

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                  Monday:                                  September 26, 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 26, 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 Strand moved the Order of the Agenda be approved, moving Item No. "32" from the Consent Agenda to the Regular Agenda.

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

Minutes Approved:

Commissioner Piepkorn moved the Minutes of the Regular Meeting of the Board held on September 12, 2016 be approved as read.

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

Mayor Mahoney read a statement with information about the Metro Area Mayors Blue Ribbon Commission on Addiction which launched September 26, 2016 and will study and recommend actions aimed at ending the addiction epidemic. He also reported the Fire Department has returned to its downtown home after needed renovations and improvements were completed. The mayor reported the water treatment plant expansion is approximately 40 percent complete, on schedule and on budget. He also commented on street parking usage downtown and acknowledged the City's Forestry staff who are working to plant trees throughout the city.

Consent Agenda Approved:

Commissioner Gehrig moved the Consent Agenda be approved as follows:

1. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 9/12/16:
  - a. DK First Addition to the City of Fargo, Cass County, North Dakota.
  - b. Fargo Park District North Maintenance Addition, Fargo, Cass County North Dakota.
  
2. Receive and file Year to Date - Budget to Actual Report for August 2016.

3. Resolution Calling for a Public Hearing on an Issue of Revenue Bonds on Behalf of Sanford with hearing to be set for 5:15 pm on October 24, 2016. (Attachment "A").
4. Transition to BCBSND as the City's dental insurance provider and renewal of Mutual of Omaha Life Insurance effective January 1, 2017.
5. Recommendation from the PEC to reclassify a vacant Shelter/Detox Assistant Director position (Grade 11) to a Shelter/Detox Public Health Nurse position (Grade 13) effective immediately.
6. Adopt Resolutions Approving the following Plats:
  - a. Eagle Valley Second Addition (Attachment "B").
  - b. Bentley Square Addition (Attachment "C").
  - c. Osgood Townsite Thirteenth Addition (Attachment "D").
7. Parking Lease Agreement with BDH Hotel Ventures, LLC for parking in the Civic Center Parking Ramp.
8. Budget Amendment for an increase of \$120,000.00 to allow for the purchase of TIBA Parking Control System from TAPCO for the Civic Center Parking Ramp.
9. Planning Department budget amendment in the amount of \$400,000.00 for the Cooperative Agreement with the EPA for the Brownfield Assessment Grant.
10. Master Services Agreement with Stantec to implement the EPA's Brownfield Assessment Grant.
11. Offer a letter of support for the Low Income Housing Tax Credit application for the Roosevelt Village Apartments at 64th Avenue and 25th Street South.
12. Change Order from Prairie Restoration, Inc. for an increase of \$32,000.00 for The Fargo Project.
13. Bid award to Earthwork Services, Inc. for the water features of The Fargo Project.
14. Purchase of three paratransit vehicles from North Central Bus Sales.
15. Purchase of twelve MobileView 3000 vehicle security camera systems for the Transit Department.
16. State Aid for Public Transit Agreement with the NDDOT in the amount of \$453,294.52.
17. Reject bids received for the GTC Deck Repairs and Exhaust Duct Relocation and authorize rebid.
18. Applications for Games of Chance:

