

PUBLIC NOTICE

Captains' Landing Township Residents: The tax equalization meeting for Captains' Landing Township is scheduled for April 5, 2022, at 6:00pm at the township park building. Signed, Danette Welsh, Clerk 3/25 - 42253

We the directors of the Western Heart River Irrigation District, are seeking comment from District electors, on the following petition for inclusion of lands into the District.

Petitioners Jorey Dahners and Jeff Dahners, present the SW1/4 of SEC. 15 136-87 Grant County and the E1/2 of the SE1/4 of SEC. 16 136-87 Grant County for inclusion.

District electors may present comments in writing by April 4, 2022, to Western Heart River Irrigation District, P.O. Box 142, Carson ND 58529. District electors may also present comments in person at a special Directors meeting April 5th at the Grant County Court House in Carson, 1PM local time. 3/25 - 44107

NOTICE OF LEASING STATE SCHOOL LANDS

The Board of University and School Lands will offer the following lands for lease in Morton County. Unorganized (137-85)

Table with 3 columns: AC, Term, Rent. Rows include 137-85-16-NE4, 137-85-16-NW4, 137-85-16-SE4, 137-85-16-SW4.

Control requirements apply to all lessees. Auctioneer will read specific requirements at the auction. The public lease auction will be held at the Morton County Courthouse Commissioner's Room in Mandan on 3/30/2022 at 2:00 PM CT. Other than the descriptions of the lands to be auctioned, the information contained in this advertisement may be revised prior to the auction upon further review by the North Dakota Department of Trust Lands. Any such revisions will be announced at the auction and will be binding upon the bidders. Bidding will begin at minimum rent. 1st year's rent must be paid in full immediately after the sale. The Board reserves the right to reject any and all bids. For more information, visit https://land.nd.gov or call (701) 328-2800. For auxiliary aids and services, please call by 03/23.

Jodi A. Smith COMMISSIONER 1707 N 9th St Bismarck ND 58506-5523 PHONE: 701-328-2800 | FAX: 701-328-3650 | WEB: https://land.nd.gov 3/11, 18 & 25 - 43639

NOTICE OF INTENT TO ISSUE AN AIR POLLUTION CONTROL TITLE V PERMIT TO OPERATE

Take notice that the North Dakota Department of Environmental Quality (NDEQ) proposes to issue a renewed Air Pollution Control Permit to Operate to Northern Border Pipeline Company for operation of the Glen Ullin Compressor Station in accordance with the ND Air Pollution Control Rules. The facility is located at 4090 - 62nd Avenue, Glen Ullin, ND 58631 in Morton County. The facility processes natural gas for delivery to market. The Northern Border Pipeline Company mailing address is 13710 FNB Parkway, Ste 300, Omaha, NE 68154. A thirty-day public comment period for the draft permit will begin March 26, 2022, and end April 24, 2022. Direct comments in writing to the NDEQ, Division of Air Quality, 4201 Normandy Street, Bismarck, ND 58503-1324 or email AirQuality@nd.gov, Re: Public Comment Permit Number AOP-28435 v6.0. Please note that, to be considered, comments submitted by email must be sent to the email address listed; comments sent to any other email address will not be considered. Comments must be received by 11:59 p.m. central time on the last day of the public comment period to be considered in the final permit determination. A public hearing regarding issuance of the permit will be held if a significant degree of public interest exists as determined by the NDEQ. Requests for a public hearing must be received in writing by the NDEQ before the end of the public comment period. The notice, draft permit, statement of basis and application are available for review at the NDEQ address and at the Division of Air Quality website at https://deq.nd.gov/AQ/PublicCom.aspx. A copy of these documents may be obtained by writing to the Division of Air Quality or contacting Cristy Jones at (701)328 5283 or emailing cristy.jones@nd.gov. 3/25 - 44269

STATE OF NORTH DAKOTA COUNTY OF MORTON IN DISTRICT COURT

SOUTH CENTRAL JUDICIAL DISTRICT State of North Dakota, by and through the Office of State Tax Commissioner, Plaintiff,

vs. Nicholas P. Sible, personally as Responsible Member, Sible Body Shop LLC, Defendant.

Civil No. 30-2022-CV-00193 SUMMONS

THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED DEFENDANT: YOU ARE HEREBY SUMMONED and required to appear and defend against the Complaint in this action, which is herewith served upon you and has been filed with the Clerk of the District Court in the county in which this action is commenced, by serving upon the undersigned with an Answer or other proper response within twenty-one (21) days after the service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Dated this 17th day of March, 2022, at Bismarck, North Dakota.

/s/ Charles Dendy Charles Dendy (State Bar Board Id. 05877)

Special Assistant Attorney General Office of State Tax Commissioner 600 East Boulevard Avenue Bismarck, North Dakota 58505-0599 (701)328-2776 Fax (701) 328-3700 Email cdendy@nd.gov Attorney for Plaintiff 3/25, 4/1 & 8 - 44271

OFFERING OF LAND FOR LEASE ON BID Lower Heart River Water Resource District

Lower Heart River Water Resource District (LHRWRD) offers to lease the following tracts of land in Morton County for the purpose of conventional farming: Tract A within Section 35, Township 139N, Range 81W -10.8 acres+/- Tract B within Section 36, Township 139N, Range 81W-53.4 acres+/- Tract C within Section 2, Township 138N, Range 81W-4.4 acres+/- Tract D within Section 1, Township 138N, Range 81W-38.9 acres+/- Tract E within Section 1, Township 138N, Range 81W-13.1 acres+/- Tract F within Section 1, Township 138N, Range 81W-0.8 acres+/- Tract G within Section 12, Township 138N, Range 81W-31.1 acres+/- The contiguous acres are based on the tract total of 152.5 acres+/- . All tracts are located within the "wet-side" of the Mandan Flood Control Levee. The lease term will be for one year with no renewal option. Lease will be for cash rent, to be paid by the tenant at the time of the execution of the lease. Interested parties are invited to submit a bid for the leasing of this land. Bidders are advised that the property is being offered for lease as-is. All bidders should inspect the property, inform themselves of existing conditions, and be familiar with the terms of the lease before bidding. Mail-in bids must be postmarked on or before Tuesday, March 29, 2022. Email bids will be accepted through Tuesday, March 29, 2022. To obtain a bid package, visit our website https://www.co.morton.nd.us/lowerheart. Call (701)-471-8398 with questions or inquiries. To place a bid: 1. Complete the bid sheet provided in the bid package, following the directions provided on the bid sheet. 2. Mail the bid to Lower Heart River W.R.D., c/o Lease Bid, PO Box 395, Mandan, ND 58554 or email to: lowerheartriver@gmail.com, subject line-Lease Bid. 3/18 & 25 - 43936

The Mandan Police Department will be selling the following vehicles at public auction conducted at Northland Auction, 2100 3rd St SE Mandan, on March 26th, 2022 at 12:00 noon. 1999 Chrysler Town & Country 1C4GP54L8XB832342 2003 Nissan Pathfinder JN8DR09Y73W8008896 Assorted bicycles included. Terms of the sale are payment in full, in cash or check, before removing the property from the premises. Sgt. Brent Wilmetth Mandan Police Department 3/18 & 25 - 43896

IN THE STATE OF NORTH DAKOTA, COUNTY OF MORTON IN THE DISTRICT COURT, SOUTH CENTRAL JUDICIAL DISTRICT Caliber Home Loans, Inc., Plaintiff,

vs. Joshua T. Schmidt a/k/a Josh Schmidt; Brittany Schmidt a/k/a Brittany A. Schmidt; Bridgeview Bay Homeowners Association, and any person in possession, Defendants. CIVIL NUMBER: 30-2018-CV-01021 NOTICE OF REAL ESTATE SALE

1. Judgment in the amount of \$254,925.09, having been entered in favor of Plaintiff and against Defendants, which Judgment was filed with the Clerk of Courts of Morton County, North Dakota, on October 29, 2019, for the foreclosure of a real estate mortgage. 2. Notice is hereby given pursuant to said Judgment that the real property described as:

Lot 17B of a portion of Lot 17, Block 1, Bridgeview Bay Addition to the City of Mandan, Morton County, North Dakota, pursuant to the plat of irregular description filed for record as Document No. 445948. Real Property address: 2009 Pirates Loop SE, Mandan, ND 58554

