



Second by Grindberg. 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 November 7, 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. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 25-1501 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
2. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 18-0902 and Repealing 18-0905 of Article 18-09 of Chapter 18 of the Fargo Municipal Code Relating to Excavation.
3. Receive and file Year to Date – Budget to Actual Report for October 2016.
4. Request from the YMCA to hang banners in the skyway to promote their presence in Downtown from January 1st to January 30th.
5. Accept results of the Cass County Canvassing Board for the November 8, 2016 General Election; declare the flood sales tax measure passed.
6. Notice of Grant Award with the ND Department of Health for regional public health network implementation in the amount of \$10,000.00 (CFDA No. 93.758).
7. Amendment to the Purchase of Service Agreement with the ND Department of Health for the Ryan White Part B Program/Case Management in the amount of \$60,000.00 (CFDA No. 93.917).
8. Amendment to the Purchase of Service Agreement with the ND Department of Health for the Ryan White Part B Program/Case Management in the amount of \$40,000.00 (CFDA No. 93.917).
9. Applications for property tax exemptions for improvements made to buildings:
  - a. Kathleen E. Lewis, 3001 Peterson Parkway North (3 Year).
  - b. Scott E. Hansen and Shelley D. Townsend-Hansen Rev Living Trust, 2902 26th Avenue South (3 Year).
  - c. Charles J. and Desiree J. Wilson, 1510 2nd Street North (5 Year).
  - d. Erick S. Peterson and Courtney J. Peterson, 2710 Evergreen Road North (5 Year).

- e. Steve C. and Jo Anna L.S. Martens, 1310 2nd Street North (5 Year).
  - f. Brian L. and Karen M. Gebeke, 1353 12th Street North (5 Year).
  - g. Brian L. and Karen M. Gebeke, 1353 12th Street North (5 Year).
  - h. Randy A. and Joan M. Engebretson, 1506 8th Street North (5 Year).
  - i. Jane L. Cornell, 2914 Edgewood Drive North (5 Year).
  - j. Thomas P. and Teresa Christensen, 1325 4th Street North (5 Year).
  - k. Jack and Rebecca Wood, 42 Meadowlark Lane North (5 Year).
  - l. Jason Blane and Kelli Blair Medders, 1313 3rd Street North (5 Year).
  - m. Gerald W. and Ursula A. Hill, 1533 5th Street North (5 Year).
- 10. Applications for Games of Chance:
    - a. Bison Dance Team for a raffle on 12/2/16.
    - b. El Zagal Escort Motor Patrol for a raffle on 3/24/17.
    - c. Nativity School PTO for a raffle on 2/3/17.
    - d. HeartSprings for a calendar raffle from 11/29/16 to 12/13/16.
  - 11. Award contract for winter pruning projects to Cougar Tree Care, Inc. in the total amount of \$70,464.70.
  - 12. Chemical bid awards for the Wastewater Treatment Plant for 2017.
  - 13. Chemical bid awards for the Water Treatment Plant for 2017.
  - 14. Bid advertisement for Reconditioning of Water Tower Nos. 5 and 10 (Project No. WA1601).
  - 15. Change Orders for Project No. WA1301:
    - a. No. 6 for an increase of \$161,878.28 for the General Construction Contract.
    - b. No. 6 for an increase of \$80,604.15 for the Mechanical Construction Contract.
  - 16. Amendment #2 for an increase of \$225,000.00 for AE2S Task Order #76 (Project No. WA1301).
  - 17. Change Order No. 2 for a decrease of \$4,558.00 for Project No. WA1501.
  - 18. One-year contract time extension to the guaranteed cost contract with Aqua-Pure, Inc. for polymer chemicals at the Water Treatment Plant.
  - 19. Amendment #6 for an increase of \$517,000.00 for AE2S Task Order #52 (Project No. WW1402).
  - 20. Change Order No. 1 for an increase of \$3,432.00 for Project No. WW1605.
  - 21. Partial Release of Water Pipeline Easements with the Municipal Airport Authority (Project No. WW1605).
  - 22. Change Orders for the Fire Headquarters Remodel Project:

