



## **City of Fargo Special Assessments Process Whitepaper**

*May 15, 2018*

### **North Dakota Century Code Historical Summary & Authority**

The City of Fargo utilizes special assessments as prescribed in North Dakota Century Code (NDCC). These statutes outline how assessments are developed, levied, and collected by political subdivisions. NDCC provides for a fair and equitable method of delivering high-quality, consistent infrastructure for the City of Fargo. This policy framework in Century Code provides a foundation for political subdivisions, like the City of Fargo, to administer local special assessment policies and procedures.

### **City of Fargo Procedure**

The mechanics of special assessments in Fargo have been consistent for years and comply with NDCC. These mechanics remain unchanged today.

#### *Deferral Process*

A local ordinance, approved by the Fargo City Commission, governs how special assessment deferrals function, as NDCC does not prescribe how special assessments are to be administered. Fargo has a longstanding record of performance in achieving the capital goals of the community. As a high-growth community, the City has maintained high-quality capital assets and demonstrated a commitment to installing new infrastructure and replacing existing assets in an efficient manner.

Fargo uses special assessment deferrals in some cases when large tracts of property that have not been developed are assessed for infrastructure. The City's practice has been to grant interest-free deferrals for arterial roadways, and interest-bearing deferral contracts for local improvements. Deferrals consume funds within the debt service fund, and since Fargo is a growing city, this occurs often and requires a sizeable amount of deferred assessments to be carried.

### **Role of Tax Exempt Municipal Bonds in Infrastructure Projects**

The infrastructure demands of a growing community require a sustainable source of revenue. Special assessments are the primary revenue source used by the City to pay tax-exempt municipal bonds. Tax-exempt municipal bonds are "tax preferred" instruments that assist communities in funding long-term improvements that are not affordable using cash resources. Fargo has a lengthy history of using tax-exempt municipal bonds, and has received very high credit ratings from Moody's Investors Service and Standard & Poor's Corporation based on its past performance.

#### *Debt Service Management – Legal Compliance*

Fargo's debt service funds are managed in compliance with NDCC 40-24-18. City staff, together with third party legal and financial advisors, assess infrastructure needs and develop responsive financing packages that deliver the best value while mitigating risk and exposure to the public. In fact, NDCC 40-24-18 requires that special assessment revenue be kept separate (segregated) and not be diverted for other purposes. Segregation of special assessment revenue is required for the life of the special assessment and bond obligations (see NDCC 40-24-18). This same section of the code provides that once special assessment

warrants and other obligations of the fund have been fully paid, all monies remaining in the fund may be transferred into the General Fund (see Attachment #1).

Assessments levied carry an interest rate above the actual borrowing rate on the bonds. NDCC 40-24-02 permits political subdivisions to levy the assessments up to 1.5% over the bond interest rate. Over the past several years, and based upon the recommendation of a Blue Ribbon Task Force that studied special assessments, the City of Fargo voluntarily agreed to lower the financing mark-up by 33% - reducing the 1.5% rate to 1% over the bond rate (see Attachment #2 – July 21, 2003 City Commission approval). The purpose of this incremental mark-up is to provide long-term stability for the debt service fund, as the City is legally committed to a twenty-five (25) year debt service obligation. There are several risks inherent in the City's ability to collect special assessments on a timely basis, including:

- Significant downturn in the local economy;
- Natural disaster risk, such as a catastrophic flood event;
- Property tax levy to cure a special assessment deficiency (a "deficiency levy"); and
- Political risk.

#### *Fargo City Commission Approval of Mark-Up*

By resolution, the City Commission approves the 1% mark-up on special assessments for each bond sale and each time assessments are levied. In its process, the Commission authorizes a bond sale, establishes a special assessment fund for the project (or projects), and approves the 1% mark-up on the bond when a special assessment resolution is adopted (see Attachments #3 and #4 for illustration).

#### *Refinancing Existing Debt*

NDCC, in the opinion of the City and its bond counsel (Dorsey & Whitney LLP), treats special assessments and warrants as "locked in" once made. Reducing interest rates at the time of bond refinancing (especially to a level equal to the new average interest rate) would increase the risk of needing a deficiency levy, and would thereby shift payment burden from benefiting residents to the general population. The City's refunding/refinancing procedure promotes equity across various projects, is consistent with NDCC, and does not favor project types or properties over others.

#### **NDCC Compliance Summary**

The City has a track record of success and has consistently prevailed in legal challenges to its assessment practices. Significant policy discussion has occurred at the State Legislature over the past several sessions, but no substantive changes have been made. As a result, the City's special assessment process and mechanics remain consistent and compliant to the legal requirements and the directives of the Legislature as expressed in North Dakota Century Code.

