



AGENDA
MANDAN CITY COMMISSION
MARCH 19, 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 March 5, 2019 Board of City Commission Regular meeting.
- D. PUBLIC HEARING:
1. Appeal of MARC decision on the sign permit for the Lonesome Dove located at 3929 Memorial Highway.
 2. First Consideration of Ordinance 1299 related to Crematoriums Continued.
- E. BIDS:
- F. CONSENT AGENDA:
1. Consider approval of monthly bills.
 2. Consider the following requests to approve budget amendments and transfers:
 - i. Business Development & Communications Department
 - ii. Fire Department
 - iii. Utility Billing Department
 - iv. Police Department
 - v. Planning and Engineering Departments
 - vi. Human Resources Department
 - vii. Public Works Department
 - viii. Administration
 3. Consider proclaiming April 5, 2019 as Wear Blue Day in the City of Mandan.
 4. Consider approving the Special Event Permit Application for the Mandan Law Enforcement Brave the Shave Fundraiser on 4-9-2019 at Midway Lanes.
 5. Consider approval of the Inmate Housing Agreement between the City of Mandan and the Burleigh/Morton County Detention Center.
 6. Consider Approval for the Mandan Police Department to take over the fiscal duties for the High Intensity Drug Trafficking Area (HIDTA) Grant for the Metro Area Narcotics Task Force.

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G. OLD BUSINESS:

H. NEW BUSINESS:

1. Update from Brian Ritter, Bismarck Mandan Chamber EDC.
2. Consider Growth Fund Committee recommendations
 - i. Storefront Improvement application for 218 W Main St
 - ii. Restaurant Rewards application for Copper Dog LLC for 218 W Main
 - iii. Updates to Property Tax Exemption Policy and Guidelines
3. Consider Renaissance Zone Committee recommendations
 - i. Application for rehabilitation of 218 W Main St.
 - ii. Application for rehabilitation of 504 W Main St.
 - iii. Application for lease of 504 W Main St.
4. Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).
5. Legislative Update #5

I. RESOLUTIONS AND ORDINANCES:

1. Second consideration and final passage of Ordinance 1307 to update city laws regarding animals.
2. Consider approval of Resolution to transfer real property by nonexclusive listing agreement.

J. OTHER BUSINESS:

K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. April 2, 2019 (Board of Equalization - recessing to April 16)
2. April 16, 2019 (Board of Equalization to follow regular meeting)
3. April 30, 2019 (2020 Budget Working Session)

ADJOURN

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

A. ROLL CALL:

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

B. APPROVAL OF AGENDA:

Commissioner Braun moved to approve the Agenda. Commissioner Davis seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. MINUTES:

1. *Consider approval of the minutes from the February 19, 2019 Board of City Commission regular meeting.* Commissioner Larson moved to approve the minutes as presented. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

D. PUBLIC HEARING:

F. CONSENT AGENDA

1. *Consider letter of support for Redline Plumbing Flex PACE interest buy down.*
2. *Consider approval of the following proclamations: (i) Proclaiming March, 2019 as General Aviation Appreciation Month in the City of Mandan; (ii) Proclaiming April 22, 2019 as Earth Day in the City of Mandan; (iii) Proclaiming April 27 – May 4, 2019 as Spring Clean-Up Week in the City of Mandan.*
3. *Consider letter of support for E-C ND Investments, LLC Flex PACE interest buy down*
4. *Consider transfer of a Class A Liquor License from the Silver Dollar Bar Inc. to Gregorio Didonna.*
5. *Consider approval of a charity raffle permit for Mandan FFA Alumni at the Prairie West Golf Club for 3-1-19 to 6-7-19.*

Commissioner Braun moved to approve the Consent Agenda items 1 through 5 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

Commissioner Larson announced that the actual Spring Cleanup Day is set for Saturday April 27th starting at 8:00 a.m.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations: Ellen Huber, Business Development & Communication Director presented the following for approval:*

(i) Storefront Improvement application for 1710 East Main Street:

At the February 25, 2019 Mandan Growth Fund Committee (MGF) among agenda items considered was an application from Jason Hageness for matching funds towards exterior improvements to the building at 1710 East Main Street. The applicant is planning to remodel the building and he is seeking a \$60,000 match for the exterior renovation and the estimated cost is \$231,325. Exterior improvements are to include new materials on all sides of the building. The south and east sides will have new storefront windows and new doors with cement siding and metal awnings at each entry. Automatic doors, landscaping and signage will be in addition to this amount. Mr. Hageness stated that he plans to invest an additional \$22,000 to remove a MDU power pole and bury the lines in the area in front of the building. Other building improvements will include a new roof and interior renovation. The applicant plans to renovate the building for professional services offices with room for 1- 8 tenants. Completion is planned for this summer.

The exterior building and site plans have received approval from the Mandan Architectural Review Commission. The applicant is applying for a \$60,000 match. The traditional match is \$30,000 for a building, but there is a provision in the Storefront Improvement program guidelines that allows for up to \$60,000 for larger or multi-story buildings. The building is 14,000 sf with three sides visible from East Main Street and the I-94 business loop.

The MGF voted 8-0 (with 1 member absent) to recommend approval of the application for \$60,000 in matching funds for the Storefront Improvement project by Jason Hageness at 1710 East Main Street. Mr. Hageness was available to answer questions.

Commissioner Davis moved to approve providing \$60,000 in matching funds from the MGF for the Storefront Improvement project by Jason Hageness for 1710 East Main Street.

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

(ii) Restaurant Rewards sales tax rebate for Balancing Goat Coffee Co.

The MGF Committee met on February 25, 2019 and considered the above application. Partners in this business are Dawn Hager and Karen Schmidt. They plan to lease a 3,000 sf space at 2705 Sunset Drive, and this will be a new multi-tenant building. The space will include a coffee shop/café and a studio for yoga and other fitness classes. The menu will include coffee drinks plus smoothies made with fresh fruit, sandwiches, salads, baked goods, and healthy snacks and meals. Both Hager and Schmidt have held management positions in their careers.

They plan to be open 6 days a week from 6 am to 6 pm. The restaurant will seat 30 people, plus a drive-thru. They project about \$665,000 in annual restaurant sales. They anticipate having 2 full-time employees and 10-12 part-time employees. They will contract with instructors to teach in fitness studio. Construction of the building and the interior build-out is expected to be complete by midsummer for a grand opening in August. The business is also seeking approval for the remaining \$1,144.76 in the Restaurant Rewards Program to assist with an interest buy down.

Sales are estimated at \$664,764 annually, putting the projected rebate at \$6,647 per year or \$33,235 over five years. The rebate amount will depend on actual sales and sales tax remittances. Attorney Brown has reviewed the application. Additional requirements include installation of an automatic door, plus completion of a recipient agreement, business incentive agreement, and the N.D. Tax Department's Form 500 to allow for disclosure of sales tax collections.

The MGF Committee voted (8-0 with 1 absent) to recommend the approval of the application by Balancing Goat Coffee Company for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation. Dawn Hager and Karen Schmidt were available to answer questions.

Commissioner Larson moved to approve the application by Balancing Goat Coffee Company for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation.

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

(iii) Restaurant Rewards Flex PACE interest buy down for Balancing Goat Coffee Co.

At the MGF meeting on February 25, 2019, an application was reviewed for an interest buy down of financing from the Bank of North Dakota (BND) Flex PACE program for Balancing Goat Coffee Company. The purpose of the loan is for lease hold improvements and equipment for a new coffee shop/café with a fitness studio located at 2705 Sunset Drive. The applicants are seeking the remaining \$1,144.76 from the original \$162,000 set aside for use toward the community match for a BND interest buy down. The total project cost is estimated at \$425,000. The applicants are seeking to finance \$340,000 of the costs and have a financing commitment from BNC National Bank. By participating in the BND Flex PACE program the borrowers can benefit from a reduction in the interest rate from 6% to 1% for 36 months. The BND will provide 65% of the buy down or \$24,720. The required local community match is 35% or \$13,311. The partners are also seeking approval of the Restaurant Rewards sales tax rebate. The MGF Committee voted (8-0 with 1 absent) to recommend the approval of the application by Balancing Goat Coffee Company for \$1,144.76 toward the local share of an interest buy down.

Commissioner Larson moved to approve the application by Balancing Goat Coffee Company for \$1,144.76 toward the local share of an interest buy down. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

(iv) Sunset of Restaurant Rewards Program on March 31, 2019.

The MGF Committee discussed the future of the Restaurant Rewards Program at the meeting on February 25, 2019. The program was first approved by the City Commission in April 2016. The program was established for an initial 1-year period with a deadline for application approval of March 31, 2017. On March 21, 2017 and February 6, 2018, they approved renewal of the program for additional 1-year periods with the last extension effective through March 31, 2019.

Director Huber stated that if the application on the Commission's agenda for this meeting is approved, there will be nine restaurants approved for the program since 2016 and all of the funds set aside for interest buy downs will be committed. All types of restaurants have been eligible

for the program with an initial goal to attract full-service, sit-down casual dining establishments. There was also a desire to see restaurant growth in each of the city's three major business districts: Main Street/downtown, north Mandan/I-94 corridor, and Memorial Highway/east Mandan. These goals have been accomplished. There have been some setbacks in the Mandan's restaurant sector (the closure of Bar M Steakhouse and Bonanza, Pizza Hut's change to takeout and delivery only, and the transition of the Harvest Grill from a restaurant to an event and catering space). However collections of the 1% restaurant and lodging tax indicate steady year over year growth over the last decade with 2018 revenues being up 5%. Of note, when hotel tax revenues are solely considered, it's apparent that the growth is from the restaurant sector.

The MGF voted unanimously (8-0 with one member absent) to recommend a sunset of the Restaurant Rewards program sales tax rebate effective March 31, 2019.

Commissioner Davis moved to approve a sunset of the Restaurant Rewards program sales tax rebate effective March 31, 2019. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

2. *Consider N.D. Opportunity Fund Loan Committee appointment.*

Ellen Huber, Business Development & Communications Director presented a request to consider an appointment for representation of Mandan on the ND Opportunity Fund (NDOF) Loan Committee. The NDOF provides private financing to help small businesses attain loans and investments needed to expand and create jobs. Mandan is part of a consortium of 38 North Dakota municipalities that received funding for the loan participation program through the US Treasury Department's State Small Business Credit Initiative (2012). The Lewis and Clark Development Group managed the fund and process all loan applications.

The North Dakota Opportunity Fund's 15-person loan committee is comprised of members experienced in commercial lending, business start-up and expansion, and economic development. The committee makes all credit decisions to include considering and voting on applications for loans with input on rates, terms and conditions. Mandan is allotted one appointment or vote. Appointments are generally for two years or until filled. An email was sent on February 15, 2019, to all financial institutions with Mandan locations to alert them that we were seeking volunteers experienced in commercial lending to represent Mandan on the loan committee. Three people expressed interest by the deadline. They are Jason Arenz of BNC National Bank; Greg Ellwein of Gate City Bank and Jeff Erickson, Security First Bank.

Director Huber recommended the appointment of Jason Arenz to the ND Opportunity Fund loan committee with the designation of Jeff Erickson and Greg Ellwein as alternates, all for terms beginning immediately and ending Dec. 31, 2020, or until filled.

Commissioner Braun moved to appoint Jason Arenz to the ND Opportunity Fund Loan Committee with the designation of Jeff Erickson and Greg Ellwein as alternates, all for terms beginning immediately and ending December 31, 2020 or until filled. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes;

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

3. *Consider approval of concurrence of award and associated budget amendment for the Highway 810 segment of the I-94 resurfacing project.* Justin Froseth, Planning and Engineering Director presented a request to consider approval of the concurrence of award for the project requested by the NDDOT. The project would be on the I-94 and I-194 interstate roadways. Some of the improvements would take place on Highway 810, which is the segment known as Expressway, south of Memorial Highway to the Expressway bridge. This Highway 810 segment is part of the arterial roadway system in which the City has 10% funding participation responsibility and there is a need for the City to indicate concurrence of award to show our commitment to the funding share.

At the January 22, 2019 meeting the City Commission approved the Cost Participation and Maintenance (CPM) agreement which also indicated a commitment to the funding share. That agreement was pre-bid and came with an estimate associated with the final design. That estimate reflected the local share at \$101,210. The estimate last summer when budgeted for was the local share for an amount of \$35,056. The January 22, 2019 action also included a 2019 budget amendment up to the estimated \$101,210. The project was bid on February 8, 2019. The bid results came in about 26% above estimate for the portion that the City has cost share of. Based on bids the new local share estimate for Mandan would be \$128,427. That was shared in a letter to City staff which also included a request that the City concur to award the low bid submitted by Central Specialties, Inc. Subsequently City staff reached out to DOT staff to discuss options given the 265% increase this project increased since budgeted last summer. City staff asked if given the amount of increase, the DOT would give special consideration for this project to keep Mandan's share at the \$101,210 amount that the City agreed to through the CPM agreement in January. The DOT said they could not do that. Essentially, the program amounts are what they are based on percentage of project costs regardless of how much the estimate increased throughout project planning. The DOT staff re-stated that they did not see an issue with the City paying the original budget amount in 2019 for 2019 work and increasing our budget amount in 2020 to pay for the remainder of the 2019 and 2020 work in 2020.

Based on the above a budget amendment is required to increase the amount of sales tax fund for this project from the budgeted \$101,210 to the latest estimate of \$128,427. Finance Director Welch was consulted and verified that this amended amount can be handled by the sales tax fund perhaps taking the DOT up on the option to pay for some of the cost in 2020.

Director Froseth recommended approving the budget amendment from \$101,210 to \$128,427 and to approve the Letter of Concurrence of Award for the Highway 810 portion of the I-94 resurfacing project.

Commissioner Rohr commented that eventually this will project will have to be done and we have to work with the Department of Transportation on projects now and into the future.

Commissioner Braun moved to approve the budget amendment from \$101,210 to \$128,427 and the Concurrence of Award for the Highway 810 portion of the I-94 resurfacing project.

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

4. *Introduction of new employees:*

(i) *Lila Teigen, Real Property Appraiser III (Assessing Department):* Kimberly Markley, City Assessor introduced Lila Teigen, Real Property Appraiser III for the Assessing Department. Ms. Teigen started in the Assessor's Office on March 4, 2019. She previously worked in Buffalo SD. She has over 25 year experience working in county government with 8 years as the Harding County Director of Equalization. She has been a member of the South Dakota Association of Assessing Officers, North Central Regional Association of Assessing Officers and was elected to serve as the Vice Chair of the South Dakota Association of Assessing Officers. This is a full time position. Acting Chairman Rohr welcomed Ms. Teigen to the Assessor's Office.

(ii) *Jonathan Mathisen, Payroll and Benefits Technician (Finance Department):* Greg Welch, Finance Director introduced Jonathan Mathisen who will serve as the Payroll and Benefits Technician in the Finance Department. Jonathan previously worked at Unisys Corporation in Bismarck as a Payroll Analyst for over 10 years. He graduated from the University of Mary with degrees in Accounting, Business Administration, and Computer Information Systems. Jonathan started with the City of Mandan on February 25, 2019. This is a full time position. Acting Chairman Rohr extended a welcome to Mr. Mathisen to the Finance Department.

5. *2019 Legislative Update #4:* Administrator Neubauer presented an update on the 2019 Legislative Bills pertinent to the City of Mandan. HB 1066 Prairie dog bill - Commissioner Davis testified on this today and it is hoped there is a do-pass. HB1210 indicates an opposition to this one and the City is being presented by Planner Van Dyke. SB2010 is an insurance premium for fire department that comes back to the local municipalities. Defeated bills have been removed from the weekly report.

I. RESOLUTIONS AND ORDINANCES

1. *First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals.* Police Chief Ziegler presented a request to consider the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals. Deputy Chief Flaten came up with a document that breaks down the revisions to the Ordinance. Chief Ziegler stated that this began in the summer of 2018. Discussions have been held with City Commissioners and city officials regarding updating the current ordinances relating to dogs and cats in Mandan Municipal Code. In November 2018, a first reading on a proposed new ordinance was held. After this reading, additional input was received regarding the proposed ordinance. It was decided to re-examine the proposed changes. Instead of making numerous changes to the ordinance proposed in November, a new ordinance was drafted. The new ordinance contains a number of additional definitions. Several nuisance related sections were repealed and were combined into an expanded restricted activities section. Changes were made to the sections involving running at large and leashes. In addition, a number of sections have been changed to allow for the issuance of a citation for violations instead of having to do a long form complaint for charges. This allows officers to write a citation and it defines what those citations are for and what violations go before the

judge. The licensing was left alone as it allows for a process to keep track of vaccinations for animals. Chief Ziegler recommended approval of the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals.

Acting Chairman Rohr invited anyone to come forward to speak for or against the First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals.

Mary Rebenitsch, 105 Fourth Street NW, Mandan, came forward to speak. She inquired as to the justice for victims. What protection and reimbursement do they receive? There is no impounding or follow-up of the animal that is offending.

Attorney Brown said that any animal that causes damage will be a civil remedy in civil court and not something that the City can regulate. It would be a personal injury claim a resident would have to file.

Chief Ziegler said nothing has changed with the impounding ordinance. He explained how animals are impounded and how that process works.

Deputy Chief Flaten explained that there are various fees whether animals are licensed or not and how long they are in the pound. After 3 days they can be put up for adoption and there are options there.

Attorney Brown clarified that Deputy Chief Flaten created the amendment revisions to this Ordinance. He said that at Section 6-1-6 there is language related to restriction of animals which would have to change so it is congruent with the (new) Ordinance for chickens. Chief Zielger concurred. Planner Van Dyke said that he will make sure the chicken ordinance will be input into this Ordinance.

Commissioner Braun moved to approve the First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

2. *Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District.* City Planner Van Dyke presented for approval the Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District. City Commission voted unanimously at the February 19, 2019 meeting to approve the ordinance as presented. There have been no comments received since the first consideration was presented.

Commissioner Larson moved to approve the Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

3. *Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees.* City Planner Van Dyke presented for approval the Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees of \$100. The City Commission unanimously voted to recommend approval of Ordinance 1291 at the February 19, 2019 meeting. There have been no comments received since the first consideration was presented.

Commissioner Larson moved to approve the Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands in Exhibit 1 and the Resolution Establishing Permit and Associated Fees at \$100 as presented in Exhibit 6. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

4. *Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees.* City Planner Van Dyke presented for approval the Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees. He provided a summary stating that this request came from several residents who were interested in having this resident-promoted Ordinance put in place. He went over the specifics of the Ordinance requirements. At the meeting on February 19, 2019, the City Commission voted three (3) in favor and two (2) opposed to approve the First consideration of Ordinance 1306. Minor adjustments to Ordinance 1306 between first and second consideration included the following:

- Clarified that the “coop” is also required to be setback from property line and adjacent dwellings.
- Removed definition of “exercise yard”, as it is not used within the ordinance.
- If this Ordinance is approved, the fees associated with the permit are provided in Exhibit 6. These fees are estimated to account for staff time involved in the permitting of backyard chickens. Recommended fees: New Permit @ \$100 / Annual Renewal @ \$50.

Acting Chairman Rohr invited anyone to come forward to comment on the Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees.

Martin Schaff, 2401 Westview Place Southeast, Mandan came forward to speak. He encouraged the Commission to not allow chickens in Mandan because they attract rodents and predators, particularly skunks and raccoons. They create dust and when dust accumulates on electric heaters that creates a fire hazard. Chickens often have Blyth and they attract flies and cause an odor. They shed feathers. Chicken coups would be unsightly and may affect property values of neighbors. He is concerned that the valuation of his home will go down due to chicken coups and chicken fences. He inquired who will enforce the chicken laws and at whose expense?

Shawna Laber came forward to comment on behalf of the Planning and Zoning Commission. The P & Z Commission has been discussing this issue for at least 6 months. She stated that the presentation given by Planner Van Dyke answered many questions that have been asked. She said that the 13 members of the Planning and Zoning Commission unanimously voted to approve the Ordinance. Many cities in North Dakota allow chickens in their cities and certain conditions and rules need to be met by the owner. It is in North Dakota’s constitution that we are a freedom

to farm state. On behalf of the Planning and Zoning Commission she requested the Commission consider passing this Ordinance.

Andrea Soule, 406 Second Avenue Northwest, Mandan, came forward to comment. She said she sent an email to Planner Van Dyke indicating that she supports the Ordinance for chickens. She said they are fun pets to have. The Ordinance is written well and well thought out. She encouraged the Commission to pass the Ordinance.

Travis Dengel, 1707 Third Street Northeast, Mandan, came forward and commented that he was the individual who originally requested this Ordinance and he requested the Commission to consider passing it.

Adrian Tschida, 1100 First Street Northeast, Mandan, came forward and voiced her support for passing this Ordinance allowing chickens.

Martin Schaff returned to the podium and commented that it was said that the chicken coups and fences might be good for the neighborhood. He reported that he bought two lots and built a home and his wife is particular about keeping up the yard but the fact is there are covenants on that property that he cannot build a backyard shed and there must be a reason for that. He stated that he believes it does nothing for the value of the property.

Commissioner Davis stated that Mr. Schaff brings up a point, and inquired if the covenants in those neighborhoods have been looked at? Planner Van Dyke explained there is a section of covenants and restrictions that apply to the neighborhood and they would supersede this permit. The permit does not go in to circumvent additional restrictions that have been voluntarily placed on that subdivision. It will be the responsibility of the HOA member to ensure they are participating in their neighborhood HOA and privately addressing those issues. He stated there may be several subdivisions that do not allow certain animals and other things covered in covenants. It does require active participation to be effective. Attorney Brown stated that the covenants in any particular subdivision would trump the chicken ordinance.

Gary Brucker, 503 Division Street Northeast, Mandan, came forward and said he and his wife were thrilled to hear that the City of Mandan was considering chickens. He said he was in support of the Ordinance.

Commissioner Davis inquired about the fee, \$100 vs. \$200 and who will be the “chicken cop” if this is passed? How will the City pay for staff for an officer to do enforcement? Budget resources would have to be considered. Planner Van Dyke replied that the \$100 fee is twice what Fargo charges. He said he has developed a plan for record keeping of the fees so that portion of the process is in place. For enforcement, it would be handled as any other complaint that would come in. The enforcement officer would be called and issue the appropriate citation and notice of violation. Then the policy would be followed to revoke the permit and if they still do not come into compliance and the property is a mess - that would be reported to and handled by municipal court.

Acting Chairman Rohr said he researched this matter and voted against it initially and he found that cities that did have chickens - didn't seem to have many issues. Regarding predators, he thinks that would be affected at the extraterritorial areas where there is more wildlife in the area rather than being centrally located in the city. The Planning and Zoning Committee researched this and that is a body who makes recommendations to the City Commission and he is confident that they check things out and are reasonable with their recommendations. This seems to be a fad with the current generation per research on the Internet.

Commissioner Larson commented that while it did pass the Planning and Zoning, noting there were a couple dissents - and watching that meeting she is found that the ones attending were those who were for it and those against it were their neighbors. Putting that aside, she was concerned with one group that managed housing property and they were concerned about those who had hub housing, if the restriction would not be allowed for those type of property owners (subsidized housing vs. non-subsidized housing owners). Attorney Brown said that putting a restriction on chickens for non-subsidized housing would not be any different than it would be for subsidized property. Commissioner Larson said she still has concerns about the enforcement of violators noting that there is no extra staff available for adding one more thing that she does not think is necessary. The proposed \$100 fee is very logical when considering the staff time it will take to manage this or enforce it when necessary. It is difficult to enforce people getting dog permits, she wonders how many will get the chicken permits.

Commissioner Davis inquired of the number of associations that have covenants against farm animals? Planner Van Dyke replied that would be difficult to determine based on those that are active and those that are not active, etc. Commissioner Davis said he has received more emails against this ordinance than those who are for it. He said he is now looking at it from a covenant restriction within ones neighborhood, where determination could be made about the height of fences, picket fences, etc. He is leaning towards the locality of neighborhoods taking charge of their own neighborhoods.

Commissioner Rohr inquired of Attorney Brown if a condominium unit has covenants do they file with the City as to what's in their covenants? Attorney Brown stated that typically when a new subdivision is created the developer would place restrictions or covenants on the property that they want on the entire subdivision and those are recorded as part of the platting process. So everyone who buys in that subdivision takes title of that property subject to those covenants and restrictions. Subdivisions can amend their covenants. Some divisions have a homeowners association and some sub-divisions have restrictions but do not require homeowners to do anything. They are recorded and part of the title to the property. To create a new covenant in a neighborhood, if everyone agrees they could put restrictions on the property.

Commissioner Rohr inquired of Mr. Schaff if there are any covenants or restrictions in his area. Mr. Schaff replied, yes, there are many. Some of them are, they cannot build a backyard shed, they cannot build a garage separated from the homes, they cannot have chain link fences, however there are property owners that are currently in violation of these restrictions. Attorney Brown said that enforcement of violations in those circumstances, would have to be pursued by a homeowner's group as a private remedy, the City would not get involved. Commissioner Larson voiced concern again about enforcing any violations and how that would be handled.

Commissioner Braun commented that the same issue could be applied to dogs and cats. He thinks that this Ordinance would be dealt with in the same manner as if there were barking dogs.

Acting Chairman Rohr invited any one to come forward to comments on this matter. The goal of the Commission is to consider the needs of the people of Mandan. Hearing none, Commissioner Davis moved to approve the Second Consideration of Ordinance 1306 as presented in Exhibit 1, Related to Backyard Chickens and Resolution Establishing Fees. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: No; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

Acting Chairman Rohr requested Planner Van Dyke to keep the City Commission informed about the number of applications that come in and are granted for the chickens and chicken coups.

Planner Van Dyke requested the City Commission to consider the establishment of fees related to this Ordinance in Exhibit 6.

Commissioner Davis moved to approve the Resolution of Ordinance 1306 relating to establishment of fees as presented in Exhibit 6. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

J. OTHER BUSINESS

Gene Zahursky 1701 Second Street Northeast, Mandan came forward and stated that he sent an email to the City about the traffic problem near Culvers restaurant. He said he was told that it was being looked into but he does not recall who sent him that reply email (Kathy?). He inquired what the status is on looking into this. Chief Ziegler stated he was not aware of the email. Acting Chairman Rohr said that the state DOT may have to be involved because of the highway near there. He indicated that Director Froseth will check into it. Director Froseth said he did receive the email and he has not had an opportunity yet to check into the concern. The suggestion of a stop sign may work but until he reviews the situation he does not know what the responsibility of the City of Mandan is at this time. Acting Chairman Rohr requested this be looked into.

K. ADJOURNMENT

There being no further actions to come before the Board of City Commissioners, Commissioner Davis moved to adjourn the meeting at 7:00 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer
City Administrator

Tim Helbling
President, Board of City Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19^h, 2019
PREPARATION DATE: February 21st, 2019
SUBMITTING DEPARTMENT: Building Inspections
DEPARTMENT DIRECTOR: Shawn Ouradnik Building Official
PRESENTER: Shawn Ouradnik Building Official
SUBJECT: Appeal of Mandan Architectural Review Committee decision on the sign permit for the Lonesome Dove located at 3929 Memorial Highway

STATEMENT/PURPOSE: Brian Berube, owner of the Lonesome Dove at 3929 Memorial Highway, is appealing the denial of the sign permit application by the Mandan Architectural Review Committee (MARC).

BACKGROUND/ALTERNATIVES: The Lonesome Dove, located at 3929 Memorial Highway, was cited by code enforcement for placing a mural on the wind block on the front of the building, as is required by Section 105-1-15(j) (9). An application was then submitted after-the-fact for the mural and was subsequently heard by MARC. The MARC denied the mural application at the November 13th, 2018 meeting on the basis that it violated mural guideline 1 no mural may be placed on the front of a building, mural guideline 2 no mural shall convey a commercial message, and Mandan Municipal Code 105-1-15 J (9) which states, "No sign or wall mural shall be painted on any building without prior approval from the MARC". The applicant was then directed to apply for sign permit.

The application was brought to MARC on the January 8th, 2019 and was denied based on Section 105-1-15 (z)(3) No combination of wall signs and supports shall exceed 20 percent of the signable wall surface area up to a maximum of 200 square feet unless other limits are approved by the MARC, and Section 105-1-15 (j)(9) No sign or wall mural shall be painted on any building without prior approval from the MARC.

Mr. Breube was notified of the denial by letter and submitted an appeal letter on February 13, 2019.

ATTACHMENTS: Mural Application, Sign Application, MARC minutes November 13th 2018, MARC minutes January 8th 2019, Notice of violation for mural, Notice of denial for mural, Notice of denial for sign, Appeal letter, Picture of sign

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

FISCAL IMPACT: None

STAFF IMPACT: None

LEGAL REVIEW: All documentation has been sent to Attorney Brown for review prior to tonight's hearing.

RECOMMENDATION: I recommend upholding the decision of the MARC and deny the appeal of the sign located at 3929 Memorial Highway for the following reasons:

1. Section 105-1-15 (z)(3) No combination of wall signs and supports shall exceed 20 percent of the signable wall surface area up to a maximum of 200 square feet unless other limits are approved by the MARC.
2. Section 105-1-15 (j)(9) No sign or wall mural shall be painted on any building without prior approval from the MARC.

SUGGESTED MOTION: I move to deny the appeal made by Brian Berube, the owner of the Lonesome Dove and uphold the decision of MARC to remove the sign located at 3929 Memorial Highway based on Section 105-1-15 (z)(3) and Section 105-1-15 (j)(9) of the Mandan Municipal code.

3

MANDAN ARCHITECTURAL REVIEW COMMISSION
APPLICATION FOR MURALS
PHONE 667-3248 FAX 667-3623

APPLICATION INFORMATION:

1. Building Address: 3929 Memorial Hwy Mandan ND 58504
2. Name of Property Owner: August Karsch 134 NW Bohannon
 D/B/A: _____
 Mailing Address: 215 West Denver Ave Bismarck ND 58501
 Phone (Cell): 701-220-7323 (Office): None
3. Name of Artist: Adrienne Skelly
 Mailing Address: 1715 E. 15th St
 Phone (Cell): 701-333-9999 (Office): _____
4. Name of Applicant (if different than artist/owner): _____
 Mailing Address: _____
 Phone (Cell): _____ (Office): _____
5. Estimated Start Date: _____ Estimated Completion Date: _____

Applicants must present 10 copies of the following requested information to the Planning and Engineering Department no later than Wednesday at 12 p.m. (noon), prior to the scheduled meeting at which consideration is desired.

- Pictures of the project site and surrounding area.
- Mural dimensions and proposed location on building.
- Materials to be used
- Rendering of the mural

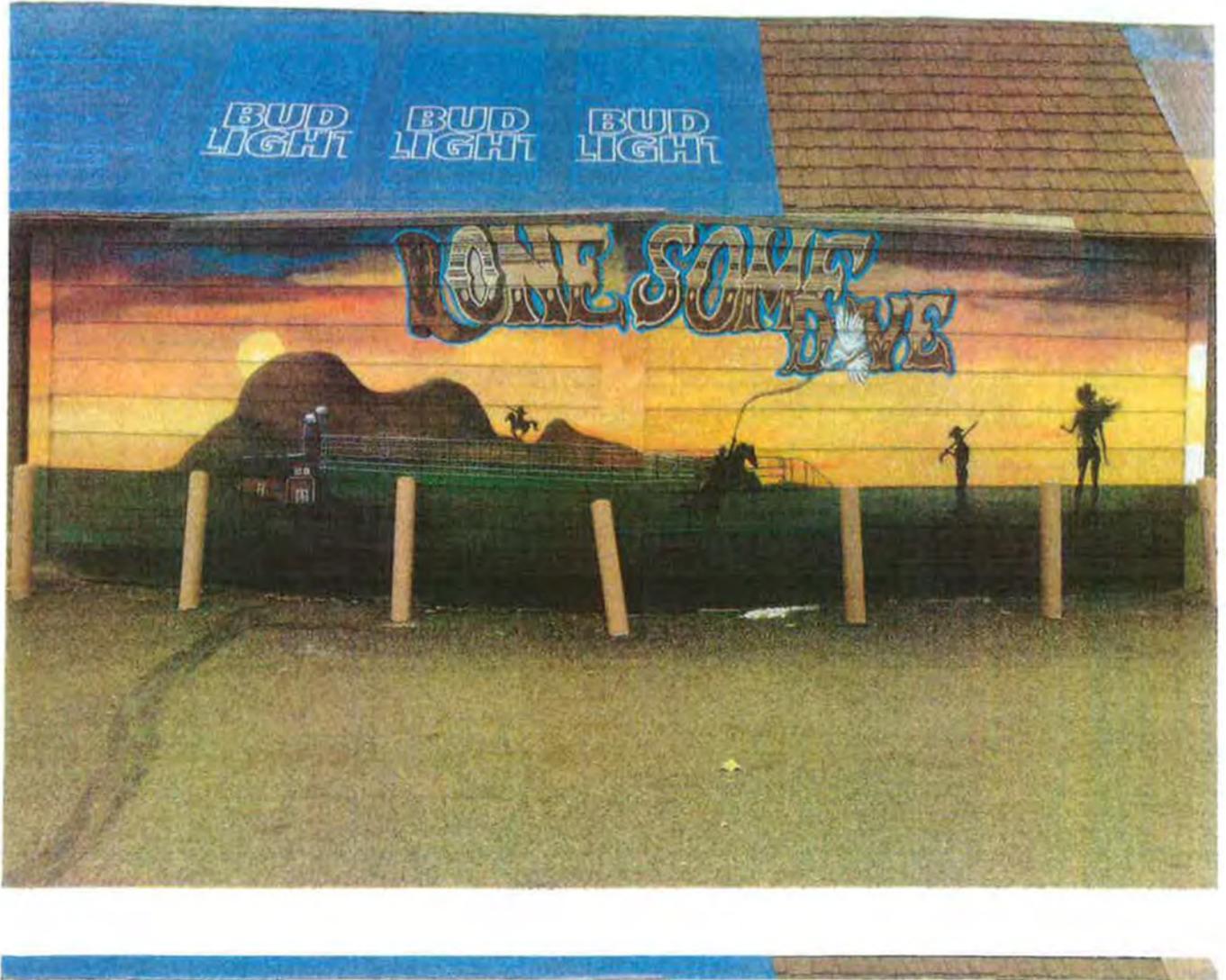
A mural permit is required through the Planning and Engineering Department. Cost of the permit is \$50.00 when notice is not required and \$100 if notice is required (see attached guideline 1. a. to determine if notice is required).

By signing this application, I acknowledge it is the responsibility of the property owner to conform to the attached Building Mural Guidelines.

