

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: June 20, 2016:**

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, June 20, 2016.

The Commissioners present or absent were as shown following:

Present: Gehrig (via conference call), Piepkorn, Sobolik, Williams, Mahoney.

Absent: None.

Mayor Mahoney presiding.

**Order of Agenda Approved:**

Commissioner Williams moved the Order of the Agenda be approved moving Item No. "14" from the Consent Agenda to the end of the Regular Agenda.

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

**Minutes Approved:**

Commissioner Williams moved that the Minutes of the Special Meetings on May 31, June 1, June 2 and June 13, 2016 and the Regular Meeting of the Board held on June 6, 2016 be approved.

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

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

**Consent Agenda Approved:**

Commissioner Sobolik moved the Consent Agenda be approved as follows:

1. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading 6/6/16:
  - (a) Rezoning Certain Parcels of Land Lying in Harwood's 3rd Addition, Fargo, Cass County, North Dakota.
  - (b) Rezoning Certain Parcels of Land Lying in Section 13, Township 138 North, Range 49 West, Fargo, Cass County, North Dakota.
  - (c) Rezoning Certain Parcels of Land Lying in West Acres Business Park 4th Addition, Fargo, Cass County, North Dakota.
2. Receive and file Year to Date – Budget to Actual Report for May 2016.
3. Contract with the North Dakota Department of Health for the Title X Family Planning Program (CFDA #93.217).

4. Amended Contract with the North Dakota Department of Health for the Women's Way Program in the amount of \$2,500.00 (CFDA #93.752).
5. Contract with the North Dakota Department of Health for Family Planning Depression Screening Program (Contract No. G15.782).
6. Service Agreement with Fargo Public Schools for nursing services for Special Education services for summer school 2016.
7. Grant Awards from the North Dakota Department of Health for Public Health Emergency Preparedness and Response for Response Regional Staff Support, All Hazards and City Readiness Initiative (CFDA No. 93.069).
8. Contract with the North Dakota Department of Commerce for funds to support operational expenses at the Gladys Ray Shelter (ND Homeless Grant, Instrument No. 3973-NDHG16).
9. Property Disposition Service Agreement with PropertyRoom.com, Inc.
10. Applications for Games of Chance:
  - (a) FM-AM Rotary for sports pool from 9/12/16 to 2/5/17.
  - (b) Fargo Lions Club for a calendar sports pool from 9/12/16 to 12/26/16.
  - (c) Steve Weidner FM Junior Tour for raffle boards from 7/1/16 to 6/30/17.
11. Memorandum of Offer to Landowner for Permanent Easement (Street and Utility) with Marlene Backer for Project No. PN-14-41.
12. Change Order No. 1 for an increase of \$38,639.30 for Project No. HD-15-B1.
13. Agreement for Special Improvements with Lee Peyerl (Improvement District No. BN-16-E).
14. Renewal of Liquor and Live Entertainment Licenses until 6/30/17, contingent upon all essential requirements for renewal being met by 6/30/16 (moved to the Regular Agenda).
15. Contract for parking ramp assessment services with Carl Walker, Inc. in the amount of \$31,200.00.
16. Planning staff directed to review and provide recommendations to the Commission regarding non right-of-way easement requests for City owned properties.
17. Equipment Lease Agreement with Interstate Parking Company of North Dakota LLC.
18. HMGP Agreement Amendment Nos. 2 and 3 with the North Dakota Department of Emergency Services for WWTP flood protection and Broadway Interceptor SSO Reduction (Project No. WW1402).

19. Change Orders for Project No. WA1301:
  - (a) No. 4 for decrease of \$75,929.95 for the General Construction Contract.
  - (b) No. 5 for an increase of \$147,271.34 for the Mechanical Construction Contract.
  - (c) No. 4 for an increase of \$89,069.00 for the Electrical Construction Contract.
20. Change Order No. 2 for an increase of \$9,434.65 for Project No. WW1402.
21. Change Order No. 1 for an increase of \$61,937.00 for the General Construction of Project No. WA1501.
22. Change Order No. 1 for an increase of \$8,000.00 and time extension for Project No. WA1503.
23. Engineering Technician I contract with Dana Johnson.
24. Road Use Agreement with Meinecke-Johnson Company.
25. Contract time extension to 8/29/16 for Project No. BP-00-26.
26. Minor re-branding of the City of Fargo logo and staff directed to implement its usage.
27. Offer from James Papacek to purchase his property at 1462 South River Road pursuant to the terms of the Voluntary Acquisition Program.
28. Purchase Agreement with Mid America Steel, Inc.
29. Bid Advertisement for Project No. TN-16-G.
30. Contracts and Bonds for Project No. BP-00-26 and FargoDome Video Board Upgrades Assessment.
31. Bills in the amount of \$15,329,466.01.

