

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting:**

**Monday:**

**May 23, 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 4:15 o'clock p.m., Monday, May 23, 2016.

The Commissioners present or absent were as shown following:

Present: Williams, Sobolik, Piepkorn, Mahoney.

Absent: Gehrig.

Mayor Mahoney presiding.

City Attorney Erik Johnson announced that there are pending litigation matters to be discussed in Executive Session to consult with the City's attorneys in the pending litigation matter of Mid-America Steel property and the residential property of Don and Mary Kinzler. He said the City Commission will meet in Executive Session to discuss negotiating strategy and/or to provide negotiating instructions to its negotiator and to consult with its attorneys regarding both matters - both of which being reasonably anticipated to result in civil litigation - said matters being authorized by North Dakota Century Code 44-04-19.1 subsections 2 and 9. Both matters will have an adverse fiscal effect on the bargaining and/or litigation position of the city if discussions regarding offers to be made or accepted, and negotiating strategy taken, would occur in an open meeting.

Commissioner Piepkorn moved the Commissioners meet in Executive Session in the River Room to discuss negotiating strategy and/or to provide negotiating instructions to its negotiator and also to consult with its attorneys regarding both matters - said matters being authorized by North Dakota Century Code 44-04-19.1 subsections 2 and 9.

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

At 4:20 o'clock p.m. the Board moved into the River Room to discuss said matters in Executive Session.

Members present were: Williams, Sobolik, Piepkorn, Gehrig (via conference call) and Mahoney.

The Executive Session closed at 5:03 o'clock p.m. and the meeting reconvened in public session at 5:08 o'clock p.m.

Members present were: Williams, Sobolik, Piepkorn, Gehrig (via conference call) and Mahoney.

**Order of Agenda Approved:**

Commissioner Sobolik moved the Order of the Agenda be approved, withdrawing Item No. "4-5" in the Consent Agenda.

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

**Minutes Approved:**

Commissioner Piepkorn moved that the Minutes of the Regular Meeting of the Board held on May 9, 2016 be approved as read.

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

**Consent Agenda Approved:**

Commissioner Sobolik 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 the following Ordinances:
  - (a) Repealing and Re-enacting Section 14-0102 and Amending 14-0105 of Article 14-01 of Chapter 14 of the Fargo Municipal Code Relating to Soft Serve Freezing and Vending Machines.
  - (b) Amending Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (Class "ABH-Limited" License).
  - (c) Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Issuance and Transfer of Licenses.
2. Amended Well Easement with the City of West Fargo.
3. Receive and file Year to Date – Budget to Actual Report for April 2016.
4. Site Authorizations for Games of Chance:
  - (1) Boys and Girls Club of the Red River Valley (dba Youth Commission) at Red River Lanes and Fargo Country Club.
  - (2) Prairie Public Broadcasting, Inc. at Tailgators and Dempsey's.
  - (3) Special Olympics North Dakota at Rooters.
  - (4) VFW Club of Fargo at VFW Club of Fargo.
  - (5) The Arc Upper Valley Inc. at Bismarck Tavern (withdrawn).
5. Applications for Games of Chance:
  - (1) Benefit for Ken Simon for a raffle on 6/3/16; Public Spirited Resolution.
  - (2) Family of Gavin Trupka Fundraising Benefit; Public Spirited Resolution.
6. Settlement in the amount of \$1,927.37 for tree damage on the SE corner of I29/I94.

7. Change Order No. G-3 for an increase of \$20,579.36 for the Fire Headquarters Remodel Project.
8. Application filed by Matthew Gadbury for a five-year tax exemption for improvements made to building at 1410 8th Street South.
9. Agreement for Services with the Moorhead Police Department for server training classes.
10. Agreement for Services, in the amount of \$2,500.00, with Joleen Baker for the Cass Clay Food Systems Initiative to address chronic disease.
11. Health Department budget adjustment in the amount of \$7,700.00 and contract amendment with the North Dakota Department of Health for the WIC Program (CFDA No. 10.557).
12. Receive and file information on pending award applications submitted by the Planning and Development Department.
13. Letter of Agreement for research services with the Department of Animal Sciences – NDSU for the Fargo Project.
14. License Agreement for Emergency Siren on NDSU property.
15. Memorandum of Understanding - Access for Water Sampling with NDSU.
16. 10-day contract extension with remaining liquated damages of \$69,000.00 for Project No. FM-14-21.
17. Change Order No. 3 for an increase of \$162,934.00 for Project No. WW1403.
18. Purchase Agreement with Fred Schlanser, Jr. and Stacey M. Schlanser for property at 4117 15th Street South and 4123 15th Street South (Project No. MS-15-K0).
19. Magellan Pipeline Encroachment Agreement for the 13th Avenue Reconstruction.
20. Bills in the amount of \$12,378,370.37.

