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The Mandan City Commission met in a special session at 5:30 p.m. on April 23, 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 and Commissioners Larson and Rohr and Commissioners Braun and Davis were present via teleconference. Department Heads present were City Administrator Neubauer, Business Development and Communications Director Huber, Planning & Engineering Director Froseth and City Attorney Brown.

B. APPROVAL OF AGENDA:

C. PUBLIC INPUT

1. *Consider public input regarding the Southside Street Improvement Project No. 2018-07, Street Improvement District No. 213.* Planning and Engineering Director Froseth provided a recap of this matter from the meeting held on April 16, 2019. At the December 4, 2018 meeting the City Commission approved the resolution creating the district, approved the engineer’s report, approved the feasibility report and approved the resolution of necessity for this project. The Resolution of Necessity was published in the Mandan News on December 7 and 14, 2018 and notification letters were sent out to the property owners within the District. The 30 day protest period started on December 7, 2018 and ended on January 7, 2019. At the December 18, 2018 the City Commission meeting approved that \$1.5 million would come out of the Sales Tax Fund and spread it over the life of the bond, if passed, the Prairie Dog Funds would be used instead of the Sales Tax Funds for project funding assistance. At the conclusion of the protest period, 12.81% of the assessment district area had protested. At the City Commission meeting on January 8, 2019, it was found that the protests were insufficient and the Commission voted to move forward with the project. The City Engineering staff and the consultant have been working on the design with alternates in addition to the base bid in order to select the project that Commission determines is most cost effective. On March 19, 2019, the City Commission approved the advertisement of bids for this street project. The bid opening for the City of Mandan Southside Street project, Street Improvement District No. 213, Project 2018-07 was held on April 10, 2019. Bids were received from two contractors; Northern Improvement Company and Mariner Construction. Director Froseth explained that Parts A through F of the project are choices, and they have different funding sources.

**Part A** – Roadway Improvements including: Roadway reconstruction and rehabilitation curb and gutter replacement, pedestrian ramp installation, valley gutter replacement, driveway replacement and other associated work.

**Part B** – Storm Sewer Improvements including: Storm sewer piping and structures designed using the City of Mandan Storm Sewer Design Standards.

**Part C** – Water Main and Sanitary Sewer Improvements including: Replacement of water main at locations identified as needing replacement and repair of a defect at a single location of the sanitary sewer system.

**Part D** – Park District Improvements including: Resurfacing and paving of the three park district parking lots, access roadways and associated work. This is Park District only.

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**Part E** – 2020 Roadway Seal Coat including: Work associated with seal coating of all of the streets to be paved under this project. This work is to be completed during the 2020 construction season.

**Part F** – 2020 Park District Seal Coat and Striping Including: Work associated with seal coating and striping of all the Park District parking lots and access roads to be paved under this project. This work is to be completed during the 2020 construction season. This is Park District only.

Director Froseth reported that a total of five (5) Alternate Bids and those differ because they are choices the City has and those Alternates are:

**Alternate 1** - Cement Stabilized Base: This alternate was bid for potential cost savings on the project. Cement Stabilized Base (CSB) is used as a replacement to the traditional fabric/gravel base section. This alternate will reduce project costs and will accelerate construction as it reduces the amount of excavation required to prepare the roadway for paving and eliminates the need to import the gravel base material. However, the use CSB does create potential challenges for accessing the utilities beneath the roadway if repairs are needed.

**Alternate 2** – Downsized Storm Sewer: This alternate was bid in order to determine what cost savings there would be for the project if smaller storm sewer pipe was used. This storm sewer system was not sized to convey any certain storm event but will act as a drain in order to alleviate water sitting on the streets. Although this storm sewer will alleviate some of the inundation of roadways during regular rain events it will not perform to the standards that City of Mandan has in place for storm sewer design.

**Alternate 3** – Alley Resurfacing: This alternate was bid as additional scope of work for the project. This alternate includes patching and mill and overlay of the alleys which are currently asphalt surfaced in the neighborhood.

**Alternate 4** – Lighting: This alternate was bid as additional scope of work for the project. This alternate includes installation of lighting along the 7<sup>th</sup> Street/6<sup>th</sup> Avenue alignment and in Park District Parking Lot 3. The lighting on 7<sup>th</sup> Street/6<sup>th</sup> Avenue would begin at the intersection of 7<sup>th</sup> Street and 8<sup>th</sup> Avenue and end at the Intersection of 6<sup>th</sup> Street and 5<sup>th</sup> Avenue.