- a. No. G-5 for an increase of \$26,515.05.
  - b. No. E-2 for an increase of \$3,902.90.
  - c. No. M-2 for an increase of \$1,549.00.
- 23. Change Order No. 16-012-04 for an increase of \$242,404.39 for the Roberts Common Parking Facility.
  - 24. Memorandum of Offer to Landowner for temporary construction easement from Jensal, LLC (Project No. PR-17-A0).
  - 25. Completion of an interim safety project at the intersection of 52nd Avenue South and 27th Street by using flexible delineators and direct staff to conduct a traffic study of this area (Project No. TM-16-C1).
  - 26. Authorize submission of priority applications to Metro COG for final approval and 2018 Transportation Alternatives Program funding.
  - 27. Overdimensional Vehicle Policy revisions.
  - 28. Revised final cost of \$32,160.40 for the Statewide Pavement Condition Survey (Project No. MS-16-E0).
  - 29. Amendment No. 1 to the Engineering Services Agreement for an increase of \$125,800.00 (Project No. FM-16-A0).
  - 30. Contract Amendment No. 1 for an increase of \$87,533.00 for Project No. FM-15-K0.
  - 31. Contract Amendment No. 5 for an increase of \$41,100.00 for Project No. 6153.
  - 32. Remaining balance of the Concrete Bike Trail Replacement to come from the Sales Tax Fund at an estimated cost of \$6,477.00 (Project No. FM-14-81).
  - 33. Bills in the amount of \$18,365,520.56

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 (Improvement District No. PR-17-B1):

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) regarding a "Preliminary Engineering Reimbursement Agreement" from the NDDOT for the South University Drive 2018 street reconstruction project. They said the project will have some I-94 interchange work which will be funded 90% federal and 10% state. University Drive will be completely reconstructed from the north ramp intersection to the south side of the 18th Avenue South intersection, which will be 100% of city funds, they said. Houston Engineering, Inc. was selected, they said, by the NDDOT Selection Committee in

June and has the contract for the project with the NDDOT through phase 2. The maximum contract value set by the NDDOT is around \$200,000.00, they said, and the proposed agreement states that for whatever reason the City unilaterally and voluntarily stops and terminates the project, the NDDOT will be reimbursed for any and all costs that have been incurred for the project.

Commissioner Strand moved the Preliminary Engineering Reimbursement Agreement with the North Dakota Department of Transportation for Improvement District No. PR-17-B1 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.

Recommendation to Not Include an Incentive/Disincentive Clause for Improvement District PR-17-A1 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating in keeping with a commitment to make recommendations regarding incentives/disincentives for projects that impact arterial roadways, staff is recommending that an incentive/disincentive not be included for Improvement District No. PR-17-A1. The project is scheduled for a bid opening of February 3, 2017, they said, with a substantial completion date of October 31, 2017 and a final completion date of November 30, 2017 and is large in scale with an estimated construction cost of nearly \$17,000,000.00 and a distance of approximately 1.2 miles. The area that will take the most time to complete will be the bridge/interchange work, they said, and staff believes this project will take all construction season and that no incentive/disincentive should apply. They said a contractor could be entitled to an incentive, traffic could still be restricted due to the bridge work and it is important to note that liquidated damages will still apply.

Commissioner Strand moved the incentive/disincentive not be included in the contract for Improvement District No. PR-17-A1.

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.

Request to Change Gatewell Staining Final Completion Date for Improvement District No. NN-14-01 Approved:

Commissioner Strand moved approval of a request to change Gatewell Staining final completion date to September 30, 2017 for Improvement District No. NN-14-01.

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.

Request to Change Street Light Installation Final Completion Date for Improvement District No. BN-16-L1 Approved:

Commissioner Strand moved approval of a request to change street lighting installation final completion date to November 20, 2016 for Improvement District No. BN-16-L1.

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.

Request to Change Street Light Installation Final Completion Date for Improvement District No. PN-15-J1 Approved:

Commissioner Strand moved approval of a request to change street light installation final completion date to June 1, 2017 for Improvement District No. PN-15-J1.

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. 1 for Improvement District No. BN-15-B1 Approved:

Commissioner Strand moved approval of Final Balancing Change Order No. 1 for an increase of \$44,414.08 for Improvement District No. BN-15-B1.