- a. YWCA Cass Clay for a raffle on 11/10/16 (amended).
  - b. Bennett Elementary PTA for bingo from 10/14/16 to 4/7/17.
  - c. United Way of Cass-Clay for a raffle on 10/3/16.
  - d. El Zagal Temple Holding Company for a raffle on 2/18/17.
  - e. United Way of Cass-Clay for a raffle on 11/3/16.
  - f. Lewis and Clark Elementary PTA for raffle and bingo on 10/28/16.
19. Applications for tax exemptions for improvements made to buildings:
- a. Denley B. and Beverly J. Jacobson, 2202 35th Avenue South (3 year).
  - b. Bjorn D. and Chastity L. Odden Heide, 3726 Fairway Road North (5 year).
  - c. Russell K. and Gloria J. Emerson, 3526 10th Street South (5 year).
20. Police Department budget adjustments and NDDOT Grant, in the amount of \$52,400.00, for Seat-Belt, Impaired Driving, Distracted Driving Enforcement and Education Activities and Under-Age Drinking Enforcement (CFDA #20.616).
21. Contract Amendment with Tyler Technologies, Inc. for Civic SoftCode Software.
22. Grant Agreement with the ND Department of Health in the amount of \$23,000.00 for the Chronic Disease Program (CFDA #93.758).
23. Service Agreement with Fargo Public Schools for nursing services for Special Education services for school year 2016-2017.
24. Resolution Approving Inspection Fees, License Fees, Permit Fees and Reinstatement Fees – Environmental Health for 2017 (Attachment “E”).
25. Purchase Agreement with Francine C. Brenan & Alerus Financial, as Co-Trustees of the Francine C. Brenan Revocable Living Trust for property at 3738 River Drive South (Project No. MS-15-K0).
26. Purchase Agreement with Sandra F. Rader for property at 4009 Copperfield Court (Project No. MS-15-K0).
27. Purchase Agreement with Kent G. and Kathleen A. Yohe for property at 801 Harwood Drive South (Project No. MS-15-K0).
28. Purchase Agreement with Marc D. and Susan L. Shannon for property at 3732 River Drive South Project No. MS-15-K0).
29. Partial Release of Permanent Easements on recorded document Nos. 1359977 and 1061967.
30. Grant Agreement with the North Dakota Humanities Council, Inc. for the Fargo Public Library.

31. Solid Waste Management Agreement with Ditterick Wolsky Investments dba Bin There, Dump That, effective October 1, 2016.
32. Red River Valley Water Supply Project Development Agreement with Lake Agassiz Water Authority for a water supply nomination for the preliminary design phase of the Red River Valley Water Supply Project (moved to the Regular Agenda).
33. 2016/2017 sidewalk snow and ice removal services contract award to All Terrain.
34. Contract and Bond for Project No. PR-16-E1.
35. Bills in the amount of \$20,734,618.87.

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

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

Change Order No. 1 for Improvement District No. PN-15-K1 Approved:

Commissioner Gehrig moved approval of Change Order No. 1 for an increase of \$6,205.00 for Improvement District No. PN-15-K1.

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

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

Change Order No. 2 and Time Extension to October 16, 2016 for Improvement District No. UR-16-A1 Approved:

Commissioner Gehrig moved approval of Change Order No. 2 for an increase of \$3,082.80 and Time Extension to October 16, 2016 for Improvement District No. UR-16-A1.

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

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

Contract Time Extension to October 28, 2016 for Improvement District No. BR-16-A1 Approved:

Commissioner Gehrig moved approval of a contract time extension to October 28, 2016 for Improvement District No. BR-16-A1.

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

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

Final Balancing Change Order No. 1 for Improvement District No. TN-15-B1Approved:

Commissioner Gehrig moved approval of Final Balancing Change Order No. 1 for an increase of \$46,302.80 for Improvement District No. TN-15-B1.

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

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

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J:

Commissioner Gehrig moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J:

Adopt Resolution Creating Improvement District No. BN-16-J:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. BN-16-J in the City of Fargo, North Dakota, be created

On Sheyenne Loop North from 19th Avenue North to 19th Avenue North.

Comprising

Lots 1 through 7, Block 1.

Lots 1 through 3, Block 2.

All platted in Northern Sheyenne Land 2nd Addition.

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, Paving, Street Lights and Incidentals Improvement District No. BN-16-J 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. BN-16-J:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. BN-16-J 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 \$1,922,523.63.)

Order Plans and Specifications for Improvement District No. BN-16-J:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. BN-16-J in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. BN-16-J:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. BN-16-J 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. BN-16-J 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 Sanitary Sewer, Water Main, Storm Sewer, 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J 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 Sanitary Sewer, Water Main, Storm Sewer, 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. BN-16-J:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. BN-16-J in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-16-K1 Approved:

Commissioner Gehrig moved approval of the Contract between the City of Fargo and Master Construction Company, Inc., Fargo, North Dakota for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-16-K1 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-16-K1 Approved:

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

Western Surety Company, in the amount of \$716,105.90, for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-16-K1 in the City of Fargo, North Dakota.

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

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

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

Finance Director Kent Costin said the State Water Commission is requesting \$22,500,000.00 for cost reimbursement for the Fargo-Moorhead Area Flood Risk Management Project.

