

The Mandan City Commission met in regular session at 5:30 p.m. on August 7, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank, and Braun. Department Heads present were Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, and City Assessor Barta. Absent: Finance Director Welch and Engineering Project Manager Bechtel.

MINUTES: Consider approval of the minutes for July 17, 2012 regular meeting minutes. Commissioner Frank moved to approve the minutes of the July 17, 2012 regular meeting minutes. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

PUBLIC HEARING:

1. *Public Hearing to consider exemption for Wal-Mart for Property Tax Incentives for New or Expanding Businesses.* City Assessor Barta reviewed a request for a tax exemption for Wal-Mart Real Estate Business Trust pursuant to NDCC 40-57.1. Wal-Mart has applied for an exemption on a new commercial retail building. The Notice to Competitors was published in the 7/13/12 and 7/20/12 Mandan News. The Mandan Growth Fund (MGF) Committee unanimously voted to approve the exemption request at 100% for years one and two; 75% for year three; 50% for year four and 25% for year five. The Morton County Auditor, Mandan Public School District and the Mandan Park District were notified of this application on 6/27/12 and 7/31/12. At this time there have been three letters of objection received, one of them being Morton County Commission. The property is known as Parcel #7568 at 1000 Old Red Trail NW on a portion of Lot 1, Block 1, Terra Vallee Second Addition. Barta stated the fiscal impact will be approximately \$201,690 for years one and two; \$151,268 for year three; \$100,845 for year four; and \$50,423 for year five. The City Assessor’s office recommended approval of the exemption in accordance to what the MGF recommended: 100% for years one and two; 75% for year three; 50% for year four and 25% for year five based upon meeting all the criteria under the City of Mandan’s Commercial Property Tax Exemption Policy and Guidelines and also under state statute. The application is available for review. Wal-Mart is anticipating employing 167 people, 83 of them being part-time employees.

Jeff Nelson, Attorney at Law, Vogel Law Firm, Bismarck, North Dakota, representing Wal-Mart came forward to support this exemption request. He stated that Brian Cutting, Director of Real Estate for most of the central United States region and Ryan Irsik, Public Relations Manager were unable to attend tonight’s meeting. Both representatives attended the MGF meeting via teleconference. Nelson provided the following details of the Wal-Mart project: The store will be approximately 100,000 square feet. It will be owned by Wal-Mart Real Estate Business Trust and it will be leased and operated by Wal-Mart Stores Inc. Wal-Mart anticipates closing on the real estate property the latter part of this month and thereafter will award the construction contract as soon as possible after the closing with construction to begin as soon as possible. The Grand Opening of the store is tentatively set for the fall of 2013. Nelson stated that Wal-Mart is requesting

the exemption at 100% for years one and two; 75% for year three; 50% for year four and 25% for year five as outlined under the City of Mandan policy guidelines. Nelson stated that Wal-Mart believes they would qualify for a full five year 100% exemption based on the number of jobs that this will create but they have voluntarily agreed to seek the lower exemption level. Mandan's Commercial Property Tax Exemption Policy Guidelines set forth set six general criteria to be used in evaluating it: (1) The economic impact (2) Job creation (3) Diversification of the economic base (4) Growth potential of company and spinoff of businesses (5) Impact of City services (6) Utilization of local resources. Wal-Mart believes it meets all those criteria thus their application for tax exemption should be approved. Wal-Mart expects the project to cost approximately \$15 million dollars with an anticipated income of \$50 million the first year in operation. Nelson reviewed the highlights of each of the criteria. Also noted in the policy is that a new or expanding business must not gain an unfair advantage with existing competitors with the use of the exemption. Wal-Mart does not believe that granting this exemption would create an unfair advantage. This tax exemption is available to any competitors that want to expand their business or open a business per the guidelines. Another point to bring out is that Wal-Mart takes pride in being a part of the community and its philosophy is to operate globally and to give back locally. Most of the donations are given locally. Over \$3.5 million has been donated since 2011 in the Bismarck stores.

