Growth Fund Committee.

I have lived at 302 Will Court in Mandan for approximately 2 years now and am interested in playing a part in my community's future. Opportunities should be treated fairly and openly and could be given fair consideration. With that said, a person also must be confident enough to say no if they believe it doesn't meet the best interest of the neighborhood or community and know they aren't serving to be everyone's friend and make everyone happy.

I currently manage a team of bankers for Bremer Bank. I work out of the Bismarck location however manage a team across our Western ND footprint. I am also currently a part time firefighter with for the City of Mandan. I have experience working on boards and serving the greater good. I served on the Board of Adjustments for the City of Devils Lake. I served a maximum term and took a few years off and then was serving again until I was forced to resign due to my relocation to Mandan.

I currently serve as board chair for CHI Health at Home for North Dakota and Minnesota. I've currently and previous held various board positions at the Devils Lake Area Foundation, City of Devils Lake Fire Department, Community College Foundation for Lake Region State College, Devils Lake Chamber of Commerce, Devils Lake Rotary, & Lake Region Curling Club.

I would appreciate your consideration to be a difference maker and to represent the City of Mandan and my neighbors throughout the community.

Sincerely and Respectfully,



Chad Peterson
302 Will Ct SE
Mandan, ND 58554

Nicolas Cullen

6111 Ponderosa Ave, Bismarck, ND 58503 · 701-471-5919 · ncullen@houstoneng.com

October 29, 2019

Kari Moore
Program Coordinator
City of Mandan
205 Second Avenue NW
Mandan, ND 58554

Dear Ms. Moore,

I was recently made aware that the City of Mandan is seeking letters of interest for 2020 appointments to city boards. Therefore, I am writing to express my interest in serving on the City of Mandan's Architectural Review Commission.

As stated in the posting, expertise in the design and construction industries, engineering, or related professions is helpful. I am a licensed Professional Civil Engineer and Certified Floodplain Manager in the State of North Dakota. I am skilled in floodplain management, water resources, municipal engineering, & land development. I have a Bachelor of Science in Civil Engineering & Minor in Business Management from North Dakota State University. I believe that these various skills and background will be beneficial to the Commission and the City of Mandan.

I may not be a City of Mandan resident, but I do have the City of Mandan's best interests in mind. I believe that the citizens of the City of Bismarck & the City of Mandan have a common interest and want to see each other thrive.

I would like to disclose that my wife, Brittany Cullen, is the City of Mandan's Human Resources Director. If serving on this commission creates a conflict of interest or may create any form of hardship on her or others at the City, please disregard this letter.

I thank you for your consideration and I look forward to speaking with you in the near future.

Sincerely,



Nicolas Cullen

October 24, 2019

Mr. Jim Neubauer
City Administrator
205 2nd Ave NW
Mandan, ND 58554

Re: Mandan Architectural Review Commission

I am interested in one of the open positions on the MARC. I have been a lifelong resident of Mandan. I have been involved in community involvement and I believe in serving the City of Mandan on the MARC would be an exciting and rewarding opportunity.

I have always enjoyed working with engineering and architectural plans. I have worked in construction and design all my life. I have done construction and designs on many projects in the United States and abroad.

I enjoy working with the people in Mandan and other parts of the country. I have been retired for some years but I still keep involved with the disciplines that I talked about.

I would like to work on the renovations of downtown areas in which the MARC will have control over and with my knowledge a lot of the old buildings will have to be modified and knowing about construction of these buildings which go back many years I can surely help in construction methods.

Respectfully Submitted,

Robert Vayda



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 6, 2019
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth, Engineering and Planning Director
PRESENTER: John Van Dyke, Principal Planner
SUBJECT: Resolution to Adjust Planning and Engineering Application Fees Beginning January 1, 2020

STATEMENT/PURPOSE:

Present adjustments to the fee schedule for land-use and other permits within the purview of the Planning and Engineering Department.

BACKGROUND/ALTERNATIVES:

As part of the annual budget review, the Planning and Engineering Department evaluated its fee structure to ensure the costs associated with each application are borne by the applicant.

Only minor adjustments are proposed for the 2020 fee schedule. Two application types are proposed to be removed which are in RED. These “stacked” applications provide discounts for certain types of applications that are coupled with others. In this case, a minor plat would lead to a reduction in the fees collected. The amount of processing and review by staff, public noticing, public hearings and meetings remains the same and therefore staff is recommending these two fees be removed from the fee schedule beginning in 2020.

Increases to fees related to the subdivision of land are being proposed to be increased marginally and denoted in GREEN. These will bring them closer in-line with Bismarck’s and are typically some of the more labor intensive applications that we receive at the City.

Three new application fees are being proposed this year and also denoted in GREEN. A land-use and transportation plan amendment, masterplanned subdivision, and appeal to an administrative denial to a non-zoning/non/subdivision regulation have been added.

With the McCreary land use and transportation plan amendment, the City did not collect fees. A significant amount of work went into meeting with the applicants and to hold public hearings. This fee would match Bismarck’s for the application type and help cover the cost of the work contributed by staff through the process.

Masterplanned subdivisions do not currently collect fees, although they add work to preliminary plats which require them.

In addition, an appeal to an administrative denial has been added. An example of this is when a property owner wishes to have a larger driveway apron than that allowed by code. This requires a hearing before City Commissioners. The work in preparing the appeals document, evaluating the site, and presenting information and recommendation to City Commissioners all requires work that is, as of now, borne by the general public.

Finally, fees collected in the right-of-way were adjusted upwards slightly to reflect labor costs for administration and inspection.

Each of these new application types would help to ensure labor and noticing costs are borne by the applicant, rather than the general tax payer.

ATTACHMENTS:

Exhibit 1 - Resolution Updating Engineering and Planning Fees - 2020

FISCAL/STAFF IMPACT: Positive

LEGAL REVIEW: All information has been forwarded to the City Attorney for review.

RECOMMENDATION: Recommend approval of Resolution Adjusting Planning and Engineering Fees as outlined in Exhibit 1.

SUGGESTED ACTION: I move to approve the resolution adjusting the fee schedule for engineering and planning-related applications beginning January 1, 2020.

EXHIBIT 1

RESOLUTION ADJUSTING PLANNING AND ENGINEERING FEES Board of City Commissioners City of Mandan, North Dakota

WHEREAS, The cost for certain tasks should be borne by the applicant requesting action; and

WHEREAS, City staff have identified other land-use applications for which no fees are specified.

WHEREAS, It is necessary to adjust fees periodically in order to recoup the costs incurred in completing certain tasks.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, that, beginning January 1, 2020, the following adjustments shall be made to the fees charged for various tasks performed by city staff:

Task	Current Fee	Fee Effective January 1, 2020
Annexation petition	450	450
Annexation with minor plat	200	REMOVED
Minor plat	300	300
Preliminary Plat up to 20 acres	350	400
Preliminary Plat greater than 20 acres	400	450
Final Plat up to 20 lots	350	400
Final Plat 21 to 40 lots	475	550
Final Plat greater than 40 lots	700	700
Zone change	600	600
Zone change with minor plat	400	REMOVED
Special Use	450	450
Vacation of ROW	500	500
Stormwater submittal	300	300
Variance to Zoning and Subdivision Regulations	400	400
Stormwater 2nd & each subsequent resubmittal	50	50
Planned Unit Development (PUD)	700	700
Driveway and sidewalk permit (New)	100	150
Driveway and sidewalk permit (Replace)	50	75

Work in ROW - Other Work (water, sewer, storm sewer, gas, electric, street lights, etc.)	100 (first opening), plus 25 (each consecutive opening per site)	150 (first opening), plus 25 (each consecutive opening per site)
Backyard Chickens Permit	100 (New); 50 (Renewal)	100 (New); 50 (Renewal)
Fireworks Stand Permit	100 (New); 50 (Renewal)	100 (New); 50 (Renewal)
Mural Permit	50; 100 if notice required	50
Land-use and Transportation Plan Amendment	N/a	1000
Masterplanned Subdivision (not accepted without preliminary plat)	N/a	250
Appeals to Administrative Denials (Variance to Non-Zoning/Non-Subdivision Regulations)	N/a	250

President, Board of City Commissioners

ATTEST:

City Administrator



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 25, 2019
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: City Attorney Malcolm Brown
SUBJECT: Introduction and First Consideration of Ordinance 1330 Regarding Penalties

STATEMENT/PURPOSE: Consider Introduction and First Consideration of Ordinance 1330 which will amend and re-enact the penalty sections of 24-1-2, 24-10-1, 24-12-8, 24-15-19, and 24-16-1 of Mandan Code of Ordinances to double the fine amount for each section.