#### **Attachments:**

*Attachment #1* – North Dakota Century Code References

*Attachment #2* – July 21, 2003 City Commission Approval of Blue Ribbon Task Force Recommendations  
(establishing the 1% mark-up above bond rate)

*Attachment #3* – June 5, 2017 City Commission agenda and minutes

*Attachment #4* – October 9, 2017 City Commission agenda and minutes

## Attachment #1

### North Dakota Century Code References

#### **40-23-15. Governing body to hear and determine appeals and objections to assessments - Altering assessments - Limitations.**

At the regular or special meeting of the governing body at which the assessment list is to be acted upon, any person aggrieved by the determination of the special assessment commission in regard to any assessment who has appealed therefrom as provided in section 40-23-14 may appear before the governing body and present the person's reasons why the action of the commission should not be confirmed. The governing body shall hear and determine the appeals and objections and may increase or diminish any of such assessments as it may deem just, except that the aggregate amount of all the assessments returned by the commission shall not be changed and no assessments as adjusted shall exceed the benefits to the parcel of land on which it is assessed as determined by the assessment commission.

#### **40-24-02. Payment of special assessments - Interest.**

All special assessments levied under this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at an annual rate not exceeding one and one-half percentage points above the average net annual interest rate on any warrants or bonds for the payment of which they are pledged on the total amount thereof remaining unpaid.

#### **40-24-18. Special improvement moneys to be kept separate - Designation and numbering of funds - Diversion of moneys prohibited.**

All special assessments and taxes levied and other revenues pledged under the provisions of this title to pay the cost of an improvement shall constitute a fund for the payment of such cost, including all principal of and interest on warrants and other obligations issued by the municipality to finance the improvement, and shall be diverted to no other purpose. The city auditor shall hold all moneys received for any such fund as a special fund to be applied to payment for the improvement. Each such fund shall be designated by the name and number of the improvement district in or for which said special assessments, taxes, and revenues are collected. When all principal and interest on warrants and other obligations of the fund have been fully paid, all moneys remaining in a fund may be transferred into the general fund of the municipality.

#### **40-26-08. Municipality liable generally for deficiencies in special improvement fund.**

Whenever all special assessments and all utility revenues and taxes, if any, appropriated and theretofore collected for a special improvement, made under authority of any law authorizing the payment of the cost thereof in whole or in part from special assessments, are insufficient to pay principal or interest then due on the special improvement warrants issued against such improvement, the governing body shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. If at any time a deficiency is likely to occur within one year in such special improvement fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. This section applies to any deficiency in a special improvement fund, including a sewer and water connections assessment fund under chapter 40-28, sidewalk special fund under chapter 40-29, curbing special fund under chapter 40-31, and boulevard special fund under chapter 40-32. In case a balance remains unexpended in a special improvement fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

## **Attachment #2**

**July 21, 2003 City Commission Approval of Blue Ribbon Task Force Recommendations**

completed this spring and, based on the data and other published information, the TTAC revised the application process and has recommended the process be approved. He said Attachment 2 is a Report of Action from the TTAC outlining the changes with a map showing how many of the areas tested would qualify to continue through the process. He said if the City Commission concurs with the approval of the Traffic Calming Application Process, the TTAC also recommends that the speed humps on 26th Avenue South between 27th and 32nd Streets be approved as permanent and assessed in accordance with the approved process as per Attachment 3.

Commissioner Lane moved the Board concur with the recommendations of the TTAC for approval of the Traffic Calming Application Process as revised and concur that the speed humps on 26th Avenue between 27th and 32nd Streets remain in place and be assessed according to the approval process.

Second by Rayl. On call of the roll Commissioners Lane, Rayl Lynch, Cosgriff and Furness voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Implementation Plan for the Special Assessment Task Force Recommendations Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee submitting correspondence from City Engineer Mark Bittner regarding implementation of the Special Assessment Task Force recommendations. They summarized their discussion regarding asphalt pavement thickness standards for local residential streets, street width standards and tree planting. The Committee recommended approval of the following implementation plan:

A. Design Standard Items

1. Asphalt pavement thickness standards for local residential streets  
Recommendation: Approve new design standards  
Effective Date: Immediate  
Action Items: Incorporate into Standard Specifications for Construction of Public Utilities – Engineering Department
2. Street Width  
Recommendation: Approve street width standards  
Effective Date: Subject to LDC amendment approval  
Action Items: Process LDC amendment–Planning Department
3. Hydrant Spacing  
Recommendation: Approve hydrant spacing standards  
Effective Date: Immediate

B. Transfer Funding Responsibility

1. Sidewalk Construction

Recommendation: Require sidewalks to be constructed as part of building project

Effective Date: All plats approved after January 1, 2004

2. Entry Medians and Boulevard Treatments

Recommendation: Require private funding and maintenance of medians and boulevard enhancements constructed for aesthetic purposes

Effective Date: All plats approved after January 1, 2004

3. Tree Planting

Recommendations:

- a) City financing (sales tax) of boulevard trees on arterial and parkway (as designated by Planning Dept.) streets
- b) Special assessment of boulevard trees on collector streets and on local street sideyard locations.
- c) Require private installation and funding of all local street front yard trees.