The above real property is the subject of the Mortgage dated October 31, 2013, which Mortgages, Brittany Schmidt and Joshua T. Schmidt, executed and delivered to Mortgage Electronic Registration Systems, Inc., as Mortgagee, as nominee for Starion Financial, a Federally Chartered Savings Bank, its successors and assigns, and recorded in the office of the Clerk and Recorder of Morton County, North Dakota, on November 1, 2013, Instrument Number 453667, which is subject to the entered Judgment. Said Mortgage was assigned to Plaintiff, its successors or assigns, by Assignment of Mortgage recorded June 11, 2018, Instrument Number 483856. 3. In order to realize the amount of \$254,925.09, as of October 29, 2019, plus interest accruing thereafter on said amount at the rate of 4.25% per year together with the costs and expenses of sale, will be sold subject to redemption as provided by law as one parcel of land at public auction, subject to the lien for unpaid real estate taxes and assessments of Morton County, North Dakota, and easements and restrictions of record, to the highest bidder for cash under the direction of the Sheriff of Morton County, North Dakota, at the main entrance of the Morton County Courthouse located at 210 2nd Avenue NW, Mandan, North Dakota 58554, on April 12, 2022 ("Sale Date"), at 01:30 PM. 4. If the sale is set aside for reason, the Purchaser at the sale shall be entitled only to a return of the deposit paid. The purchaser shall have no further recourse against the Mortgagor, the Mortgagee or the Mortgagee's attorney. DATED this 25th day of Feb., 2022. SHERIFF OF MORTON COUNTY Mandi Snyder Sheriff/Deputy Sheriff of Morton Halliday, Watkins & Mann, P.C. By: Benjamin J. Mann Benjamin J. Mann, Bar: 03871 Zachary Nesbit, Bar: 07552 Attorneys for Plaintiff 376 East 400 South, Suite 300 Salt Lake City, UT 84111 Tel: 801-355-2886 Email: zach@hwmlawfirm.com 3/11, 18 & 25 - 43499

NOTICE OF PUBLIC HEARING MANDAN CITY COMMISSION

Notice is hereby given that the City of Mandan has received a request from Art Goldammer / TRX Developers LLC for consideration of an amendment to the City of Mandan's Land Use and Transportation Plan that serves as the City's Comprehensive Plan, a masterplan, a Preliminary Plat to be named Shores at Lakewood Addition, and a zone change from A (Agriculture) to PUD (Planned Unit Development). Said property is an unplatted portion of Outlot A and Part of Lot 3 of Auditor's Lot A of Section 1, and Part of Lot A of Government Lot 2 and Part of Lot A of Government Lot 7 of Section 12, Township 138 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota. The property is located in southeast Mandan, west of 34th Avenue SE and east of the Lower Heart River. Notice is further given that the Mandan City Commission shall meet at Mandan City Hall on Tuesday, April 5, 2022, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Planning & Zoning Commission application submittals. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person. Jim Neubauer City Administrator 3/18 & 25 - 43657

Notice is further given that the City of Mandan has received a request from Arthur Goldammer / Dakota Pioneer Land Company LLC, for consideration of a Preliminary Plat to be named Heart River Villas Addition, and a Zone Change from RM - Residential Multifamily to PUD - Planned Unit Development. Said property is a Replat of Lot 1, Block 2, School District 7th Addition, Section 20, Township 139 North, Range 80 West, City of Mandan, Morton County, North Dakota. The property is located in southeast Mandan, west of 40th Avenue SE and north of McKenzie Drive SE. Notice is further given that the Mandan City Commission shall meet at Mandan City Hall on Tuesday, April 5, 2022, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Planning & Zoning Commission application submittals. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person. Jim Neubauer City Administrator 3/18 & 25 - 43620

MANDAN NEWS PUBLIC NOTICE NEW DEADLINE PUBLISH BY RECEIVE BY Friday.....Prior Friday Noon

ADVERTISEMENT FOR BIDS FOR STREET IMPROVEMENT DISTRICT NO. 225

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 April 7, 2022 at 10:30 a.m., local time for the purpose of furnishing of materials, labor and skill needed for the rehabilitation of asphalt streets and related work in accordance with the plans and specifications for Street Improvement District No. 225 (Project #2022-05), for the City of Mandan. The Work consists of all labor, skill, and materials required to properly construct the improvement. 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 #8141352 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 bid proposals must be submitted to the City Administrator by 10:30 a.m., local time, Tuesday, April 7, 2022 and shall be sealed and endorsed "Proposal for Street Improvement District No. 225." 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 10:30 a.m., local time, on April 7, 2022. 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 North Dakota Century Code (NDCC) §43-07-07. 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 NDCC §43-07-12, 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 (included as required by § 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 NDCC §48-01.2-05 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. Work shall be completed on or before the following dates with liquidated damages assessed as follows: The CONTRACTOR shall have all of the gravel base, curb and gutter, and asphalt completed no later than October 15, 2022. Liquidated damages for these items will start if the October 15, 2022 deadline is not met. The remaining work will have a completion date of July 15, 2023. Liquidated damages will be assessed per calendar day if any completion dates are exceeded per Section 106-2 of City of Mandan specifications. 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, for each District. 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 2023 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 19, 2022, at 5:30 PM, local time, to review the Bids submitted, 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 and any alternates, on eligible areas, by a responsible and responsive Bidder deemed most favorable to the City's interest. The City of Mandan reserves the right to reject any or all bids, to waive any informality or irregularity, to hold all bids for a period of thirty (30) days after the date fixed for the opening thereof, and to accept the Bid and any alternates deemed most favorable to the best interest of the City of Mandan. Dated this 15th day of March, 2022 City of Mandan, North Dakota BY: City Administrator 3/18 & 25 - 43894

Notice is hereby given, that the City of Mandan, North Dakota, will receive sealed bids at the Office of the City Engineer, City Hall, until Thursday, April 7, 2022, at 10:00 a.m., local time, for the purpose of the construction and repair of sidewalks, curb and gutters, and all other work related to the 2022 Municipal Sidewalk Improvement Project 2022-06. The work consists of all labor, skill and materials required to properly construct the improvement. 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 #8151283 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 Contractor shall include a copy of his license or certificate or renewal thereof enclosed in the required bid bond envelope as required pursuant to §43-07-12 of the North Dakota Century Code, as amended. Unless a bidder obtains a contractor's license for the full amount of its bid within twenty days after it is determined the bidder is the lowest and best bidder, the bid must be rejected and the contract awarded to the next lowest, best, and licensed bidder. Each bid shall be accompanied by a separate envelope containing a bidder's bond in the amount of five (5) percent of the amount of the bids as required by North Dakota Century Code (NDCC) §48-01.2-05, as amended, and executed as provided by law. The bid bond shall be 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 a contract in accordance with the terms of the bid and a contractor's bond as required by law and the regulations and determinations of the city's governing body. Bids shall be made on the basis of 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. All work shall be completed no later than December 31, 2022. If the contractor fails to complete all the work within this time, or such additional time as has been granted for excusable delays, there shall be deducted from any money due the contractor the sum of One Hundred Dollars for each calendar day the completion of the work is delayed. Such deducted amounts shall be charged as liquidated damages and not as a penalty. The bid proposals shall be sealed and endorsed "Proposal for the 2022 Municipal Sidewalk Improvement Project #2022-06". Bids shall be delivered or mailed to: City Engineer, 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 Thursday, April 7, 2022. All bidders are invited to be present at the public opening of the bids. No bid may be read or considered if it does not fully comply with the requirements of NDCC §48-01.1-05 and any deficient bid submitted must be resealed and returned to the bidder immediately. The Board of City Commissioners of the City of Mandan, North Dakota, will meet at the City Hall in said city on Tuesday, April 19, 2022 at 5:30 p.m., local time, to review the bids submitted, consider the engineer's recommendation, and to award the contract to the successful bidder, subject to the Board finding filed protests are insufficient to bar the work. The contract will be awarded on the basis of the low bid submitted by a responsible and responsive bidder deemed most favorable to the City's interest. The Board of City Commissioners reserves the right to hold all bids for a period of thirty (30) days after the date fixed for the opening thereof, and to reject any or all bids and to waive irregularities whenever it is in the best interest of the City of Mandan. Dated this 15th day of March, 2022. City of Mandan, North Dakota BY: City Administrator Publication Dates: March 18 & March 25, 2022 3/18 & 25 - 43892

