

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                      Monday:                                      September 12, 2016:

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, September 12, 2016.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Grindberg moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Gehrig moved that the Minutes of the Regular Meeting of the Board held on August 29, 2016 and the Special Meeting held on September 6, 2016 be approved as read.

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

Consent Agenda Approved:

Commissioner Strand moved the Consent Agenda be approved as follows:

1. 2nd reading, waive reading and final adoption of an Ordinance rezoning certain parcels of land lying in 45th Street Park Fifth Addition, Fargo, Cass County, North Dakota.
2. Resolution Approving Plat of Commerce on 12th Second Addition (Attachment "A").
3. Resolution Approving Plat of Commerce on 12th Third Addition (Attachment "B").
4. Contract Amendment with Reach Partners Inc. for The Fargo Project.
5. City Commission 2017 meeting schedule.
6. Purchase Agreement and Quitclaim Deed to Jeremy Disrud for property located at 2125 7th Avenue North.

7. Grant Agreement with Lutheran Social Services of North Dakota for Refugee Health Services in the amount of \$20,258.00 (Contract # 2017-HP 3).
8. Direct City Attorney's Office to review and update Article 13-04 of the Fargo Municipal Code relating to Food Service License Structure and associated Environmental Health fees.
9. Contract with the North Dakota Department of Health in the amount of \$509,135.00 for the WIC Program (CFDA #10.557).
10. Contract with Mapleton School District for nursing services for the 2016-2017 school year.
11. Application filed by John Riemann and Barbara Jean Thorson for a three-year tax exemption for improvements made to a building at 3119 Par Street North.
12. Applications for Games of Chance:
  - a. Chautauqua Reading Council for a raffle on 10/1/16.
  - b. YWCA Cass Clay for a raffle on 10/10/16.
  - c. NDSU Foundation and Alumni Association for a raffle at the Fargo Air Museum on 10/15/16.
  - d. NDSU Foundation and Alumni Association for a raffle at the Holiday Inn on 10/1/16.
13. Encroachment Agreement with Magellan Pipeline Company, LP (Project No. FM-15-A1).
14. Final Certification of Local Match with the North Dakota Department of Transportation (Project No. TN-14-01).
15. Contract Time Extension of 7 days for Project No. FM-15-B1.
16. Exchange of Property and Developer Agreement with West 45th Development, LLC and West 45th Business Center, LLC for Project No. VF-16-F.
17. Contracts and bonds for Project Nos. UR-16-B1 and WW1605.
18. Bills in the amount of \$13,318,554.60.

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

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

Preliminary Engineering Reimbursement Agreement with the North Dakota Department of Transportation Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating a document in reference to the

reconstruction of Main Avenue from University Drive to the Red River (Improvement District No. BR-18-A1) was reviewed. The project is intended to be funded with 80% federal funding, 10% state funding and 10% local with the exception of city water and sanitary sewer costs which are 100% city funding, they said, and the preliminary engineering would follow the same funding regime. An agreement is requested that states that if for some reason the City stops the project, the NDDOT will be reimbursed for federal and state money used on the design, they said. A circumstance where the city would not pursue the project is not foreseen, they said and staff recommends the mayor be authorized to execute the agreement.

Commissioner Strand moved the Preliminary Engineering Reimbursement Agreement with the North Dakota Department of Transportation be approved.

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

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

Encroachment Agreement for 200 20th Street North Approved (Improvement District No. SN-16-A1):

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating the committee reviewed a request for Cass Clay Creamery to encroach into the right-of-way for the purpose of providing parking. They said they have an existing undocumented encroachment and received an order to install sidewalks. They said the encroacher has been working with staff to find a way to accommodate a sidewalk while still providing for opportunity to use portions of the city right-of-way for their parking needs, they said, and improvements would be contracted by the encroacher.

Commissioner Strand moved the Encroachment Agreement with Kemps, LLC at 220 20th Street North be approved.