Effective Date: All plats approved after January 1, 2004

Action Items: City staff to evaluate options for compliance with boulevard tree planting requirements-Forestry, Planning, Engineering, Auditors

C. Collector Arterial Overwidth Funding Policy for SR Zoned Properties

Recommendation: Revise overwidth street funding policy for SR zoned property to reduce assessed widths to 30/32' for streets and 4.5' for bike trails

Effective Date: Assessment districts created after January 1, 2004

Action Item: Prepare revision to street funding policy for formal approval – Engineering

D. Sanitary Lift Station Financing

Recommendation: Contribute 50% Sewer Utility funding of costs associated with sanitary sewer lift station installation

Effective Date: Retroactive to 1999

E. City Fees

1. Engineering/Administration Fees

Recommendation: Approve the following fee schedule

	New Construction	Rehab/Reconstruction
Engineering	11%	6%
Administration	<u>6%</u>	<u>6%</u>
Total	17%	12%

Effective Date: Projects initiated after January 1, 2004

2. Bond Interest



Recommendation: Set bond interest markup to 1.0%  
Effective Date: Bond sales conducted after January 1, 2004

Commissioner Rayl moved the implementation plan for the Special Assessment Task Force Recommendations be approved.

Second by Lane. On call of the roll Commissioners Rayl, Lane, Lynch, Cosgriff and Furness voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Application Filed by Regency Fargo Hotel Ventures d/b/a Radisson Hotel to Transfer Their Alcoholic Beverage License to Adams Investment Co. d/b/a Radisson Hotel Approved:

A Hearing had been set for this day and hour on an application filed by Regency Fargo Hotel Ventures d/b/a Radisson Hotel to transfer their Class "ABH-5" Alcoholic Beverage License to Adams Investment Co. d/b/a Radisson Hotel, 201 5th Street North, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Lynch moved the above application be approved.

Second by Lane. On call of the roll Commissioners Lynch, Lane, Cosgriff, Rayl and Furness voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Application Filed by Global Spectrum L.P. d/b/a Fargodome for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Global Spectrum L.P. d/b/a Fargodome for a Class "N" Alcoholic Beverage License at 1800 North University, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Lynch moved the above application be approved.

Second by Lane. On call of the roll Commissioners Lynch, Lane, Cosgriff, Rayl and Furness voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

## **Attachment #3**

**June 5, 2017 City Commission agenda and minutes**



## FARGO CITY COMMISSION AGENDA

Monday, June 5, 2017 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [FargoND.gov/streaming](http://FargoND.gov/streaming). They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m.; and are also included in our video archive at [FargoND.gov/citycommission](http://FargoND.gov/citycommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, May 22, 2017).

### **CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Receive and file Summons and Complaint in the matter of Northern States Power Company v. Montplaisir Ag and Rental, LLP, et al.
- 2. Preliminary Resolution Approving the Financing of the Block Nine Project, The Issuance of Annual Appropriation Bonds and the Amendment of the Development Agreement - Taxable Series 2017B (Block Nine Project).
- 3. 2017 CLG grant award from the State Historical Society of ND in the amount of \$9,000.00 (Grant #38-17-141296-27).
- 4. Site Authorization for West Fargo Hockey Association at Fort Noks.
- 5. Applications for Games of Chance:
  - a. Kringen Club, Inc. for bingo from 7/1/17 to 6/30/18.
  - b. Sarah Talle Benefit for a raffle on 7/28/17; Public Spirited Resolution.
  - c. United Way of Cass-Clay for a raffle on 6/16/17.
  - d. North Dakota Horse Park Foundation for a calendar raffle from 7/15/2017 to 8/22/17; Public Spirited Resolution.
- 6. Notice of Grant Award with the ND Department of Health for Public Water Supply Supervision Program (CFDA No. 66.605).
- 7. Notice of Grant Awards with the ND Department of Health for Public Health Emergency Preparedness (CFDA Nos. 93.069).
- 8. Contract amendment with the ND Department of Commerce in the amount of \$2,700.00 for funds to support operational expenses at the Gladys Ray Shelter.
- 9. Submittal of an application to the US Department of Justice – Office of Community Oriented Policing Services requesting grant funding for two police officer positions for 2017.
- 10. RFP for soft drink and bottled water supply services for the Civic Auditorium (RFP17173).
- 11. Adopt Resolutions Approving the following Plats:
  - a. Osgood Townsite Fifteenth Addition.