Property Owner: August Karsch Date: 10-31-18

fee pd \$50.00
11/6/2018

From: [crystal halbeck hntchkh@hotmail.com](mailto:crystal.halbeck@hntchkh@hotmail.com)
Subject:
Date: November 1, 2018 at 1:57 PM
To: lonesome.dove.mandan.nd@gmail.com



MANDAN ARCHITECTURAL REVIEW COMMISSION
APPLICATION FOR SIGNAGE
PHONE 667-3230 FAX 667-3481

APPLICATION INFORMATION:

1. Parcel Address: 3929 Memorial Hwy
2. Name of Property/Business Owner: LOVE SOME DOVE INC.
D/B/A: _____
Mailing Address: _____
Phone (Cell) 1-701 220 7313 (Office) 1 701 663 2793
3. Name of Sign Company (if applicable): Caged to CANVAS ADRIENNE PHILLIPS
Mailing Address: _____
Phone (Cell) Same (Office) 701-333 9994

PERMANENT SIGN INFORMATION:

1. Description of Proposed Activity:

A. New Signage <input checked="" type="checkbox"/>	Remove & Replace _____	Repair _____
B. Wall Mount _____	Pylon _____	Monument _____
Other _____		
2. Estimated Cost of Project: 2600

Applicants must present 10 copies of the following requested information to the Building Inspections Department no later than Wednesday at 12 p.m. (noon), prior to the scheduled meeting at which consideration is desired.

- Pictures of the project and also surrounding areas.
- Site dimensions with locations.
- Materials, colors and background colors.
- Information regarding lighting and electronic message centers.
- Scaled drawings including sign dimensions and dimensions of supporting structures.

A sign permit is required through the Building Inspections Department after approval from this Commission. Cost of permit is \$45.00.

TEMPORARY/PORTABLE SIGN INFORMATION:

1. Date Registration Issued: _____
2. Date of Removal: _____

No permit or fee is required.

By signing this application, I acknowledge it is the responsibility of the owner and/or sign contractor to conform to ALL Federal, State and Local regulations and the Sign Policy guidelines.

Applicant: August Kerwin Date: 12-13-19

*** FOR OFFICE USE ONLY ***

1. Current Zoning: _____
2. District: Core _____ Fringe _____ Gateway _____ None of the listed _____
3. Date Reviewed: _____
4. Approved/Denied: _____
5. Conditions of Approval/Denial: _____

Authorized Representative

Date



MANDAN CITY POLICE

Jason J. Ziegler
Chief of Police
205 1st Ave. N.W.
Mandan, ND 58554
(701) 667-3250

December 3, 2018

Brian Berube/Kersten August
3929 MEMORIAL HWY
MANDAN, ND 58554

Case ID: MDN-18-13010

NOTICE OF VIOLATION

MARC has denied your mural application for property located at 3929 Memorial Hwy due to a violation of the City of Mandan Municipal Ordinances. Application permit was for a mural, application needs to be for a **sign**. Please resubmit sign application.

*The issue surrounds an unpermitted mural (see ordinance 105-1-15 j. (9) relating to murals). Mural guideline 1 - 2 & Mandan Municipal Code 105-1-15 J (9) which states, "No sign or wall mural **shall be painted on any building without prior approval from the MARC**". Fees already paid toward the **mural** permit will simply be transferred toward the cost of a **sign** permit application. The application fee for a sign permit is \$45 and will be covered in full when you submit a "sign" permit.*

*There are 10 days to appeal the decision to the City Commission per 11-1-5(c). Please have your new sign permit submitted by **12/17/18 @ 8:00am**.*

Please contact Mandan City Principal Planner, John Van Dyke 701-667-3248, by 12-17-2018 for further questions and information to get this matter resolved.

If compliance is not made this violation is an Infraction with up to \$1000 fine.

Sincerely,

A handwritten signature in cursive script that reads "Candy Fleck".

Candy Fleck
Code Enforcement
Mandan Police Dept.
205 1st Ave NW
Mandan, ND 58554
701-667-3250
cfleck@cityofmandan.com



~~Almost~~ almost fully completed

MANDAN ARCHITECTURAL REVIEW COMMISSION MINUTES

Amber
Katie

November 13, 2018

The meeting was called to order at 1:00 p.m.

ROLL CALL: James Jeromchek/ President, Katie Wiedrich/Vice President, Shawn Ouradnik/Building Official, Kim Fettig/City Engineer Dept., Lee Pierce, Ben Zachmeier, Amber Larson.

MEMBERS ABSENT: Daniel Walter, Steve Nardello/Fire Chief.

SPECIAL GUEST: Ellen Huber, John Van Dyke.

FIRST ORDER OF BUSINESS: Proposal by Crystal Tretbar to repaint the Lewis & Clark building located at 103 3 Ave NW. Crystal plans to open up a yoga studio around December/January. Crystal would like to remove the cracked & chipped paint and repaint it with a grey or black colors. Crystal plans on painting the door black. She will bring signage back to MARC.

Amber motioned to approve as presented.

Katie seconded.

Upon roll call vote, the motion passes unanimously.

SECOND ORDER OF BUSINESS: Proposal by Cody with Anyleaks for a storefront improvement project for 417 E Main St. Cody plans for a complete interior and exterior remodel for a Restaurant Bar/Grill. Cody stated the roof will need replacing and also plans to remove all the tin. The materials Cody plans on using is a smart siding along with brick on the north and east side along with brick columns. The parking lot will be completely resurfaced. Cody plans on adding 18 windows on the east and north sides. Cody plans on adding new signage on the east side and a smaller hanging sign on the north side. Amber asked where the dumpster location. Cody stated the enclosed dumpster will be located in the SE corner. Ellen stated this project is both a Renaissance Zone as well as Storefront Improvement. Amber asked what the landscaping plans were. Cody indicated they are limited due to the lot being completely hard surfaced. Cody did comment on above ground planters by the patio area. Kim asked how far out will the sign protrude. Cody was unsure and will contact Indigo. The max is 36 inches and has to be a minimum of 8 feet above ground. Katie asked what the colors will be. The main LP siding color will be seal dark brown with oyster shell light tan accented with a light brown brick. Kim commented they have received stormwater plans but hasn't been approved yet.

Kim motioned to approve as presented contingent on stormwater plans and signage not to protrude more than 36 inches.

Shawn seconded.

Amber would like to have a revised landscaping plan such as planters on the patio. Ben asked how many parking spots. Cody thought 34 spots. Amber asked if they have contacted Steve/fire chief, Cody has communicated with Steve.

Kim amended her motion to include the revised landscaping, parking requirements and access for the fire trucks.

Shawn seconded.

Upon roll call vote, the motion passes unanimously.

THIRD ORDER OF BUSINESS: Proposal by Bill to install a sign for Puff & Stuff located at 107 Collins Ave. They plan on installing channel lettering sign above the front door mounted on the glass tile. No one was at the meeting to represent the project. With much discussion the members decided to table it for more information.

Shawn motioned to table this project for more information.

Ben seconded.

Upon roll call vote, the motion passes unanimously.

FOURTH ORDER OF BUSINESS: Proposal by Bobbi Cochran for a new mural located at 100 2 Ave NW. The mural is 80% completed. John commented he has visited with the applicant and they weren't aware of approval thru this committee. John stated a mural art must not be installed onto the front of the building, in this case this would be considered a front facing mural. Code enforcement did reach out to them several weeks ago for this violation. No one was present to represent the project.

Shawn denied this project based on violation of the mural guidelines. Specifically a mural art cannot be installed on the front of the building. Also keeping the design of the exterior of the building in harmony with the rest of the buildings around it, and ask for the mural to be removed.

Lee seconded it.

John wanted to add the code reference would be section 105-4-2.1D3C

Upon roll call vote, the motion passes unanimously.

1

FIFTH ORDER OF BUSINESS: Proposal by August Kersten for a new mural for The Lonesome Dove located at 3929 Memorial Hwy SE. No one was at the meeting to represent the project. John stated this wouldn't be considered a mural due to advertising of the business. Kim stated the sign is painted on a windbreak entrance. Therefor the sign wouldn't be directly on an exterior wall. Amber feels it is part of the building and in violation of the sign guidelines. James agrees with Amber.

Amber motioned to deny this application due to violation of the sign ordinance and also based on a mural guidelines (if considered as a mural) that it is an advertisement on placed on the front of the building.

Shawn seconded.

Upon roll call vote, the motion passes unanimously.

MINUTES: Approval of the minutes from October 9, 2018.

Amber motioned to approve the minutes.

Katie seconded.

Upon roll call vote, the motion passes unanimously.

There being no further business, the meeting was adjourned at 1:51 p.m.

Approved by: 

11-27-18
Date

Transcribed by:
Carolyn Reisenauer/Admin. Specialist

MANDAN ARCHITECTURAL REVIEW COMMISSION MINUTES

January 8, 2019

The meeting was called to order at 1:00 p.m.

ROLL CALL: James Jeromchek/ President, Shawn Ouradnik/Building Official, Kim Fettig/City Engineer Dept., Steve Nardello/Fire Chief, Lee Pierce, Ben Zachmeier, Chris Redmann, Amber Larson.

MEMBERS ABSENT: Katie Wiedrich/Vice President.

SPECIAL GUEST: John Van Dyke/City Planner.

NEW BUSINESS: Election of Officers for President and Vice President.

Shawn motioned to re-elect James Jeromchek for President and Katie Wiedrich for Vice President.

Ben seconded.

Upon roll call vote, the motion passes unanimously.

FIRST ORDER OF BUSINESS: Proposal by Steve Rogalla for a new building mural located at 1000 1 St NE. Being an Air Force Veteran, Steve would like to paint the U.S. flag along with an eagle and the Department of the Air Force logo on the west side of his garage. James specified we sent out notifications to all the surrounding neighbors and one neighbor replied with a no to the mural. James mentioned the logo they plan on using is prohibited without permission. Steve was ok to remove the logo and in place would like to insert an airplane. Steve brought a neighbor, Pat Testa in support of the mural. Shawn asked what type of siding, Steve stated vinyl. Melissa Gordon who would be painting the mural stated she has talked with Sherwin Williams and will go thru all the proper steps as in using a primer and cleaner before applying the paint. John Van Dyke, City Planner point out long term maintenance plan on the mural. Melissa stated she would properly maintain the mural. Ben asked if they plan to remove the logo. Melissa specified she would like to get approval first and if not they would plan on using Air Force airplanes. Amber stated if they plan on using the logo, the mural now becomes a sign in which the building is not an Air Force building. Steve would remove the logo and in place the Air Force airplanes. Shawn mentioned to hold the project until they have a revised plan. Amber mentioned we could take a vote and get a preliminary approval.

Amber motioned to approve as presented contingent on the final review and approved art work to be brought back to MARC.

Steve seconded.

Upon roll call vote, the motion passed by majority vote of 5-2 with Lee Pierce & Chris Redmann dissenting.

John mentioned public art is typically located in alleys. John he would like to construct an ordinance that would be stronger language outlined, a lot more restrictive place for these applicants to be occur and try to solicit artist and property owners to direct this public art in a more typical location to focus the murals in the alley ways. John would present this to the next beautification meeting in February. Kim asked John if he would like a recommendation from MARC. John confirmed yes,

Kim motioned for John Van Dyke, City Planner due further investigating and setting up new location guidelines for murals.

Chris seconded.

Upon roll call vote, the motion passes unanimously.

SECOND ORDER OF BUSINESS: Proposal by August Kersten for new signage for Lonesome Dove located at 3929 Memorial Hwy SE. Shawn stated this project is completed and was brought before MARC for a mural and was denied. The project now has become a sign due to advertising the business. Amber stated this project would not qualify as a mural due to in violation of the guidelines because it is facing the street. Amber also stated it would be in violation of the sign ordinance due to a sign can't be painted on to the building. Steve mentioned this building has been brought up due to excessive banners and not meeting the 20% sign requirements. Shawn mentioned they exceed the number of banners and 20% wall coverage. Since August has made changes to the building, he now needs to be up to date with the sign ordinance. John suggested if this project is denied by MARC, August should apply for a variance and take it to the city commission for approval.

Steve motioned to approve as presented contingent on removing banners to compliance with the 20% sign ordinance.

Kim seconded.

Ben asked if this will be treated as a mural or a sign. Shawn confirmed it doesn't meet the mural guidelines so it is a sign. Chris asked if we are make an exception to the ordinance. John stated only if it's written or says approved by MARC. In this case MARC can't override the ordinance.

Steve withdrew his motion.

Shawn motioned to deny the sign project based on section Z of the sign ordinance #4.

Lee seconded.

Upon toll call vote, the motion was denied.

THIRD ORDER OF BUSINESS: Proposal by Nathan with Indigo Signworks to install new signs for Marathon Petroleum located at 900 Old Red Trail NE. Due to change of name, Nathan plans to replace all three signs with the new name. The signs will be illuminated.

Steve motioned to approve as presented.

Amber seconded.

Upon roll call vote, the motion passes unanimously.

FOURTH ORDER OF BUSINESS: Proposal by Erin for a new sign for Historic Apartments on 4th located at 406 4 St NW. Erin wasn't available but if any questions to contact Darlene by phone. Lee requested she would like to see more landscaping around the monument sign as per ordinance. Shawn stated there are a couple trees around the sign. Shawn stated all monument signs shall be placed in a landscaping area.

Steve motioned to approve as presented contingent on additional landscaping/vegetation.

Lee seconded.

Upon roll call vote, the motion passes unanimously.

James questioned how much is additional? Steve stated additional vegetation. Kim commented the landscaping ordinance says landscaping includes but is not limited to grass that is maintained in a healthy condition, trees, shrubs and or flowers. Steve withdrew his motion.

Kim motioned to approve as presented contingent on meeting the landscaping requirements.

Ben seconded.

Upon roll call vote, the motion passes unanimously.

MINUTES: Approval of the minutes from November 27, 2018.

Shawn motioned to approve the minutes.

Kim seconded.

Upon roll call vote, the motion passes unanimously.

OTHER BUSINESS: Steve thanked John for his guidance on murals. John stated there was a subcommittee comprised of MARC and beautification staff and these guidelines were created. John will bounce back and forth between the committees and construct a foundation that is stemmed from other communities and how they construct there ordinances and make additional changes.

There being no further business, the meeting was adjourned at 2:27 p.m.

Approved by:

Date

Transcribed by:

Carolyn Reisenauer/Admin. Specialist



MANDAN CITY POLICE

Jason J. Ziegler
Chief of Police
205 1st Ave. N.W.
Mandan, ND 58554
(701) 667-3250

October 22, 2018

Brian Berube & August Kersten
3929 Memorial Hwy
Mandan, ND 58554

Case ID: MDN-18-12863

NOTICE OF VIOLATION

It has been observed that the property located at 3929 Memorial Hwy is in violation of the City of Mandan Municipal Ordinances.

The issue surrounds an unpermitted mural (see ordinance 105-1-15 j. (9) relating to murals). Moving forward, either the mural can be removed or an application may be submitted for a mural permit, which will be reviewed by the Mandan Architectural Review Committee (MARC). There is no guarantee that it will be approved.

For your convenience, Section 105-1-5 (j9) relating to murals, has been included. Please contact Mandan City Principal Planner, John Van Dyke 701-667-3248, by 10-29-2018 for further questions and information to get this matter resolved.

If compliance is not made this violation is an Infraction with up to \$1000 fine.

Sincerely,

A handwritten signature in cursive script that reads "Candy Fleck".

Candy Fleck

Code Enforcement
Mandan Police Dept.
205 1st Ave NW
Mandan, ND 58554
701-667-3250
cfleck@cityofmandan.com

December 3, 2018

Brian Berube/Kersten August
3929 MEMORIAL HWY
MANDAN, ND 58554

Case ID: MDN-18-13010

NOTICE OF VIOLATION

MARC has denied your mural application for property located at 3929 Memorial Hwy due to a violation of the City of Mandan Municipal Ordinances. Application permit was for a mural, application needs to be for a **sign**. Please resubmit sign application.

*The issue surrounds an unpermitted mural (see ordinance 105-1-15 j. (9) relating to murals). Mural guideline 1 - 2 & Mandan Municipal Code 105-1-15 J (9) which states, "No sign or wall mural **shall be painted on any building without prior approval from the MARC**". Fees already paid toward the **mural** permit will simply be transferred toward the cost of a **sign** permit application. The application fee for a sign permit is \$45 and will be covered in full when you submit a "sign" permit.*

*There are 10 days to appeal the decision to the City Commission per 11-1-5(c). Please have your new sign permit submitted by **12/17/18 @ 8:00am**.*

Please contact Mandan City Principal Planner, John Van Dyke 701-667-3248, by 12-17-2018 for further questions and information to get this matter resolved.

If compliance is not made this violation is an Infraction with up to \$1000 fine.

Sincerely,

Candy Fleck
Code Enforcement
Mandan Police Dept.
205 1st Ave NW
Mandan, ND 58554
701-667-3250
cfleck@cityofmandan.com

January 28, 2019

Brian Berube/Kersten August
3929 MEMORIAL HWY
MANDAN, ND 58554

RE: Sign at 3929 Memorial Hwy

On January 8th 2019 the Mandan Architectural Review Committee (MARC) rejected your application for the sign located at 3929 Memorial Hwy. The reasons for the rejection are as follows:

1. Section 105-1-15 (z)(3) No combination of wall signs and supports shall exceed 20 percent of the signable wall surface area up to a maximum of 200 square feet unless other limits are approved by the MARC.
2. Section 105-1-15 (j)(9) No sign or wall mural shall be painted on any building without prior approval from the MARC.

Section 111-1-5 (c) grants you the right to appeal the decision of the MARC. To appeal the decision you must do so in writing to the city administrator (Jim Neubauer) no later than February 13th 2019. You must indicate where, in your opinion, the architectural review commission was in error. The city administrator shall schedule the appeal for the board of city commissioner's agenda, and the board, at its meeting, shall uphold, modify or overrule the decision of the architectural review commission. The decision of the board of city commissioners shall be final.

If you have any questions or concerns regarding this matter or the decision of this office feel free to contact us at 701-667-3230.

Shawn Ouradnik

City Building Official

Rec'd
2-13-19
4:00pm
JN

2-13-2019

City Of Mandan

RE: sign 3929 memorial highway

Commissioners;

Write this letter to appeal the decision of MARC on our sign. At the time we did this sign we had never heard of MARC, had we, we would have contacted them and confronted them on our plan, before moving ahead with it.

Lonesome Dove has been part of Mandan for 28 years and worked with the people to see Mandan grow over the years. We have supported events and donated monies over the years for this to happen, it is not our practice to not follow the rules.

It is now after the fact, so at this time we would like to ask the commissioners for reconsideration on the matter to overrule, or options to modify.

Like to close by saying we have much positive feedback on the mural. Thank you

Sincerely;



Brian Berube



ONE SOME LOVE



Coors LIGHT
PROUDLY SPONSORED BY THE U.S. ARMED FORCES
THE WORLD'S MOST RESPECTED
BEER



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 13, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM,
SUBJECT: First Consideration of Ordinance 1299 Related to Crematoriums Continued

STATEMENT/PURPOSE: Consider approval of first consideration of Ordinance 1299 related to crematoriums.

BACKGROUND/ALTERNATIVES: An inquiry related to the allowable locations for crematoriums brought attention to vastly different requirements depending on whether or not a crematorium is public or privately operated.

Presently, crematoriums are defined as part of a funeral home or mortuary. These uses are allowed in Commercial and the MA/MC industrial districts. Setbacks are determined by the respective zone; in some cases zero feet. In contrast, public crematoriums require a conditional use permit and must be located in an agricultural or industrial districts with a 200 foot setback from the property line.

The confusing language within the ordinance that appears to apply different standards for a use solely based on being a public or private activity doesn't adequately mitigate the negative impacts of the use. By applying the same standards to both public and private entities through the requirement of a conditional use permit, adjacent property owners have the opportunity to be involved in the process stemming from any application.

The proposed ordinance provides a new definition for crematoriums that requires them to be an accessory use to a legally existing mortuary, funeral home, columbarium, or cemetery. They would not be allowed to operate as the primary use on a property. In addition, "facilities for cremation" is removed from the definition of funeral home or mortuary. The standards applied to public mausoleums, columbariums, and cemetery chapels are now applied to both public and private facilities. This include being limited to industrial or agricultural zones.

What is an adequate setback for this use?

In reviewing other municipal ordinances, Bismarck allows them as accessory to funeral home operations as well as through a special use permit as part of a cemetery (similar to our present ordinance). Minneapolis requires crematoriums to be located within a cemetery and 1,000 ft. setback from a property line. Denver requires crematoriums to be a part of a cemetery, with a minimum 500 ft. setback from a residential district.

Staff also solicited feedback from funeral homes in Mandan. Buehler Larson Funeral Home indicated 300 feet from a residential zoning district was more in-line with other communities within and outside North Dakota (See Exhibit 3).

David Wise has provided comment that included several suggestions for definitions and suggested 200 feet from a residential zoning district (See Exhibit 1).

Mr. Tom Wiegel provided comments in-person and later via a phone call stating that crematoriums should be allowed only in the Industrial and Agricultural zones and located no closer than 300 feet to a residential or commercial property line. Mr. Wiegel noted that while technological improvements have been made that reduce emissions, emissions are still a factor. Also, that crematoriums produce a substantial amount of noise (See Exhibit 2).

Staff provided a recommendation of a 300 foot setback from the property line based on other municipal ordinances and input received from Mandan funeral homes. At this hearing, Mr. Wise provided public testimony with focus on setbacks from the property line. The Planning and Zoning Commission voted to recommend approval of the ordinance subject to changing the 300 foot setback to 100 feet excepting along adjacent right-of-way (See Exhibit 4). This would take into consideration the generally large distance (at a minimum 66 feet for local roads and up to 100 feet or more for arterials such as 1806) the right-of-way provides as a buffer to an adjacent property.

NEW INFORMATION SINCE FEBRUARY 19, 2019 HEARING

Staff provided Commissioners a study that was conducted by the State of Georgia Senate Research Office in 2012 which evaluated crematoriums, specifically looking at emissions, including mercury. To swiftly summarize the report findings, the following snapshot from the conclusion and recommendations are provided (Exhibit 6, Page 9):

“While cremation is a popular and largely safe means of disposal of human remains, the process may emit small amounts of metals such as cadmium, lead, and mercury, among other emitted materials. The amounts of these substances emitted by the cremation process may be too small to pose a health or safety risk, but it is nonetheless important for the public to be able to remain confident that their health and the health of their families is not being compromised as a result of nearby cremation operations.”

Georgia requires a 1,000ft setback from a residential subdivision.

In addition to researching and identifying a balanced study, staff reached out to the North Dakota Department of Health Division of Air Quality to request mercury emissions quantities for the Mandan Refinery and the Heskett plant, which were reported in 2017 as four (4) pounds and fourteen (14) pounds respectively.

The relative quantities of mercury emitted by a crematorium are substantially smaller. It should also be noted that the stacks of both the Heskett plant and Mandan Refinery appear to be located nearly 2,000 linear feet from the nearest residential subdivision.

At the City Commission meeting in February the question of using cemetery property as a location for a future crematorium was asked. A deed search identified much of the property having a restriction only allowing it to be used for burial purposes. However, there is a portion of the cemetery property large enough and unencumbered by restrictions that would accommodate both the original setback proposed by staff to Planning and Zoning Commission (300 feet) and the setback proposed to City Commission by Planning and Zoning Commission (100 feet). Exhibit 7 uses this property to illustrate the setbacks as they would apply to the crematorium equipment proposed in the ordinance.

Finally, Mr. Ross, Funeral Director of DaWise-Perry Funeral Services provided written comment which is included in Exhibit 5.

ATTACHMENTS:

- Exhibit 1 – DaWise Perry Comment
- Exhibit 2 – Mr. Tom Wiegel, Wiegel Funeral Home Comment
- Exhibit 3 – Buehler Larson Funeral Home Comment
- Exhibit 4 – Ordinance 1299 – Crematoriums
- Exhibit 5 – Additional Comment provided by Mr. Ross, Funeral Director of DaWise-Perry Funeral Services
- Exhibit 6 – 2012 Georgia Senate Crematoria Study Report
- Exhibit 7 – Illustration of Setbacks using Cemetery Parcel

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document, including Ordinance 1299, have been reviewed and approved by Attorney Brown.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: First Consideration of Ordinance 1299 related to Crematoriums

Page 4 of 4

RECOMMENDATION:

The Planning and Zoning Commission recommend approval of Ordinance 1299 as presented in Exhibit 4.

SUGGESTED MOTION: I move to approve the first consideration of Ordinance 1299 as presented in Exhibit 4.

EXHIBIT 1 - DAWISE PERRY FUNERAL HOME COMMENT

From: [David Wise](#)
To: [John W. Van Dyke](#)
Subject: Crematory
Date: Tuesday, December 04, 2018 1:13:15 PM

DaWise-Perry Funeral Service

Begin forwarded message:

From: "David Wise" <david@dawiseperry.com>
Date: December 4, 2018 at 1:32:19 AM CST
To: <erica.bertman@gmail.com>, <david@dawiseperry.com>
Subject: Terminology

Sec. 101-1-3

Crematorium or Crematory means the establishment for final disposition of deceased remains, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments.

Section 2. Sec. 101-1-3

Funeral Home or Mortuary means a facility for the care and custody for the pre-disposition of deceased human remains, including the sale of services and merchandise for burial, cremation, and other related items, including offices, viewing rooms, chapels, and reception halls for serving the deceased and their families.

Section 3. Sec. 105-1-5 Amended

I believe the term Crematorium or Crematory should be removed from this section and have it's own. Cemetery, Mausoleum, and Columbarium are specific places where long term burial, interment or inurnments take place.

Crematorium or Crematory is the establishment or facility **for final disposition of deceased remains**, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments.

A crematorium or crematory may be permitted in an Industrial, “A” or Commercial District as a special use, Provided that:

1. Shall not be the primary use, i.e. it must be accessory or ancillary to a related and legally existing mortuary, funeral home, columbarium, or cemetery use.
2. There shall be a strip of green area with trees, bushes or shrubs adjacent to any border facing a residential zone and/or public area to minimize view of any stack.
3. It shall be erected at least 200 feet away from a residential zoning district.

4. Alkali Hydrolysis

EXHIBIT 2 - WIEGEL FUNERAL HOME COMMENT

Mr. Tom Wiegel stopped by and discussed with staff in-person and later in a phone call with Principal Planner, John Van Dyke, Principal Planner to provide his thoughts on an ordinance outlining where crematoriums are appropriate. Based on his comments the ordinance should lean more to being restrictive including:

- Industrial or Agricultural zoning only
- 300 feet to residential or commercial property line

Noise and emissions were his biggest concern, indicating that while technological improvements have been made that reduce emissions, there are still emissions and noise will still be a factor.

He also indicated that Dickinson has a funeral home that operates in a commercial area while its crematorium is based in an industrial area off-site. He indicated that they appear to be functioning fine under this situation.

EXHIBIT 3 - BUEHLER LARSON FUNERAL HOME COMMENT

John W. Van Dyke

From: Buehler Larson Funeral Home <info@buehlerlarson.com>
Sent: Friday, December 14, 2018 1:49 PM
To: John W. Van Dyke
Subject: Re: Changes to ordinance surrounding crematoriums

Categories: Red category

John,

Thank you for sending out the letter concerning potential changes to the ordinance surrounding crematoriums. In response, we feel comfortable with the language of the proposed ordinance with the exception of Sec. 3 (5) No crematorium shall be erected within 200 feet of a residential zoning district.

In conclusion of some of our research, many cities within the state and outside of North Dakota require that no crematorium shall be erected within **300 feet** of a residential zoning district. We feel strongly that a minimum 300 ft. "buffer" should be required, especially in light of the strong winds we can face in North Dakota. Also, a suggestion in regards to a crematory location, we feel that the "old shop" at Mandan Union Cemetery could be a very good location for a potential crematorium site. It would meet the distance requirements of any residential zoned area and tie in very well with the new addition of the cremated remains scattering garden at the cemetery.

Sincerely,

Scott Huffman
Nathan Grubb

*Buehler-Larson Funeral Home
1701 Sunset Drive
Mandan, ND 58554
(701) 663-9630
info@buehlerlarson.com*

EXHIBIT 4 - Draft Ordinance - Planning and Zoning Commission Recommendation

ORDINANCE NO. 1299

An Ordinance to Amend and Re-enact Sec. 101-1-3 and 105-1-5 (e) of the Mandan Municipal Code related crematoriums

WHEREAS, Changes are necessary to remove conflict within the land-use code related to cremation-related activities

WHEREAS, Clarification is required to ensure health and safety and mitigate potential negative impacts to nearby resident property values

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

Section 1. Sec. 101-1-3 is added and reads:

Insert in Sec. 101-1-3 after the definition for Correctional facility the following:

Crematorium means the establishment for final disposition of deceased remains, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments and is subject to the following requirements:

- a. shall not be the primary use, i.e. it must be accessory or ancillary to a related and legally existing mortuary, funeral home, columbarium, or cemetery use.

Crematorium equipment means the primary piece of capital performing the task of reducing remains to bone fragments.

Section 2. Sec. 101-1-3, definition for Funeral home or mortuary, is amended to read:

~~Funeral home or mortuary means a facility for the care and custody for the pre-disposition of deceased human remains, including the sale of services and merchandise for burial, cremation, and other related items, including offices, viewing rooms, chapels, and reception halls for serving the deceased and their families. facility for the pre-burial preparation of human cadavers, including facilities for cremation, and including other areas for offices, purchase of burial items and services, viewing rooms and areas for the conduct of memorial services.~~

Section 3. Sec. 105-1-5 (e) is amended to read:

~~Cemetery, Mausoleum, Columbarium, and Crematorium.~~ A cemetery, mausoleum, columbarium or crematorium may be permitted in an industrial or A district as a special use, provided that:

- (1) No graves shall be located less than 100 feet distant from any property line;

- (2) There shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;
- (3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and
- (4) No ~~public~~ mausoleum, columbarium, ~~crematory~~ or cemetery chapel shall be erected within 200 feet of any boundary of the lot or parcel on which it is located.
- (5) No crematorium equipment shall be placed within 100 feet of a property line excepting along adjacent right-of-way.

Section 4. Sec. 101-1-3 and 105-1-5 (e) is amended and re-enacted.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

Planning and Zoning:
First Consideration:
Second Consideration and Final Passage:

January 28, 2019
February 19, 2019
March 5, 2019

March 7, 2019

Re: Mandan Draft Ordinance No. 1299

I am writing to educate and present a perspective view of the above referenced Ordinance No. 1299 as originally presented to the City Commission in February of 2019. This perspective is from the experience as a Funeral Director licensed in North Dakota, Minnesota and Iowa along with operating a crematory in both Minnesota and Iowa and having first hand knowledge and knowledge of laws and operations of crematoriums in all three states.

This ordinance needs to be viewed as a whole with a view of the entire Mandan City code.

Section 1. Sec. 101-1-3 ...

First off is the definition of Crematorium. Looks good until one adds part (a) This is not part of a definition but usage. May be best to eliminate.

Funeral Home definition looks good except one could argue that it is also a facility for cremation as later you are stating that a crematorium may be part of funeral home.

May need to add a definition of columbarium and cemetery (not currently listed in City Code)

Section 3 Sec 105-1-5

Cemetery, Mausoleum, Columbarium and Crematorium... may be permitted in an industrial or A district as a special use, provided that:

The one cemetery in the city, Mandan Union Cemetery is public land and not in neither industrial or an A district.

(1) No graves shall be located less than 100 feet distant from any property line; Fact: The city cemetery has many graves about 25 feet from any property line.

(2) There shall be a strip at least 75 feet in with adjacent to all boundaries of the cemetery landscaped and maintained as a green area. Fact: The city cemetery does not meet the criteria when graves are within 25 feet of any property line.

(3) See code. Fact: Mandan City Cemetery does not meet the criteria as a dense evergreen hedge at least six feet in height is not found in the cemetery.

(4) See code. The City of Mandan sent out a letter and information in December 2018 that they were building a columbarium and having a scattering garden in Mandan Union Cemetery. I don't think that according to the current code that they would be able to meet the 200 feet setback. This also should be eliminated.

(5) No crematorium equipment shall be placed within 100 feet of a property line excepting along adjacent right-of-way. Reality is this should be eliminated as code for each zone commercial, industrial residential etc. has their own setbacks in code already. No need to reinvent the code here. If one is looking at a distance what I have found in North Dakota and Iowa is setbacks of zero to 50 feet. Exceptions are one crematory in Minneapolis located in a cemetery build in 1910 on 250 acres (nearly half a square mile) and another in a Minneapolis cemetery with 150 acres. One would need an area the size of the Kist properties along Memorial Highway in Mandan put a crematory in the middle of the property and maintain a 1000 feet setback.

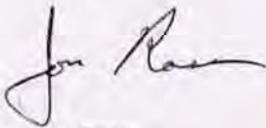
Of note is the history of the two Bismarck crematories. The first was built in 1995, as part of the Bulger-Eastgate Funeral Home at 200 West Turnpike. It was built in a residential area and the homes were about 50 feet distance and the actual crematory was even closer to a property line. This crematory was moved to its current location at Sunset Memorial Gardens Cemetery around 2006. The second was operational in 1996, at the current Bismarck Funeral Home. Bismarck's code was written at that time primarily due to Bulger-Eastgate wanting it part of their funeral home and the distance to the nearest resident just happened to be 50 feet.

Pollution Emissions: Based on CANA emissions testing a current manufactured crematorium emits 0.042 pounds per hour on average particulate of matter. A fireplace as found in a typical residence emits .046 pounds per hour particulate of matter for the same period. The crematory is nearly 11 times (1100%) cleaner than a typical fireplace in a residential home. Emissions for pollution should not be a factor regarding its relationship to property lines or other buildings.

Noise Pollution: Yes, there is noise but remember that crematorium equipment is within a building. We have many ways to abate noise within a building. Let's use our technology and tools to reduce the noise if necessary and meet EPA guidelines for noise. A crematoriums noise would be a factor for workers inside the building. What do we see with most people playing electric guitars? They use earplugs. People outside the building where a crematorium is located will always only hear noise lower than EPA accepted levels. One will most likely hear louder noise from nature, people and cars than from the Crematory.

With criteria currently in Mandan's Code or proposed there appears to be only one area of land within the City of Mandan which could be used for a future cemetery and a funeral home and a crematorium. This would be the Kist properties along Memorial Highway. Mandan's future planning zoning for 2040 has this zoned industrial. Note that the current Mandan Union cemetery has about 10,000 current burials and room for only about 20 years of burials before becoming full. May the City of Mandan look to the future and investigate this property for the location of a new city cemetery, a funeral home, chapel, and a crematorium. This appears this may be a win for the city, a funeral home and the citizens of Mandan.

Respectfully



Jon Ross

Funeral Director

DaWise-Perry Funeral Services

Mandan, ND

EXHIBIT 4 - Draft Ordinance - Planning and Zoning Commission Recommendation

ORDINANCE NO. 1299

An Ordinance to Amend and Re-enact Sec. 101-1-3 and 105-1-5 (e) of the Mandan Municipal Code related crematoriums

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Section 3. Sec. 105-1-5 (e) is amended to read:

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- (3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and
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- (5) No crematorium equipment shall be placed within 100 feet of a property line excepting along adjacent right-of-way.