**Alternate 5** – Sanitary Sewer Improvements: This alternate was bid as additional scope of work for the project. This alternate includes an extension of the sanitary sewer main in 7<sup>th</sup> Street SW. The sanitary sewer ends approximated 200' east of 8<sup>th</sup> Avenue and under this alternate would be extended approximately 520' to the east providing access to sanitary sewer for the adjacent properties.

Mayor Helbling commented that at the City Commission Meeting on April 16, 2019, it was recommend to go with the cement stabilized base; the downsized storm sewer; re-do the alleyways and to leave the local lighting up to the City, the Park District and lower Heart if they so choose to do it, it would not be included in the district. Item No. 5, the sewer project for 7<sup>th</sup> Street - if the owners wanted it, that would solely be up to them to pursue and that is their decision.

Director Froseth agreed those were the items selected by the City Commission at the meeting held on April 16, 2019. Since that time, the City Engineer's office has not received any input or comments that speak to what Alternates the City should choose. His office has contacted those residents that would receive the local assessments. No recommendations were provided at that meeting, rather the results made up the discussion. The City Engineer's office is comfortable

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with recommending Alternate No. 1 for the cement stabilized base. The City will realize a \$600,000 savings in that one item. The next recommendation is go with Alternate No. 2, the reduced storm sewer and that would be a savings of \$380,000. Alternate No. 4, regarding street lighting at 7<sup>th</sup> Street and 6<sup>th</sup> Avenue – property owners have been contacted, the Park District would have the responsibility of that project. Between the Park District, the City and property owners, there was a large majority of the property owners would like to see that improvement. The City Engineer's office is recommending Alternate No. 4. The Alternate No. 5 for the sanitary sewer along 7<sup>th</sup> Street, the property owners do not want that alternate because of the cost that would be associated with it. That one came in over the estimate so the recommendation on that would be to not accept bid Alternate No. 5. The alley bid came in at \$360,000 and that is 67% over estimate but it is a minor part of the project. There are a few cases where some properties are in alleys so they will receive a letter in April versus December. The average property saw 35% lower number in April versus December – those that did not have the street improvements but had alleys and there was a slight increase because the 67% overrode the reduction from the \$1.5 million buy down and alternates taken.

Commissioner Rohr inquired in terms of the number of blocks of alley is being considered to be resurfaced? Director Froseth replied there are approximately 25 blocks. He displayed a map of the area and pointed out the alleys affected.

Mayor Helbling stated that there are also three properties in this area that need to be addressed. One is owned by Jan Fasching, one is owned by John Gartner, Jr, and one is owned by Harriet McClelland. He said he understands there is something that is not quite right on these three parcels and they will need to be looked at individually and possibly afforded some adjustment.

Director Froseth stated that the above outline represents the City Engineer's recommendations based on the Special Assessment policy. They are subject to further scrutiny and they will not be assessed until the project is done and all costs have come in and they will be verified by a Special Assessment Commission before it comes to the City Commission. The goal is to have all fair assessments in place at the conclusion of the project(s).

Mayor Helbling announced this is a public hearing and invited anyone to come forward to comment, ask questions or provide input regarding the Southside Street Improvement Project No. 2018-07, Street Improvement District No. 213.

DeNae Kautzmann came forward and stated that she is a managing partner of the property that her business, Kautzmann Management and Investment owns in the Special Assessment District. She provided a correction within her letter which indicates that \$1.5 million in Prairie Dog funds will be used for this project. She said that the motion at the December 18, 2018 City Commission meeting was to use City Sales Tax funds and it was passed without any amendments. There was discussion about the Prairie Dog Fund legislation but there was no motion concerning it. She stated that she did not realize that the pavement of the alleys came in at 67% over what was estimated. She recommended that that Alternate proposal not be accepted because it is so high. She requested the map be displayed. She requested discussion on the areas that were excluded in particular the 5 properties that were carved out of the Special Assessment district. She inquired why that happened and said that she was told that because 10<sup>th</sup> Avenue is