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.

**Change Order No. 3 for Improvement District No. PN-16-E1 Approved:**

Commissioner Sobolik moved approval of Change Order No. 3 for an increase of \$11,146.97 for Improvement District No. PN-15-E1.

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.

**Final Contract Amendment No. 4 for Improvement District No. PN-14-11 Approved:**

Commissioner Sobolik moved approval of Final Contract Amendment No. 4 for an increase of \$1,470.67 for Improvement District No. PN-14-11.

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.

**Final Contract Amendment No. 5 for Improvement District No. UN-14-11 Approved:**

Commissioner Sobolik moved approval of Final Contract Amendment No. 5 for an increase of \$844.60 for Improvement District No. UN-14-11.

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.

**Encroachment Agreement for 2500 Broadway Approved (Improvement District No. BR-16-A1):**

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating the Committee reviewed a communication from Project Manager Aaron Edgar regarding an encroachment agreement associated with a property that is part of an upcoming street reconstruction project. They said an encroachment currently exists and is undocumented. As part of the reconstruction project, the property owner has determined they no longer need most of the paving that exists from the property line to the curb line, they said, and a sidewalk will be installed and the boulevard will be returned to grass. The one area of exception, they said, is that they currently have an area where dumpsters are located that they would like returned to hard surface. Staff reviewed the request and determined the annual fee would be \$198.00; they said, therefore, a \$500.00 a year minimum would apply, as would a \$500.00 application fee. They said the recommendation is approval of the encroachment with the waiving of the annual fee.

Commissioner Sobolik moved the Encroachment Agreement with BOAS Northport Fargo, LLC at 2500 Broadway be approved, subject to the terms listed with the annual fee being waived.

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 Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1:**

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 15, 2016 and the bids were found to be as follows:

Sellin Brothers, Inc.

Hawley, MN

Bid:	\$1,387,626.15
Dakota Underground Company, Inc. Bid:	Fargo, ND \$1,485,564.15
KPH, Inc. Bid:	Kindred, ND \$1,517,717.00
Master Construction Company, Inc. Bid:	Fargo, ND \$1,565,041.00
Ryan Contracting Bid:	Shakopee, MN \$1,651,655.15
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$1,993,920.00

**Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1 Awarded to Sellin Brothers, Inc. in the Amount of \$1,387,626.15:**

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 Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 15, 2016 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1 shows the bid of Sellin Brothers, Inc. of Hawley, Minnesota, in the sum of \$1,387,626.15 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 Sellin Brothers, Inc. in the sum of \$1,387,626.15 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-J1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Sellin Brothers, Inc. for the sum of \$1,387,626.15, 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.

**Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-J (Southwest and Southeast Quadrants of Deer Creek Addition):**

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

**Adopt Resolution Creating Improvement District No. PN-15-J:**

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

On 59th Avenue South from 125' east of 59th Street South to 58th Street South.

On 60th Avenue South from 125' east of 59th Street South to 58th Street South.

On 60th Avenue South between 66th Street South and 68th Street South.

On 63rd Avenue South from Deer Creek Parkway to 58th Street South and connecting cul-de-sacs.

On Smylie Lane South.

On 58th Street South from 59th Avenue South to 63rd Avenue South.

On 61st Street South from 63rd Avenue South for 125' north.

On 62nd Street South from 63rd Avenue South for 130' south.

On 66th Street South from 150' south of 59th Avenue to Deer Creek Parkway.

On 67th Street South from 60th Avenue South to Deer Creek Parkway.

On 68th Street South from 60th Avenue South to Deer Creek Parkway.

**COMPRISING:**

Lots 1 through 7, 10 through 21, and 29 through 38, Block 1.

Lots 1 through 11, Block 2.

Lots 1 through 9, Block 3.

Lots 1 through 31, Block 4.

