

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: February 2, 2015:

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, February 2, 2015.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Piepkorn, Mahoney.

Absent: None.

Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Sobolik moved the Order of the Agenda be approved moving Item No. "7" from the Consent Agenda to the beginning of the Regular Agenda, Item No. "10" from the Consent Agenda to the end of the Regular Agenda, omitting Item No. "16" from the Consent Agenda and adding a discussion about the 12th Avenue Bridge to the end of the Regular Agenda.

Second by Williams. All the Commissioners voted aye and the motion was declared carried.

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on January 19, 2015 be approved as read.

Second by Piepkorn. All the Commissioners voted aye and the motion was declared carried.

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

1. Request from Cass Clay Healthy People Initiative to hang Streets Alive! banners in the skyway from June 6th to June 15th, July 2nd to July 13th and August 21st to August 31st.
2. Extension of Ordinance 25-1512 until March 31, 2015 for the JT Cigarro's Class "AB" Alcoholic Beverage License.
3. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Cedar Crest First Addition, Fargo, Cass County, North Dakota; 1st reading, 1/19/15.
4. 1st reading of the following Ordinances:
 - (a) Amending Article 13-10 of Chapter 13 of the Fargo Municipal Code Relating to Recreational Aquatic Facilities.

- (b) Amending Section 11-0209.F of Article 11-02 of Chapter 11 of the Fargo Municipal Code Relating to Noise Control and Radio Interference (relating to noise in parks).
- 5. Receive and file Ordinance Amending Section 11-0401 of Article 11-04 of Chapter 11 of the Fargo Municipal Code Relating to Public and Sanitary Nuisances (regarding parking trailers in front yards).
- 6. Tax exemptions for improvements made to buildings:
 - (a) Eddy and Katherine Kornelson, 708-710 31st Street North (3-year).
 - (b) Bradley and Mary Mohs, 2208 25 1/2 Avenue South (3-year).
 - (c) Summer Hanson, 1122 2nd Street North (5-year).
- 7. Resolution Authorizing the Issuance of Refunding Improvement Refunding Bonds, Series 2015A (moved to the Regular Agenda).
- 8. North Dakota Department of Transportation Section 5339 Transit Grant Agreement in the amount of \$268,000.00 (CFDA #20.500).
- 9. Mass Transit Agreement with the City of West Fargo for 2015.
- 10. 2015 Social Service and Arts Fund budget (moved to the Regular Agenda).
- 11. Agreement with John Baird to serve as Health Officer for Fargo Cass Public Health.
- 12. Applications for Games of Chance:
 - (a) Fargo Babe Ruth for a calendar raffle from 6/17/15 to 7/8/15.
 - (b) St. John Paul II Catholic Schools for a raffle on 4/25/15.
 - (c) Red River Valley Figure Skating Club for a raffle on 3/15/15.
- 13. Bid award for skyway security to General Security Services Corporation in the amount of \$6,240.00.
- 14. Purchase of two Automated Side-Load Refuse Trucks from Olympic Sales for \$443,660.00.
- 15. Agreement for Special Improvements with Commerce Property, LLC (Improvement Dist. Nos. UN-15-F1 and PN-15-F1).
- 16. Cost share agreement for relocation of a water line in connection with an alley vacation from 2nd to 3rd Avenue North in the 1000 block (omitted).
- 17. Reimbursement of \$12,230.49 for fill for an area previously disturbed by emergency levee construction.
- 18. Final Balancing Change Order #1 for an increase of \$36,325.50 for Project SN-14-11.
- 19. Bid advertisements for Project Nos. HD-15-A, TR-15-A and TR-15-E.

20. Bills in the amount of \$6,530,142.14.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-G (Asleson Farms Second Addition):

Commissioner Piepkorn moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-G:

Adopt Resolution Creating Improvement District No. PN-15-G:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. PN-15-G in the City of Fargo, North Dakota, be created

On 41st Street South from 34th Avenue South to 36th Avenue South.

On 36th Avenue South from 300' east of 42nd Street South to 39th Street South.