Commissioner Grindberg moved the cost reimbursement request for \$22,500,000.00 for the FM Diversion Flood Project 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.

Discussion Regarding Refugee Resettlement:

Commissioner Piepkorn said the City of Fargo, Cass County, West Fargo and Fargo and West Fargo school districts are spending millions of dollars on refugees and this makes an impact on taxpayers. He said he wants to find out who determines the number of refugees who come here because the Board does not have any input. He said the Board, as a governing body, should have input. He said the definition of an unfunded mandate is a statute or regulation which requires a state or local government to perform certain actions with no money provided for fulfilling the requirements. He said he thinks the refugee issue here is the definition of an

unfunded mandate. The federal government is sending refugees here, he said, and the City is required to do all the spending and he knows it is complicated; however, it is a huge liability assumed by the Board and the taxpayers.

Commissioner Strand said he knows the questions are out there; however, the costs to schools is not as significant as what people might think. He said the Board's job is to do our best to integrate and assimilate New Americans any way we can with jobs, learning English and cultural exchanges. He said it is a legitimate topic and we need an inclusive community so there are more successes.

Mayor Mahoney requested Community Development Administrator Dan Mahli bring back information about refugee costs for a presentation at the next Commission meeting.

Commissioner Grindberg said the Board needs to be sensitive to New Americans as well as the community. He said everyone is aware of a recent resident refugee moving from Fargo to St. Cloud, Minnesota. He asked Mr. Mahli to bring back any dialogue there has been with the North Dakota and National League of Cities. He said it is important to work with state and federal associations if the Board is going to change policy at the federal level regarding immigration policy and to have input.

Commissioner Piepkorn said he also has questions about the Health Department and background checks. He asked how refugees are screened and if it is similar to when kids get immunizations and if people sent here are law-abiding citizens. He said this should be the Board's call, the federal government is sending them to our community and the Board should be involved otherwise it is an unfunded mandate and it is not just in Fargo.

Resolution Adopted Determining Protests Insufficient on Resolution Annexing 96.1 Acres of Land on 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:

The Board received a communication from Planning Director Jim Gilmour stating on August 1, 2016, the Board adopted a Resolution to annex 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 96.1 acres, more or less. Mr. Gilmour said the annexation was initiated earlier this year and the protest deadline passed with insufficient protests. He said six residents met with the Mayor and Planning due to the fact that they are looking for assurances the City is not going to require paved streets, fire hydrants and sidewalks. He said that has not been the City's intent with annexation of rural properties and a Memorandum of Understanding was drawn up which gives the residents assurances the City would not bring in urban services. He said the residents do not want to be bought out as part of the City's flood protection program, which is another point in the agreement.

In response to a question from Commissioner Gehrig about what is the need for these properties, Mr. Gilmour said if the City needed to provide emergency flood protection they would not have to consult with the County or Township. He also said if University Drive needs to be improved to more of an urban standard as development goes to the south, it makes more sense if this part of University Drive is in the City rather than the County.



Commissioner Grindberg said he is comfortable with the annexation; however, he is reluctant with any buyout language. He said it needs more vetting to decide what is the right thing to do, including present policy versus background. He said he wants to offer that the Board go ahead with the annexation but hold off on any language tied to buyouts.

In response to a question from Mayor Mahoney on whether the Memorandum of Understanding could be included in the motion, City Attorney Erik Johnson said the motion is self-contained and the motion is all that is needed and relative to the potential agreement. He said the Memorandum of Understanding could be up for discussion in two weeks.

Commissioner Strand said the annexation was proposed in 2014 and the Board opted not to go forward due to landowner protests; however, since then nine properties have been taken ownership by the county, two by the city, so out of seven remaining homes there are six protesting. He said they do not stand a chance when they are facing 11 to 13 properties owned by the city or county and they cannot get an adequate percentage. He said the voice of the people is diminished significantly and watered down by the government taking ownership of most of the properties.

Mr. Gilmour said in 2014 when this started, all of the properties were still there and there still was not sufficient protest. He said the landowner to the north, Fred M. Hector Jr., started the annexation then changed his mind and protested, so the city dropped it.