BACKGROUND/ALTERNATIVES: The 2019 North Dakota State Legislature voted to allow the doubling of certain fines by Municipalities. Ordinance 1330 would change the fines in those applicable sections to double the current fine amount as provided by ND Century Code.

ATTACHMENTS: Ordinance 1330

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: Ordinance 1330 was drafted by the City Attorney

RECOMMENDATION: Recommend to approve the Introduction and First Consideration of Ordinance 1330 which will amend and re-enact the penalty sections of 24-1-2, 24-10-1, 24-12-8, 24-15-19, and 24-16-1 of Mandan Code of Ordinances to double the fine amount for each section.

SUGGESTED MOTION: Move to approve the Introduction and First Consideration of Ordinance 1330 which will amend and re-enact the penalty sections of 24-1-2, 24-10-1, 24-12-8, 24-15-19, and 24-16-1 of Mandan Code of Ordinances to double the fine amount for each section.

ORDINANCE NO. 1330

An Ordinance to Amend and Re-enact
Sections 24-1-2(b); 24-10-1; 24-12-8(4); 24-15-19; 24-16-1
of Chapter 24 of the Mandan Code of Ordinances

Be it Ordained by the Board of City Commissioners as follows:

Sec. 24-1-2. – Penalties.

- (b) ~~Except for article 7 of this chapter or as provided by state law, the fine for violating this chapter shall be \$50.00 unless another amount for a specific infraction is established by resolution of the board of city commissioners.~~

For all non-criminal traffic dispositions contained in Title 39 of the North Dakota Century Code, the fees shall be as set by N.D.C.C. Title 39, plus an additional one hundred percent for a total of double the statutory fine for violations referenced in N.D.C.C. § 39-06.1-06, except for violations referenced in article 7 of this chapter (Stopping, Standing, and Parking) and N.D.C.C. § 39-06.1-06(1) (nonmoving violations). For all non-criminal traffic dispositions not contained in Title 39 of the North Dakota Century Code, the fees are as set out in this chapter, or, if no fee is set out, fifty dollars.

Sec. 24-10-1. – Vehicles transporting explosives and blasting agents; routes for transportation.

All persons owning or operating trucks or other vehicles designed or used for the purpose of transporting explosives, blasting agents, hazardous chemicals, flammable liquids or other dangerous substances within the city shall travel only upon the streets and highways designated by the county emergency management agency; provided, however, that streets other than the designated streets may be used where such materials are being transported to or from a licensed dealer or operator and then, travel may only be on such streets constituting the shortest travel distance from the described route. Any person violating this section is guilty of an infraction, the minimum penalty for which is a fine of ~~\$250.00~~ \$500.00.

Sec. 24-12-8. – Driving without liability insurance prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-20.

39-08-20. Driving without liability insurance prohibited—Penalty.

4. Violation of subsection 1 must include a fine of ~~one hundred fifty-three~~ three hundred dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined ~~three~~ six hundred dollars which may not be suspended. For a second or subsequent conviction for

a violation of subsection 1 or equivalent ordinance, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

Sec. 24-15-19. – Slow-moving vehicles required to display identification emblem—Penalty.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-50.

39-21-50. Slow-moving vehicles required to display identification emblem—Penalty. All implements of husbandry, as defined in section 39-01-01, and machinery, including all road construction machinery, designed for operation at a speed of twenty-five miles [40.23 kilometers] an hour or less, must display either a triangular slow-moving vehicle emblem or a rotating or flashing amber light, as authorized for class B emergency vehicles, whenever traveling along the roadway on any county, state, federal highway, or city street in the state of North Dakota. The emblem or light must be mounted so as to be visible from a distance of not less than five hundred feet [152.4 meters] to the rear. The director shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem and light. The standards and specifications for slow-moving vehicle emblems referred to in this section must correlate with and, so far as possible, conform with those approved by the American society of agricultural engineers. No vehicle, other than those specified in this section, must display a slow-moving vehicle emblem, and its use on any type of stationary object is prohibited. Any person who fails or refuses to comply with the provisions of this section must be assessed a fee of ~~twenty~~ forty dollars for each offense.

Sec. 24-16-1. – Basic rule.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-09-01.

39-09-01. Basic rule. No person may drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who drives a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section has committed careless driving and must be assessed a fee of ~~thirty~~ sixty dollars. Any person who, by reason of careless driving as herein defined, causes and inflicts injury upon the person of an operator of snow removal equipment engaged in snow removal operations or causes damage in excess of one thousand dollars to snow removal equipment engaged in snow removal is guilty of an infraction. As used in this section, “snow removal equipment” means a vehicle that is operated by a person employed by or on behalf of an authority in charge of the maintenance of the highway to perform winter maintenance snow and

ice removal, including plowing, hauling away, salting, and sanding.

By: _____
Tim Helbling, President, Board of
City Commissioners

Attest:

James Neubauer, City Administrator

First Consideration: _____

Second Consideration and Final Passage: _____

Publication: _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 25, 2019
SUBMITTING DEPARTMENT: Building Inspections
DEPARTMENT DIRECTOR: Shawn Ouradnik, Building Official
PRESENTER: Shawn Ouradnik
SUBJECT: Propose change to Article 2 Section 111-2-1 of the Mandan Municipal code

STATEMENT/PURPOSE: Updating the Mandan Building code to supplement the adoption of the State Building code on January 1, 2020.

BACKGROUND/ALTERNATIVES: In the State Building code, that will be adopted and implemented January 1st of 2020, several modifications were made that the Building Inspections Department felt were vital to keep in our code. The modifications are as follows:

- (1) Removing the need for the self-closing self-latching door requirement between an attached garage and a dwelling.
- (2) Window sill height for an emergency escape and rescue opening in the basement of a dwelling from a maximum of 44" to a maximum of 48".
- (3) Eliminating the minimum slope requirements for drainage away from structures.

In addition to the modification on the State level the Building Inspections Department proposes changing the footing and foundation portion of Section 111-2-1 to adopt the State Building code requirements for footings and foundations and adding a requirement for footing on attached decks.

The concerns of this department are echoed by the Mandan Fire Department. These code changes, at the state level were, passed during the voting procedures for code adoption. All of the State Building code changes were contested by additional municipalities other than Mandan but did not receive the required votes to pass.

The amendments to the footings and foundation section are being put in place because they are more consistent with other municipalities and are more in line with current building practices. By placing the requirements into the Mandan Municipal Code

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Propose change to Article 2 Section 111-2-1 of the Mandan Municipal code

Page 2 of 2

we can avoid confusion and be more consistent from during the three year cycle of State Building code adoption increasing safety for our public.

ATTACHMENTS: Code change submission to the state for each change, ordinance for proposed change to the Mandan Municipal Code

FISCAL IMPACT: None

STAFF IMPACT: None

LEGAL REVIEW: All documents have been reviewed by Attorney Brown.

RECOMMENDATION: We recommend passing the amendments to Article 2 Section 111-2-1 of the Mandan Municipal code

SUGGESTED MOTION: I move to amend and reenact Article 2 Section 111-2-1 of the Mandan Municipal code as presented.

ORDINANCE NO. 1331

An Ordinance to Amend and Re-enact
Article 2 of the Mandan Code of Ordinances
Relating to Building Code

Be it Ordained by the Board of City Commissioners as follows:

Article 2 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

ARTICLE 2. - BUILDING CODE

Sec. 111-2-1. - Adoption of code.

There is adopted by reference that certain building code known as the state building code, as developed by the state, as now or hereafter amended. The purpose of the building code is to establish rules and regulations of erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area, and maintenance of buildings and structures. A copy of the current edition of the State Building Code shall be kept on file in the offices of the building official. The State Building Code, adopted by the provisions of this chapter, and all subsequent editions, is amended, changed and altered as follows:

- (1) IRC Section 108.2 Schedule of Permit Fees, is amended by adding the following sentence to the end of the paragraph;

The fees for any building permit, amendments to permits or required inspections shall be established by resolution of the Board of City Commissioners.

- (2) IBC Section 1603.1.3 Roof snow load is amended to insert a minimum snow load design requirement of thirty pounds per square foot.