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. 4 for Improvement District No. BN-15-A1 Approved:

Commissioner Strand moved approval of Final Balancing Change Order No. 4 for an increase of \$12,535.68 for Improvement District No. BN-15-A1.

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.

Public Engagement Process to Evaluate the 2nd Avenue Corridor and Addition of the 2nd Avenue North Reconstruction to the 2017 CIP Approved (Improvement District BR-17-L):

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating the Kilbourne Group presented their proposed streetscape of 2nd Avenue North that would support the construction of the Roberts Ramp and commercial wrap at 625 2nd Avenue North. They said there is a need to engage the public on a new streetscape and evaluate any alignment change with the adjoining roadways. At this point, they said, it was discussed that Engineering would determine the logical termini points.

Commissioner Strand moved to begin the public engagement process to evaluate the 2nd Avenue Corridor and the addition of the 2nd Avenue North Reconstruction to the 2017 CIP (Improvement District No. BR-17-L) 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.

Agreement for Engineering Services with SRF Consulting Group, Inc. for Improvement District No. BR-18-A1 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating SRF Consulting Group, Inc. was selected by the NDDOT Selection Committee in April to design the Main Avenue reconstruction project. They said it is the City's responsibility to prepare the design and bid information associated with the City's infrastructure in the corridor and SRF Consulting Group, Inc. is available to complete the design of the municipal water and sanitary sewer. They said the estimated fee for this work is \$215,044.25.

Commissioner Strand moved the Agreement for Engineering Services with SRF Consulting Group, Inc. for Improvement District No. BR-18-A1 at an estimated cost of \$215,044.25 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.

Resolutions Adopted Accepting Monetary Donations from Gate City Bank for the Fargo Police Department:

Chief of Police David Todd asked the City of Fargo to adopt two resolutions for monetary donations from Gate City Bank. The first, he said, is a donation in the amount of \$31,000.00 to send Fargo Police Officers to the National Law Enforcement Memorial Ceremony in May of 2017. He said the second donation in the amount of \$76,200.00 is for the purchase of protective helmets. After Officer Jason Moszer's death in February 2016, he said, the Police Department began researching helmets to determine if there were ballistic helmets available that would stop a rifle round. He said they were able to find a company that gave a quote on a new product they were developing for \$2,000.00 per helmet. He said the department requested in the 2017 budget \$100,000.00 for 50 helmets, one for each squad car. He said the City approved \$50,000.00 for 2017 to purchase half of the requested helmets with the opportunity to fund more in 2018. Robin Huebner from The Forum did a story about the helmets and the approved 2017 funding, he said. After the story was published, he said, he received a call from Gate City Bank Chief Executive Officer Steve Swiontek who told him he had read the story in The Forum and thought the Fargo Police Department should have all of the helmets now and Gate City Bank would fund the purchase of the rest of the helmets. Requests for proposals were submitted, he said, and the department discovered another company owned by 3M is developing a similar helmet and was willing to sell them to the Fargo Police Department for \$1,120.00 apiece. He said the total amount for all helmets for all squads plus 10 extra for training officers will be \$76,200.000, of which \$50,000.00 is allocated from

the City and \$26,200.00 is a donation from Gate City Bank. In ensuing discussions with Mr. Swiontek about the helmets, he said, he told Mr. Swiontek about the department's wish to send the Moszer family and a contingent of Fargo Police Officers to the National Law Enforcement Memorial Ceremony in May in Washington, DC, where Officer Moszer's name will be inscribed in the memorial. Gate City Bank recognized how important this was for the department and community, he said, and has generously donated \$31,000.00 to pay for 29 officers to attend this event by paying their airfare and hotel expenses. He said he is overwhelmed by this act of generosity by Gate City Bank.

Commissioner Piepkorn moved that the "Resolution Acknowledging and Accepting Donation by Gate City Bank for Sending Fargo Police Officers to the National Law Enforcement Memorial Ceremony in May 2017" (Attachment "A") and the "Resolution Acknowledging and Accepting Donation by Gate City Bank to Purchase Protective Helmets" (Attachment "B") be adopted.