Section 4. Sec. 101-1-3 and 105-1-5 (e) is amended and re-enacted.

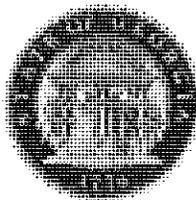
Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

Planning and Zoning:
First Consideration:
Second Consideration and Final Passage:

January 28, 2019
February 19, 2019
March 5, 2019



Jill C. Fike
Director

Senate Research Office
204 Paul D. Coverdell Legislative Office Building
18 Capitol Square
Atlanta, Georgia 30334

Telephone
404.656.0015

Brian Scott Johnson
Deputy Director

Fax
404.657.0929

FINAL REPORT OF THE
SENATE CREMATORIA STUDY COMMITTEE

COMMITTEE MEMBERS

The Honorable Steve Henson, Chair
Senator, District 41

The Honorable Butch Miller
Senator, District 49

The Honorable David Shafer
Senator, District 48

The Honorable Valencia Seay, Ex-Officio
Senator, District 34

Prepared by the Senate Research Office
2012

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INTRODUCTION

During its 2012 Session, the General Assembly created the Senate Crematoria Study Committee (“the Committee”) through the passage of Senate Resolution 104. The Committee’s purpose was to examine cremation in Georgia, including possible health and safety concerns associated with the operation of crematoriums.

Senator Steve Henson served as the Committee’s Chairman. The other members of the Committee were Senator Butch Miller, Senator David Shafer, and Senator Valencia Seay (ex-officio).

The Committee held three public hearings at the State Capitol: the first on September 20th, the second on October 2nd, and the third on October 30th. During these hearings, the Committee heard testimony from the following individuals: Ms. Alysia English, representing the Georgia Funeral Home Directors Association; Mr. Jeff Wages, funeral director and owner of Wages and Sons Funeral Homes and Crematories and the Cremation Society of Georgia; Mr. Bill Head, funeral director and owner of Bill Head Funeral Homes and Crematory, Inc.; Representatives of the Georgia Funeral Service Board, including Mr. David Roach and Mr. Thelon Hamby (current board members) and Mr. Jim Davis (past chairman of the Board); Mr. Paul Rahill, president of the cremation division of Mathews International; Mr. Ray Wilson, owner of Premier Crematory; Ms. Julia Gaskin, an extension specialist with the University of Georgia; Mr. McCracken Poston, attorney; Mr. John Reindl, a researcher with expertise on mercury emissions from cremation; Mr. Randall Moore, documentarian; Dr. Anne Summers, University of Georgia; Mrs. Tia Severino, community advocate; Mr. O.M. Walstead, property owner in Greene County; Mr. Scott Hendricks, National Conference of State Legislatures; Ms. Phyllis Marshall, Habersham County resident; Mr. Mike Nicodemus, past president of the Cremation Association of North America; Mr. Joe Chafen, Cherokee County resident; and Mr. Larry Whitfield, owner of Whitfield Funeral Homes and Crematory, Inc. and The Crematorium at Baldwin Mountain.

BACKGROUND

In recent years, cremation has become an increasingly common choice for families saying goodbye to their departed loved ones. In 2010, over one million cremations were performed in the United States, accounting for final disposition in 40.62 percent of deaths.¹ In Georgia, while cremation is somewhat less common here than it is nationally, cremation accounted for final disposition in approximately 28 percent of Georgia deaths.²

With the demand for cremation rising, the number of crematories, either as stand-alone operations or as part of the business of existing funeral homes, has also increased. These businesses serve an important need for Georgia’s communities, but they also raise concerns over the health, environmental, and economic implications for the communities in which they operate. In particular, some have expressed concerns over the emissions released into the environment by the cremation process. During a cremation, a body is placed in a casket and incinerated at a very high temperature (1400 to 1800 degrees Fahrenheit), reducing the remains to ash and bone. This process may result in the emission of small amounts of certain chemicals, including, but not limited to, dioxin, hydrochloric acid, nitrogen oxide, sulfur dioxide, carbon monoxide, and mercury. It is this last chemical, mercury, which has caused particular

¹ According to statistics by the Cremation Association of North America (CANA).

² Ibid. This figure does not account for cremations performed for out-of-state deaths and stillbirths.

concern among some communities in close proximity to crematory operations. Most mercury emissions from crematories are associated with the amalgam dental fillings of cremated decedents. When mercury is burned, this element becomes a colorless and odorless gas that can travel long distances. Mercury exposure has the potential to cause a variety of health problems, including harm to the brain and kidneys. Pregnant women and young children are especially vulnerable to harm from mercury exposure, as mercury exposure can adversely affect neurological development in developing fetuses and children.

Most studies on crematory emissions have indicated that the amount of mercury emitted by cremation is fairly low. According to the Georgia Department of Public Health, based on information from the U.S. Environmental Protection Agency (EPA), studies on existing crematories have found that a crematory performing an average of 100 cremations per year may emit approximately two pounds (0.2 percent of one ton) of mercury per year; by comparison, a coal-fired power plant will emit up to 48 tons of mercury per year.³ There is some dispute over the accuracy of these findings from the EPA, however, with some sources estimating the amount of mercury emissions from crematories to be significantly higher.⁴

While the amount of mercury emitted by cremation may be modest compared to many other sources of pollutants, the close proximity of crematory operations to homes and businesses and the potential health threats of such emissions have raised concerns for some Georgians. In addition to concerns over the possible risks to public health and the environment, some property owners have expressed concern over the adverse impact to their property values as a result of their proximity to a crematory.

This Committee was formed to study cremation in Georgia, to assess the possible risks posed by the cremation process, to examine the current regulatory scheme, and to make recommendations if necessary to safeguard the public.

COMMITTEE HEARINGS AND FINDINGS

Overview of the Cremation Industry

During the course of its study, the Committee heard from several members of the cremation industry and learned that cremation, once a relatively uncommon practice in the United States, has become an increasingly popular choice for the final disposition of human remains. According to the Cremation Association of North America (CANA), cremation accounted for approximately 28 percent of final dispositions of human remains in Georgia in 2010, and nationally the cremation rate was 40.62 percent. CANA projects that the rate of cremation will continue to grow both nationally and here in Georgia. Reasons cited by witnesses for the increased popularity in cremation include greater affordability and shifting cultural attitudes towards the practice.

To meet the increased demand for cremation, several crematories have opened in Georgia in recent years. According to Bill Head, a funeral director and owner of a crematory, in the 1960s,

³ "Common Health Concerns about Crematory Operations," Georgia Department of Public Health, Environmental Health Branch, Chemical Hazards Program. See <http://health.state.ga.us/pdfs/environmental/ChemHazards/Documents/CrematoryFS.pdf>

⁴ See the January 15, 2010, letter to the U.S. Environmental Protection Agency from the United States House Committee on Oversight and Government Reform, Domestic Policy Subcommittee: http://no2crematory.files.wordpress.com/2011/01/letter_from_congress-kucinich_to_epa-jackson.pdf.

there was only one crematory in the entire state. Today, according to the Georgia Board of Funeral Service, there are 87 licensed crematories in Georgia.

Current Laws and Regulations Regarding Crematories

In Georgia, crematories are overseen by the Secretary of State through the Georgia Board of Funeral Service ("the Board"). The Board licenses, regulates, and inspects crematories. Prior to 2002, there was little such oversight over Georgia's crematories. In February 2002, decomposing bodies were found on the premises of the Tri-State Crematory in Noble, Georgia. Further investigation found that the crematory had failed to cremate the remains of 334 individuals entrusted to its care. Ray Brent Marsh, who operated his family's crematory business, was charged with a total of 787 felony counts for crimes including abuse of a corpse, theft, burial service fraud, and making false statements; he ultimately entered a plea agreement and is currently serving a 12 year prison sentence. This horrific scandal spurred the General Assembly to pass House Bill 1481 in 2002, which provided the Board with its current oversight authority over crematories, among other provisions. As part of its oversight, the Board inspects all crematories at least annually. Currently, the Board has four inspectors who conduct these inspections.

According to representatives of the Board who addressed the Committee, applicants for a crematory license must certify that they have met all local zoning requirements. However, while the Board does have regulatory power over crematories, Georgia law still has relatively little guidance on the technical requirements for operating a crematory such as proper temperature, specifications for equipment, and requirements for monitoring emissions. This is in contrast to several other states, such as Florida, whose laws provide more detailed requirements for crematories. According to funeral directors and other industry experts who testified before the Committee, Georgia has been a beneficiary of higher regulatory standards elsewhere in North America, as equipment sold here meets industry standards that exist throughout the country. For example, cremation equipment sold in Georgia has a second chamber, which is not a regulatory requirement here but is required by law in other states.

Many of the controversies that have surrounded crematories in recent years have arisen when a crematory is opened near a residential area. Georgia law does contain some restriction on the location of a crematory. In 2009, the legislature enacted House Bill 68, which prohibits a crematory from being located within 1,000 feet of a residential subdivision. However, this provision applies only to stand-alone crematories not in operation as of July 1, 2009.⁵

Neither federal nor Georgia environmental regulations cover crematories. The Environmental Protection Agency has previously determined that human remains should not be considered as "solid waste," and thus crematories are not subject to the Clean Air Act's provisions regarding the incineration of solid waste.⁶ On the local level, crematories may be subject to local zoning ordinances governing such issues as capacity, location, odors, noise, and hours of operation.

Possible Environmental and Health Concerns Related to Cremation

The Committee heard a great deal of testimony on possibly hazardous emissions produced by

⁵ See O.C.G.A. 43-18-72 (2012).

⁶ "Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units; Final Rule," 70 Federal Register 241 (December 16, 2005), pp. 74870-74924, p. 74,881.

the cremation process and the risks to the health of those exposed from such emissions. In particular, many witnesses who addressed the Committee expressed concern over mercury emissions released as the result of the incineration of amalgam fillings. One expert who testified before the Committee was John Reindl, a retired environmental engineer and former Recycling Manager for Dane County, Wisconsin, who has researched mercury emissions from cremation. While available data is limited, Mr. Reindl did tell the Committee that the cremation process is a significant source of mercury emissions. According to one study he cited, in the United Kingdom, it is estimated that by 2020 mercury from cremation will account for up to 35 percent of mercury emissions in that country. Mr. Reindl also reported that studies have found elevated mercury levels in cremation workers.

While amalgam fillings are the source of most of the mercury emitted from the cremation process, the use of such fillings fortunately appears to be on the decline. Mr. Reindl reported to the Committee that dental use of amalgam fillings decreased by 46 percent from 2001 to 2007. Eventually, the use of such fillings may disappear completely, although Mr. Reindl noted that amalgam fillings typically last at least 15 years. Based on trends in amalgam use, Mr. Reindl estimates that mercury emissions from cremation should drop dramatically by 2035. Other witnesses spoke on the risks posed by the presence of amalgam fillings in cremated bodies. Randall Moore, who is currently working on a documentary entitled "You Put What In My Mouth?," which aims to expose the potential hazards of amalgam fillings, told the Committee that amalgam fillings are still widely used, with American Dental Association surveys showing the majority of its members still placing amalgam fillings.

Representatives of the mortuary industry who testified before the Committee generally contended that the small levels of mercury and other materials emitted by crematories pose little risk to the public. Bill Head, a funeral home director in Lilburn, told the Committee that studies have found that the amount of mercury emitted from a crematory over one year on average is approximately equal to the size of a sugar cube. Such small amounts of mercury, Mr. Head and others contended, fall well below regulatory thresholds.

Even if the levels of mercury emitted are low, the possible health risks related to mercury exposure have raised concerns among many citizens in Georgia. As Dr. Anne Summers of the University of Georgia explained to the Committee, there is no known lower level for toxicity of mercury. Clearly, scientists agree, mercury toxicity can have serious consequences to a person's health. According to the U.S. Environmental Protection Agency, exposure to elemental (metallic) mercury through the air can possibly result in symptoms such as tremors, emotional changes, insomnia, neuromuscular changes, headaches, changes in nerve responses, and impairment of cognitive function; at its most severe, such exposure could lead to impairment of kidney function, respiratory failure, and death.⁷ As an example of the extreme effects mercury exposure allegedly had on a person, McCracken Poston, a former state legislator and attorney who represented Ray Brent Marsh, contended that mercury poisoning may have played a role in his client's strange behavior. Mr. Marsh has never been able to give an explanation as to why he failed to cremate the bodies in his charge, as it took as much if not more effort to dispose of the bodies in the manner that he did as it would to have cremated them. According to Mr. Poston, Mr. Marsh's odd behavior is consistent with the altered mental state that sometimes results from mercury poisoning.⁸

⁷ See the U.S. Environmental Protection Agency's website on mercury's health effects at <http://www.epa.gov/hg/effects.htm#elem>.

⁸ Mr. Poston also theorized that Mr. Marsh's father's health problems, which caused the elder Mr. Marsh to turn over operations of the Tri-State Crematory to his son, may have been the result of excessive

Possible Ways to Reduce the Potential Hazards of Cremation

During the course of its meetings, the Committee examined possible changes in laws and practices that would minimize the effects of emissions from crematories. No one who spoke before the Committee advocated a reduction in the practice of cremation, as it clearly serves an important need. Instead, witnesses provided information and ideas on how to make this practice safer for Georgians. Tia Severino, a Tucker resident, advocated that legislators reexamine Georgia law on the opening of new crematories, which makes it hard to open a stand-alone crematory in a residential area but fairly easy to add on to an existing funeral home. Mrs. Severino told the Committee that, given the need to further examine crematory emissions and the possible effects of these emissions on human health, she would like to see a decrease in the number of crematories opening in residential areas, perhaps locating crematories in rural or industrial areas instead. Mrs. Severino, along with Phyllis Marshall, a resident of Habersham County, recommended that new crematories not be allowed to operate within 1000 feet of residential subdivisions, schools, or day care facilities.

At the Committee's first meeting, Paul Rahill, president of the cremation division of Matthews International, a leading manufacturer of crematories, discussed technology available to reduce emissions from the cremation process. In the United Kingdom and other European countries, crematories are commonly fitted with a filtration system to greatly reduce the emission of mercury and other substances. However, such systems are very expensive. According to Mr. Rahill, a filtration system adds approximately \$500,000 to the cost of installing a crematory (the average base cost of a crematory is approximately \$110,000). Another option Mr. Rahill discussed was bio-cremation. With bio-cremation, the body is cremated by a chemical process using potassium hydroxide; this process does not vaporize or emit mercury and requires 90 percent less total energy than traditional flame cremation. However, this too is a very expensive option, with bio-cremation equipment costing approximately \$750,000.

Aside from the issue of directly preventing mercury and other substances from being emitted, another topic that was discussed was the monitoring of emissions to get a better sense of how much is emitted and to alert crematory operators of excessive emissions. Monitors to measure emissions are fairly easy to use and somewhat more affordable than options such as filtration systems or bio-cremation. Still, the cost of such monitoring can be significant; according to Mr. Rahill, the cost for installing continuous emission monitoring equipment could cost anywhere from \$75,000 to \$125,000, with ongoing service and calibration for the equipment costing as much as \$1,500 per month.

Another approach to monitoring the impact of crematory emissions that was discussed was testing surrounding soil for substances such as mercury, dioxin, lead, cadmium, and sulfur. Phyllis Marshall and Mrs. Severino advocated requiring crematories located within 1000 feet of subdivisions, schools, or day care facilities to conduct periodic soil testing; under their proposal, such testing should be at the crematories' expense and be conducted by independent agents. The costs for such tests are fairly modest; according to Ms. Marshall, testing by the University of Georgia costs approximately \$42 for mercury and lead, and only \$8 for cadmium and sulfur.

Ms. Marshall and Mrs. Severino also proposed requiring cremations to occur only during daytime hours, which would allow neighbors to see what, if any, smoke was being emitted into the air. A neighbor who sees smoke could then choose to photograph it and send this evidence

mercury exposure.

to the Environmental Protection Division with a request for action if warranted. Smoke emitted during night time cremations may be masked by the darkness, making it impossible for neighbors to see for themselves what is being emitted into the air.

Ms. Marshall and Mrs. Severino also spoke about the need for thorough testing by regulators. As part of the inspections of crematories, they suggested that state inspectors be required to stay for the complete cremation process to see whether or not smoke was being emitted. They also recommended that the regulatory board check crematories for smoke, noise, and odor, when conducting investigations.

Another idea that was discussed was the extraction of amalgam fillings prior to cremation. Extraction of fillings is a very controversial subject, however, with witnesses involved in the mortuary industry insisting that this is not a feasible solution. According to Mr. Rahill, no one in the United States removes fillings prior to cremation. Not only is the removal of dental fillings extremely difficult and outside of the skillset for most morticians, Mr. Rahill told the Committee, but the removal may in some cases constitute illegal mutilation of a corpse.

Actions in Other States

To date, no state has enacted legislation that specifically addresses preventing mercury emissions from crematories, although such legislation has been introduced in recent years. During a presentation to the Committee, Scott Hendrick of the National Conference of State Legislatures described legislation that had been introduced in Hawaii, Maine, and Minnesota. In 2005 and 2007, bills were introduced in Minnesota that would have required the removal of dental amalgam fillings before cremation.⁹ In Hawaii, a resolution was introduced in 2008 that called for at least one particular crematorium in the state to be equipped with filters to capture toxins.¹⁰ In 2005, Maine's legislature considered legislation that would have combined both of these approaches, by requiring crematories to either remove dental amalgam fillings prior to cremation or to capture the mercury from emissions prior to release into the air.¹¹

States have also taken non-legislative action to lower mercury emissions from crematories. The Minnesota Pollution Control Agency used the Clean Air Act to reach an agreement with the state's crematories to reduce mercury emissions to 32 pounds per year by 2025.¹² Other states, such as Vermont, have utilized legislative committees to explore issues surrounding mercury emissions from crematories and other sources.¹³

Although not directly related to the reduction of mercury emissions, another idea for legislation that was discussed was more thorough standards for crematory operations. Mr. Rahill of Matthews International noted that unlike Georgia law, which does not address the technical requirements for conducting a cremation, many states have codified standards for crematories. He cited Florida's statutes on crematories as an example of a well-crafted law.¹⁴

⁹ Minnesota H.B. 661 and S.B. 641 (2005) and S.B. 3884 (2007).

¹⁰ That resolution, H.C.R. 337 (2008), resolved that "any crematorium that PRM is planning for Paradise Memorial Park be equipped with the appropriate filters that can capture the toxins that are emitted during cremation."

¹¹ Maine H.B. 616a (2005).

¹² At the time the agreement was entered into, in 2005, emissions were estimated to be at 80 pounds.

¹³ The Vermont Advisory Committee on Mercury Pollution was established by the Vermont legislature in 1998 and sunsetted on July 1, 2011.

¹⁴ See Fla. Stat. §§ 497.606 to 497.609 (2012).

CONCLUSION AND RECOMMENDATIONS

As more crematories open to meet the increasing demand for cremation, a growing number of Georgians will likely grapple with the possible health and environmental implications posed by crematory operations within their communities. While cremation is a popular and largely safe means of disposal of human remains, the process may emit small amounts of metals such as cadmium, lead, and mercury, among other emitted materials. The amounts of these substances emitted by the cremation process may be too small to pose a health or safety risk, but it is nonetheless important for the public to be able to remain confident that their health and the health of their families is not being compromised as a result of nearby cremation operations. To that end, the Committee makes the following recommendations:

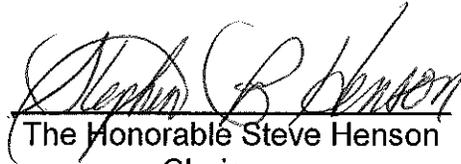
- 1. Urge the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources to conduct further study.** The EPD is the Georgia agency charged with the enforcement of state environmental laws, including the Air Quality Act. EPD regulations exempt funeral homes and crematories from air quality permitting requirements, and neither the EPD nor the federal Environmental Protection Agency currently regulates cremation emissions. However, because of the increasing concerns of Georgians living and working near crematories, the Committee believes it would be useful for the EPD to provide further analysis of the possible environmental implications of cremation as a means to reassure the public of their relative safety. The Committee urges the EPD to, subject to available funds, conduct further study of the environmental impact of cremation in Georgia, including air analysis to determine what substances are emitted and the amounts of such emissions.
- 2. Urge the mortuary industry to adhere to the highest standards for cremation operations and to monitor cremation emissions.** In the course of its study, the Committee heard testimony from several individuals involved with the mortuary industry on options available to minimize the environmental impact of cremation. This Committee encourages all individuals who provide cremation services in Georgia to adhere to the highest standards of the mortuary industry in North America, including regular maintenance of cremation equipment. The Committee also encourages the industry to monitor the emissions of crematories, including continuous monitoring of emissions if practical.
- 3. Urge the Board of Funeral Services to adopt comprehensive standards for cremation and to ensure thorough inspections of crematories.** Crematories are licensed and regulated by the Georgia Board of Funeral Services. In the course of its study, the Committee found that Georgia laws and regulations are relatively silent on many of the technical aspects of cremation, including, but not limited to, the proper temperature for cremating a body and specifications for equipment. While most crematories in Georgia adhere to the appropriate industry standards on safety, the Committee found that the laws of many other states, such as Florida, provide more thorough requirements for crematories. The Committee believes that such standards would be a useful means of ensuring public safety and thus encourages the Board of Funeral Services to consider adopting regulations that provide comprehensive standards for cremation.

Georgia law provides for all licensed crematories to be inspected at least annually. According to the Board of Funeral Services, there are currently four inspectors in the state who conduct crematory inspections. The Committee urges the Board to ensure that these inspectors are thoroughly trained on the proper examination of crematory equipment and operations, including training on warning signs of potential problems.

At the Committee's final hearing, representatives of the Board announced that they were considering proposed amendments to the rules on crematory regulation; these rule changes were formally adopted by the Board in December. Under the new rules, all crematories will have to have an annual inspection of their retort by the manufacturer or other authorized crematory repair company to ensure proper operations. The funeral director in charge of a crematory will be required to notify the Board within five days of the inspection of a less than satisfactory report, and the crematory will be required to make necessary repairs within 30 days or face immediate suspension of its license. The Committee believes that these changes to the Board's rules are an important step towards greater oversight, and the Committee urges the Board to continue to consider ways to enhance regulations to ensure that all cremations in Georgia are conducted in the safest and most environmentally sound manner possible.

Respectfully submitted,

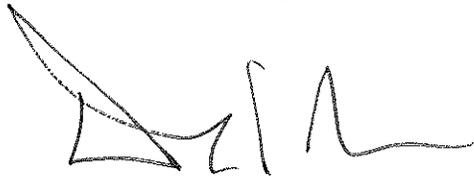
THE SENATE CREMATORIA STUDY COMMITTEE



The Honorable Steve Henson
Chairman
State Senator, District 41



The Honorable Butch Miller
State Senator, District 49



The Honorable David Shafer
State Senator, District 48



The Honorable Valencia Seay
Ex-Officio
State Senator, District 34

Mandan Union Cemetery Property

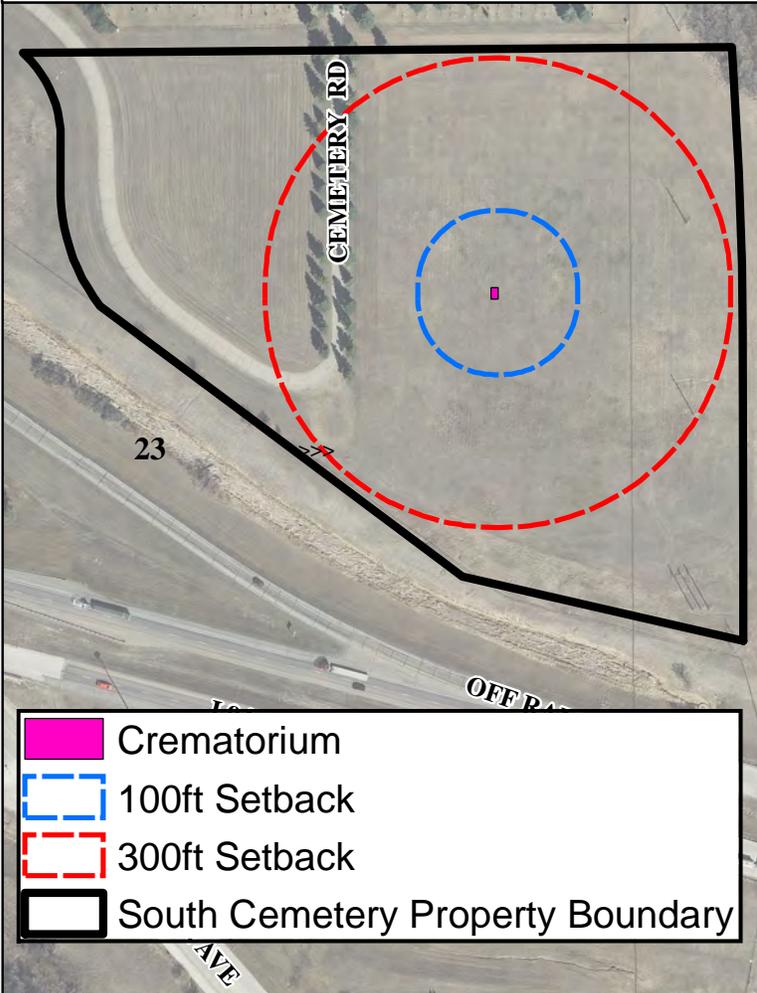


Exhibit 7

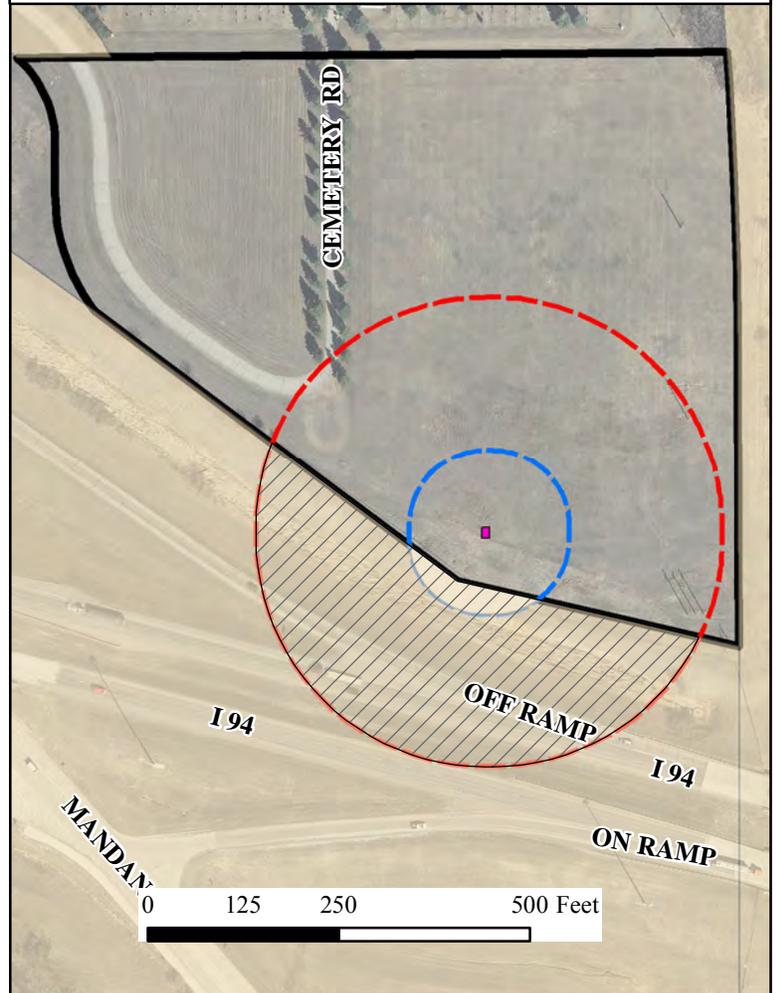
Example Setbacks applied to
Mandan Union Cemetery
Property

FOR ILLUSTRATIVE
PURPOSES ONLY

Placement NOT Allowing Encroachment into Right-of-Way



Placement Allowing Encroachment into Right-of-Way





Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 11, 2019
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Transfer of funds from 2018 Growth Fund & Visitors Promotion Fund to 2019 Budgets

STATEMENT/PURPOSE: To consider transferring funds from the 2018 Growth Fund and Visitors Promotion Capital Construction Fund to the 2019 budget for approved economic development projects and business development operations, an approved phase II community way-finding project, and the remainder of a contract for services in connection with West Main redevelopment.

BACKGROUND/ALTERNATIVES:

GROWTH FUND. The 2018 budget was underspent by \$309,572.57. The vast majority, \$248,477.57, was for approved economic development projects not completed in 2018 or completed for less than approved amounts. The remainder, \$61,095, is for the business development and communications department's operating and management budget, including unspent funds for uncompleted projects. I request to transfer the following amounts to the 2019 budget for completion of certain projects and initiatives:

SUBSIDY-OTHER (224.224.65118) - \$156,962.90

Requesting a transfer from this line item from 2018 to 2019 for the following:

- Local match for Bank of North Dakota Flex PACE interest buydown program
 - Project financing closed but buydown being provided annually for the remainder of the respective buydown periods
 - \$13,399 — National Information Solutions Cooperative, 3201 Nygren Dr NW (\$25,871.53 remaining in total for payment through buydown period ending in 2020)

- \$11,775 — BBSC Properties (Prairie Rose Family Dentists) Overlook Lane NW (buydown period ends in 2019)
 - \$21,330.70— Developers LLC (phase II of Memorial Square Shopping Center, 4524 Memorial Hwy) – (\$99,944 total buydown to be structured over five years upon permanent financing)
 - \$6,819.20 —Dickey’s Barbecue Pit, 4524 Memorial Hwy (\$19,670 remaining in total for buydown period ending in 2023)
 - \$2,996 — Grand Junction Grilled Subs, 4524 Memorial Hwy (\$5,308.86 remaining in total for buydown period ending in 2023)
 - \$11,429 — Culver’s, 1704 E Main St (\$53,846 remaining in buydown period ending 2024)
- Storefront Improvement Projects
 - Not yet finalized or complete
 - \$24,104 — Redmann Law PC, 107 First Ave NW
 - \$30,000 — Al Fitterer, 200 3rd Ave NW
 - \$30,000 — West River Properties, LLC, 417 E Main St
- Retail and Restaurant Incentive Stipend
 - \$2,463 — B&C Naturalizer Store (dba Shoezam Shoes), 4524 Memorial Hwy, Suite 105 (last monthly stipend to be paid May 2019)
 - \$2,647 — Chris McCory of Guitar Lot, 100 Collins Ave, Suite 103 (last monthly stipend to be paid in July 2019)

Business Development O&M section

- **SALARIES & BENEFITS (224.224.51000) - \$7,741.00**

A transfer is requested from 2018 to 2019 to for payout of annual leave in excess of the carryover cap. For leave not used in 2018, this was approved at the Jan. 22, 2019 meeting of the City Commission.
- **ADVERTISING/PUBLIC RELATIONS (224.224.57110) - \$1,857**

A transfer is requested from 2018 to 2019 for joint community marketing activities yet to be completed, specifically online promotion of videos completed in late 2018.
- **PRINTING (224.224.57113) - \$2,870**

A transfer is requested from 2018 to 2019 for a Business Development 2018 Community Report completed in January 2019.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Transfer of funds from the 2018 Growth Fund, Visitors Fund & 1% City Sales

Tax Fund to 2019 Budgets

Page 3 of 3

CITY VISITORS PROMOTION CAPITAL CONSTRUCTION FUND

(434.434.62210) — \$72,212.81

This is for phase II of a visitor way-finding sign project. Phase II was approved Aug. 1, 2017, to not exceed the remainder the funds from a Phase I project, or \$250,000 in total for both phases. A transfer to the 2019 budget is requested to the remainder of a contract with Berberich Design (now merged with BDT Architects & Designers) as well as sign fabrication and installation with Mann Signs. Project completion is expected by late spring or early summer.

ATTACHMENTS: n/a

FISCAL IMPACT: Finance Director Greg Welch has reviewed the requests and indicates the funding is available.

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend transferring the amounts outlined from the FY2018 budget balance to FY2019 budget.

SUGGESTED MOTION: I move to approve the outlined budget transfers for the Growth Fund and Visitors Promotion Fund from the fiscal year 2018 budget balance to the fiscal year 2019 budget.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: February 28, 2019
SUBMITTING DEPARTMENT: Fire
DEPARTMENT DIRECTOR: Chief Nardello
PRESENTER: Chief Nardello
SUBJECT: Consider 2019 budget amendment

STATEMENT/PURPOSE: Consider transferring unused fire department funds from the 2018 budget to the fire department 2019 vehicle repairs budget.

BACKGROUND/ALTERNATIVES: The Mandan Fire Department anticipated minimum vehicle repairs in 2019 and planned for \$6,600 in motor vehicle repairs. Unfortunately, two fire engines required repairs in February of this year with one requiring major engine repair that exceeds the 2019 motor vehicle repairs budget. We are requesting that \$40,000 be transferred from the 2018 remaining fire department budget and placed into the 2019 fire department motor vehicle repairs budget.

ATTACHMENTS: None

FISCAL IMPACT: The 2018 fire department budget has a balance of \$132,108.47 which will leave a \$92,108.47 for the general fund.

STAFF IMPACT: None

LEGAL REVIEW: None

RECOMMENDATION: I recommend to amend the fire department 2019 budget to include a \$40,000 increase to motor vehicle repairs with funds coming from the fire department's 2018 budget balance.

SUGGESTED MOTION: Move to amend the fire department 2019 budget to include a \$40,000 increase to motor vehicle repairs with funds coming from the fire department's 2018 budget balance.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 15, 2019
SUBMITTING DEPARTMENT: Finance
DEPARTMENT DIRECTOR: Greg Welch
PRESENTER: Greg Welch, Finance Director
SUBJECT: Budget transfer from FY 2018 to FY 2019 for Utility Billing department.

PURPOSE:

Consider the request from the Utility Billing department to transfer \$7,150 from the 2018 Budget to the 2019 Budget for the final Proposal from National Information Solutions Cooperative (NISC) for utility billing services.

BACKGROUND:

On December 18, 2018, the Board of City Commissioners approved the preliminary Proposal from NISC for utility billing services.

On March 8, 2019, the City received the final Proposal from NISC for utility billing services. The final Proposal included one-time fees amounting to \$7,150 that were not included in the preliminary Proposal. The increase in fees is due to \$3,700 that was inadvertently omitted by NISC and \$3,450 for custom programming that was determined (after the preliminary Proposal) to be necessary for the implementation to convert from the City's current utility billing software (AS/400 version) to the NISC iVUE Customer Care & Billing solution.

ATTACHMENT:

Final Proposal from National Information Solutions Cooperative

FISCAL IMPACT:

The Utility Billing department has available funds remaining from the 2018 Budget.

STAFF IMPACT:

None

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Budget transfer from FY 2018 to FY 2019 for Utility Billing department.