Notice is hereby given, that the City of Mandan, North Dakota, will receive sealed bids at the Office of the City Engineer, City Hall, until Thursday, April 7, 2022, at 10:00 a.m., local time, for the purpose of the construction and repair of sidewalks, curb and gutters, and all other work related to the 2022 Municipal Sidewalk Improvement Project 2022-06. The work consists of all labor, skill and materials required to properly construct the improvement. 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 #8151283 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 Contractor shall include a copy of his license or certificate or renewal thereof enclosed in the required bid bond envelope as required pursuant to §43-07-12 of the North Dakota Century Code, as amended. Unless a bidder obtains a contractor's license for the full amount of its bid within twenty days after it is determined the bidder is the lowest and best bidder, the bid must be rejected and the contract awarded to the next lowest, best, and licensed bidder. Each bid shall be accompanied by a separate envelope containing a bidder's bond in the amount of five (5) percent of the amount of the bids as required by North Dakota Century Code (NDCC) §48-01.2-05, as amended, and executed as provided by law. The bid bond shall be 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 a contract in accordance with the terms of the bid and a contractor's bond as required by law and the regulations and determinations of the city's governing body. Bids shall be made on the basis of 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. All work shall be completed no later than December 31, 2022. If the contractor fails to complete all the work within this time, or such additional time as has been granted for excusable delays, there shall be deducted from any money due the contractor the sum of One Hundred Dollars for each calendar day the completion of the work is delayed. Such deducted amounts shall be charged as liquidated damages and not as a penalty. The bid proposals shall be sealed and endorsed "Proposal for the 2022 Municipal Sidewalk Improvement Project #2022-06". Bids shall be delivered or mailed to: City Engineer, 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 Thursday, April 7, 2022. All bidders are invited to be present at the public opening of the bids. No bid may be read or considered if it does not fully comply with the requirements of NDCC §48-01.1-05 and any deficient bid submitted must be resealed and returned to the bidder immediately. The Board of City Commissioners of the City of Mandan, North Dakota, will meet at the City Hall in said city on Tuesday, April 19, 2022 at 5:30 p.m., local time, to review the bids submitted, consider the engineer's recommendation, and to award the contract to the successful bidder, subject to the Board finding filed protests are insufficient to bar the work. The contract will be awarded on the basis of the low bid submitted by a responsible and responsive bidder deemed most favorable to the City's interest. The Board of City Commissioners reserves the right to hold all bids for a period of thirty (30) days after the date fixed for the opening thereof, and to reject any or all bids and to waive irregularities whenever it is in the best interest of the City of Mandan. Dated this 15th day of March, 2022. City of Mandan, North Dakota BY: City Administrator Publication Dates: March 18 & March 25, 2022 3/18 & 25 - 43892

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IN THE DISTRICT COURT OF MORTON COUNTY, STATE OF NORTH DAKOTA
In the Matter of the Estate of
ROY M. SCHNEIDER, deceased
Probate No. 30-2022-PR-00029

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that the undersigned has been appointed Personal Representative of the above estate. All persons having claims against the said deceased are required to present their claims within three months after the date of the first publication of this notice or said claims will be forever barred. Claims must be presented to Harriet D. Schneider, as Personal Representative of the Estate of Roy M. Schneider, at P. O. Box 1173, Dickinson, North Dakota 58602-1173, or filed with the Court.
Dated this 2nd day of March, 2022.

Personal Representative:
/s/ Harriet D. Schneider
Harriet D. Schneider
Kubik, Bogner, Riddl & Selinger
Attn: Bruce A. Selinger #04368
P. O. Box 1173
Dickinson, ND 58602-1173
Attorneys for the Personal Representative
First Publication on the 11th day of March, 2022.

3/11, 18 & 25 - 43573

Charles "Casey" L. Chapman (#03380)
CHAPMAN & CHAPMAN, P.C.
103 South 3rd Street, Suite 6 - P.O. Box 1258
Bismarck, North Dakota 58502
Telephone: 258-6030
chapmanlaw@chaplawnd.com

Attorneys for: Personal Representative
IN THE DISTRICT COURT OF MORTON COUNTY, STATE OF NORTH DAKOTA
In the Matter of the Estate of
Patricia Ann Moos, Deceased
Probate No. 30-2022-PR-00041

NOTICE TO CREDITORS

1. NOTICE IS HEREBY GIVEN that the undersigned has been appointed co-Personal Representatives of the above estate. All persons having claims against the said deceased are required to present their claims within three months after the date of the first publication of this Notice or said claims will be forever barred. Claims must be presented to Jill Beck and Dean Moos, co-Personal Representatives of the Estate, at 812 Bryan Trail, Mandan, North Dakota 58554, or filed with the Court.
Dated this 9th day of March, 2022.

/s/ Jill Beck
Jill Beck, Personal Representative
/s/ Dean Moos
Dean Moos, Personal Representative
3/18, 25 & 4/1 - 43824

Christopher J. Nyhus, #06229
Nathan P. Stittleburg, #09008
NYHUS LAW FIRM
PO Box 2295
515 1/2 E. Broadway Ave., Suite 103
Bismarck, ND 58502
Attorneys for Estate of Martin James Orgaard

IN THE DISTRICT COURT OF MORTON COUNTY, STATE OF NORTH DAKOTA
In the Matter of the Estate of
Martin James Orgaard, Deceased.
Case No.: 30-2022-PR-00035

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN, that the undersigned has been appointed personal representatives of the above estate. All persons having claims against the deceased are required to present their claims within three months after the date of the first publication or mailing of this notice or the claims will be forever barred. Claims must be presented to Nyhus Law Firm, which represents the Personal Representatives of this estate, or filed with the Court.
Dated this 8th day of March, 2022.

/s/ Jesse A. Orgaard
Jesse A. Orgaard
Personal Representative
/s/ Nathan P. Stittleburg
Nathan P. Stittleburg, ND Id. No. 09008
Nyhus Law Firm
515 1/2 E. Broadway Ave., Suite 103
PO Box 2295
Bismarck, ND 58502
701-751-2262 (phone)
701-425-0028 (fax)
First publication on the 18th day of March, 2022.

3/18, 25 & 4/1 - 43918

NOTICE OF PUBLIC HEARING MANDAN BOARD OF CITY COMMISSIONERS

Notice is hereby given that the City of Mandan has received a request from the Red Trail Holdings, LLC for consideration of a Final Plat to be titled Rock Prairie Estates Addition and an Annexation of the proposed subdivision plat. Said property is Auditor's Lot H & Part of the SW ¼, Section 7, Township 139N, Range 81W, Morton County, North Dakota. The property is located along Old Red Trail NW west of 47th Avenue NW.

Notice is further given that the Board of City Commissioners shall meet at Mandan City Hall on Tuesday, April 5th, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Departments>EngineeringandPlanning >P&ZSubmittals>RockPrairieEstates. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person.

Jim Neubauer
City Administrator
3/25 - 43442

NOTICE OF PUBLIC HEARING MANDAN PLANNING & ZONING COMMISSION

Notice is hereby given that the City of Mandan has received a request from LH Holdings, LLP for consideration of a Preliminary Plat, Masterplan and Zone Change from A – Agriculture and R7 – Residential to R7 – Residential and R3.2 – Residential. Said property is all of Keidel's South Heart Terrace 4th Addition and Part of the NW 1/4, All in Section 3, Township 138N, Range 81W. The property is located in south Mandan, south of 19th Street SW and east of 8th Avenue SW.

Notice is further given that the Mandan Planning and Zoning Commission shall meet at Mandan City Hall on Monday, March 28, 2022, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Planning & Zoning Commission application submittals. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person.

Jim Neubauer
City Administrator
3/18 & 25 - 43636

Thomas W. Severin
Attorney at Law
913 Ponderosa Drive
Severance, CO 80550
(701)433-1411

Attorney for the Estate of Burdett J. Fleck, Deceased
IN THE DISTRICT COURT OF MORTON COUNTY, STATE OF NORTH DAKOTA
In the Matter of the Estate of Burdett J. Fleck, Deceased

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN, that all persons having claims against the said deceased are required to present their claims within three months after the date of the first publication of this notice or said claims will be forever barred. Claims must be presented to Thomas W. Severin, Attorney at Law, 913 Ponderosa Drive, Severance, CO 80550, or presented to the Court at: Clerk of Court, Morton County, 210 2nd Ave NW, Mandan, ND 58554.

Dated February 24, 2022.
/s/ Thomas W. Severin
Thomas W. Severin
Attorney at Law
913 Ponderosa Drive
Severance, CO 80550
(701)433-1411
tom@severinlawfirm.com
ND State Bar ID #08827
3/11, 18 & 25 - 43693

STATE OF NORTH DAKOTA
COUNTY OF MORTON
IN DISTRICT COURT
SO. CENTRAL JUDICIAL DISTRICT
Discover Bank,
Plaintiff,
vs.

Jay J Heil,
Defendant.
File No.: 30-2022-CV-00116

SUMMONS FOR PUBLICATION

THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED DEFENDANT: You are hereby summoned and required to appear and defend against this action, which is herewith served upon you, by serving upon the undersigned an Answer or some other proper response within twenty-one (21) days after service of this Summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.
Dated: March 3, 2022
/s/ Amanda Lee
Amanda Lee
RODENBURG LAW FIRM
Attorneys for Plaintiff
PO Box 2427
Fargo ND 58108-2427
701/235-6411
ND#06953, WY#7-5273, MT#3742
JRL_Enotices@jrlawoffice.com
3/11, 18 & 25 - 43702

Dustin A. Richard
Furuseth Olson & Evert, PC
PO Box 417 - 107 Main Street
Williston ND 58802-0417
(701) 774-0005
Bar ID: 9035
dustin@furusethlaw.com
Attorney for the Personal Representative
IN THE DISTRICT COURT OF MORTON COUNTY, STATE OF NORTH DAKOTA
In the Matter of the Estate of
Rodney J. Aman, Deceased
Probate No. 30-2022-PR-00032

NOTICE TO CREDITORS

1. NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative of the above estate. All persons having claims against the said deceased are required to present their claims within three months after the date of the first publication or mailing of this Notice or said claims will be forever barred. Claims must either be presented to Tiffany Aman, Personal Representative of the Estate, at c/o Furuseth Olson & Evert, PC, PO Box 417, Williston, North Dakota 58802-0417, or filed with the Court.
Dated this 15 day of February 2022.
/s/ Tiffany Aman
Tiffany Aman
c/o Furuseth Olson & Evert, PC
PO Box 417
Williston ND 58802-0417
3/11, 18 & 25 - 43501

NOTICE OF PUBLIC HEARING MANDAN CITY COMMISSION

Notice is hereby given that the City of Mandan has received a request from EBCMGL 16 LLLP for consideration of a Preliminary Plat to be named Rockwood First Addition, and a Zone Change from A - Agriculture to RM - Residential Multifamily and R3.2 - Residential. Said property is, North ½ of the Southeast ¼ of Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located in north central Mandan, west of ND Highway 1806 and north of 31st Street NW.