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

No Commissioner being absent and none voting nay, the Resolutions were adopted.

#### Construction Projects Update:

City Engineer April Walker shared an update of current construction projects and progress. She said there were no fatalities or serious injuries to report. Second Street will reopen on Tuesday, November 22nd, she said, and the contractor will continue to install traffic signals after the street opening. She said the total construction cost of the project was more than \$39 million. She said there are several contractors who are in liquidated damages. She said the 13th Avenue project had a \$400,000.00 incentive and the contractor is eligible for \$200,000.00 because the project opened early and several of the phases were done early. She said work on the Fourth Street project continues where the contractor is working on the generator building and restoration of the Dike East area and that contractor is in liquidated damages. At the Park East site, she said, work is ongoing and that contractor is in liquidated damages. She also gave a report on the street lighting updates in the Roosevelt neighborhood and a pavement management project on 12th Avenue North. She said there were no private projects of note and the majority of other projects are now classified as substantially complete.

Commissioner Piepkorn said the 13th Avenue incentive program worked and the \$200,000.00 is money well spent. He said he called Master Construction and thanked them and said he did not get any complaint calls on the 13th Avenue project versus the 19th Avenue project. He said the incentive cannot be offered on every project, but in high traffic areas it is a good idea and the Engineering Department and Ms. Walker deserve credit for coming up with the plan.

#### Application Filed by Border States Industries, Inc. for Payment in Lieu of Tax Exemption (PILOT) Approved:

A Hearing had been set for this day and hour on an application filed by Border States Industries, Inc. (BSI) for a 10-year payment in lieu of property tax exemption



(PILOT) for operation of a new corporate headquarters located in the area of 23rd Avenue South to 26th Avenue South and 30th Avenue South, West of I-29.

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.

Finance Director Kent Costin said the application for the PILOT was received, filed and approved by the Tax Exempt Review Committee. He said BSI qualifies for 5 years at 100 percent and 5 years at 50 percent for constructing a new corporate headquarters building in Fargo where the company has seen significant growth and new jobs. He said the company has the primary sector designation per the Department of Commerce, it was rated very highly with 121 scoring points and the Tax Exempt Review Committee asks the Board to consider approval.

BSI Chief Executive Officer Tammy Miller said BSI started in Grand Forks in 1952 and moved to Fargo in 1961. She said BSI is a good corporate citizen and does many good things in the community. She said the company is a wholesaler of electrical supplies for utility companies, commercial and residential construction, critical infrastructure, lighting and automation for industrial companies and more. She said the company has 95 branch locations in 18 states and is a 100 percent ESOP (Employee Stock Ownership Plan) company with more than 2,200 employee/owners. She said the company's growth model is to centralize the accounting, human resources, information systems, marketing, strategy and other departments all in one location in Fargo. She said there are 320 employees in the corporate office now in three locations and they expect to add about 184 more in the next 10 years and expect to continue to grow. The new corporate office building will help improve efficiencies, she said, and they are proud to be one of the top 50 places to work in Fargo and would appreciate the support of the City Commission.

BSI Vice President of Operations Phil Settles said the new 15 1/2-acre site has been selected and there are building plans. He said the company needs 105,000 to 120,000 square feet plus parking and room to grow to 600 employees and have the option for another 50,000 square foot expansion. He said the project status is now in the decision phase and they are doing due diligence with a purchase agreement to be finalized by December with construction starting in October 2017 and building completion in June 2019.

In response to a question from Commissioner Gehrig as to if the exemption is not approved, will the company leave Fargo, Ms. Miller said absolutely not; however, the exemption will help the company do much more than planned.

Commissioner Gehrig thanked Ms. Miller for growing the business in Fargo and in response to a question from Commissioner Gehrig as to why the company is choosing Fargo, Ms. Miller said it is due to the work ethic and values in Fargo. There is also big infrastructure involved, she said, that would be too expensive to recreate in another community. She said for many years it was difficult to attract employees to Fargo, but in last 10 years with the new excitement and vibrancy in Fargo, people are more excited to come here.