In addressing the comment that Wal-Mart does not need the exemption so why should they be given the exemption? In response, need, is not one of the identified criteria in the policy. It is not a small business incentive or a need incentive; it is an economic development incentive. Wal-Mart has been aware of the incentive since selecting this site and believes it has met the state of criteria required for the exemption based on the policy guidelines. In summary, Nelson does not see any reason to treat Wal-Mart differently than any other business requesting the tax exemption. They have elected to not seek the full 100% five-year exemption. Commissioner Rohr inquired as to the number of payroll employees and how that would calculate out to per person. Nelson will request Wal-Mart provide a breakdown of compensation for its employees. Commissioner Tibke clarified the guidelines outline that a business may be "eligible" for a tax exemption rather than "entitled" as Nelson stated. Nelson concurred with Tibke that he meant "eligible" for tax exemption rather than "entitled" to the exemption if all criteria have been met. Commissioner Frank asked Nelson about his statement that Wal-Mart has yet to close on the property and where they plan to situate the building.

Commissioner Frank requested contingencies on the property that Nelson is aware of. Nelson stated that he does not think the normal due diligence period has expired yet. Frank inquired if one of the contingencies may be the approval of this incentive being given. Nelson stated that it's not one of the contingencies that they would not go through with the project if it was not granted. Commissioner Frank inquired if Wal-Mart has pursued requesting tax exemptions in other communities? Nelson replied that in North Dakota they have not. He is not aware of requests being made in any other states.

Russ Staiger, Bismarck Mandan Development Association (BMDA) came forward to comment on the Wal-Mart tax exemption request. Staiger provided a brief history of

when the City of Mandan approached the BMDA to assist the City with a plan to revitalize the downtown area. He said that 5-6 years ago when Bismarck went through their “big-box” boom, Mandan came forward and stated they would be interested in obtaining a big box entity too. Wal-Mart was the store in focus because they just constructed two superstores in Bismarck and subsequent to that BMDA pursued and succeeded in getting discussion going on building a Wal-Mart in Mandan. Based on all the discussions among the public and city officials of Wal-Mart coming to Mandan, Staiger directed attention to why Mandan should consider Wal-Mart being based in Mandan. In particular, the tax exemption requests presented by City Assessor Barta and Attorney Nelson add up to a lot of money, but you have to look at what Wal-Mart is giving back. Staiger stated that Wal-Mart has qualified for all the property tax exemptions that they have requested. He pointed out that they will not be exempted from paying the basic land tax that comes with the land because the land is not exempted by state statute and the value of the land as it currently sets is at \$12,000. The City has added a public improvement that will value it in excess of \$200,000 per year when they reach the level where they come out of the property tax exemption. With having qualified for it, Staiger suggested looking at the value of what has happened. Wal-Mart says they will generate \$50 million per year. If we exempt \$10 million from that for non taxable items that will leave \$400,000 that Mandan will get out of it for taxes. This is a 23% increase in the sales tax you will be collecting. The numbers being used are conservative. Assuming that the city gets the \$400,000 and also at the end of the 5 year period, the city will receive some \$600,000 in new revenue from Wal-Mart, \$400,000 in sales tax and \$200,000 in property tax. In addition to those revenues, you will have 250 people employed for an estimated payroll of \$4 million dollars. The final item is the prospect of additional retail of locating in Mandan because Wal-Mart made the decision to be here. We will work on them and hopefully we will see results going forward. In summary, the community stands to get \$600,000 in new revenue and we have accomplished what the City of Mandan asked the BMDA to do and this is a tremendous opportunity for Mandan to rebuild its retail.

Mayor Van Beek announced this is a public hearing and invited comments or questions from the public. All topics are to be kept to the topic at hand.