~~(3) Section 1807 Footings and Foundations of the International Building Code, as adopted by the State Building Code, is amended by adding the following requirements relating to Minimum Requirements for Foundations for Stud Bearing Walls (as depicted in the table below), which shall supersede any of the alternate foundation provisions of Section 1807 of the International Building Code. Those provisions of Section 1807 of the International Building Code which conflict with the minimum requirements established herein by the City may apply, provided the building official approves their application due to unique soil conditions or building materials and provides a written statement verifying the applicable section.~~

~~TABLE NO. 1807.1.6.2(1)
FOUNDATIONS FOR STUD BEARING WALLS
MINIMUM REQUIREMENTS~~

Number of Stories	Thickness of Foundation Wall (Inches)		Width of Footings (Inches)	Thickness of Footings (Inches)	Depth of Foundation Below Grade (Feet)
	Concrete	Unit Masonry			
1	8	8	16	8	4
2	8	8	16	8	4
3	10	10	18	10	4

-

~~(4)~~ Foundation walls up to four feet high shall be eight inches wide and reinforced with (2) No. 4 rebar.

~~(3)~~~~(5)~~ Foundation walls over four feet high up to 10 feet high shall be reinforced as follows: horizontal rebar—two No. 4 rebar within twelve inches of top of foundation, two No. 4 rebar in the lowest twelve inches of the wall, one No. 4 rebar in the middle one-third of the wall height. Any foundation wall that exceeds 10 foot in height needs plans stamped by an engineer.

~~(4)~~~~(6)~~ All footings shall be constructed in accordance with North Dakota State building code bear on undisturbed soil or engineered fill and be designed to distribute sufficiently the super-imposed loads to the particular type of soil upon which they bear and shall be reinforced with a minimum of (2) No. 4 rebar continuous.

~~(5)~~~~(7)~~ Detached garage foundations may be constructed on concrete slabs, providing such slabs are at least four inches thick and thickened to at least twelve inches at all edges, and such thickened edges having a horizontal width of at least eight inches at their bottom and shall be reinforced with a minimum of (2) No. 4 rebar.

~~(6)~~~~(8)~~ In addition to all other requirements, each building permit shall require that off-street parking areas and the driveways leading from the street thereto shall be graded and drained to dispose of all surface water accumulated within the area and paved with Portland cement, concrete or plant-mixed bituminous surface in accordance with the specifications therefore promulgated by the city engineer.

~~(7)~~~~(9)~~ For determining value of a construction job for purposes of calculating a permit fee, the most current chart from the "International Code Council Building Valuation Data" shall be used with the following additions to the chart:

- a. \cup Utility: Carports, Decks, Pole Barns, Sheds, Misc. = $\frac{1}{2}$ value of Utility line.
- b. Crawl Space = \$15.00 per sq. ft.
- c. Finished Basement = \$30.00 per sq. ft.
- d. Single and Two Family second story = $\frac{1}{2}$ value of main cost per sq. ft.
- e. Manufactured Home:
 - i. New on owned lot - Actual cost of home value.
 - ii. Used - under 10 yrs. old = \$50.00 per sq. ft.
 - iii. Used - over 10 yrs. old = \$25.00 per sq. ft.
 - iv. MH Court - set permit fee by resolution.

(8) Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors, equipped with self-closing self-latching hardware.

(9) Window sill height. Where a window is provided as the emergency escape and rescue opening in the basement of a dwelling, it shall have a sill height of not more than 44 inches above the floor; where the sill height is below grade, it shall be provided with a window well in accordance with the State Building Code requirements. Sill height shall be measured from the finished floor to the bottom of the clear opening. A step, ladder, or other means of reducing the on the interior height of floor directly inside the window cannot be supplemented for the finished floor height.

(10) Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard. Lots shall be grades to drain surface water from the foundation of any structure at a minimum slope of 6 inches within the first 10 feet.

Exception: Where lot lines, walls, slopes, or other physical barriers prohibit the 6 inch fall within 10 feet, drains or swales shall be constructed to ensure drainage away from the structure. Impervious surfaces within 10 feet of the building foundation shall be sloped not less than a minimum of 2 percent away from the building.

(11) Deck Footings. Deck footing shall comply with section R507.3 of the International Residential Code (IRC).

By: _____
President, Board of City Commissioners

Attest:

City Administrator
First Consideration: _____
Second Consideration
and Final Passage: _____

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2015 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Building Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2018 International Energy Conservation Code <input type="checkbox"/> Other _____	
Revision of: Section R302.5.1			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
<p>R302.5.1 Opening Protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1¾ inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 1¾ inches (35 mm) thick, or 20-minute fire-rated doors, equipped with a self-closing device or automatic closing device.</p>			
Reason: (attach additional pages if necessary)			
<p>Self-closing doors are more of a nuisance than a safety feature since it is such an easy device to overcome by blocking the door open and is the source of constant complaints from builders and occupants. Add that once closer are defeated a few times they are prone to cease latching which eliminates their effectiveness for fire protection.</p>			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 701-665-4496			

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2015 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Building Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2018 International Energy Conservation Code <input type="checkbox"/> Other _____	
Revision of: Section R310.2.3.1			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Section R310.2.3.1 is hereby amended to read as follows: R310.2.3.1 Ladder and steps. Window wells with a vertical depth greater than 44 inches (1118 mm) shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position, <u>or shall be equipped with a permanently-attached platform at least 30 inches by 16 inches. The maximum distance between the top of the window well and a platform shall be 42 inches and shall not impede the operation of the window.</u> Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8 . Ladders or rungs shall have an inside width of <u>not less than at least 12 inches (305 mm), shall project not less than at least 3 inches (76 mm) from the wall and shall be spaced not more than 18 inches (457 mm) on center vertically for the full height of the window well.</u> <u>Exception: Terraced window wells with a maximum of 24 inches per vertical rise and minimum of 12 inches per horizontal projection on each level shall also be allowed.</u>			

Reason: (attach additional pages if necessary)

This is a current State and local amendment that has served its purpose and should be retained. As long as the egress window served is free to move to the completely open position, the allowance contained in this amendment serves well to raise the bottom of the area well to a complying and useable level.

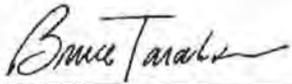
SEND TO:

Department of Commerce
Division of Community Service
PO Box 2057
Bismarck, ND 58502-2057
701-665-4496

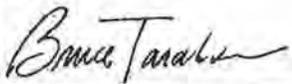
CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code		<input type="checkbox"/> 2018 International Building Code	
<input type="checkbox"/> 2015 International Residential Code		<input checked="" type="checkbox"/> 2018 International Residential Code	
<input type="checkbox"/> 2015 International Mechanical Code		<input type="checkbox"/> 2018 International Mechanical Code	
<input type="checkbox"/> 2015 International Fuel Gas Code		<input type="checkbox"/> 2018 International Fuel Gas Code	
<input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Energy Conservation Code	
		<input type="checkbox"/> Other _____	
Revision of: Section R401.3			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Section R401.3 is hereby amended to read as follows:			
<p>R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard. Lots shall be graded to drain surface water away from foundation walls. The grade shall fall not fewer than a minimum of 6 inches (152mm) within the first 10 feet (3048mm).</p> <p>Exception: Where lot lines, walls, slopes or other physical barriers prohibit 6 inches (152mm) of fall within 10 feet (3048mm), drains or swales shall be constructed to ensure drainage away from the structure. Impervious surfaces within 10 feet (3048mm) of the building foundation shall be sloped not less than a minimum of 2 percent away from the building.</p>			
Reason: (attach additional pages if necessary)			
<p>Existing amendment would dramatically simplify drainage requirements and their enforcement. Essentially the simplification takes the code content back to the basic and original intent of moving drainage away the building foundation and excluded all the extraneous site drainage which has very little if any relevance to the buildings construction.</p>			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 701-665-4496			

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2015 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Building Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2018 International Energy Conservation Code <input type="checkbox"/> Other _____	
Revision of: Section R507.3			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Section R507.3 is hereby deleted in its entirety.			
Reason: (attach additional pages if necessary)			
To avoid confusion with the amendment made to Section R403.1.4.1, exception 3, Frost Protection.			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 701-665-4496			

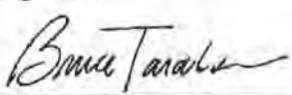
CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2018 International Building Code <input type="checkbox"/> 2015 International Residential Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code <input type="checkbox"/> 2018 International Energy Conservation Code <input type="checkbox"/> Other _____			
Revision of: Section R507.3.1			
Check One and Complete (attach additional pages if necessary)			
<input type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input checked="" type="checkbox"/> Delete			
Table R507.3.1 is hereby deleted in its entirety.			
Reason: (attach additional pages if necessary)			
Proposed new AMENDMENT. This table is no longer needed if Section 507.3 is deleted.			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 701-665-4496			