Commissioner Gehrig said the exemption equates to half of a half of a half of BSI's operating budget and this is not a primary sector project; it is an office building. He said in the Board's guidance, this does not qualify for an exemption and it reeks of FedEx Part 2 for the City Commission. He said BSI is a multi-billion-dollar corporation, there is no "but for" question here, it does not fit the City's policy. He said

every dollar given to this successful company is taken out of the pockets of the middle class, working families, the elderly and other small business owners in the community, someone pays those taxes, he said; however, while he appreciates the company's growth and is happy for it.

Commissioner Piepkorn said the project is primary sector and was voted on unanimously by the Tax Exempt Review Committee. He said BSI is a booming business, the City loves having them in town and the Board needs to promote economic development.

In response to a question from Commissioner Strand about what primary sector is versus not, Commissioner Grindberg said primary sector adds more wealth which is determined by the Department of Commerce and this meets the intent of what the Legislature has put in place.

Commissioner Gehrig said if this passes, this is a \$1.7 million tax increase on the people of Fargo. He said if you own a business or a home, your taxes just went up.

Mayor Mahoney said if property values go up, net taxes go up and if you look at all tax exemptions, including PILOTS, the City makes more in taxes. He said right now commercial is 46 percent and residential is going down from 2.2 percent to 1.2 percent. He said the Planning Department has the information.

Commissioner Strand said due to the frozen mill levy in the schools, this type of growth will help the school district and this is something to welcome to the community in light of public education.

Commissioner Piepkorn moved the application filed by Border States Industries, Inc. for a ten-year payment in lieu of tax exemption pursuant to Chapter 40-57.1, NDCC be approved as follows:

Year 0 through 5 - \$0

Year 6 through 10 – \$115,110.00

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

Commissioner Gehrig voted nay.

The motion was declared carried.

Parcels of Land in Noridian Center Addition Rezoned (4814, 4830, 4908 and 4920 14th Avenue South; 4809, 4825, 4905 and 4917 15th Avenue South; and 1403 and 1441 48th Street South):

At a Hearing held on November 1, 2016 the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to P/I, Public and Institutional on Lots 1-10, Block 2, Noridian Center 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 rezoning is for the West Fargo Public School District for building a new elementary school. She said the Planning Commission has reviewed it, there are no protests on record and staff recommends approval.

Commissioner Strand said this is one more example of the City to be cognizant of the different boundaries between the City and school districts. In this instance, he said, there is a Fargo city action for a different school district. He said he wants to note that, and to his knowledge this is the only jurisdictional difference in boundaries in the whole state between cities and school districts. He said 48 percent of the West Fargo School District is in the City of Fargo, therefore it is important to be aware of this issue relative to our neighbors, our schools and in our City.

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 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 Certain Parcels of Land Lying in Noridian Center 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 Noridian Center 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 Authorizing the Issuance of Revenue Bonds by the Moorhead Economic Authority on Behalf of Eventide Fargo Senior Living, LLC and Authorizing the Execution of a TEFRA (Tax Equity and Fiscal Responsibility Act) Agreement:

The Board received a communication from Finance Director Kent Costin stating the bonds are being issued by the Moorhead Economic Authority on Behalf of Eventide Fargo Senior Living, LLC. Mr. Costin said this hearing is an Internal Revenue Service requirement and there is no direct obligation to the City. He said this is conduit-type debt, a public notice has to be published and a public hearing held to put people on notice that tax exempt money is being spent in the community. He said in 1982, the TEFRA act was passed during the Reagan Administration to crack down on corruption with additional disclosure. He said these bonds are for a 76-unit assisted living center in Fargo. He said City Attorney Erik Johnson has also drafted an agreement that clarifies the City will not be tagged as a responsible party on any

issues or any legal costs and that agreement provides additional insulation for the City so it would not be under any obligation.

Commissioner Piepkorn moved the Resolution entitled "Resolution Approving the Issuance of Bonds by the Moorhead Economic Development Authority on Behalf of Eventide Fargo Senior Living, LLC and Authorizing the Execution of a TEFRA Agreement" and referred to as Attachment "C" be adopted and attached hereto.