Susan Beehler, a Mandan resident came forward and read the following from a document she requested be made a part of these meeting minutes (*in italics*):

*Written objection to proposed property tax relief for Walmart*

*My name is Susan Beehler 20 year Mandan resident, property tax payer, owner of Suzy's Shuze N Starz a Pride of Dakota Company.*

*I object to the proposed tax incentive for Walmart as a business owner who pays property tax in Mandan , the city is taking my tax dollars I receive from my business and giving it to a competitor. Every dollar out of my pocket is one less dollar I have to invest in my business, my family, my home. This is unfair competition. I pay the taxes they should pay the taxes, it is the cost of doing business, when government lowers their cost it gives them an unfair an advantage.*

*It would be like giving Olympic players receiving additional points not based on merit and performance but just because you can give the extra points. How many countries would want to play with a country that would do that? How many businesses are you, the commission turning away because of unfair practices in our city? Don't stack the deck, it is cheating! Surveys say we have an image problem, part of it is because our leaders do not value what we have and our willing to sell themselves out, the street has another term for those who give their selves away. Prove to our sister city we are good enough and we do not have to sell out our public dollars to be able to "shop" in our city. Stop acting DESPARATE! Patience is a virtue!*

*What is the "true" cost of this tax exemption?*

*If they do not receive this exemption our city, our county our school and other property tax entities would receive over \$700,000, if you divide this out over the property tax homeowners in Mandan, the city is asking each of us property tax payers to pay over \$100 (housing units 7950, 74.6% homeownership, equals 5963 Homeowners/\$700,000 is \$117) to be part of the "Wal-mart" club.*

*Where is the public benefit in being forced to give to one store over another store? Sounds UnAMERICAN and not very patriotic to me!*

*The county and our schools do not benefit from the city sales tax Walmart will be paying. For every \$1000 dollars given in a property tax exemption it takes \$100,000 in sales to make up the property tax and it will take over \$70 million dollars in sales at Walmart to be the equalivent of what our city has given away; the county and the school will not get one penny of those sales tax dollars yet their share of the exemption you will give is over 70% of the exemption, the value in tax dollars to our school and our county is almost a half a million dollars, and the school wants to grow Mandan so we can lower our taxes, as Mandan is growing, you the city is giving away the property tax relief the long standing homeowners desire.*

*The cost to me as an individual tax payer is equalivant to giving up any one of these*

*one day of work*

*3 to 4 tanks of gas*

*½ a month of health insurance*

*two months of phone service*

*two months of water service*

*Would I give up one day of my life to be able to shop Wal-mart in Mandan? NO, but you as city commissioners are deciding this tonight. You will be telling me it is for my own good, my benefit, the public benefit you are deciding to do this.*

*Let's look at in terms of your pay as a commissioner, you are willing to hand over your pay tonight to Wal-mart, because this is the equalivant of what it costs you, you are asking school board members to give up their pay, you are asking the county commissioners to give up their*

---

*pay. You were elected to represent our city not our county, not our school and you are deciding to take money from our county, our schools with this decision in front of you tonight. Don't do it!*

*What can \$700,000 buy in property tax any one of these is a greater need and a better public benefit, then paying public dollars for a place to shop.*

*10 to 12 mills in property tax relief for every homeowner*

*47,700 in hot lunches*

*one neighborhood street repaving project*

*one Mandan High School Parking lot*

*15 to 18 salaries for our police officers*

*about 140,000 cubic yards of gravel for county roads*

*15 to 18 teachers' salaries*

*over 80 students to attend Mandan schools*

*\$700,000 is more than 20% of your city budget, Are you willing to cut the city budget by 20% to give homeowners property tax relief?*

*As elected officials you have been given entrusted to make these decisions, but as taxpayers we do have the right to recall or refer any decision we feel strongly enough about and this could be just the time this may be exercised based on how you vote tonight. It only takes 717 signatures to get this issue on the ballot; 1195 to recall each of you who choose to vote for this exemption. Obviously almost 300 objecting to special assessments was not enough to get this city's commission attention, then maybe 700 to 1200 residents will get your attention?*

*I am asking you NOT to give this property tax exemption, Wal-mart can open for business without our property tax dollars aiding them. I am asking you **NOT** to deprive our county and schools the tax benefit with this new enterprise, you have overreached your elected authority by digging into the pockets of our county and school tax dollars. You were elected to represent and be good stewards of our city tax dollars, do not deprive our children, our county services. Do **NOT** give this tax exemption.*

Carla Barrios, a Mandan resident came forward to speak. She stated she is opposed to granting Wal-Mart a tax exemption. She also stated that the policy to give away tax dollars has to stop because businesses will come here regardless because of the oil boom.