Lots 1 through 7, and 12 through 22, Block 5.

Lots 1 through 13, Block 6.

Lots 1 through 14, Block 7.

Lots 1 through 23, Block 9.

Lots 1 through 32, Block 10.

Lots 1 through 123, Block 11.

Lots 1 through 17, Block 12.

Lots 1 through 22, Block 13.

Lots 1 through 26, Block 14.

Lots 1 through 35, Block 15.

Lots 1 through 31, Block 16.

Lots 1 through 89, Block 17.

Lots 1 through 21, Block 18.

Lots 1 through 20, Block 19.

Lots 1 through 40, Block 20.

Lots 1 through 43, Block 21.  
Lots 1 through 38, Block 22.  
Lots 1 through 31, Block 23.  
Lots 1 through 33, Block 24.  
All platted in Deer Creek Addition.

Lots 1 through 2, Block 1.  
All platted in Deer Creek Second Addition.

Lots 1 through 3, Block 1.  
Lots 1 through 3, Block 2.  
All platted in Deer Creek Third Addition.

Lots 1 through 27, Block 1.  
Lots 1 through 8, Block 2.  
Lot 1, Block 3.  
Lots 1 through 2, Block 4.  
All platted in Ashwood Fourth Addition.

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

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

**Request Report and Estimate of Cost from the City Engineer for Improvement District No. PN-15-J:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PN-15-J in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$2,552,704.89.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Concrete Pavement Rehabilitation and Incidentals Improvement District No. PR-16-F (Various Locations in North Fargo):**

Commissioner Sobolik moved the following action be taken in connection with Concrete Pavement Rehabilitation and Incidentals Improvement District No. PR-16-F:

**Adopt Resolution Creating Improvement District No. PR-16-F:**

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



On 12th Avenue North from I-29 to 45th Street.

On Aggregate Industries Drive North from 7th Avenue to 12th Avenue.

On 40th Street North from 7th Avenue to 12th Avenue.

On 38th Street North from 7th Avenue to 12th Avenue.

**COMPRISING:**

All property located within the area bordered:

- on the north by BNSF Railroad.
- on the south by 7th Avenue North.
- on the east by west right-of-way of Interstate 29.
- on the west by 45th Street North.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Pavement Rehabilitation and Incidentals Improvement District No. PR-16-F in the City of Fargo, North Dakota, be and the same is hereby created.

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

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PR-16-F 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 \$2,552,704.89.)

**Order Plans and Specifications for Improvement District No. PR-16-F:**

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

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

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

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

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

**Adopt Resolution Declaring Concrete Pavement Rehabilitation and Incidentals Necessary:**

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

That it be and is hereby declared necessary to construct Concrete Pavement Rehabilitation and Incidentals Improvement District No. PR-16-F 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 Concrete Pavement Rehabilitation and Incidentals improvement is to be paid from Sales Tax and approximately 52% 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 Concrete Pavement Rehabilitation and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

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

**Direct City Auditor's Office to Call for Bids for Improvement District No. PR-16-F:**

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. PR-16-F 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.

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

Finance Director Kent Costin said there are a number of items in the reimbursement request for the period of May 1 to May 31, 2016 including relocation assistance for the SideStreet Grill & Pub, expenses for the demolition of Park East, Howard Johnson and the former Shakeys, El Zagal levee work and the 2nd Street and 4th Street floodwall projects, some utility relocations, easement purchases and some land related to the Oxbow ring levee project. He said the amount spent this period is \$3,302,390.00 and the reimbursement request for \$2,209,200.00. This leaves the balance of state funds available at \$135,019,590.00, he said.

Commissioner Williams said Mr. Costin, Cass County Commissioner Mary Scherling and he spoke to the Water Topics Interim Committee in Minot and it was helpful to have the opportunity to show them how far flood protection has come. He said their testimony was well received.

Commissioner Williams moved the cost reimbursement request for FM Diversion Flood Project costs in the amount of \$2,209,200.00 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.

**Competitive Wage Adjustment Approved:**

The Board received a communication from Finance Director Kent Costin stating the budget process involves consideration of wage adjustments mid-year. He said market pay studies are utilized every two years to assess the adequacy for compensation levels with the goal of continuing to provide a reasonable compensation system for employees. The Position Evaluation Committee also reviews departmental recommendations for various compensation and job changes which are reported annually and acted upon as part of the budget development process. He said employee contributions to the health insurance benefit package are increasing as of July 4, 2016 by 7.5%. He said the Budget Review Team and the Finance Committee have discussed compensation issues and are recommending a 2% competitive wage adjustment effective July 4, 2016.