- b. BNG Addition.
- 12. Bid award for roof replacement at the existing Water Treatment Plant (Project No. WA1707).
- 13. Change Order No. 3 for a decrease of \$44,218.00 with Maquire Iron, Inc. for Project No. WA1503.
- 14. Change Orders for Project No. WA1601:
  - a. No. 1 for an increase of \$5,300.00 with TMI Coatings, Inc.
  - b. No. 2 for an increase of \$323,500.00 with TMI Coatings, Inc.
- 15. Memorandum of Offer to Landowner for Permanent and Temporary Easements with Megan N. and Ryan J. Ditterick for Project No. FM-15-K0.
- 16. Street Closure Permit for the Moorhead Business Association to close the 1st Avenue North bridge over the Red River on September 7, 2017 for a community event.
- 17. Encroachment Agreement with Next Millennium Partners, LLP (Dawson Insurance) at 721 1st Avenue North.
- 18. Encroachment Agreement with Juice It, LLC at 64 Broadway.
- 19. Reimbursement Agreement for Utility Infrastructure with Consolidated Communications Enterprise Services, Inc. (Project No. FM-15-B2).
- 20. Change Order No. 1 for an increase of \$17,000.00 with AE2S for Consultant Services for Project No. MS-15-P0.
- 21. Final Balancing Change Order No. 6 for a decrease of \$41,842.40 for Project No. FM-14-03.
- 22. Time extension of an additional 30 days and a maximum width designation of 54.5 feet for a home move (Project No. HD-17-A1).
- 23. Contract Amendment No. 1 for an increase of \$102,408.95 with the Flint Group (Project No. MS-16-F0).
- 24. Alley Maintenance and Developer Agreements with the North Dakota State University Foundation and Alumni Association for the NDSU Foundation Addition.
- 25. Bid award for Project No. FM-15-J1.
- 26. Bills.
- 27. Memorandum of Offer to Landowner for a temporary easement with Professional Associates LLC (Improvement District No. BR-17-C1).
- 28. Revision to the 2017 CIP to include Improvement District No. BN-16-H1.
- 29. Urban Agreement for Construction of Federal Aid Project Title II Safety Program (Improvement District No. BN-17-B2).
- 30. Temporary pavement markings to provide diagonal stalls between Broadway and 4th Street on 4th Avenue North (Improvement District No. BR-17-F1).

31. Resolution of Necessity for Improvement District No. NR-17-B.
32. Wastewater Consulting Services Task Order No. 74 from AE2S in the amount of \$460,000.00 for Improvement District No. NR-17-B.
33. Bid awards for Improvement District Nos. BR-17-E1 and BR-17-L1.
34. Create Improvement District No. BN-17-A.
35. Contracts and bonds for Improvement District Nos. BN-17-B1, BR-17-B1 and BR-17-C1.

**REGULAR AGENDA:**

36. Fargo Youth Initiative (FYI) 2017 report.
37. Commissioner Grindberg wishes to reconsider the City Commission's action taken on May 8, 2017 regarding the zoning change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I, Public and Institutional, and Plat of Bison Meadows Second Addition (North of 70th Avenue South and West of University Drive South).
  - a. 1st reading of rezoning Ordinance.
  - b. Consider Infrastructure request for the first phase of the Bison Meadows Subdivision.
  - c. Consider the Storm Water Retention Agreement with Thomsen Properties, LLC for Bison Meadows Second Addition.
38. Public Hearings - 5:15 pm:
  - a. Changes in MATBUS Routes 13, 15, 16, 17, 18, 21, 22, 23 and the addition of Route 24.
  - b. Vacation of a portion of Roberts Street north of Northern Pacific Avenue and between Blocks 1 and 6 of Robert's Addition (tract of land located at NP Avenue and Roberts Street North); approval recommended by the Planning Commission on 4/4/17.
  - c. Name Change Plat for 38th Street South, located south of the City of Fargo within the Commerce on I29 Addition, to be renamed 39th Street South; approval recommended by the Planning Commission on 11/1/16.
  - d. Transfer of a Class "GH" Alcoholic Beverage License from Bravish LLD d/b/a Himalayan Yak at 1450 25th Street South #160 to Harihar LLC d/b/a Himalayan Yak.
  - e. Transfer of a Class "ABH-Limited" Alcoholic Beverage License from PAC DAK Hospitality LLC d/b/a Holiday Inn Express & Suites I-94 at 4711 19th Avenue South to 4711 Hospitality LLP d/b/a Holiday Inn Express I-94.
  - f. Special Assessments for 2015 Reconstruction of City Ordered Sidewalks.
  - g. Special Assessments for 2016 Reconstruction of City Ordered Sidewalks.
  - h. Special Assessments for 2016 New Construction City Ordered Sidewalks.