In response to a question from Mayor Mahoney about what kind of buying program was done, Mr. Gilmour said it was a voluntary buyout by the county based on appraised values. He said with annexation the City can place the temporary levee within the City rather than having to ask the County.

City Engineer April Walker said the original comprehensive plan included a levee to be constructed on the roadway, then the revised plan was adopted. She said if the City does not annex, the City would have to work with the County so it is just a matter if the Board wants authority over the area in an emergency.

Commissioner Grindberg offered the following Resolution and moved its adoption:

WHEREAS, A Resolution of Annexation was published, as required by law, in the official newspaper for the City of Fargo on August 8 and 15, 2016, annexing approximately 96.1 acres of land located in 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 96.1 acres, more or less; and

WHEREAS, The Board of City Commissioners finds that protests representing 2.49% of the protest area have been filed with the City Auditor's Office after publication of the Annexation Resolution adopted by the Board of City Commissioners on August 1, 2016.

NOW, THEREFORE, BE IT RESOLVED, That the protests be declared insufficient and that the tract of land described in said Resolution of Annexation be and the same is hereby annexed to, made part of and included within the corporate limits of the City of Fargo, Cass County, North Dakota, and that the City Auditor's Office be and is hereby directed to record said annexation plat in the Cass County Recorder's Office in Fargo, North Dakota.

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

Commissioners Strand and Gehrig voted nay.

The resolution was adopted.

Commissioner Strand moved the Memorandum of Understanding be approved.

The motion died for lack of a second.

Parcels of Land in Brandt Crossing Tenth Addition Rezoned (3270 51st Street South):

At a Hearing held on July 5, 2016 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling Residential to LC, Limited Commercial with a C-O, Conditional Overlay on Lot 3, Block 1 of Brandt Crossing Tenth 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.

Planning Administrator Nicole Crutchfield said this is a minor plat change which includes moving a lot line and the zoning is a change to limited commercial. She said due to the fact that it is a zoning change, a public hearing is required.

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

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

First Reading of an Ordinance Rezoning Brandt Crossing Tenth 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 Brandt Crossing Tenth Addition, Fargo, Cass County, North Dakota be placed on first reading.

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.

Resolution Adopted Approving Brandt Crossing Tenth Addition:

Commissioner Grindberg offered the following Resolution and moved its adoption:

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Brandt Crossing Tenth Addition" containing 2 Lots, 1 Block and 5.868 acres of land more or less, located at 3270 51st Street South; and

WHEREAS, A Hearing was held July 5, 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 September 12 and 19, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 26, 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 "Brandt Crossing Tenth 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 Grindberg, Piepkorn, Strand, Gehrig and Mahoney voted aye.

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

Parcels of Land in Bison Meadows Addition Rezoned (6811 and 6875 University Drive, and 1804-1848 67th Avenue South):

At a Hearing held on August 2, 2016 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to SR-4, Single-Dwelling Residential with a C-O Conditional Overlay and P/I, Public and Institutional.

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.

Planning Administrator Nicole Crutchfield said the subdivision was approved in 2014; however, it did not go forward because the developer wanted to do something different. She said the lots are now smaller, with 297 single family homes, five public lots for park land and on the back end of the development there are dry retention basins.

In response to a question from Commissioner Strand about a letter from a citizen who raised concerns about school capacity, Planning Director Jim Gilmour said the school district is aware of developments which has affected the district's decisions, included building Ed Clapp and Eagle Elementary Schools, which lowered the capacity at Bennet. He said the district is now closely watching the middle school capacity; however, with Discovery almost at capacity, it will be the challenge on when

and where to build a new school. He said there is an option southwest of Bison Meadows Addition which would be sufficient for another school.

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 Bison Meadows Addition to the City of Fargo, Cass County, North Dakota Approved:

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 Bison Meadows 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, Piepkorn, Strand and Mahoney voted aye.

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

Resolution Adopted Approving Bison Meadows Addition:

Commissioner Grindberg offered the following Resolution and moved its adoption:

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Bison Meadows Addition" containing 304 Lots, 8 Blocks and 77.23 acres of land more or less, located at 6811 and 6875 University Drive, and 1804-1848 67th 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 September 19 and 26, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 26, 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 "Bison Meadows 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.