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

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

**No Protests Received for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1:**

The Statutory Resolution of Necessity for the construction of Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 18 and 25, 2016 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Sobolik moved that the Board declare that no protests have been filed to the construction of Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1.

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

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

**Bids Received for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1:**

The bids for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 18, 2016 and the bids were found to be as follows:

Moorhead Electric Bid:	Moorhead, MN \$315,900.85
Strata Corporation Bid:	Grand Forks, ND \$328,940.15
Sun Electric Bid:	Fargo, ND \$341,507.00

**Contract for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1 Awarded to Moorhead Electric in the Amount of \$315,900.85:**

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 18, 2016 for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1 shows the bid of Moorhead Electric of Moorhead, Minnesota, in the sum of \$315,900.85 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Moorhead Electric in the sum of \$315,900.85 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Traffic Signal Improvements and Incidentals Improvement District No. TN-16-B1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Moorhead Electric for the sum of \$315,900.85, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

**No Protests Received for Water Main Replacement and Incidentals Improvement District No. UR-16-A1:**

The Statutory Resolution of Necessity for the construction of Water Main Replacement and Incidentals Improvement District No. UR-16-A1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 18 and 25, 2016 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Sobolik moved that the Board declare that no protests have been filed to the construction of Water Main Replacement and Incidentals Improvement District No. UR-16-A1.

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

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

**Bids Received for Water Main Replacement and Incidentals Improvement District No. UR-16-A1:**

The bids for Water Main Replacement and Incidentals Improvement District No. UR-16-A1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 18, 2016 and the bids were found to be as follows:

Robert Gibb and Sons, Inc.	Fargo, ND
Bid:	\$715,590.00

Ryan Contracting Company	Shakopee, MN
Bid:	\$882,385.00

**Contract for Water Main Replacement and Incidentals Improvement District No. UR-16-A1 Awarded to Robert Gibb and Sons, Inc. in the Amount of \$715,590.00:**

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Water Main Replacement and Incidentals Improvement District No. UR-16-A1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 18, 2016 for Water Main Replacement and

Incidentals Improvements Improvement District No. UR-16-A1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement and Incidentals Improvement District No. UR-16-A1 shows the bid of Robert Gibb and Sons, Inc. of Fargo, North Dakota, in the sum of \$715,590.00 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Robert Gibb and Sons, Inc. in the sum of \$715,590.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement and Incidentals Improvement District No. UR-16-A1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Robert Gibb and Sons, Inc. for the sum of \$715,590.00, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

**Utility Relocation Agreement with Cass County Electric Cooperative Approved:**

The Board received a communication from the Public Works Projects Evaluation Committee stating there is a need to relocate overhead power lines affected by the 12th Avenue North reconstruction project, Improvement District PN-15-A1. They said Cass County Electric Cooperative has indicated the cost to move the lines is \$50,309.07. The street design is being modified from a rural section to an urban section, they stated, creating a clearance issue to overhead lines which will be reinstalled underground.

Commissioner Sobolik moved the Utility Relocation Agreement with Cass County Electric Cooperative in the amount of \$50,309.97 for Improvement District No. PN-15-A1 be approved.

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

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

**Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lighting and Incidentals Improvement District No. BN-16-E (Maple Valley 2nd Addition):**

Commissioner Sobolik moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lighting and Incidentals Improvement District No. BN-16-E:

**Adopt Resolution Creating Improvement District No. BN-16-E:**

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

On Maple Leaf Loop South.

On Maple Valley Drive South from Maple Leaf Loop South to 63rd Avenue South.

On 63rd Avenue South from Maple Valley Drive South to 33rd Street South.

On 33rd Street South from 63rd Avenue South to 64th Avenue South.

**COMPRISING:**

Lots 1 through 41, Block 1.

Lots 1 through 24, Block 2.

Maple Valley 2nd Addition.

Lot 2, Block 7.

Maple Valley Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lighting and Incidentals Improvement District No. BN-16-E in the City of Fargo, North Dakota, be and the same is hereby created.

**Request Report and Estimate of Cost from the City Engineer for Improvement District No. BN-16-E:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. BN-16-E in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,847,407.01.)

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

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

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

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. BN-16-E in the City of Fargo, North Dakota, as required by law; and

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

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. BN-16-E in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

**Adopt Resolution Declaring Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lighting 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, Site Grading, Paving, Street Lighting and Incidentals Improvement District No. BN-16-E in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That 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, Site Grading, Paving, Street Lighting 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-E:**

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-E in the City of Fargo, North Dakota.

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

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

**Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals Improvement District No. BR-16-E (2nd Street North from Main Avenue to 1st Avenue North):**

Commissioner Sobolik moved the following action be taken in connection with Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals Improvement District No. BR-16-E:

**Adopt Resolution Creating Improvement District No. BR-16-E:**

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

On 2nd Street North from Main Avenue to 1st Avenue North.