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not being resurfaced because that was done previously. And, they paved their own alley. At a previous meeting, an individual asked if the 1.5% was going to come off the top or if it would come off what the private property owners would owe. At that time, Mayor Helbling indicated that Attorney Brown said that, no, it comes off the top because we have to be fair and equitable. To be fair and equitable, those 5 properties should be within the special assessment district because they are benefiting from the improvements. She explained that she is pointing this out because the City cannot treat a different special assessment district different from other special assessment districts. What was explained to her is something that is not being done correctly, in her view. In order for this district to be equitable and fair, they need to be included. Also, directly south of that is Legion Park. Legion Park is not included. They are receiving the same benefits. Under the law, the City can add them to the special assessment district without causing any problems. She requested that be done. She said that previously, Commissioner Rohr and Commissioner Braun commented that they wanted to see what the bids were when they came back and they would then determine if it is something that the City can afford. It is not about what the five City Commissioners that can afford, it's about the residents that live in this district. And while the bids came in low and the assessments that were estimated back in December were reduced, it is still too high for the residents. This is one of the poorer sections of town and the residents that live in this area are senior citizens and they are on fixed incomes. They are stressing about how they can pay for the special assessment. She requested more buy down because the estimated assessments that were sent out on April 17<sup>th</sup> are greatly in excess of the value of the benefit to the properties in that district. She requested a buy down either with the City using the Prairie Dog funds that Mandan will be receiving since that legislation was passed or she will request that we set up a meeting with the Park District and that could also include the railroad, Little Heart, and whatever other public entities are there in that district, including the school district, and do what the Park District did, on the Old Red Trail widening project. That was special assessment district 209 and that was for a turning lane by the new hockey arena. She pointed out that the Park and Rec Department agreed to pay 55% of that cost. Mandan 94 investors paid 10% and the refinery paid 35%. The City Commission accepted that agreement. This is precedent now as another way to address the payment of special assessments. As indicated, the City Commission cannot treat one special assessment different from another because it is not fair or equitable. She requested that a meeting be scheduled with these entities to discuss this special assessment and she would also like the City to consider additional funds from the Prairie Dog Fund in order to buy down the cost and lessen the financial burden on the property owners in this special assessment district.

Commissioner Rohr inquired of Ms. Kautzmann, that when speaking about buying down the assessments to lessen the cost – if she would give the Commission an idea of what she has in mind as an appropriate buy down figure or an amount of money put in to reduce the current cost of the project. Ms. Kautzmann suggested that a meeting be held to sit down and negotiate that because it is unknown how many entities would be asked to participate and what monies could further be drawn from the Prairie Dog Fund. Commissioner Rohr commented that any additional meetings could delay this project and further delay the construction by months and that could be problematic. She requested extra time to explore other avenues and to consider additional funds from the Prairie Dog Fund. Mayor Helbling commented that the City Commission has went above and beyond what they are legally required to do to get the word out there and to try to determine an appropriate special assessment and that has happened on at least two occasions. He

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voiced concern that when the next area of the City that will need improvements will have to face a similar situation and the City will need to buy the next area down in a fashion the same as this project. This area is unique because there are public entities in this area.

In closing, Ms. Kautzman requested that the 5 properties that were excluded from the district be included and that the City consider taking more money from the Prairie Dog Fund to be applied towards this special assessment district project.

Regarding the 5 properties that were excluded, Attorney Brown explained that a decision was made previously that they were not benefited by the project, thus they were excluded. However, if it is determined by the City Commission and the Special Assessment Commission that they do receive a benefit from this project they can be included at a later time. Mayor Helbling suggested that the City Commission could add them back in and the Special Assessment Commission could review it. Commissioner Davis commented that he is in favor of adding the 5 properties into this special assessment district. He agreed with the recommendation brought forward regarding approaching the railroad, the school, the Park District to buy down the assessment. He commented that the Commission and others have already worked very hard in the buy down of the special assessment district by pushing for the Prairie Dog fund and other resources to make the burden less on the residents in this district. He reminded everyone that dikes and other infrastructure needs of the city are also under consideration at this time.

Director Froseth inquired if there were any further questions regarding this project.

Mayor Helbling invited anyone else to come forward to comment.

Jan Fasching, a resident on 7<sup>th</sup> Street came forward and inquired about Alternate No. 4, the lighting of the area. He said that when this proposal first came out, it sounded good, but if the Park Board and the lower Heart and others do not contribute to the cost of the project, he would like to have it removed. Mayor Helbling clarified that the motion regarding that Alternate No. 4 was that if the School, the Park Board, the Heart want it, they need to find a way to pay for it. It would not include any private property owners.

Dion Feigitsch, 700 block of 4<sup>th</sup> Street, came forward and stated he has property in this district and stated that the estimated specials were a shock, considering he does not even have asphalt in front of his house. He inquired if the half-street was going to get curb, gutter and asphalt and be included in this project? Director Froseth replied that he would like to meet with this resident as he was not prepared at this time to discuss this area. He commented that the general rule is that if the property was not identified for improvements it would not be assessed.