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name James Schmidt		Jurisdiction/Company/Organization North Dakota State Electrical Board	
Signature 		Address 1929 N. Washington St. Ste A-1	
City Bismarck		State ND	ZIP Code 58507-7335
Telephone Number (701) 328-9522		Email jameschmidt@nd.gov	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2015 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Building Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2018 International Energy Conservation Code Other <u>2018 International Existing Building Code</u>	
Revision Sections 403.1			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input checked="" type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, crushed stone footings, wood foundations, or other approved structural systems that shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill and shall include a concrete encased contiguous rebar stubbed out near the electrical service for grounding of the electrical system as per the requirements of the most recently adopted version of North Dakota State Electrical Board's Laws, Rules and Wiring Standards. Coordinate with the electrical contractor.			
Reason: (attach additional pages if necessary)			
This amendment clarifies references to applicable electrical codes and wiring standards for grounding requirements which are adopted by the North Dakota State Electrical Board.			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 (701) 665-4496			

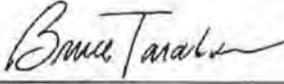
CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

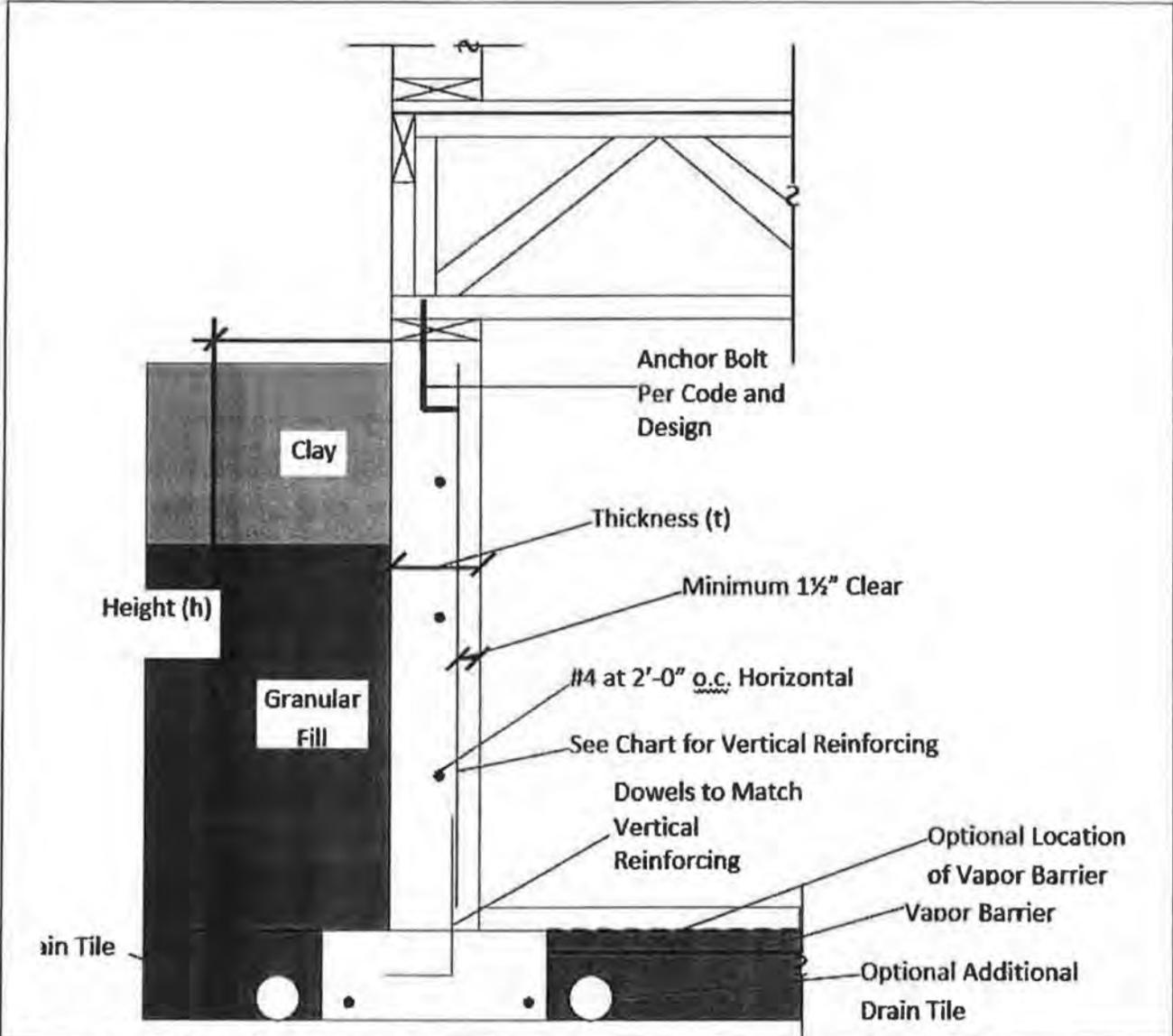
Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code		<input type="checkbox"/> 2018 International Building Code	
<input type="checkbox"/> 2015 International Residential Code		<input checked="" type="checkbox"/> 2018 International Residential Code	
<input type="checkbox"/> 2015 International Mechanical Code		<input type="checkbox"/> 2018 International Mechanical Code	
<input type="checkbox"/> 2015 International Fuel Gas Code		<input type="checkbox"/> 2018 International Fuel Gas Code	
<input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Energy Conservation Code	
		<input type="checkbox"/> Other _____	
Revision of: Section R403.1.4.1			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Section R403.1.4.1, Exceptions 1, 2 and 3, are hereby amended to read as follows:			
<p>R403.1.4.1 Frost protection *** Exceptions:</p> <ol style="list-style-type: none"> 1. Protection of freestanding accessory structures with an area of 600 square feet (56 m²) or less, of light-frame construction, with an eave height of 10 feet (3048 mm) or less shall not be required. 2. Protection of freestanding, accessory structures with an area of 400 square feet (37 m²) or less, of other than light-frame construction, with an eave height of 10 feet (3048 mm) or less shall not be required. <p>Decks not supported by a dwelling need not be provided with footings that extend below the frost line.</p>			
Reason: (attach additional pages if necessary)			
<p>This is an existing amendment in the state code that should be retained as it has served us all well and recognizes commonly acceptable structures constructed without frost-protected foundation systems which have proven themselves serviceable without such foundation systems.</p>			
<p>SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 701-665-4496</p>			

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name James Schmidt		Jurisdiction/Company/Organization North State Electrical Board	
Signature 		Address PO Box 7335	
City Bismarck		State ND	ZIP Code 58507
Telephone Number (701) 328-9522		Email jameschmidt@nd.gov	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code		<input type="checkbox"/> 2018 International Building Code	
<input type="checkbox"/> 2015 International Residential Code		<input checked="" type="checkbox"/> 2018 International Residential Code	
<input type="checkbox"/> 2015 International Mechanical Code		<input type="checkbox"/> 2018 International Mechanical Code	
<input type="checkbox"/> 2015 International Fuel Gas Code		<input type="checkbox"/> 2018 International Fuel Gas Code	
<input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Energy Conservation Code	
		<input type="checkbox"/> Other _____	
Revision R404.1			
Check One and Complete (attach additional pages if necessary)			
<input type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
R404.1 Concrete and masonry foundation walls. Concrete foundation walls shall be selected and constructed in accordance with the provisions of Section R404.1.3. Masonry foundation walls shall be selected and constructed in accordance with the provisions of Section R404.1.2. There shall be a concrete encased contiguous rebar stubbed out near the electrical service for grounding of the electrical system as per the requirements of the most recently adopted version of North Dakota State Electrical Board's Laws, Rules and Wiring Standards. Coordinate with the electrical contractor.			
Reason: (attach additional pages if necessary)			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 (701) 665-4496			

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2015 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Building Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2018 International Energy Conservation Code <input type="checkbox"/> Other _____	
Revision of: Figure R404.1.2(1)			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Figure R404.1.2(1) is adopted as shown: FIGURE R404.1.2(1)			