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

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

Bid Concurrence with the City of West Fargo for Improvement District NN-15-B (Commerce on 12th Addition):

The Board received a Report of Action stating the Public Works Projects Evaluation Committee (PWPEC) reviewed a communication from Engineering Special Services Division Engineer Brenda Derrig regarding a project that was bid and awarded by West Fargo. They said the project will have a City of Fargo share that is special assessed back to the benefitting properties. They said it was determined that the most efficient way to address storm water in Commerce on 12th was to carry it into West Fargo's drain system via a lift station which included a storm water pond to feed the pumps, and the developer then requested the pond be designed to regional standards. The City of Fargo's share will be assessed under Improvement District No. NN-15-B, they stated, and the bid awards total \$4,620,687.50. They said three contractors received awards as follows: Master Construction Company, Inc. in the amount of \$2,115,437.50; Key Contracting, Inc. in the amount of \$2,199,250.00; and

Rick Electric, Inc. in the amount of \$306,000.00, and staff recommends concurrence with the low bids and awards.

Commissioner Strand moved to concur with the recommendations of PWPEC and the City of West Fargo and award bids in association with Improvement District No. NN-15-B.

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

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

Final Balancing Change Order No. 2 for Improvement District No. BN-15-G1 Approved:

Commissioner Strand moved approval of Final Balancing Change Order No. 2 for an increase of \$21,392.46 for Improvement District No. BN-15-G1.

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

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

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-16-E1 Approved:

Commissioner Strand moved approval of the Contract between the City of Fargo and Dirt Dynamics, LLC for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-16-E1 in the City of Fargo, North Dakota.

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

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

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-16-E1 Approved:

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

RLI Insurance Company, in the amount of \$83,165.00, for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-16-E1 in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-L1 Approved:

Commissioner Strand moved approval of the Contract between the City of Fargo and Geo E. Haggart, Inc. for Sanitary Sewer, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-L1 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-L1 Approved:

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

Travelers Casualty and Surety Company of America, in the amount of \$201,982.40, for Sanitary Sewer, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-L1 in the City of Fargo, North Dakota.

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

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

State Water Commission Requests for Cost Reimbursement for FM Diversion Flood Project Costs Approved:

Finance Director Kent Costin said the \$2,900,000.00 request for cost reimbursement is a share of the MidAmerica buyout and the second request for \$4,655,547.00 is for a standard projects list much as seen in the past.

Commissioner Grindberg moved the cost reimbursement requests in the amounts of \$2,900,000.00 and \$4,655,547.00 for FM Diversion Flood Project costs be approved.

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

Commission Piepkorn voted nay.

The motion was declared carried.

Proposed Tax Exempt Review Committee Policy and Guidelines Revisions Referred Back to the Tax Exempt Review Committee for Further Discussion:

Commissioner Piepkorn said some of the Commissioners have requested the revisions to the Tax Exempt Committee Policy and Guidelines be referred back to the committee to allow for further discussion. He personally feels it has been well vetted and is well written, he said, and a significant amount of time has gone into the recommended revisions; however, in the spirit of allowing open forum, he is willing to return it to the committee. He said he would not anticipate a lot of changes.

Commissioner Grindberg said he asked for the delay and he feels there is much work yet to be done. He said the policy is too broad and he feels it needs to be focused on the base of what is being done as a city. He said he would like the opportunity to discuss that with the Tax Exempt Review Committee, he said and he would like to see a unanimous vote from the committee.

Commissioner Strand said he would like to get to the point where he can comfortably vote based on policy.

Commissioner Piepkorn said the existing policy will be followed for now.

Commissioner Piepkorn moved the Proposed Revisions to the Tax Exempt Review Committee Policy and Guidelines be referred back to the Tax Exempt Committee to allow time for further discussion.

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

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

Eminent Domain Process for Acquisition of 4449 Oakcreek Drive and Resolution of Necessity Adopted (Project No. MS-15-K0):