Special Assessment lists for the following Improvement Districts, all having been approved by the Special Assessment Commission on 5/5/17; set the interest rate at 1% per annum over the net rate on bonds financing said projects:

- i. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Grading and Incidentals No. BN-15-A1.
- j. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Grading and Incidentals No. BN-15-B1.
- k. Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Paving and Incidentals No. BN-15-E1.
- l. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals No. BN-15-G1.
- m. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. BN-15-H1.
- n. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. BN-16-A1.
- o. Water Main Replacement, Street Reconstruction, Street Scape with Cycle Track and Incidentals No. BR-15-B1.
- p. Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals No. BR-15-F1.
- q. Retention Pond and Incidentals No. FP-14-01.
- r. Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. PN-14-11.
- s. Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. PN-15-G1.
- t. Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. PN-15-K1.
- u. Asphalt Wear Course and Incidentals No. PN-16-A1.
- v. Seal Coat and Incidentals No. PR-16-B1.
- w. Asphalt Mill and Overlay and Incidentals No. PR-16-C1.
- x. New Construction City Ordered Sidewalks and Incidentals No. SN-16-A1.
- y. Reconstruction City Ordered Sidewalks and Incidentals No. SR-15-A1.
- z. Reconstruction City Ordered Sidewalks and Incidentals No. SR-16-A1.
- aa. Traffic Signal Improvements and Incidentals No. TN-15-B1.
- bb. Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. UN-15-J1.

### 39. Construction Projects Update.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo web site at [FargoND.gov/citycommission](http://FargoND.gov/citycommission).

## Excerpt of Board of City Commissioners June 5, 2017 Minutes

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, June 5, 2017.

The Commissioners present or absent were as shown following:

Present: Gehrig, Grindberg, Piepkorn, Strand, Mahoney.

Absent: None.

Mayor Mahoney presiding.

### Special Assessment List for Various Improvement Districts Approved:

A Hearing had been set for this day and hour on the special assessment list for the construction of the following Improvement Districts in the City of Fargo, North Dakota, all having been approved by the Special Assessment Commission on May 5th, 2017; set the interest rate at 1% per annum over the net rate on bonds financing said projects:

- i. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Grading and Incidentals No. BN-15-A1.
- j. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Grading and Incidentals No. BN-15-B1.
- k. Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Paving and Incidentals No. BN-15-E1.
- l. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals No. BN-15-G1.
- m. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. BN-15-H1.
- n. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. BN-16-A1.
- o. Water Main Replacement, Street Reconstruction, Street Scape with Cycle Track and Incidentals No. BR-15-B1.
- p. Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals No. BR-15-F1.
- q. Retention Pond and Incidentals No. FP-14-01.
- r. Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. PN-14-11.
- s. Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. PN-15-G1.
- t. Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. PN-15-K1.
- u. Asphalt Wear Course and Incidentals No. PN-16-A1.
- v. Seal Coat and Incidentals No. PR-16-B1.
- w. Asphalt Mill and Overlay and Incidentals No. PR-16-C1.
- x. New Construction City Ordered Sidewalks and Incidentals No. SN-16-A1.
- y. Reconstruction City Ordered Sidewalks and Incidentals No. SR-15-A1.
- z. Reconstruction City Ordered Sidewalks and Incidentals No. SR-16-A1.
- aa. Traffic Signal Improvements and Incidentals No. TN-15-B1.
- bb. Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. UN-15-J1.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

In response to a question from Commissioner Strand about how benefit is determined, Special Assessment Coordinator Dan Eberhardt said benefit is calculated on a linear foot basis and everyone pays the same per linear foot. He said the assessments are defined by front footage and for example, in the Woodhaven area, one lot could have five units and another lot could have eight or nine due to the

fact the green space is evenly divided. He said he looks at the total cost of a project, calculates the footage of all parcels in the area and then divides it by the total front footage. He said benefit is statutorily defined by the state.