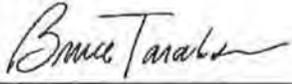


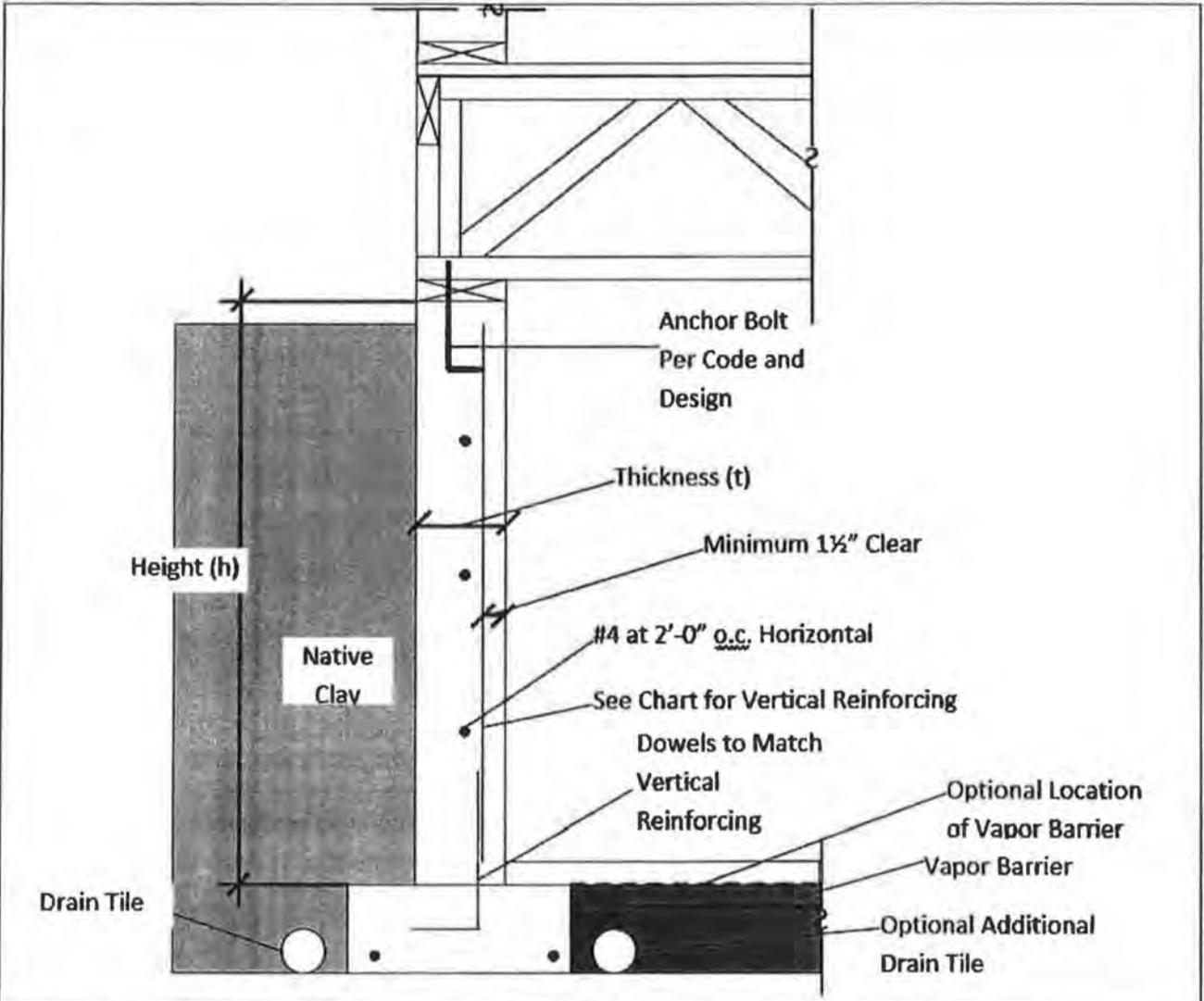
Reason: (attach additional pages if necessary)

This figure is referenced in conjunction with the concrete foundation reinforcing tables that were adopted long ago with the intent simplifying the tables in the code and allowing different sizes of rebar than those specified by the code.

SEND TO:
 Department of Commerce
 Division of Community Service
 PO Box 2057
 Bismarck, ND 58502-2057
 701-665-4496

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code		<input type="checkbox"/> 2018 International Building Code	
<input type="checkbox"/> 2015 International Residential Code		<input checked="" type="checkbox"/> 2018 International Residential Code	
<input type="checkbox"/> 2015 International Mechanical Code		<input type="checkbox"/> 2018 International Mechanical Code	
<input type="checkbox"/> 2015 International Fuel Gas Code		<input type="checkbox"/> 2018 International Fuel Gas Code	
<input type="checkbox"/> 2015 International Energy Conservation Code		<input type="checkbox"/> 2018 International Energy Conservation Code	
		<input type="checkbox"/> Other _____	
Revision of: Figure R404.1.2(2)			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Figure R404.1.2(2) is adopted as shown: FIGURE R404.1.2(2)			

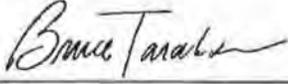


Reason: (attach additional pages if necessary)

This figure is referenced in conjunction with the concrete foundation reinforcing tables that were adopted long ago with the intent simplifying the tables in the code and allowing different sizes of rebar than those specified by the code.

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CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson	Jurisdiction/Company/Organization City of Fargo	
Signature 	Address 225 4 th Street N	
City Fargo	State ND	ZIP Code 58102
Telephone Number 701-241-1561	Email inspections@cityoffargo.com	

Code to be Revised

<input type="checkbox"/> 2015 International Building Code	<input type="checkbox"/> 2018 International Building Code
<input type="checkbox"/> 2015 International Residential Code	<input checked="" type="checkbox"/> 2018 International Residential Code
<input type="checkbox"/> 2015 International Mechanical Code	<input type="checkbox"/> 2018 International Mechanical Code
<input type="checkbox"/> 2015 International Fuel Gas Code	<input type="checkbox"/> 2018 International Fuel Gas Code
<input type="checkbox"/> 2015 International Energy Conservation Code	<input type="checkbox"/> 2018 International Energy Conservation Code
	<input type="checkbox"/> Other _____

Revision of: Table R404.1.2(10)

Check One and Complete (attach additional pages if necessary)

Revise as follows: Add as follows: Delete and substitute as follows: Delete

Table R404.1.2(10) is hereby adopted as follows:

Table R404.1.2(10)
 Foundation Wall Reinforcing
 Active Pressure = 45pcf

Minimum Reinforcement for Concrete Foundation Walls		
Wall Height (h) feet	Wall Thickness (t) inches	Vertical Reinforcing
8	8	#4 @ 24" o.c. #5 @ 40" o.c.
	10	#4 @ 30" o.c. #5 @ 50" o.c.
9	8	#4 @ 18" o.c.

		#5 @ 28" o.c.
	10	#4 @ 24" o.c. #5 @ 36" o.c.
10	10	#4 @ 16" o.c. #5 @ 26" o.c.

Notes:

1. Chart is based on an active soil pressure of 45 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength $F_c^1 = 3,000$ pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

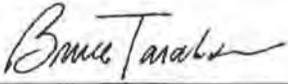
Reason: (attach additional pages if necessary)

These concrete foundation reinforcing tables were adopted long ago with the intent simplifying the tables in the code and allowing different sizes of rebar than those specified by the code.

SEND TO:

Department of Commerce
 Division of Community Service
 PO Box 2057
 Bismarck, ND 58502-2057
 701-665-4496

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson	Jurisdiction/Company/Organization City of Fargo	
Signature 	Address 225 4 th Street N	
City Fargo	State ND	ZIP Code 58102
Telephone Number 701-241-1561	Email inspections@cityoffargo.com	

Code to be Revised

<input type="checkbox"/> 2015 International Building Code	<input type="checkbox"/> 2018 International Building Code
<input type="checkbox"/> 2015 International Residential Code	<input checked="" type="checkbox"/> 2018 International Residential Code
<input type="checkbox"/> 2015 International Mechanical Code	<input type="checkbox"/> 2018 International Mechanical Code
<input type="checkbox"/> 2015 International Fuel Gas Code	<input type="checkbox"/> 2018 International Fuel Gas Code
<input type="checkbox"/> 2015 International Energy Conservation Code	<input type="checkbox"/> 2018 International Energy Conservation Code
	<input type="checkbox"/> Other _____

Revision of: Table R404.1.2(11)

Check One and Complete (attach additional pages if necessary)

Revise as follows: Add as follows: Delete and substitute as follows: Delete

Table R404.1.2(11) is hereby adopted as follows:

Table R404.1.2(11) Foundation Wall Reinforcing
 Active Pressure = 65 pcf

Minimum Reinforcement for Concrete Foundation Walls		
Wall Height (h) Feet	Wall Thickness (t) inches	Vertical Reinforcing
8	8	#4 @ 18" o.c. #5 @ 26" o.c. #6 @ 40" o.c.
	10	#4 @ 24" o.c. #5 @ 36" o.c. #6 @ 52" o.c.