Mr. Costin said last year the COLA was 1.25% with the City funding part of the health insurance increase last year. The wage adjustment cost would be about \$1.3 million, he said, with a general fund impact for the rest of this year of about \$514,000.00. The fund balance at the end of the year will be about \$1.9 million in anticipation of needed funds as well. He said the budget team intends to have an early July budget meeting to kick off the budget process to outline revenues and touch on what the expected hot spots would be in 2017.

In response to a question from Commissioner Gehrig about whether this is a Cost of Living (COLA) increase or a pay raise, Mayor Mahoney said this would be a competitive wage adjustment. The intent is 2% now, he said, and if there is to be talk of other adjustments it would be in the budget discussions

Commissioner Gehrig said it is important COLA be kept separate from pay raises, they are not the same thing.

Commissioner Williams moved a 2% competitive wage adjustment, effective July 4, 2016, for all full time and permanent part time employees be approved.

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.

**Appointments to the Diversion Authority Entities Approved:**

The Board received a communication from Mayor Mahoney stating the Joint Powers Agreement (JPA) for the Diversion Authority (DA) includes governance changes and a change in the existing memberships. He said the appointments to the Diversion Authority Board need to be completed prior to the June 23, 2016 DA Board meeting in order for the PPA to be signed prior to July. The criteria for the Board of Authority membership representing Fargo is to be the Mayor and two Commissioners, he said, and his recommendation is to appoint Commissioners Dave Piepkorn and Tony Grindberg. He said for the three Land Management Committee membership positions, he is recommending Commissioner John Strand, Bruce Grubb and Nathan Boerboom; and for the three Finance Committee Memberships he is recommending Commissioner Tony Gehrig, Mike Redlinger and Kent Costin.

Commissioner Sobolik moved to approve the appointment of Tim Mahoney, Dave Piepkorn and Tony Grindberg to the Diversion Authority; John Strand, Bruce Grubb and Nathan Boerboom to the Diversion Authority Land Management

Committee; and Tony Gehrig, Mike Redlinger and Kent Costin to the DA Finance Committee, effective July 1, 2016.

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.

**Primary Guaranteed Project Cost Proposal for the Roberts Street Parking Ramp Approved:**

The Board received a communication from Planning Director Jim Gilmour stating in April, the City of Fargo approved an agreement with DFI Roberts LLC to construct a parking ramp for the City of Fargo that is part of a mixed-use development. He said this agreement provides for DFI Roberts LLC to provide the City with a Primary GPC (Guaranteed Project Cost) Proposal, after approval of the plans. This proposed guaranteed maximum price is based on the cost of contracts which have been conditionally awarded for the primary plans, he said, and based on DFI's estimate of the cost of all Roberts Street Parking Ramp work, other than what is reflected in the primary plans. He said primary plans include the parking ramp substructure, foundation and shell. The City is required to notify DFI in writing within 10 business days if the City either approves or rejects the Primary GPC Proposal, he said.

Mr. Gilmour said this is the first phase of the Roberts Street area development which will include a city-owned 457 space parking facility, there will be at least \$20 million in private development that will follow, as well as another \$10 million for the potential acquisition of property north of this parking garage. He said the primary GPC is \$11,588,000.00 which includes a 5% contingency, and the estimate for the rest of the work that has yet to be bid would be \$800,000.00 for a total estimated cost of \$12,388,000.00. Resources available within the parking fund include \$10 million of bond proceeds, he said, \$2.4 million of parking funds, and \$300,000.00 of land sold for the ramp. He said in addition, the parking fund also has a \$373,000.00 repair and replacement reserve for things that may come up, a pending \$200,000.00 land sale of US Bank property, plus funds would increase about \$40,000.00 per month as income increases on other parking facilities. He said he is comfortable that the city will be able to work with the prices.

In response to a question from Mayor Mahoney about the cost per space for parking, Commissioner Williams said it comes to about \$26,000.00. He said this is a unique project that not only doubles available public parking and becomes a public asset for generating future funds for other parking, it adds 140 residences of various rates and commercial spaces.