Amendment to the Growth Plan of Golden Valley Second Addition Approved (6737 25th Street South):

A Hearing had been set for this day and hour to consider approval of an amendment to the Growth Plan consisting of Golden Valley Second Addition.

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their September 6, 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 Piepkorn. On call of the roll Commissioners Grindberg, Piepkorn, Gehrig and Mahoney voted aye.

Commissioner Strand voted nay.

The motion was declared carried.

Parcels of Land in Golden Valley Second Addition Rezoned:

At a Hearing held on September 6, 2016 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to SR-4, Single-Dwelling Residential with a C-O Conditional Overland and MR-1, Multi-Dwelling Residential in Golden Valley Second 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 moved the zoning change for Golden Valley Second Addition from AG, Agricultural to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay and MR-1, Multi-Dwelling Residential be approved and the City Attorney be directed to draft an ordinance to bring back in two weeks.

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

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

Plat of Golden Valley Second Addition Denied:

Planning Administrator Nicole Crutchfield said the original master plat for this addition came out in 2012 and at that time Planning looked at the roadway network continuity. The growth plan, she said, was to request a change to the corner of 70th Avenue and 25th Street South to single-family zoning. She said some members of the Planning staff were concerned about getting neighborhood commercial services in this vastly residential area and to preserve commercial development such as grocery stores. She said Planning is recommending denial of the plat as it is now due to the fact that Planning wants to reserve one or two of the lots to guarantee access across Drain 53. She said without access across the drain, access for development to the west will be limited and this is fairly prime land once flood protection is in place. She said the standard alignment section for arterial streets between the river and interstates shrinks, and north-south and east-west connectivity is not going to work and there will be more quasi arterial collector roads, not the straight roads. For the plat, Planning is asking for reservation of right-of-way for a crossing if it is needed later on, she said, however; the developer is not in favor of it.

Jim Bullis, a representative of Eagle Ridge Development, said this will completely change the characteristics of this development. He said the city will have to build a \$2 million bridge because it is a large expense. Additionally, he said, it will bring traffic right through the middle of the development and like 40th Avenue South, it will break the neighborhood in half. He said he does not want to dedicate the right-of-way and has offered land at 73rd Avenue, which he says makes more sense because a bridge there is not needed, it is a much smaller cost at a better location.

In response to a question from Commissioner Piepkorn about connectivity being the key thing, Ms. Crutchfield said it means access for walkability, emergency access and ways to get across. She also said the City did not get access as part of the original Golden Valley development due to the fact that at that time the developer promised it from 70th to 68th Avenue.

City Engineer April Walker said a bridge would be very expensive; however, a preliminary hydraulic analysis for the location at 64th Avenue showed it cannot get to 2009 level of protection but post diversion it could provide 100-year flood protection and it could be handled with box culverts. She said the benefit of connectivity is that it is important to not have children walk next to an arterial road and this gives them an alternative.

Mr. Gilmour said the Board does not have to make a decision at this time on box culverts or bridges, just to keep one or two lots open so this could possibly be done in the future should it be cost effective to do so. He said if Planning does not have the lots the City will not have the opportunity in the future. He said the motion to deny the plat is recommended therefore Planning can go back to the drawing board for a new plat.

Mr. Bullis said he agrees the Board should deny the plat due to the fact that it is not something he can fix by just carving out a lot; he has to change the plan for the property.

Commissioner Grindberg moved the plat of Golden Valley Second Addition be denied.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

Tax Levies for the Budget Year Beginning January 1, 2017 and ending December 31, 2017 Approved:

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for a Hearing on the 2017 Budget at which time all interested persons could appear and would be heard.

Manager of Communications and Public Affairs Gregg Schildberger played a video regarding the 2017 Preliminary Budget. Following the video, Mayor Mahoney opened the meeting for public comment.

Dayna Del Val, The Arts Partnership; David Bertolini, Chairman of the Arts and Culture Commission; David Hamilton, General Director of the Fargo-Moorhead Opera and a professor at Concordia College; Heather Zinger, artist; and Linda Boyd, Executive Director of the Fargo-Moorhead Symphony, all spoke on the importance of investing in the arts,

Duane Hoksteder, a Fargo resident for 32 years, said his property taxes have been increasing nearly every year. He said this year they went up 10 percent on top of the 10 percent from last year. He asked at what point will the taxpayers be told they have contributed enough. He said the City needs to look at doing more with less.