	9	8	#4 @ 12" o.c. #5 @ 18" o.c. #6 @ 26" o.c.
		10	#4 @ 16" o.c. #5 @ 24" o.c. #6 @ 36" o.c.
	10	10	#4 @ 12" o.c. #5 @ 18" o.c. #6 @ 24" o.c.

Notes:

1. Chart is based on an active soil pressure of 65 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength $F_c^1 = 3,000$ pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Reason: (attach additional pages if necessary)

These concrete foundation reinforcing tables were adopted long ago with the intent simplifying the tables in the code and allowing different sizes of rebar than those specified by the code.

SEND TO:
 Department of Commerce
 Division of Community Service
 PO Box 2057
 Bismarck, ND 58502-2057
 701-665-4496

CODE AMENDMENT SUBMITTAL
ND DIVISION OF COMMUNITY SERVICES
 SFN 50180 (9/18)

Name Bruce Taralson		Jurisdiction/Company/Organization City of Fargo	
Signature 		Address 225 4 th Street N	
City Fargo		State ND	ZIP Code 58102
Telephone Number 701-241-1561		Email inspections@cityoffargo.com	
Code to be Revised			
<input type="checkbox"/> 2015 International Building Code <input type="checkbox"/> 2018 International Building Code <input type="checkbox"/> 2015 International Residential Code <input checked="" type="checkbox"/> 2018 International Residential Code <input type="checkbox"/> 2015 International Mechanical Code <input type="checkbox"/> 2018 International Mechanical Code <input type="checkbox"/> 2015 International Fuel Gas Code <input type="checkbox"/> 2018 International Fuel Gas Code <input type="checkbox"/> 2015 International Energy Conservation Code <input type="checkbox"/> 2018 International Energy Conservation Code <input type="checkbox"/> Other _____			
Revision of: Section R404.1.3.2			
Check One and Complete (attach additional pages if necessary)			
<input checked="" type="checkbox"/> Revise as follows: <input type="checkbox"/> Add as follows: <input type="checkbox"/> Delete and substitute as follows: <input type="checkbox"/> Delete			
Section R404.1.3.2 is hereby amended to read as follows:			
<p>R404.1.3.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top and bottom. Horizontal reinforcement shall be provided in accordance with Table R404.1.2(1). Vertical reinforcement shall be provided in accordance with Table R404.1.2(2), R404.1.2(3), R404.1.2(4), R404.1.2(5), R404.1.2(6), R404.1.2(7), or R404.1.2(8), <u>or Table R404.1.2(10) and Figure R404.1.2(1) or Table R404.1.2(11) and R404.1.2(2)</u>. Vertical reinforcement for flat basement walls retaining 4 feet (1219 mm) or more of unbalanced backfill is permitted to be determined in accordance with Table R404.1.2(9). For basement walls supporting above-grade concrete walls, vertical reinforcement shall be the greater of that required by Tables R404.1.2(2) through R404.1.2(8) or by Section R608.6 for the above-grade wall. In Buildings assigned to Seismic Design Category D₀, D₁, or D₂, concrete foundation walls shall also comply with Section R404.1.4.2.</p>			
Reason: (attach additional pages if necessary)			
This is an existing amendment in the state code that refers to the Heyer concrete reinforcing tables and figures that have been used by many contractors as a simpler alternative to the tables in the code.			
SEND TO: Department of Commerce Division of Community Service PO Box 2057 Bismarck, ND 58502-2057 701-665-4496			



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 26, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM
SUBJECT: Second and final consideration of Ordinance 1326 related to murals

STATEMENT/PURPOSE: Consider approval of the second and final consideration of Ordinance 1326 related to murals.

BACKGROUND/ALTERNATIVES: The DRAFT mural ordinance as seen in Exhibit 1 is the product agreed upon by City Commission and legal counsel that fulfills the interest of the City in preserving public safety, traffic and pedestrian safety, property values and will withstand constitutional muster.

Residential Districts Not Regulated

The mural ordinance doesn't regulate in residential districts, rather leaving neighborhood home-owners associations to address this issue internally.

Permitting

A permitting process is required to ensure that any mural not painted directly onto a building is affixed safely and meeting building code. Murals painted directly onto buildings require a permit to ensure that the materials used to paint onto the structure are adequate to withstand North Dakota weather well into the future and to document the original condition of the mural. If a mural painted directly to a building fades, chips, or peels, and adequate upkeep is not conducted, the aesthetics of the building degrade and the building risks becoming an eyesore. A lack of maintenance blights an area and negatively affects property values.

Summary of Standards

The standards for murals ensure that they are not applied directly to significant architectural elements.

The limitation on the total number of murals and size restriction on the street-fronting side has been removed from the previous first consideration. If specific problems arise then the ordinance may be adjusted to address them at that time. Also, future court cases traversed by other jurisdictions may provide more insight into the matter. Making these adjustments will further ensure the ordinance is not challenged moving forward and allow the City to focus its efforts on other, more pressing, areas.

Existing Murals

Existing murals, including Lonesome Dove's painted sign, will be grandfathered in if this ordinance is ultimately adopted by City Commission. This ordinance will only apply to new murals following its adoption and release of the temporary restraining order that is currently in-place.

Planning and Zoning Commission – August 26

Planning and Zoning Commission recommended approval, with 7 in favor and 1 in opposition, at the August 26 meeting. It has been reviewed and approved by City legal counsel.

Minor Changes from First Consideration

Minor changes were made from the first consideration and are denoted in blue in Exhibit 1. These minor changes include clarifying language surrounding:

- revocation procedure related to degradation due to time, weather, lack of maintenance, and vandalism; and
- standards for obscenity and excessive distractions

ATTACHMENTS:

Exhibit 1 – Ordinance 1326 – DRAFT Mural Ordinance

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: Ordinance 1326 has been reviewed and approved by legal counsel.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 3, 2019

Subject: Consider approval of the second and final consideration of Ordinance 1326 related to murals

Page 3 of 3

RECOMMENDATION: Engineering and Planning recommend approval of the mural ordinance as presented in Exhibit 1.

SUGGESTED MOTION: I move to approve the second and final consideration of Ordinance 1326 as presented in Exhibit 1.

EXHIBIT 1

ORDINANCE NO. 1326

An Ordinance to Amend a portion of Section 105-1-15 (b) and Enact Sec. 105-1- 17 of the Mandan Code of Ordinances related to the definition and placement of murals

WHEREAS: Clarification is needed surrounding how murals may be regulated and to what degree;

WHEREAS: There is a need to remove the possibility or appearance of content-oriented permitting review processes while at the same time preserving and promoting aesthetics, traffic and public safety, and property values;

WHEREAS: The City of Mandan is actively and directly contributing to aesthetic improvements and economic development and revitalization through financial incentive programs such as the Downtown Storefront Improvement Program and the establishment of design standards in the Downtown Core, Downtown Fringe, and Gateway and Memorial Highway Overlay Districts;

WHEREAS: Alleyway beautification including, but not limited to, the use of murals is a recommendation stemming from the Mandan Downtown Subarea Study;

WHEREAS: Public art is an important tool used in the creation of place and a component of economic development;

NOW, THEREFORE, BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, as follows:

Section 1. Amended. A portion of Section 105-1-15 (b) related to the definition of Figurative wall mural is amended as follows:

~~Figurative wall mural means an illustration, diagram or design, not intended to sell a product or to advertise an establishment, that is used for aesthetic purposes or to enhance architectural features of a building.~~

Section 2. Amended. A portion of Section 105-1-15 (j) related to the prohibition of painted signs and wall murals as follows:

~~(9) No sign or wall mural shall be painted on any building without prior approval from the MARC.~~

Section 3. Repealed. Building Mural Guidelines adopted by the Mandan City Commission on August 21, 2018 are repealed.

Section 4. Enacted. Section 105-1-17 related to display of public art:

Sec. 105-1-17 – Public Art

(a) Murals

(1) Purpose. It is the purpose of this Section to promote art within the City of Mandan while preserving significant architectural elements and an orderly appearance, preserving public safety, traffic and pedestrian safety, as well as preserving property values. This Section applies to all commercial, industrial, and downtown districts. Murals are not regulated in residential districts.

(2) Definitions. The established definitions are for purposes of this Section only.

Mural means a hand-painted or hand-tiled work of visual and original art that is either affixed to or painted directly on the exterior of a structure with the permission of the property owner. A mural does not include any display containing an electrical or mechanical component and does not include any changing image art display.