Notice is further given that the Mandan City Commission shall meet at Mandan City Hall on Tuesday, April 5, 2022, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Departments>Engineering and Planning >ZoningSubmittals>Rockwood First Add. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person.
Jim Neubauer
City Administrator
3/18 & 25 - 43599

NOTICE OF PUBLIC HEARING MANDAN PLANNING & ZONING COMMISSION

Notice is hereby given that the City of Mandan has received a request from Arthur Goldammer / Dakota Pioneer Land Company LLC, for consideration of a Final Plat to be named Heart River Villas Addition. Said property is a Replat of Lot 1, Block 2, School District 7th Addition, Section 20, Township 139 North, Range 80 West, City of Mandan, Morton County, North Dakota. The property is located in southeast Mandan, west of 40th Avenue SE and north of McKenzie Drive SE.
Notice is further given that the Mandan Planning and Zoning Commission shall meet at Mandan City Hall on Monday, March 28, 2022, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Planning & Zoning Commission application submittals. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person.

Jim Neubauer
City Administrator
3/18 & 25 - 43621

To Place a Legal Advertisement
Call 355-8816, Fax 223-0959, or email: legals@bismarcktribune.com

**Notice of Public Hearing
City of Mandan, North Dakota**
NOTICE IS HEREBY given that the Mandan Planning & Zoning Commission will hold a public hearing during their regularly scheduled meeting on Monday, March 28, 2022, that begins at 5:30 p.m. in Mandan City Hall to consider recommending approval of an ordinance amending Section 101-1-3, Section 101-2-6 (a), Section 105-1-2 (5), Section 105-1-3, Section 105-1-4 (d), Section 105-1-5, Section 105-1-6 (9), Section 105-3-11, Section 105-3-16 (1), and Section 105-4-2 (b) related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts. A copy of said amendment is on file at the Mandan Engineering and Planning Office at 205 2nd Ave NW and is available for review during normal business hours from 8:00 am to 5:00 pm Monday through Thursday and 8:00 am to 4:30 pm Friday.
James Neubauer
City Administrator
3/18 & 25 - 43860

**NOTICE OF PUBLIC HEARING
MANDAN PLANNING & ZONING
COMMISSION**
Notice is hereby given that the City of Mandan has received a request from EBCMGL 16 LLLP for consideration of a Final Plat to be named Rockwood First Addition. Said property is North ½ of the Southeast ¼ of Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located in north central Mandan, west of ND Highway 1806 and north of 31st Street NW.
Notice is further given that the Mandan Planning and Zoning Commission shall meet at Mandan City Hall on Monday, Monday, March 28, 2022, at 5:30 p.m. to consider said matter at which time and place any person may appear to be heard thereon. A copy of said proposal is on file at the Mandan Planning Office available for review during regular office hours and may also be viewed at www.cityofmandan.com under Departments >Engineering and Planning>Planning and Zoning>Submittals>Rockwood First Add. The City of Mandan is encouraging interested parties to provide their comments for this item via mail to Planning Dept., 205 2nd Ave NW, Mandan ND, 58554 or email to andrew.stromme@cityofmandan.com at least one business day prior to the meeting. Interested persons may also call 701-667-3225 with questions or to facilitate alternate means to appear at the public hearing without having to appear in person.
Jim Neubauer
City Administrator
3/18 & 25 - 43600

**REQUEST FOR PROPOSAL
TO PERFORM
Preliminary & Design Services
FOR MORTON COUNTY PARKS
1806 PEDESTRIAN CROSSING**
Morton County plans to engage the services of a prequalified engineering firm to perform Preliminary & Design Engineering on the following project in Morton County with Preliminary Engineering & Design completed in 2022:
Project is preliminary engineering and design for a structure meeting current standards to safely cross underneath North Dakota Highway 1806. The crossing will be located .35 miles southeast of the intersection of County Road 140 and North Dakota Highway 1806. This project will be on North Dakota Highway 1806, approximately 8 miles north of Mandan.
Work to be performed by Consultant includes:
Preliminary Services: Perform Project Management and Administration of project scoping; preliminary survey any hydraulic survey, hydraulic engineering; preparation of the environmental document needed to obtain environmental clearance from NDDOT/FHWA. Additionally, other necessary permits; right of way and easement descriptions and negotiations; plans; preliminary and final design; final plans; hydraulics; and preparation of bidding documents. Additional services, if required, may be negotiated and supplemental agreements issued based on the consultant's performance, the consultant's proposal and available funding. The projected letting date for this project is early 2023.
Firms are invited to submit a proposal for the project listed above. The proposals shall provide the following information:
• Past Performance
• Ability of professional personnel
• Willingness to meet time and budget requirements
• Location
• Recent, current, and projected workloads of the persons and/or firms
• Related experience on similar projects
• Project understanding, issues & approach
• Detailed schedule providing adequate agency review times
The proposal pages shall be numbered and must be limited to 3 pages in length. Proposals that exceed the 3 page length requirement will not be considered. The cover letter will not be counted as one of the 3 pages. The proposal should list the personnel who will be assigned to work on the project, including titles, education and work experience. Morton County will only consider proposals received prior to **10:00 A.M. April 20, 2022**. Late proposals will be deemed unresponsive. The consultant's proposal may include an appendix. Resumes, references, a statement of qualifications and other materials outlining experience may be included in an appendix. The appendix will not be considered as a part of the 3 page proposal. Each proposal will be evaluated by a selection committee. Morton County will conduct interviews. The County plans to interview a minimum of the three (3) most qualified engineering firms based on whose proposals most clearly meet the RFP requirements. Firms not selected for interviews will be notified in writing. Fees shall be negotiated with the successful firm. If the fee cannot be agreed upon, the County reserves the right to terminate negotiations, and then negotiate with the second and third ranked firms in order, if necessary, until a satisfactory contract has been negotiated. All costs associated with the proposal shall be borne by the proposer. The County reserves the right to reject any and/or all proposals and to not award contracts for any and/or all projects. Engineering firms interested in performing the work shall submit 5 printed copies and one electronic (PDF) copy of their proposals to:
Morton County Parks
210 2nd Ave NW
Mandan, ND 58554
Phone number (701) 667-3363
tim.nilsen@mortonnd.gov

Title VI assures that no person or group of persons may, on the grounds of race, color, national origin, sex age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs or activities administered by Morton County. Any person or group(s) of persons who feel they have been discriminated against may file a complaint. All inquiries should be directed to Wendy Bent – Title VI Coordinator, Morton County, 210 2nd Ave NW, Mandan, ND 58554 Tel (701) 667-3414.
3/25, 4/1 & 4 - 42225

North Dakota newspapers also post public notices that are printed in newspapers on www.ndpublicnotices.com at no additional charge to units of government.

The Mandan City Commission met in regular session at 5:30 p.m. on March 1, 2022 in the Ed "Bosh" Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order.
A. ROLL CALL

1. Roll Call of All City Commissioners. Commissioners Braun, Camisa, Larson (via telephone), Rohr and Mayor Helbling. Department heads present were City Administrator Neubauer, Police Chief Ziegler, Fire Chief Nardello, Principal Planner Stromme, Finance Director Welch, Assessor Markley, Building Official Singer, Public Works Director Bitz, Business Development & Communications Director Huber, Planning and Engineering Director Froseth and Assistant City Attorney Sand. Absent: Human Resource Director Cullen and City Attorney Oster.