Tom Tuntland, a Mandan attorney came forward to speak. He wanted to bring forward two issues: (1) Mandan has been told there will be 250 jobs created. Those jobs will bring families who will place additional burden on the schools and the taxpayers. (2) The area he lives in is located below the area where Wal-Mart is going to be constructed. There have been drainage and road problems in that area for many years and there will continue to be drainage and damage done when and after Wal-Mart is built. Now is not the time to look at the streets; however, the City Commission needs to look at the impact

this struggling (or not?) new business will have in this area. He suggested that all consequences be looked at if Wal-Mart comes in. One thing the City will be looking at is annexing the land to the east of Terra Vallee and it will need to be paved and maintained. Where is the City going to get the money to do that? Rather than assessing the residents for the improvement costs, the City should be asking Wal-Mart to pay their fair share.

Tom Kelsch, a Mandan resident came forward to comment on this issue. He urged the Commission to deny this request. He stated that his understanding is that big-box companies do not come to communities to take advantage of tax breaks. They do their business studies and make decisions based upon what the results of the studies show. It is his position that Wal-Mart is coming to Mandan anyway and by giving this exemption to them is like giving away \$700,000 of the Mandan citizens' money. He urged the Commission to vote against granting the exemption.

Lillian Bachmeier, a Mandan resident came forward to speak. She agreed with everything the previous residents testified to in opposition for the tax break for Wal-Mart. She encouraged the Commission to think "local".

Bob Vayda, a Mandan resident came forward to speak. He stated he supports Wal-Mart coming to Mandan but he does not support the City granting them a tax exemption.

He reviewed the Application filed by Wal-Mart and posed questions regarding the figures provided by Wal-Mart as to payroll for full time and part time workers. The figures provided by Wal-Mart did not match up according to the figures he provided to the Commission using Wal-Mart's data. He stated this will put an unnecessary tax burden on Mandan residents. He asked the Commission to vote against granting the exemption.

Tim Helbling, a Mandan resident came forward to speak. He requested the Commission do what is best for the community as a whole. He reiterated as previously testified to by others that the citizens of Mandan have repeatedly requested "retail" in the community. He commented on Ms. Beehler's previous statement "Don't act desperate." Helbling stated "We are desperate. We need to stop the sales tax trend from going to Bismarck." We need to keep the sales tax in the Mandan community to lower property taxes and fix roads. He pointed out that Main Street has improved over the last ten years due to programs being put into place allowing for tax breaks for those businesses to either improve their business or move their business into Mandan. He commented that if the Commission were to deny Wal-Mart the tax exemption, what message would that send to other businesses interested in coming to Mandan. He stated that if this request does not go through, the City will probably be facing much higher taxes. He pointed out that there is ample interest in the surrounding property and there is a lot of interest of people now wanting to come to the community because Wal-Mart will be coming here. Regarding the policy, Helbling stated that there is nothing wrong with the policy and it can be changed. However, the goals and objectives need to be met before change should be made to it. He urged the Commission to support the tax exemption request received from Wal-Mart. He suggested the Commission consider the exemption at 50% for 5 years. That way the community receives something up front. He indicated that if the

Commission denies this request that the City then consider annexing the Mandan Refinery into the City even though the county is opposed to it, to lower the tax burden and help with some of the street repairs in the community. He strongly urged the Commission grant the tax exemption to Wal-Mart.

Mark Bitz, Morton County Commission, came forward to speak. He disagreed with Helbling's comment that the City of Mandan is "desperate". He stated that North Dakota leads the country in economic growth and North Dakota has the lowest unemployment rate. Bitz gave several examples of how businesses do not need the tax exemption in order to build in Mandan or Bismarck. The State of North Dakota guidelines state that after a public hearing the governing body may determine in the best interests of the municipality and approves or denies in whole or in part the application for tax incentives. He pointed out that a year ago, the county commission turned down a tax exemption for a \$35 million project. He stated this commission has the discretion to say "no" to this request. He requested the Commission vote against granting the exemption.