Finance Director Kent Costin presented a review of the tax notices mailed out by Cass County. He said the notices created quite a stir, they were labeled notice of valuation increase and they tried to communicate what tax bills were going to be; however, Fargo had not yet approved the preliminary budget. He said if a property owners value went up more than 10 percent or \$3,000.00, those owners received the notices. He said the state mandates these disclosures and Fargo's taxable valuation went up 12 percent and values continue to go up. He said the 1.69 percent increase in the general fund for next year is a formidable achievement in light of the needs of a growing city. It is a modest budget increase, he stated, at the expense of cutting heavy equipment, vehicle replacement, things used every day to take care of the City, to plow the streets, put out fires and catch criminals. He said 57 percent of the requests were cut in an attempt to keep the rate of taxation low. The state continues to buy down property tax rates, he said, and properties are assessed at market value and have to be within 90 percent, which is required by law.

Ron Gilmore, 2817 Parkview Drive South, spoke on behalf of five couples who could not be at the Commission meeting. He said they are older people from his church who in the past few months have had to put their homes up for sale due to the fact that they are on fixed incomes and cannot afford to pay the property taxes due to the evaluations and increases. He said no matter the reason, it is more money every year and everything else is going up. Older residents are moving away from the community, he said, because they cannot afford to live here anymore, pay their taxes or afford to fix up their homes. He said the City is taking his retirement money and throwing it away. He said he wants to live here; however, he is looking elsewhere. He said he knows Fargo is growing because of the tax incentives; however, he said once those people reach tax abatement level, they sell or leave.

Mayor Mahoney said there are programs to help people on fixed incomes with their homes and suggested Mr. Gilmore contact Mr. Mahli in the Planning Department.

Commissioner Gehrig offered ideas on how to cut the budget without affecting benefits, pay, new and existing hires, Fire, Police or any other core responsibilities.

He suggested cuts to travel budgets, keeping arts funding the same as last year, cutting the Link F-M bus and the miscellaneous fund for the Street Department.

Commissioner Piepkorn said Link F-M is a necessity because the City is losing parking downtown until the new parking ramps are built.

Mayor Mahoney said the travel budget includes education and fees to groups such as the National League of Cities. He also stated this year the Legislature will be in session so there will be more travel to Bismarck.

Commissioner Strand said he does not want to micro-analyze each line item; however, he would like to take more money from reserves.

Commissioner Strand moved to reduce the proposed 2017 mill levy to three mills instead of two mills, and to reduce the ending fund balance from \$34,092,979.00 to \$33,627,975.00.

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

Commissioners Grindberg, Piepkorn and Mahoney voted nay.

The motion died for lack of a majority.

Commissioner Grindberg said he is uncomfortable balancing the budget on reserves. He said no one can forecast what will happen at the state level. He said it is a fair budget, but with recent news, he said the state has not hit bottom yet and another \$9 million in cuts could come. He said economic recovery will take a long time.

Commissioner Grindberg moved the 12-month budget beginning January 1, 2017 and ending December 31, 2017 be approved as follows:

General Fund	\$95,706,000
Special Revenue Funds:	
City Share of Special Assessments	\$500,000
Noxious Weeds	50,000
Convention Bureau	2,400,000
Regional Law Enforcement Training Center	90,000
Court Forfeits	160,000
Skyway Maintenance	102,000
Downtown Business Improvement District	220,000
Neighborhood Revitalization Initiatives (NRI)	21,000
Community Development Block Grants	733,000
HOME Program	30,000
Neighborhood Stabilization Grant	419,000
HOME Projects	522,000
Parking Authority Operations	1,589,000
Parking Repair and Replacement	375,000
Newman Outdoor Stadium	220,000
Total Special Revenue Fund Expenditures	\$7,431,000
Debt Service Fund Expenditures	\$66,316,685



Enterprise Funds:	
Water	\$24,642,832
Solid Waste	16,490,425
Wastewater	10,574,440
Water Revenue Bond	3,942,600
Forestry	2,051,327
Street Lighting	1,962,005
Storm Sewer	1,685,005
Vector Control	756,500
Southeast Cass Sewer	48,700
Total Enterprise Fund Expenses	\$62,153,834