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

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

Resolution Adopted Giving Host Approval to the Issuance of a Revenue Note, Series 2016 (LSS Housing Projects), by the City of Maddock, North Dakota and Authorizing the Execution of a TEFRA (Tax Equity and Fiscal Responsibility Act) Agreement:

The Board received a communication from Finance Director Kent Costin stating the bonds are being issued by the City of Maddock on behalf of Lutheran Social Services Housing, Inc. to refinance previously issued debt for a facility at 3911 20th Avenue South, Fargo. Mr. Costin said this is an identical issue that he previously explained.

Steve Fenlon, Midwest Healthcare Capitol, St. Paul, spoke on behalf of Lutheran Social Services of North Dakota (LSSND). He said the City of Fargo is being asked to hold a TEFRA hearing regarding the single property that exists within the City of Fargo boundaries. He said the revenue note will be issued by another city. He said the note will allow his company to consolidate several campuses into a single note, which further reduces the costs of financing for LSSND. He said this is purely a refinance that will reduce LSSND costs by half.

Commissioner Grindberg moved the Resolution entitled "Resolution Giving Host Approval to the Issuance of a Revenue Note, Series 2016 (LSS Housing Projects) by the City of Maddock, North Dakota and Authorizing the Execution of a TEFRA (Tax Equity and Fiscal Responsibility Act) Agreement" and referred to as Attachment "D" be adopted and attached hereto.

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

Commissioner Piepkorn voted nay.

The Resolution was adopted.

Ordinances Amending Sections 3-2110 and 3-2111 of Article 3-21 of Chapter 3; and Section 3-2210 of Article 3-22 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales, Use and Gross Receipts Tax to be Received and File and Placed on First Reading at the Next Regular Meeting of the Board:

City Attorney Erik Johnson said he wants to memorialize what voters approved on November 8th, which was an amendment to the Home Rule Charter. He said he wanted to have a record combined with City Auditor Steve Sprague's presentation of the canvassing of vote results, which as a result, the Home Rule Charter must be amended. He said the codified form will be amended online and in published form, so he wanted recognition of that. He said the Home Rule Charter is not self-effectuating, it is implemented through ordinances. He said there are two ordinances for the two different sales taxes that have been in effect, the vote allows

extension of both of those sales taxes. He said what is presented are the two amending ordinances that incorporate the extension of the sales taxes. Of the two sales taxes extended, he said, one was fine-tuned so on January 1, 2017 the proceeds will be dedicated solely to flood protection, whereas before it also included infrastructure and now it narrows the scope of the proceeds.

Commissioner Grindberg moved the Ordinance Amending Sections 3-2110 and 3-2111 of Article 3-21 of Chapter 3 of the Fargo Municipal Code and the Ordinance Amending Sections 3-2210 of Article 3-22 of Chapter 3 the Fargo Municipal Code, both Relating to Imposition of a Sales, Use and Gross Receipts Tax be Received and Filed and Placed on First Reading at the Next Regular Meeting of the Board.

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.

#### 2017 Capital Improvement Plan Approved:

City Engineer April Walker said the 2017 Capital Improvement Plan consists of projects totaling \$119 million and the plan accomplishes a balanced split with \$60 million coming from special assessments, \$13.5 million from the infrastructure sale taxes, \$25 million in flood control, \$3 million from various utilities and \$18 million in federal, state and other sources of funding. She said 2016 projects totaled about \$144 million and prior to 2012, the yearly project totals were around \$40 million. She said totals grew very rapidly in 2014 and broke the system. She said they found out what the limit was for local contractors and since then, Engineering has tried to stay in a range so they are not driving up costs, raising special assessments and competing against themselves. In 2017, she said, the \$119 million plan includes \$21 million in water main replacements, \$24.5 million in new developments, which could still grow as they are requested and are 100 percent special assessed. She said the plan also includes pavement management, flood control, bridge improvements, intersections, street lights, improvements on 32nd Avenue South from 32nd Street to 42nd Street, on 7th Street from 1st Avenue South to 5th Avenue South, the Oak Grove Lift Bridge and many other projects.

Commissioner Strand said there has been exponential growth in specials and there are well over \$600 million in specials on the books. He said with next year's capital improvement plan contingent upon anticipated specials, the Board needs to have a serious discussion about specials and an analysis to see how other jurisdictions, states and cities finance these things.

