

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: October 10, 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, October 10, 2016.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Mahoney presiding.

**Order of Agenda Approved:**

Commissioner Grindberg moved the Order of the Agenda be approved moving Item Nos. "18" and "19" from the Consent Agenda to the end of the Regular Agenda.

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

**Minutes Approved:**

Commissioner Strand moved that the Minutes of the Regular Meeting of the Board held on September 26, 2016 be approved as read.

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

**Consent Agenda Approved:**

Commissioner Gehrig moved the Consent Agenda be approved as follows:

1. Receive and file Ordinance Amending Section 8-0804 of Article 8-08 of Chapter 8 of the Fargo Municipal Code Relating to Duty to Give Information and Render Aid.
2. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 9/26/16:
  - a. Rezoning Certain Parcels of Land Lying in Bison Meadows Addition to the City of Fargo, Cass County, North Dakota.
  - b. Rezoning Certain Parcels of Land Lying in Brandt Crossing Tenth Addition, Fargo, Cass County, North Dakota.
3. Applications for Games of Chance:
  - a. Red River Children's Advocacy Center for a raffle on 11/17/16.
  - b. Centennial Elementary PTA for a raffle and bingo from 10/28/16 to 5/31/17.
  - c. Fargo North Spartans Parent Association for a raffle on 12/3/16.
  - d. Kappa Psi Co-Ed Pharmaceutical Fraternity for a raffle on 10/17/16.

4. Receive and File Third Quarter Financial Status Report for Major Operating Funds through September 30, 2016.
5. Appointment of Bruce Taralson as the Building Official for the City of Fargo.
6. Employee Testing Services Agreement with Sanford Health for biometric testing.
7. Parking Lot Agreement with Global Development, LLC for shared use of the NP Parking lot.
8. Amendment to Contract No. 38150106 with the North Dakota Department of Transportation.
9. Contract with the North Dakota Department of Emergency Services in the amount of \$8,000.00, for staff training (CFDA #97.067).
10. Contract with the North Dakota Department of Emergency Services in the amount of \$20,100.00, for supplies (CFDA # 97.067).
11. Purchase Agreement with Karen Stockman Stoker for property at 3714 River Drive (Project No. MS-15-K0).
12. Memorandum of Offer - Permanent Easement with Corn II, LLC for Project No. PN-15-J1.
13. Contract and Bond for the water features of The Fargo Project.
14. Bills in the amount of \$11,978,839.47.

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

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

**Agreement for Consulting Engineering Services with SRF Consulting Group, Inc. for Improvement District No. LN-17-A1 Approved (Oak Grove/Memorial Parks Pedestrian Lift Bridge Project):**

The Board received a report of action from the Public Works Projects Evaluation Committee (PWPEC) stating staff recommends SRF Consulting Group, Inc. be authorized to conduct a Scope of Services in the amount of \$235,428.00 for the update of the environmental clearance, update of the final plans and the construction administration of the installation of a lift bridge in Oak Grove. The City will be responsible for 50% of the proposed scope, they stated, with the City of Moorhead picking up the remainder. They said the City's estimated share for the work is \$117,114.00.

Commissioner Gehrig moved the contract with SRF Consulting Group, Inc. for environmental clearance, final design, construction administration services and project closeout associated with the Oak Grove/Memorial Parks pedestrian lift bridge

project with costs to be split 50/50 between the City of Fargo and the City of Moorhead be approved.

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

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

**Contract Time Extension for Improvement District No. PN-15-J1 Approved:**

Commissioner Gehrig moved approval of a contract time extension to November 2, 2016 for substantial completion for Improvement District No. PN-15-J1.

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

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

**Change Order No. 2 for Improvement District No. NN-15-A1 Approved:**

Commissioner Gehrig moved approval of Change Order No. 2 for an increase of \$33,518.40 for Improvement District No. NN-15-A1.

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

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

**Request for a Contract Time Extension for Improvement District No. NN-15-A1 Approved:**

Commissioner Gehrig moved approval of a contract time extension to October 31, 2016 for Improvement District No. NN-15-A1.