COMPRISING:

Lots 1-4, Block 1, Asleson Farms 2nd Addition

Lot 1, Block 1, Asleson Industrial Park 6th Addition

Lot 1, Block 1, 42nd Street 2nd Addition

Lots 3 and 5, Block 1, 42nd Street Addition

Lot 1, Block 1, West Wind 2nd Addition

All the unplatted land between 39th Street South and 41st Street South and 34th Avenue South and 36th Avenue South.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-G in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. PN-15-G:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PN-15-G in

the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,185,664.00.)

Order Plans and Specifications for Improvement District No. PN-15-G:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. PN-15-G in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. PN-15-G:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. PN-15-G in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. PN-15-G in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-G in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. PN-15-G:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. PN-15-G in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Seal Coat and Incidentals Improvement District No. PR-15-E (Various Locations in South Fargo):

Commissioner Piepkorn moved the following action be taken in connection with Seal Coat and Incidentals Improvement District No. PR-15-E:

Adopt Resolution Creating Improvement District No. PR-15-E:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. PR-15-E in the City of Fargo, North Dakota, be created

LOCATION (Section 7):

On Pierce Street South from 36th Avenue South to 37th Avenue South.

On Lincoln Street South from 36th Avenue South to 37th Avenue South.

On 37th Avenue South from 1/2 way between Fillmore Street South and Pierce Street South to 45th Street South.

LOCATION (Section 8):

On Village Lane South from 38th Avenue South to 40th Avenue South.

On 48th Street South from 38th Avenue South to 39th Avenue South.

On 50th Street South from 38th Avenue South to 40th Avenue South.

On 38th Avenue South from 45th Street South to 50th Street South.

On 39th Avenue South from 48th Street South to 50th Street South.

LOCATION (Section 9):

On 47th Street South from 230' north of 47th Avenue South to 52nd Avenue South.

On 51st Street South from 47th Avenue South to 50th Avenue South.

On 52nd Street South from 47th Avenue South to 48th Avenue South.

On Harvest Drive South from 47th Avenue South to 48th Avenue South.

On 53rd Street South from 230' north of 47th Avenue South to 52nd Avenue South.

On 47th Avenue South from 47th Street South to 53rd Street South.

On 48th Avenue South from 47th Street South to 53rd Street South.

On Lavonne Court South west of 47th Street South.

On 49th Avenue South from 50th Avenue South to 53rd Street South.

On 50th Avenue South from 47th Street South to 50th Street South.

On 51st Avenue South from 47th Street South to 50th Street South.

On 51st Avenue South from 53rd Street South to Veteran's Boulevard South.

LOCATION (Section 10):

On 13 Circle South from 14th Street South to 63rd Avenue South.

On 14th Street South from 62nd Avenue South to 63rd Avenue South.

On 16th Street South from 62nd Avenue South to 63rd Avenue South.

On Martens Way from 14th Street South to 63rd Avenue South.
On 63rd Avenue South from 13 Circle South to 16th Street South.
On Martens Way cul-de-sac east of 14th Street South.

COMPRISING (Section 7):

Lots 1 through 3, Block 1.
Lots 1 through 11, Block 3.
Lots 1, 3 through 9, Block 4.
All in Vista Village Addition.

Lots 2, 4 through 9, 12 through 75, Block 1, Vista Village 2nd Addition.

Lots 1 through 3, Block 1, Vista Village 3rd Addition.

Lots 1 through 5, Block 1, Vista Village 4th Addition.

COMPRISING (Section 8):

Lots 1 through 10, Block 1.
Lots 1 and 2, Block 2.
Lots 4 through 7, Block 3.
All in Town Square Village Addition.

Lots 1 through 3, Block 1, Town Square Village 2nd Addition.

Lots 1 through 22, Block 1.
Lots 1 through 12, Block 2.
Lots 1 through 8, Block 3.
All in Evelyn Acres.

Lots 1 through 13, Block 1, Evelyn Acres 2nd Addition.

COMPRISING (Section 9):

Lots 1 through 120, Block 1.
Lots 1 through 24, Block 2.
Lots 1 through 20, Block 3.
Lots 1 through 48, Block 4.
Lot 3, Block 5.
Lot 1, Block 6
All in Osgood Townsite 7th Addition.