Page 2 of 2

LEGAL REVIEW:

N/A

RECOMMENDATION:

To approve the request from the Utility Billing department to transfer \$7,150 from the 2018 Budget to the 2019 Budget for the final Proposal from National Information Solutions Cooperative (NISC) for utility billing services.

SUGGESTED MOTION:

Move to approve the request from the Utility Billing department to transfer \$7,150 from the 2018 Budget to the 2019 Budget for the final Proposal from National Information Solutions Cooperative (NISC) for utility billing services.

**iVUE Budgetary Proposal
Member Estimate**

Prepared For

**City of Mandan (CMND)
Mandan, ND**

March 8, 2019

National Information Solutions Cooperative®

Proposal Prices are valid for 60 days - Expires -

May 7, 2019

All of our rates are subject
to change based on Board resolution.





ivUE Enterprise Cost Summary

Description	One-Time Fee	Monthly Recurring
NISC ivUE Monthly Recurring¹	\$ -	\$ 6,395
Based on 7,458 Unique Accounts; 7,246 Water; 7,246 Calculated Sewer; 7,384 Storm Water; 6,556 Trash; 6,299 Recycle; 7,249 Street Lights; and 9 Concurrent Users		
Service²		
Customer Care & Billing (CC&B), ASP Document Vault, ivUE Connect: Service, SmartHub		
Integrated Solutions³		
Application Service Provider (ASP)		
NISC ivUE Professional Services⁴	61,485	
Includes 6 Service Trips		
Automated Mailroom Services⁵		1,127
Estimated printing labor, paper, envelopes, return envelopes and estimated fees for simplex, black & white bills. Estimated for 7,400 printed bills per month and 1,500 image only bills. Postage not included.		
Payment & Credit Channels	-	TBD
NISC Payment Gateway⁶ - PCI Payment Processing		
Online Bill Interface (OBI) - \$0.10 per transaction		
Third-Party Interface Fees⁷ and Custom Programming⁸	8,000	100
Open API Interface Fees		
Readings and Asset Data (AMI) - (Sensus)		
Standard Interfaces - None Identified		
Custom Interfaces - None Identified		
Custom Programming		
Water Rate Calculation Unit - CR #3294315	1,500	-
EDI Processing Monthly Report - CR #3288803	450	-
Sensus Water Readings - CR #3505078	3,000	-
ivUE Enterprise Total	\$ 74,435	\$ 7,622

ivUE Third-Party Software & Hardware

Description	Annual Fee	One-Time Fee	Monthly Recurring
Third-Party Hardware⁹ & Software¹⁰	\$ -	\$ 603	\$ -
Hardware and Infrastructure Software			

Preliminary Proposal Estimate Notes

This proposal provides the best effort estimation of initial and recurring costs for the implementation and support of the NISC ivUE systems. To provide the initial scope used for this proposal, both parties have engaged in mutually beneficial discussions in order to better define the project requirements and manage risks. It is understood that any change to the hardware, software, functional requirements or Project Plan requires the agreement of both parties as defined in the Change Management section in the Statement of Work document (SOW).

The core CC&B ivUE offerings referenced in this summary proposal include the following:

ivUE Customer Care & Billing "CC&B"

- Customer Billing
- Cash Register
- Equipment Records
- Work Management (Work Queue & Scheduler)
- Contract Tracking
- Service Orders

Additional Notes:

¹ The NISC bundled products monthly support fee is based on the number of Unique Accounts, Water, Calculated Sewer, Storm Water, Trash, Recycle, Street Lights, and 9 Concurrent Users and is adjusted quarterly to reflect current counts.

² Service

- The iVUE CC&B implementation includes conversion of the legacy billing application and up to five (5) years of history. The implementation does not include data conversion from outside applications other than the legacy database. Such requests are billable beyond the implementation fee presented in this estimate.
- Document Vault implementation does not include conversion of existing documents. If you have an existing document management system in place and are considering converting documents to the Document Vault, please contact NISC to discuss conversion options and pricing.
- iVUE Connect - Service is the first of several functional areas to be introduced under the iVUE Connect family. This estimate includes the "Service" functional area only. As additional functional areas become available, pricing can be provided for those modules at that time.

³ Integrated Solutions

- NISC will provide and maintain an adequate computer system and operating system for the Member's needs. These systems will be installed by NISC at an approved hosting site and placed on a 48-month depreciation cycle to assure industry acceptable performance of the NISC software functions. Normal vendor maintenance agreements and the constraints they entail will be kept in place by NISC on the installed systems and are included in the monthly fees.
- ASP requires a local area network and a dedicated connection of adequate capacity are the responsibility of the CMND.
- Each location must have a VPN termination; i.e. Main Office and Remote Office(s). There is a one-time fee of \$200 per termination point. The proposal assumes one (1) Main Office location; additional locations will incur a \$200 termination fee per location. The stability of the VPN is critical for access to iVUE ASP. An NISC managed firewall at the Member site is the preferred solution and offers the quickest time to resolution for the Member if there are any VPN issues. Contact the NISC VPN Group for managed firewall services and estimates (tech-support-vpn@nisc.coop). Configuration, updates, and maintenance of non-NISC managed firewalls are the sole responsibility of the Member's firewall administrator. Members using non-NISC managed services may be subject to support fees from NISC at the current hourly rate, if required. The current NISC Hourly Rate is \$150.
- Network printers are required for all ASP printing. Printers connected to local workstations are not supported. Receipt printers also must be connected to the network. Receipt printers connected to local workstations are not supported.
- The iVUE server, related hardware, and software is installed and hosted at Basin Technology Inc., (BTI), a subsidiary of Basin Electric Power Cooperative. Connectivity requires a high-speed Internet connection with a static IP address for iVUE ASP access. A dedicated connection to an ISP and a commercial grade firewall, capable of IPsec Point-to-Point VPN, is needed prior to install and is the CMND's responsibility. The CMND's internet connection to the hosted iVUE equipment is crucial for continuous connectivity. A redundant Internet connection through a different ISP is recommended. The local ISP connectivity cost is the responsibility of CMND.

⁴ Professional Services

- On-site training will be Monday - Friday during normal business hours. Travel time for on-site training will occur during normal hours Monday - Friday.
- ⁵ Automated Mailroom Services (AMS) recurring pricing is estimated since pricing is based on volume and number of billing cycles. The estimate includes envelopes, paper, and printing labor; however, consumables are subject to change based on current pricing and will be billed at actual. Inserts and postage fees are not included. First month's postage is doubled to pre-fund the next month's postage. Please reference the detailed AMS page for detailed pricing.
- ⁶ NISC offers a variety of PCI compliant payment options for accepting credit card and electronic checks through multiple NISC payment channels. NISC will work with you to provide PCI compliant payment estimates to meet you and your customers' needs. The NISC Payment Gateway is required to process real-time payments to interface with iVUE and other related solutions including SmartHub Customer Self-Serve.
- ⁷ Additional interfaces may be determined through discovery discussions during the analysis phase as well as throughout the iVUE implementation lifecycle as interface needs are identified. If additional interface requirements are discovered that are not included in the proposal, pricing will be provided at that time.
- ⁸ Custom Reports and Programming will be invoiced at full NISC Hourly Rate. All other Professional Services requested to meet non-standard business requirements during the iVUE implementation will be invoiced at half the NISC Hourly Rate. Once transitioned to general support, all Professional Services requested will be invoiced at the full NISC Hourly Rate of \$150.
- ⁹ Equipment purchased through sources other than NISC must meet NISC hardware requirements. Member purchased equipment that is found to require additional hardware, software, travel and/or labor hours to meet these requirements will be the responsibility of the Member. Additional labor by NISC to meet these minimums will be invoiced at the NISC Hourly Rate of \$150.
- ¹⁰ ASP Document Vault requires RemoteScan, client-based software. A license is required for each PC that scans directly into ASP Document Vault. The Remote Scan software license is tied to the PC on which it is registered and expires when the PC is retired. NISC recommends that a new or later model PC be used with the scanner.

NISC Automated Mailroom Services (AMS)

Bill Print Setup One-Time Fee

A bill print setup fee is incurred when using either a Third-Party bill print vendor or if bills are printed in-house. The bill print setup fee covers the additional Third-Party vendor or in-house setup and support requirements. If using NISC's

<u>Bill Print Setup One-Time Fee</u>	
Using NISC AMS for Bill Print - Waived setup fee	\$ -

Data Processing & Imaging

Data Processing and Imaging applies to all bills including both printed and/or electronic only bills. Data Processing includes the rendering and indexing of the bill images.

<u>Data Processing</u>	<u>Unit Type</u>	<u>Unit Price</u>
Data Process & Imaging	Per bill	\$ 0.030

Laser Print Fees

Laser Print Fees apply to all printed bills and are based on a bill print format of either simplex (single sided) or duplex (front and back). If a duplex print format is selected, all pages are subject to the duplex fee regardless of whether or not anything is printed on the back side of the page.

<u>Simplex Rate Description – front only</u>	<u>Unit Type</u>	<u>Unit Price</u>
Black Only	Per page	\$ 0.025
Color - low yield	Per page	0.035
Color - medium yield	Per page	0.045
Color - high yield	Per page	0.055

<u>Duplex Rate Description – front/back</u>	<u>Unit Type</u>	<u>Unit Price</u>
Black front / black back	Per page	\$ 0.050
Low color front / black back	Per page	0.060
Low color front / low color back	Per page	0.070
Low color front / medium color back	Per page	0.080
Low color front / high color back	Per page	0.090
Medium color front / black back	Per page	0.070
Medium color front / low color back	Per page	0.080
Medium color front / medium color back	Per page	0.090
Medium color front / high color back	Per page	0.100
High color front / black back	Per page	0.080
High color front / low color back	Per page	0.090
High color front / medium color back	Per page	0.100
High color front / high color back	Per page	0.110

Laser Print Volume Discount

Laser Print Volume Discount applies to volumes above the discount threshold and is applied to the Simplex and Duplex Laser Print pricing outlined within this section.

<u>Laser Print Volume Discount</u>	<u>Discount</u>
Pages 1 - 50,000 Per Month	N/A
Pages over 50,000 Per Month	50%

Inserting

Bill and Delinquent (DQ) page Inserting labor includes the folding and inserting of printed bill pages. Additional Insert labor for marketing or advertising material assumes inserts are pre-folded or have a finished cut size of the pre-folded Insert.

Insert Labor	Unit Type	Unit Price
Insert Labor - bill pages, DQ pages	Per page	\$ 0.038
Additional Insert Labor - Marketing / advertising material	Per page	0.020

Consumables

Consumables include paper and envelopes. Consumable pricing is subject to change based on current costs.

Consumable Description	Unit Type	Unit Price
Paper – 8 ½" x 11"	Per page	\$ 0.015
Carrier Envelope	Per envelope	0.022
Return Envelope	Per envelope	0.022

AMS Notes:

The Intelligent Mail Barcode (IMB) is a USPS requirement in order to retain any automated postal discounts. In addition to printing the new IMB on the statement, a new feature will allow each Member to track their mail through our mail tracking website. Each forwarding address will also be delivered electronically back to each Member at a reduced cost by utilizing this new technology.

Inserts-Up to three additional items may be inserted in addition to your statement and return envelope. The Automated Mailroom Services (AMS) department will contact you regarding your insert specifications. NISC can provide inserts through a local printer. Inserts must be received 3-to-4 days prior to the statement processing.

Programming and Quality Assurance time to complete a new bill print normally ranges between 40-60 hours depending upon the complexity of the bill print format. A delinquent print normally requires 10-15 hours of programming depending upon the complexity of the format. Hours will be charged at current NISC Hourly Rate.

A minimum charge of \$35 applies to all production jobs for any standalone print job such as Final Bill Immediate, Delinquent Notices, and Special Bill runs.

*A bill print setup fee is incurred when using either a Third-Party bill print vendor or if bills are printed in-house. This fee includes the development of one (1) bill print, DQ, and cutoff notice. If using NISC's Automated Mailroom Services, the \$4,500 bill print setup fee will be waived.

**** Costs do not include postage which will bill at actual. Consumables are subject to change based on current pricing and will bill at actual. First month's postage is paid in advance.****

NISC will insert the bill and return envelope into a carrier envelope. Bills are mailed from Lake St. Louis, MO Zip Code 63367. Only the 63367 Zip Code will show on the carrier envelope.

IVUE Third-Party Software & Hardware

Line Item	Description	Qty	Unit Price	Extended Price	Monthly Maint	Annual Maint
IVUE Third-Party Software & Hardware						
<u>IVUE Software</u>						
1	Use NISC's ASP Hosted Third-Party Software to include Oracle and i-Net Clear Application Server	1	-	-	-	-
2	i-Net Clear Reports Professional	1	297	297		
<u>IVUE Equipment</u>						
3	Use NISC's ASP Hosted Server to host iVUE	1	-	-		
<u>SmartHub Equipment</u>						
4	Use NISC's ASP Hosted Server to host SmartHub	1	-	-		
<u>Document Vault Hardware & Software</u>						
5	Remote Scan Client Software	1	306	306		
6	Vault Scan Station PC - Use Existing	1	-	-		
7	Vault Scanner - Use Existing Vault Approved Scanner	1	-	-		
<i>Third-Party Hardware & Software Total</i>				\$ 603	\$ -	\$ -



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19th, 2019
PREPARATION DATE: March 12, 2019
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Jason Ziegler
PRESENTER: Jason Ziegler
SUBJECT: Expenditure balance transfer from 2018 budget to 2019 budget

STATEMENT/PURPOSE: The police department would like to transfer unused funds, approved in the 2018 budget for K9 expenses, to the 2019 budget.

BACKGROUND/ALTERNATIVES: In 2018, this commission approved funding to purchase a K9, the needed training, and equipment for the K9. There was not enough time in 2018 to complete this project. The police department has purchased some equipment for this project. The rest of the funding that was approved in 2018 is still needed to complete the project. The balances of two line items would need to be transferred. The first is 121-59713 "Special Operations" with a balance of \$2,300.00, and 121-62114 "Capital Outlay" with a balance of \$17,211.00.

ATTACHMENTS: None

FISCAL IMPACT: Amendment of the 2019 budget. The balances of 2 line items would need to be transferred from the 2018 budget to 2019. The first is 121-59713 "Special Operations" with a balance of \$2,300.00, and the 2nd is 121-62114 "Capital Outlay" with a balance of \$17,211.00.

STAFF IMPACT: None

LEGAL REVIEW: This document has been sent to Attorney Brown for his review.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19th, 2019

Subject: Expenditure balance transfer from 2018 budget to 2019 budget

Page 2 of 2

RECOMMENDATION: I recommend amending the 2019 budget for the police department by transferring 2018 fund balances to the 2019 budget. The line items to transfer are 121-59713 “Special Operations” with a balance of \$2,300.00, and the 2nd is 121-62114 “Capital Outlay” with a balance of \$17,211.00.

SUGGESTED MOTION: Move to approve amending the 2019 budget for the police department by transferring 2018 fund balances to the 2019 budget. The line items to transfer are 121-59713 “Special Operations” with a balance of \$2,300.00, and the 2nd is 121-62114 “Capital Outlay” with a balance of \$17,211.00.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 13, 2019
SUBMITTING DEPARTMENT: Planning and Engineering
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: Transfer of funds from 2018 Planning and Engineering Budgets to 2019 Planning and Engineering Budgets.

STATEMENT/PURPOSE: To consider transferring the Planning and Engineering Department's 2018 Expenditure Budget savings to the 2019 Budget for ongoing projects and other items related to department efficiency and an unexpected change in chemical supply in the case of the Water Treatment Facility and pump needs at the Wastewater Treatment Facility.

BACKGROUND/ALTERNATIVES:

Planning and Engineering, including the Water Treatment Facility, project and study carry-overs:

The Planning and Engineering Departments have twelve study and project related items to request budget carry-over into 2019. They are shown on the attached "2018 Expenditure Budget Transfers to Fiscal Year 2019" sheet. The five of them with yellow highlighting relate to budget items necessary to plan and complete projects related to the Water Treatment Facility. The seven items that are not highlighted are those studies and projects initiated by the City Hall Planning and Engineering staff. All of these projects and studies were expected to or considered possible to fall into the 2019 expenditure year, however, the projects were budgeted for expenditure in full within the budget year of project initiation. Many of the planning studies with relatively small balances are near the completion of them, however, the Metropolitan Planning Organization has not sent a final bill in order to officially close. More info is available from the Planning and Engineering Department upon request for any of these projects or studies.

Water Treatment Facility Additional request:

In addition to the requests highlighted on the sheet provided by the finance department, the Water Treatment Facility is requesting an additional **\$14,630** to be carried over of the \$14,707 unused in the 2018 chemical supply budget in order to pay for an unexpected

increase in carbon dioxide which was known to us in September of 2018. Superintendent Duane Friesz explains in more detail within the highlighted text of the email attachment.

Wastewater Treatment Facility request:

Steve Himmelspach, Waterwater Treatment Facility Superintendent, has requested a budget carry-over amount of \$5,370.85 to make sure we are covered for pump needs at the facility. Steve has provided more explanation on the attached.

Engineering small equipment request:

It is common for the Planning and Engineering Department to have meetings in small groups of 3-8. It is also common for a monitor to be beneficial in these meetings to display exhibits and maps, etc. to the group. It is increasingly important as we move towards less paper and all of our files stored on computer network drives. In order to more efficiently work, we would like to transfer **\$1,000** for a large monitor (along the lines of 55" to 65" to mount in our back room so that we can host such meetings directly in our office more effectively. The requested transfer would be from budget code # 100.113.59215.

Engineering software request:

Our department, along with Public Works received a presentation on MS4 permit management software. Our MS4 (Municipal Separate Storm Sewer System) permit is a required permit for cities of our size to assure the state that we are doing our part to assure control the quality of the water that is released to rivers lakes and streams. We did not buy the software last year for lack of staff and training to operate and also not comparing with other possible software options. We would like to further consider this software in order to most efficiently manage this permit. The requested budget carry-over amount for this would be the **\$4,776** shown in blue highlighter. The requested transfer would be from budget code # 100.113.62113.

ATTACHMENTS:

- 1) "2018 Expenditure Budget Transfers to Fiscal Year 2019" sheet provided by the finance department.
- 2) Email from Duane Friesz, Water Treatment Facility Superintendent explaining need to transfer.
- 3) Letter and invoice provided by Steve to explain the need for carry-over.

FISCAL IMPACT: Finance Director Greg Welch has reviewed the requests and indicates the funding is available.

STAFF IMPACT: Minimal

LEGAL REVIEW: The City Attorney was forwarded as part of the full agenda packet.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Transfer of funds from 2018 Planning and Engineering Budgets to 2019
Planning and Engineering Budgets.

Page 3 of 7

RECOMMENDATION: I recommend transferring the amounts outlined from the
FY2018 budget balance to FY2019 budget.

SUGGESTED MOTION: I move to approve the outlined budget transfers for the Growth
Fund and Visitors Promotion Fund from the fiscal year 2018 budget balance to the fiscal
year 2019 budget.

2018 EXPENDITURE BUDGET TRANSFERS TO FISCAL YEAR 2019

Fund	Purpose	Total	Code
General	Planning and Zoning Department-Metropolitan Planning Organization (Traffic Data Acquisition)	\$ 291	100.112.52110
General	Planning and Zoning Department-Metropolitan Planning Organization (2015 Travel Demand Model & Socio-Economic Projection Project)	\$ 14	100.112.52110
General	Planning and Zoning Department-Metropolitan Planning Organization (Regional Freight Study 2018)	\$ 19	100.112.52110
General	Planning and Zoning Department-Metropolitan Planning Organization (Metropolitan Transportation Plan 2020-2045)	\$ 5,853	100.112.52110
General	Engineering Department-ArcGIS/MS4 Permit Tracking Software	\$ 4,776	100.113.62113
1% City Sales Tax	ND Department of Transportation-High Mast Lighting Maintenance (I-194 and Memorial Highway)	\$ 2,566	214.214.62210
Water and Sewer Utility	Engineering Department-Houston Engineering (Storm Water Management Plan)	\$ 10,950	601.656.62998
Water and Sewer Utility	Engineering Department-Apex Engineering (Master Lift Station)	\$ 5,460	601.656.62998
Water and Sewer Utility	Water Treatment Plant-Roof Repairs	\$ 19,500	601.658.62112
Water and Sewer Utility	Water Treatment Plant-Advanced Engineering (Raw Water Intake)	\$ 21,610	601.658.62220
Water and Sewer Utility	Water Treatment Plant-Advanced Engineering (30" Sunset Reservoir Transmission Line Improvements 2018)	\$ 310,529	601.658.62221
Water and Sewer Utility	Water Treatment Plant-S.J. Louis Construction (30" Sunset Reservoir Transmission Line Improvements)	\$ 2,011,496	601.658.62221
Water and Sewer Utility	Water Treatment Plant-Skeels Electric (30" Sunset Reservoir Transmission Line Improvements)	\$ 10,265	601.658.62221

Justin,

Wanted to give you heads up prior to meeting Tuesday at 3:30.

2018 Budget transfer to 2019 Budget.

- 30-inch Sunset Reservoir Transmission Line Improvement
 - Skells Electric Co. \$10,265.00
 - SJ Louis Construction, Inc. \$2,011,496.58
 - AE2S engineering Fees \$310,528.68
- Raw Water Intake
 - AE2S engineering Fees \$21,610.11
- Capital outlay Roofing Repairs 601.658.62112
 - \$19,500.00
- Chemical Supplies 601.658.59413
 - \$14,630.00

Roof carry over is for Lime Slaker control room and South House.

Chemical Supply carry over is due to Carbon Dioxide price increase from \$190/ton to \$285/ton. In September of 2018 was notified Poet Ethanol would no longer supply area with Carbon Dioxide. Poet has supplied Mandan with Carbon Dioxide since 2004. Only 2 suppliers for this area since 2011 Poet and Praxair. With Poet moving out American Welding and Gas stepped into area this year to also supply Carbon Dioxide. Received Bid from Praxair of \$500/ton and American Welding and Gas \$285/ton in October. An increase of \$95/ton. Anticipating using 154 ton for 2019. $154 \times 95 = \$14,630$. (have \$14,707.36 unused funds for Chemical Supplies 601.658.59413)

Duane Friesz

Water Treatment Plant Superintendent
Mandan Water Treatment Plant

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Transfer of funds from 2018 Planning and Engineering Budgets to 2019
Planning and Engineering Budgets.

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CITY OF MANDAN
WASTEWATER TREATMENT PLANT

Justin,

I would like to request a budget amendment to transfer from the 2018 budget 601-659-60319 Lift Station Maintenance \$5,370.85, to the 601-659-60319, 2019 budget. The request is to repair, one of our pumps from the clarifier lift station. The repair would be a complete rebuild of the pump. The cost to rebuild is about half the price of a new pump. The 2019 Lift Station Maintenance budget has \$5000.00 for all repairs. With the transfer we would have \$1965.85 left for the remainder of 2019.

Attached is a copy of the Quote from Dakota Pump & Control Inc.

Thanks,

Steve Himmelspach

WWTP Superintendent



Dakota Pump & Control, Inc.
 705 Quadee Drive SW
 Watertown, SD 57201
 Phone: (605)886-4672
 Fax: (605) 886-4674

Quote

Date	Quote #
3/13/2019	7111

Quoted To:
 Mandan (City of)
 205 2nd Ave NW
 Mandan, ND 58554

****Unless otherwise noted, this quote does not include freight and/or applicable taxes****

Customer Phone: 701-667-3275	Customer Fax: 701-667-3223
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Attn:	Project	Rep
Rodney	Fairbanks Pump Repair	Dave
Repair of Fairbanks Morse 6" 5433MV Pump, S/N 2167737 Repair to Include: Upper/Lower Bearings, Upper/Lower Mechanical Seals, Moisture Detection Probes and Resistor, O-ring Set, Snap Ring Set, Impeller w/Set Wear Ring, Volute Gasket, Mineral Oil, Shop Labor	1 ea	7,405.00
OPTIONAL ADDERS: Belzona 1321 S-Metal, Ceramic Epoxy Coating of Impeller w/Sandblast and Prep	1 ea	750.00
Expedited Parts Shipment (10-15 working days)	1 ea	250.00
*Price excludes freight, tax, installation and travel expenses. *Price firm for 30 days. *Standard delivery is approximately 6-8 weeks. *Items not specifically listed would be an additional charge.		
<p><i>601-659-60319</i> <i>Lift Station Maintenance</i> <i>2018 Budget carryover</i> <i>\$ 5,300.85</i></p>		
Quote is valid for 30 days. If Accepted: Terms: Net 30 days from time of shipment. 2% Interest per month will be charged after 30 days. To purchase the equipment and/or services on this quote please sign and date in the space provided and return to DPC.	Subtotal	\$8,405.00
	Sales Tax (0.0%)	\$0.00
	Total	\$8,405.00

www.dpc.us.com

Customer Signature _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 13, 2019
SUBMITTING DEPARTMENT: Human Resources
DEPARTMENT DIRECTOR: Brittany Cullen, HR Director
PRESENTER: Brittany Cullen, HR Director
SUBJECT: Transfer of funds from HR Department 2018 Budget to the 2019 Budget

STATEMENT/PURPOSE: To request the transfer of funds from the Human Resource (HR) Department's 2018 budget to the 2019 budget.

BACKGROUND/ALTERNATIVES:

The transfer of funds is requested for the items listed below.

- Dues and Memberships – Increase line item from \$200 to \$300.
- Equipment under \$5,000 – Increase line item from \$500 to \$1,500.
 - VariDesk
 - 2 Filing Cabinets with lock (HR Director & Payroll and Benefits Technician)
- Training & Travel – Increase line item from \$950 to \$4,000.
 - \$1,000 for Pryor+ Fee for unlimited access to online courses and live seminars (HR Director and Payroll & Benefits Technician);
 - \$1,225 for Reimbursement for SHRM Learning System and Certification Fees upon passing certification exam.
 - HR Conference in Grand Forks and other training conferences that may occur throughout the year.
- Funds for resuming Kronos Rebuild – \$5,000
- Other/Miscellaneous – Transfer remaining \$300 from 2018 Safety and Wellness Committee budget to the 2019 budget for ND Safety Council Membership.

ATTACHMENTS: N/A

Board of City Commissioners

Agenda Documentation

Meeting Date: March 13, 2019

Subject: Transfer of funds from HR Department 2018 Budget to the 2019 Budget

Page 2 of 2

FISCAL IMPACT: The request is for \$9,450 from the 2018 HR budget to be moved to the 2019 budget.

STAFF IMPACT: The items listed above will assist the HR Director and Payroll and Benefits Technician to provide the best services possible to the City of Mandan employees.

LEGAL REVIEW: N/A

RECOMMENDATION: To approve the transfer of funds from the HR 2018 Budget to the 2019 Budget.

SUGGESTED MOTION: Move to approve the transfer of funds from the HR 2018 Budget to the 2019 Budget.



Board of City Commissioners

Agenda Documentation

MEETING DATE:	March 19, 2019
PREPARATION DATE:	February 26, 2019
SUBMITTING DEPARTMENT:	Public Works
DEPARTMENT DIRECTOR:	Mitch Bitz
PRESENTER:	Mitch Bitz, Director of Public Works
SUBJECT:	Consider Public Works Budget transfer of 2018 remaining funds to the 2019 budget

STATEMENT/PURPOSE: To request the transfer of fund from various department 2018 Budgets to their respective 2019 Budgets to allow project completion.

BACKGROUND/ALTERNATIVES:

- Solid Waste – Request to transfer \$80,000 from the 2018 landfill capital outlay budget to 2019 landfill capital outlay. We have been searching for a vehicle chassis to mount a used hook on to build another roll-off hook truck. We need an additional hook truck to accommodate more efficient grass site cleanup during the summer months. In addition we capitalize on the larger payload capacity of these roll-off trucks to increase our snow hauling efficiency
- Solid Waste – Request to transfer \$27,881 from 2018 landfill operation budget specifically engineering services to the 2019 landfill budget. We are in the process of a landfill permit renewal and inert burry pit expansion. The process began in the fall of 2018 and it was anticipated to carry over into 2019 with a completion date of no later than fall of 2019
- Sewer line Maintenance - Request to transfer \$408,968 from 2018 utility budget to 2019 respective budget. The 2018 budget allowed for \$103,768 in odor control and \$305,200 for sewer and lift station repairs and moderate maintenance projects. We plan to utilize these funds in the coming years to re-line a portion of downtown sewer lines to help eliminate infiltration into our sewer collection system. We anticipate having to bank these funds for several years to be able to cash flow this scale of a project. As a tentative project date, staff anticipates starting in the years 2025-2030.
- Waterline Maintenance – Request to transfer \$426,888 from 2018 utility budget to the 2019 utility budget. We had budgeted for a project in 2018, however we experienced a late bidding process and the bids we did receive were not favorable to the city and subsequently rejected. We plan to

incorporate a small water main replacement within the South Side street improvement district as well as continue to replace problematic water mains. Aside from the South Side Street improvement area, should funds be available, we plan to repair the areas of 8th Ave NW and Custer Drive area.

- Signs – Request to transfer \$10,412 from 2018 sign replacement capital outlay to 2019 Sign Capital Outlay budget to be applied to the purchase of a trailer to transport our signs and possibly temporary traffic control signs. Currently using a Police Department Trailer to store and haul the cones/barrels. The Police Department has another need for the trailer very soon.
- Building Capital Outlay – Request to transfer \$2,326,375.50 (\$2,256,351.51 Bldg., \$65,000 Architectural, and \$5,024.5 Engineering) from 2018 building capital outlay to 2019 respective budget. We are currently in the process of further evaluation and anticipate the project getting underway in late fall of 2019 and completion in 2020.
- Tree Removal Fees – Request to transfer \$3,400 from 2018 tree removal budget to the respective 2019 tree removal budget. This transfer will aid us in Dutch Elm Disease Tree removal as well as stump grinding throughout the city.

ATTACHMENTS: N/A

FISCAL IMPACT: Finance Director Welch has indicated the proposed transfers can be supported from the savings or non-expenditure of the 2018 budget:

- Solid Waste 620.620.62115 - \$80,000 (Landfill Hook Truck)
- Solid Waste 620.620.52114 - \$27,881 (Landfill Engineering)
- Sewer Line Maintenance 601.661.62212 - \$408,968 (System Maintenance)
- Water Line Maintenance 601.660.62214 - \$426,888 (System Maintenance)
- Signs Capital Outlay 100.131.62114 – \$10,412 (Sign Equipment)
- Building Capital Outlay 100.131.62111 - \$2,326,375 (Public Works Facility)
- Tree Removal 100.151.52140 - \$3,400 (City Wide Tree Removal)

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: To approve the transfer of fund savings from various department 2018 budgets to their respective 2019 Budgets as shown.

SUGGESTED MOTION: Move to approve the transfer of fund savings from various department 2018 budgets to their respective 2019 Budgets as shown.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 15, 2019
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Consider 2019 budget amendment

STATEMENT/PURPOSE: Consider transferring unused contingency funds from the administration department from the 2018 budget to the 2019 contingency fund budget.

BACKGROUND/ALTERNATIVES: In its 2018 budget the City of Mandan budgets a contingency fund of \$50,000 each year to assist with unexpected expenses such as copier machine breakdowns, additional security cameras or other items that may fall outside the normal course of business. Approval to expend funds must be received by the Finance Director, City Administrator and Mayor.

At year end 2018, there was a balance of \$30,143. We would like to roll these funds into the 2019 contingency fund in order to purchase items such as for the commission room (commissioner chairs, audience chairs, additional monitors, enhancements to the audio visual system, repair or replacement of the lecturn and dias), chairs and tables for the Veterans' Conference Room, painting of the lower level of City Hall hallways, large customer service monitor in Finance/Utility Billing and to add security cameras for the ground maintenance building to name a few items. We are currently soliciting bids for such items.

ATTACHMENTS: None

FISCAL IMPACT: The 2018 contingency fund has a balance of \$30,143 which would be rolled into the 2019 contingency fund budget.

STAFF IMPACT: None

LEGAL REVIEW: None

RECOMMENDATION: I recommend to amend the administration 2019 contingency fund budget to include a \$30,143 increase from unexpended 2018 funds.

SUGGESTED MOTION: I move to amend the administration 2019 contingency fund budget to include a \$30,143 increase from unexpended 2018 funds.



"WHERE THE WEST BEGINS"

CITY OF MANDAN

MANDAN CITY HALL - 205 2nd Avenue NW
MANDAN, NORTH DAKOTA 58554

701-667-3215 • FAX: 701-667-3223 • www.cityofmandan.com

CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING	667-3232
BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

WEAR BLUE DAY PROCLAMATION April 5, 2019

WHEREAS, Prevent Child Abuse North Dakota (PCAND) was founded in 1978 and is dedicated to strengthening families and preventing child abuse and neglect, particularly in North Dakota. PCAND is a 501(c) 3 organization and a chapter of Prevent Child Abuse America; and

WHEREAS, Wear Blue Day (April 5, 2019) is a nation-wide event to create awareness all over the country. Citizens have worn blue as a symbol of the need to prevent child abuse and neglect. Blue is a nationally recognized color for Prevent Child Abuse; and

WHEREAS, Prevent Child Abuse North Dakota's goal is to reduce child abuse and neglect to 0% by co-creating safe and nurturing environments for children; and

WHEREAS, Engaging in Wear Blue Day raises public awareness and prevention advocacy for children across the nation.

NOW, THEREFORE, I, Timothy A. Helbling, Mayor of the City of Mandan, do hereby proclaim April 5, 2019 as Wear Blue Day in the City of Mandan and encourage citizens to participate in Wear Blue Day to create an awareness of child abuse and neglect in North Dakota.

Dated this 19th day of March, 2019

Mayor, Timothy A. Helbling,
Board of City Commissioners

Attest:

James Neubauer, City Administrator



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
2019-17

Name of Organization Brave The Shave		Date(s) Authorized (Read instruction 2)	
Contact Person Taner Ohlsen	Business Phone Number (701) 527-2013	4/9/2019 Beginning	to 4/9/2019 Ending
Mailing Address 1950 Far West Dr	City Bismarck	State ND	Zip Code 58504-0000
Site Name Midway Lanes	Site Address 3327 Memorial Hwy		
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 3/12/2019	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.