**COMPRISING:**

Lots 1 through 24, Inclusive, Block 1A and adjacent vacated land.  
All in Northern Pacific Second Addition.

Lots 1 through 22, Inclusive, Block 4.  
All in Keeney & Devitt's Addition.

Block 17 and adjacent Rail Road Outlots 4 & 7.  
All in Keeney & Devitt's Second Addition.

Block 1.  
Block 2.  
All in North Dakota R2 Urban Renewal Addition.

All of the Unplatted Rail Road Outlot Land lying in Section 7, Township 139 North, Range 48 West bounded on the north by 1st Avenue North, bounded on the south by Main Avenue, bounded on the west by 3rd Street North and by the east line of Machinery Row Addition, bounded on the east by the Red River of the North.

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals Improvement District No. BR-16-E in the City of Fargo, North Dakota, be and the same is hereby created.

**Request Report and Estimate of Cost from the City Engineer for Improvement District No. BR-16-E:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. BR-16-E in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$2,459,733.00.)

**Order Plans and Specifications for Improvement District No. BR-16-E:**

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

**Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. BR-16-E:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. BR-16-E in the City of Fargo, North Dakota, as required by law; and

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

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. BR-16-E in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

**Adopt Resolution Declaring Water Main Replacement, Force Main Construction, Street Reconstruction 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 Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals Improvement District No. BR-16-E in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That a portion of said Water Main Replacement, Force Main Construction, Street Reconstruction and Incidentals improvement is to be paid from Infrastructure Sales Tax and approximately 60% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Water Main Replacement, Force Main Construction, Street Reconstruction 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. BR-16-E:**

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

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

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

**Contract for Asphalt Wear Course and Incidentals Improvement District No. PN-16-A1 Approved:**

Commissioner Sobolik moved approval of the Contract between the City of Fargo and Northern Improvement Company for Asphalt Wear Course and Incidentals Improvement District No. PN-16-A1 in the City of Fargo, North Dakota.

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

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

**Contract Bond for Asphalt Wear Course and Incidentals Improvement District No. PN-16-A1 Approved:**

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

Western Surety Company, in the amount of \$1,359,831.65, for Asphalt Wear Course and Incidentals Improvement District No. PN-16-A1 in the City of Fargo, North Dakota.

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

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

**Contract for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-16-C1 Approved:**

Commissioner Sobolik moved approval of the Contract between the City of Fargo and Aggregate Industries for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-16-C1 in the City of Fargo, North Dakota.

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

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

**Contract Bond for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-16-C1 Approved:**

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

Western Surety Company, in the amount of \$2,883,693.45, for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-16-C1 in the City of Fargo, North Dakota.

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

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

**Fargo Youth Initiative 2016:**

The Board received a communication from City Commissioner Melissa Sobolik stating in 2012, the City Commission voted to support the creation of a youth advisory commission called the Fargo Youth Initiative (FYI). The mission of FYI, she said, is to empower the voice and unite the youth of Fargo through actions and teamwork. She said since its inception, a great group of smart, caring and committed young leaders, representing grades 7 through 12 from public and private schools in Fargo, have met regularly to discuss opportunities and issues facing young people in our community.

FYI Member Emma McIntyre said she has been a member of FYI since its inception. She said the Fargo Youth Initiative is composed of members from Fargo

Schools and its purpose is to give youth a voice and serve as the liaison between the city and its youth. She said their project, "Impact Fargo" took place March 21, 2016 and was a conference for youth, put together by youth. She said 56 students from a number of schools in Fargo attended the event which opened communication between them to share ideas and inspire each other. The board, which consists of seven members, did all the planning for the conference, she said, and 56 students attended. She said the students surveyed showed an interest in having more conferences for youth, seeking out a better relationship between the city and the schools, creation of safe spaces for kids to hang out after dark, making downtown safer and better communication between youth.

FYI Member Kyle Tekautz said another "Impact Fargo" event is planned for next year and some goals are for a wider school outreach, bigger budget, safe places after dark and further develop the idea of a student art gallery in the skyway.

Commissioner Sobolik said part of the uniqueness of FYI is that the adults stepped out of the way. She said she is very proud of them and what they have done. She said they named themselves and selected their board of directors, they have articles of incorporation, developed a logo, which goes to show what incredible young people Fargo has. She challenged the City Commission to reach out and give these young people a voice, as they want to help and want to be heard, she said.

**Application Filed by Dakota Specialty Milling, 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 Dakota Specialty Milling, Inc. for payment in lieu of property tax exemption for expansion to their operation at 1425 43rd Street North where the applicant will operate a new ag processing line to make gluten free raw materials for the food industry.

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 this is a first of several phases of an expansion being done over the next few years. He said with this expansion they are taking on a new product line and adding jobs, and Tax Exempt Review Committee unanimously recommended approval of the PILOT.