City Engineer April Walker said the request is for an update to the Resolution of Necessity associated with an eminent domain. She shared history related to the Oakcreek project and said it started with a petition from the neighborhood seeking alternatives for permanent flood control. More than a dozen alternatives were brought forward, she said, ranging from partial to complete protection, from no acquisitions to full acquisitions and from limited construction to full channel construction. She said following input from the neighborhood, alternatives were presented to the City Commission and the option selected involved the buyout of 13 homes and construction of an earth levee. Since November 2012, she said, 12 of the 13 homes have been purchased, and an earth levee has been constructed where those houses used to be. She said one home is left to complete this project. Work to date involved about \$6.5 million in acquisitions and moving expenses, she said, and about \$500,000.00 in the deconstruction of the existing homes and about \$730,000.00 in the construction of the levee. The appraisal on the remaining home at 4449 Oakcreek Drive came in at \$675,000.00, she said, and that was the basis of the offer made to the homeowner. This property is one that requires 14,000 sandbags to get to a protection level of 42 feet and to get to the level of the adjacent levee, which is 44 feet, would take about 25,000 sandbags, she said. The property was platted prior to the drain and river setback being adopted; however, under today's rules the house is wholly contained within the 175-foot setback, she said. That setback has to do with the ability to provide flood protection, as well as the geotechnical stability of the natural systems, she said. An action the Board voted on May 26, 2016 approved eminent domain and allowed the Engineering Department to go forward with appraisals and the negotiation process for acquisitions, she said and letters were sent to homeowners. An offer was extended to the owner of 4449 Oakcreek on March 3rd, she said, and that was followed by an updated offer on March 30th, correcting an error that led to an increased offer. She said in a follow up phone call in June, her staff was told there was no interest by the property owner to sell his home and negotiations were suspended. The Resolution of Necessity from the May 26, 2016 motion referred to certifiable protection and the comp plan adopted in November 2012, she said, and what has changed is that a revised comp plan was adopted that eliminated some projects once it was known the Diversion would go forward. She said communication would continue with the property owner and if the homeowner does not wish to negotiate or an impasse is reached, the next step would be to deposit into court and move forward.

Gary Cavett, 4449 Oakcreek Drive, said he was not aware this was on the agenda for the last City Commission meeting and he thanked the Commissioners for the opportunity to speak. He does not see why his home needs be demolished, he

said, due to the lot being above the floodplain and it has not flooded. He said he feels slumping problems in the back yards into the creek resulted from the city allowing the creek to be dredged, which was not authorized by the property owners and he hopes the city can find alternatives. He said when his house was built, the lot was built up to be three and a half feet higher than the rest.

Mayor Mahoney said the reality is the project is going forward. He said Mr. Cavett's option here is to argue against eminent domain and plead his case, if he chooses, but keep to the facts. The plan has been well vetted, he said, and that house cannot be protected as it presently sits, and a dike would be placed in front of the house if there were a flood.

Ms. Walker said the city does not believe it caused the harm Mr. Cavett refers to. She said there was change order to a project a number of years ago that constituted one piece of equipment for a few hours and it is hard to imagine how that little bit of work was enough to cause any instability for any breach of the river. She said Mr. Cavett's structure is above flood level; however, to create a continuous line of protection at 44 feet, which is what the city has built earthen levees to for numerous flood events, there is a need to build across there. To do that and be geotechnically stable, the house needs to be removed, she said. The item on the agenda, she said, was seen as an administrative action to approve the update of the Resolution of Necessity. The authority for eminent domain has already been approved, she said.

Mr. Cavett said he hoped to have the opportunity to show there are other options. He asked that the record show he feels the property at 4449 Oakcreek Drive is being proposed for demolition exclusively for the benefit of the residents of Fargo so they will not have to pay flood insurance premiums.

Commissioner Piepkorn said the reason for doing this is to not have to sandbag every time there is a flood. He said the city is getting out of the sandbag business and this is for permanent flood protection. The process of buying out homes can be unpleasant; however, this is for the good of the whole.

Marilee Wagner, 4408 Oakcreek Drive, said eminent domain means a homeowner does not have a choice and the neighborhood has gone through a lot with this process. She said that house has not been touched by water in recent floods and she can see both sides. She suggested perhaps there is some way this home could remain and be protected with sandbags.

In response to a question from Ms. Wagner about the timeline for flood protection in that neighborhood, Mayor Mahoney said the project will likely be done in 2017; however, certification will not happen until the Diversion is completed; likely 2024.

Gary Haynie, 4431 Oakcreek Drive, said many of the neighbors support the city in eminent domain, and when he asked the neighbors in support in attendance to stand, the majority of the audience stood.