Lot 5, Block 1, Osgood Townsite 8th Addition.

Lots 1 through 4, Block 1, Osgood Townsite 9th Addition.

Lots 7 and 8, Block 2, Osgood Townsite 11th Addition.

Lots 1 through 31, Block 1.
Lots 1 through 11, Block 2.

Lots 1 through 15, Block 3.
Lots 1 through 19, Block 4.
Lots 1 through 14, Block 5.
All in South Forty at Osgood.

Lots 1 through 38, Block 1.
Lots 1 through 34, Block 2.
Lots 1 through 6, 8 and 9, Block 3.
All in South Forty at Osgood 2nd Addition.

Lots 17 through 19, Block 1.
Lots 7 through 23, Block 3.
All in Veteran's Park 1st Addition.

Lots 1 through 13, Block 1, Commerce on 52nd 1st Addition.

Lots 1 through 10, Block 1.
Lots 1, 3 through 6, Block 2.
All in Rocking Horse East 2nd Addition.

Lots 1 and 2, Block 1, Rocking Horse East 3rd Addition.

COMPRISING (Section 10):

Lots 1 through 19, Block 5.
Lots 23 through 26, Block 5.
Lots 34 through 36, Block 5.
Lot 46, Block 5.
Lots 1 through 14, Block 6.
Lots 1 through 21, Block 7.
Lots 1 through 25, Block 8.
All in Martens Way Addition.

Lots 1 through 6, Block 1, Martens Way Salem Court Townhomes 1st Addition.

Lots 1 through 14, Block 1, Wellington Court.

Lots 1 through 24, Block 1, Martens Way West Heritage Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Seal Coat and Incidentals Improvement District No. PR-15-E in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. PR-15-E:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PR-15-E in

the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,736,730.00.)

Order Plans and Specifications for Improvement District No. PR-15-E:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. PR-15-E in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. PR-15-E:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. PR-15-E in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. PR-15-E in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Seal Coat and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Seal Coat and Incidentals Improvement District No. PR-15-E in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That a portion of said Seal Coat and Incidentals improvement is to be paid from Street Sales Tax Funds and approximately 14% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Seal Coat and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. PR-15-E:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. PR-15-E in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-G (41st Street South from 34th Avenue South to 36th Avenue South):

Commissioner Piepkorn moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-G:

Adopt Resolution Creating Improvement District No. UN-15-G:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. UN-15-G in the City of Fargo, North Dakota, be created

On 41st Street South from 34th Avenue South to 36th Avenue South.

COMPRISING:

Lots 1-4, Block 1, Asleson Farms 2nd Addition

Lot 1, Block 1, Asleson Industrial Park 6th Addition

All the unplatted land between 39th Street South and 41st Street South and 34th Avenue South and 36th Avenue South.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-G in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. UN-15-G:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. UN-15-G in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$541,770.00.)

Order Plans and Specifications for Improvement District No. UN-15-G:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. UN-15-G in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. UN-15-G:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. UN-15-G in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. UN-15-G in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. UN-15-G:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. UN-15-G in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Contract for Street Reconstruction and Incidentals Improvement District No. PR-15-G1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Street Reconstruction and Incidentals Improvement District No. PR-15-G1 in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Contract Bond for Street Reconstruction and Incidentals Improvement District No. PR-15-G1 Approved:

Commissioner Piepkorn moved approval of the following described Contract Bond as to sufficiency:

Western National Mutual Insurance Company, in the amount of \$1,425,992.60, for Street Reconstruction and Incidentals Improvement District No. PR-15-G1 in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Contract for Sanitary Sewer and Incidentals Improvement District No. UR-14-61 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Ryan Development, Inc. for Sanitary Sewer and Incidentals Improvement District No. UR-14-61 in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Contract Bond for Sanitary Sewer and Incidentals Improvement District No. UR-14-61 Approved:

Commissioner Piepkorn moved approval of the following described Contract Bond as to sufficiency:

Arch Insurance Company, in the amount of \$154,185.00, for Sanitary Sewer and Incidentals Improvement District No. UR-14-61 in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Resolution Adopted Authorizing the Issuance of Refunding Improvement Refunding Bonds, Series 2015A Approving Certain Actions, Awarding the Sale Thereof and of the Warrants Related Thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof:

Terri Heaton, Client Representative with Springsted Inc., said the bond sale went much better than was anticipated. She said about a month and a half ago when they were authorized and presented their results they estimated the interest rate to be 2.73%, when in actuality it was 2.26% which is a savings of \$2,879,000.00. She said Moody's did reaffirm the City's credit rating at Aa1.