Commissioner Piepkorn said this is a great company to have in Fargo. They convert North Dakota grown grains into flour and other products that are shipped around the world.

In response to a question from Commissioner Gehrig about whether the company would expand if they were denied a PILOT exemption, John Schaaf of Dakota Specialty Milling, Inc. said the funds will help speed up the purchase of additional land, the building of a warehouse and the hiring of additional staff. He said the beauty of Fargo is a great work force and the rail facilities. He said the City of Fargo and the Economic Development Corporation have done a great job helping the company grow.

Commissioner Gehrig said his understanding is that the PILOT would help for this expansion, but it is not required. He said it is not the role of the citizens of Fargo to subsidize such growth and he is not in support of the PILOT. This is a fantastic company, he said, and it is profitable now and will be even more profitable once it expands.

Commissioner Piepkorn moved that the application filed by Dakota Specialty Milling, Inc. for a 10-year, \$0 payment in lieu of tax exemption starting in the 2016 tax year for Dakota Specialty Milling, Inc. for the expansion at 1425 43rd Street North based on the equivalent of a 10 year, 100% improvement exemption pursuant to Chapter 40-57.1, NDCC be approved.

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

Commissioners Williams and Gehrig voted nay.

The motion was declared carried.

**Application to Transfer the Alcoholic Beverage License from Firebox LLC, Inc. d/b/a Firebox to DEI Holdings, Inc. d/b/a Firebox Approved:**

A Hearing had been set for this day and hour on an application to transfer the Class "A" Alcoholic Beverage License from Firebox LLC, Inc. d/b/a Firebox at 503 7th Street North, #3 to DEI Holdings, Inc. d/b/a Firebox notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner Piepkorn moved the application be approved.

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

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

**Application Filed by Spicy Pie SF, LLC d/b/a Spicy Pie for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by Spicy Pie SF, LLC d/b/a Spicy Pie for a Class "H" Alcoholic Beverage License at 2640 52nd Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner Piepkorn moved the application be approved.

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

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

**Application Filed by Men's Hair World LLC d/b/a Hair Salon for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by Men's Hair World LLC d/b/a Hair Salon for a Class "H" Alcoholic Beverage License at 1801 45th Street South, Suite L, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Police Chief David Todd said there were concerns initially on how the applicant would meet the 50 percent food sales requirement; however, the applicant has a restaurant license, booths are being put in place as required. He said some food will be prepared on site and some catered in.

Raihana Nadem, owner of Men's Hair World, LLC, said her salon includes a separation between the waiting area and the work stations. She said limited food will be offered.

Commissioner Gehrig said he is pleased that the Liquor Control Board tried new things and he feels this will be a good addition.

Commissioner Piepkorn moved the application be approved.

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

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

**Application Filed by 670 Events LLC d/b/a Sanctuary Events Center for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by 670 Events LLC d/b/a Sanctuary Events Center for a Class "RZ-V" Alcoholic Beverage License at 218 Broadway, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Police Chief David Todd said this is for Sanctuary Events Center which is being remodeled at 670 4th Avenue North, a former church building.

Commissioner Piepkorn moved the application be approved.

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

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

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

A Hearing had been set for this day and hour on the special assessment list for the construction of the following Improvement Districts in the City of Fargo, North Dakota, all having been approved by the Special Assessment Commission on 4/22/16; set the interest rate at 1% per annum over the net rate on bonds financing said projects:

- (1) P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6205.
- (2) Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6249.
- (3) P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-14-01.
- (4) P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-A.
- (5) P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-B.
- (6) P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-C.
- (7) Sanitary Sewer, Water Main, Storm Sewer, Grading, Street Lights and Incidentals Improvement District No. BN-14-0.
- (8) Sanitary Sewer, Water Main, Storm Sewer, Grading, Street Lights and Incidentals Improvement District No. BN-14-1.
- (9) Concrete Curb and Gutter, Asphalt Pavement, Utilities, Street Lights, Sidewalks and Incidentals Improvement District No. BN-14-2.
- (10) Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-14-4.
- (11) Storm Sewer, Paving and Incidentals Improvement District No. BN-14-6.
- (12) Sanitary Sewer, Water Main, Storm Sewer, Grading, Street Lights and Incidentals Improvement District No. BN-15-F.
- (13) Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-1.
- (14) Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-2.
- (15) Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-3.
- (16) Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-15-C.
- (17) Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-0.
- (18) Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-3.
- (19) Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-6.
- (20) Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-8.
- (21) Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-9.