Mayor Van Beek announced this is a public hearing and invited comments or questions from the public regarding the request for tax exemption received from Wal-Mart. Seeing and hearing none, this portion of the public hearing was closed.

Commissioner Rohr clarified that this action would not be taking any money out of anyone's pocket and the City is not taking any money out of the bank. By example, he stated that the money Wal-Mart will bring in to the community will be abstract dollars and not at the expense of the taxpayers. He commented that when looking at competitive issues it is important to take into consideration all the aspects surrounding the issue.

Commissioner Braun commented that he has been a Mandan resident all his life. He recalls the K-Mart loss and to have Wal-Mart come in to the community would definitely be an asset. He pointed out that Mandan citizens will all struggle with the exemption if it is granted. His question was if Mandan will succeed in five years. He agreed that Wal-Mart will prompt other businesses to come to Mandan. He stated that the long term goal is to get Mandan out of the property issues and to fix the streets and to build schools and to take care of the families.

Commissioner Frank remarked that there are issues that were brought up tonight that should be addressed. She requested Administrator Neubauer address the drainage issues that were addressed earlier; in particular issues at the Terra Vallee area near the Wal-Mart property. Neubauer stated that the plans for that area show there would not be any further runoff into the Terra Vallee subdivision. The storm water from the proposed site would be collected in water detention pond on the southwest side of that property. There would be no drainage into the Terra Vallee area. The intersection has been constructed with traffic signals with several turning lanes and the street was recently milled and overlaid on Old Red Trail and there would be no further infrastructure needed. The half of the 8<sup>th</sup> Street that Mr. Tuntland referenced will become a whole street and that will not have impact on the Wal-Mart location. Commissioner Frank voiced concern about the impact on the schools, the parks and the county. Although a county representative

presented testimony she stated it was interesting that the schools or parks did not come forward, thus lack of comments would be considered a sign of support for this request. She questioned how this would not create an unfair advantage to businesses located within the community. She requested Attorney Nelson provide clarification to the second point in the policy that the new or expanding business must not gain unfair advantage with existing competitors through the use of the exemption.

Jeff Nelson, attorney for Wal-Mart approached the podium again to provide clarification on some issues. He stated that to address the point on unfair advantage to competition, the first response would be to separate “Is Wal-Mart going to be competing with competitors in Mandan?” There is no question that they will be. Right now it will be a matter of Mandan people who drive to Bismarck to shop Wal-Mart, will they stay in Mandan and shop at the Mandan Wal-Mart because in essence the Bismarck Wal-Mart’s are the competition. Nelson stated that Wal-Mart qualifies for the exemption by meeting the criteria under the guidelines as outlined.

Mayor Van Beek extended a thank you to all who came out tonight to speak on this issue of a tax exemption for Wal-Mart. He highlighted some of the testimony given tonight and summarized that the City has a policy and how is the City going to follow through with it? They (Wal-Mart) have asked for the exemption and it is not their fault for wanting to come to Mandan. They do their homework as a new business coming to town and review the policy and guidelines.

#### BIDS:

#### CONSENT AGENDA:

1. *Consider placing city owned lot up for sale.* The Board approved of placing city owned lot up for sale.
2. *Consider for approval the application for beer garden and street dance event.* The Board approved of the application for beer garden and street dance event.
3. *Consider proclamation designating August 6-12, 2012 as Lifelong Learning Week in the City of Mandan.* The Board approved of the proclamation designating August 6-12, 2012 as Lifelong Learning Week in the City of Mandan.
4. *Consider approval of the Service Area Agreement and Amendment No. 1 between Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota), and Mor-Gran-Sou Electric Cooperative, Inc., 2816 37th St. NW, Mandan, ND 58554 (Mor-Gran-Sou).* The Board approved of the Service Area Agreement and Amendment No. 1 between Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota), and Mor-Gran-Sou Electric Cooperative, Inc., 2816 37th St. NW, Mandan, ND 58554 (Mor-Gran-Sou).