Commissioner Grindberg moved that the special assessment list for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

Second by Gehrig. On call of the roll Commissioners Grindberg, Gehrig, Strand, Piepkorn and Mahoney voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

## **Attachment #4**

**October 9, 2017 City Commission agenda and minutes**

FARGO CITY COMMISSION AGENDA  
Monday, October 9, 2017 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [www.FargoND.gov/streaming](http://www.FargoND.gov/streaming). They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at [www.FargoND.gov/citycommission](http://www.FargoND.gov/citycommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, September 25, 2017).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 9/25/17:
  - a. Rezoning Certain Parcels of Land Lying in Reeves Addition.
  - b. Amending Sections 20-0401 and 20-0402 of Article 20-04 of Chapter 20 of the Fargo Municipal Code Relating to Use Regulations and Self-Service Storage.
- 2. Receive and file communication from Leo F.J. Wilking regarding the appeal of Aaron Cockfield appealing the decision of the Civil Service Commission and set a date for a hearing.
- 3. Receive and file communication from Mark A. Friese regarding the appeal of David Boelke appealing the decision of the Civil Service Commission and set a date for a hearing.
- 4. Renewal of BCBSND Dental Insurance, Avesis Vision Insurance and Mutual of Omaha Life Insurance effective 1/1/18 and transition to Mutual of Omaha Long-Term Disability Insurance.
- 5. Out-of-Grade pay request for Audra Stonefish in the Public Health Department.
- 6. Sole Source Procurement with Family HealthCare for annual medical interpreting services for an estimated amount of \$36,000.00.
- 7. Amendment to Development Agreement with DFI Roberts LLC.
- 8. Roberts Commons Condominium formation documents.
- 9. Appointment of Cass County State's Attorney and Assistants as Special City Prosecutors.
- 10. Tax exemptions for improvements made to buildings:
  - a. Don R. Symington, 1110 3rd Avenue North Unit 603W (3 year).
  - b. Amy T. and Devin B. Mertes, 1537 4th Street North (5 year).
  - c. Brent A. and Jenel K. Wavra, 2719 28th Avenue South (5 year).
  - d. Ronald W. and Dawn D. Solberg, 1327 Oak Street North (5 year).
  - e. Ronald W. and Dawn D. Solberg, 1327 Oak Street North (5 year).



- f. Dennis J. and Teresa M. Steinman, 1618 10th Street South (5 year).
  - g. Thomas R. and Carol A. Gustad, 3657 River Drive South (5 year).
  - h. Benjamin J. Wenger, 2402 7th Street North (5 year).
11. Site Authorization for Fargo Youth Hockey Association at H.A. Thompson and Sons Arena (previously the Teamsters Arena).
  12. Applications for Games of Chance:
    - a. Bennett PTA for bingo from 10/13/17 to 4/13/18.
    - b. Nativity Elementary School for a raffle on 2/2/18.
    - c. Dan Hedrick Benefit for a raffle on 11/1/17; Public Spirited Resolution.
    - d. Nativity Church of Fargo for a raffle on 11/5/17.
    - e. United Way of Cass-Clay for a raffle on 10/20/17.
    - f. United Way of Cass-Clay for a raffle on 11/20/17.
    - g. United Way of Cass-Clay for a raffle on 11/15/17.
    - h. Fargo North Spartans for a raffle on 12/2/17.
  13. Request from YMCA to hang banners in the skyway from December 1st to December 14th to promote their presence in downtown.
  14. Request to extend the 2016/2017 snow hauling contracts with Master Construction, Diesel Dogs Trucking and Industrial Builders for the 2017/2018 snow season (RFP17012, RFP17013 and RFP17014).
  15. Sole Source Procurement for the purchase of AMP salt brine additive from EnviroTech Services at a price of \$2.76 per gallon.
  16. Sole Source Procurement for the purchase of IceSlicer ice melt from EnviroTech Services at a price of \$180.00 per ton.
  17. Local match commitment letter for the FEMA Pre-Disaster Mitigation Grant application associated with Project No. WW1707.
  18. Three-year contract with Fargo Public Schools for garbage collection services with the option to renew for two additional terms ending 10/31/23 and 10/31/26.
  19. Amendment to the Emergency Management Joint Powers Agreement.
  20. Cost Share Agreement with Cass County ND for the Completion of the Multi-Hazard Mitigation Plan.
  21. Fire Department budget adjustment and contract with the ND Division of Homeland Security for grant funding in the amount of \$158,345.00 for the purchase of Regional Response Equipment and Training (CFDA #97.067).
  22. Police Department budget adjustment and contract with the ND Division of Homeland Security for grant funding in the amount of \$79,344.00 for the purchase of air-purifying respirators (CFDA #97.067.)
  23. Police Department budget adjustment and NDDOT Grant in the amount of \$55,000.00 for Seatbelt, Impaired Driving, Distracted Driving Enforcement and Education Activities and Underage Drinking Enforcement (CFDA #20.616 and 20.600).