- (22) Asphalt Wearing Course and Incidentals Improvement District No. PN-14-B.
- (23) Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-E.
- (24) Asphalt Wearing Course and Incidentals Improvement District No. PN-15-C.
- (25) Asphalt Mill and Overlay and Incidentals Improvement District No. PR-15-A.
- (26) Asphalt Mill and Overlay and Incidentals Improvement District No. PR-15-B.
- (27) Seal Coat and Incidentals Improvement District No. PR-15-E.
- (28) Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-K.
- (29) Skyway Reconstruction and Incidentals Improvement District No. 5910.
- (30) New Construction City Ordered Sidewalks and Incidentals Improvement District No. SN-15-B.

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

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

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

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

### **Block 9 Development (223 Broadway North):**

The Board received a communication from Planning Director Jim Gilmour stating the Planning and Development Department, and the City Attorney have been working with RDO and the Kilbourne Group on a redevelopment project to be located on the block now occupied by US Bank and a city parking lot in downtown Fargo. The developer, Block 9 Partners, LLC, is requesting use of Tax Increment Financing, he said, as well as approval of Renaissance Zone incentives, approval of a PILOT property tax reduction and a development agreement that will include a public-private partnership for the development of a public plaza and parking garage.

Mr. Gilmour said the proposal includes the ground floor as retail and a hotel lobby, floors 2 thru 8 would be the Corporate Headquarters for RDO, floors 9 thru 12 would be the hotel, floors 13 thru 17 would be residential and the 18th floor would be the mechanical floor. He said the developer will invest about \$5 million in a city plaza, and a parking garage will be built in partnership between the Block 9 partners (RDO-TMI-Kilbourne) and the city. He gave the following as a summary of the project:



**Parking Garage, Public Plaza and Skyway Connection**

- City will create special assessment district(s) to pay for a 340 car parking garage, a public plaza and skyway connection. Costs are estimated to be \$5 million for the plaza and \$10 million towards a parking garage.
- Developer will construct these improvements under a contract with the city.
- Developer will pay for all costs greater than \$15 million.
- Plaza will be a public use space, managed by the Fargo Parks, the City and Block 9.
- Parking will be used by Block 9 tenants from 6:00 a.m. to 6:00 p.m. M-F. At least 200 public parking spots will be available at other times. City to receive 50% of net parking revenue from events.
- Block 9 will purchase city surface parking lot for \$200,000.00.

**Debt Payment**

- City will sell parking garage to Block 9 over 25 years.
- City will create a TIF to generate money for TIF costs.
- Block 9 will pay an annual payment for the public plaza and parking garage debt payments. The payment will be the amount of the debt payments, less TIF revenue which is estimated to be \$250,000.00 a year. Annual payment estimated to be \$900,000.00 a year.
- The annual payments are guaranteed by the parking garage, corporate guarantees from RDO and the Kilbourne Group, and the ability to cancel the Renaissance Zone and PILOT incentives.

**Developer Incentives**

- Renaissance Zone property tax exemptions for years 1 thru 5 for all but condos. Payment in Lieu of Taxes (PILOT) incentive for years 6 thru 20. Condos pay property taxes to TIF, which are used for Plaza costs. Developers rate of return is 4.1%.

**Public Benefits**

- Downtown Plaza and no cost to taxpayers
- 340 car parking garage with free parking in the evening and on weekends for at least 200 cars.
- Major development in the downtown.
- Future property tax revenue of \$750,000.00 a year, compared to less than \$3,000.00 today.

Scott Neal, President of RDO Real Estate, said RDO, a family owned company, is very excited to continue its relationship with the City of Fargo. The decision to commit \$90-100 million to the project is not taken lightly, he said, and RDO would not be a part of this project without the approval of the incentives and he urged the Commission to approve the proposal.

Mark Nisbet, Chair of the Board for the Downtown Community Partnership; Dave Anderson, former President of the Downtown Community Partnership; Megan Myrdal of

the Red River Market; Greg Tehven of Emerging Prairie; and Michael Olson all spoke in favor of the project.

Commissioner Gehrig he heard Mr. Neal say in a previous interview that RDO would grow somewhere in Fargo; however, these incentives drove them downtown. He said a question to ask is whether it is growth in Fargo being promoted or only growth downtown. Incentives can be given to encourage growth downtown at the expense of the taxpayers, he said, or it can be done naturally in a free market. He said the TIF is a massive loan by the taxpayer, and he does not support that, nor does he support the PILOT. He said while he supports the project and feels it is a fantastic idea, it is asking a lot from the taxpayers in order to make it happen. This is a \$15 million investment that will break even in 30 years, he said.

Commissioner Piepkorn said this is a great addition not only to downtown, but to the city. He said this is an exciting time and this project will be a crown jewel. It is impactful in that it will attract more businesses downtown, he said, and the partners in this project are local, which says a lot. He said he and the Mayor are on the Tax Exempt Review Committee which is working on the process of updating the rules due to more of these projects being expected.