Commissioner Piepkorn moved the eminent domain process for the acquisition of 4449 Oakcreek Drive for the completion of the Oakcreek levee section be approved, and the following Resolution be adopted:

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

**WHEREAS, The City of Fargo is a Municipal Corporation under North Dakota Century Code Chapter 40-06; and**

WHEREAS, The City of Fargo is vested with the powers enumerated in Chapter 32-15 of the North Dakota Century Code, including the power to secure control of property necessary to create, construct, operate, and maintain flood control and protection projects; and

WHEREAS, The Red River of the North, its tributaries, and associated drain system, are prone to frequent flooding which presents significant risk to the inhabitants of the city, property, infrastructure and the economy of the city of Fargo and the surrounding communities; and

WHEREAS, The City of Fargo has identified viable flood control and protection options;

WHEREAS, The City of Fargo has undertaken considerable effort, at considerable expense, to construct flood control and protection projects to protect the city of Fargo from anticipated flood events; and

WHEREAS, The City of Fargo, based on information and recommendation provided by the City of Fargo Engineering Department and consulting engineers, have identified properties necessary to be acquired in order to accomplish real and meaningful flood protection to the inhabitants, property, infrastructure, and economy of the city of Fargo; and

WHEREAS, The City of Fargo has negotiated in good faith to secure the identified necessary property by voluntary means.

NOW THEREFORE, BE IT RESOLVED, That the public use for the property identified is a use provided for by law.

BE IT FURTHER RESOLVED, That it is necessary for the City of Fargo to acquire the following identified property to allow for such use as the construction of a flood protection project to protect the City of Fargo: 4449 Oakcreek Drive South.

BE IT FURTHER RESOLVED, That the City of Fargo shall proceed with the requisite legal proceedings in accordance with North Dakota Century Code Chapter 32-15 to acquire the necessary property.

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

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

At 5:50 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

Application Filed by Beyond Shelter for Payment in Lieu of Tax Exemption (PILOT) Approved:

A Hearing had been set for this day and hour on an application filed by Beyond Shelter for a payment in lieu of property tax exemption (PILOT) for a project located at 4245 28th Avenue South that will include a 117-unit senior designated, affordable rental housing facility.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

City Assessor Ben Hushka said the applicant has had a number of similar projects and this is consistent with what was granted in the past, which is the



equivalent of a 15-year, zero payment in Lieu of Tax Exemption; however, it differs in that they have requested making the payment on the five percent of the yearly gross revenue under the program and have it built into the payment schedule.

Commissioner Piepkorn said this is for low income senior housing and there could not be a better example of something that will be great for the community. He said this is an area of need that will be growing.

Chris Schmitz, Beyond Shelter, Inc., said PILOT exemptions are used to drive down rent. He said without the exemption the rent on these units would be about \$109 per unit higher each month. There is a huge demand in Fargo and a very low vacancy rate in affordable senior housing, he said. A renter must be 55 or older, he said, and earn 60 percent or less of average median income and eight units will be set aside for 30 percent. He said Beyond Shelter, Inc. has 409 affordable units in Fargo and about half are senior units with the average tenant being a 71-year-old female with income equivalent to \$8.63 an hour. He said when possible rents are deep targeted, the 60% average median income units are really paying about a 48% level.

Commissioner Grindberg moved that the application filed by Beyond Shelter for a fifteen-year payment in lieu of tax exemption at 100% for years 1-3, 5% x Gross Rend-Utility Expense-Land Tax for year 4, and 2% increase per year over year 4 PILOT for years 5-15 for a 117-unit senior designated, affordable rental housing facility at 4245 28 Avenue South pursuant to Chapter 40-57.1, NDCC be approved.

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

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

Hearing on the Annexation of Part of Sections 12 and 13, Township 138 North, Range 49 West and Sections 7 and 18, Township 138 North, Range 48 West of the 5th Principal Meridian, Cass County, North Dakota, containing 96.10 acres, more or less, Continued to September 26, 2016:

This was the time and date set for a hearing on the Annexation of Part of Sections 12 and 13, Township 138 North, Range 49 West and Sections 7 and 18, Township 138 North, Range 48 West of the 5th Principal Meridian, Cass County, North Dakota, containing 96.10 acres, more or less; however, staff is requesting the Hearing be continued to September 26, 2016.

Mayor Mahoney said even though the Hearing will be continued to the next meeting, there are residents present who came to speak.

Planning Director Jim Gilmour said the Planning Department thought it best to have the annexation together with the plat and rezoning which will be brought to the Board in two weeks for a pending subdivision.

Cindy Prigelmeier, 7313 South University Drive, said she understood from discussions a couple years ago this would be an area for a dike. She said she does not see a benefit to the homeowners to be annexed and is concerned about astronomical assessments for things like the streets, water and sewer that they already have.

Mr. Gilmour said one benefit the homeowners would receive is a better fire protection rating. He said the city does not have any big plans for major

improvements, the reason to include the area was so there would not be a small island surrounded by city.