24. Advertisement of Request for Proposals for general engineering services for the Solid Waste, Water and Wastewater Utilities.
25. ND DOT State Aid Contract in the amount of \$426,711.00 for transit funding.
26. Road Use Agreement with KCM, Kilbourne Construction Management, and DFI Roberts LLC for 625 2nd Avenue North.
27. Bid advertisement for Project No. UR-17-C.
28. Bid award for Project No. TR-17-B1.
29. Contracts and bonds for Project Nos. FM-17-B1 and WA1510.
30. Bills.
31. Requests from the following contractors to conduct work on Sundays as needed to meet deadlines and complete projects prior to winter.
  - a. Master Construction, Improvement District Nos. BN-17-A1, BN-17-B1, BR-17-C1 and BR-17-F1.
  - b. Shermans LLC, Improvement District No. BR-17-G1.
  - c. Excavating Inc., Project Nos. FM-14-63 AND FM-15-B2.
  - d. ICS, Project No. FM-15-J1.
  - e. Opp Construction, Improvement District No. PR-17-F1.
32. Time extension to 9/12/18 for Improvement District No. BN-17-A1.
33. Time extension to 10/13/17 for Improvement District No. BN-17-B1.
34. Early Build Permit for Properties in Cottagewood 3rd Addition (Improvement District No. BN-17-H1).
35. Early Build Permit for Property at 5002 19th Avenue North (Improvement District No. BN-17-A1).
36. Contract Amendment No. 1 for an increase of \$75,877.00 for Improvement District No. BN-17-A0.
37. Final Balancing Change Order No. 2 for an increase of \$2,751.15 for Improvement District No. NR-16-A1.
38. Negative Final Balancing Change Order No. 3 in the amount of -\$4,146.11 for Improvement District No. NN-14-21.
39. Negative Final Balancing Change Order No. 5 in the amount of -\$31,583.90 for Improvement District No. BR-16-A1.
40. Negative Final Balancing Change Order No. 4 in the amount of -\$12,735.00 for Improvement District No. NN-15-A1.
41. Contract and bond for Improvement District No. AN-17-G1.

## REGULAR AGENDA:

42. Commissioner Gehrig would like to discuss special assessments.
43. Commissioner Piepkorn would like to discuss property tax reform.
44. Public Hearings - 5:15 pm:
  - a. CONTINUED to 11/6/17 - Appeal of a Board of Adjustment decision on a variance request at 3931 and 3949 37th Avenue South to allow a proposed building to be constructed to a lower elevation than would otherwise be required by the City's Floodproofing Code, as referenced by Article 21-06 of the Fargo Municipal Code; denied by the Board of Adjustment on 8/22/17; continued from 9/25/17 Regular Meeting.
  - b. Special Assessment lists for the following Improvement Districts, all having been approved by the Special Assessment Commission on 9/6/17; set the interest rate at 1% per annum over the net rate on bonds financing said projects:
    - (1) Drain 10 Channel Repairs Improvement District No. 6237.
    - (2) P.C. Concrete Alley Paving Improvement District No. AN-16-A.
    - (3) P.C. Concrete Alley Paving Improvement District No. AN-16-B.
    - (4) P.C. Concrete Alley Paving Improvement District No. AN-16-C.
    - (5) P.C. Concrete Alley Paving Improvement District No. AN-16-E.
    - (6) Sanitary Sewer, Water Main, Storm Sewer, Concrete Curb and Gutter, Asphalt Paving, Street Lights Improvement District No. BN-15-K.
    - (7) Sanitary Sewer, Water Main, Storm Sewer, Concrete Paving, Street Lights Improvement District No. BN-15-N.
    - (8) Sanitary Sewer, Water Main, Storm Sewer, Grading, Paving, Street Lights Improvement District No. BN-16-E.
    - (9) Water Main, Storm Sewer, P.C. Concrete Paving, Street Lights Improvement District No. BN-16-F.
    - (10) Sanitary Sewer, Storm Sewer, Paving, Street Lights Improvement District No. BN-16-L.
    - (11) Water Main Replacement, Street Reconstruction Improvement District No. BR-15-A.
    - (12) Water Main Replacement, Force Main Construction, Street Reconstruction Improvement District No. BR-16-B.
    - (13) P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement Improvement District No. PN-14-7.
    - (14) Concrete Curb and Gutter, Asphalt Pavement, Street Lights Improvement District No. PN-15-E.
    - (15) P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement Improvement District No. PN-15-L.
    - (16) Concrete Curb and Gutter, Asphalt Pavement, Street Lights Improvement District No. PN-15-M.
    - (17) Concrete Curb and Gutter, Asphalt Pavement, Street Lights Improvement District No. PN-15-N.
    - (18) Grading, P.C.C. Pavement, Storm Sewer, Traffic Signals, Street Lights, Sidewalks Improvement District No. PR-14-0.
    - (19) Traffic Signals Improvement District No. TN-16-B.
    - (20) Traffic Signals Improvement District No. TN-16-E.
    - (21) Sanitary Sewer, Water Main, Storm Sewer Improvement District No. UN-15-M.