2019-17



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
 OFFICE OF ATTORNEY GENERAL
 SFN 9338 (9-2009)

Application for: Local Permit * Charity Local Permit (one event per year)

Name of Non-profit Organization <i>Brave the Shave</i>		Date(s) of Activity <i>4/9/19 to 4/9/19</i>	
Person Responsible for the Gaming Operation and the Disbursement of Net Income <i>Taner Ohlsen</i>		Title <i>Board Member</i>	Business Phone Number <i>701-527-2013</i>
Business Address <i>1950 Far West Dr.</i>	City <i>Bismarck</i>	State <i>ND</i>	Zip Code <i>58504</i>
Mailing Address (if different) <i>1950 Far West Dr</i>	City <i>Bismarck</i>	State <i>ND</i>	Zip Code <i>58504</i>
Name of Site Where Game(s) will be Conducted <i>Midway Lanes</i>		Site Address <i>3327 Memorial Hwy</i>	
City <i>Mandan</i>	State <i>ND</i>	Zip Code <i>58554</i>	County <i>Morton</i>
Check the Game(s) to be Conducted: * 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 *			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
<i>50/50</i>	<i>1/2 of money collected</i>	<i>Determined after raffle</i>			
Total:					(Limit \$12,000 per year) \$

Intended uses of gaming proceeds: *To benefit Brave the Shave, helping families who are fighting childhood cancer and supporting cancer research.*

Does the organization presently have a state gaming license? No Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," the organization does not qualify for a local permit or charity local permit.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ _____ . This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official <i>Taner Ohlsen</i>	Date <i>3/9/19</i>	Title <i>Board Member</i>	Business Phone Number <i>701-527-2013</i>
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Consent No. 5

Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19th, 2019
PREPARATION DATE: March 12th, 2019
SUBMITTING DEPARTMENT: Police Department
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: Chief Jason Ziegler
SUBJECT: Inmate Housing Agreement Burleigh/Morton
County Detention Center (BMDC)

STATEMENT/PURPOSE: Consider approval of the Inmate Housing Agreement between the City of Mandan and the Burleigh/Morton County Detention Center (BMDC) for the term of January 1, 2019 to December 31st, 2019. (The contract is an automatically renewing contract, unless either party involved needs to make changes to said contract it will automatically renew at the end of its term.)

BACKGROUND/ALTERNATIVES: The City of Mandan has had a contract with the Burleigh/Morton County Detention Center for prisoner/inmate housing. The previous contract was entered into through the BMDC and Burleigh County Sheriff Pat Heinert. Sheriff Heinert has been replaced by the newly elected sheriff, Kelly Leben. The only change from the previous year's contract is the change in sheriff.

ATTACHMENTS: Burleigh Morton County Detention Center Inmate Housing Agreement

FISCAL IMPACT: \$60,000.00 already budgeted for 2019.

STAFF IMPACT: Officers to transport arrested individuals.

LEGAL REVIEW: Attorney Malcolm Brown reviewed the contract.

RECOMMENDATION: To approve the automatically renewing Burleigh/Morton County Inmate Housing contract.

Board of City Commissioners
Agenda Documentation
Meeting Date: March 19th, 2019
Subject: BMDC contract

Page 2 of 2

SUGGESTED MOTION: Move to approve the automatically renewing Burleigh/Morton County Inmate Housing contract.

INMATE HOUSING AGREEMENT AT BMDC

The parties to this contract are Burleigh County, acting through the Burleigh Morton County Detention Center (BMDC) and the City of Mandan Police Department, hereinafter referred to as Contracting Agency;

WHEREAS, BMDC and thereby Burleigh County is authorized, by law, to have charge and custody of the county jail and county prisoners or inmates; and

WHEREAS, the Contracting Agency desires to designate the BMDC as a place of confinement for the incarceration of one or more inmates lawfully committed to its custody; and

WHEREAS, BMDC is desirous of accepting and keeping in its custody such inmates in the BMDC for a rate of compensation and covenants mutually agreed upon by the parties hereto;

WHEREAS, North Dakota Century Code and other North Dakota law, as amended, authorizes any county to contract with any other county, city or agency to perform any government service, activity or undertaking which each Contracting Agency is authorized by law to perform; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this agreement as authorized and provided for by North Dakota Century Code and other North Dakota law, as amended,

NOW, THEREFORE, in consideration of the above and forgoing recitals, the payments to be made, the mutual promises and covenants herein contained, and for other good and valuable, consideration, the parties hereto agree as follows:

1. DEFINITIONS

The term "Inmate": means any individual, whether in pretrial, unsentenced, or sentenced status, as defined by the BMDC.

The term "Day": One prisoner day shall be each day or portion thereof which a prisoner appears in custody on the BMDC inmate records management system. Each Contracting Agency shall be charged for each prisoner who is detained in the BMDC on a charge and/or conviction from the Contracting Agency.

2. TERMS

The term of this contract is for a period beginning on January 1st, 2019 and expiring on Dec 31, 2019. This agreement remains in effect unless terminated in writing by either party pursuant to paragraph #3 of this agreement.

3. TERMINATION

This agreement may be terminated by either party, on written notice from either party to the other party, delivered by regular mail, to the contact person identified herein, provided that termination shall become effective thirty (30) days after receipt of such notice, unless an emergency situation requires the immediate relocation of the Contracting Agency's inmates. Within said thirty (30) days the Contracting Agency agrees to remove its inmates from the BMDC. Termination does not excuse financial obligations incurred prior to the notice or during the thirty (30) day window subsequent to delivery of the notice.

4. RENEWAL AND MODIFICATIONS

This contract will automatically renew for successive one year periods. The BMDC will provide written notice to the Contracting Agency of BMDC's intent to modify this contract at least ninety (90) days before the intended change takes effect. All amendments to this agreement shall be mutually approved and authorized in writing.

5. SCOPE OF SERVICE

The BMDC, in exchange for the compensation paid by the Contracting Agency under this contract, agrees to provide the following services: The BMDC shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of Contracting Agency's inmates in accordance with all state and local laws, standards, regulations, policies and court orders applicable to the operation of the facility. The BMDC will not guarantee any inmate population under this contract.

6. COMPENSATION

Contracting Agency will pay for the services provided by the BMDC under this contract an amount of \$63.00 per inmate, per day. The parties agree the BMDC will not charge a separate booking fee in addition to said daily rate. The date of booking into the BMDC, no matter how much, or little time of a twentyfour (24) hour day it constitutes, shall be designated as one day of incarceration, and will be billed to the Contracting Agency as a day of custody in the BMDC. To compensate, BMDC will not bill the Contracting Agency for a day in custody, on the day the inmate is released from custody regardless of how much, or little time of a twenty-four hour day it constitutes.

7. BILLING AND PAYMENT

BMDC will provide the Contracting Agency with an itemized bill listing all names of inmates who are housed, the number of days housed (including the date and time of booking and date and time of release), and the dollar amount due for each inmate. BMDC agrees to provide said bill by the 10th day of each month. The Contracting Agency agrees to make payment to BMDC within thirty (30) days of receipt of such bill.

8. ACCEPTANCE OF PRISONERS

The Contracting Agency acknowledges that BMDC has the obligation to manage the level of occupancy for all inmates in the custody of BMDC. Inmate space availability shall be determined exclusively by BMDC supervisors. BMDC does not guarantee any bed availability under the agreement. The Contracting Agency acknowledges that medical clearance may be required prior to any transfer of custody for prisoners who have difficulties walking, talking, visible injuries, potential of internal injuries, head trauma, excessive alcohol or drug ingestion, ingestion in conjunction with pregnancy, or diabetes. The Contracting Agency has the duty and responsibility to disclose all known or suspected hazardous conditions that may adversely affect the prisoner's health. The Contracting Agency acknowledges that regardless of medical clearance, BMDC supervisors have the authority to refuse to take custody of individuals whose physical or mental condition presents challenges that are beyond the BMDC staff's abilities to provide for the reasonable needs of the inmate. Reference North Dakota Correction Facility Standard #30 and #59.

9. RIGHT OF REFUSAL

The BMDC has the right to refuse to provide service for any Contracting Agency inmate that becomes, in the sole reasonable discretion of the BMDC administration, abnormally dangerous to self, others, or

property or becomes abnormally burdensome financially, medically, supervisory, or otherwise. If the BMDC deems an inmate of the Contracting Agency abnormally burdensome or abnormally dangerous the BMDC may refuse receipt of the inmate, or if the condition develops after BMDC's initial receipt of custody, notify the Contracting Agency of the determination and direct the Contracting Agency to appear at the BMDC and resume custody of the inmate. Additionally, Contracting Agency has pursuant to this agreement agreed to hold harmless and indemnify the BMDC.

10. RIGHT OF INSPECTION

The Contracting Agency acknowledges that BMDC shall be obligated to manage, maintain, and operate its facility consistent with all applicable federal, and state laws and regulations, being subject to inspection by the DOCR Office of Facility Inspections. The Contracting Agency has the right to inspect, at all reasonable times, all BMDC housing areas where the Contracting Agency's inmates are being held in order to determine if BMDC maintains standards of confinement acceptable to the Contracting Agency and that such inmates are treated equally regardless of race, religion, color, creed or nation origin.

11. FURLOUGHS, PASSES AND WORK RELEASE

BMDC agrees that no early release or alternatives to incarceration, including furloughs, passes, or electronic home detention, shall be granted to any inmate housed pursuant to this agreement without written authorization by the committing court, and notification of contracting agency.

12. INMATE PROPERTY

The Contracting Agency agrees that the Contracting Agency may only transfer to BMDC, limited amounts of prisoner personal property, consisting of the clothing being worn by the person, non-dangerous items held on their person, and a purse or small day pack.

13. INMATE PROPERTY NOT ACCEPTED

The Contracting Agency acknowledges that BMDC will not accept any excess inmate property, or dangerous items into the facility, (during or after the transfer of custody). The Contracting Agency acknowledges the following are items that will not be accepted; guns, knives, edged weapons, dangerous weapons, tools, large backpacks, luggage, bags, bicycles, alcohol, chemicals, explosives, perishable food items, any unidentified substance and electronics other than cell phone. The Contracting Agency acknowledges that the BMDC supervisors have the authority to refuse any questionable item they feel poses a safety or security risk to the facility and staff.

The Contracting Agency agrees that refused items of inmate property are to be removed from BMDC by the transporting officer, at the time of the officer's departure, following the transfer of custody. Abandoned items on BMDC property will not be the responsibility of BMDC.

14. RESPONSIBILITY FOR OFFENDERS CUSTODY

BMDC agrees it is primarily responsible for the day to day care, custody and control of the Contracting Agency's inmates when they are within the BMDC facility. The Contracting Agency agrees that the Contracting Agency is responsible for law enforcement staffing to provide security, supervision and court procedure documentation during Contract Agency prisoner appearances before the Contracting Agencies court, through the ITV court held within BMDC. The Contracting Agency acknowledges it is responsible for

transport, and security of its inmates related to any services or court appearances needed outside of the BMDC.

15. TRANSPORT

Contracting Agency is responsible for transporting its inmates to and from the BMDC, initially, finally, and as needed intermittently for court appearances in the Contracting Agency court and any other trip ordered or necessary.

16. MEDICAL SERVICES

Contracting Agency is fully financially responsible for the costs and expenses stemming from or associated with diagnosis and/or treatment of medical, psychological, dental, optical and/or addiction conditions of the Contracting Agency's inmates. The Contracting Agency is financially responsible for these services whether the inmate was malingering or suffering from an authenticated condition; whether the initial recognition of the condition was by the inmate or BMDC staff; and whether the costs or expenses were incurred at the BMDC, in transport, at a treatment facility, or when otherwise in custody of the BMDC. Although BMDC may be required by law, policy, rules or regulations to provide these services for anyone in its facility, the Contracting Agency agrees to pay the full cost and expenses billed by the service provider for services rendered to the Contracting Agency's inmate. Contracting Agency is responsible for costs of ambulance transport to treatment provider even if the transport is to a facility inside of the city limits of Bismarck, North Dakota. The inmates and therefore the Contracting Agency may be charged a medical co-payment by the BMDC. Contracting Agency further understands and agrees that the determination as to whether or not medical or dental care is necessary is left to the sole discretion of BMDC staff.

17. PRISON RAPE ELIMINATION ACT (PREA)

The BMDC shall comply with the Prison Rape Elimination Act (PREA), 42, U.S.C. 5 15601. est.seq., and all applicable PREA standards for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse and sexual harassment within the BMDC. This includes the education of staff and offenders, conducting investigations, reporting incidents to Contracting Agency regarding their inmates, compiling incident data and aggregate data, and providing incident and aggregate data as requested by federal reporting agencies and any agencies contracting with BMDC.

18. SPECIAL NOTIFICATIONS

BMDC will notify the Contracting Agency of any activity by a Contracting Agency's inmate which would likely result in litigation or alleged criminal activity. BMDC will immediately notify the Contracting Agency of an escape of the Contracting Agency's inmate. BMDC will use all reasonable means to apprehend the escaped inmate and all reasonable costs in connection therewith will be borne by the Contracting Agency. Additionally, the BMDC will notify the Contracting Agency as soon as possible when a Contracting Agency's inmate is involved in an attempted escape or conspiracy to escape from the facility.

19. AUTHORITY

This agreement is entered into under Chapter 12-44.1 or the North Dakota Century Code.

20. APPLICABLE LAW, VENUE AND MEDIATION

This agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in Burleigh County, North Dakota. All claims, disputes, and controversies arising out of or in relation to this agreement will be referred to mediation before and as a condition precedent to the initiation of any adjudicative action or proceeding. The mediation costs will be shared equally by the parties.

21. MERGER AND MODIFICATION

This agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this agreement. This agreement may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

22. INDEMNIFICATION

Contracting Agency will defend, indemnify, and hold harmless the BMDC, Burleigh County, and their respective employees and officers from any and all claims of any nature arising out of this agreement, except damages directly caused by the neglect of any of the BMDC or Burleigh County employees and /or officers. Contracting Agency will also defend, indemnify, hold harmless BMDC, Burleigh County, and their respective employees and officers for all costs, expenses, and attorney's fees incurred in the establishing and litigating the indemnification coverage provide in this section. The obligation in this section shall continue after termination of the contract, and during any extension or renewal of it.

23. FORCE MAJEURE

Neither party shall be held responsible for default caused by fire nature, acts of God or war if the event is beyond the party's control and the affected party provides reasonable prompt notice of the event causing the delay or default or which is reasonably expected to cause delay or default.

24. INUREMENT CLAUSE

The parties agree that all of the rights, remedies and liabilities hereunder imposed upon either of the parties will extend to their heirs, administrators, successors and assigns.

25. COUNTERPARTS

This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

26. UNENFORCEABLE PROVISION

In case any provision in this agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

27. MAILING ADDRESSES AND CONTACT PERSON

All notices, reports and correspondence to the respective parties of this agreement shall be mailed to the following:

Burleigh Morton County Detention Center: 4000 Apple Creek Road, P. O. Box 2499,

Bismarck, ND 58502-2499.

Primary contact person is Sheriff Kelly Leben.

Secondary contact person is Major Steve Hall.

Contracting Agency: City of Mandan Police Department, Mandan, North Dakota

Primary contact person is: Chief Jason Ziegler

Secondary contact person is: Deputy Chief Jason Bier

IN WITNESS WHEREOF, the above and forgoing agreement has been executed by the parties hereto and made effective on the day and year first above written.

Burleigh Morton County Detention Center Administrator
Burleigh County Sheriff Kelly Leben

Date

Contracting Agency

Signature Contracting Agency

Title

Print Name

Date



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19th, 2019
PREPARATION DATE: March 11th, 2019
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: Chief Jason Ziegler
SUBJECT: Consider Approval for the Mandan Police Department to take over the fiscal duties for the High Intensity Drug Trafficking Area (HIDTA) Grant for the Metro Area Narcotics Task Force.

STATEMENT/PURPOSE: The Police Department would like to assign Deputy Chief Jason Bier to take on the duties of fiscal officer for the current grant from the High Intensity Drug Trafficking Area (HITDA) program. The funds have been awarded to the Metro Area Narcotics Task Force. The grant is administered through the ND Office of Attorney General.

BACKGROUND/ALTERNATIVES: The Metro Area Narcotics Task Force (MANTF) includes the Mandan Police Department, Bismarck Police Department, Morton County Sheriff's Office, Burleigh County Sheriff's Office, and the ND Bureau of Criminal Investigations. MANTF has received grant funding through HIDTA, administered through the ND Office of the Attorney General. The grant requires a fiscal officer from a participating MANTF agency, who is responsible for the financial administration of the grant and for preparing and submitting quarterly financial reports as required. Until recently, a deputy with the Morton County Sheriff's Office held that position. This deputy has recently resigned from the Sheriff's Office. It is proposed that Deputy Chief Jason Bier of the Mandan Police Department assume the duties of the fiscal officer. Duties of the fiscal officer include managing the funds awarded through the grant and accounting for expenditures. Discussions have been held with Finance Director Welch who has no objections. The Office of the Attorney General has also approved of this change in fiscal officers. This request includes approving the City of Mandan to be the sub-grantee of this grant. Money from the grant will be received and disbursed by the City, through documentation done by Deputy Chief Bier.

ATTACHMENTS: None.

FISCAL IMPACT: The City of Mandan receives/passes through grant funds.

STAFF IMPACT: Deputy Chief Bier would take on the duties of fiscal officer.

LEGAL REVIEW: This information was sent to City Attorney Brown for review.

RECOMMENDATION: Recommend approval for the Police Department to assign Deputy Chief Bier to take on the duties of the fiscal officer for the HIDTA Grant for the Metro Area Narcotics Task Force.

SUGGESTED MOTION: Move to approve for allowing the Police Department to assign Deputy Chief Bier to take on the duties of the fiscal officer for the HITDA Grant for the Metro Area Narcotics Task Force.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 13, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: MGF Storefront Improvement application for 218 W Main St.

STATEMENT/PURPOSE: To consider a Mandan Growth Fund (MGF) Committee recommendation for approval of a Storefront Improvement application for 218 W Main St.

BACKGROUND/ALTERNATIVES: The MGF met Mar. 13, 2019. Among agenda items was consideration of an application by Brittany Kennedy and Cathy Ehlis for matching funds towards exterior improvements to the building at 218 W Main St, the former Huntington Books location. The applicant is remodeling the building and is seeking a \$30,000 match for the exterior renovation that has an estimated cost of \$61,144.57.

The front of the building will have all windows and the door replaced with high quality, energy efficient glass. Plans include two large bay windows on the left side of the door and an 8-ft. garage door with glass on the right side of the entry door. The entry will be replaced by a main entry door flush with the exterior wall which will have an ADA automatic operation. The exterior brick will be reinforced and replaced as needed. Plans include new signage on the exterior of the building. The rear of the building will be completely refaced, painted and a new rear door will be installed.

Other building improvement include a complete interior remodel and addition of a commercial kitchen, coffee bar and event/gym space. The applicants plan to open by June.

The exterior building plan have received approval from the Mandan Architectural Review Commission.

The applicants are also seeking approval for Renaissance Zone programs (see New Business 3i), but the level of investment is sufficient to meet the investment and match requirements of both the Renaissance Zone and Growth Fund programs without overlap.

ATTACHMENTS: Key excerpts of application. Full application available upon request.

FISCAL IMPACT: The source of funding would be the MGF unallocated balance for economic development projects as a whole, an amount of \$238,990.04. If this application is approved, the uncommitted balance would be reduced to \$208,990.04.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application. An automatic door is to be included. A business incentive agreement will also be required.

RECOMMENDATION: The MGF voted 7-0 (with two members absent) to recommend approval of the application for \$30,000 in matching funds for the Storefront Improvement project by Brittany Kennedy and Cathy Ehlis for 218 W Main St.

SUGGESTED MOTION: I move to approve providing \$30,000 in matching funds from the Mandan Growth Fund for the Storefront Improvement project by Brittany Kennedy and Cathy Ehlis for 218 West Main Street.

Existing Exterior

218 West Main Street



Existing Alley Exterior

218 West Main LLC



Exterior Renovations

218 West Main Street



Proposed signage





Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 13, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: MGF Restaurant Rewards application for Copper Dog LLC 218 W Main St

STATEMENT/PURPOSE: To consider the Mandan Growth Fund (MGF) Committee's recommendation for an application by Brittany Kennedy and Cathy Ehlis, Copper Dog LLC, for a café to be located at 218 W Main St. for a five-year rebate of the 1% local sales tax.

BACKGROUND/ALTERNATIVES: The MGF met on Mar. 13, 2019. Among agenda items was consideration an application for the Copper Dog Café to be located in leased space in a portion of 218 W Main St.

The Kennedy and Ehlis partners plan to open a waffle and coffee shop. The concept is a limited service restaurant with a seating capacity of 50. They plan to serve one-of-a-kind waffles topped with a custom blend of as many local ingredients as possible, other light breakfast fare, side dishes, high-quality coffees that are locally sourced and roasted and provide a fun, family atmosphere. A portion of the building will also be leased to the applicants for another business, a youth fitness center focusing on gymnastics.

The applicants plan to have one full-time and 6 part-time employees. The plan is for the business to be open seven days a week from 7 a.m. to 8 p.m. with an anticipated opening date of June 1, 2019.

The mother-daughter partners along with their husbands have a diverse background in sales, marketing, real estate and the service industry.

ATTACHMENTS: Key excerpts of the application. Full application available upon request.

FISCAL IMPACT: Sales are estimated at \$137,940 annually, putting the projected rebate at \$1,379.40 per year or \$6,897 over five years. The rebate amount will ultimately depend on actual sales and sales tax remittances.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application. Additional requirements include installation of an automatic door, plus completion of a recipient agreement and the N.D. Tax Department's Form 500 to allow for disclosure of sales tax collections.

RECOMMENDATION: The Mandan Growth Fund Committee voted 7-0 (with 2 members absent) to recommend the approval of the application by Brittany Kennedy and Cathy Ehlis for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation at 218 W Main St.

SUGGESTED MOTION: I move to approve the application by Brittany Kennedy and Cathy Ehlis for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation at 218 W Main St.



RESTAURANT REWARDS INCENTIVE PROGRAM
1% Local Sales Tax Rebate & Interest Buy-Down
Application & Checklist

PRIMARY CONTACT INFORMATION FOR THIS APPLICATION			
Name:	Brittany Kennedy		
Title:	Owner		
Address:	912 Saint Thomas Trail, Mandan, ND 58554		
Phone:	701-471-7531	E-mail:	218wmainst@gmail.com

Form of Assistance Sought: 1% Sales Tax Rebate
 Flex Pace Interest Buy-down (requires additional application)

APPLICANT INFORMATION			
Name of person or entity to receive rebate:	Pending LLC		
State Sales Tax Number:	TBD		
Federal Employer Identification Number:	TBD		
Restaurant Ownership/Affiliation:	<input type="checkbox"/> Corporate	<input type="checkbox"/> Franchise	<input checked="" type="checkbox"/> Independent
Project Principals: (If applicable)	Name Catherine Ehis % 50	Name	%
	Name Brittany Kenne % 50	Name	%
	Name %	Name	%
Are you applying for any other local incentives?	<input checked="" type="checkbox"/> Yes (please indicate programs) Storefront, Renaissance Zone, Restaurant <input type="checkbox"/> No		

RESTAURANT INFORMATION							
Levels of Service:	<input type="checkbox"/> Full-Service (table side service)				<input type="checkbox"/> Counter service only		
	<input checked="" type="checkbox"/> Limited Service (order w/ cashier, food brought to tables)				<input type="checkbox"/> Drive-thru (must have customer seating to be eligible)		
Restaurant Concept:	<input type="checkbox"/> Fast Food		<input type="checkbox"/> Fast Casual		<input checked="" type="checkbox"/> Cafe		
Menu: (Primary Foods Served)	<input type="checkbox"/> Coffee Shop (at least 50% of sales must come from prepared food)			<input type="checkbox"/> Pub or Bar/Grill (at least 50% of sales must come from prepared food)		<input type="checkbox"/> Buffet	
	<input type="checkbox"/> Fine Dining			<input type="checkbox"/> Other (please explain):			
Do you have or intend to apply for a liquor license?	<input type="checkbox"/> Yes, I have a license – please specify type: <input checked="" type="checkbox"/> I plan to apply for a license – please specify type: Class E or Class F <input type="checkbox"/> No, I do not plan to serve alcohol.						
Hours of Operation:	Su: 7 am - 8 pm	Mo: 7 am - 8 pm	Tu: 7 am - 8 pm	We: 7 am - 8 pm	Th: 7 am - 8 pm	Fr: 7 am - 8 pm	Sa: 7 am - 8 pm

LOCATION INFORMATION			
Address of New or Expanding Restaurant:	218 West Main Street, Mandan, ND 58554		
Property Control – Land:	<input checked="" type="checkbox"/> Owned	<input type="checkbox"/> Leased Term of Lease	<input type="checkbox"/> Other (please explain)
Property Control – Building:	<input checked="" type="checkbox"/> Owned	<input type="checkbox"/> Leased Term of Lease	<input type="checkbox"/> Other (please explain)
Building Situation:	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> Addition	<input type="checkbox"/> New Construction
Building Square Footage:	Existing 2,500	Addition	New Construction
Seating Capacity:	Existing	Addition 50	New Construction
Building Improvements: (Cost & Description) Complete renovation of property to include facade renovation, structural support, exterior signage, complete interior remodel, and addition of a commercial kitchen, coffee bar, and event space/gym. Estimated total improvement cost between \$125,000 and \$253,490.			
Projected Opening Date:		June 1, 2019	

FINANCIAL IMPACT			
Number of Jobs Created:	Full-Time 1		Part-Time 6
Estimated Annual Sales:	\$137,940		
For existing restaurants – Last 2 Years of Retail Sales: Attach copies of sales tax submissions.	Year	Sales \$ Amount	Year Sales \$ Amount
	Year	Sales \$ Amount	Year Sales \$ Amount
Estimated daily customer traffic:	35		

Other Business & Applicant Information

Please submit as many of the following items as possible in order for the City of Mandan Growth Fund Committee and City Commission to make an appropriate decision on an application:

- Option to buy agreement for a building or letter of intent to lease contingent on receipt of incentives
- Business plan for new businesses or first-time restaurant operators
- Certificate of Good Standing from N.D. Tax Department
- Proof of registration with N.D. Secretary of State

Additional information or documentation may be requested if deemed necessary.

Be advised as per North Dakota open records law that applications may be released to the public if requested except for portions subject to NDCC 44-04-18.4 pertaining to confidentiality of trade secret, proprietary, commercial, and financial information.

Certification and Authorization

I / We certify that all information set forth in this application is a true representation of the facts pertaining to the proposed business for the purpose of obtaining funding under the City of Mandan Restaurant Incentive Program. I / We understand and acknowledge that any willful misrepresentation of the information contained in this application could result in disqualification from the program, requiring any funds already disbursed to be repaid in full to the City of Mandan.

The undersigned specifically authorizes the City of Mandan Business Development Office or its representatives to conduct a background check on the applicant, including the checking of references and the verification of any information on the application.

I understand that personal and/or business information may be requested pursuant to this applicant for an incentive and I hereby give my consent for such information to be provided to the City of Mandan Business Development Office, the Mandan Growth Fund Committee or its representatives. I also understand that the Mandan Growth Fund Committee and the Mandan City Commission retain the decision as to whether this incentive application is approved, disapproved, or modified. It is my right to accept or decline the incentive amount and terms approved by the program.

The applicant further certifies that he/she has read and understands the City of Mandan Restaurant Incentive Program Guidelines. The applicant must comply with all local, state and federal regulations. It is understood that all funding commitments are contingent upon the availability of program funds.

Release of Information

The applicant hereby authorizes any third party to release to the City of Mandan Business Development Office without limit, any and all financial information regarding the applicant that is requested by the City of Mandan Business Development Office, its representatives or employees. Further, the applicant hereby authorizes release of said records and information by the City of Mandan Business Development Office to a third party, as deemed necessary by the City of Mandan Business Development Office, its representatives or employees.

All owners, officers or partners must sign this application.

Signature(s):

Applicant/Business Owner:  Date: March 5, 2019

Applicant/Business Owner: _____ Date: March 5, 2019

Submit application form and all supporting documents to:

City of Mandan
Business Development Office
205 Second Avenue NW
Mandan, ND 58004
Website: www.cityofmandan.com/businessdevelopment
E-mail: sh.uber@cityofmandan.com

For more information, call City of Mandan Business Development Office; phone 701-667-3485.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 14, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Update to Property Tax Exemption Guidelines for New & Expanding Businesses

STATEMENT/PURPOSE: To consider the Mandan Growth Fund (MGF) Committee's recommendation for updates to the policy and guidelines for property tax exemption for new and expanding businesses.

BACKGROUND/ALTERNATIVES: The MGF has reviewed Mandan's policy and guidelines for property tax exemption for new and expanding businesses at its Feb. 25 and March 13, 2019, meetings. Mandan's policy for property tax exemption for new and expanding businesses has not undergone a significant review since 2013 when state legislation limited its use, under NDCC 40.57.1, to certified primary sector businesses. The only primary sector application received and approved since the legislative restriction became effective was for the 2016 expansion of National Information Solutions Cooperative.

As defined in NDCC 1-01-49, a primary sector business "through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth. For purposes of this subsection, "new wealth" means revenues generated by a business in this state through the sale of products or services to: a. Customers outside of this state; or b. Customers in this state if the products or services were previously unavailable or difficult to obtain from a business in this state."

The N.D. Commerce Department's Economic Development and Finance Division uses a 75 percent threshold for the amount of product or services sold outside North Dakota's borders in reviewing eligibility for the primary sector certification.

The proposed updates to the guidelines, instructions for application and supplementary application eliminate all references to ineligible uses such as retail, restaurants, hotels and other services. Other substantive updates include: 1) an increase in wage rate thresholds using more recent Census data on household median incomes, from a minimum of \$9/hr to \$10.60/hr as one of the minimal qualifications for a base level exemption, and 2) an

increase in the structural value of the value of the new construction or expansion in relation to jobs creation, from \$100,000 per job to \$150,000 per job.

As part of the review process, I shared with the committee information and sample guidelines from some other major cities for comparison sake. Other cities range in policies from those that are very aggressive or generous with relatively easy and somewhat subjective scoring system that qualifies applicants for a five-year, 100% exemption to those that are more discriminating in use of the property tax exemption tool, using only a sliding scale of 100%-80%-60%-40%-20% over five years.

The MGF approved recommendation, approved unanimously, is to leave in place the three-tiered system of exemptions adopted in December 2012. There was only one dissenting vote related to an amendment to the main motion regarding the recommendation. This pertained to the jobs creation qualification in relation to the structural value of the new or expanded building. The committee member simply wanted more time to study what would be the most appropriate value.

ATTACHMENTS: 1) Revised policy and guidelines, 2) Revised instructions and procedures, 3) Revised supplemental application.

FISCAL IMPACT: The fiscal impact cannot be quantified. The guidelines may affect property tax revenue to the degree that they do or don't allow for property tax exemption and to the degree that they entice or discourage primary sector economic development.

STAFF IMPACT: Minimal for the application processing, legal notice, and review requirements.

LEGAL REVIEW: Attorney Brown has reviewed the proposed changes and attended the MGF meetings where the topic was discussed.

RECOMMENDATION: The Mandan Growth Fund Committee voted 7-0 to recommend adoption of the updated policy and guidelines for property tax exemption for new and expanding businesses including the updated instructions and supplemental application.

SUGGESTED MOTION: I move to approve the updated policy and guidelines for property tax exemption for new and expanding businesses including the updated instructions and supplemental application.

CITY OF MANDAN COMMERCIAL PROPERTY TAX EXEMPTION POLICY AND GUIDELINES

The City of Mandan is committed to high quality development in all parts of the city, to growing its commercial property base and to the improvement of the quality of life for its citizens through enhanced employment opportunities, reduced property taxes, increased sales and use tax revenues, and better access to needed products and services. To help meet these goals, the City Commission has adopted guidelines and criteria for granting business incentives. Applications are subject to the review and approval by the Mandan Growth Fund Committee and, ultimately, the Mandan City Commission.

Businesses that are primarily industrial, commercial, retail or service are eligible for property tax incentives for new and expanding businesses if they meet state requirements (NDCC 40.57.1).

It is the policy of the City to provide business incentives for the purpose of attracting new business and industry to the City and to encourage expansion and modernization of existing business facilities. The City will generally consider a property tax exemption only for business facilities and/or properties that provide one or more measureable public benefits.

The criteria outlined in this document are guidelines only. Each application will be evaluated on its own merits and is subject to the review and approval by the Mandan City Commission. The criteria are to be reviewed and

2013 Legislative Changes

~~The North Dakota Legislature in 2013 approved Senate Bill 2314, which legislation that requires certification from the N.D. Department of Commerce Division of Economic Development and Finance that a project is a primary sector business. The legislation also prohibits use of property tax exemption for under 40.57.1 for the retail sector unless the governing body has approval for such from a city election held in conjunction with a statewide general election. The City of Mandan has not posed this question to voters; therefore exemptions for the retail sector cannot be considered.~~

~~Cities such as Mandan, with a population of less than 40,000, may grant a partial or complete exemption for a project operating in the retail sector if the governing body has obtained approval for exemptions of retail-oriented businesses from qualified electors during a city election held in conjunction with a statewide general election (November 2014). The governing body must also establish by resolution or ordinance the criteria that will be applied by the governing body to determine whether it is appropriate to grant an exemption for a project in the retail sector. Criteria must include:~~

- ~~• Potential positive or adverse consequences for existing retail sector businesses.~~
- ~~• Evaluation of short-term and long-term effects for other property taxpayers.~~
- ~~• A written agreement with the project operator, including performance requirements for which the exemption may be terminated if those requirements are not met.~~
- ~~• Evaluation of whether the project operator would locate within the municipality without the exemption.~~

~~Payments in lieu of taxes (PILOT) are not impacted by the legislation.~~

~~The legislative changes are effective for property tax exemptions granted by a municipality to initially become effective for taxable years beginning after Dec. 31, 2014. The N.D. Tax Department indicates this means a project must be operation in calendar year 2013 in order to not be subject to the new restrictions. Any exemption granted in calendar year 2014 would not go into effect until 2015, falling under the new law.~~

updated at least annually and may be modified at any time to assure that the criteria address current priorities and needs.