Commissioner Williams moved the Resolution entitled "Resolution Authorizing the Issuance of Refunding Improvement Bonds, Series 2015A Approving Certain Actions, Awarding the Sale Thereof and of the Warrants Related Thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof" and referred to as Attachment "A", be adopted and attached hereto.

Second by Sobolik. On call of the roll Commissioners Williams, Sobolik, Piepkorn and Mahoney voted aye.

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

Revised Developer Agreement with Butler Business Park, LLC Approved:

The Board received a communication from Planning Director Jim Gilmour stating on December 8, 2014 the City Commission approved a Developer Agreement with Butler Business Park, LLC. The agreement has been revised with no significant changes other than some date changes, corrections and clarifications, he said.

Commissioner Sobolik moved the revised Developer Agreement with Butler Business Park, LLC to provide up to \$2.2 million in Tax Increment Financing be approved.

Second by Piepkorn. On call of the roll Commissioners Sobolik, Piepkorn, Williams and Mahoney voted aye.

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

Appointments to the Arts and Culture Commission:

The Board received a communication from Mayor Mahoney recommending the following be appointed to the Arts and Culture Commission for the terms listed:

David Bertolini – term ending 1/1/16
Michael Olsen – term ending 1/1/16
Deb Williams – term ending 1/1/16
Colleen Sheehy – term ending 1/1/17
Dayna Del Val – term ending 1/1/17
Arlette Preston – term ending 1/1/17
Chelsea Thorson – term ending 1/1/18
Jessica Jung – term ending 1/1/18
Carol Anhorn – term ending 1/1/18

Commissioner Sobolik moved the appointments be approved as outlined above.

Second by Williams. On call of the roll Commissioners Sobolik, Williams, Piepkorn and Mahoney voted aye.

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

Second Reading and Final Adoption of an Ordinance Repealing and Re-Enacting Article 25-04 of Chapter 25 of the Fargo Municipal Code Relating to Vehicles for Hire:

Assistant City Attorney Jason Loos said nothing has changed with the Ordinance in the last two weeks other than a couple of legislative bills coming forward that will be addressing transportation network companies and could affect this Ordinance.

Commissioner Piepkorn said he recommends tabling this discussion until the legislature addresses this issue.

Mr. Loos said he somewhat agrees with tabling the Ordinance due to the fact that what happens at the Legislature might impact what the City does with the Ordinance. However, he said, on the other hand, the main purpose of the taxi Ordinance is to relieve the Police Department from doing the background checks and issuing licenses.

Interim Police Chief David Todd said the way the current Ordinance is set up it requires the Police Department to do background checks on taxicab drivers and these types of businesses have quite a bit of employee turnover. He said the businesses have felt hampered by the amount of time it takes the Police Department to do the checks and feel that it is something that the businesses can handle themselves.

Commissioner Williams moved that the proposed Ordinance Repealing and Re-Enacting Article 25-04 of Chapter 25 of the Fargo Municipal Code Relating to Vehicles for Hire which was placed on its first reading January 19, 2015 be now placed on its second reading and a vote taken on the question of its final passage and adoption.

Second by Sobolik. On call of the roll Commissioners Williams, Sobolik and Mahoney voted aye.

Commissioner Piepkorn voted nay.

The motion was declared carried.

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

On the vote being taken on the question of the final passage and adoption of the Ordinance, Commissioners Williams, Sobolik and Mahoney voted aye.

Commissioner Piepkorn voted nay.

The Ordinance was duly passed and adopted.

Petition for Annexation of Land in Section 3, Township 138 North, Range 49 West Received and Filed:

A Notice was published in the official newspaper for the City of Fargo, as required by law, on January 26, 2015, stating that a petition had been filed with the City of Fargo for annexation of land located in Section 3, Township 138 North, Range 49 West, Cass County, North Dakota.