- (22) Sanitary Sewer, Water Main, Storm Sewer Improvement District No. UN-15-N.
- (23) Water Main Replacement Improvement District No. UR-16-A.

c. Renaissance Zone Project for DFI BG LLC for a rehabilitation project located at 115, 117 and 119 Broadway North.

- 45. Easement Agreement with DFI Dillard and DFI Kesler that provides access between the Dillard Building and the Roberts Parking Garage and parking priority for residential tenants.
- 46. Consider contract award for consulting services for Apex Engineering Group in the amount of \$1,029,065.00 (Improvement District No. BR-18-C0).
- 47. Consider Resolution Supporting an Inclusive Community.
- 48. Commissioner Grindberg would like to discuss election reform proposals.
- 49. Commissioner Gehrig would like to discuss the injunction on the FM Diversion.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at [www.FargoND.gov/citycommission](http://www.FargoND.gov/citycommission).

## Excerpt of Board of City Commissioners October 9, 2017 Minutes

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, October 9, 2017.

The Commissioners present or absent were as shown following:

Present: Gehrig, Grindberg, Piepkorn, Strand, Mahoney.

Absent: None.

Mayor Mahoney presiding.

### **Hearing on the Special Assessment List for Various Improvement Districts Approved:**

A Hearing had been set for this day and hour on the special assessment list for the construction of the following Improvement Districts in the City of Fargo, North Dakota, all having been approved by the Special Assessment Commission on September 6, 2017; set the interest rate at 1% per annum over the net rate on bonds financing said projects:

Drain 10 Channel Repairs Improvement District No. 6237.

P.C. Concrete Alley Paving Improvement District No. AN-16-A.

P.C. Concrete Alley Paving Improvement District No. AN-16-B.

P.C. Concrete Alley Paving Improvement District No. AN-16-C.

P.C. Concrete Alley Paving Improvement District No. AN-16-E.

Sanitary Sewer, Water Main, Storm Sewer, Concrete Curb and Gutter, Asphalt Paving, Street Lights Improvement District No. BN-15-K.

Sanitary Sewer, Water Main, Storm Sewer, Concrete Paving, Street Lights Improvement District No. BN-15-N.

Sanitary Sewer, Water Main, Storm Sewer, Grading, Paving, Street Lights Improvement District No. BN-16-E.

Water Main, Storm Sewer, P.C. Concrete Paving, Street Lights Improvement District No. BN-16-F.

Sanitary Sewer, Storm Sewer, Paving, Street Lights Improvement District No. BN-16-L.

Water Main Replacement, Street Reconstruction Improvement District No.

BR-15-A.

P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement Improvement District No. PN-14-7.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights Improvement District No. PN-15-E.

P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement Improvement District No. PN-15-L.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights Improvement District No. PN-15-M.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights Improvement District No. PN-15-N.

Grading, P.C.C. Pavement, Storm Sewer, Traffic Signals, Street Lights, Sidewalks Improvement District No. PR-14-0.

Traffic Signals Improvement District No. TN-16-B.

Traffic Signals Improvement District No. TN-16-E.

Sanitary Sewer, Water Main, Storm Sewer Improvement District No. UN-15-M.

Sanitary Sewer, Water Main, Storm Sewer Improvement District No. UN-15-N.

Water Main Replacement Improvement District No. UR-16-A.

City Auditor Steve Sprague said the projects being presented have been constructed, finalized and have gone through the assessment process with all of the required notices and inspections done. The total is

\$43 million in completed project costs, he said, and \$35 million in assessments is being proposed affecting just under 3,200 parcels. He said the interest rate which is set at 1% above the bond interest and it varies between projects; however, generally speaking it is at about 4%. The term is 25 years on most projects, he said, and some are required to be only 10 years, set by statute.

Virgil Schultz, 3225 45th Avenue South, spoke regarding Traffic Signals Improvement District No. TN-16-E. He said everyone uses that road and while he does not mind paying some of it, it all adds up. He suggested a transportation fund could be implemented and funded by a tax on gas of a half-cent or penny on a gallon of gas in Fargo, rather than taxing residents, he said.

Commissioner Piepkorn moved that the special assessment list for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

Second by Grindberg. On call of the roll Commissioners Piepkorn, Grindberg, Gehrig, Strand and Mahoney voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.