CRITERIA FOR THREE LEVELS OF EXEMPTION

SIGNIFICANT MEASURABLE BENEFITS				
PRIMARY SECTOR BUSINESSES¹ <small>(or service sector for potential PILOT consideration)</small>		TARGETED RETAIL & SERVICES²		
		<p>Validated market demand exceeds supply or service is missing from community. Examples include hardware/home improvement; clothing, shoe or department store; dry cleaning; movie theater; full-service car wash; restaurants, hotels.</p> <p>1st to build in each of 3 general business districts: 1) Main Street/Downtown, 2) Memorial Highway/SE Mandan (south of Main), 3) I-94 Corridor.</p>		
JOBS CREATION Numbers of Jobs ³	JOB QUALITY Average Wages & Benefits ⁴	INCREASED LOCAL USE TAXES⁵	ANNUAL SALES	TYPE & SCOPE OF PROJECT
		<ul style="list-style-type: none"> • 1% Sales • 1% Restaurant & lodging • 2% hotel occupancy 		
BASE LEVEL/TIER 1 — 100% exemption for 2 years				
<i>Project should provide at least 1 of the significant, measurable benefits listed below.</i>				
Minimum 3 FTEs	Minimum \$910.60/hr, \$18,720 <u>22,052</u> /yr or 30% of median household income	\$5,000 to \$10,000 in local use tax collections	\$500,000 to \$1 million annual sales	<ul style="list-style-type: none"> • Retail/Services — Under 5,000 sf • Restaurants — fast food (counter service or drive-up only) • Hotels — minimum 20 rooms; investment of \$45,000/rm construction cost, no amenities
INTERMEDIATE LEVEL/TIER 2 — Exemption of 100% for 2 years, 75% year 3, 50% year 4, 25% year 5				
<i>Project should provide: 1) at least 2 of the tier 1 benefits listed above, OR 2) at least 1 of the tier 2 benefits listed below</i>				
Minimum 3 FTEs, PLUS an additional FTE for each \$100,000 <u>150,000</u> in structural value subject to exemption	Minimum \$20.35 <u>24.74</u> /hr, \$42,326 <u>51,455</u> /yr or 70% of median household income	\$10,001 to \$100,000 in local use taxes	\$1,000,001 million to \$10 million in annual sales	<ul style="list-style-type: none"> • Retail/Services — 5,000 to 10,000 sf • Restaurants — limited service (order w/ cashier, food brought to table) • Hotels — 21 to 40 rooms; \$60,000/rm construction cost, meeting room
TOP LEVEL/TIER 3 — 100% exemption for 5 years				
<i>Project should provide: 1) at least 3 of the tier 1 benefits listed above, OR 2) at least 1 of the tier 3 benefits listed below</i>				
Minimum 3 FTEs, PLUS an additional 2 FTEs for each \$100,000 <u>150,000</u> in structural value subject to exemption	Minimum \$29.07 <u>35.34</u> /hr, \$60,466 <u>73,507</u> /yr or 100% of median household income	\$100,001+ in local use taxes	More than \$10 million in annual sales	<ul style="list-style-type: none"> • Retail/Services — 10,000+ sf • Restaurants — full service — (table side service) • Hotels — 40+ rooms, \$75,000/rm construction cost; meeting rooms and pool or convention center

1. ~~Primary Sector Business — Through the employment of knowledge or labor, the business adds value to a product, process, or service that results in the creation of new wealth. The term includes tourism but does not include production agriculture.~~
2. ~~Filling Market Gaps — A) Based on Nielsen Claritas, ESRI or other market data for Morton County. Community surveys may also be considered. Applicant, if approved, shall be required to submit annual sales tax report. B) Based on 2008 City of Mandan household survey of retail preferences.~~
3. ~~1. Numbers of Jobs — By first anniversary of certificate of occupancy for owner occupied projects (or first anniversary of occupancy for lease projects)~~
4. ~~2. Wages & Benefits — Based on 2014 The U.S. Census Bureau's 2011-2015 American Community Survey estimate for the City of Mandan average mean household income estimated at is \$60,466~~ \$73,507. Employee benefits including retirement and insurance contributions may be quantified on an hourly basis and applied toward the threshold. Applicant, if approved, shall be required to submit annual payroll report.
5. ~~Local Use Taxes — Applicant, if approved, shall be required to submit annual sales tax report.~~

The Board of Commissioners may waive any of these requirements if they deem a business should receive additional incentives because of its benefits to the community.

OTHER POTENTIAL IMPACTS (POSITIVE AND NEGATIVE)

- Diversification of economic base (an industry not represented or under-represented in our business community)
- ~~Ability of the project to attract people from other communities~~
 - ~~Radius of draw for customers and frequency of patronage (often an inverse relationship with the market area increasing as the frequency decreases)~~
 - ~~Uniqueness of business~~
 - ~~Breadth of customer base~~
- Synergies with existing businesses in the community
 - Enhancing an industry sector that is a base of the local economy
 - Filling a gap in the supply chain for a core industry or business sector
 - Providing a product or service needed by other businesses in the region
- Growth potential of company and industry and potential spin-off benefits
- Adding value to local resources
- Making use of an underutilized asset (either facilities or land)
- Economic impact through increased construction activity, equipment purchases, additional product purchases, additional work activity, immediate and projected increases in property values, and impact on future tax collections.
- Impact on city services
 - Can the company be accommodated within existing service levels, or will additional capacity be needed?
 - Is the company locating where better use of existing services will take place or further the development plans of the City?
- Fostering entrepreneurship (boosting the economic feasibility of the project)

ADDITIONAL LIMITATIONS AND STANDARDS

- A new or expanded business in the community must not gain unfair advantage with existing competitors through use of the exemption. Applicant should be prepared to demonstrate that an unfair advantage is not gained over any possible existing competitor for the amount of exemption received.
- Property tax incentives must be approved prior to the start of construction.
- Projects that are primarily warehousing (for the storage of goods, raw materials or commodities) would not receive an incentive unless the owner proves need or provides other information to justify the exemption.
- ~~Projects that are primarily speculative in nature, with unidentified business tenants or occupants, will not receive an incentive unless the owner can provide information to justify the exemption. An exception to this may be a major retail shopping center generating significant local sales tax revenue.~~
- Projects involving relocation of an existing business from another N.D. community to Mandan will not generally receive an incentive unless the business is expanding in some manner such as square footage, number of employees, or scope of products and services.
- Jobs created in the 12 months prior to the date of application may be considered toward meeting job creation thresholds as indicated in the criteria.
- Jobs must be based at the project location to apply toward the jobs creation thresholds. Out-of-town or traveling jobs stemming from the project location may be awarded partial credit in situations where permanent local residency of employees is likely.

- Annual reports — By February 15 of each year, the recipient of the exemption will file an annual employment verification report with the ~~Bismarck—Mandan Development Association~~ City of Mandan.
- An exemption that has been granted will be considered lapsed and invalid if construction has not begun in one year and completed in two years. Notice will be sent to the project operator 90 days prior to the exemption lapsing.

Improvements to Commercial

NDCC 57-02.02 allows exemptions for property renovations, remodeling, alterations, and additions. A property tax exemption is available for all improvements to commercial buildings or structures. The value of qualifying improvements is exempt. The last assessment on the building or structure prior to commencement of the improvements remains for the duration of the exemption period, unless equalization or revaluation of building values is necessary. The exemption does not apply to land values, which may be changed whenever justified. The exemption is valid for the prescribed period and does not terminate upon the sale or exchange of the property. It is transferable to subsequent owners.

Payments in Lieu of Taxes

The City of Mandan may consider up to a five-year payment in lieu of tax (PILOT) in years 6-10 for a new or expanded business whereby a project may be required to pay only an approved percentage of taxes that would otherwise be due. This incentive is generally used only in rare circumstances for projects of extraordinary public benefit. ~~Such requests shall be considered directly by the City Commission.~~

Sale to Non-Profit

If a property receiving a tax exemption is sold or in any way transferred to a tax-exempt entity within a period of time equal to 2.5 times the length of the exemption to an entity exempt from property tax, the property owner will be required to pay back all tax revenue given as part of the exemption.

Non-profits may be asked to make payments in lieu of taxes for essential services.

Other Clawback Provisions

If the project fails to deliver on public benefits that were the basis for approval of an exemption, or any other requirements including timely reporting, the City Commission may revoke the exemption and/or require that all or part of the exemption be paid back. Project applicant may be required to enter into a performance or business incentive agreement if approved for assistance before any exemption becomes effective.

APPLICATION FOR PROPERTY TAX INCENTIVES FOR NEW OR EXPANDING BUSINESSES

City of Mandan Application and Procedural Instructions — ~~Adopted Dec. 18,~~
2012 Revisions proposed February 2019

Application Instructions

North Dakota Century Code ch. 40-57.1 provides incentives in the form of property tax exemptions, payments in lieu of taxes, or a combination of both to a qualifying business. The incentives may be granted at the discretion of the city or county in which the property is located, to any new or expanded revenue-producing project. Buildings, structures or improvements used in the operation of the project may qualify. Land does not qualify for the exemption.

To apply for projects within the City of Mandan, a helpful first step is to contact City of Mandan Business Development and Communication Office to arrange a meeting or conference call to discuss your project and receive information regarding exemption requirements and guidelines, application forms, and the review and approval process. The City of Mandan Business Development and Communication Office is located at Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554, phone 701-667-3485.

Recommended next steps are as follows:

1. Review N.D. Tax Department Guidelines — Property Tax Incentives for New or Expanding Businesses
2. Review the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines
3. Complete application forms and submit to the City Assessing and Building Inspection Business Development Department, Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554. If you would like assistance filling out the application or need additional information, call 701-667-~~3230~~3485.
 - a. N.D. Tax Department Form — "Application For Property Tax Incentives For New or Expanding Businesses"
 - i. Helpful Notes:
 - Question 16e — ~~The consolidated mill levy for property within Mandan city limits for 2012 is 394 mills, which for section 16e translates into 0.394~~Contact the Business Development Office to inquire about the consolidated mill rate.
 - Question 20 — Include projected property taxes in your projected annual expenses.
 - b. City of Mandan Commercial Property Tax Exemption Supplemental Application

Application Review Procedures

1. Applicants are advised to file their forms at least 45 days prior to their desired construction start date.
2. When an application is received, Assessing-Business Development Department staff will assist with the scheduling of a public hearing during a meeting of the Mandan City Commission, which typically meets the first and third Tuesday of the month at 5:30 p.m. at City Hall. Staff will also assist with the placement of the legal advertisement in the *Mandan News* (published Fridays, deadline Monday) as required by state law:

The project operator publishes two notices to competitors of hearing on the application. The notices are published in the official newspaper of the city or county at least one week apart. The last notice must be published at least 15 days, but not more than 30 days, before the city or county considers the application. For example, notices published one week apart on May 1 and May 8 would be appropriate for a hearing scheduled any time between May 23 and June 7. An affidavit of publication is presented to the governing body prior to the hearing as proof of publication. Publication of notices is not required if the municipality determines that project competitors do not exist in the municipality.

3. ~~Assessing Business Development~~ Department staff will ~~provide a copy of the application to the City Administrator and the Business Development and Communications Office to~~ schedule ~~for~~ review and consideration of the application by the Mandan Growth Fund Committee, a nine-person committee generally comprised of businesses people from within the community.
4. ~~Assessing Department staff~~The Business Development Department will also provide a copy of the application to the Assessing Department plus designated representatives of the Morton County Commission, Mandan School Board and Mandan Park Board.
5. The Mandan Growth Fund Committee will meet, typically at least 5 days prior to the public hearing date before the Mandan City Commission, to review the application and consider a recommendation to the Mandan City Commission. Applicants are encouraged to have a representative attend the meeting or alternatively participate via conference call. Committee members will likely ask questions of the applicant to obtain more information regarding the benefit of the project to the community and to clarify items on the application. The meeting is open to the public.
6. The Mandan City Commission will conduct a public hearing (as scheduled in accordance with state law) to receive comment on the application. The applicant is encouraged to have a representative in attendance. The applicant may address the Commission during the public hearing to summarize the project and may also be called upon to answer questions. The Mandan Growth Fund Committee's recommendation regarding the application will be presented to the Mandan City Commission for consideration after the closure of the public hearing.

Follow-up Requirements

Recipients of exemptions, once implemented, must file an annual employment verification report with the ~~Bismarck-Mandan Development Association~~City of Mandan for a minimum of five years or as many years as the exemption lasts, whichever is greater. Applicants will be required to enter into a jobs verification agreement prior to implementation of the exemption.

Applicants may be held to other performance-based requirements and asked to enter into other clawback agreements, with reporting as necessary, as recommended by the Mandan Growth Fund Committee and approved by the Mandan City Commission.

After application approval, an applicant may begin project construction.

Automatic Door Requirement

Voters in the Nov. 4, 2008, election in the City of Mandan approved an initiated ordinance that stipulates, "Every building open to public use that has received the benefit of public funds from the City of Mandan shall provide for the installation of an automatic door for at least one main entrance to the building." Now a part of Mandan Municipal Code ~~14-02-15111-2-9~~, any property receiving a property tax exemption for new and expanding businesses since Nov. 14, 2008, is subject to the requirement.

The ordinance applies to buildings or businesses that are used for the purposes described in the following sections of 21-03-07 of the Mandan Municipal Code: Retail Group A; Retail Group B; Service Group A; Office Bank Group; Commercial Recreation Group; Health Medical Group and Education Group.

In the event it is determined by the City that a business or building has received public funds and has not complied with the ordinance, the City may revoke or rescind the granting of or receipt of the public funds or take such further action as may be necessary to insure compliance with the ordinance.

**APPLICATION FOR PROPERTY TAX INCENTIVES
FOR NEW OR EXPANDING BUSINESSES**

**City of Mandan Supplemental Application — ~~Adopted Dec. 18, 2012~~ Revisions proposed
February 2019**

Name of project operator _____

Address of project _____

Based on the City of Mandan's commercial property tax exemption policy and guidelines (see separate document), please indicate the level of exemption being sought.

Level of Exemption

- Tier 1 — 100% exemption for 2 years
- Tier 2 — 100% exemption years 1-2, 75% year 3, 50% year 4, and 25% year 5
- Tier 3 — 100% exemption for 5 years

Please indicate all significant public benefits to be provided by the subject project. These are the factors that should serve as the basis for your request. Please check all that apply and provide justification for each claimed benefit through information provided in the "Application for Property Tax Incentives For New and Expanding Businesses" and through this supplemental form. Attach additional sheets and information as needed. If a question is not applicable to the subject project, please indicate such with an "n/a" in the blank.

Public Benefits

- Creation and retention of job opportunities within the community (factors to be considered include numbers of jobs, average wages and benefits)
- Increased local sales & use taxes ~~(sales, hotel and restaurant, or occupancy)~~
- ~~Filling a gap in the community or region's retail market profile (based on Nielsen Claritas or other published market data)~~
- Diversification of economic base
- ~~Ability of the project to attract people from other communities (typically for destination purchases for services)~~
- Synergies with existing businesses in the community (Examples: enhancing an industry sector important to the local economy, filling a gap in the supply chain for a core industry or business sector, providing a product or service needed by other businesses in the region)
- Growth potential of company and industry and potential spin-off benefits
- Adding value to local resources
- Making use of an underutilized asset (either facilities or land)

Project Development

Please describe the overall impact of the expansion, relocation, additional location or new business on the City of Mandan and the surrounding economic base. Please note any necessary investment beyond the building in site or infrastructure improvements.

Current assessed land value per square foot: _____

Cost of land (if purchased as part of this project) per square foot: _____

Estimated added land value (per square foot): _____

~~Estimated annual end-of-the-year inventory:~~ _____

Sites being considered: _____

Is this business relocating from another North Dakota site? _____

If yes ...

Where is the business relocating from? _____

Please explain the reason for the relocation including details of any expansion in square footage, employment, products or service offerings: _____

Employment

Total number of permanent employees in full-time equivalents: _____

Total number of permanent employees estimated to live within 50 miles of proposed site: _____

Hourly wage range by key positions or categories of positions _____

Please describe the benefits offered to employees (retirement, health insurance, dental, etc.) and the eligibility requirements for participation. Indicate value of benefits on an hourly basis.

Impact on Local Use Taxes

Estimated value of annual purchases for project location _____

Percentage of purchases for project location subject to local sales or use tax _____

Estimated value of annual sales to be generated from project location _____

Percentage of sales subject to local sales or use tax _____

Market Context (for retail-oriented businesses only)

General retail category (check category that best applies)

- ~~Motor Vehicle & Parts Dealers~~
- ~~Furniture & Home Furnishing Stores~~
- ~~Electronics & Appliance Stores~~
- ~~Building Materials & Garden Equipment~~
- ~~Food and Beverage Stores~~
- ~~Health & Personal Care Stores~~
- ~~Gas Stations~~
- ~~Clothing & Accessories~~
- ~~Sporting Goods, Hobby, Book, Music Stores~~
- ~~General Merchandise Stores~~
- ~~Foodservice and Drinking Places~~
- ~~Miscellaneous (please indicate) _____~~

Please use Nielsen Claritas, ESRI or Buxton market analyses as references for the following:

Estimated consumer expenditures in city or county _____

Estimated retail sales in city of county _____

Estimated surplus or gap _____

Importance of Incentive (use a separate sheet as needed)

Please describe why an incentive is necessary for the success of this project and how the improvements will benefit the property at the conclusion of the abatement.

Future Expansion Plans (use a separate sheet as needed)

Please describe any plans for future expansion beyond the initial development. Describe investments and employment associated with those plans on a year-to-year basis.

I _____ do hereby certify that the answers to the questions above and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

I further agree that I have read the requirement for installation of an automatic door per Mandan Municipal Code 111-2-9 if the building project that is subject of this application is approved for a property tax exemption and if the building is used for a purpose described in the following sections of 105-4-2 of the Mandan Municipal Code: Retail Group A; Retail Group B; Service Group A; Office Bank Group; Commercial Recreation Group; Health Medical Group and Education Group.

Signature

Title

Date



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 14, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Renaissance Zone rehab application for 218 W Main St.

STATEMENT/PURPOSE: To consider a Renaissance Zone Committee recommendation for approval of an application for rehabilitation of 218 W Main St. by 218 West Main LLC.

BACKGROUND/ALTERNATIVES: The Mandan Renaissance Zone Committee met on March 14, 2019, to consider a rehabilitation application by Brittany Kennedy and Cathy Ehlis of 218 West Main LLC for 218 W. Main St. This building is owned by the City of Mandan and under purchase agreement for sale to the applicants with closing to be on or before April 1. Plans include a complete exterior and interior renovation.

The total estimated cost of the total building project is \$253,490 (excluding signage). Interior rehabilitation includes the removal of all existing interior false walls, framing of an approximate 750 sq. ft. gym and 1,250 sq. ft. café, building a commercial kitchen, coffee bar, installing all new hardwood floors and increasing the size of two bathrooms. For the exterior, the front of the building will have all windows and the door replaced with high quality, energy efficient glass. Plans include two large bay windows on the left side of the door and an 8-ft. glass garage door on the right side of the entry. The entry will be replaced by a main entry door flush with the exterior wall which will have an automatic operation. The exterior brick will be reinforced and replaced as needed. The rear of the building will be completely refaced, painted and a new door will be installed.

The exterior plan has approval from the Mandan Architectural Review commission.

The proposed investment exceeds the minimum investment requirement to receive a 100% five-year tax exemption on the building as improved under the Renaissance Zone Program. This requirement is to put at least 50% of the building's value into it in improvements. The building is currently valued at \$90,700, so the minimum investment is \$45,350.

The applicants are also seeking \$30,000 in matching funds through a Growth Fund Storefront Improvement project (see New Business 2i), but the level of investment is sufficient to meet the investment and match requirements of both the Renaissance Zone and Growth Fund programs without overlap.

The applicants plan to complete renovations by June 1, 2019. The applicants plan to lease the building for their businesses, Copper Dog Café, a waffle and coffee shop, and a small youth fitness area.

ATTACHMENTS: Draft floor plan and cost estimate summary. Exterior photos and concept drawings are included with New Business 2i. Full application available upon request.

FISCAL IMPACT: Our city assessor estimates the value of the building with improvements to be \$297,000. Using the 2018 levy of 265 mills, the annual property tax on the building is estimated at \$3,935 for a five-year total of \$19,676. The actual property tax exemption will be subject to prevailing market values and property tax rates in the five subject years. The estimated state income tax exemption is \$600 annually for a five-year total of \$3,000.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the information. Per local ordinance, an automatic door is required. A certification of good standing from the N.D. Tax Department dated March 13, 2019 was received. The N.D. Commerce Department requires business incentive agreements for each application.

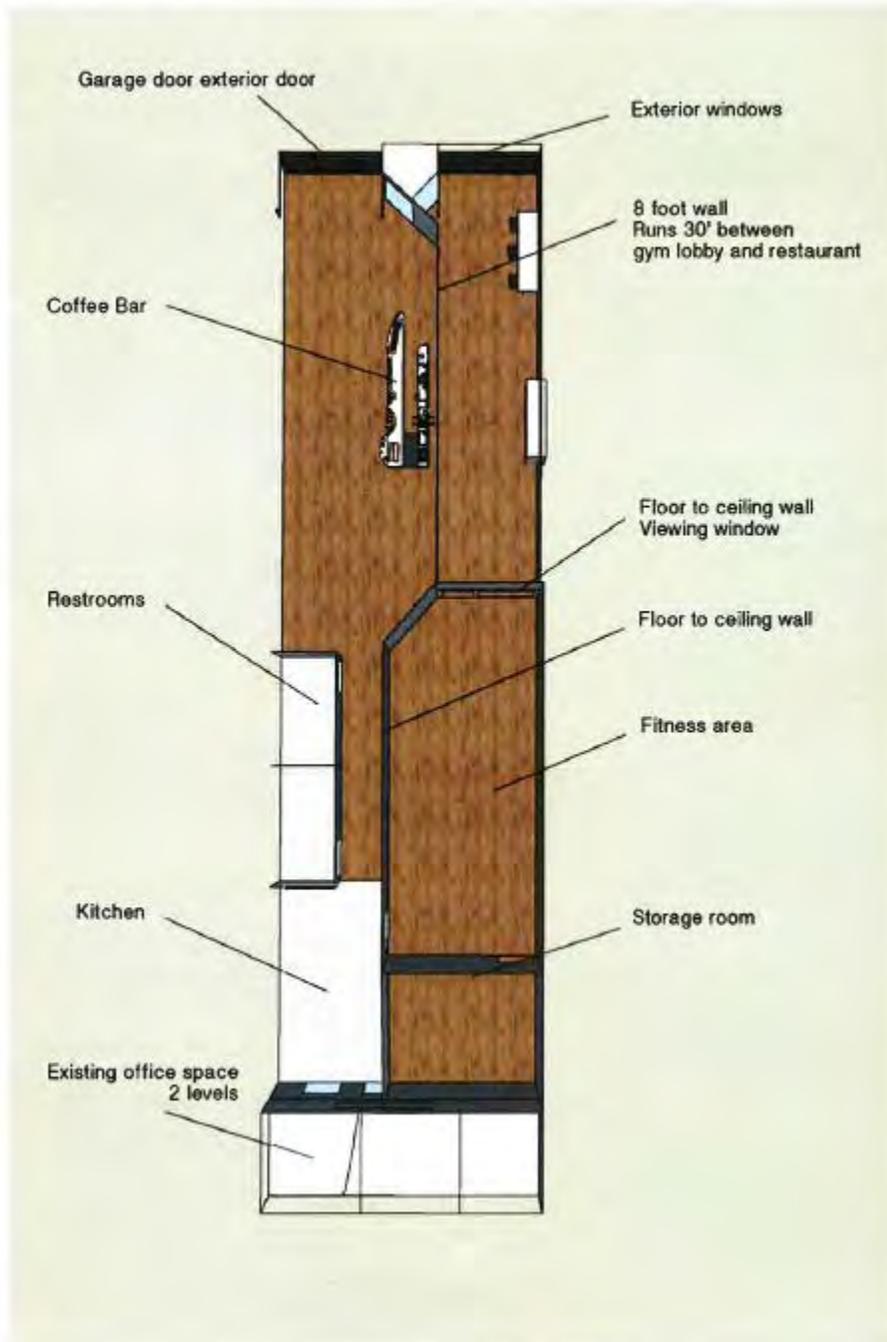
RECOMMENDATION: The Mandan Renaissance Zone Committee voted 5-0 (with 2 members absent) to recommend approval of the application for rehab of 218 W Main St. by 218 West Main LLC to include the five-year 100% property tax exemption on the building as improved and the 100% five-year state income tax exemption.

SUGGESTED MOTION: I move to approve the application for rehab of 218 W Main St by 218 West Main LLC to include the five-year 100% property tax exemption on the building as improved and the 100% five-year state income tax exemption.

Draft interior floor plan

Interior Renovation Descriptions

218 West Main LLC





PO Box 2121, Bismarck, ND 58502-2121

PHONE: 701-751-3230

EMAIL: alvie@straightwayconstruction.com

FAX: 701-223-4439

SERVICE IS OUR REASON FOR BUSINESS!!

BUDGET PROPOSAL

Date: February 16, 2019

Submitted To: Randy Ehls

Project: Waffle, Coffee, Gym

Location: 218 W. Main, Mandan, ND

Our budget proposal includes labor, materials and equipment to complete the demolition of existing space and the construction of the space as shown on plans received and site visit discussion. Budget pricing includes general construction, plumbing, mechanical and electrical.

Budget price is based on similar projects and all work listed above. \$200,000.00

Note: Budget pricing is good for 30 days.

All material is guaranteed to be as specified. All work to be completed in workmanlike manner according to standard practices, with a one year warranty from date of completion. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner is to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Respectfully submitted,

Alvie Jarratt, Jr.

1407 Tacoma Ave Unit1
Bismarck, ND 58504
258-4663



Phone: (701)-258-0088
Fax: (701)-

Estimate

Project: Mandan Coffee, gym Store front
Plan Date:
Address: 218 West Main Ave, Mandan

Date: 2-15-19 revised 3-5-19

Thank you for the opportunity to bid on your upcoming project. Please contact us with any questions.
Estimate valid for 30 days. Your Estimate is as follows:

Includes:

Glass Store front with interior vestibule glass and doors. Demo existing, minor reframe for front curb wall.

Scrape and repaint band above windows

Re-tuck brick mortar and fix loose bricks on parapet.

Add: one interior and one exterior ADA automatic door openers and 4 push pad buttons (excludes wiring or breaking flooring)

Add: \$8,850

Exclusions:

Electrical, HVAC, concrete work, structural work, insulation, drywall, signs/installation, permits, engineering.

Project Total: \$53,490

Notes:

- 25% of contract price down at time of signing, progress billings due upon receipt, payment of balance at time of completion. Finance charges of 1.5% will be added monthly to payments 30 past due.
- Quote valid for 30 days. Thank you for the opportunity to bid on your home construction project.

Submitted by: _____

Date: _____

Accepted by: _____

Date: _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 14, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Renaissance Zone rehab application for 504 W Main St.

STATEMENT/PURPOSE: To consider a Renaissance Zone Committee recommendation for approval of an application for rehabilitation of 504 W Main St. by JR&R II, LLC.

BACKGROUND/ALTERNATIVES: The Mandan Renaissance Zone Committee met on Mar. 14, 2019 to consider a rehabilitation application by JR&R II, LLC for 504 W Main St. The applicants have purchased the property and are planning a full exterior and interior renovation.

The total estimated cost of the project is \$1,085,000. The project includes total roof replacement, new HVAC and electrical, new ceiling tile and LED lighting, concrete floor polishing, new sprinkler/fire/security systems, ADA restrooms, new garage door, extension of the existing canopy siding, new signage, resizing of the loading dock door and new dock equipment.

The applicant's site plan has received approval from the Mandan Architectural Review Commission contingent upon receipt of a satisfactory landscaping plan and upgrading the aesthetics and quality of the fence plan for the outdoor storage area between the 504 W Main and the adjacent 511 First St buildings.

The applicant has also indicated plans to apply for the Mandan Growth Fund's Storefront Improvement Program once the site plan and exterior building plans are finalized. The proposed investment in improvements is sufficient to independently meet the requirements of each program without overlap.

The proposed investment exceeds the minimum investment requirement to receive a 100% five-year tax exemption on the building as improved under the Renaissance Zone Program. This requirement is to invest at least 50% of the building's value into it in

improvements. The building is currently valued at \$1,466,300, so the minimum investment is \$733,150.

The applicant hopes to have the project completed by July 15, 2019. JR&R II, LLC plan to lease the building to Running Supply, Inc. (see New Business 3iii).

ATTACHMENTS: Site plan, exterior plan submitted for signage approval and cost estimate summary. Full application available upon request.

FISCAL IMPACT: City Assessor Kimberly Markley Based estimates the value of the building with improvements to be \$2,036,500. Using the 2018 levy of 265 mills, the annual property tax on the building is estimated at \$26,984 for a five-year total of \$134,920. The actual property tax exemption will be subject to prevailing market values and property tax rates in the five subject years. The estimated state income tax exemption is \$6,240 annually for a five-year total of \$31,200.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the information. Per local ordinance, an automatic door is required. The applicant will need to provide a certificate of good standing from the N.D. Tax Department. The N.D. Commerce Department also requires a business incentive agreement for each application.

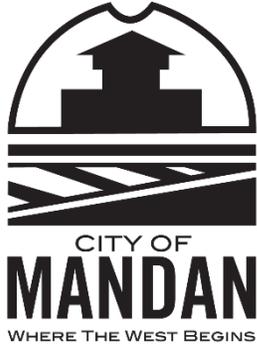
RECOMMENDATION: The Mandan Renaissance Zone Committee voted 5-0 (with two members absent) to recommend approval of the application for rehab of 504 W Main St. by JR&R II, LLC to include the five-year 100% property tax exemption on the building as improved and the 100% five-year state income tax exemption.

SUGGESTED MOTION: I move to approve the application for rehab of 504 West Main Street by JR&R II, LLC to include the five-year 100% property tax exemption on the building as improved and the 100% five-year state income tax exemption.

Board of City Commissioners
 Agenda Documentation
 Meeting Date: March 19, 2019
 Subject: RZ Rehabilitation Application for 504 W Main St.
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<u>Pharmacy</u>	Original Cost		Current		<u>Comments</u>
		<u>Estimates</u>		<u>Estimates/Bids</u>	
Flooring	\$	-	\$	-	
Ceiling & Lights	\$	35,000			no ceiling or light work, ware house use only
Demo & Patching	\$	85,000	\$	35,100	need final masonry bid after structural print is complete, hopfauf const.
HVAC	\$	15,000	\$	12,800	advanced mech misc repairs/inspections
Parking Lot	\$	50,000	\$	50,000	no bids currently, spring bids
ADA Bathrooms	\$	-	\$	-	
Roof Repair/Replace	\$	-	\$	-	
Loading Dock Repair	\$	-	\$	-	
Security/Fire Systems	\$	35,000	\$	34,800	fans, protection 1,
Exterior Canopy/Signage	\$	-	\$	-	
Contingency	\$	20,000	\$	20,500	need final masonry bid
Garage Door	\$	30,000	\$	2,500	midwest doors
misc. plumbing work	\$	-	\$	-	
misc. electrical	\$	-	\$	3,000	
sprinkler	\$	-	\$	-	
Fencing	\$	20,000	\$	20,000	no bids currently, spring bids
Architect/Engineers	\$	-	\$	-	included in above cost
Total	\$	290,000	\$	154,100	

<u>Total</u>	Original Cost		Current		<u>Comments</u>
		<u>Estimates</u>		<u>Estimates/Bids</u>	
Flooring	\$	110,000	\$	75,000	
Ceiling & Lights	\$	165,000	\$	90,448	
Demo & Patching	\$	145,000	\$	103,100	
HVAC	\$	30,000	\$	216,965	
Parking Lot	\$	150,000	\$	150,000	
ADA Bathrooms	\$	65,000	\$	57,200	
Roof Repair/Replace	\$	200,000	\$	197,980	
Loading Dock Repair	\$	45,000	\$	41,000	
Security/Fire Systems	\$	115,000	\$	76,000	
Exterior Canopy/Signage	\$	60,000	\$	62,175	
Contingency	\$	95,000	\$	60,000	
Garage Door	\$	30,000	\$	10,460	
misc. plumbing work	\$	-	\$	29,100	
misc. electrical	\$	-	\$	110,363	
sprinkler	\$	-	\$	25,579	
Fencing	\$	20,000	\$	20,000	
Architect/Engineers	\$	100,000	\$	12,500	
Total	\$	1,330,000	\$	1,338,871	



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 14, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Renaissance Zone lease application for 504 W Main St.

STATEMENT/PURPOSE: To consider the Renaissance Zone Committee's recommendation for an application by Running Supply, Inc. for lease of 504 W Main St, a building proposed for improvement as a Renaissance Zone project.

BACKGROUND/ALTERNATIVES: The Renaissance Zone Committee met on Mar. 14, 2019 to consider the above application. JR&R II, LLC has applied for a rehabilitation project for renovation of the building interior and exterior. Running Supply, Inc. will lease the building's 32,173 sq. ft. space for its new downtown Mandan location.

Running Supply, Inc. plans to increase its workforce by 16 full-time and part-time employees in 5 years. They project sales tax revenue from the business will double as compared to that generated from the current location. The new locations gives Running Supply, Inc. the ability to expand product offerings in the home, farm and outdoor space.

Current plans are to have the renovation project complete by July 15, 2019, and to occupy the building in the week of July 22.

ATTACHMENTS: Application available upon request.

FISCAL IMPACT: The estimated state income tax exemption is \$3,000 annually for a five-year total of \$15,000.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application. An automatic door as required by local ordinance is being installed. The applicant will need to provide a

certificate of good standing from the N.D. Tax Department, and will be required to complete a business incentive agreement.

RECOMMENDATION: The Renaissance Zone Committee recommends the approval of the application for lease of 504 W Main St. by Running Supply, Inc. to include the 100% five-year state income tax exemption.

SUGGESTED MOTION: I move to approve the application for lease of 504 West Main Street by Running Supply, Inc. to include the 100% five-year state income tax exemption.



Board of City Commissioners

Agenda Documentation

MEETING DATE:	March 19, 2019
PREPARATION DATE:	March 13, 2019
SUBMITTING DEPARTMENT:	Engineering
DEPARTMENT DIRECTOR:	Justin Froseth, PE
PRESENTER:	Justin Froseth, Planning and Engineering Director
SUBJECT:	Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

STATEMENT/PURPOSE: To approve the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

BACKGROUND/ALTERNATIVES: At the December 4th, 2018 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 7th and 14th and notification letters were sent out to the property owners within the District. The 30 day protest period started on December 7th and ended on January 7th. At the December 18th City Commission meeting a motion was approved to commit \$1.5 million out of the Sales Tax Fund and spread it over the life of the bond. If the Prairie Dog Fund bill is passed by the legislature commission may consider using those funds instead of the Sales Tax Fund for project funding assistance.

At the conclusion of the protest period, 12.81% of the assessment district area had protested. Commission on January 8th found the protests insufficient and elected to move forward with the project.

Engineering staff and the consultant have been designing with alternates in addition to the base bid in order to select the project that commission sees as the best value while staying true to the general nature of the project as preliminarily proposed. Examples of this include reduced storm pipe sizes as an alternate and providing the alley resurfacing as an alternate.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

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If approved today, the project's bid opening would be April 10th. In order to make sure that we allow commission and our residents ample time to review and provide input on the bid, we intend to bring the bid results along with all of the alternatives for consideration at the April 16th City Commission meeting for discussion. After that discussion and any input period that may be desired by the commission, we would bring to commission for a decision of if to award and what alternatives to award on May 7th.

ATTACHMENTS:

- 1) Resolution Approving Plans and Specifications
- 2) Resolution Directing Advertisement for Bid
- 3) District Map
- 4) Note: Plans and specifications available upon request

FISCAL IMPACT: The total project cost that would be divided among district participants is estimated at \$7,366,000 minus the \$1,500,000 that was approved at the December 18th meeting to be used from the Sales Tax Fund. If all alternates are taken, including downsizing of storm sewer and no alley resurfacing, the estimate is reduced by another \$950,000.