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

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

**Overview and Update on Refugee Resettlement: Topic Referred to the Human Relations Commission for Analysis and Ongoing Discussion:**

The Board received a communication from Community Development Administrator Dan Mahli as a follow up to the discussion at the September 26, 2016 City Commission Meeting outlining some of the impacts of refugee resettlement. He said since October 2015, 389 refugees have resettled in Fargo, West Fargo and Moorhead through Lutheran Social Services of North Dakota (LSSND). Generally, 90% of the people and families resettled are reunifications, he said, meaning they have family already living in the community. 3,677 refugees have settled in Fargo through the program since January 2002, he said, with the breakdown by country as follows:

- Bhutan - 1553 people
- Somalia - 811
- Iraq - 672
- Congo - 228

- Liberia - 209
- Sudan - 204

According to the American Communities Survey, the total population of foreign-born people in the FM metro is 10,663, he said, which includes both immigrants and refugees and represents 5% of the total population of 212,250 people living in the area. The Cass County website lists the total budget for 2017 as \$74.1 million with an operating budget for Human Services as \$12.5 million, he said. If federal and state support were removed, as well as charges for service fees and interest revenue, he said, the amount paid in local taxes would be \$9.1 million. The general understanding is that 10% to 12% of the social service caseload is people not born in the United States, he said; however, Cass County Social Services (CCSS) does not track who is and who is not a refugee. CCSS also has a partnership with the New American Consortium in the amount of \$20,000.00 to offer basic services, he said. The Fargo Public School District has 809 students in the English Language Learner program at a cost of \$2.8 million, he said, with \$800,000.00 in federal and state funding and around 25% of new enrollees being connected with LSSND. In the City of Fargo, the Police Department funds a Cultural Resource Officer, he said, and the Planning Department has a Cultural Planner and supports the Cultural Diversity Resources, the New American Consortium and the Skills and Technology Center for job training for a total of \$43,000.00; of which \$15,000.00 is federal. The Park District does not have programming or services geared specifically toward refugees, he stated.

Mr. Mahli said researching on such short order is a complex issue. He said people move to Fargo for any number of reasons and the majority of foreign born residents who choose to leave their country of origin and come here are immigrants, not refugees. He said refugees flee their native lands to avoid persecution and last year the United States approved the admission of 85,000 total refugees, while the total number immigrating to the United States was over a million.

Jessica Thomasson, CEO of Lutheran Social Services of North Dakota (LSSND), shared information on refugee resettlement in North Dakota, outlining origins, statistics, processing and medical and security screening, workforce integration and partners in resettlement. She said resettlement occurs in four North Dakota cities – Fargo, West Fargo, Grand Forks and Bismarck.

Commissioner Piepkorn asked Ms. Thomasson the following questions: how much is paid for each refugee who settles here; who decides how many are settled here; and does LSSND have any responsibility once a placement is made?

Ms. Thomasson said there are three components that help individuals with startup. Each individual gets a \$1,125.00 grant to help with startup expenses, she said, plus cash assistance of \$335.00 per person per month, or \$685.00 for a family of four, intended to help bridge the time from arrival to self-sufficiency. She said because it falls short often times, LSSND works very hard to help refugees find gainful employment. LSSND gets a \$950.00 administration fee per resettled person to offset costs for providing support, she said, and LSSND is able to claim direct reimbursement for staffing up to a certain amount per refugee. As far as deciding the numbers, she said, on an annual basis LSSND submits what they feel the capacity is through consultations with partner agencies. Refugees arrive in the United States as legal residents with the same rights and responsibilities as any resident of this

country, she said; therefore, other than trying to provide support and help integrate, LSSND does not track nor have custodial responsibilities for refugees.

Commissioner Piepkorn said he finds it alarming that city leaders are not included in this, it is a huge decision made by others that encumbers the city and its taxpayers. He said he knows LSSND acts as an agent; however, the process is unacceptable when local leaders are not involved in such a huge decision. He said he finds it shocking to learn that refugees get all the rights of a legal resident.

Commissioner Grindberg said Congress is involved and approves this annually. Mayor Mahoney said the president or federal government decides how many refugees are accepted in the country and of the millions that are in refugee camps, the United States only takes a small portion. He said many in the community have been involved in assessments such as workforce need, and while the City Commission may not have been involved, they could be.