Commissioner Piepkorn said this year along Broadway there were tremendous bills and big projects. He said he agrees with Commissioner Strand and the City should not overburden people on fixed incomes where specials are over half the value of their house. Oil prices are depressed, he said; therefore, the City's costs for projects next year will be less as some this year were 30 percent less.

Commissioner Strand said he is cautious about specials as he hears from citizens and he sees the burden. He said if another 2008-2009 crash hits, \$600 million will come back to the City. He said he will approve this capital improvement plan; however, he is not going to guarantee his votes on the specials aspects that will unfold through time.

Commissioner Grindberg asked Ms. Walker for a spreadsheet showing new developments over the past 10 years.

Commissioner Grindberg moved the 2017 Capital Improvement Plan be approved.

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

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

Update on the Whistle Free Zone Feasibility Study (Project No. 6207):

Traffic Engineer Jeremy Gordon said former City Administrator Pat Zavarol wanted the Engineering Department to look at the railroad crossings on 7th Avenue and 16th Street and do a feasibility study to extend the quiet zone. He said he received a quote from SRF Consulting Group, Inc., regional experts on railroad quiet zones. He said after their presentation the Board can decide if they want to move forward and how to implement and fund the project.

Rick Lane, SRF Consulting, said the whole idea of quiet zones is to install supplementary safety measures. He said his company did a diagnostic of the two locations and both were able to handle a quiet zone with medians, which sounds like a low cost improvement; however, there are quite a few railroad improvements that need upgrading including signal equipment for continuous time warning. Other improvements, he said, would be upgrading pedestrian routes, adding mazes and pedestrian gates, fencing and sidewalk improvements. He said the total cost for both crossings is about \$1.3 million with the majority of the costs in railroad improvements. He said the next step is issuing a Notice of Improvement (NOI) to the railroad, which does not obligate the city, it just lets the railroad and others know what is being proposed. He said there is a 60-day comment period and if there are no issues it can move ahead.

In response to a question from Mayor Mahoney about how long it would take to make the improvements, Mr. Lane said it could be built in a construction season; however, the caveat is the railroad schedule.

In response to a question from Mayor Mahoney in regard to how many accidents have happened in these areas, Mr. Gordon said it was minimal, perhaps two over the past 15 or 20 years. He said the biggest obstacle at the 7th Avenue crossing would be moving the driveway to the Garden Pavilion restaurant, the rest would be sidewalk and fencing. He said at the 16th Street crossing, actual physical construction is minimal; however, the signal equipment is expensive. He said funding for the \$1.3 million cost would be through special assessments and there are caps for quiet zones; three cents per square foot for single family, five cents for commercial or multi-family and seven cents for other zones. He said the assessment zone would be 4th Street East to 25th Street West, 1st Avenue North to 12th Avenue North and would generate more than \$1.3 million so it could be fully assessed. He said this meeting was to let the Board know the feasibility plan is done and if approved, Engineering would have to create a project and an assessment district, so this is just a vote to receive and file.

In response to a question from Commissioner Strand regarding how many trains per day go through that route, Mr. Gordon said about 20.

Commissioner Strand said that is just a fraction of what goes through downtown and wants to know if this is what the neighborhood wants, do they want to take on more special assessments and if they are asking for the quiet zone. He said if the Board is not responding to a request, it is not the best idea for them.

Mr. Gordon said he hears occasionally about the quiet zone in these areas, maybe a handful of people a year.

City Engineer April Walker said Engineering received a letter from the Kilbourne Group requesting that the City consider this as a quiet zone. She said the project is protestable if they attempt to do it and letters would be sent out and the citizens would have the ability to kill the project.

Commissioner Strand suggests community engagement up front and see what the people want and do it proactively rather than after the project.

Planning Administrator Nicole Crutchfield said she has heard several times from the Roosevelt Neighborhood Association that they want this crossing quiet; it is one of their number one complaints to her.

Commissioner Grindberg said this needs to be a bottoms up approach to see if it is truly needed.

Commissioner Gehrig moved the Whistle Free Zone Feasibility Study (Project No. 6207) be received and filed.

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

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

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

The time at adjournment was 6:04 o'clock p.m.