No protests have been filed with the City Auditor's Office after publication of the Notice.

The Board determined that no person is present to protest or offer objection to the annexation petition.

Commissioner Sobolik moved the Petition for Annexation be received and filed and the City Attorney be directed to draft an annexation Ordinance to be placed on 1st reading at the next regular meeting of the Board.

Second by Piepkorn. On call of the roll Commissioners Sobolik, Piepkorn and Mahoney voted aye.

Commissioner Williams voted nay.

The motion was declared carried.

Parcels of Land in Valley View Fifth Addition Rezoned (3751 54th Street South; 5460 and 5640 36th Avenue South):

At a Hearing held on January 6, 2015 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial with a C-O, Conditional Overlay to MR-1, Multi-Dwelling with the extinguishment of the C-O, Conditional Overlay on Lot 1, Block 5 of the proposed Valley View Fifth Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Piepkorn, Williams and Mahoney voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Valley View Fifth Addition, Fargo, Cass County, North Dakota:

Commissioner Sobolik moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Valley View Fifth Addition, Fargo, Cass County, North Dakota be placed on first reading.

Second by Piepkorn. On call of the roll Commissioners Sobolik, Piepkorn, Williams and Mahoney voted aye.

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

Resolution Adopted Approving Valley View Fifth Addition:

Commissioner Sobolik offered the following Resolution and moved its adoption:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Valley View Fifth Addition" containing 64 Lots, 5 Blocks, and 15.42 acres of land more or less, located at 3751 54th Street South; 5460 and 5640 36th Avenue South; and

WHEREAS, A Hearing was held January 6, 2015 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on January 26 and February 2, 2015 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., February 2, 2015 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Valley View Fifth Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the Office of the Recorder of Cass County, North Dakota.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Piepkorn, Williams and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

Application Filed by FCH Fargo HIE, LLC d/b/a Holiday Inn Express for an Alcoholic Beverage License Denied:

A Hearing had been set for this day and hour on the application filed by FCH Fargo HIE, LLC d/b/a Holiday Inn Express for a Class "GH" Alcoholic Beverage License at 1040 40th Street Southwest, notice of which had been duly published in the official newspaper for the City of Fargo.

City Auditor Steve Sprague said under the Class "GH" license extended stay hotels within certain parameters are allowed a managers special; however, the applicants' business model does not fit within those parameters. He said the Liquor Control Board is recommending denial of the liquor license, not because of any issues with the applicants, but due to the fact that this is the wrong type of license for what the applicant is requesting. He said he has been directed by the Board to work with the applicant to either amend the existing Ordinance so it fits the business model or create a new license that would fit the business model. Mr. Sprague said the applicants want to have a sundrie shop with a cooler that would offer a limited selection of either beer or wine. He said they want the customer to have the ability to access the cooler, bring their selection to the front desk to purchase it and then consume it either in the lobby area or in their rooms. He said there are just too many variables that did not fit with the license structure; therefore, he is recommending the application be denied.

Commissioner Piepkorn moved the application be denied.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Sobolik and Mahoney voted aye.

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

Application Filed by PAC DAK Hospitality, LLC d/b/a Holiday Inn Express & Suites I-94 for an Alcoholic Beverage License Denied:

A Hearing had been set for this day and hour on the application filed by PAC DAK Hospitality, LLC d/b/a Holiday Inn Express & Suites I-94 for a Class "GH" Alcoholic Beverage License at 4711 19th Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

Commissioner Piepkorn moved the application be denied.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Sobolik and Mahoney voted aye.

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

Application to Transfer the Alcoholic Beverage License from R.I. of Fargo, Inc. d/b/a Fargo Residence Inn to R.I. of Fargo Opco, LLC d/b/a Fargo Residence Inn Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "GH" Alcoholic Beverage License from R.I. of Fargo, Inc. d/b/a Fargo Residence Inn at 4335 23rd Avenue South to R.I. of Fargo Opco, LLC d/b/a Fargo Residence Inn 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 Piepkorn moved the application be approved.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Sobolik and Mahoney voted aye.