Mural area means the portion of a structure that is generally free of windows, doors, or major architectural elements or details.

Mural size means the smallest rectangle containing the art which encompasses all of the letters, designs, and symbols therein.

Structure means fence or window, door, or wall of a building, where a mural will be applied directly or affixed.

(3) Permit required. A permit is required for any new mural application proposing a mural viewable from any public street, trail, park, or other right-of-way. A mural applicant may submit a complete application and any necessary non-refundable application fee to the planner or the planner's designee and shall await receipt of the permit prior to beginning work applying the proposed mural to the structure. A permit shall be tied to the mural for which it is being applied.

- (4) Revocation. A permit may be revoked by the planner or the planner's designee because of non-compliance with the permitting process, because of non-compliance with this Section, or because of substantial degradation of the original artwork as measured against the submitted color rendering or photographs, whether the cause of such substantial degradation is due to a lack of maintenance or exposure to time or weather. A mural shall be removed and the structure brought back into substantial conformity of the original aesthetic of the structure, unless it is brought back into conformity with the submitted color rendering or photographs within sixty (60) days of the issuance of written notice by the City ~~revocation~~. If it cannot be brought into such conformity ~~with the original aesthetic of the structure cannot be achieved~~ within sixty (60) days due to weather, artist unavailability, or other extenuating circumstance, an extension may be granted by the planner or the planner's designee.
- (5) Revocation Due to Vandalism. If the artwork is vandalized resulting in substantial degradation of or damage to the artwork, the mural shall be removed and the structure brought back into substantial conformity of the original aesthetic of the structure, unless it is shall be brought into conformity with the submitted color rendering or photographs within six (6) months from the date of the issuance of written notice by the City. If it cannot be brought back into such ~~substantial~~ conformity within six (6) months due to weather, artist unavailability, or other extenuating circumstance, an extension may be granted by the planner or the planner's designee.
- (6) Appeal. An applicant may appeal a denial or a conditional approval of a permit, or a permittee may appeal a revocation of a permit, by timely request for a hearing before the Board of City Commissioners. The request for hearing must be received by the City planner or the planner's designee within ten (10) business days following the date of the notice of revocation, conditional approval, or denial. The Board of City Commissioners shall hold a hearing on the applicant's or permittee's request for appeal hearing and shall render a final decision on the matter at or within a reasonable time after said hearing. A separate, non-refundable appeal fee may be required as established by the Board of City Commissioners.
- (7) Non-Affixed Mural Application. In order to obtain necessary permission for a non-affixed mural, which is typically applied by painting, an applicant may submit a complete application to the planner or the planner's designee. Upon receipt of the complete application for a mural that satisfies the Standards, the planner or planner's designee shall seasonably issue the permit and shall provide the applicant with a copy of the mural standards set forth in this Section. A complete application for a non-affixed mural permit shall include:
- a. General form established by staff to document applicant, property owner, artist,

and property information, including necessary signatures demonstrating owner permission.

- b. Proposed materials to be used for the non-affixed mural.
- c. Proposed maintenance plan to address degradation due to time, weather, and other exposures.
- d. Written acknowledgement of understanding of the requirements as set forth in this Section.

(8) Affixed Mural Application. In order to obtain necessary permission for a mural affixed to a structure, whether mechanically or by some other construction method, an applicant may submit a complete application to the planner or the planner's designee. Upon receipt of the complete application for a mural that satisfies the Standards, the planner or planner's designee shall seasonably issue the permit and shall provide the applicant with a copy of the mural standards set forth in this Section. A complete application for an affixed mural permit shall include:

- a. General form established by staff to document applicant, property owner, artist, contractor, and property information, including necessary signatures demonstrating owner permission.
- b. Proposed maintenance plan to address degradation and structural integrity concerns of the mural fixture due to time, weather, and other exposures.
- c. Proposed means, methods and materials to be used to securely and safely affix the mural to the structure.
- d. Proof of any necessary completed building permit application, fee, and other information required by the building inspection department in relation to the mural fixture.
- e. Written acknowledgement of understanding of the requirements as set forth in this Section.

(9) Timing of Decision & Period of Review. The planner or planner's designee shall seasonably inform the mural applicant of any additional information required to complete the application, to complete the planner's or planner's designee's review of the application, or to complete any necessary further review and decision by the MARC or building inspection department. If a complete mural application is not approved, such decision shall be accompanied by reasons within any correspondence to the applicant. Reasons for conditional approval or denial may only include non-

conformity with the standards set forth in this section.

To the extent MARC or building inspection department review should be necessary to decide whether the application does or does not meet the standards set forth under Sub-Paragraphs 11(c) or (d) of this Section or other sections of the Mandan Code of Ordinances, the planner or planner's designee must forward the application in a timely manner to the MARC or building inspection department such that a decision can be timely rendered. Any decision by the MARC or the building inspection department is subject to appeal pursuant to Paragraph 6 of this Section.

To the extent a complete mural application is received and no additional review or action by the MARC or building inspection department is necessary, the planner or planner's designee shall provide approval, conditional approval, or denial of the application within ten (10) days of receipt of any review decision by the MARC or the building inspection department.

(10) Submitted Color Rendering or Photographs. Within seven (7) days of the date of completion of the mural for which a permit has been granted, the permittee shall provide the planner or planner's designee a color rendering or a sufficient number of photographs of the completed mural that faithfully represent the following:

- i. The color rendering of the mural;
- ii. Dimensions of the mural;
- iii. Dimensions of the mural area; and
- iv. Location on the structure.

(11) Standards. The following standards shall apply to both affixed and non-affixed murals.

- a. A mural shall not contain illustrations or text that are obscene or incite violence, [as those terms are defined by the United States Supreme Court](#).
- b. A mural shall not be installed on any original facade of a building listed as a contributing structure of an historic district or independently listed on the National Historic Register, unless the mural may be attached to a removable panel without damage to the underlying historic facade and the manner of affixture does not

constitute a safety hazard.

- c. A mural may not be applied to, cover over, or obscure significant architectural elements or significant building materials, including, but not limited to, any balustrade, colonnade, column, cornice, cresting, entablature, frieze, grille, latticework, lintel, lunette, molding, parapet, relief, or spandrel, or any structure or part thereof constructed of stone, cut stone, marble, granite, or glass block.
- d. Mural materials and application processes shall be appropriate to the environment, the structure and surface upon which the mural will be applied to ensure durability and longevity of the mural, and so as not to impede building use, occupant safety, public and pedestrian safety, or traffic safety.
- e. The City has lawful aesthetic, public safety, pedestrian and traffic safety interests in minimizing excessive distractions that are directly observable to pedestrian and automotive traffic. To the extent such Where a mural contributes towards excessive driver and/or pedestrian distractions ~~occur~~ such as by reported or documented: traffic accidents; increased traffic infractions; or other traffic or pedestrian disruptions, a mural permit is subject to revocation and the property owner is subject to enforcement, as set forth in this Section.
- f. No mural shall extend beyond the building or structure to which it is painted or affixed or otherwise interfere with the functionality of other components supporting the use of the building or structure. These other components include, but are not limited to, existing signs, external lighting, utilities, sidewalks, parking, building or street address, and ingress/egress.
- g. A mural shall be a two-dimensional medium, except for minor three-dimensional surface variations of the structure on which the mural is directly applied.

(12) Non-Compliance. The failure to comply with any part of this Section may subject the property owner to the penalties and processes set forth in Chapter 26 – Municipal Code Enforcement.

(13) Severability. If any part, sentence, phrase, clause, term, or word in this Section of Mandan Code of Ordinances relating to Public Art is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the constitutionality of or lawfulness of the remainder of this Section, the Mandan Code of Ordinances, or any other Mandan regulation regulating signage, billboards, murals, or Public Art.

Section 3. Sec. 105-1-15 (b) is amended and re-enacted and 105-1-17 is enacted.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

Planning and Zoning Commission:

August 26, 2019

First Consideration:

September 17, 2019

Rehearing of First Consideration

(Substantive Changes from First Consideration):

November 19, 2019

Second Consideration and Final Passage:

December 3, 2019



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 3, 2019
PREPARATION DATE: November 26, 2019
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Right of Way Agreement Uniti Fiber LLC

STATEMENT/PURPOSE: To consider right of way agreement with Uniti Fiber LLC.

BACKGROUND/ALTERNATIVES: Uniti, owns telecommunications lines that have already been installed in Mandan. These lines should be currently operated by a subsidiary of Windstream as the result of a leasing arrangement between Uniti and Windstream executed around 2015, when Uniti was spun off from Windstream. I believe the particular Windstream entity is McLeod USA Telecommunications Services, Inc.