Commissioner Williams moved the Primary GPC Proposal for the Roberts Street Parking Ramp be approved.

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.

**Hearing on an Application Filed by The Jim LLC d/b/a The Jim Craft Beer Lounge for an Alcoholic Beverage License Continued to August 1, 2016:**

This was the time and date set for a hearing on an application filed by The Jim LLC d/b/a The Jim Craft Beer Lounge for a Class "FA" Alcoholic Beverage License at 614 Main Avenue; however, City Auditor Steve Sprague said the applicant is requesting the Hearing be continued to August 1, 2016.

Commissioner Piepkorn moved the Hearing be continued to 5:15 o'clock p.m. Monday, August 1, 2016.

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 to Transfer the Alcoholic Beverage License from QSL-Fargo, LLC d/b/a Quaker Steak & Lube to Fargo Grill Management, LLC d/b/a Wild Bill's Sports Saloon Approved:**

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from QSL-Fargo, LLC d/b/a Quaker Steak & Lube to Fargo Grill Management, LLC d/b/a Wild Bill's Sports Saloon at 1776 45th Street 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 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.

**Parcels of Land in Bison Village Addition Rezoned (1001 32nd Avenue North):**

At a Hearing held on June 7, 2016 the Fargo Planning Commission recommended approval of a change in zoning from SR-4, Single-Dwelling Residential and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay to MR-3, Multi-Dwelling Residential, SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay of the proposed Bison Village 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 the application is to allow the development of a multi-family apartment complex and 26 single-family homes. She said she is asking for continuation of the Plat until July 18, 2016, for finalization of the amenities plan, the drain improvement agreement, the permanent drain easement document, the no-build easement document and the Park District developer agreement; however, staff is comfortable asking for approval of the rezoning. A C-O, Conditional Overlay currently exists and those standards will be kept, she said. The

Ordinance approved in March addressed landscape buffering, she stated, and that will be maintained. In essence, she said, the drain dedication is still 175' from the center line of the drain that could not be infringed upon and if approved, there would be a subdivision waiver, plus work being done on parks and trails.

Larry Nygard, Roers Development, Inc., said this is essentially what was discussed a couple months ago, the difference being that more land would be dedicated to single family lots. He said there will be a privately owned and managed storm water retention area that will service both the multi-family and single-family projects. He said there was a lot of research done on the drainage and the slopes have been modified to accommodate those concerns.

Doug Halverson, 3132 10th Street North, said he has concerns about the breakdown of two, three and four bedroom units because depending on that, and with as many as 280 units, there could be 900 residents living there. He said that raises parking issues and it seems only fair that the neighbors know how many bedrooms are planned.

In response to a question from Mr. Halvorson about whether the Board will be approving this specific plan tonight, Ms. Crutchfield said the request is for a zoning map amendment to do the zoning as depicted in the graphic. The zoning Ordinance will be drafted based on the recommendation tonight, she said, and will likely come on the Consent Agenda. The number of bedrooms is typically not looked at in a zoning Ordinance, she said, and the Land Development Code does not regulate specifics such as number of bedrooms. If that kind of specific is needed, she said, an additional Conditional Overlay or Planned Unit Development would be required.

Commissioner Piepkorn said there may have been a wrong impression that this is exclusively for NDSU students and it is not. He said McKinley School needs students and this project will bring more kids in not only the houses, but in the apartment buildings.

Mr. Nygard said it is not exclusive to NDSU students, although that is who finds the location desirous. He said zoning does not put a limit on bedrooms and now student housing is about 1.8 bedrooms per apartment. The required parking in a MR-3 still needs to be followed, he said, which is essentially one car to one bedroom. He said there is no way there could be more than a maximum of 700 bedrooms on this space, and it will likely be far less than that. He said current plans could change due to the project being built in stages.

Maureen Davies, 1739 3rd Street North, said she feels the zoning request should be denied at least until the site plans are available.

Fred Eisenhardt, 3125 10th Street North, said his concern is whether there is enough parking for all the people. He said this seems to be a student development and he feels efforts need to be made to be sure there are adequate parking spaces so that visitor parking does not overflow onto the residential streets.

Cheryl Ross, 3118 9th Street North, said she has been to many meetings since January related to this project and it has been an interesting process. It is not that the neighborhood is against students, she said, the neighborhood is concerned about what the outcome will be.