B. APPROVAL OF AGENDA

C. MINUTES
1. Consider approval of the minutes from the February 15, 2022, Board of City Commission Regular Meeting. Commissioner Camisa moved to approve the minutes as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.
D. PUBLIC HEARING
E. BIDS

1. Consider bids received by the NDDOT for the 19th Street Trail project. Planning & Engineering Director Froseth presented a request to consider denial of the low bid received for the 19th Street, Phase II Trail project. The NDDOT opened the bids for the 19th Street Trail project on February 11, 2022 for the Phase II multi-use path project. The bids came in above estimate. Two contractors bid on the project and the low bid came from Northern Improvement Company (NIC), however, their bid was about \$410,000 or 66% over the estimate. When funding a project by special assessment method, NDCC Section 40-22-29 states that the city cannot accept a bid that is more than 40% over the engineer's estimate, therefore, this rule effectively bars consideration of moving forward with this project. In reviewing the bid tab, the item that stands out over estimate is the borrow-excavation item. That one item came in at \$221,000 (@ five times more) than the estimate and other items over estimate included the mobilization cost and items related to the storm sewer conveyance system. The city has a significant amount of funds invested in the planning and engineering of this project and the final details have not been drafted yet however, the intent is to explore a re-bid option. Under the current bid climate, staff believes it would be best to wait until later this year. Staff has been working with the consultant on the project. SRF, to understand the options that the NDDOT will be supportive of. Staff will want to make sure that the city will be able to carry the \$290,000 Transportation Alternatives (TA) grant forward to the project if rebid. The engineering and other administrative costs have totaled about \$161,000 to date. It is uncertain at this time if agreements for easements must be honored, or if they are conditioned for the city going forward with the project at this time noting those costs would be about \$18,000. The city's costs for this project will continue to be retained in a separate fund designated for this project. If the project is not completed in the future the 1% City Sales Tax Fund and/or the General Fund would need to absorb the total project costs.

Director Froseth recommended denying the low bid from Northern Improvement pursuant to the NDCC to reject the bid since it is more than 40% over the engineer's estimate and to rebid following a strategic assessment of an optimal rebid time and process. Mayor Helbling inquired if it would be wise to move forward with the easements regardless since the plans are laid out and to work with the Finance Department to determine if there are funds available to take care of those easements? Director Froseth replied that it may be possible as it pertains to a permanent easement. The \$18,000 includes both the temporary that was expected and needed to build this and to permanently be in place in perpetuity but those permanent easements may be wise to secure as a future project will need to be planned whether it's a trail or a widening of the road. Mayor Helbling inquired that with the bids coming in so far off of the engineer's estimate, is there a possibility to work with the engineering firm to rebid at no cost to the city? Director Froseth stated that has not yet been discussed with the engineering firm, however he will bring that forward for discussion to see if what they are willing to do for the city since the estimate was out of line. Commissioner Camisa inquired if the temporary easements that would need to be secured, if he would know what the length of time would be that those easements would be good if they were put into place and how long would they be in effect for? Director Froseth stated that the plan for the easements was for the duration of the project as they would be temporary easements. He said he would have to review the easements to determine if there is a finite timeline, however, the intent was they would be in place until the project was completed. Since there is no project planned, he was uncertain what the timeline would be. Commissioner Camisa stated that it would make sense to put those easements in place, however his concern would be if those permanent easements are put in place that any issues in the future with the temporary easements, if that would cause any stifling or hindrance with the project. If there is a timeline that could be established to put in the temporary and permanent ones at the same time so that the city is not paying for permanent easements and then issues come up with landowners on the temporary easements. Director Froseth explained that if the temporary easements are put in place and those properties are expected to pay for those, future owners may not be privy to that, that could be a concern. Commissioner Rohr moved to deny the low bid for the 19th Street Trail, Phase II Multi-Use Trail project and authorize the Engineering Department to rebid following a strategic assessment of an optimal rebid time and process. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

F. CONSENT AGENDA
1. Consider updates to City of Mandan media relations guidelines.
2. Consider Special Use Permit for Hyundai of Mandan.
3. Consider approval of a renewal of contract with Darren Schmidt, Oaktree Realtors for sale of City Owned Parcels.
4. Consider Final Plat for Old Red Trail Commercial 3rd Addition.
5. Consider approval of final plans and specs and advertisement for bid for Street Improvement District No. 223, 38th Avenue SE.
6. Consider approval of final plans and specs and advertisement for bid for Street Improvement District No. 224, Sunrise View Estates and Rockwood.

Commissioner Braun moved to approve Consent Agenda Items 1 through 6 as presented. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS
1. Consider approval of concurrence of bid award for the 1806 South (6th Avenue SE) Street Improvement project. Planning and Engineering Director Froseth presented a request to consider another option for the 1806 South (6th Avenue SE) project. He stated that he, Commissioner Camisa and Administrator Neubauer, met with the NDDOT on February 24, 2022, however, it was too late to provide that information in today's meeting packet and that explains why this item was just added to the agenda today. He reported that as a result of that meeting, it was realized that the DOT would be amenable to a redesign and rebid effort that would allow the 4-lane configuration to remain. This is not an ideal path as it would likely add to the engineering costs and most probably to the construction costs as well. The original concept design estimated the 4-lane and the 3-lane sections very close in cost. The current market forces do not give much confidence that prices will go down in the near future. A rebid effort will likely result in a project that will need to wait another calendar year. The combination of the redesign effort needed and the materials lead times that seem to be historically long will likely force a 2023 construction period for this project if it is rebid. At the February 1, 2022 City Commission meeting, the Planning and Engineering Department brought forward a recommendation to award the project to the low bidder even though well above the engineer's estimate. In an action previous to that, the DOT did commit to the 4-lane to a 3-lane conversion despite the City Commission's clear preference to keep the current 4-lane configuration. Subsequently after the Commission meeting, staff sent an email to DOT to reflect the frustration that the City Commission felt with the project going forward as a 3-lane to 4-lane conversion and also with the bids coming in over the estimate. Due to the concerns and consistent with discussion at the February 1, 2022 City Commission meeting, the email requested the DOT to consider a re-bid of this project. Ultimately, the email, and the official concurrence letter that followed did notify the DOT that the city did concur with this project as that was the motion made.

The Planning and Engineering staff remain confident that a conversion from a 4-lane to 3-lane section for this segment of 1806 South (6th Avenue Southeast) will result in a more efficient and safer corridor for both vehicles and other modes of transportation. Director Froseth recommended moving forward with this project and to approve of the bid as presented to effectively concur with the low bid. He reiterated that they are willing to give the city an option although he does not consider it as an ideal option.

Mayor Helbling commented that as Director Froseth stated, that it is not an ideal situation and the City Commission voted several times against the 3-lanes and with looking at the price of materials and expenses today – is it worth rebidding again – noting that it may end up costing the citizens of Mandan twice as much. He believes the Commission made the right decision when concurring to move forward with the project as presented and to approve the funding for the project. Commissioner Camisa stated that he agrees with the recommendation. He stated when they left the DOT, he said that he does not feel confident that the costs will get any better with what the city will be expected to spend. If rebid, there is money earmarked from sales tax dollars that will not be enough to cover any increase and the way bids have been in the last couple months it is not looking good for that prospect. He agrees with Mayor Helbling that the Commission made the right decision. He stated that he is in favor of moving forward with the project with how the commission has already voted and the open dialogue needs to continue with the DOT. Commissioner Rohr commented that in everybody's lifetime they have business decisions to make and sometimes what one would like to move forward with does not present itself with a good economic basis to do so. The Commission has a responsibility to practice good economics when it comes to city business and he concurs with the recommendation to move forward with this project. Director Froseth requested a motion that re-enforces the motion to concur with the low bid award presented. Commissioner Camisa moved to approve the concurrence of the low bid award for the 1806 South Improvements Project. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

H. NEW BUSINESS
1. Consider Growth Fund Committee recommendation regarding Storefront Improvement application for 1311 First St. NE. Business Development & Communications Director Huber presented the Growth Fund Committee recommendation regarding Storefront Improvement application for 1311 First Street Northeast. This property and the building, with interior improvements and an addition, is also the subject of a Renaissance Zone project that received City Commission approval on October 19, 2021. The benefits of a Renaissance Zone project are property and state income tax exemptions. Doug and Amy Larson, Apex Builders are seeking a Storefront Improvement Program to utilize the building's 2,500 sf shop and will make the 950 sf office area available for lease. The applicant is applying for a \$30,000 match for exterior improvements to three sides of the building. The addition is underway but the existing building remodel has not started yet. The use of both programs is allowed when the total investment in the project is sufficient to meet the minimum requirements of each program with no overlap. The total investment in the existing building is now estimated at \$172,000 total on the remodel of the existing building with about \$67,000 of that for the Storefront Improvement Program eligible component. Plans are to remodel the exterior to match an addition by replacing the metal siding with a mix of minimum maintenance materials such as hardie board, steel siding and possibly brick or stone; replacing all windows and doors; repairing and painting the portion of the building that is cement block; adding an awning on the 13th Avenue entrance; adding landscaping such as rock and shrubs on the building's 13th Avenue (east) side; and adding a new pole sign and building sign. The building has three sides viewable from the public right of way. The estimated cost for these improvements is about \$67,000. The Mandan Growth Fund Committee recommended approval for the \$30,000 in matching funds to be structured as a forgivable loan for hard structuring of an off-street parking lot. The Larson's verbally committed to this in their prior discussions with the Architectural Review Commission and Renaissance Zone Committee in 2021 but they want to make sure that the criteria for the Storefront Improvement Program is to eliminate all signs of blight on a property. Director Huber stated that the MGF voted to recommend approval of a Storefront Improvement application for 1311 First St. NE for up to \$30,000 in matching funds to be structured as a forgivable loan, with a contingency requirement for hard surfacing of the off-street parking lot.