Commissioner Williams said the Renaissance Zone is a wonderful program and TIFs, when the target and the duration is in order, can be a powerful tool. He said it is the renewal plan that sets the table for creation of a TIF district. He said he would not support the PILOT or Developers Agreement as written and suggested the Commission not approve the motion and instead ask the City Administrator to work with developers for more public equity. He said he is concerned about setting a new precedent with the Block 9 PILOT and TIF paying for a privately owned \$7 million parking structure and TIF's from \$1 million dollar condos paying for a privately owned plaza. There will not be additional property taxes paid to the schools, parks, county, or city for services for these buildings for 20 years or longer, he said, and when that time is up, these multi-million dollar companies will own a publicly funded, privately owned and operated parking garage. He said the city has a proven successful model for public/private developments that includes structures for public parking. The Civic Ramp, the Island Park Ramp and the soon to be built Roberts Street Ramp are all publicly owned and operated parking structures that increase available public parking, he said, and each of those projects used a tax increment where the private developer pays taxes on the new development. Some of those taxes are then allocated to help pay the debt service on the public ramp along with parking rent revenues, he said. The Civic and Island Park Ramp are now paid for, he said, and generate net parking rental revenue of \$288,000.00 a year at Island Park ramp and \$180,000.00 at the Civic Ramp. This public revenue helps fund public parking maintenance, improvements and operations and helps offset tax increases, he said; however, that will not be the case with the Block 9 development. The private developer that did not have to pay taxes through the PILOT gets to own the structure and the parking rents for the life of the building, he said.

**Renewal Plan for Tax Increment Financing District No. 2016-01 Approved (Redevelopment of a Block between Broadway and 5th Street and Between 2nd Avenue and 3rd Avenue North):**

A Hearing had been set for March 14, 2016 on a Renewal Plan for Tax Increment Financing District No. 2016-01.

At the March 14, 2016 meeting, the Hearing was continued to March 28, 2016.

At the March 28, 2016 meeting, the Hearing was continued April 25, 2016.

At the April 25, 2016 meeting, the Hearing was continued to this date and hour.

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values;

And WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for Tax Increment Financing District No. 2016-01, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are properties within the area contained within the Renewal Plan with deteriorated conditions, and other conditions existing that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these properties and conditions have substantially impaired the growth of the City; and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That there are no persons living in residential buildings who will be displaced by the redevelopment.
5. That the area designated as the Renewal Plan for Tax Increment Financing District No. 2016-01 is appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for Tax Increment Financing District No. 2016-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Renewal Plan for Tax Increment Financing District No. 2016-01 is hereby officially adopted by the Board.
8. That a Developer Agreement and Financing Plan be prepared in regard to the Tax Increment Financing.
9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof, and that the County Auditor and Treasurer shall do so in accordance with this section.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

**Renaissance Zone Project for Block 9, LLC Approved:**

Commissioner Williams moved the Renaissance Zone application filed by Block 9, LLC and the property tax exemption and the State income tax exemptions as allowed by the ND Renaissance Zone law contingent upon completion of the project and verification cost be approved.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

**Application Filed by Block 9, LLC for Payment in Lieu of Tax Exemption (PILOT) Approved:**

A Hearing had been set for April 25, 2016 on the application filed by Block 9, LLC for a property tax exemption.

At the April 25, 2016 meeting, the Hearing was continued to this date and hour.

Commissioner Sobolik moved the application filed by Block 9, LLC for a 100% property tax exemption for the non-residential portions of the Block 9 project for a 15-year period that starts after the Renaissance Zone property tax incentives end be approved.

Second by Piepkorn.

Commissioner Williams moved the motion be amended to direct the City Administrator to work with the developers on the portion of this project dealing with ownership of the parking spots.

Second by Gehrig. On call of the roll on the motion to amend, Commissioners Williams and Gehrig voted aye.

Commissioners Sobolik, Piepkorn and Mahoney voted nay.

The motion died for a lack of a majority.

Commissioner Gehrig said in January, 2016, this Board voted that there be no City Commission action on PILOT applications that do not conform to existing policies, so voting for this application for office space, hotel space and retail space is counter to the guidelines.

On call of the roll of the original motion, Commissioners Sobolik, Piepkorn and Mahoney voted aye.

Commissioners Williams and Gehrig voted nay.

The motion was declared carried.

**Development Agreement with Block 9 Partners, LLC Approved:**

Planning Director Jim Gilmour provided the Board with an updated Development Agreement and a copy of the agreement showing the changes from one the Commissioners received in their agenda packets.

Commissioner Sobolik moved the Development Agreement with Block 9 Partners, LLC be approved.

Second by Piepkorn.

Commissioner Williams moved the motion be amended to refer the Development Agreement to the City Administrator to work with the developers for a development plan that is more favorable for public equity in the project.

Second by Gehrig. On call of the roll on the motion to amend, Commissioners Williams and Gehrig voted aye.