Commissioner Strand thanked Commissioner Piepkorn for bringing up the topic for a community dialogue. He said refugees are involuntarily displaced people without a country, commonly victims of United States policy elsewhere in the world, under the auspices of the United Nations Charter. This is an opportunity to share with those in need and turn the community into an accepting, welcoming and inclusive place for reasons of viability, engagement, jobs, paying taxes, home ownership and inclusiveness. The challenge is what to do now with this growth phase which affects communities, city government, budgets, neighbors and churches. He said Fargo has a formal commission charged with human relations which would be the logical place for bridge-building and understanding to have this dialogue and to bring experts and those affected together for this dialogue and to communicate back to the Board with the data they can assemble.

Commissioner Piepkorn said he would support Commissioner Strand's suggestion and would also like this to go through the Finance Committee. He said he would like to find out every public dollar spent in the county on refugees, including health, education, housing, transportation, social programs and law enforcement. He said this is a serious issue and he would like serious time spent looking at it minute by minute, penny by penny. He said he does not want an incident involving a refugee like the knife attack that happened in St. Cloud, Minnesota to ever happen again and he hopes LSSND is doing all they can to be sure that never happens again.

Commissioner Strand moved that the topic of Refugee Resettlement in general, and including subcategories such as finances, costs, accountability, crime understanding and other details as discussed, be referred to the Fargo Human Relations Commission with some analysis and ongoing discussion expected back within a reasonable time, no later than February.

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

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

**Resolution Adopted Approving Ed Clapp Park Second Addition (2751 32nd Avenue South and 3131 28th Street South):**

Planning Administrator Nicole Crutchfield said the plat confirms some legal lines established between the City of Fargo, the Park District and the School District a

few years ago with the building of the Ed Clapp school. The plat establishes what was a street easement for the street to access the school, she said.

Commissioner Grindberg offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Ed Clapp Park Second Addition" containing 3 Lots, 1 Block and 22.2 acres of land more or less, located at 2751 32nd Avenue South and 3131 28th Street South; and

WHEREAS, A Hearing was held August 2, 2016 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on September 26 and October 3, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., October 10, 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 "Ed Clapp Park Second Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the Office of the Recorder of Cass County, North Dakota.

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

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

#### **Parcels of Land in Hager's First Addition Rezoned (2715 40th Avenue North):**

At a Hearing held on June 7, 2016 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LI, Limited Industrial on Hager's First Addition.

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

Planning Administrator Nicole Crutchfield said the major subdivision is unplatted and this application is to develop this tract. The applicant has asked to add four lots for development along 40th Avenue North. There is a small cutout area along 40th Avenue North that is a different property owner who chose not to participate in that aspect. She said this project has been going on for some time due to the City not having public utility services to it, which is related to the items pulled from the agenda to be discussed later. She said there is a lot of interest in the area for industrial uses and it was determined for this project it would be best for access and utility services to come from the north.

Jon Lowry, Lowry Engineering, said he is here to represent the owner and he said the project is proposed to current city standards

Commissioner Strand said he does not feel it best to decide this separately from the discussion on Item No. 18, a bid award, and Item No. 19, an early building permit, which were pulled from the Consent Agenda if they are so connected. He said there are significant assessments with the Airport Authority bearing the brunt of that and may not have authority to pay for it plus there is just below 47% protest. He said he is not opposed, he wants to know the cost and how it is being paid for.

Ms. Crutchfield said this is for Hager's First Addition project rezoning and plat which happened at the same time the City was designing a public project, which made it possible to integrate the project into the city's design process and is why some infrastructure can come through his tract as opposed to having to swing around.

Division Engineer Brenda Derrig said the applicant was willing to allow sewer to be laid through this property, saving the City nearly \$100,000.00 and gave some flexibility in design. She said their project was created six weeks ago, followed by meetings with property owners, and as the project goes through, it is advertised and brought forward for bids, then actual bid costs can be determined. She said in this case bids came in about a million dollars under the engineer's estimate. After the bids, she said, special assessment numbers are looked at again compared to the engineer's initial estimate and costs are adjusted and redistributed to benefiting properties.