Pension Trust Funds:	
City Employee Pension	2,847,000
Police Pension	3,945,000
Total Pension Trust Funds	\$6,792,000

Airport Authority:	
Operations & Maintenance	\$5,347,737
Airport Construction	10,563,255
Passenger Facility Surcharge (PFC)	2,700,000
Total Airport Authority Expenses	\$18,610,992

FargoDome:	
Operations	\$5,963,105
Sales Tax Surplus	50,000
Restricted Capital	2,448,368
Total FargoDome	\$8,461,473

Convention Bureau:	
Operations	\$2,399,812
Restricted Capital	865,059
Total Convention Bureau	\$3,264,871

Grand Total - All Funds	\$268,736,855
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Preliminary Tax Levies Are:	
General Fund	49.90
City Share of Special Improvements	1.10
Airport Construction	2.00
Total Proposed Mills to be Levied for 2017 Budget	53.00

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

Commissioner Gehrig voted nay.

The motion was declared carried.

At 6:56 o'clock p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

Red River Valley Water Supply Project Development Agreement with Lake Agassiz Water Authority for a Water Supply Nomination for the Preliminary Design Phase of the Red River Valley Water Supply Project Approved (Moved from the Consent Agenda):

City Administrator Bruce Grubb and Steve Burian from AE2S gave a presentation about the Red River Valley Water Supply Project Development Agreement with Lake Agassiz Water Authority for a water supply nomination for the preliminary design phase of the Red River Valley Water Supply Project and the City's commitment to the project.

Mr. Grubb and Mr. Burian explained the project is ready to enter preliminary design, the size of the project needs to be determined and explained the need for the project. They shared data on the science and cost share of the project as well as the financial impact, work already done on existing water supplies and historical information on water flows in the Red River. They also explained a 1930s type of drought over a 10-year period would have a \$20 billion economic impact in the Red River Valley.

Mr. Grubb said some industries looking to locate in the Red River Valley have not because of an inadequate water supply.

Commissioner Piepkorn said other than the Diversion, this is a historically significant project. The Legislature supports it, he said, it benefits smaller communities and will be a valuable asset.

Commissioner Grindberg moved the agreement with Lake Agassiz Water Authority for a Water Supply Nomination for the Preliminary Design Phase of the Red River Valley Water Supply Project be approved.

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

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

Presentation by Mark Nisbet of Xcel Energy:

Commissioner Strand invited Mark Nisbet, North Dakota Principal Manager with Xcel Energy, to give a presentation about recent outages and surges, to answer questions and present information about circumstances, challenges and what customers can expect in the future.

Mr. Nisbet said the average outage for an Xcel Energy customer in North Dakota is 71 minutes per year. He said the goal is to reduce outages by two thirds by installing intelligent switches, replacing prematurely failing cable, installing fiberglass cross arms in critical areas, move the tree-trimming cycle from every five years to every four years and installing additional fusing and lightning arresters. He said he wanted to assure customers they were not being ignored and last spring, the outages were mainly caused by failing underground cable. He said Xcel Energy is committed to upgrades in the Cass County and Red River substations as well as investing in wind generation and a gas generating plant. He also stressed Xcel takes these outages seriously and new automated switches and other upgrades would be installed starting in December.

Construction Project Updates:

City Engineer April Walker said there were no fatalities or serious injuries to report; however, one City of Fargo employee was slightly injured when they tripped in an area being excavated. She said there are three projects where a contractor has asked to work Sundays to get work completed and those requests need the Board's approval.

Request from Robert Gibb & Sons to Conduct Work on Sundays for Project No. BR-16-A1 Until Work is Completed Approved:

Commissioner Grindberg moved approval.

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

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

Request from Robert Gibb & Sons to Conduct Work on Sundays for Project No BR-16-E1 Until Work is Completed Approved:

Commissioner Gehrig moved approval.

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

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

Request from Robert Gibb & Sons to Conduct Work on Sundays for Project No. UR-16-A1 Until Work is Completed Approved:

Commissioner Grindberg moved approval.

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

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

Commissioner Grindberg moved that the Board adjourn to 5:00 o'clock p.m., Monday, October 10, 2016.

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

The time at adjournment was 7:43 o'clock p.m.