She stated that Doug and Amy Larson are present to answer questions. The MGF's uncommitted balance for economic

development projects as of January 31, 2022, was \$273,659.11.

Commissioner Braun moved to approve the Storefront Improvement application for 1311 First St NE for up to \$30,000 in matching funds to be structured as a forgivable loan, with a contingency requirement for hard surfacing of the off-street parking lot. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. Consider request from Planning Department to apply for AARP Community Challenge Grant. City Principal Planner Stromme presented a request from the Planning Department to apply for an AARP Community Challenge Grant. The City Planning Staff has worked jointly with members of the Community Beautification Committee on a project to install public art on newly-installed utility boxes. The AARP Community Challenge Grant is open to submissions through March 22, 2022. The City of Mandan will apply for this grant for a utility box public art project for the downtown area. This grant requires no local match and funds projects that make an effort to promote vibrancy and livability of communities around the United States. Public Art has the potential to promote sense of place in downtown Mandan by supplementing recent efforts to promote walkability and beautification of the community's core.

Planner Stromme reported that the Engineering and Planning Staff recommended applying for the AARP Community Challenge Grant for a Utility Box Art Wrapping Project. Commissioner Rohr inquired who approves the art designs for the utility boxes. Planner Stromme explained that the city will replicate what other cities have implemented in their communities, the art will mirror the city's Public Art Ordinance. There will be a call for artists to provide bids for those touches that will adhere to the City of Mandan's heritage.

Commissioner Camisa moved to permit City Planning Staff to apply for the AARP Community Challenge Grant for a Utility Box Art Wrapping Project. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. Consider approval of the resolutions necessary to initiate the Plainview Street Improvement District. Planning and Engineering Director Froseth presented a request to move forward with the resolutions necessary to approve the Street Improvement District No. 225, Project No. 2022-05 (Plainview SID) south of the Heart River and west of Highway 1806 and east of 8th Avenue Southeast. This project is to provide preventative maintenance improvements to streets from 8th Avenue SE to Highway 1806. Plainview Drive SE, 10th Avenue SE and 14th Avenue SE from 27th Street SE to their respective dead ends. This will include chip seal, mill and overlay and some asphalt patching. There will be some minor concrete work such as select curb and gutter and valley gutter as needed. The project would be similar to the Lakewood project that was done in 2021 minus some of the reconstruction areas that the city had with Lakewood. This project will be just the chip seal and some mill and overlay where conditions warrant grading the chip seal of the project and patching as needed. The majority of the work on these streets is to be a relatively low impact preventative maintenance step to chip seal the surface which is expected to give new life to many of these streets that are observed to be in fair to good condition. This district is predominately residential with single family homes. For the residential properties, it would divide the total residential amount among all the residential properties so that each gets an equal amount. That approach is supported by the special assessment policy and is the method believed to be the fairest in neighborhoods with predominately curvy streets as is the case with this district. There are a few larger, non-residential properties and for those, the city would assign more units to be consistent with the frontage of road that borders those. The construction costs are estimated at \$1,140,533 for the chip sealing and milling areas. Other costs for the improvements include contingency, engineering, publication of legal notices and all expenses incurred for the improvements and levy of assessments are estimated at \$285,133. The total cost for the improvement is estimated at \$1,425,667 that is estimated to be paid by special assessments that would be spread out over @ 1,000 benefitting properties identified within the district map. Most of the properties within this district are typical single-family parcels. For all other parcels, staff will go through each type and determine reasonable units of cost for each parcel. As proposed and based on the engineer's estimate, a typical single-family parcel should expect about \$1,500 with the assessed amounts extended over a seven-year term, the expected life of the improvements. In order to meet scheduling goals and

in there when the water tower was installed. If the project goes forward, that section of the community will need to pay for it, not everyone else. Mayor Helbling inquired if the area on 19th Street, by the school, where the road is in disrepair – is that area included in this district? Director Froseth stated that it is and the School District was brought in for that reason (on 19th Street). Commissioner Camisa inquired if there is a substantial number of specials outstanding on any of the properties that will be within this district? Director Froseth stated that some of these roads are new enough that they would still have their original street assessments in place. Even in those cases, the roads that are 10 or more years old, will benefit from preventative maintenance measure and extend the life of what they invested in for that original build. As far as previous maintenance work under assessment, there was a project done in 2005 and the term of that assessment was from 2006-2020. The proposed term on this project is 7 years which is consistent with the chip seal portions of the Lakewood project that was completed in 2021. Commissioner Camisa inquired if the 7-year term would be sufficient should there be future projects that would not overlap the special assessments over time? Director Froseth stated that it will be within the standard chip seal done on existing roads that all have the 7-10 years terms. In other matters, Mayor Helbling inquired about the 3rd Street Southeast project that was done in 2021 – stating that it appears that for the chip seal isn't sticking well to the roadway. He requested the engineering firm that overlooked that project to take a look at that roadway this spring. Director Froseth stated he received word that the consultant on that project will be looking into it. That 3rd Street work was part of the contract of the Lakewood Street project even though it wasn't part of the assessment part, thus that project is still under contract.

Commissioner Rohr moved to approve the resolutions creating the street improvement district, approve engineer's report, approval of feasibility report and resolution of necessity for Street Improvement District No. 225, Project No. 2022-05 (Plainview SID). Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. Consider approval of a Visitors Committee appointment. City Administrator Neubauer presented a request to consider appointments to the Mandan Visitors Committee. The Visitors Committee provides recommendations to the City Commission in administering proceeds from the 1% city restaurant and lodging tax. There is one position up for appointment. Letters of interest were pursued through an October news release with a requested deadline for responses by November 1st or until the positions are filled. He stated that Tyler Gangl's term expired and two letters of interest have been received. Upon further consideration, one of the interested parties is pursuing membership on a different committee.

On behalf of the Visitors Committee, Administrator Neubauer recommended the reappointment of Tyler Gangl to the Committee beginning March 1, 2022 thru December 31, 2024.

Commissioner Camisa moved to reappoint Tyler Gangl to the Mandan Visitors Committee for a term beginning March 1, 2022 thru December 31, 2024. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

1. RESOLUTIONS AND ORDINANCES

1-11. Second and Final consideration of Ordinances 1383-1393.

Assistant City Attorney Sand presented the Second and Final consideration of Ordinances 1383-1393 which will amend and clarify the Mandan Code of Ordinances. During the presentation of the introduction and first consideration of these Ordinances, Attorney Oster explained that when reviewing state law changes made during the 2021 legislative session, there were several areas of the Mandan Code of Ordinances that should be amended or clarified. The changes are reflected in strikethrough (removal) and underline (addition) in the attached ordinances and a summary of the revisions can be found below. Attorney Sand stated there have been no changes or comments received since the first introduction.

(1) Ordinance No. 1383: This ordinance reflects changes to N.D.C.C. §5-01-08, changing the penalty for a minor in consumption/possession from a Class B misdemeanor to an infraction (House Bill 1223) and N.D.C.C. §5-02-06(3), permitting minors in the bar portion of a restaurant with certain restrictions (House Bill 1184). It also reflects changes to N.D.C.C. §5-02-01.1, allowing minors to be in a beer garden in accordance with the conditions of a special event permit (House Bill 1284), but would only apply to special events on city-owned property, as recommended by the Police Department.

ORDINANCE NO. 1383
An Ordinance to Amend and Re-enact Sections 4-1-5, 4-1-7, 4-3-3(10), and 4-3-6 of the Mandan Code of Ordinances Relating to Licensed Premises,

Underaged Persons, and Special Events Be it Ordained by the Board of City Commissioners as follows:

Sec. 4-1-5. - Possess or use by underage persons; presence in licensed premises.

(a) Except as permitted in this section and section 4-1-7, an individual under 21 years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.

(b) An individual under 21 years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:

- (1) A restaurant, if accompanied by a parent or legal guardian;
- (2) In accordance with section 4-1-7;
- (3) If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
- (4) If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
- (5) If the individual enters the premises for training, education, or research purposes under the supervision of an individual 21 or more years of age with prior notification of the local licensing authority.

(c) An individual who violates this section is guilty of an infraction. For a violation of subsection (a) or (b), the court also may sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under N.D.C.C. section 50-06-44. For a second or subsequent violation of subsection (a) or (b), the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under N.D.C.C. section 50-06-44.

(d) The court, under this section, may refer the individual to an outpatient addiction facility licensed by the

department of health and human services for evaluation and appropriate counseling or treatment.

(e) The offense of consumption occurs in the county of consumption or the county where the offender is arrested.

(f) An individual under 21 years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under 21 years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

Sec. 4-1-7. - Dispensing to underage persons; presence in licensed establishments.

(a) Except as permitted in this section, a licensee who dispenses alcoholic beverages to an individual under 21 years of age, or who permits an individual under 21 years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed, is guilty of a Class A misdemeanor, subject to sections 4-1-5, 4-1-8, and 4-1-9.