Commissioner Tibke moved to approve the Consent Agenda items as presented. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: No; Commissioner Van Beek: No. The motion passed. Commissioner Braun seconded the motion.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider Growth Fund Committee recommendation regarding property tax exemption application by Wal-Mart.* Commissioner Tibke commented that this matter has been discussed since she was appointed to the City Commission in 2003. She pointed out similar sized cities such as Dickinson and Williston (pre-oil) that have had a sales tax buffer. The majority of Mandan's sales tax is going to Bismarck to help with their infrastructure. She stated that the City of Mandan has asked the BMDA to try to attract retail to grow the primary sector. She gave examples of current sales tax collection in Jamestown (higher), a comparable sized city, and how it compares to Mandan (much lower) sales tax collection. In addition to the \$400,000 sales tax collection, how much more can be collected from prospective businesses that will come to that area? She explained that these decisions are quite complex due to all the factors to be considered. The goal is long term development and how a community can grow with tax revenue dollars without giving your community away. This is how the City came up with the newest policy where the breaks were given for the retail coming in with an attempt to make it more attractive to live in Mandan as opposed to Bismarck. Commissioner Frank commented that there is flexibility in the policy wherein it states the criteria and that each application is based on its merits.

Commissioner Frank moved to approve the tax exemption requested by Wal-Mart based on the same standards that have been given to homeowners and that the exemption is given for the first two years at 100%. Further, she recommended that the policy be reevaluated at the next commission meeting with consideration given to dropping the exemptions for years three through five.

Commissioner Rohr commented that most requests are treated within a normal standard and now this abnormal request comes through from a much larger environment. These are guidelines, not rules, and the Commission has to come up with a way to approach this.

Commissioner Frank clarified that her motion is to grant a tax exemption to Wal-Mart at 100% for two years. Commissioner Tibke seconded the motion.

Mayor Van Beek suggested a 50% exemption for five-years indicating that tax revenue would be coming in right away. Commission Braun stated he was more comfortable with that recommendation. Commissioner Frank stated that her concern is that with the original motion the policy was being followed. Mayor Van Beek's recommendation deviates from the policy.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: No; Commissioner Van Beek: No. The motion passed.

2. *Consider actions associated with participating in the U.S. Department of Treasury's State Small Business Credit Initiative: i. Allocation agreement; ii. Cooperative agreement; iii. Administrative contract; iv. Steering committee appointment; v. Loan committee appointment:* Business Development and Communications Director Huber reviewed with the Board a request to consider agreements associated with participating US Department of Treasury's State Small Business Credit Initiative. In addition, to consider appointments associated with the implementation of the SSBCI program to represent the City of Mandan. On September 20, 2011, the City of Mandan through the Mandan Business Development and Communications Director along with the Lewis and Clark Regional Development Council submitted applications by September 27, 2011 on behalf of Mandan. The consortium received notice in late June 2012 of approval by the US Dept of Treasury. The consortium as a whole is eligible to receive \$9,710,768 to support a loan participation program for small businesses to help them expand and create jobs. Huber outlined the criteria required to qualify for and receive funds. The allocation of the funds is proportionate to the population represented by the consortium as a pro rata share of \$13.1 million available for North Dakota in comparison to the population represented by another consortium, led by the City of Carrington. Participating municipalities through their designated municipality office and authorized representative have ultimate authority to oversee the SSBCI program management, reviews and reporting as required by the Allocation Agreement. Thirty-seven other cities in the state of North Dakota will participate in the initiative.

Huber recommended approval of all agreements and also approval of the SSBCI Agreement Cooperative agreement among participating municipalities. She recommended approval of the contract for SSBCI program administrative services with Lewis and Clark Regional Development Council. Huber suggested that she be appointed to the SSBCI consortium Steering Committee. Huber submitted a candidate, Jim Goetz, who is interested in and willing to represent Mandan on the SSBCI loan committee for a two-year appointment. Huber indicated that Goetz is Chairman and CEO of Security First Bank of North Dakota with locations throughout North Dakota.