An additional \$531,000 is within the project for possible park district parking lot improvements which is included in the district, but would go straight to the Park District. Water and sewer improvements would not be district costs either. Funds for those would come from utility fund if replacing existing or to a smaller focused district if expanding them to properties that are currently not served. City staff was approved for a low interest loan from the Bank of North Dakota for favorable loan terms to help with costs.

STAFF IMPACT: Significant time and effort working alongside Moore Engineering on this project and answering the public's questions.

LEGAL REVIEW: Our agenda information has been forwarded as part of the full packet to the City Attorney for review.

RECOMMENDATION: Approve the Resolution approving plans and specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

SUGGESTED MOTION: Move to approve the Resolution approving plans and specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

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**RESOLUTION APPROVING PLANS AND SPECIFICATIONS
FOR STREET IMPROVEMENT DISTRICT NO. 213
PROJECT # 2018-07**

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

Pursuant to the requirement of section 40-22-11 of the North Dakota Century Code, the Plans and Specifications for the improvement project in Street Improvement District No. 213 (Project # 2018-07) of said City be and the same are hereby approved, ratified and confirmed as the plans and specifications in accordance with which said improvement project will be constructed, except as modified by this Board in accordance with law, and the City Administrator shall file the same in his office, open for public inspection.

Dated this 19th day of December, 2019

President, Board of City Commissioners

ATTEST:

City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

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**RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS
FOR STREET IMPROVEMENT DISTRICT NO. 213 PROJECT 2018-07**

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

1. The City Administrator, Deputy Auditor and City Engineer shall meet at the time and place specified in the notice authorized in paragraph 2 hereof, for the purpose of opening sealed bids for the work and material needed for the improvement project to be made in Street Improvement District No. 213 (Project # 2018-07) of the City of Mandan, as more fully described and referred to in the resolution creating said improvement district passed and approved by the Board on March 19, 2019, and in the plans and specifications for said improvement now on file in the office of the City Engineer.

2. The City Administrator is authorized and directed to cause notice of advertisement for bids to be published once each week for two consecutive weeks in the Mandan News, the official newspaper, the first of such publications to be at least fourteen days before the date specified for receipt of bids, which notice shall be in the following form:

**“ ADVERTISEMENT FOR BIDS FOR
STREET IMPROVEMENT DISTRICT NO. 213
PROJECT 2018-07
MANDAN, NORTH DAKOTA**

Notice is hereby given, that the City of Mandan, North Dakota will receive sealed bids at the office of the City Administrator until Wednesday, April 10, 2019, at 10:00 a.m., local time for the purpose of furnishing of materials, labor and skill needed for the construction of asphalt streets and alleys, concrete curb and gutter and related work in accordance with the plans and specifications for Street Improvement District No. 213 (Project # 2018-07), for the City of Mandan. The Project consists of constructing Storm Sewer, Water Main Replacement, Sanitary Sewer Extension, Sidewalk Improvements, Curb and Gutter Replacement, Street Improvements and Parking Lot Improvements.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

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Contractors and vendors desiring plans and specifications for personal use may secure digital copies from www.questcdn.com for a fee of \$25.00. These documents may be downloaded by selecting this project from the "Bid Documents" tab and by entering Quest Project Number #6116296 on the "Search Projects" page. For assistance and the free membership registration, contact QuestCDN at (952)233-1632 or info@questcdn.com. Paper copies of the bid documents may be obtained from the City of Mandan Engineering office, 205 2nd Avenue Northwest, Mandan, North Dakota 58554 upon non-refundable payment of \$50.00 for each set. If Plans are mailed out and additional fee of \$15.00 will be added for postage and handling.

The issuing Office for the Bidding Documents is: Moore Engineering, Inc.; 2911 North 14th Street, Suite 301, Bismarck, ND 58503; Josh Reiner; 701-751-8360; JReiner@mooreengineeringinc.com.

The bid proposals must be submitted to the City Administrator by 10:00 a.m., local time, April 10, 2019 and shall be sealed and endorsed "Proposal for Street Improvement District No 213. Bids shall be delivered or mailed to: City Administrator, City of Mandan, 205 2nd Avenue NW, Mandan, ND 58554. Bids will be opened and read aloud in the City Commission Meeting Room at 10:00 a.m., local time, on April 10, 2019. All bidders are invited to be present at the public opening of the Bids.

All Bidders must be licensed for the highest amount of their Bids, as provided by Section 43-07-07 of the North Dakota Century Code. The Bidder shall include a copy of his license or certificate of renewal thereof enclosed in the required bid bond envelope as required pursuant to Section 43-07-12 of the North Dakota Century Code, as amended.

Each bid shall be accompanied by a separate envelope containing a bidder's bond in the amount of five (5) percent of the highest amount of the bids as required by Section 48-01.2-05, North Dakota Century Code, as amended, and executed by the Bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after Notice of Award, shall execute and effect a contract in accordance with the terms of the bid, and a Contractor's Bond as required by law. No bid may be read or considered if it does not fully comply with the requirements of Section 48-01.2-05 of the North Dakota Century Code and any deficient bid must be resealed and returned to the bidder immediately.

Bids shall be made on the basis on cash payment for the work to be done. All work under this advertisement shall be started on a date to be specified in a written order from the Board of City Commissioners, or no later than ten (10) days after written notice to proceed has been received from the City.

Board of City Commissioners

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Meeting Date: March 19, 2019

Subject: Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

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Construction work will be substantially completed by June 30, 2020 with final completion date of July 15, 2020.

Liquidated damages of \$1500.00 per calendar day will be assessed if any completion dates are exceeded.

Should the contractor fail to complete all of the work in a District according to the above date, or within such additional time as may have been granted by formal extensions of time approved by the City Engineer, there shall be deducted from any money due the contractor, the above mentioned sum for each calendar day the completion of the Work is delayed. Liquidated damages will continue to accumulate until the City Engineer determines winter weather prevents further construction. Liquidated damages will restart on the first day of construction in the Spring of 2020 and continue to accumulate until final project acceptance. The Contractor and his surety shall be liable for any excess. Such payments shall be deducted from the final payment and shall be charged as liquidated damages and not as a penalty.

The Board of City Commissioners will meet on Tuesday, April 16, 2019, at 5:30 PM, local time, to review the Bids submitted.

The Board of City Commissioners will meet on Tuesday, May 7, 2019, at 5:30 PM, local time, to consider the engineer's recommendation, and to award the contract to the successful Bidder. The contract will be awarded on the basis of the low Bid submitted, on eligible areas, by a responsible and responsive Bidder deemed most favorable to the City's interest.

The City of Mandan reserves the right reject any or all bids, to waive any informality or irregularity, to hold all bids for a period of Sixty (60) days after the date fixed for the opening thereof, and to accept the Bid deemed most favorable to the best interest of the City of Mandan.

Dated this 19st day of March, 2019

City of Mandan, North Dakota
BY: James Neubauer
City Administrator"

3. Each and all of the terms and provisions of the foregoing notice are hereby adopted as the terms and conditions for the award of said contract.

4. The Board of City Commissioners shall meet on Tuesday, April 16, 2019 at 5:30 pm, local time, to review the bids submitted.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Consider approving the Resolution approving Plans & Specifications and Resolution directing advertisement for bid for Street Improvement District No. 213, Project No. 2018-07 (Southside).

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5. The Board of City Commissioners shall meet on Tuesday, May 7, 2019 at 5:30 pm, local time, to consider the engineer's recommendation, and to award the contract to the successful bidder, subject to the Board finding that filed protests are insufficient to bar the work.

President, Board of City Commissioners

ATTEST:

City Administrator

Passed: March 19th, 2019



STREET
IMPROVEMENT
DISTRICT 213
BOUNDARY

Legend
 Assessment Boundary
 Parcels
 City Lines

SOUTH MANDAN STREET RECONSTRUCTION
MORTON COUNTY, NORTH DAKOTA



North Dakota Legislative Branch

Legislative Bill Tracking - Sixty-sixth Assembly (2019) - View Bill Tracking

List: Legislative Update 5

[Tracking Lists](#) | [Today's Calendar](#) | [Committee Hearings](#) | [Conference Committee Hearings](#) | [Bill Status](#) | [Bills Introduced Since 03/13/2019](#)
[Manage Mobile Devices](#)

Select All None	Bill	Status	Title	Description	Comment	Action
<input type="checkbox"/>	HB 1041	House: PASSED Senate: PASSED Governor: SIGNED 03/11 H Signed by Governor 03/08 03/13 Filed with Secretary Of State 03/08	Relating to the homestead tax credit for special assessments; to provide for application; and to provide an effective date.	Increase amount from \$6,000 to \$15,000 and lower interest rate from 9% to 6% Amendments kept \$6,000 and lowered interest rate	FINANCE & ASSESSING SIGNED BY GOVERNOR	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1066	House: PASSED Senate: PASSED 03/13 S Reported back, do pass, place on calendar 14 0 0 03/14 S Second reading, passed, yeas 46 nays 0	Relating to infrastructure funds; to amend and reenact subsection 5 of section 57-51-01 and sections 57-51-15, 57-51.1-07.3, and 57-51.1-07.5 of the North Dakota Century Code, relating to oil and gas tax revenue allocations; to provide a continuing appropriation; to provide for a report; and to provide an effective date.	"Prairie Dog Bill" Hearing held, much support from around the state	PASSED SENATE - ON WAY TO GOVERNOR	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1117	House: PASSED Senate: PASSED Governor: SIGNED 03/13 H Signed by Governor 03/12 03/14 Filed with Secretary Of State 03/13	Relating to publication of legal notices in a newspaper and online.	Place legal notices online	ALL DEPARTMENTS - ON WAY TO GOVERNOR FOR SIGNATURE	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1165	House: PASSED Senate: INTRODUCED 02/28 S Rereferred to Political Subdivisions 03/21 S Committee Hearing - 10:15 AM	Relating to nonconforming structures.		Building Official - Oppose	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1207	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Judiciary Committee 03/05 S Committee Hearing - 10:30 AM	Relating to costs awarded to a defendant.		Legal - Monitor	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1210	House: PASSED Senate: INTRODUCED 02/27 S Introduced, first reading, referred Political Subdivisions Committee 03/08 S Committee Hearing - 10:15 AM	Relating to special elections for property owners in a proposed extraterritorial zoning area.	Residents of Extraterritorial zoning jurisdiction of a city is entitled to vote in governing body of the city	Administration & Planning	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1227	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Political Subdivisions Committee 03/07 S Committee Hearing - 11:15 AM	Relating to prohibiting residential rental licensure fees.	prohibits residential rental license fees	Admin	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1282	House: PASSED Senate: PASSED Governor: SIGNED 03/13 H Signed by Governor 03/12	Relating to limitations on public employer consideration of criminal background.	Unable to look into or consider criminal background until the applicant is	ALL DEPARTMENTS - SIGNED BY GOVERNOR	Follow this Bill - RSS View Edit Delete

		03/14 Filed with Secretary Of State 03/13		selected for an interview, unless statutory obligation. Currently, we conduct a formal background check after a conditional offer has been accepted. No ND Court searches before setting up interview.		
<input type="checkbox"/>	HB 1286	House: PASSED Senate: INTRODUCED 02/27 S Received from House 02/27 S Introduced, first reading, referred Judiciary Committee	Relating to law enforcement agencies reporting seizures and forfeitures; and to amend and reenact sections 19-03.1-36.2, 19-03.1-36.6, 19-03.1-36.7, 29-27-02.1, and subsection 1 of section 54-12-14 of the North Dakota Century Code, relating to forfeiture proceedings, contested forfeiture hearings, legal interests in forfeited property, disposition of statutory fees, fines, forfeitures, and the attorney general assets forfeiture fund.	Takes away ability to utilize forfeited assets which would negatively impact Police Department	Police - Oppose	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1289	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Finance and Taxation Committee 03/11 S Committee Hearing - 09:30 AM	Relating to appeals from decisions of local governing bodies; to amend and reenact subsection 1 of section 28-34-01, section 57-12-01.1, and subsection 2 of section 57-23-06 of the North Dakota Century Code, relating to notice filings and property valuation spot checks; to provide for application; and to provide an effective date.		Assessing/Finance - Monitor	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1334	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Judiciary Committee 03/13 S Committee Hearing - 09:00 AM	Relating to sealing a criminal record of a driving under the influence offense.	sealing record... what to do with background checks for liquor licenses	Administration - monitor	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1431	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Political Subdivisions Committee 03/21 S Committee Hearing - 09:30 AM	Relating to the parts of the state included in the southwest water authority and the membership of the board of directors of the southwest water authority; and to provide an effective date.	Southwest Water Authority remove City of Mandan from mill levy Do Pass out of Committee	Administration - Support	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1443	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Government and Veterans Affairs Committee	Relating to historic horse race wagering and rent limits; and to amend and reenact sections 53-06.2-01, 53-06.2-04, 53-06.2-05, and 53-06.2-06,		PASSED	Follow this Bill - RSS View Edit Delete

		03/01 S Committee Hearing - 09:00 AM	subsection 1 of section 53-06.2-08, and sections 53-06.2-10, 53-06.2-10.1, and 53-06.2-11 of the North Dakota Century Code, relating to the regulation of historic horse racing.				
	HB 1474	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Finance and Taxation Committee 03/06 S Committee Hearing - 09:00 AM	Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; and to amend and reenact sections 11-09.1-05, 11-11-55.1, 40-05.1-06, 40-12-02, and 40-23-21 of the North Dakota Century Code, relating to the authority of cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances.	Street Maintenance Fee as part of Utility Bill	Administration - Finance - monitor WOULD ALLOW CITY TO ASK VOTERS IF WANTED ANOTHER FUNDING OPTION	Follow this Bill - RSS	View Edit Delete
	HB 1487	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Finance and Taxation Committee 03/04 S Committee Hearing - 10:15 AM	Relating to an optional residential property tax freeze for seniors; and to provide an effective date.	freeze property valuations on property less than \$400k if 65 years or older, majority of property valuations are less than \$400k thus freezes property tax	Assessing - Turned into a Study Resolution	Follow this Bill - RSS	View Edit Delete
	HB 1488	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Political Subdivisions Committee 03/22 S Committee Hearing - 09:45 AM	Relating to special assessment fund balances.	\$\$ in Special Assessment Fund used to pay costs early	Finance - Monitor	Follow this Bill - RSS	View Edit Delete
	SB 2010	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Appropriations Committee 02/28 H Committee Hearing - 10:00 AM	Relating to boiler inspections and North Dakota reserve fund use of producers; to amend and reenact sections 18-04-04, 18-04-04.1, and 18-04-05, subsection 2 of section 26.1-01-07, section 26.1-01-09, subsection 1 of section 26.1-03-17, and sections 26.1-21-03, 26.1-21-17, 26.1-22-03, and 26.1-23.1-01 of the North Dakota Century Code, relating to the state fire and tornado fund, the state bonding fund, fees chargeable by the insurance commissioner, the salary of the insurance commissioner, and government self-insurance pools; to repeal chapter 26.1-22.1 of the North Dakota Century Code, relating to boiler inspections; to provide a penalty; to	Fire Insurance Premium	Fire - Support	Follow this Bill - RSS	View Edit Delete

			provide a continuing appropriation; and to provide a contingent effective date.				
<input type="checkbox"/>	SB 2020	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Appropriations Committee 03/07 H Committee Hearing - 08:30 AM	Relating to the authorization of a Bank of North Dakota line of credit; to provide for Red River valley water supply requirements; to provide an exemption; to provide for a report to the legislative management; and to provide a statement of legislative intent.	State Water Commission - track to see if \$\$ in for Intake and LHWRD DO Pass out of Committee	Administration - monitor	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	SB 2047	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Government and Veterans Affairs Committee 03/07 H Committee Hearing - 08:15 AM	Relating to the computation of retirement benefits.	Current multiplier is 2%, reduces benefit to 1.75% for members first enrolled after 12/31/2019	Police & Fire - Monitor	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	SB 2189	Senate: PASSED House: PASSED Governor: SIGNED 03/08 S Signed by Governor 03/08 03/12 Filed with Secretary Of State 03/08	Relating to the meeting of the board of equalization of a township and a city.	Changes BOE date to within first 15 days of April, rather than 2nd Monday	FINANCE & ASSESSING SIGNED BY GOVERNOR	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	SB 2209	Senate: PASSED House: INTRODUCED 02/13 H Introduced, first reading, referred Industry, Business and Labor Committee 03/04 H Committee Hearing - 02:00 PM	Relating to protection for records related to critical infrastructure and security planning, mitigation, or threats.	certain infrastructure records to be protected	Administration - support PASSED Senate	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	SB 2213	Senate: PASSED House: INTRODUCED 03/07 H Committee Hearing - 09:00 AM 03/14 H Reported back, do not pass, placed on calendar 12 1 1	Relating to the southwest water authority and district budget tax levies.	Permanent Mill for SW Water	Administration - Oppose	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	SB 2275	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Appropriations Committee 03/12 H Committee Hearing - 08:15 AM	Relating to the infrastructure revolving loan fund debt repayments; to amend and reenact sections 6-09-49, 6-09.4-06, and 6-09.4-10, subsection 6 of section 21-03-07, and sections 21-03-19, 57-15-06.6, and 57-47-02 of the North Dakota Century Code, relating to the infrastructure revolving loan fund, borrowing and lending authority, reserve funds, and expanded bonding authority for counties; to repeal section 61-02-78 of the North Dakota Century Code, relating to a revolving loan fund for water projects; to provide a transfer; to provide a continuing appropriation; to provide a bond issuance limitation;	\$55M in Legacy earnings to fund repayment of infrastructure revolving loan fund DO PASS out of Committee	Administration - monitor	Follow this Bill - RSS	View Edit Delete

			and to provide an effective date.			
	SB 2304	Senate: PASSED House: INTRODUCED 03/07 H Committee Hearing - 09:45 AM 03/14 H Reported back amended, do pass, amendment placed on calendar 11 2 1	Relating to the effect of state law on city or county ordinances and limits on city fines and penalties.		Police - Support	Follow this Bill - RSS View Edit Delete

[Return](#) [Copy to List](#)

This document has notes which will help to explain the changes made from the current ordinance.

ORDINANCE NO. 1307

An Ordinance to Amend and Re-enact
Article 1, Sec. 6-1-1, Sec. 6-1-2; Article 2, Sec. 6-2-1, Sec. 6-2-2,
Sec. 6-2-4, Sec. 6-2-5, Sec. 6-2-7, Sec. 6-2-8, Sec. 6-2-10, Sec. 6-2-11,
Article 3, Sec. 6-3-11, Sec. 6-3-12, and to repeal Sec. 6-1-3, Sec. 6-1-4,
Sec. 6-1-5, Sec. 6-2-5, of Chapter 6 of the Mandan Code of Ordinances
Relating to Animals

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

ARTICLE 1. – IN GENERAL

Sec. 6-1-1. – Definitions.

Animal control officer: any person employed or appointed by the City who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this Ordinance.

At large: a domestic animal that is not on its owner's property and not leashed

Domestic animal: an animal of a tamed species commonly kept as pets and includes livestock.

Impoundment: seizing and confining a domestic animal by any animal control officer under the provisions of this Ordinance.

Owner: a person who (a) has a right of property or custody of a domestic animal provided that the right is not merely temporary, (b) keeps or harbors a domestic animal other than temporarily, (c) knowingly permits a domestic animal to remain indefinitely on or about any premises occupied by that person. (d) a domestic animal customarily returns daily for a period of 7 days to a place and are given food or shelter, the occupiers of that place shall be deemed to be owners.

Provocation: any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

Vicious dog: without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.

NOTES: Definitions were updated to current terminology (example: animal control vs pound master). Definitions were all grouped in one section as opposed to being spread out in the ordinance. The current definition of animal control officer would also apply to police officers as they at times handle animal related calls.

Sec. 6-1-2. Impoundment Authorized.

It shall be the duty of any Animal Control Officer to take and impound any animal declared to be a nuisance or in violation of any of the provisions of this chapter.

Sec. 6-1-3. – Running at Large Prohibited. REPEALED.

Sec. 6-1-4. – Destruction of Property Prohibited. REPEALED.

Sec. 6-1-5. – Trespassing Prohibited. REPEALED.

NOTES: These sections have been updated in other sections.

Sec. 6-1-6. - Possession of animals restricted

It is unlawful and is declared a nuisance for any person to keep, own, possess or have under his control any poultry within the city limits, with the exception of:

- a) Commercial hatcheries
- b) As permitted in Section 105-1-16
- c) As otherwise allowed by law

It shall also be unlawful to keep within the platted portion of the city any swine, ~~poultry~~, rabbits, cows or horses.

(Code 1979, § 13-01-05; Code 1994, § 16-01-05; Ord. No. 664, § 1, 1983)

NOTES: This section has been changed to reflect the recent passing of the ordinance allowing chickens.

NOTES: Any section in blue is current ordinance and has not been changed.

Sec. 6-1-7. - Cruelty to animals prohibited.

It is unlawful for any person to overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or conveyance in a cruel and inhumane manner, any dog, cat or other animal or cause these acts to be done.

(Code 1979, § 13-01-06; Code 1994, § 16-01-06; Ord. No. 664, § 1, 1983)

Sec. 6-1-8. - Cruel abandonment prohibited.

It is unlawful for any person to abandon any dog, cat or other animal or cause such act to be done.

(Code 1979, § 13-01-07; Code 1994, § 16-01-07; Ord. No. 664, § 1, 1983)

State Law reference— Cruelty to animals, N.D.C.C. § 36-21.2-03.

Sec. 6-1-9. - Food and shelter.

No person shall fail to provide any dog, cat or other animal in his charge or custody with necessary maintenance, drink and protection from the elements or cause any of these acts to be done.
(Code 1979, § 13-01-08; Code 1994, § 16-01-08; Ord. No. 664, § 1, 1983)

Sec. 6-1-10. - Fight upon exhibition.

It is unlawful for any person to maintain any place where fowls, dogs or other animals are suffered to fight upon exhibition or for sport upon any wager.
(Code 1979, § 13-01-09; Code 1994, § 16-01-09; Ord. No. 664, § 1, 1983)

Sec. 6-1-11. - Poisoning of dogs or cats prohibited.

It is unlawful for any person to poison any dog or cat or distribute poison in any manner whatsoever for the intent, or for the purpose, of poisoning any dog or cat.
(Code 1979, § 13-01-10; Code 1994, § 16-01-10; Ord. No. 664, § 1, 1983)

Sec. 6-1-12. - Killing birds.

It is unlawful for any person to willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any manner molest or injure any robin, lark, whippoorwill, finch, sparrow, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, oriole, kingbird, mockingbird, song sparrow, or other songbird or insectivorous bird, or in any manner to molest or injure the nest eggs or young of any such bird, or to have in possession the nest eggs, young or body of such bird.
(Code 1979, § 13-01-111; Code 1994, § 16-01-11; Ord. No. 664, § 1, 1983)

ARTICLE 2. – DOGS AND CATS

Sec. 6-2-1. – Restricted Activities.

It is unlawful and is declared a nuisance for any person to allow any dog or cat owned by him or under his control ~~for that animal to by loud and frequent yelping, barking or howling, to annoy any reasonable person.~~

- (a) Damages or defecates on private property other than private property owned or occupied by the animal's owner, or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the person in charge of the dog or cat;
- (b) Causes a disturbance by loud and frequent yelping, barking, howling, or yowling to annoy any reasonable person.

- (c) Chases vehicles, or molests, threatens, or interferes with persons or other animals while the latter are on public property, irrespective of whether the dog or cat is on private or public property.

NOTES: Various nuisance related behaviors/activities are grouped into one section.

Sec. 6-2-2. - Restraint, Running at Large Prohibited; Dogs to be Leashed Required.

It is unlawful and is declared a nuisance for any person to permit or allow any dog of which he is the owner or keeper to run at large within the city, or for the dog to be free of restraint except within the dog park. ~~Any person who violates this section is guilty of an infraction.~~

- (a) A dog shall be considered under restraint if it is (a) within the real property limits of its owner and securely confined thereon by a physical fence; or (b) secured by a tether which does not allow the dog to reach within the property of another person, a public walkway or a road (c) secured by a leash or lead no more than 6 feet in length being held by a person capable of controlling that dog. A dog that frees itself from its owner's real property limits, from a leash, tether or lead, or a dog that is in a vehicle in a manner that would not prevent escape or contact with other persons or animals shall be considered as not being under restraint.
- (b) A dog shall be deemed running at large when off or away from the premises of the owner, possessor, keeper, or member of his immediate family and not under control, either by leash, cord or chain of not more than ~~12~~ 6 feet in length.
- (c) Any dog conveyed in an open compartment of any vehicle must be controlled either by being confined in a kennel or by a leash, cord or chain of a length which prevents the animal from reaching the walls or edge of the open compartment. ~~Dogs conveyed within the passenger compartment of any vehicle need not be controlled.~~
- (d) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (e) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: This section has been changed to put additional and/or more restrictive provisions on the “leash” law. For example a section is added which requires the person holding the leash to be able to physically control the dog. It also changes the allowed length of a leash. Prior ordinance allows for up to a 12 foot leash. This new ordinance changes that to a 6 foot leash. A distance of 12 feet could allow a dog to make contact with a person or animal before the person controlling the dog had time to react. A leash of no more than 6 feet allows much greater control of the dog.

Another change is to allow for the citing of a violator. Current ordinance does not allow for a citation to be issued. This means an affidavit detailing what took place must be written. The affidavit is then forwarded to the city prosecutor. He next drafts a formal complaint charging the person with the violation. The complaint then goes to the municipal judge for approval. If approved the violator is sent a court notice or served with papers requiring them to appear in court. This as you can see is a long process. With a citation, the officer fills out the citation and gives it to the violator. They may then pay the fine by mailing in or going to the municipal court office. If they wish to dispute the citation they can ask for a trial before the municipal judge. This is the same procedure that would be used for a speeding citation. Very easy and not time consuming.

Sec. 6-2-3. - Destruction of property prohibited.

It is unlawful for any person to allow any dog or cat owned by him or under his control to destroy any property that is not the property of the owner or keeper. Any person who violates this section shall be guilty of an infraction.

(Code 1979, § 13-02-09; Code 1994, § 16-03-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-4. - Trespassing prohibited

It is unlawful and is declared a nuisance for any person to allow or permit any cat owned by him or under his control to trespass upon the private property of any other person within the limits of the city. ~~Any person who violates this section shall be guilty of an infraction.~~

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: Updated to allow for a citation to be issued.

(Code 1979, § 13-02-10; Code 1994, § 16-03-04; Ord. No. 664, § 1, 1983)

Sec. 6-2-5. - Vicious dogs.

- (a) No person shall own, keep, possess or harbor a vicious dog within the city. ~~For the purposes of this section, the term "vicious dog" is defined and declared to be a dog that, without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.~~
- (b) Whenever a complaint under oath is made to the effect that any person is in violation of this section, the municipal judge shall set a time and place for the hearing of such complaint, notice of which shall be given the owner or possessor of such dog not less than 24 hours before such hearing, in writing, served in the same manner as a summons. Should the municipal judge determine at the time of the filing of such complaint that such dog is dangerous to the public, he may require the ~~poundmaster~~ animal control officer to immediately ~~take up and~~ impound such dog pending the hearing on the complaint. At the time of the hearing of such complaint, all interested persons shall be entitled to testify.
- (c) In the event that any person is found to be in violation of this section, the municipal judge shall issue an order requiring said owner or possessor of such vicious dog to either ~~destroy~~ euthanize or remove the dog permanently from the city within 24 hours. In the event such dog is not ~~destroyed~~ euthanized or removed within such time, the ~~poundmaster~~ animal control officer of the city shall be authorized to ~~take up and~~ immediately impound and ~~destroy~~ euthanize such dog, ~~for which he shall be paid by the owner the fee provided for killing dogs not licensed.~~ The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, euthanasia or other associated costs incurred.
- (d) Should a dog which has been impounded pending the hearing on said complaint be ordered ~~destroyed~~ euthanized or removed from the city subsequent to said hearing, the owner or possessor of such dog wishing to remove it from the city shall, within 24 hours after the issuance of such order, pay ~~the poundmaster the regular pound fees for taking up and keeping such dog,~~ all costs associated with impoundment and shall thereupon immediately remove said dog from the city. Any dog which shall be removed from the city under the provisions of this article and thereafter be brought back into the city, shall immediately be ~~taken up by the poundmaster and destroyed.~~ impounded by the animal control officer and

euthanized.

- (e) Should the municipal judge determine that the owner or possessor of an alleged vicious dog is not in violation of this section, said dog shall be returned to the owner or possessor by the animal control officer immediately and the fees for impounding and keeping said dog shall be paid by the city.
- (f) Any dog taken and impounded under the provisions of this article because of having bitten any person shall be ~~held in the pound~~ impounded for ten days before the final disposition is made of such dog under the provisions of this article. In the event a vicious dog cannot be taken up and caught by the ~~poundmaster or any police officer~~ animal control officer without such ~~poundmaster or police officer~~ animal control officer exposing himself to danger or personal injury from such dog, or without exposing other persons to danger or personal injury from such dog, it shall be lawful for the ~~poundmaster or any police officer~~ to forthwith destroy such dog.

(Code 1979, § 13-02-11; Code 1994, § 16-03-05; Ord. No. 664, § 1, 1983)

NOTES: The wording in this section was updated to reflect current terminology. There were changes made to the owner's responsibility for costs incurred. The substance of the ordinance was not changed. Officers have been using this ordinance with good success for years. Our current ordinance allows impound and then a timely review by the municipal judge. It has allowed us to have vicious dogs euthanized and/or removed from the city. We at the Police Department do not believe this section needed drastic change. We believe that what works should be left as is. This offense is a Class B Misdemeanor which is the highest level charge in Municipal Court.

Sec. 6-2-6. - Number of dogs and cats restricted.

No person shall keep or maintain more than three dogs and three cats, six months of age or older, on any premises lying within the platted portions of the city or within 200 yards of any platted portion of the city.

(Code 1979, § 13-02-12; Code 1994, § 16-03-06; Ord. No. 664, § 1, 1983)

Sec. 6-2-7. – License Required.

It is unlawful for any person within the city to keep, maintain or have in his custody or under his control any dog or cat over the age of six months which is not ~~licensed or inoculated against rabies.~~ identified at all times by a microchip or tag that states, at a minimum, the name and address and phone number of the owner. ~~Dogs and cats must be inoculated against rabies.~~ A license issued under this article is valid for the duration of the rabies vaccination under which it is obtained and shall expire on the date when the last rabies vaccination of the dog or cat expires. The license must be renewed for so long as the cat or dog is kept within the city by payment of the fee established in this article.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: Allows citations to be issued. Requires a tag and updates some wording.

Sec. 6-2-8. - Rabies vaccination prerequisite.

No dog or cat license shall be issued under the provisions of this article unless the applicant or owner produces a certificate of vaccination from a duly licensed veterinarian showing that the dog or cat for which the license is desired has been vaccinated against rabies. A license issued under this article may not exceed the duration of the rabies vaccination. An owner or caretaker shall have his dog or cat vaccinated by a duly licensed veterinarian, who shall issue him a metal shield or tag having in figures the year for which the shield or tag is issued, which shall immediately be affixed to and kept upon such animal for which it shall have been issued.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with A noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: Allows a citation to be issued.

(Code 1979, § 13-02-02; Code 1994, § 16-02-02; Ord. No. 664, § 1, 1983; Ord. No. 903, § 1, 9-21-1999)

State Law reference— Rabies control, N.D.C.C. ch. 23-36.

Sec. 6-2-9. - License fee.

Every owner or keeper of a dog or cat shall pay therefore to the city for the use of the city, for each dog and cat, a fee in such amount as may be established from time to time by resolution of the board of city commissioners.

(Code 1979, § 13-02-03; Code 1994, § 16-02-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-10. – Issuance of Tags.

It shall be the duty of the Animal Control Officer, at the time of the issuance of a license under this article, to furnish and deliver to the applicant for such license a tag for each dog and cat for which such license is issued, upon which tag shall be stamped or engraved the number of said license.

Sec. 6-2-11. – Tag Attachment.

It shall be the duty of the owner of the dog or cat licensed under this article to place around the neck of such animal a collar or on a harness, on which shall be securely fastened the tag furnished by the Animal Control officer.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: These two sections require animal control to issue a tag and for the tag to be attached. Also allows for a citation to be issued. We currently issue a tag but there is no requirement to have the tag attached. Tags enable us to identify owners when animals are impounded.

Sec. 6-2-12. – Transfer

No tag shall be transferable from one dog or cat to another.

Sec. 6-2-13. - Waste.

(a) Pet waste that is on the pet owner's property must not be allowed to accumulate to the extent that odors generated from the waste migrate off the property. Pet waste shall not be allowed to remain in an unenclosed front yard where it can be encountered by delivery workers or neighborhood residents. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to clean up pet waste on the pet owner's property after being notified by the city that a complaint has been received regarding the pet waste.

(b) Waste from dogs, cats and other pets that is deposited beyond the boundaries of the pet owner's property must be immediately removed. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to immediately clean up after a pet when the pet deposits solid waste on public property or private property not owned, rented, leased or managed by the pet owner.

(c) ~~Citations issued for~~ Violations of this section are infractions.
(Ord. No. 1228, 1-5-2016)

Sec. 6-3-11. Conflicting Ordinances.

All other ordinances of the City of Mandan that conflict with this Ordinance are hereby repealed to the extent of such conflict.

Sec. 6-3-12. Severability.

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

NOTES: These last two sections were added by the City Attorney.

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

Attest:

James Neubauer, City Administrator

First Consideration: _____

Second Consideration and Final Passage: _____

Publication: _____

ORDINANCE NO. 1307

An Ordinance to Amend and Re-enact

Article 1, Sec. 6-1-1, Sec. 6-1-2; Article 2, Sec. 6-2-1, Sec. 6-2-2, Sec. 6-2-4, Sec. 6-2-5, Sec. 6-2-7, Sec. 6-2-8, Sec. 6-2-10, Sec. 6-2-11, Article 3, Sec. 6-3-11, Sec. 6-3-12, and to repeal Sec. 6-1-3, Sec. 6-1-4, Sec. 6-1-5, Sec. 6-2-5, of Chapter 6 of the Mandan Code of Ordinances
Relating to Animals

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

ARTICLE 1. – IN GENERAL

Sec. 6-1-1. – Definitions.

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Impoundment: seizing and confining a domestic animal by any animal control officer under the provisions of this Ordinance.

Owner: a person who (a) has a right of property or custody of a domestic animal provided that the right is not merely temporary, (b) keeps or harbors a domestic animal other than temporarily, (c) knowingly permits a domestic animal to remain indefinitely on or about any premises occupied by that person. (d) a domestic animal customarily returns daily for a period of 7 days to a place and are given food or shelter, the occupiers of that place shall be deemed to be owners.

Provocation: any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

Vicious dog: without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.

Sec. 6-1-2. Impoundment Authorized.

It shall be the duty of any Animal Control Officer to take and impound any animal declared to be a nuisance or in violation of any of the provisions of this chapter.

Sec. 6-1-3. – Running at Large Prohibited. REPEALED.