(b) No person under 21 years of age shall be employed in or about any premises licensed under N.D.C.C. chs. 5-01, 5-02, 5-03 or 5-04, except as provided in this section.

(c) (1) At the discretion of the owner of the licensed premises, an individual under 21 years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

- Is accompanied by a parent or guardian;
 - Is not seated at or within three feet (0.91 meters) of the bar counter; and
 - Does not enter or remain in the designated area after ten p.m.
- (2) An individual under 21 years of age may be permitted to remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the designated area in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual 21 years of age or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

(d) An individual under 21 years of age may enter and remain on the licensed premises if the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages; if the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the individual enters the licensed premises for training, education, or research purposes under the supervision of an individual 21 or more years of age with prior notification of the local licensing authority.

(e) An individual under 21 years of age may remain in an area of a site where alcoholic beverages are sold in accordance with the conditions of an event permit issued pursuant to N.D.C.C. § 5-02-01.1, if the special event is held on city-owned property and approved by the board.

(f) An individual who is 18 years of age or older but under 21 years of age may be employed by a restaurant as provided in subsection (b) of this section to serve and collect money for alcoholic beverages, if the individual is under the direct supervision of an individual 21 or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ individuals from 18 to 21 years of age to work in the capacity of musicians, disc jockeys, or entertainers under the direct supervision of an individual 21 or more years of age.

(g) For purposes of this section, an individual is not 21 years of age until 8:00 a.m. on that individual's 21st birthday.

(h) If an individual is convicted of this section, the court shall consider the following in mitigation:

- (1) After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
- (2) Within 12 hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

Sec. 4-3-3. - Application for beer garden permit; special permits.

Any person or on- or off-sale alcoholic beverage licensee desiring to conduct a public beer garden shall make application for a special permit to do so to the board, 30 days in advance of the proposed event. Four copies of the application shall be filed with the city administrator and shall set forth the following information:

- (1) Fencing and barricades. The application shall contain a description of the fencing and barricade system which is intended to control access to the event site, and the location of the fencing and barricade system shall be noted on the site plan. The perimeter of the public beer garden site must be surrounded by a six-foot cyclone-style fence or enclosed within a tent which has four sides. For events held on city-owned property, the fence height may be less than six feet, if approved by the board. For all events, whether outdoors or indoors, adequate provisions for entrances and exits and access by fire, police and other emergency personnel or vehicles should also be noted in the application and on the site plan.***
- (2) Restrictions and conditions attached to permits. If the board determines that the event will not unduly interfere with the peace, health and safety of the public or the neighborhood in which the event will occur and that the applicant is in compliance with the requirements for sanitation and garbage disposal; parking, fencing, traffic and crowd control; security; and regulation of alcoholic beverage consumption, the board may approve the issuance of the permit to be effective for the dates designated and subject to the following restrictions and conditions:

(1) Alcoholic beverages may be distributed and consumed only in those areas specifically designated in the site plan and approved by the board;

(2) The distribution of alcoholic beverages shall be permitted only during the hours designated by the board and set as a condition of the permit, which in no event shall be before the hour of 12:00 noon on the date specified in the permit and 1:00 a.m. on the following day;

(3) No person having a permit to hold a public beer garden shall permit in any such place any person who is obviously intoxicated or who is under 21 years of age, except as provided in section 4-1-7(e);

(4) The licensee, as a condition to the issuance of such permit, consents and agrees that any city police officer or special police officer may enter upon and inspect the licensed premises or site or any part at any time for the purpose of determining compliance with the condi-

tions of the permit or city ordinances; and (5) The licensee shall comply with all other applicable ordinances and laws relating to the use and sale of alcoholic beverages in the city.

(2) Ordinance No. 1384: This ordinance reflects changes to N.D.C.C. §§40-18-14.1 to 40-18-14.5, providing a process for converting a municipal court judgment to a civil judgment (House Bill 1130).

(3) Ordinance No. 1385: This ordinance reflects changes to N.D.C.C. Ch. 12-60.1, relating to petitions to seal criminal records for misdemeanor offenses (House Bill 1196), and adopts those changes by reference.

(4) Ordinance No. 1386: This ordinance reflects changes to N.D.C.C. §39-08-01.6, requiring the court to seal a DUI criminal record if there is not a subsequent DUI conviction within seven years of the first violation (House Bills 1336 and 1355).

(5) Ordinance No. 1387: This ordinance reflects changes to N.D.C.C. §19-03-1-22.1, changing the penalty for a third and subsequent offense of the inhalation of volatile chemicals (huffing) to a Class A misdemeanor (Senate Bill 2273).

ORDINANCE NO. 1387

An Ordinance to Enact New Section 18-1-10 to Chapter 18 of the Mandan Code of Ordinances Relating to Inhalation of Vapors of Volatile Chemicals Be it Ordained by the Board of City Commissioners as follows:

An Ordinance to create new Section 18-1-10 to Chapter 18 of the Mandan Code of Ordinances relating to inhalation of vapors of volatile chemicals is hereby enacted as follows:

Sec. 18-1-10. - Volatile chemicals - Inhalation of vapors prohibited - Definitions - Penalty.

1. An individual is guilty of a class B misdemeanor if that individual intentionally inhales the vapors of a volatile chemical in a manner designed to affect the individual's central nervous system; to create or induce a condition of intoxication, hallucination, or elation; or to distort, disturb, or change the individual's eyesight, thinking processes, balance, or coordination. An individual is guilty of a class A misdemeanor if that individual violates this section for a third or subsequent offense within one year of the first offense. For a third or subsequent offense, the sentence must include an order for an addiction evaluation by, and compliance with recommendations from, an appropriate licensed addiction treatment program.

2. This section does not apply to inhalations specifically prescribed for medical, dental, or optometric treatment purposes or to controlled substances described in N.D.C.C. chapter 19-03.1. For the purposes of this section, "volatile chemical" includes the following chemicals or their isomers:

- Acetone. b. Aliphatic hydrocarbons. c. Amyl nitrite. d. Butane. e. Butyl nitrite. f. Carbon tetrachloride. g. Chlorinated hydrocarbons. h. Chlorofluorocarbons. i. Chloroform. j. Cyclohexane. k. Diethyl ether. l. Ethyl acetate. m. Fluorocarbon. n. Glycol ether inter solvent. o. Glycol ether solvent. p. Hexane. q. Ketone solvent. r. Methanol. s. Methyl cellosolve acetate. t. Methyl ethyl ketone. u. Methyl isobutyl ketone. v. Nitrous oxide. w. Petroleum distillate. x. Toluene. y. Trichloroethane. z. Trichloroethylene. aa. Xylol or xylene.

(6) Ordinance No. 1388: This ordinance reflects the addition of N.D.C.C. §39-10-1-05.1, providing laws for yielding and stopping while operating a bicycle on a roadway (House Bill 1252). House Bill 1290, providing those motorists must leave at least three feet of distance while passing bicyclists, was also passed by the legislature, but because MCO section 24-1-1 adopts Title 39 of the Century Code by reference, no revision to the Code is necessary in that regard.

(7) Ordinance No. 1389: This ordinance reflects changes to N.D.C.C. §39-29-01, amending the definition of off-highway vehicle (House Bill 1068). The bill also amended the definition of snowmobile, but no revisions to the Mandan Code of Ordinances are necessary in that regard, because MCO section 24-1-1 adopts Title 39 of the Century Code by reference, and no separate definition for snowmobiles is set forth elsewhere. For off-highway vehicles, a specific definition is included in the MCO, so a revision is necessary.

(8) Ordinance No. 1390: This ordinance reflects the removal of breastfeeding language from the indecent exposure statute (N.D.C.C. §12-1-20-12.1) and the setting forth of the right to breastfeed in any location a woman and child are otherwise authorized to be (N.D.C.C. §23-12-16) (House Bill 1105).

ORDINANCE NO. 1390

An Ordinance to Amend and Re-enact Section 18-1-2 of the Mandan Code of Ordinances Relating to Indecent Conduct Be it Ordained by the Board of City Commissioners as follows:

Sec. 18-1-2. - Indecent conduct.

(a) Prohibited. A person is guilty of an ordinance violation if that person:

- (1) Urinates or defecates in a public place, other than a restroom or bathroom designated for such purposes of the appropriate sex.
- (2) Appears nude in a public place other than a restroom, bathroom, changing room, or similar facility, designated for the appropriate sex. As used in this section, the term "nude" means that any portion of the public areas, anus, vulva, genitals or female breasts below the top of the areola is exposed to view of other persons.
- (b) Exception. The act of a woman breastfeeding her child is not a violation of this section.

(9) Ordinance No. 1391: This ordinance reflects the raising of the age for tobacco consumption from 18 to 21 under N.D.C.C. §12-1-31-03 (Senate Bill 2156). We had previously addressed the age being raised when the federal law was changed, but this clarifies the use of the word "minor" used throughout the article to mirror state law changes.