Planning Director Jim Gilmour said by standard, the parking requirement would be 2.25 parking spaces per unit. It would be up to the city whether changes to on-street parking would be made along 32nd Avenue, he said.

Commissioner Williams said this is not only about student housing, it is about neighborhood development. There are seniors and folks who cannot drive or choose not to, and there are opportunities for connections for transit services in the area. He suggested to Mr. Nygard that this development would be a great spot for an additional bike share station.

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

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

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

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

#### **Hearing on Plat of Bison Village Addition Continued to July 18, 2016:**

Commissioner Sobolik moved the Hearing on a Plat of Bison Village Subdivision Application be continued to 5:15 o'clock p.m., Monday, July 18, 2016.

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

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

#### **Parcels of Land in Erskine's Addition Rezoned and Planned Unit Development Master Land Use Plan Approved (1015, 1017 and 1021 13th Avenue South):**

At a Hearing held on June 7, 2016, the Fargo Planning Commission recommended approval of a change in zoning from SR-3, Single-Dwelling Residential to SR-5 Single-Dwelling Residential with a PUD Overlay and Planned Unit Development Master Land Use Plan and Final Plan on Habitat 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 a petition containing about 26 signatures was presented just prior to the meeting protesting the project. She said in a case such as this, a continuation could be requested to allow time to map it and confirm the signatures to see that requirements are met for the super majority vote requirements.

City Attorney Erik Johnson said a petition can be presented up until the time of the Hearing. He said in this case, calculation is in order to not only count the number of protests, but to count the square footage of the land the property owners represent.

Lake Agassiz Habitat for Humanity Executive Director Rob Rich said families are required to provide 250 hours of sweat equity per adult in the family, and the price of the homes are about \$120,000 to \$150,000 per unit. Both homeowners and community volunteers would be part of the project, he said, and the mechanical and

electrical systems are done by licensed contractors. He said if the Hearing were continued, the project could be delayed into 2017.

Planning Director Jim Gilmour said if there is sufficient protest it takes a super majority vote, or four votes out of five. He said if it were voted on now and the vote was greater than four out of five, it could pass and the protests would be irrelevant. If there were not a super majority of votes, he said, that is when it would not be known whether the protests were sufficient.

Commissioner Williams said he would like to hear the presentation and it could be decided whether to vote on it now.

Ms. Crutchfield said there was a vote of 7-1 at the Planning Commission Hearing June 7, 2016, one Commissioner had concerns about parking. She said the zoning map amendment takes three parcels along 13th Avenue South and 11th Street and splits them into four parcels total. It is a zero lot line development where the parcel line falls more or less on the wall of the unit. She said the location near bus routes is good since the project is targeted to single parent households with limited resources.

Malini Srivastava, NDSU Assistant Professor of Architecture, said the project is a partnership between students at NDSU, Lake Agassiz Habitat for Humanity and the City. She said the focus of Habitat for Humanity is to invest in housing rather than garages, and this project is for single family homes, although of a higher density. An alternative access plan, which is allowed in zoning regulations was followed, she said, with one parking space per home rather than two, with the requirement that two bicycle parking spaces per home be provided.

Nick Braaksma, NDSU graduate student, gave an overview of the project to provide affordable, high performance, high density housing through a service based education opportunity. He said the plan is to build two houses this fall and build two next year through Habitat for Humanity. He said the houses will be built to meet the goals of passive house standard for energy efficiency. He said the location is near urban amenities and fits within the GO2030 goals.

Commissioner Piepkorn said it seems these houses would fit in the neighborhood well and Habitat for Humanity has a reputation for high quality and he feels this would be a great addition to the neighborhood and would have great visibility for the program. He said even though parking is important, not everyone has cars. He said he can see there is not much green space or room for kids to be running around, but other than that he sees it as a great project.

Community Development Administrator Dan Mahli said the concept of utilizing this land for affordable home ownership was approved as part of the 2016 Community Action Plan. He said he'd like to clarify that the Habitat for Humanity Board is still discussing whether Phase One would be a one-unit or two-unit development built this year and the other units would be constructed next year. He said there is a 20-year affordability period on the land restricting it to owner occupancy.