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

Application Filed by Nicholson Investment Company, LLC d/b/a The Spirit Shop for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Nicholson Investment Company, LLC d/b/a The Spirit Shop for a Class "B-Limited" Alcoholic Beverage License at 3102 36th Street South, notice of which had been duly published in the official newspaper for the City of Fargo.

The Board received a communication from City Auditor Steve Sprague stating the Police Department conducted the background check on the applicants and in that process Dan Nicholson self reported criminal drug related activity in 2013. Due to the recent nature of the criminal activity, he said, the Police Department is recommending issuing the license under a probationary status for three years. He said as long as there is not any more criminal activity for the next three years the probation will be removed; however, if such activities reoccur, Dan's name will be removed from the license.

Dan Nicholson, applicant, said he has worked very hard to get where he is today and is looking forward to building a dream store.

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 Piepkorn moved the application be approved with a three year probationary period and should the applicant have additional criminal activity during the three year period his name would be removed from the license.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Application to Transfer the Alcoholic Beverage License from Fort Nok's, Inc. d/b/a Fort Nok's "Bar of Gold" to F. Scott Neil d/b/a Fort Nok's Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "Z" Alcoholic Beverage License from Fort Nok's, Inc. d/b/a Fort Nok's "Bar of Gold" at 52 Broadway to F. Scott Neil d/b/a Fort Nok's notice of which had been duly published in the official newspaper for the City of Fargo.

City Attorney Erik Johnson said there was some discussion with this application as to what the transfer fee should be. He said last spring when the City

was expanding the number of "Z" licenses some amendments were also made to the Ordinance stating that after June 1, 2014 all liquor licenses would have to conform to a transfer law. Mr. Johnson said this license was issued years ago, so the question would be as to what the license transfer fee should be because as the Ordinance currently reads, it would be the initial license fee of \$105,000.00 and not the smaller annual fee of \$3,500.00.

Commissioner Piepkorn said he feels that Ordinance needs to be clarified for future licenses by stating that if the business is sold, the license comes back to the City. However, he said, if the business stays open as-is, the license would be transferred to the new owner and the annual fee would be paid.

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 Piepkorn moved the application be approved.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Sobolik and Mahoney voted aye.

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

Commissioner Piepkorn moved to direct the City Attorney to draft an Ordinance clarifying the amount that needs to be paid for the transfer of an existing liquor license.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Sobolik and Mahoney voted aye.

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

Application Filed by JGB, LLC d/b/a Kilstone Brewing for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by JGB, LLC d/b/a Kilstone Brewing for a Class "Y" Alcoholic Beverage License at 764 34th Street North, Suite R, 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 Piepkorn moved the application be approved.

Second by Sobolik. On call of the roll Commissioners Piepkorn, Sobolik, Williams and Mahoney voted aye.

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

Update on the Greater Fargo-Moorhead Economic Development Corporation's Strategic Plan:

Jim Gartin, President of the Greater Fargo-Moorhead Economic Development Corporation (GFMEDC), said in December the GFMEDC Board approved this five-year economic plan. He said he is presenting this document as an informational piece to let the Commission know what the GFMEDC's five-year mission is.

Commissioner Sobolik moved The Cass-Clay Economic Plan 2015-2020 from the Greater Fargo-Moorhead Economic Development Corporation be received and filed.

Second by Williams. All the Commissioners voted aye and the motion was declared carried.

Presentation on the Riverfront Development Master Plan:

Architect Richard Moorhead of the IMAGE Group said he would like to present to the Commission a draft of the Riverfront Design Study. He said it is intentionally a draft because it is an open ended document that is going to remain a working tool. He said the draft is an update of the 2001 Riverfront Development Master Plan that extends from Mikkelson Field to Dike East with a major emphasis on the downtown development along the river. He said he would like to recognize that the City has a one moment in time opportunity to make changes to this area. Mr. Moorhead also provided a PowerPoint presentation and video detailing how the downtown plaza area can transform into a central gathering place.

Commissioner Sobolik moved the Riverfront Development Master Plan be received and filed.

