

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: November 7, 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, November 7, 2016.

The Commissioners present or absent were as shown following:

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

Absent: None

Mayor Mahoney presiding.

Mayor Mahoney read a statement announcing that bond rating agency representatives recently visited the area to learn about Fargo and the FM Diversion Flood Project. He announced the Fire Department will host an open house on November 9th at the newly remodeled Fire Station 1 at 637 NP Avenue. He stated a portion of the Civic Center parking lot is again available and he outlined some events happening at the library. He stated that the Police Department is participating in Operation "No Shave Movember" as a fundraiser toward expenses incurred by Officer Schenk and Detective Larson of the Moorhead PD in their fights with cancer.

Order of Agenda Approved:

Commissioner Grindberg moved the Order of the Agenda be approved, moving Item No. "16" from the Consent Agenda to the Regular Agenda.

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

Minutes Approved:

Commissioner Strand moved that the Minutes of the Regular Meeting of the Board held on October 24, 2016 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

1. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 18-0902 and Repealing 18-0905 of Article 18-09 of Chapter 18 of the Fargo Municipal Code Relating to Excavation.

2. 2nd reading, waive reading and final adoption of an 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.
3. Grant Agreement with Dakota Medical Foundation in the amount of \$16,300.00 to support CassClayAlive! and SchoolsAlive! initiatives.
4. Agreements for Services with Fargo-Moorhead Council of Governments, Michael Olsen and Joleen Baker to support the Cass Clay Food Systems Initiative to address chronic disease.
5. Agreement for Services with Deb Haugen for the Cass-Clay School Wellness Policy Project.
6. Direct the City Attorney's Office to work with Fargo Cass Public Health and other impacted City departments to update Article 12-03 to allow for keeping chickens in residential backyards as well as aligning other codes and ordinances that address backyard chicken keeping.
7. Acquisition and demolition of 308 9th Avenue North.
8. Amendment to Development Agreement with Block 9 Partners LLC.
9. Task Order No. 1 in an amount not to exceed \$364,000.00 with Stantec Consulting Services Inc. to implement the EPA Brownfield Grants.
10. Branding of the Roberts Ramp Development as Roberts Commons (RoCo).
11. Request from the YMCA to hang banners in the skyway to promote their presence in Downtown from December 1st to December 31st.
12. Applications for property tax exemptions for improvements made to buildings:
 - a. Dale R. and Elizabeth A. Faust, 3020 Hickory Street North (3 Year).
 - b. Jeffrey J. and Genine Monson, 1907 26 1/2 Avenue South (3 Year).
 - c. Kenneth E. and Alice M. Christianson, 2807 25th Avenue South (3 Year).
 - d. Jack and Rebecca Wood, 42 Meadowlark Lane North (5 Year).
 - e. Thomas A. and Sharon L. Fowler, 48 28th Avenue Northeast (5 Year).
13. Site Authorization for Games of Chance:
 - a. Plains Art Museum at Wild Bill's Sports Saloon.
 - b. North Dakota Association for The Disabled, Inc. at Shotgun Sally's Rock N Roll Saloon and O'Kelly's.
 - c. Prairie Public Broadcasting, Inc. at Dempsey's (amended).
 - d. Fargo Youth Hockey Assoc. at Teamsters Arena.
 - e. Team Maker's Club, Inc. at Sanford Health Athletic Complex/Scheels Center.
 - f. Horse Race North Dakota at Herd & Horns.

14. Applications for Games of Chance:
 - a. Northern Region Association of Safety Professionals for a raffle on 11/30/16; Public Spirited Resolution.
 - b. El Zagal Escort Motor Patrol for a raffle on 3/24/17.
 - c. Dakota Medical Foundation for a raffle on 11/21/16.
15. Change Order No. 1 for an increase of \$12,960.00 with Sun Electric for the relocation of the emergency generator on the City Hall Project.
16. Alignment for the proposed levee/floodwall and associated infrastructure, authorization to pursue construction of the project and to acquire the necessary property rights using means that may include eminent domain for Project No. FM-15-J2.
17. Change Order No. 2 for an increase of \$12,998.97 and time extension to 9/6/16 (Project No. HD-15-B1).
18. Concur with the NDDOT awarding the contract for consulting services to Houston Engineering, Inc. in the amount of \$200,000.00 for Project No. PR-17-B0.
19. Purchase Agreement – Permanent and Temporary Easements with PKG Office Investments, LLC (Project No. FM-15-B2).
20. Memorandum of Offer to Landowner for temporary and permanent easement with Anderson Investments, LLP (Project No. PR-17-A0).
21. Memorandum of Offer to Landowner for temporary easement with C.I. Farm Power, Inc. (Project No. PR-17-A0).
22. Concur with the NDDOT awarding the contract for consulting services to SRF Consulting Group, Inc. in the amount of \$1,243,092.00 for Project No. BR-18-A0.
23. Amendment to the JPA for Transit Support, Agreement for Transit Services (U-Pass) and Bus Advertising Wrap Agreement all with NDSU for 2016-2017.
24. Title VI Plan.
25. Bills in the amount of \$19,574,576.00.

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

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

Contract Amendment No. 3 for Improvement District No. PR-17-A0 Approved:

Commissioner Piepkorn moved Contract Amendment No. 3 with Apex Engineering for an increase in the amount of \$183,102.00 for Improvement District No. PR-17-A0 be approved.

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

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

Contract Time Extension for Improvement District No. BR-16-A1 Approved:

Commissioner Piepkorn moved approval of a contract time extension to December 1, 2016 for Improvement District No. BR-16-A1.