Sandy Bonde, 1009 13th Avenue South, said her business is in the former fire station right next to the proposed project. She said there is not enough parking in the area and she has already had many problems with people parking in her lot and vandalism to her car and business. She said she was approached to sell her building; however, the offer was only a third of the price of what another neighboring property of much more square footage was purchased for.



Steven Stremick, 1155 13th Avenue South, said he and Ms. Bonde gathered the signatures, which he believes represents more than 50% of the property area. He said there is not enough green space between the sidewalk and road and there is no place for children to play. He said 13th Avenue is one of the busiest streets in Fargo and the speed limit is 35 miles per hour creating safety concerns. He said he foresees problems with parking, as well as problems with snow removal. He said moving snow is expensive and there really will be no place to put snow. He does not favor the project, he said, and was under the impression it would be continued due to the petition being presented. He said he would like the Hearing to be delayed for two weeks and with new Commissioners taking office then, that could make a difference in the vote.

Joe Burgum, 514 10th Avenue South, said he is president of the Hawthorne Neighborhood Association and strongly supports the project. There is an incredible diversity of housing types within the neighborhood, he said, which makes this a great fit. He said there is great access to grocery, and bus lines, as well as great walkability and it is bicycle friendly. He said he agrees with Mr. Stremick that 13th Avenue traffic is too fast and sees an opportunity to slow traffic in the neighborhood. He said on-street parking plays a role in calming traffic, when roads narrow people drive slower.

Commissioner Williams said the speeds there are 30 miles per hour, while the rest of the neighborhood is 25 miles per hour, so reducing that stretch may be something that the Traffic Technical Committee could look at.

Commissioner Sobolik said this is a great project. She said although it may not be traditional, there is adequate open space and room for children to play. She said this is a nice project for Habitat for Humanity and she said she is impressed with the fact that they worked to match the type of family with the home design having single parents occupy homes with only one parking spot.

Commissioner Gehrig agrees that it fits in the neighborhood; however, there is a protest and he feels that needs to be respected.

Mr. Johnson said there is no protocol stating that protests must be verified prior to taking a vote, thus, it is the Board's decision how to handle the issues before them. He said when there is a protest of more than 20%, there must be four or more votes to approve the project. He said if the Board were to vote tonight and the vote were less than that, something like 3-2, then the motion would fail and the protests would have to be verified.

Mayor Mahoney said one concern is the time delay for construction that could push the timeline back.

Commissioner Williams offered the following Resolution and moved its adoption contingent upon the technical review and execution by the City Engineer:

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

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

Commissioner Gehrig voted nay.

The motion was declared carried.

**First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Erskine's Addition to the City of Fargo, Cass County, North Dakota:**

Commissioner Williams 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 Erskine's Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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.

**Resolution Adopted Approving Erskine's Addition:**

Commissioner Williams offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Habitat Addition" containing 4 Lots, 1 Block, and 0.269 acres of land more or less, located at 1015, 1017, and 1021 13th Avenue South; and

WHEREAS, A Hearing was held June 7, 2016 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on June 13 and June 20, 2016, that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., June 20, 2016 at which time said Plat would be considered and all interested persons would be heard.

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

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

Commissioner Gehrig voted nay.

The motion was declared carried.

At 6:35 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

**City Administrator Directed to Draft a Job Description for a Sustainability Coordinator:**

The Board received a communication from Commissioner Williams stating due to good work by many, Fargo has become recognized as a national leader proving

that conservation saves and pays. He said some Commissioners and staff have often mentioned the need for creating a position for a sustainability coordinator/efficiency grant writer to research and apply for eligible grant opportunities. He said this position would be an important and lasting step to build on the important work of the Renewable Energy and Conservation Committee and eFargo that has worked with Xcel and Cass County Cooperative to establish an energy use baseline and measuring tools in municipal and residential buildings in the two year Georgetown Energy Challenge. He said eFargo is currently in 3rd place for the \$5 million energy prize and part of the competition is establishing internal city policies to continue improving efficiency and emission reduction as part of our daily operations. Adding this position that would be under the City Administrator's purview would help do more with less, he said, and leverage energy resources to generate new revenue sources while saving money through energy efficiency.