Commissioner Strand said this agenda item and Item Nos. "18" and "19" are all connected with the bid award, which was projected to be \$3.5 million plus and the low bid came in at \$2.8 million. The 47% protest is just below the 50% required with the biggest protest being a government subdivision. He questioned how costs would be paid if the Airport Authority cannot pay special assessments. He said from his conversation with Airport Executive Director Shawn Dobberstein it was his understanding that under FAA criteria they cannot pay specials.

Mayor Mahoney said the Airport Authority does have the ability to pay an assessment.

Assistant City Attorney Nancy Morris said there have been meetings with the Airport Authority and FAA, one specifically to address the assessments in this instance and she specifically asked and confirmed they are not exempt from assessments, it simply comes from a different pot of money. She said what is being looked at is that the property being assessed, which is asserted to not being able to be used by the airport because of its location at the end of the runway, a deed restriction which would affect the benefit is being considered; however, it does not change the fact the airport is subject to assessments. It just depends what pool of money they can take it from, she said.

Commissioner Piepkorn offered the following Resolution and moved its adoption:

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

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies

with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

Commissioners Strand and Gehrig voted nay.

The Resolution was adopted.

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

Commissioner Piepkorn 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 Hager's First Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Commissioners Strand and Gehrig voted nay.

The motion was declared carried.

**Resolution Adopted Approving Hager's First Addition:**

Commissioner Piepkorn 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 "Hager's First Addition" containing 4 Lots, 1 Block and 12.07 acres of land more or less, located at 2715 40th Avenue North; 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 September 26 and October 3, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., October 10, 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 "Hager's First Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the Office of the Recorder of Cass County, North Dakota.

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

Commissioners Strand and Gehrig voted nay.

The Resolution was adopted.



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

A Hearing had been set this day and hour on the special assessment lists 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 9/12/16: set the interest rate at 1% over the net rate on bonds financing said projects:

1. Traffic Signal Improvements and Incidentals No. 6200.
2. Park District Improvements and Incidentals No. 7147.
3. Park District Improvements and Incidentals No. 7148.
4. Park District Improvements and Incidentals No. 7149.
5. Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. BN-14-3.
6. Sanitary Sewer, Water Main, Storm Sewer, Concrete Curb and Gutter, Asphalt Paving and Incidentals No. BN-14-5.
7. Sanitary Sewer, Water Main, Storm Sewer, Concrete Curb and Gutter, Asphalt Paving and Incidentals No. BN-14-7.
8. Sanitary Sewer, Water Main, Storm Sewer, Concrete Curb and Gutter, Asphalt Paving and Incidentals No. BN-15-L.
9. P.C. Concrete Paving, Grading, Storm Sewer, Street Lights, Traffic Signals and Incidentals No. PN-14-C.
10. P.C. Concrete Paving, Street Lights, Traffic Signals and Incidentals No. PN-15-B.
11. Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals No. PN-15-H.
12. Water Main Replacement, Street Reconstruction and Incidentals No. PR-14-2.
13. Grading, P.C.C. Pavement, Storm Sewer, Bridge Widening, Ramp Construction, Retaining Walls, Traffic Signals, Street Lights, Sidewalks and Incidentals No. PR-14-6.
14. Street Reconstruction and Incidentals No. PR-15-G.
15. Street Lighting Improvements and Incidentals No. SL-14-0.
16. Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. UN-14-1.
17. Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. UN-14-5.
18. Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. UN-15-E.
19. Water Main Replacement, Storm Sewer Installation and Incidentals No. UR-15-C.

Commissioner Grindberg moved that the special assessment lists 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 Piepkorn. On call of the roll Commissioners Grindberg, Piepkorn, Strand, Gehrig and Mahoney voted aye.