Mayor Helbling invited anyone else to come forward to comment. Hearing none, this portion of the public hearing was closed.

Mayor Helbling recommended that the 5 properties that were excluded should be included in this special assessment district. Attorney Brown said that Legion Park was also part of the recommendation and that Legion Park can only be included in the storm sewer project and not the street as outlined in the NDCC. Director Froseth clarified that for the storm sewer it was

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based on the drainage basin and he was not sure if those properties would be within the drainage basin in order to allow the city to assess them. The reason the 5 properties were left out was because on 10<sup>th</sup> Avenue, they had a street improvement district for their local street 5 years ago and the discussion today is local street improvement districts. This project is about the streets that are adjacent to the property are assessed for that street.

Mayor Helbling said that if this pertains to assessing water and sewer, there are no water and sewer assessments because those were already picked up by the Utility Fund so there is no water and sewer assessed being considered to any of the residents down there. He said that the 5 properties could be added in now, but there is no reason to add them because they probably will not qualify. Attorney Brown clarified that from an engineering standpoint those 5 properties are not benefited because they do not drain into the storm sewer system then it would not seem appropriate to assess them for that benefit. And as stated, the sewer and water was paid for by the Utility Fund and those 5 properties could not be added for street assessments.

Commissioner Rohr inquired about the alleys that were 67% over the estimate, what will happen if those alleys are not done at this time? And if done later, would it be cheaper now because of this project or would it be better to wait and special assess them at that time? Director Froseth replied that generally, the more work contracted under one project would generate lower the unit prices are. There are several factors involved and one factor might be that the contractor may have a tighter premium in those areas. If the alley project would have to come back at a later time, there would have to be engineering costs, staff time, etc, and it all adds up but will be more money later. Also, the City does not have the manpower to take care of those alleys considering the shape they are in.

Commissioner Braun requested if it is known what the percentage of people of retirement age that live in this special assessment district? Director Froseth said he does not have that information. Administrator Neubauer explained that the special assessment process is applied as a benefit to the property and not by whether one is retired or working or anything of that nature. Commissioner Braun commented that he guesstimates that there are probably 75% of the residents in that area that are of retirement age, they have lived, worked and supported Mandan for many years and he feels that it is important to him that their concerns regarding the costs assessed should be addressed by the City Commission. However, if the residents living in this area are only 25% of retirement age in this district, that changes the whole perception of this for him. Commissioner Larson pointed out that no one likes special assessments however it is the best tool available for circumstances like this. She voiced concern that the City might be setting precedence and that in the future it will not be able to keep up funding projects in this fashion with knowing there are so many massive infrastructure projects coming down in the future. Over time and we are seeing it now, there is less and less federal and state dollars available and they will continue to be less in future years. At the end of the day, it's all taxes and it can either be an increase in property taxes, special assessments, etc.

#### H. NEW BUSINESS

1. *Consider award of bids for the Southside Street Improvement Project No. 2018-07, Street Improvement District No. 213.*

Mayor Helbling summarized that pursuant to the meeting held on April 16, 2019 and after hearing what has transpired today – it is the recommendation of the City Engineer that the plan would be to go ahead with the projects accepting:

Alternate No. 1 - Cement Stabilized Base

Alternate No. 2 - Downsized Storm Sewer

Alternate No. 3 - Alley Resurfacing

Alternate No. 4 - Would be rejected

Alternate No. 5 – Would be rejected

Mayor Helbling stated that City staff has already met with other entities and does not believe they will do any more than what they currently are willing to do.

Attorney Brown stated that the City Commission is not special assessing anything at this meeting, rather the City Commission is to decide to award this contract or not. The Special Assessment Commission will determine the benefits to each parcel of property and then the City Commission will either approve or change that recommendation and that probably will most likely occur sometime next year (2020).

Director Froseth stated that in regard to Alternate No. 4, the lighting in that this is different information that he received before writing this recommendation thus his recommendation would change on that Alternate No. 4, and not to accept the lighting.

Director Froseth stated that the recommendation before the City Commission at this time is to award the project to Mariner Construction, a division of Strata and accept Alternates No. 1, No. 2, and No. 3.

Commissioner Larson moved to approve the Mandan Street Improvement Project No. 2018-07, Street Improvement District No. 213 bid award to Mariner Construction, a division of Strata with Alternates 1, 2, and 3. Commissioner Davis seconded the motion.