Malini Srivastava, NDSU Assistant Professor of Architecture, said in her work in the Georgetown University Energy Prize competition and eFargo, she has seen a tremendous amount of potential for savings. Of four grant applications submitted for eFargo, three were granted, and two of those were things that benefited the city, she said, which is how the municipal assessments were done. The City of Pittsburg created a coordinator position in 2008 and since then has raised \$4.5 million, all for efficiency efforts which resulted in savings, she said. A Sustainability Coordinator could look holistically at how the City uses their funding to gain efficiencies, she said, and such a position would not only save funds, she said, there would also be opportunities to obtain more funds through those efforts. Also, she said, if a long term idea such as this were instituted, it would help in the eFargo competition.

Commissioner Gehrig said there are private sector solutions and consultants in Fargo that do this of type work. He would like to see the conversation happen in the context of budget conversations, he said. There are other personnel needs and it is premature to discuss it out of the context of the budget, he said, and he would like to see whether it is actually needed or if private sector solutions could be considered.

Commissioner Williams moved to direct the City Administrator to draft a job description for a full time sustainability coordinator for 2017 budget consideration.

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.

### **Renewal of Liquor and Live Entertainment Licenses Approved Contingent Upon All Essential Requirements for Renewal Being Met by 6/30/16: Grace Period Granted to Uncle Maddios Pizza:**

City Auditor Steve Sprague shared a list of 190 alcoholic beverage establishments seeking renewal of their Liquor and Live Entertainment Licenses through June 30, 2017. He said he asked that this item be moved from the Consent Agenda to the Regular Agenda to discuss Uncle Maddios Pizza who failed to attend the annual meeting, thus facing a potential suspension of their liquor license. He said one of the requirements to renew a liquor license is to attend a mandatory annual meeting. He said eight of the 190 licenses up for renewal did not have representation in attendance at one of the three sessions offered on June 1, 2016. He said a makeup session was offered at the next Liquor Control Committee meeting scheduled

to be Wednesday, June 15 at 1:30 p.m.; however, was rescheduled to Friday, June 17 at 10:00 a.m. He said those eight were notified by phone of the time change; however, Uncle Maddios Pizza did not attend. He said the policy on the penalty for not attending is that the license is non-renewed until a meeting is attended. The next opportunity would be the July Liquor Control Committee meeting which is July 20, he said.

Commissioner Piepkorn said technically, the applicant did not miss one meeting, it was four.

Jamie Mattern, owner of Uncle Maddios Pizza, explained she also owns Maddios Pizza in Minot and made the mistake of filing both at the same time, thinking the renewal applications would be the same. She said this was the first time renewing in Fargo, and had she taken the time to see that Fargo requirements were different, she would have been available to attend a meeting. She said she was prepared to attend the June 17th meeting; however, she understood it to be at 1:30 p.m. and missed it, not realizing it was at 10:00 a.m. She said she is requesting a grace period from June 30th to until July 20th to allow her to attend the July 20 meeting and not lose the wine and beer license in the meantime.

Mr. Sprague said in the past, there were many opportunities for makeup sessions; however, a harder stance has been taken in recent years. He said there has not been a renewal applicant in this situation before. He said were this to happen next year, there may be financial ramifications. The Liquor Task Force and the Liquor Control Board recently approved a new schedule that just needs to be placed in the Ordinance, he said, which will include some financial penalties for missing annual meetings.

Commissioner Gehrig said while this is not a new license, it is the applicant's first renewal. He said a 20-day penalty seems extreme, one could sell to an underage person or sell hard alcohol instead of wine or beer and the penalty could be less.

Commissioner Piepkorn moved the renewal of the Liquor and Live Entertainment Licenses until June 30, 2017, upon the condition that all the essential requirements for renewal are present by June 30, 2016.

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.

Commissioner Piepkorn moved a grace period from June 30 until July 20, 2016 to allow Uncle Maddio's Pizza time to attend a mandatory liquor renewal meeting 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.

### **Construction Projects Update:**

Division Engineer Brenda Derrig provided a Power Point presentation outlining construction projects, progress and closures.

**Presentation of Appreciation Plaques to Commissioners Williams and Sobolik:**

Mayor Mahoney presented plaques to Commissioner Williams and Commissioner Sobolik in appreciation for their dedicated service to the City of Fargo during their terms on the Board of City Commissioners.

Commissioner Williams moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, July 5, 2016.

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

The time at adjournment was 7:13 o'clock p.m.