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

**Resolution of Annexation Adopted Annexing 42.6 Acres of Land in a Portion of Section 28, Township 140 North, Range 49 West:**

Commissioner Grindberg offered the following Resolution and moved its adoption:

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

WHEREAS, The City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, with approximately one hundred eighteen thousand (118,000) inhabitants; and

WHEREAS, There is contiguous and adjacent to the City of Fargo, a tract or parcel of and hereinafter specifically described, containing approximately 42.6 acres, more or less, which tract or parcel of land is not presently a part of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that the boundaries of the City of Fargo be, and they hereby are, extended so as to include and incorporate within the corporate limits of the City of Fargo, Cass County, North Dakota, all the land described as follows:

That part of the Southwest Quarter (SW 1/4) of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the South Quarter Corner of said Section 28, thence South 87° 30' 54" West on the south line of said SW 1/4 a distance of 1155.00 feet, thence North 02° 23' 16" West parallel with the east line of said SW 1/4 a distance of 1832.59 feet to the southerly line of the BNSF Railway Company right-of-way; thence South 64° 43' 13" East on said southerly line a distance of 467.90 feet; thence South 25° 16' 47" West on said southerly line a distance of 25.00 feet; thence South 64° 43' 13" East on said southerly line a distance of 849.32 feet to said east line of the SW 1/4; thence South 02° 23' 16" East on said east line a distance of 1196.85 feet to the Point of Beginning. Said parcel contains 1,744,732 square feet or 40.05 acres, more or less, and is subject to all easements and rights-of-way of record and

That part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The south one hundred feet (100') of said southwest quarter less the east one thousand one hundred and fifty-five feet thereof.

Said parcel contains 111,214 square feet or 2.55 acres, more or less

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo once each week for two successive weeks, and a hearing be held on the 5th day of December, 2016, at 5:15 p.m., in the City Commission Room, City Hall, Fargo, North Dakota.

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

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

**Presentation of Proposed Xcel OHP Permit (Great Northern Drive from 18th to 25th Street):**

The Board received a communication from Division Engineer Brenda Derrig stating staff has been working with Xcel Energy to evaluate alternate routes for a secondary transmission line from the Red River Substation on 3rd Avenue North and 18th Street, to the Maple River Substation northwest of Fargo. She said Xcel is requesting the secondary line to strengthen reliability and staff has been working with them on route options and associated impacts. Some of the impacts, she said, are relocation of storm sewer, portions of the water main, replacement of streetlights with shorter poles and tree replacement. She said Xcel has been directed that they will have to replace the trees at 2:1 and undertaking all costs associated with the location and replacement of city infrastructure. In addition to utility relocation needs, she said, they are also reaching out to the adjoining properties along Great Northern Drive from 18th to 25th Street to acquire easements for the new overhead line. She shared the Occupancy Permit Application for the Maple River to Red River Transmission Line and said staff will bring forward presentations to keep the Board informed and as more details are solidified they will come back with the final permit request.

Matt Langan, Xcel Energy Permitting Analyst, shared maps of where the transmission line is proposed. Work has been done with the airport and FAA regarding the height of the towers, he said, as well as the railway and university to assure there are no impacts to their land. He said public involvement is emphasized at the city, county, state and federal levels and people nearby received notice last March. Easements were sought from those directly affected, he said, and residential areas are avoided and efforts made to keep it within already existing, developed corridors. A City Right-of-Way Occupancy Agreement will be requested at a later date due to some sections of the transmission line overhanging the right-of-way, he said, and following that approval a Certificate of Public Convenience and Necessity will be requested from the State, which is about a six-month review process.

In response to a question from Commissioner Strand about whether this will have an impact on reducing power surges and outages going forward, Mr. Langan said it will and this is a piece to the overall reliability; however, some work will be needed for the distribution. He said those lines that come from these transmission substations and step down to homes and business will need additional work. As far as how big a piece of this project is in assuring the overall reliability, he said he could research it further within his company and advise the Commissioners.

Commissioner Gehrig moved the Xcel Energy OHP Permit for the portion of the project being proposed be approved.

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

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

**Construction Projects Update:**

Division Engineer Brenda Derrig shared an update of the current construction projects, progress and closures. She said there are two projects where a contractor has asked to work Sundays to get work completed and those requests need the Board's approval.

**Request from Sherman, LLC to Conduct Work on Sundays for Improvement District BR-16-F1 Approved:**

Commissioner Gehrig moved the request from Sherman, LLC to conduct work on Sundays in order to complete Improvement District No. BR-16-F1 be approved.