Second by Williams. All the Commissioners voted aye and the motion was declared carried.

2015 Capital Improvement Plan Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating City Engineer April Walker presented for the Committee's consideration a proposed 2015 Capital Improvement Plan (CIP). They said the plan includes:

- \$146 million in non-Diversion projects
- \$86 million in assessments
- \$16 million in non-city funding sources (NDSWC, NDDOT, SE Cass WRD, etc.)
- \$43 million in utility, sales tax, watermain replacement and *street rehab funds (*assumes a \$4 million onetime state aid allocation)
- New Developments and new Alley Paving (100% Special Assessed) \$58 million
- System Expansions
- New Arterial road construction, new sanitary sewer interceptor, new storm lift stations, new sidewalks and trails \$26.5 million
- Existing System improvements
- Traffic Improvements, Pavement rehabilitation, water main replacements, storm repairs, etc. \$24.3 million

They said this plan does not include projects that will be bid and constructed by the Enterprise Director, such as the Water Treatment Plant expansion and the sanitary

sewer forcemain that will be installed with the assistance of HGMP funding. They said these projects will be added to the 2015 CIP mapping but are not a part of the Engineering Department CIP projects budget.

City Engineer April Walker said in 2014 the Engineers presented a \$263.4 million plan and part of the direction the Engineers were given for 2015 was to look at a more manageable program. This year, she said, they are looking at a \$146 million program, which does not include anything related to the diversion. She said one thing that had to be cut from this year's program was the advancement of the 13th Avenue South project. She said the budget left the Engineering Department about \$4.5 million short from being able to fund the whole project this year.

Commissioner Sobolik moved the 2015 Capital Improvement Plan be approved.

Second by Williams. On call of the roll Commissioners Sobolik, Williams, Piepkorn and Mahoney voted aye.

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

Flood Mitigation Project Update:

Division Engineer Nathan Boerboom said as of January 16, 2015 the City is now working off of the new floodplain map with a river stage of 39.4 feet. With that new level, he said, there are just about 2,500 impacted structures and about 7,500 impacted properties. One thing to point out, he said, with the 39.4 foot elevation, is that after the diversion is in place all of the work that is being done in town will complement the diversion giving the City more of the 500-year flood protection. One other thing, he said, with the new floodplain map, is that the City just received a letter from FEMA today that the basement exception continuance request was granted. Following the flood of 2009, he said, the Engineering Department developed a Comprehensive Plan with the final draft being approved in 2012. He said this plan looks at what projects need to be completed along the river in order to remove properties from the new floodplain. Since 2009, he said, over 173 properties have been acquired, with 121 properties still needing to be acquired. He said over 16 miles of levees have been constructed, 15 miles of earth levees and 1 mile of floodwall at a cost of \$82 million. This also reduces the required amount of sandbags, he said, if the City were to experience a similar event as 2009, by approximately 4 million bags. He said the City of Fargo currently has 6 projects that are in design or under construction, as well as the Diversion Authority having an additional 6 projects in design or under construction in the City limits. He said once those projects are completed, that will give the City an additional 3.5 miles of protection with a remaining 13.38 miles to be completed.

Commissioner Piepkorn said that voluntary buy-outs are fine and good, but the Commission needs to talk about eminent domain due to the fact that the people who are not willing to do a buy-out are jeopardizing everyone behind them.

City Engineer April Walker said staff will put together a list of properties that Engineering would recommend beginning the eminent domain process on.

2015 City Social Service and Arts Fund Budget Approved:

The Board received a communication from Community Development Administrator Dan Mahli stating the City's Social Service and Arts Fund budget is \$363,000 and on January 22nd the Community Development Committee unanimously recommended the Board approve the 2015 Social Service and Arts Fund allocations. He said the proposed budget is listed as follows:

Arts Partnership - \$90,000 to support the Arts partnership's re-grant program.

CHARISM - \$15,000 to support youth development programs and skill building.

Children's Museum at Yunker Farm - \$5,000 to support the "Hands On" educational and recreational program.

Cultural Diversity Resources - \$18,000 for diversity training, leadership building, education and interpreters.

Emergency Food Pantry - \$5,000 to support emergency hunger relief efforts.