Commissioners Sobolik, Piepkorn and Mahoney voted nay.

The motion died for a lack of a majority.

On call of the roll of the original motion, Commissioners Sobolik Piepkorn and Mahoney voted aye.

Commissioners Williams and Gehrig voted nay.

The motion was declared carried.

At 6:23 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

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

Commissioner Williams moved the cost reimbursement request for FM Diversion Flood Project costs in the amount of \$4,940,909.00 be approved.

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

**Application Filed by Tax Representative Firm Tax Recourse, LLC, Shannon Baraza, Agent to Lower the 2016 Assessment Valuations on 4119 14th Avenue North Denied:**

The Board received a communication from City Assessor Ben Hushka stating he received an application for abatement of taxes for property located at 4119 14th Avenue initiated by tax representative firm Tax Recourse, LLC, Shannon Baraza, Agent. He said the application requests a value reduction from \$1,105,000.00 to \$1,040,756.00. He said he believes that the information provided supports the current valuation and that the applicant has not provided sufficient information that indicates a change in the value.

Mr. Hushka said the way the process works is that the action of the City Commission is a recommendation for the County Commission which actually takes the action on the abatement.

Commissioner Piepkorn moved, based upon Mr. Hushka's recommendation, that application #4454 filed by Tax Recourse, LLC, Shannon Baraza, Agent for abatement of 2016 real estate taxes on property located at 4119 14th Avenue North be denied.

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

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

**Request from GLS Properties, LLC for Early Expiration of their PILOT Agreement Denied:**

City Assessor Ben Hushka said this item was presented at the March 28, 2016 City Commission meeting and was referred to the Tax Exempt Review Committee and was discussed at their May 16, 2016 meeting. He said the Payment in Lieu of Tax Agreement (PILOT) was approved back when the mill levies were much higher than they are now and the request is to be let out of the agreement. Discussion at the Tax Exempt Review Committee revolved around the fact that both parties, the applicant and the city, go into these long term agreements knowing that not everything is going to stay the same, he said. It turned against the applicant by the mill levies going down, he said, and the mill levies could go back up, and then it could work against the city as well.

Tammy Burtness, President of MetroPlains Management, LLC, said she is representing GLS Properties, LLC. She said the West Wind Apartments are affordable housing with the average rent being \$745 per month, serving generally the four-person household earning \$45,000.00 per year or less. She said about \$96.00 of that rent goes toward taxes, whereas in the other North Dakota towns GLS is in, the range is \$60.00 to \$75.00. If GLS were able to get out of the program the tax per unit could be reduced to about \$70.00, she stated.

Commissioner Piepkorn said his main concern is that this could set a precedence for all the other PILOT applications that have been approved in the past.

Commissioner Williams said he has supported PILOT applications for affordability; however, now it has backfired for this type situation. Rather than changing for this one, he said, the policy could be adapted for the conditions.

Commissioner Williams moved the request to expire the Payment in Lieu of Tax Agreement (PILOT) for GLS Properties, LLC be denied.

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

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

**Recycling Agreement with Minnkota Recycling Approved:**

Solid Waste Utility Director Terry Ludlum presented a proposed three-year agreement with Minnkota Recycling that came from an RFP process. Two excellent, detailed proposals were received on April 15, 2016; he said, one from Minnkota Recycling and one from Waste Management. An evaluation team looked through the criteria, conducted interviews and scored the firms, he said, making sure the team understood the details on the processing, handling and marketing should the city move to co-mingled materials. If this agreement is approved, he said, he will go back and complete the study that is being wrapped up. He said it looked at things like whether to build a material recovery facility and sort material, or perhaps partnering with neighboring communities or a private firm. He said he will take the information in the agreement and come back in 30-60 days with a financing plan and implementation schedule and there can be a discussion on the future of recycling and where the Board would like to see it go. Discussion then can include pricing and how it will be paid for, he said, and the possibility of an opt-out provision. He said he perceives the implementation could be in 2017 and residents would likely have two rollout containers,

one for recyclables and one for garbage. He said costs could be lowered by utilizing the same type container only with a different color lid for recyclables.

Commissioner Williams said rates for single sort have not been determined yet, and this decision now has no merit on that cost. He said he hopes a graduated rate can be considered rewarding those who throw less away. Fargo residents get a good rate now on their garbage service, he said, which is lower than the surrounding areas.

In response to a question from Commissioner Sobolik about multi-family units and what they can do to recycle and participate in the program, Mr. Ludlum said Phase 1 of this program will work through the residential component, such as getting the carts and the billing system set up. Phase 2 would work with multi-family dwellings, he said. One of the biggest difficulties for apartment buildings is space, he said, and it is difficult to give up parking for recyclables. He said the drop sites will be maintained and enhanced.