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

**Request from Robert Gibb & Sons to Conduct Work on Sundays for Improvement District No. UR-16-A1**

Commissioner Grindberg moved the request from Robert Gibb & Sons to conduct work on Sundays in order to complete Improvement District No. UR-16-A1 be approved.

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

**Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1: Protests Received and Declared Insufficient:**

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on August 8 and 15, 2016 and protests representing 46.59 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Division Engineer Brenda Derrig said this item and the early building permit are paired together because the early building permit is relevant should the bid award move forward.

City Administrator Bruce Grubb said the project is part of an overall plan. He said the bid price is a bargain, and while there are questions still to be answered, it would not be advisable to reject the bid and re-bid later.

Commissioner Grindberg said as far as long term vision, this bid does not cover all the city features, it is a portion and there will be future assessments.

Commissioner Strand said he does not see exactly how this will be paid and he said the Board has a responsibility to understand where it is in the budget and to know the plan for payment, particularly when approving a \$2.5 million effort. He said he has heard it is in limbo as far as whether the Airport Authority assessment will get paid.

Special Assessments Coordinator Dan Eberhardt said this project is in the budget and the procedure is that payment is looked at after the project is complete and by statute 100% assessed in new development. The benefit has been prescribed, he said, and the Special Assessment Commission feels the benefit is solid.

City Attorney Erik Johnson said the project will be assessed and the protests have been registered. Ultimately, it could come on an appeal from the Special Assessment Commission to this body, he said, the Board can choose to assign the benefit as has been approved by the Special Assessment Commission or if desired to reduce it somehow for a particular property owner, another source of payment would need to be found for the amount if it is being reduced.

Commissioner Strand said he is not opposed to the project, he just does not like putting the cart before the horse where a project is approved, bids are awarded and then looking at how it is paid. He said this is a significant expenditure that will be taxed, whether it is infrastructure sales tax, specials or however it is paid.

Commissioner Gehrig said he is in favor of the project; however, he mirrors Commissioner Strand's concerns.

Commissioner Piepkorn moved the protests be received and filed and declared insufficient.

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

Commissioners Strand and Gehrig voted nay.

The motion was declared carried.

**Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1:**

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., on Wednesday, October 5, 2016 and the bids were found to be as follows:

Dakota Underground Company, Inc. Bid:	Fargo, ND \$2,796,697.40
R.L. Larson Excavating, Inc. Bid:	St. Cloud, MN \$2,974,832.17
H&S Contracting, Inc. Bid:	Moorhead, MN \$2,987,872.25
Ryan Contracting Bid:	Shakopee, MN \$3,043,616.85
Master Construction Company, Inc. Bid:	Fargo, ND \$3,244,254.45
Sellin Brothers, Inc. Bid:	Hawley, MN \$3,376,457.00

**Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 Awarded to Dakota Underground Company, Inc. in the Amount of \$2,796,697.40:**

Commissioner Piepkorn 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, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 5, 2016 for Sanitary Sewer, Water Main, Storm

Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 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, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 shows the bid of Dakota Underground Company, Inc. of Fargo, North Dakota in the sum of \$2,796,697.40 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 Dakota Underground Company, Inc., in the sum of \$2,796,697.40 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company, Inc. for the sum of \$2,796,697.40, 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 Grindberg. On call of the roll Commissioners Piepkorn, Grindberg, and Mahoney voted aye.

Commissioners Strand and Gehrig voted nay.

The motion was declared carried.

#### **Application for an Early Building Permit at 4468 27th Street North Approved:**

The Board received a communication the Public Works Projects Evaluation Committee stating the Committee reviewed information from Division Engineer Brenda Derrig regarding an application for an early building permit submitted by Tyler Anderson for his building at 4468 27th Street North. There is no water main or sanitary sewer on 27th Street for this property currently to connect to, they said; however, Improvement District No. BN-16-C1 will provide the infrastructure needed. They said staff recommended approval with the payment of a \$5,000.00 deposit contingent upon the award of Improvement District No. BN-16-C1.

Commissioner Piepkorn moved the application for an early building permit submitted by Tyler Anderson for a building at 4468 27th Street North be approved.

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

Commissioners Strand and Gehrig voted nay.

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, October 24, 2016.

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

The time at adjournment was 6:31 o'clock p.m.