Commissioner Frank moved to approve the SSBCI allocation agreement; the SSBCI Cooperative Agreement among participating municipalities; the contract for SSBCI program administrative services with the Lewis and Clark Regional Development Council; to appoint Ellen Huber to the SSBCI consortium's steering committee to represent the City of Mandan; to appoint Jim Goetz to the SSBCI consortium's loan committee to represent the City of Mandan. Commissioner Rohr seconded the motion. Commissioner Frank commented about the importance of communicating all new and expanding business ventures within the community. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Bismarck Mandan Development Association (BMDA) Mid-Year Report.* Brian Ritter and Richard Mower, BMDA representatives, reviewed the mid-year report with the commission. They provided an update on the following items:

- 
- History of BMDA's Site Location Reports
  - BMDA Mandan Work Plan
  - Resources
    - Bismarck-Mandan Regional Future Land Use Plan
    - City of Mandan Zoning Map
    - Memorial Highway Corridor Study
    - City of Mandan Engineering, Admiration and Business Development and Communications Departments
    - Commercial Real Estate Brokerages
  - Industrial
    - Identified and evaluated potential sites to be developed as an Industrial Park (size of parcel; access; utilities; zoning; availability)
      - Top 3 Industrial Sites
        1. Old Red Trail Industrial Park (60 acres)
        2. Cloverdale Industrial Park (5 acres)
        3. Kist Property (100 acres)
  - Office
    - Identified and evaluated potential sites to be developed as a site for a 10,000 sq. ft. Office Building (size of parcel, access, visibility, surrounding uses)
      - Top 3 Office sites
        1. Riverbend Center (.09 acres)
        2. Sunset Commercial Park (3.86 acres)
        3. Old Red Trail (3.1 acres)
  - Retail
    - Identified and evaluated potential sites to be developed as a site as a site for 10,000 – 20,000 sq. ft. retail building (size, visibility, access, traffic count, proximity to other retail)
      - Top 3 Retail sites
        1. NWC Memorial High and Expressway (41.47 acres)
        2. WW Ranch Property (30 acres)
        3. 4720 19<sup>th</sup> Street Southeast (3.9 acres)

4. *Introduction of new employee, Shirley Shaw, Assessing & Building Inspection.* Richard Barta, City Assessor, introduced Shirley Shaw, who will do Appraiser work for the City of Mandan. Ms. Shaw has worked in this field for ten years so she comes to the city with many years of experience.

#### RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1126 Zone Change for Meadow Ridge 2<sup>nd</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Tibke moved to approve the second consideration and final passage of Ordinance No.1126 Zone Change for Meadow Ridge 2<sup>nd</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to

District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider second consideration and final passage of Ordinance 1127, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 35-139N-81W).*

Commissioner Frank moved to approve the second consideration and final passage of Ordinance 1127, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 35-139N-81W). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider second consideration and final passage of Ordinance 1128, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 34-139N-81W).*

Commissioner Tibke moved to approve the second consideration and final passage of Ordinance 1128, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 34-139N-81W).

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

OTHER BUSINESS:

1. *Consider moving into executive session under North Dakota Century Code Section 44-04-19.1 for attorney consultation regarding contract negotiations and instructions related to the Don McGuire and John Schultz proposal for development of city-owned property.*

Commissioner Frank motioned to move into executive session to discuss this matter. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Mayor Van Beek stated that the executive session will be recorded and all members of the governing body are reminded to limit their discussion during the executive session to the announced topic. Collective decisions or collective commitment or other final action by the governing body must occur after it reconvenes in an open meeting unless the final action is specifically required by law to be taken during the executive session. The prohibition of taking final action during the executive session does not apply to providing guidance or instructions to our attorney or negotiator. The Board was excused to convene in Dykshoorn Room.

---

The regular meeting adjourned at 7:55 p.m. to enter into Executive Session. Present: Commissioners Van Beek, Braun, Frank, Rohr and Tibke. Department Heads present Were: City Administrator Neubauer, Business Development and Communications Director Huber, and City Attorney Brown.

Commissioner Tibke motioned to adjourn the Executive Session at 8:45 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

There being no further actions to come before the Board of City Commissioners, Commissioner Rohr moved to adjourn the regular meeting at 8:47 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/ James Neubauer

James Neubauer,  
City Administrator

/s/ Arlyn Van Beek

Arlyn Van Beek,  
President, Board of City  
Commissioners