ORDINANCE NO. 1391

An Ordinance to Amend and Re-enact Article 8 of Chapter 12 of the Mandan Code of Ordinances Relating to Tobacco Products

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

Sec. 12-8-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compliance survey program means a program conducted by a law enforcement agency or conducted by a state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers, after consultation with the appropriate local law enforcement authority, which is intended to determine whether licensed tobacco product retailers are appropriately enforcing the state law or local ordinance relating to sales of tobacco products to individuals under 21 years of age.

Distribute means to give tobacco products to the general public at no cost or at nominal cost for product promotional purposes.

Electronic cigarettes means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term "electronic cigarettes" includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e-pipe or under any other product, name or descriptor.

Restricted self-service means any display or stocks of tobacco products located in a distinct portion of the licensed premises which is restricted by posting conspicuous signs informing individuals under 21 years of age of the prohibited acts and penalties under this article and has such physical barricades or impediments as may reasonably be necessary for the purpose of barring the entry or presence of individuals under 21 years of age, except those individuals under 21 years of age who are employees of the licensee.

Retail tobacco dealer means any person selling, offering for sale, exposing for sale or having in possession for sale at retail, tobacco products.

Sell, besides its ordinary purposes, means and includes dispensing from a vending machine under the control of the actor.

Tobacco products means, but is not limited to, cigarettes, cigars, cigarette papers, smokeless tobacco, tobacco snuff, chewing tobacco, electronic cigarettes, and tobacco in any other form in which it may be utilized for smoking or chewing.

Vending machine means any kind of device or mechanical machine which, upon the insertion of coins, tokens, or other objects will release tobacco products in packages or otherwise. (Code 1994, § 13-21-02; Ord. No. 913, § 1, 7-18-2000; Ord. No. 1180, § 1, 3-4-2014)

Sec. 12-8-2. - Penalty.

Any person convicted of selling or distributing any tobacco product without having first obtained a valid license from the city or during a period of the license suspension shall be guilty of an infraction. (Code 1994, § 13-21-06; Ord. No. 913, § 1, 7-18-2000)

Sec. 12-8-3. - Licensee may keep book to record carding procedure of tobacco sales.

(a) Licensees may require persons to present identification to show that person to be of legal age to purchase tobacco products. Any licensee may keep a book and may require anyone who has shown documentary proof of age, which substantiates an age to allow the purchase of tobacco products, to sign a book, if the age of that person is in question. If the licensee elects to keep a book, the book must show the date of the purchase, the identification used in making the purchase and the appropriate numbers of such identification, the address of the purchaser, the purchaser's signature and the signature of the person making the sale.

(b) A defense may be established to an offense of sale of tobacco products to individuals under 21 years of age, if evidence is presented that:

- (1) The purchaser falsely represented and supported with documentary proof that the purchaser was of legal age.
- (2) The purchaser signed the book in the presence of the licensee or authorized employee or agent.

(Code 1994, § 13-21-03; Ord. No. 913, § 1, 7-18-2000)

Sec. 12-8-4. - Employees under 21 years of age exempted.

A person under 21 years of age employed by a licensed tobacco dealer or distributor may enter a restricted self-service area and may handle tobacco products as part of his or her employment.

(Code 1994, § 13-21-04; Ord. No. 913, § 1, 7-18-2000)

Sec. 12-8-5. - Compliance checks authorized; license suspension.

(a) The chief of police may organize and conduct or authorize the conduct of compliance checks by other agencies, in order to ensure that tobacco product licensees, or their employees or agents, are appropriately requiring identification of persons seeking to purchase tobacco products and refusing to sell any tobacco products to individuals under 21 years of age.

(b) Licensees who fail to successfully pass the compliance checks may be subject to suspension of their license in addition to prosecution for any violations of the city's ordinances.

(c) Any licensee who personally or whose employees or agents sell, furnish or distribute to a minor an individual under 21 years of age any tobacco products:

- (1) Twice within a 12-month period shall have the license suspended for five consecutive days.
- (2) Three times within a 12-month period shall have the license suspended for ten consecutive days.
- (3) Four times within a 12-month period shall have the license suspended for 30 consecutive days.

(Code 1994, § 13-21-05; Ord. No. 913, § 1, 7-18-2000)

Sec. 12-8-6. - Required; application; fee.

(a) It is unlawful to sell or distribute any tobacco products without having first secured a license from the city. The license required by this section shall also apply to sales or distribution of tobacco products through vending machines.

(b) An applicant for a tobacco products license must file an application with the city license officer on forms provided by the city and shall attach a diagram indicating the restricted self-service areas on the premises. The term "restricted self-service area" means any display or stocks of tobacco products located in a distinct portion of the licensed premises which is restricted by posting conspicuous signs informing individuals under 21 years of age of the prohibited acts and penalties under this article and has such physical barricades or impediments as may reasonably be necessary for the purpose of barring the entry or presence of individuals under 21 years of age except those individuals under 21 years of age who are employees of the licensee.

(c) The license fee for sale of tobacco products shall be determined by resolution of the board. The license fee for any licensee applying for an annual renewal of the tobacco products license who has not been found in violation of this article during the preceding 12 months shall be determined by resolution of the board.

(Code 1994, § 13-21-01; Ord. No. 913, § 1, 7-18-2000)

Sec. 12-8-7. - Licensee requirements.

(a) A licensee must limit the display, sale and distribution of tobacco products to a restricted self-service area.

(b) A licensee, its agents and employees, are prohibited from selling or distributing tobacco products to persons under 21 years of age. A licensee shall cooperate with local law enforcement in the conduct of compliance survey program inspections.

(Code 1994, § 13-21-03; Ord. No. 913, § 1, 7-18-2000; Ord. No. 1360, 3-16-2021)

(10) Ordinance No. 1392: This ordinance reflects changes to N.D.C.C. §62.1-02-10, changing the penalty for carrying a loaded firearm in a vehicle from a Class B misdemeanor to an infraction (2019 House Bill 1163) and sets forth certain exceptions (2021 House Bill 1293).

ORDINANCE NO. 1392

An Ordinance to Amend and Re-enact Sections 16-4-17 of the Mandan Code of Ordinances Relating to Carrying Loaded Firearm in Vehicle

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

Sec. 16-4-17. - Carrying loaded firearm in vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 62.1-02-10.

62.1-02-10. Carrying loaded firearm in vehicle—Penalty—Exceptions. An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile, in this state. An individual violating this section is guilty of an

infraction. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer.
3. An individual possessing a valid concealed weapons license from this state or who has reciprocity under N.D.C.C. section 62.1-04-03.1 with a handgun.
4. An individual who possesses a rifle or shotgun, is not in the field hunting or trapping, and possesses a valid concealed weapons license from this state or has reciprocity under N.D.C.C. section 62.1-04-03.1
5. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
6. A security guard or private investigator properly licensed to carry firearms.
7. An individual possessing a valid special permit issued pursuant to N.D.C.C. section 20.1-02-05.
8. An individual with a handgun who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under N.D.C.C. chapter 62.1-04 and who has possessed for at least thirty days a valid driver's license or nondriver identification card issued by the department of transportation.

9. An individual who possesses a rifle or shotgun, is not in the field hunting or trapping, and is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under N.D.C.C. chapter 62.1-04 and has possessed for at least thirty days a valid driver's license or nondriver identification card issued by the department of transportation.

(11) Ordinance No. 1393: This ordinance reflects changes to N.D.C.C. §12.1-23-05, setting the penalties for shoplifting based upon the number of violations (Senate Bill 2166). Only the first offense, a Class B misdemeanor, can be heard in municipal court.

ORDINANCE NO. 1393

An Ordinance to Amend and Re-enact Section 18-4-15 of the Mandan Code of Ordinances Relating to Retail Theft Be it Ordained by the Board of City Commissioners as follows:

Sec. 18-4-15. - Retail theft act.

Citations issued into municipal court under this section are for a violation of N.D.C.C. ch. 51-21.

Chapter 51-21 Retail Theft Act 51-21-01. Definitions. As used in this chapter, unless the context requires otherwise:

3. An item is "concealed" within the meaning of this chapter if, even though there is some notice of its presence, the item itself is not visible through ordinary observation.

4. "Full retail value" means the merchant's stated or advertised price of the merchandise.

5. "Merchandise" means any item of tangible personal property and specifically includes shopping carts.

6. "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, franchisee, or independent contractor or such owner or operator.

7. "Person" means any natural person or individual.

8. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment, any common-use areas in shopping centers, and all parking areas set aside by a merchant, or on behalf of a merchant, for the parking of vehicles for the convenience of the patrons of said retail mercantile establishment.

9. "Retail mercantile establishment" means any place where merchandise is displayed, held, offered, or stored for sale to the public.

10. "Shopping cart" means those pushcarts of the type or types which are commonly provided by grocery stores, drugstores, or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store.

51-21-02. Presumption. Any person concealing upon that person's person or among that person's belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered, or stored for sale in a retail mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise.

51-21-03. Detention of suspect—Procedure. Any peace officer or merchant who reasonably believes that a person has committed, or is in the process of committing, theft may