This is from Mr. Houston Shaner representing Uniti Fiber LLC:

Windstream is currently in bankruptcy, and Uniti may need to take over operations of these lines on sudden notice. Uniti is therefore seeking an agreement with the City of Mandan in advance of that prospect. Attached an agreement between the City and McLeod that might serve as a model for an agreement with Uniti (specifically Uniti Fiber LLC), though some other form, like a franchise or right-of-way agreement, might be the City's current preference. I am not aware of any additional construction plans by Uniti this is about existing lines.

ATTACHMENTS: proposed right of way agreement

FISCAL IMPACT: n/a

STAFF IMPACT: minimal

LEGAL REVIEW: City Attorney Brown and Mr. Shaner have reviewed the Springing Agreement

RECOMMENDATION: I recommend approval of the proposed Springing Agreement between Uniti LLC and the City of Mandan.

SUGGESTED MOTION: I move to approve the Springing Agreement between Uniti LLC and the City of Mandan.



SPRINGING AGREEMENT

This Springing Agreement is dated as of _____, 2019, (the "Effective Date") and entered into by and between Uniti Fiber LLC ("Uniti") and the City of Mandan, North Dakota ("the City"). Uniti and the City may be referred to collectively as the "Parties," or, individually, as a "Party."

WHEREAS, Uniti currently owns telecommunications infrastructure within the City's rights-of-way currently operated by its lessee, McLeodUSA Telecommunications Services, Inc. ("McLeod"); and

WHEREAS, McLeod installed, maintains, and operates that infrastructure pursuant to a 1997 right-of-way agreement with the City, appended hereto as **Attachment 1**, and

WHEREAS, Uniti anticipates that it may be required to operate and maintain the infrastructure currently leased to McLeod in the near future as the result of the bankruptcy of McLeod's parent entity; and

WHEREAS, Uniti has requested advance authorization to operate and maintain its telecommunications infrastructure within the City's rights-of-way in the event McLeod ceases to do so or Uniti is otherwise required to do so; and

WHEREAS, Uniti and the City have negotiated and finalized the terms of the Right-of-Way Agreement set forth below; and

WHEREAS, Uniti and the City each desire to presently agree to the terms and conditions of the Right-of-Way Agreement, with the rights and obligations of each Party under the Right-of-Way Agreement to become effective only upon the occurrence of a Triggering Event, as defined herein.

THEREFORE, the Parties hereby agree as follows:

1. **Exchange of Signatures.** As of the Effective Date, each Party hereby exchanges its signature to the Right-of-Way Agreement, set forth below, to the other Party, and in doing so intends to be bound by the terms and conditions of this Springing Agreement.
2. **Status of the Agreement Prior to and Following the Triggering Event.**
 - a. The "Triggering Event" will occur if and when Uniti provides notice, in accordance with paragraph 3 of this Springing Agreement, that Uniti requires use of the City's rights-of-way for telecommunications infrastructure.
 - b. Prior to the Triggering Event, the Agreement will be deemed executed by both Parties with the rights and obligations of each Party only to become effective upon the occurrence of the Triggering Event.

- c. The Parties agree that upon the occurrence of the Triggering Event the rights and obligations of each Party under the Agreement will begin effective immediately.
3. **Notice.** Notice from Uniti will be provided in writing and shall be effective upon sending by (a) postage paid, certified mail, return receipt requested, (b) a reputable national overnight courier service with receipt, or (c) personal delivery, addressed in each case as follows:

Mr. James Neubauer
City Administrator
Administration, City of Mandan
205 2nd Ave NW
Mandan, ND 58554

With copy to:

Mr. Malcolm Brown
Crowley Fleck PLLP
100 W Broadway Ave
Bismarck, ND 58501

4. This Springing Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

RIGHT-OF-WAY AGREEMENT

The City of MANDAN hereby grants Uniti Fiber LLC (Grantee) the right to install and maintain a cable under the public right-of-way, as described in Attachment 1, subject to the following conditions:

1. The Grantee shall comply with all rules regarding non-franchised utility installations in the public right-of-way as set by the City Engineer.
2. The term of this grant shall be for fifteen (15) years and shall continue thereafter from year to year. The City may cancel this grant at any time after the initial 15-year term upon six months' written notice to the Grantee.
3. Upon the end of the term or prior abandonment by the Grantee, the Grantee shall, at its own expense, remove the cable and restore the public right-of-way to its original condition, if so required by the City.
4. In exchange for the City's permission to run a cable under City right-of-way or under a City street, Grantee agrees to release the City, its assigns or other franchised utilities from and waive any and all claims relating to said cable including but not limited to damages arising from damage to the cable, loss of business or other personal injury or property damage resulting from damage to the cable by the City, its assigns or other franchised utilities. Grantee agrees that it is using the public

right-of-way at its own risk and understands that the City, its assigns, or other franchised utilities have no reliable method of indexing or locating the cable. Grantee shall file complete facility location information with the City. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for expense or damage to the cable by the City, its assigns, or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the cable under the public right-of-way. Grantee agrees that after its installation, it will restore the City right-of-way or street to its original condition. In the event it shall become necessary for the City to perform street maintenance or construction at the location of the cable, Grantee shall temporarily relocate the cable at its sole expense upon notice from the City to relocate.

As a condition of the City's permission for the Grantee to locate its cable in the public right-of-way, Grantee agrees that it will not provide any services to local customers without first obtaining a franchise. If the Grantee should at any time obtain a franchise to provide services locally, it shall then be treated like other franchised utilities and be released from any obligation imposed by this agreement to indemnify or hold harmless other franchised utilities with respect to its cable installations.

DATED this _____ day of _____, 20__

UNITI FIBER LLC

By: _____

Title: _____

Address

DATED this _____ day of _____, 20__

CITY OF MANDAN

By: _____

Title: _____

Address

ATTACHMENT 1

AGREEMENT AND WAIVER

The City of MANDAN hereby grants McLeodUSA Telecommunication Services, Inc. (Grantee) the right to install and maintain a cable under the public right-of-way as shown on the attached Exhibit subject to the following conditions:

1. The Grantee shall comply with all rules regarding non-franchised utility installations in the public right-of-way as set by the City Engineer
2. The term of this grant shall be for fifteen (15) years and shall continue thereafter from year to year. The City may cancel this grant at any time after the initial 15-year term upon six months' written notice to the Grantee.
3. Upon the end of the term or prior abandonment by the Grantee, the Grantee shall, at its own expense, remove the cable and restore the public right-of-way to its original condition, if so required by the City.
4. In exchange for the City's permission to run a cable under City right-of-way or under a City street, Grantee agrees to release the City, its assigns or other franchised utilities from and waive any and all claims relating to said cable including but not limited to damages arising from damage to the cable, loss of business or other personal injury or property damage resulting from damage to the cable by the City, its assigns or other franchised utilities. Grantee agrees that it is using the public right-of-way at its own risk and understands that the City, its assigns, or other franchised utilities have no reliable method of indexing or locating the cable. Grantee shall file complete facility location information with the City. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for expense or damage to the cable by the City, its assigns, or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the cable under the public right-of-way. Grantee agrees that after its installation, it will restore the City right-of-way or street to its original condition. In the event it shall become necessary for the City to perform street maintenance or construction at the location of the cable, Grantee shall temporarily relocate the cable at its sole expense upon notice from the City to relocate.
- * 5. As a condition of the City's permission for the Grantee to locate its cable in the public right-of-way, Grantee agrees that it will not provide any services to local customers without first obtaining a franchise. If the Grantee should at any time obtain a franchise to provide services locally, it shall then be treated like other franchised utilities and be released from any obligation imposed by this agreement to indemnify or hold harmless other franchised utilities with respect to its cable installations.

03/10/99 15:52 FAX 1 318 298 7901

MCLEOD LEGAL

004

DATED this 25 day of September, 1997

McLeodUSA Telecommunication Services, Inc.

By: 

Chuck Tonsi

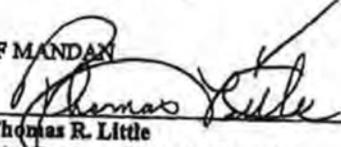
Senior Construction Manager, Western Region

3600 109th Street, Urbandale, IA 50322

Address

DATED this 31 day of October, 1997

CITY OF MANDAN

By: 

Thomas R. Little

City Engineer/Planning Director

205 2nd Ave. N.W., Mandan, ND 58554

Address