Commissioner Piepkorn said a one-time opt-out provision would make it more palatable for some residents.

Paul Kalibabky, representing Waste Management, expressed appreciation for being given the opportunity to submit a proposal. He said the entire experience was professional and fair.

Commissioner Gehrig said this a long process and public input is encouraged. He said a high rate of residents participate in recycling and he has heard a demand for single sort recycling. Any changes will need to be well thought through, he said, and single sort may help participation of occupants in multi-family dwellings.

Commissioner Gehrig moved the three-year Recycling Agreement with Minnkota Recycling for the Processing and Marketing Service of Recyclable Materials delivered by the City of Fargo be approved.

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

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

### **Resolution Adopted Adding a Cass County Commission Representative to the Renaissance Zone Authority:**

The Board received a communication from City Attorney Erik Johnson stating he was directed by the Commission to draft a resolution adding a Cass County Commissioner to the Renaissance Zone Authority and to advise the Cass County Commission to select a representative. He said it is his understanding that Cass County has received this request and has selected Chad Peterson as their appointee to serve on the Authority. He said the proposed resolution will add an eighth member to the seven-member Renaissance Zone Authority.

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City of Fargo established a Renaissance Zone Authority consisting of seven members, initially in 1999, said Authority overseeing and implementing the city's Renaissance Zone program being implemented pursuant to the authority set forth in N.D.C.C. Chapter 40-63; and

WHEREAS, The city would benefit from adding a Cass County Commission representative to the Renaissance Zone Authority; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, That the Renaissance Zone Authority is hereby expanded from a seven-member committee to an eight-member committee with the additional committee member being a member of the Cass County Commission appointed by the Fargo board of city commissioners; and

BE IT FURTHER RESOLVED, That an invitation be extended to the Cass County Commission for said commission to nominate one of its commissioners to serve on the Fargo Renaissance Zone Authority which nominee to be thereafter appointed by the Fargo Board of City Commissioners; and

BE IT FURTHER RESOLVED, That the initial term of said appointment shall extend for a period of three (3) years with subsequent appointments to be for terms of three years. If a vacancy shall occur other than by expiration of a term, it shall be filled by appointment for the unexpired portion of said term. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed.

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

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

**Metro Flood Diversion Project Joint Powers Agreement and the Project Partnership Agreement with the United States Army Corps of Engineers Received and Filed:**

The Board received a communication from Mayor Mahoney stating for the Commission's review and consideration, pertaining to the Metro Flood Diversion Project, is a Joint Powers Agreement (JPA). He said this JPA is an amendment to the existing limited joint powers agreement and will be presented to all six member entities (Fargo, Moorhead, Cass County, Clay County and the two water boards) for approval. Among other things, he said, it is a precursor to the commencement of construction on the Project. He said he is also presenting for review and consideration the Project Partnership Agreement with the United States Army Corps of Engineers which will need to be signed by the local non-federal sponsors. The City of Fargo is one of the non-federal sponsors, he said.

Commissioner Williams moved the Joint Powers Agreement for the Metro Flood Diversion Project and the Project Partnership Agreement be received and filed and placed on the agenda at the next regular meeting of the City Commission for further consideration and action.

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

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

**Implementation of a 5-Year Prioritized Comprehensive Flood Control Plan Approved:**

The Board received a communication from City Engineer April Walker stating staff has worked to develop a prioritized comprehensive flood control plan. She said the plan looks at the next five years and continues to prioritize construction of areas



that are the hardest to provide emergency protection for. The plan, she said, also seeks to avoid the implementation of areas that would require removal of affordable housing for the construction of freeboard, purely for the purpose of certification in areas where emergency measures have not been exposed to flood water in the past. She said they also avoided the areas where permitting of the projects could be difficult and require the implementation of mitigation through the construction of ponds or the purchase of easements to flood property. She said among the areas that staff wished to continue progressing toward a completed primary flood protection line are Belmont, Hackberry, River Drive, Oakcreek, Copperfield Court, Rosewood, etc. Many of these locations, she said, have had substantial amounts of work done and are lacking just a few properties to complete the primary line of protection. She said all of these areas have been the subject of voluntary buyouts and all but Belmont have been authorized for the completion of appraisals and negotiation for the property based on the appraisals. The implementation of this portion of the plan, she said, would result in certification against the current 39.3' flood plain for 21 homes in the Mickelson area and 7 homes in the El Zagal area as well as potentially removing City Hall from the flood plain.

Commissioner Piepkorn moved the implementation of the 5-year prioritized comprehensive flood control plan be approved and staff be directed to continue to pursue all necessary property through appraisals and negotiations.

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

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

#### **Construction Projects Update:**

City Engineer April Walker provided a Power Point presentation outlining construction projects, progress and closures.

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 6, 2016.

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

The time at adjournment was 7:32 o'clock p.m.