Mayor Helbling stated that this recommendation will go back to the Special Assessment Commission to determine the amounts of special assessments to every parcel in this district. He recommended that the 3 properties that he mentioned at the beginning of this meeting be dealt with and we go back to the financing method for the portion of street lighting that goes around the corner.

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 everyone who came out to help with this project. The city residents will have an opportunity to go before the Special Assessment committee before assessments are spread for this project.

G. OLD BUSINESS:

1. *Consider Growth Fund Committee recommendation on Storefront Improvement Application for 504 West Main Street.* Business Development & Communication Director Huber presented a recap of this matter that was discussed at the April 16, 2019 meeting. This was a request brought on behalf of the Mandan Growth Fund (MGF) Committee, a recommendation for the approval of a Storefront Improvement application for 504 West Main Street to consider an application from Running's Supply, Inc., for matching funds in the amount of \$60,000 for the exterior building and site improvements associated with 504 W Main Street. Running's will be investing approximately \$1.3 million in building improvements including an estimated at \$200,000 in exterior building, signage and landscape improvements. The exterior improvements include:

- Extending the canopy and installing new “bran muffin” color tin siding on its face and installing lighting.
- Brick veneer patching on the front of the building.
- New building signage and a pylon sign.
- Landscaping will include the addition of a 5-ft buffer of trees and shrubs between the parking lot and the sidewalk on the property's east and south sides, and an approximate 25x25-ft square in the southeast corner.
- A new decorative fence will be put in to protect storage of large merchandise such as corral panels and water tanks. There will be a fence between the 504 W Main building and the building at 511 First Street NW, which will serve as a warehouse space for merchandise being sold in the larger building. Of note: This is all to make the situation work, given the two adjacent buildings being available, rather than one large building being available of 50,000 sf. An application for the 511 First Street NW building is not included in the applicant's request, because no substantive improvements to the building are planned other than the addition of a garage door on its east facing side.

The MGF did vote for approval of the application for \$60,000 in matching funds for the Storefront Improvement project. This was a previous Renaissance Zone project that came before the City Commission and was approved in March 2019 but the improvements are of such magnitude that it does independently qualify for both Renaissance Zone and Storefront Improvement programs without any overlap in minimum expenditure or match requirement.

*Of note: This is all to make the situation work, given the two adjacent buildings being available, rather than one large building being available of 50,000 sf. An application for the 511 First Street NW building is not included in the applicant's request, because no substantive improvements to the building are planned other than the addition of a garage door on its east facing side.*

Director Huber stated that at the meeting on April 16, 2019, there were questions about the project in particular, if a First Street entrance door would be installed and if the parking lot would be paved. Chad and Dave, representatives of the project construction for Running's is available to answer questions regarding this project.

Mayor Helbling said the questions at the last meeting pertained to the installation of a walk in entry door on the north side of the building to utilize some of the parking lot in that area and he

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inquired as to what the plans are being made for the parking lot paving. Chad said that they have met with a paving contractor. They have budgeted \$100,000 for parking lot improvements and that will consist of mill and overlay and a seal coat over the whole area and the lot will be re-stripped. Regarding the installing of a door on the north side, he said that was not in the initial plan because they were not sure they were to acquire all parcels of the land. However, based on a policy they have in place, they require employees to park in front of the building since they punch in and out of the cash registers located at the front of the store. He explained that parking in the front will eliminate theft concerns coming and going through a back door. Another reason is that since the lighting is better in the front, it is also a safety issue precaution for employees to enter and exit the front of the building.

Commissioner Larson commented that she appreciates the adjustment to the landscaping plan as it will fit in with the other businesses located in that area of town.

Commissioner Larson moved to approve \$60,000 in matching funds from the Mandan Growth Fund for the Storefront Improvement Application for Running's, Inc. at 504 W Main Street. Commissioner Rohr seconded the motion.

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.

J. OTHER BUSINESS:

1. Saturday, April 27, 2019 – Mayor Helbling announced this is the date set for the annual Community Clean-Up Day. The plan is to meet at 9:00 a.m. at Dykshorn Park. He encouraged everyone to come out and help clean up the City. Refreshments will be served.

K. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Commissioner Larson moved to adjourn the meeting at 6:41 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/ James Neubauer

James Neubauer  
City Administrator

/s/ Tim Helbling

Tim Helbling  
President, Board of City Commissioners