Family HealthCare Center - \$10,000 to provide health services to families and support Health Pitch.

Fargo Community Development Committee - \$20,000 to support public art projects.

Fargo Human Relations Commission - \$10,000 to support fair housing opportunities and community groups/activities.

Fargo Native American Commission - \$30,000 to provide support for Native American programs in Fargo.

Fargo-Moorhead Coalition for Homeless Persons - \$15,000 to administer emergency taxi rides and support Fargo's 10-year Plan.

Fargo Youth Commission/Boys & Girls Club - \$10,000 to support youth development program and transportation.

First Link - \$5,000 to fund the information and crisis services program.

Giving + Learning - \$5,000 to support volunteers who support English Language Learners.

Great Plains Food Bank - \$5,000 to assist in the recovery and distribution of surplus and donated food.

Handi-Wheels Transportation - \$20,000 to provide accessible and affordable transportation.

Healthcare Equipment Recycling Organization (HERO) - \$5,000 to assist in the recovery and distribution of healthcare accessories.

New Life Center - \$10,000 to provide emergency shelter and other basics of life services.

Nokomis Child Care Centers - \$5,000 to support scholarship program for low-income families.

ND Coalition for Homeless People - \$5,000 to support the development of HUD's Continuum of Care for housing.

Presentation Partners in Housing - \$5,000 to provide assistance for emergency rent and deposits.

Pride Collective and Community Center - \$3,000 to promote LGBT education, services and community activities.

Rape and Abuse Crisis Center of FM - \$15,000 to provide crisis support for victims of domestic violence and assault.

Red River Human Services Foundation - \$12,000 to support educational and social activities for people with developmental disabilities.

Valley Senior Services - \$20,000 to support the Meals on Wheels and Senior Ride programs.

YMCA of Cass and Clay Counties - \$5,000 to support early childhood development and readiness program.

YWCA Cass Clay-Emergency Shelter - \$15,000 to support shelter and housing programs, case management and advocacy services.

Commissioner Piepkorn said he is concerned that this is pitting the arts against individuals who need food, clothing and shelter.

Commissioner Sobolik moved the 2015 City Social Service and Arts Fund allocations be approved.

Second by Williams. On call of the roll Commissioners Sobolik, Williams and Mahoney voted aye.

Commissioner Piepkorn voted nay.

The motion was declared carried.

Legislative Update:

City Administrator Pat Zavoral discussed with the Commission the legislative hearings that would be occurring this week.

City Engineer April Walker stated HB 1322 related to Special Assessments is troublesome to the Engineering Department due to the fact that it would take away the ability of the engineers to charge 11% for their services and a 6% admin fee on any district that is special assessed. She said it limits the City's ability to recover costs on work that is done by the Engineering Department on a special assessment district.

Finance Director Kent Costin said there is a bill out there that would eliminate sales tax on clothing. With this bill, he said, the state would pay the City back for the loss of revenue; however, they are using figures that are six years old and the economy has ballooned over the last six years; therefore, the \$9.5 million that the State is suggesting in the bill to make up for the lost revenue would not be adequate.

Assistant City Attorney Jason Loos said HB 1144 would more or less ban all TNC's from operating in the State of North Dakota due to the insurance requirements making it too cost prohibitive to operate in the state. SB 2368 was actually drafted by Uber, he said, and he does not have any problems with the bill except for the last part which prohibits the City from having any local control over TNC's.

Planning Director Jim Gilmour stated HB 2329 would allow the Renaissance Zone to go from 38 blocks to 49 blocks, as well as providing another \$2 million for the Renaissance Zone Fund.

Interim Chief of Police David Todd said HB 1407 is an offender registry law and would help the Police Department to better monitor homeless offenders.

12th Avenue Bridge Update:

City Attorney Erik Johnson said the City of Fargo, along with the City of Moorhead, may be the new owners of the 12th Avenue Bridge as early as Friday.

Mayor Mahoney said a letter will be going out to the residents in that area making them aware of the situation.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, February 17, 2015.

Second by Sobolik. All the Commissioners voted aye and the motion was declared carried.

The time at adjournment was 7:16 o'clock p.m.