Sec. 6-1-4. – Destruction of Property Prohibited. REPEALED.

Sec. 6-1-5. – Trespassing Prohibited. REPEALED.

Sec. 6-1-6. - Possession of animals restricted

It is unlawful and is declared a nuisance for any person to keep, own, possess or have under his control any poultry within the city limits, with the exception of:

- a) Commercial hatcheries
- b) As permitted in Section 105-1-16
- c) As otherwise allowed by law

It shall also be unlawful to keep within the platted portion of the city any swine, ~~poultry~~, rabbits, cows or horses.

(Code 1979, § 13-01-05; Code 1994, § 16-01-05; Ord. No. 664, § 1, 1983)

Sec. 6-1-7. - Cruelty to animals prohibited.

It is unlawful for any person to overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or conveyance in a cruel and inhumane manner, any dog, cat or other animal or cause these acts to be done.

(Code 1979, § 13-01-06; Code 1994, § 16-01-06; Ord. No. 664, § 1, 1983)

Sec. 6-1-8. - Cruel abandonment prohibited.

It is unlawful for any person to abandon any dog, cat or other animal or cause such act to be done.

(Code 1979, § 13-01-07; Code 1994, § 16-01-07; Ord. No. 664, § 1, 1983)

State Law reference— Cruelty to animals, N.D.C.C. § 36-21.2-03.

Sec. 6-1-9. - Food and shelter.

No person shall fail to provide any dog, cat or other animal in his charge or custody with necessary maintenance, drink and protection from the elements or cause any of these acts to be done.

(Code 1979, § 13-01-08; Code 1994, § 16-01-08; Ord. No. 664, § 1, 1983)

Sec. 6-1-10. - Fight upon exhibition.

It is unlawful for any person to maintain any place where fowls, dogs or other animals are suffered to fight upon exhibition or for sport upon any wager.

(Code 1979, § 13-01-09; Code 1994, § 16-01-09; Ord. No. 664, § 1, 1983)

Sec. 6-1-11. - Poisoning of dogs or cats prohibited.

It is unlawful for any person to poison any dog or cat or distribute poison in any manner whatsoever for the intent, or for the purpose, of poisoning any dog or cat.

(Code 1979, § 13-01-10; Code 1994, § 16-01-10; Ord. No. 664, § 1, 1983)

Sec. 6-1-12. - Killing birds.

It is unlawful for any person to willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any manner molest or injure any robin, lark, whippoorwill, finch, sparrow, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, oriole, kingbird, mockingbird, song sparrow, or other songbird or insectivorous bird, or in any manner to molest or injure the nest eggs or young of any such bird, or to have in possession the nest eggs, young or body of such bird.

(Code 1979, § 13-01-111; Code 1994, § 16-01-11; Ord. No. 664, § 1, 1983)

ARTICLE 2. – DOGS AND CATS

Sec. 6-2-1. – Restricted Activities.

It is unlawful and is declared a nuisance for any person to allow any dog or cat owned by him or under his control for that animal to ~~by loud and frequent yelping, barking or howling, to annoy any reasonable person.~~

- (a) Damages or defecates on private property other than private property owned or occupied by the animal's owner, or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the person in charge of the dog or cat;
- (b) Causes a disturbance by loud and frequent yelping, barking, howling, or yowling to annoy any reasonable person.
- (c) Chases vehicles, or molests, threatens, or interferes with persons or other animals while the latter are on public property, irrespective of whether the dog or cat is on private or public property.

Sec. 6-2-2. - Restraint, Running at Large Prohibited; Dogs to be Leashed Required.

It is unlawful and is declared a nuisance for any person to permit or allow any dog of which he is the owner or keeper to run at large within the city, or for the dog to be free of restraint except within the dog park. ~~Any person who violates this section is guilty of an infraction.~~

- (a) A dog shall be considered under restraint if it is (a) within the real property limits of its owner and securely confined thereon by a physical fence; or (b) secured by a tether which does not allow the dog to reach within the property of another person, a public walkway or a road (c) secured by a leash or lead no more than 6 feet in length being held by a person capable of controlling that dog. A dog that

freed itself from its owner's real property limits, from a leash, tether or lead, or a dog that is in a vehicle in a manner that would not prevent escape or contact with other persons or animals shall be considered as not being under restraint.

- (b) A dog shall be deemed running at large when off or away from the premises of the owner, possessor, keeper, or member of his immediate family and not under control, either by leash, cord or chain of not more than ~~12~~ 6 feet in length.
- (c) Any dog conveyed in an open compartment of any vehicle must be controlled either by being confined in a kennel or by a leash, cord or chain of a length which prevents the animal from reaching the walls or edge of the open compartment. ~~Dogs conveyed within the passenger compartment of any vehicle need not be controlled.~~
- (d) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (e) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

Sec. 6-2-3. - Destruction of property prohibited.

It is unlawful for any person to allow any dog or cat owned by him or under his control to destroy any property that is not the property of the owner or keeper. Any person who violates this section shall be guilty of an infraction.

(Code 1979, § 13-02-09; Code 1994, § 16-03-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-4. - Trespassing prohibited

It is unlawful and is declared a nuisance for any person to allow or permit any cat owned by him or under his control to trespass upon the private property of any other person within the limits of the city. ~~Any person who violates this section shall be guilty of an infraction.~~

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or

hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

(Code 1979, § 13-02-10; Code 1994, § 16-03-04; Ord. No. 664, § 1, 1983)

Sec. 6-2-5. - Vicious dogs.

- (a) No person shall own, keep, possess or harbor a vicious dog within the city. ~~For the purposes of this section, the term "vicious dog" is defined and declared to be a dog that, without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.~~
- (b) Whenever a complaint under oath is made to the effect that any person is in violation of this section, the municipal judge shall set a time and place for the hearing of such complaint, notice of which shall be given the owner or possessor of such dog not less than 24 hours before such hearing, in writing, served in the same manner as a summons. Should the municipal judge determine at the time of the filing of such complaint that such dog is dangerous to the public, he may require the ~~poundmaster~~ animal control officer to immediately ~~take up and~~ impound such dog pending the hearing on the complaint. At the time of the hearing of such complaint, all interested persons shall be entitled to testify.
- (c) In the event that any person is found to be in violation of this section, the municipal judge shall issue an order requiring said owner or possessor of such vicious dog to either ~~destroy~~ euthanize or remove the dog permanently from the city within 24 hours. In the event such dog is not ~~destroyed~~ euthanized or removed within such time, the ~~poundmaster~~ animal control officer of the city shall be authorized to ~~take up and~~ immediately impound and ~~destroy~~ euthanize such dog, ~~for which he shall be paid by the owner the fee provided for killing dogs not licensed. The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, euthanasia or other associated costs incurred.~~
- (d) Should a dog which has been impounded pending the hearing on said complaint be ordered ~~destroyed~~ euthanized or removed from the city subsequent to said hearing, the owner or possessor of such dog wishing to remove it from the city shall, within 24 hours after the issuance of such order, pay ~~the poundmaster the~~

~~regular pound fees for taking up and keeping such dog, all costs associated with impoundment~~ and shall thereupon immediately remove said dog from the city. Any dog which shall be removed from the city under the provisions of this article and thereafter be brought back into the city, shall immediately be ~~taken up by the poundmaster and destroyed.~~ impounded by the animal control officer and euthanized.

- (e) Should the municipal judge determine that the owner or possessor of an alleged vicious dog is not in violation of this section, said dog shall be returned to the owner or possessor by the animal control officer immediately and the fees for impounding and keeping said dog shall be paid by the city.
- (f) Any dog taken and impounded under the provisions of this article because of having bitten any person shall be ~~held in the pound~~ impounded for ten days before the final disposition is made of such dog under the provisions of this article. In the event a vicious dog cannot be taken up and caught by the ~~poundmaster or any police officer~~ animal control officer without such ~~poundmaster or police officer~~ animal control officer exposing himself to danger or personal injury from such dog, or without exposing other persons to danger or personal injury from such dog, it shall be lawful for ~~the poundmaster or any police officer~~ to forthwith destroy such dog.

(Code 1979, § 13-02-11; Code 1994, § 16-03-05; Ord. No. 664, § 1, 1983)

Sec. 6-2-6. - Number of dogs and cats restricted.

No person shall keep or maintain more than three dogs and three cats, six months of age or older, on any premises lying within the platted portions of the city or within 200 yards of any platted portion of the city.

(Code 1979, § 13-02-12; Code 1994, § 16-03-06; Ord. No. 664, § 1, 1983)

Sec. 6-2-7. – License Required.

It is unlawful for any person within the city to keep, maintain or have in his custody or under his control any dog or cat over the age of six months which is not ~~licensed or inoculated against rabies.~~ identified at all times by a microchip or tag that states, at a minimum, the name and address and phone number of the owner. ~~Dogs and cats must be inoculated against rabies.~~ A license issued under this article is valid for the duration of the rabies vaccination under which it is obtained and shall expire on the date when the last rabies vaccination of the dog or cat expires. The license must be renewed for so long as the cat or dog is kept within the city by payment of the fee established in this article.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with

a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

Sec. 6-2-8. - Rabies vaccination prerequisite.

No dog or cat license shall be issued under the provisions of this article unless the applicant or owner produces a certificate of vaccination from a duly licensed veterinarian showing that the dog or cat for which the license is desired has been vaccinated against rabies. A license issued under this article may not exceed the duration of the rabies vaccination. An owner or caretaker shall have his dog or cat vaccinated by a duly licensed veterinarian, who shall issue him a metal shield or tag having in figures the year for which the shield or tag is issued, which shall immediately be affixed to and kept upon such animal for which it shall have been issued.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with A noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

(Code 1979, § 13-02-02; Code 1994, § 16-02-02; Ord. No. 664, § 1, 1983; Ord. No. 903, § 1, 9-21-1999)

State Law reference— Rabies control, N.D.C.C. ch. 23-36.

Sec. 6-2-9. - License fee.

Every owner or keeper of a dog or cat shall pay therefore to the city for the use of the city, for each dog and cat, a fee in such amount as may be established from time to time by resolution of the board of city commissioners.

(Code 1979, § 13-02-03; Code 1994, § 16-02-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-10. – Issuance of Tags.

It shall be the duty of the Animal Control Officer, at the time of the issuance of a license under this article, to furnish and deliver to the applicant for such license a tag for each dog and cat for which such license is issued, upon which tag shall be stamped or engraved the number of said license.

Sec. 6-2-11. – Tag Attachment.

It shall be the duty of the owner of the dog or cat licensed under this article to place around the neck of such animal a collar or on a harness, on which shall be securely fastened the tag furnished by the Animal Control officer.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

Sec. 6-2-12. – Transfer

No tag shall be transferable from one dog or cat to another.

Sec. 6-2-13. - Waste.

(a) Pet waste that is on the pet owner's property must not be allowed to accumulate to the extent that odors generated from the waste migrate off the property. Pet waste shall not be allowed to remain in an unenclosed front yard where it can be encountered by delivery workers or neighborhood residents. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to clean up pet waste on the pet owner's property after being notified by the city that a complaint has been received regarding the pet waste.

(b) Waste from dogs, cats and other pets that is deposited beyond the boundaries of the pet owner's property must be immediately removed. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to immediately clean up after a pet when the pet deposits solid waste on public property or private property not owned, rented, leased or managed by the pet owner.

(c) Citations issued for Violations of this section are infractions.
(Ord. No. 1228, 1-5-2016)

Sec. 6-3-11. Conflicting Ordinances.

All other ordinances of the City of Mandan that conflict with this Ordinance are hereby repealed to the extent of such conflict.

Sec. 6-3-12. Severability.

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

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

Attest:

James Neubauer, City Administrator

First Consideration: March 5, 2019
Second Consideration and Final Passage: March 19, 2019
Publication: _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 19, 2019
PREPARATION DATE: March 12, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM,
SUBJECT: Consider Approval of the Resolution to Transfer Real Property by Nonexclusive Listing Agreement

STATEMENT/PURPOSE: Consider approval of the resolution to transfer real property by non-exclusive listing agreement.

BACKGROUND/ALTERNATIVES: Property is acquired over time by the City of Mandan if taxes go unpaid by property owners.

In the past, this property has gone to bid and the highest bidder would acquire the property. However, the number of pieces of property that the city has accumulated lends this process to be unmanageable given existing staff responsibilities.

The sooner property is placed back into the hands of private ownership the sooner property tax revenue may be collected.

The resolution presented in Exhibit 1 includes 23 pieces of property that have been evaluated by Assessing, Engineering, and Public Works Departments and deemed non-essential to the city.

Exhibit 2 provides a map of these locations for reference.

Exhibit 3 provides the listing agreement to allow Oaktree Realtors the ability to list these properties on the Multiple Listing Service (MLS) to begin marketing the properties for sale.

ATTACHMENTS:

Exhibit 1 – Resolution to Transfer Real Property by Nonexclusive Listing Agreement

Exhibit 2 – Map of property to be listed for sale through resolution

Exhibit 3 – Listing agreement with Oaktree Realtors

Board of City Commissioners

Agenda Documentation

Meeting Date: March 19, 2019

Subject: Consider Approval of the Resolution to Transfer Real Property by Nonexclusive Listing Agreement

Page 2 of 2

FISCAL IMPACT: Positive – Future property tax collections will provide revenue on properties currently not producing any tax revenue.

STAFF IMPACT: Minimal – Each offer will require approval by City Commission. Staff time will include summarizing the offer and presenting to City Commission.

LEGAL REVIEW: The resolution and contract have been reviewed and approved by Attorney Brown.

RECOMMENDATION: The Engineering and Planning Department, Public Works, and Assessing Departments recommend approval of this resolution. .

SUGGESTED MOTION: I move to approve the resolution as presented in Exhibit 1 and enter into the contract as presented in Exhibit 3.

EXHIBIT 1

RESOLUTION TO TRANSFER REAL PROPERTY BY NONEXCLUSIVE LISTING AGREEMENT

Board of City Commissioners
City of Mandan, North Dakota

WHEREAS, The City has acquired numerous parcels throughout the years; and

WHEREAS, Certain property has been identified to have no public value; and

WHEREAS, The time for staff to establish a separate bid and answer inquiries related to each property is unmanageable given existing staff responsibilities; and

WHEREAS, Section 2-4-8 of the Code of Ordinances of the City of Mandan, North Dakota provides the option to list property for sale through a real estate broker; and

WHEREAS, Utilizing a real estate broker will more efficiently place property back into private ownership to begin collecting property tax revenue

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, that, beginning March 19, 2019 and effective through March 20, 2019, the following shall apply:

1. The commission rate is 6% of the gross selling price of the respective property. The commission may be split 50/50 with another real estate broker. The minimum commission will be \$250 to be split 50/50 by the listing and buying agent.
2. The City of Mandan reserves the right to reject any and all offers determined to be insufficient.
3. The property listed in the attached table titles, "RESOLUTION TO TRANSFER REAL PROPERTY BY NONEXCLUSIVE LISTING AGREEMENT" and dated March 19, 2019 shall be listed for sale through the real estate broker, Oaktree Realtors:

President, Board of City Commissioners

ATTEST:

City Administrator

RESOLUTION TO TRANSFER REAL PROPERTY BY NONEXCLUSIVE LISTING AGREEMENT

March 19, 2019

PARCEL ID	STREET ADDRESS	LOT	BLOCK	SUDIVISION
65-5263151	NOT AVAILABLE	AUDITOR'S LOT 1 (REPLAT OF LOT 6 BLK 1) (8700A)	1	THE SHORES OF MARINA BAY REPLAT
65-5263155	NOT AVAILABLE	AUDITOR'S LOT 5 (REPLAT OF LOT 6 BLK 1) (8704A)	1	THE SHORES OF MARINA BAY REPLAT
65-3302000	NOT AVAILABLE	6	76	FIRST NORTHERN PACIFIC ADDITION
65-3156000	NOT AVAILABLE	3-4-5-6	59	FIRST NORTHERN PACIFIC ADDITION
65-0182700	100 5TH ST NW	3	1	COLLINS COURT
65-1166000	109 14TH AVE NW	S 1/2 LOT 17 & ALL LOTS 18 & 19	3	HEART VIEW ADDITION
65-1162000	205 14TH AVE NW	12	3	HEART VIEW ADDITION
65-1161000	207 14TH AVE NW	11	3	HEART VIEW ADDITION
65-1160000	209 14TH AVE NW	10	3	HEART VIEW ADDITION
65-1159000	211 14TH AVE NW	9	3	HEART VIEW ADDITION
65-2595500	306 5TH AVE NE	10	30	MANDAN PROPER
65-2596000	308 5TH AVE NE	11	30	MANDAN PROPER
65-1451500	308 8TH AVE NE	23	17	HELMSWORTH & MCLEAN'S ADDITION
65-2588000	309 6TH AVE NE	2	30	MANDAN PROPER
65-1439000	309 8TH AVE NE	1 TO 6 & S 1/2 VAC 3RD ST NE & W 1/2 VAC ALLEY	16	HELMSWORTH & MCLEAN'S ADDITION
65-2597000	310 5TH AVE NE	12	30	MANDAN PROPER
65-2587000	311 6TH AVE NE	1	30	MANDAN PROPER
65-3179000	410 3RD AVE NE	11-12	62	FIRST NORTHERN PACIFIC ADDITION
65-3261000	500 3RD AVE NE	7-8	69	FIRST NORTHERN PACIFIC ADDITION
65-3260000	501 4TH AVE NE	4-6	69	FIRST NORTHERN PACIFIC ADDITION
65-3262000	504 3RD AVE NE	9	69	FIRST NORTHERN PACIFIC ADDITION
65-3263000	506 3RD AVE NE	10-11-12	69	FIRST NORTHERN PACIFIC ADDITION
65-3337000	601 4TH AVE NW	6	79	FIRST NORTHERN PACIFIC ADDITION

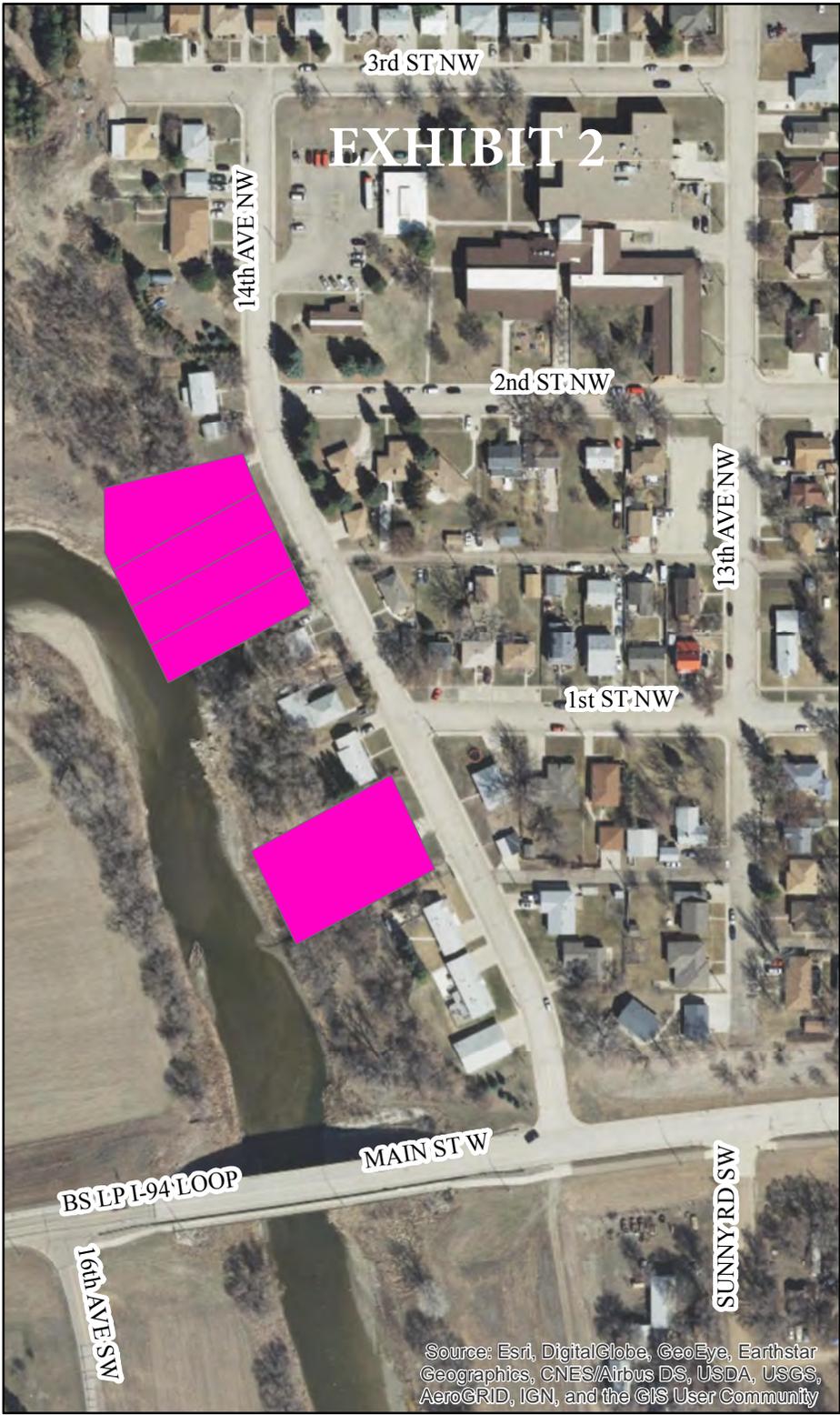




EXHIBIT 3

EXCLUSIVE RIGHT TO SELL LISTING CONTRACT

This form approved by the Bismarck Mandan Board of REALTORS® which disclaims any liability arising out of use or misuse of this form.

MLS # _____ Date **03/19/2019** Page 1 of **4**

(To be indicated after submission to MLS)

THIS CONTRACT INVOLVES PROPERTY LOCATED AT:

See Page 4 City **Mandan** State **ND**

Legally described as: **See Page 4**

"I" means Seller: **City of Mandan**

"You" means Real Estate Broker: **Oaktree Realtors**

LISTING - As Seller, I give you the exclusive right to sell the above legally described property for the price of **\$ To be determined**, to be paid in cash at closing, or any other price and terms acceptable to me. I have the full and legal right to sell the property and will sign all closing documents (including a Warranty Deed or Contract for Warranty Deed) necessary to transfer to Buyer full and unquestioned ownership of the property.

This contract starts **March 19th, 2019** and ends at 11:59 p.m. on **March 19, 2020**. In exchange, Broker agrees to list the property for sale.

Active status and showings to begin on (date) **03/19/2019**. If this property is not available for showings on the contract start date, it will be placed in the "Off Market" status in the MLS until it is available for showings. A listing that is placed "Off Market" in the MLS will have no activity (showings or contracts presented) during the period of time that the listing is Off Market.

This shall serve as my written notice granting you or any authorized closing agent permission to obtain: 1.) mortgage information (i.e. mortgage balance, interest rate, payoff and/or assumption figures, etc.) regarding any existing financing on this property, and 2.) utility information. A copy of this document shall be as valid as the original.

Personal property included: **Land Only**

Personal property excluded: **Land Only**

SPECIAL CONDITIONS:

XXXXX

Is there a functioning audio/visual surveillance system on the property? (check one) Yes No If yes, Seller(s) agree to post notice of such at the entrance where potential buyers may enter the property.

Is there a security system installed on the property? (check one) Yes No Terms: **xxxx**

Is there a well on the property? (check one) Yes No

Is there a septic system on the property? (check one) Yes No

As Seller, I have been informed that if there is a septic system on the property, it might be required to meet certain city, county, or state certification standards. I hold you harmless of any responsibility for said system.

I have a contract for fuel tank rental, water softener rental, or rural water membership: (check one) Yes No

Terms: **xxxx**

Do you have an abstract? (check one) Yes No

Do you have title insurance? (check one) Yes No Policy # _____

Do you currently have flood insurance? (check one) Yes No

Sign permitted on property? (check one) Yes No Lock Box? (check one) Yes No

Home Protection Plan: Seller (check one) will will not provide a home protection plan.

Seller(s) Initial: Seller _____ **Date** _____ **Seller** _____ **Date** _____ (Rev. 2/18)

64 **EXCLUSIVE RIGHT TO SELL LISTING CONTRACT - PAGE 2 OF 3**

65
66 **SELLER'S DUTIES** -As Seller I will:

- 67 (a) cooperate with you in selling the property and I authorize you, your agents, and/or agents with customers
- 68 or clients to enter my premises for the purposes of showing/previewing the property at reasonable times;
- 69 (b) promptly tell you about all inquiries received about the property;
- 70 (c) provide and pay for any inspections and reports if required by any governing authority;
- 71 (d) provide homeowners association documents, if required;
- 72 (e) give the Buyer an updated abstract of title, or title insurance to the property, or mobile home registration;
- 73 (f) warrant all appliances, heating, air conditioning, wiring, and plumbing on said premises will be in
- 74 working order at date of closing, except:

75 **XXXX**

- 76 (g) remain responsible for security, maintenance, utilities, and insurance while I own the property, and for
- 77 safekeeping, securing, and/or concealing any valuable personal property during property showings or
- 78 open houses.

79
80 As Seller, I know you intend to rely on the accuracy of the information I furnish, including information about the
81 condition of the property. I agree to hold you harmless and defend you from any costs, expenses, or damages,
82 including attorney's fees, incurred by you as a result of my withholding information from you or as a result of giving
83 you any information which is incorrect.

84
85 **MULTIPLE LISTING SERVICE** - I understand you are a member of a Multiple Listing Service (MLS) and will give
86 information to MLS concerning the property. I will grant you access to the property and I authorize you to market the
87 property including submission of data to a Multiple Listing Service (MLS). You may place information on the Internet
88 concerning the property, including but not limited to the address, photographs and/or virtual tours. I will notify you of
89 relevant information important to the sale of the property. If you sell the property, you may provide information
90 concerning the property, including but not limited to address, price and terms of sale to the MLS, member REALTORS®
91 (including appraisers who may use the information to prepare comparable sale reports), and relevant government entities.

92
93 **NOTICE AND NONDISCRIMINATION** - As of this date I have not received notice from any municipality, government
94 agency, or homeowners association about the property that I have not told you about, and I agree to promptly tell you of
95 any notice of that type that I would receive. I understand that I may not refuse to sell to, or discriminate in the terms,
96 conditions, or privileges of sale against, or indicate or publicize that sale is unwelcome, objectionable, not acceptable, or not
97 solicited from, any person due to that person's race, color, religion, sex, national origin, age, physical or mental disability,
98 family status, status with respect to marriage, or status with respect to public assistance. I understand further that local
99 ordinances may include other protected classes of persons.

100
101 **YOUR COMMISSION - THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL**
102 **PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL REAL ESTATE BROKER AND ITS CLIENT.**

103 As Seller, I hereby authorize you to market my property and allow you to share your commission with other Real Estate
104 Brokers, including Brokers representing only the Buyer. As Seller, I will pay Listing Broker a total commission of
105 6.000 % of the gross selling price. Commission may be split as follows: BMBOR MLS Buyer Broker 3.000 %
106 Other Broker 3.000 %, or other terms: minimum \$250 to be split 50/50 by listing & buying agent
107 upon the happening of any of the following events:

- 108 (a) at the closing of the sale, if I sell or agree to sell the property before this contract ends, even if another
- 109 Broker or I sell the property without your assistance;
- 110 (b) if you present a Buyer who is willing and able to buy the property either 1.) at the price set forth in this contract
- 111 and on the other specific terms, if any, herein, or 2.) at a price and on terms to which I agree in a signed purchase
- 112 agreement, but if I then refuse to sell:
- 113 (c) if within 30 days after the end of this contract I sell or agree to sell the property to anyone who:
- 114 1. during this contract made inquiry of me about the property, or;
- 115 2. during this contract made an affirmative showing of interest in the property or was physically shown
- 116 the property.

117 After the expiration of this contract, and if there are no signed and/or pending purchase agreements or offers, I understand I
118 do not have to pay your commission if I sign another valid listing contract under which I am obligated to pay a commission
119 to another licensed Real Estate Broker.

120
121 Seller(s) Initial: _____ Date _____ Seller _____ Date _____ **(Rev. 2/18)**

EXCLUSIVE RIGHT TO SELL LISTING CONTRACT - PAGE 3 OF 3

DUAL AGENCY REPRESENTATION - (To be completed only if the Broker has NOT adopted an Appointed Agency Policy) As a result of this listing contract, the Broker will now represent you in the sale of this property. If a Buyer represented by the Broker wishes to buy your property, a Dual Agency will be created. This means the Broker will represent both you and the Buyer(s), and will owe the same duties to the Buyer(s) that Broker owes to you. It will prohibit Broker from advocating exclusively on your behalf. Dual Agency will limit the level of representation the Broker can provide. If a Dual Agency should arise, confidential information about price, terms, and motivation will still be kept confidential unless you instruct the Broker in writing to disclose specific information about you. All other information will be shared. The Broker cannot act as a Dual Agent unless both you and the Buyer(s) agree to it. By agreeing to a possible Dual Agency, and if Dual Agency should apply in your transaction, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want the Broker to represent you, you may give up the opportunity to sell your property to Buyers represented by the Broker.

SELLER'S INSTRUCTIONS TO THE BROKER - Having read and understood this information about Dual Agency, Seller(s) now instructs the Broker as follows:

Seller(s) will agree to Dual Agency representation and (check one) will consider will not consider offers made by Buyer represented by the Broker

Seller: _____ Date _____ Seller: _____ Date _____
City of Mandan

APPOINTED AGENCY - (To be completed only if Broker has adopted an Appointed Agency Policy) The Broker will appoint to you, in writing, a licensee who will be acting as your Appointed Agent to the exclusion of all other affiliated licensees of the Broker. By agreeing to Appointed Agency, you, the Broker, the agents of the Broker and the Appointed Agent named below are considered to possess only actual knowledge and information. By an act of North Dakota Law, the definitions regarding Appointed Agency make it clear that there is no imputed knowledge or information between you, the Broker, the Broker's agents or the named Appointed Agent.

Notice: Any appointed agent who personally represents both you and the Buyer in a purchase of property is a Dual Agent. This means the Appointed Agent will represent both you and the Buyer(s), and will owe the same duties to the Buyer(s) that the Appointed Agent owes to you. It will prohibit the Appointed Agent from advocating exclusively on your behalf. Dual Agency will limit the level of representation the Appointed Agent can provide. If a Dual Agency should arise, confidential information about price, terms, and motivation will still be kept confidential unless you instruct the Appointed Agent in writing to disclose specific information about you. All other information will be shared. The Appointed Agent cannot act as a Dual Agent unless both you and the Buyer(s) agree to it. By agreeing to a possible Dual Agency, and if Dual Agency should apply in your transaction, you will be giving up the right to exclusive representation. However, if you should decide not to agree to a possible Dual Agency, and you want the Appointed Agent to represent you, you may give up the opportunity to sell your property to Buyers represented by the Appointed Agent.

Darren Schmidt / Jason Schmidt ("Appointed Agent"), an affiliated licensee of the Broker, is appointed to act solely as an agent for you unless s/he personally represents the Buyer. Your designated Appointed Agent is obligated not to reveal any confidential information obtained from you to other licensees, except to the Broker in charge of the oversight of your transaction. It is understood that the Broker may appoint another agent for you during the term of this agreement if: 1). The Appointed Agent is not able to fulfill the terms of your listing agreement, and/or 2.) You and the Broker mutually agree to the appointment of another agent. An appointment of another agent as a new or additional agent does not relieve the first Appointed Agent of any of the duties owed to you as previously described in this agreement.

SELLER'S INSTRUCTION TO BROKER - Having read and understood this information, Seller(s) make(s) the following decision:

Seller(s) accepts the Broker's appointment of the above named agent as the Seller's Appointed Agent and (check one) accepts does not accept Dual Agency if it arises.

Seller: _____ Date _____ Seller: _____ Date _____
City of Mandan

I hereby certify that I have received a copy of this contract and agree to its terms.

Acceptance Date _____
Oaktree Realtors
Brokerage _____
Darren Schmidt / Jason Schmidt
By Licensee _____
(701)663-3535 **(701)226-5942**
Licensee Office Phone Cell Phone

Owner _____ Date _____
Owner _____ Date _____
205 2nd Ave NW **(701)667-3215**
Owner Address Phone
Mandan, ND 58554
City/State/Zip

This is a legally binding contract. If you desire legal or tax advice, consult an appropriate professional.

PARCEL ID	STREET ADDRESS	LOT	BLOCK	SUDIVISION
65-5263151	NOT AVAILABLE	AUDITOR'S LOT 1 (REPLAT OF LOT 6 BLK 1) (8700A)	1	THE SHORES OF MARINA BAY REPLAT
65-5263155	NOT AVAILABLE	AUDITOR'S LOT 5 (REPLAT OF LOT 6 BLK 1) (8704A)	1	THE SHORES OF MARINA BAY REPLAT
65-3302000	NOT AVAILABLE		6 76	FIRST NORTHERN PACIFIC ADDITION
65-3156000	NOT AVAILABLE		3-4-5-6 59	FIRST NORTHERN PACIFIC ADDITION
65-0182700	100 5TH ST NW		3 1	COLLINS COURT
65-1166000	109 14TH AVE NW	S 1/2 LOT 17 & ALL LOTS 18 & 19	3	HEART VIEW ADDITION
65-1162000	205 14TH AVE NW		12 3	HEART VIEW ADDITION
65-1161000	207 14TH AVE NW		11 3	HEART VIEW ADDITION
65-1160000	209 14TH AVE NW		10 3	HEART VIEW ADDITION
65-1159000	211 14TH AVE NW		9 3	HEART VIEW ADDITION
65-2595500	306 5TH AVE NE		10 30	MANDAN PROPER
65-2596000	308 5TH AVE NE		11 30	MANDAN PROPER
65-1451500	308 8TH AVE NE		23 17	HELMSWORTH & MCLEAN'S ADDITION
65-2588000	309 6TH AVE NE		2 30	MANDAN PROPER
65-1439000	309 8TH AVE NE	1 TO 6 & S 1/2 VAC 3RD ST NE & W 1/2 VAC ALLEY	16	HELMSWORTH & MCLEAN'S ADDITION
65-2597000	310 5TH AVE NE		12 30	MANDAN PROPER
65-2587000	311 6TH AVE NE		1 30	MANDAN PROPER
65-3179000	410 3RD AVE NE		11-12 62	FIRST NORTHERN PACIFIC ADDITION
65-3261000	500 3RD AVE NE		7-8 69	FIRST NORTHERN PACIFIC ADDITION
65-3260000	501 4TH AVE NE		4-6 69	FIRST NORTHERN PACIFIC ADDITION
65-3262000	504 3RD AVE NE		9 69	FIRST NORTHERN PACIFIC ADDITION
65-3263000	506 3RD AVE NE		10-11-12 69	FIRST NORTHERN PACIFIC ADDITION
65-3337000	601 4TH AVE NW		6 79	FIRST NORTHERN PACIFIC ADDITION