Director of Engineering Mark Bittner said the intention was to utilize FEMA funds through Cass County to acquire the properties with the intention of extending the levee further south on the west side of University Drive.

Ben Pitz, 7305 South University Drive, said he is against the annexation. He said assessments were done by the county on his property a couple years ago and came in very low. He said he feels if the properties are annexed, the next step would be buyouts for a dike.

Mr. Gilmour said the city would want jurisdiction on University Drive due to the other development in the area. He said he believes when area properties were bought out by the county, they were deed restricted and if there were a dike it could only be done as an emergency measure.

City Engineer April Walker said there is a plan created that included a levee in the frontage road area on the west side of University Drive. She said that plan was not a part of the revised comp plan adopted by the city, so at present there is no funding to pursue that. She said as far as needs for the Diversion, it would only need to be completed if going to 500-year level protection.

In response to a question from Mr. Pitz about whether annexation process would result in new infrastructure, Ms. Walker said it is a possibility. At the end of the useful life of a septic system, the city would seek for the homeowners to request infrastructure. Paved roads are easier to maintain than gravel, she said, and assessments would be to all of the fronting property if a project moved forward.

Commissioner Strand moved the Hearing be continued to 5:15 o'clock p.m., Monday, September 26, 2016.

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

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

Amendment to the Growth Plan of DK First Addition Approved (3475 39th Street South and 4001 36th Avenue South):

A Hearing had been set for this day and hour to consider approval of an amendment to the Growth Plan consisting of DK First Addition (3475 39th Street South and 4001 36th Avenue South).

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their August 2, 2016 meeting.

No written protest or objection to the amendment to the Plan has been received or filed in the Planning and Development Department.

The Board determined that no person is present to protest or offer objection to the Growth Plan amendment.

Commissioner Grindberg moved the amendment to the Growth Plan be approved.

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.

Parcels of Land in DK First Addition Rezoned:

At a Hearing held on August 2, 2016 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LI, Limited Industrial on Lots 1-14, and LI, Limited Industrial with a C-O, Conditional Overlay on Lots 1-7 to DK First 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 Grindberg 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 and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Grindberg, Gehrig, Strand, Piepkorn 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 DK First Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Grindberg 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 DK First Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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.

Resolution Adopted Approving DK First Addition:

Commissioner Grindberg 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 "DK First Addition" containing 14 Lots, 1 Block, and 13.14 acres of land more or less, located at 3475 39th Street South and 4001 36th Avenue South; and

WHEREAS, A Hearing was held August 2, 2016 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 August 29 and September 5, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 12, 2016 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 "DK First 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Grindberg, Gehrig, Strand, Piepkorn and Mahoney voted aye.

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

Parcels of Land in Fargo Park District North Maintenance Addition Rezoned (1202 7th Avenue North):

At a Hearing held on August 2, 2016, the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to DMU, Downtown Mixed Use on Lot 5, Block 1, Fargo Park District North Maintenance 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 Grindberg 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Grindberg, Gehrig, Strand, Piepkorn 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 Fargo Park District North Maintenance Addition, Fargo, Cass County, North Dakota:

Commissioner Grindberg 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 Fargo Park District North Maintenance Addition, Fargo, Cass County, North Dakota be placed on first reading.

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.

Appointments to the Human Relations Commission:

The Board received a communication from Mayor Mahoney recommending that Paul Jensen and Barry Nelson be appointed and Tanya RedRoad and Abdiwali Sarif-Abdinasir be reappointed to the Human Relations Commission.

Commissioner Strand moved Paul Jensen be appointed and Tanya RedRoad and Abdiwali Sarif-Abdinasir be reappointed to the Human Relations Commission for three-year terms ending July 1, 2019, and Barry Nelson be appointed to the Human Relations Commission to fill the vacancy created by the resignation of Waseem Atlaf for a term ending July 1, 2017, and to further approve the continued involvement of Latetia Hellerud as an ex-officio non-voting member for a term ending July 1, 2019.

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

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

Construction Projects Update:

City Engineer April Walker shared an update of the current construction projects, progress and closures including pictures of projects in progress

Commissioner Gehrig moved that the Board adjourn to 5:00 o'clock p.m., Monday, September 26, 2016.

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

The time at adjournment was 6:35 o'clock p.m.