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

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

Contract Time Extension for Improvement District No. BN-16-G1 Approved:

Commissioner Piepkorn moved approval of a contract time extension to June 1, 2017 for Improvement District No. BN-16-G1.

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

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

Change Order No. 1 for Improvement District No. BN-16-K1 Approved:

Commissioner Piepkorn moved approval of Change Order No. 1 for an increase of \$30,153.20 for Improvement District No. BN-16-K1.

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

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

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J1:

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-J1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on October 3 and 10, 2016 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Piepkorn moved that the Board declare that no protests have been filed to the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J1.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J1:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., November 2, 2016 and the bids were found to be as follows:

Ryan Contracting Bid:	Shakopee, MN \$1,158,219.82
Master Construction Company, Inc. Bid:	Fargo, ND \$1,159,026.85
Dakota Underground Company, Inc. Bid:	Fargo, ND \$1,159,537.45
H & S Contracting, Inc. Bid:	Moorhead, MN \$1,194,933.82
KPH, Inc. Bid:	Kindred, ND \$1,215,855.05
Shermans, LLC Bid:	West Fargo, ND \$1,229,455.68
Sellin Brothers, Inc. Bid:	Hawley, MN \$1,283,817.00
Northern Improvement Company Bid:	Fargo, ND \$1,363,693.00
Gladen Construction, Inc. Bid:	Laporte, MN \$1,399,168.43
R.L. Larson Excavating, Inc. Bid:	St. Cloud, MN \$1,416,074.25

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-J1 Awarded to Ryan Contracting in the Amount of \$1,158,219.82:

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-J1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received November 2, 2016 for Sanitary Sewer, Water Main,

Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-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, Paving, Street Lights and Incidentals Improvement District No. BN-16-J1 shows the bid of Ryan Contracting of Shakopee, Minnesota, in the sum of \$1,158,219.82 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 Ryan Contracting in the sum of \$1,158,219.82 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-J1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Ryan Contracting for the sum of \$1,158,219.82, 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Gehrig, Strand, Grindberg and Mahoney voted aye.

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

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

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. 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.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-16-C1 Approved:

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

United Fire and Casualty Company, in the amount of \$2,796,697.40, 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.

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

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

Resolution Adopted Authorizing the Issuance of Refunding Improvement Bonds, Series 2016C, Approving Certain Actions, Awarding the Sale Thereof and of the Warrants Related Thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof (Attachment "A"):

Finance Director Kent Costin said the City of Fargo was in the bond markets today and issued \$41.7 million in bonds. He said about once a year the capital projects funded through the special assessment process are consolidated into a single issue to provide necessary liquidity.

Terry Heaton, Client Representative with Springsted, Inc., said eleven bids were received. She said a number of them were syndicate bids and fifty-five financial institutions were part of the bid which is a large volume and speaks to the quality of the bonds issued in Fargo's name in the marketplace. A month ago an interest rate of 2.9% was estimated, she said, and the low bid came in at 2.89% by FTN Financial Capital Markets. The City of Fargo has a fabulous bond rating of AA1, the second highest possible, she said.

Commissioner Grindberg moved the Resolution entitled "Resolution Authorizing the Issuance of Refunding Improvement Bonds, Series 2016C, Approving Certain Actions, Awarding the Sale Thereof and of the Warrants Related thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof" and referred to as Attachment "A", be adopted and attached hereto.

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

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

Resolution Adopted Creating the Funds of Improvement Districts, Providing for and Appropriating Special Assessment for the Support and Maintenance of Said Funds, and Authorizing the Issuance of Improvement Warrants Series 2016C Thereon (Attachment "B"):

Commissioner Grindberg moved the Resolution entitled "Resolution Creating the Funds of Improvement Districts, Providing for and Appropriating Special Assessment for the Support and Maintenance of Said Funds, and Authorizing the Issuance of Improvement Warrants Series 2016C Thereon" (Attachment "B") be adopted and attached hereto.

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

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

Discussion on LSSND Audit:

Commissioner Piepkorn said he placed the item on the agenda to further discuss the Lutheran Social Services North Dakota (LSSND) audit he requested. He said a copy of the audit was emailed to all the Commissioners for their review and is on the City website with the agenda materials. LSSND received \$4 million for refugee placement in North Dakota last year, he said, and it feels like the fox is guarding the henhouse since LSSND determines the number of refugees and the more refugees, the more money they make. He said there will be changes made with the Legislature possibly addressing the issue. North Dakota gets the most refugees per capita in the

country, he said, and 80% of the refugees in North Dakota are placed in Cass County, and it has an impact on the City.

Commissioner Strand said to his knowledge, LSSND does not determine the number, it is a nationally decided allocation of resettled people. He said he is concerned about the message being sent when this topic has been on the agenda four meetings in a row targeting one nonprofit. The topic was referred to the Human Relations Commission, he said, and they are doing their work and the Commission agreed to have it vetted through a channel that is in existence for that work. It is important to have the highest respect for this process, he said, particularly when delegating to a commission or others, or having staff or someone such as the CEO of LSSND give presentations. He said the \$4 million dollars is not a local cost, it is federal money.

Commissioner Grindberg said he shared a link with the Board on a series done by Tom Brokaw on this topic in Sioux Falls, South Dakota and colleagues in Sioux Falls may be a good resource on dealing with this issue. This is a policy issue at the federal level, he said.

Commissioner Piepkorn said the key thing is that local government is not involved at all. He said the schools especially should be involved because of the affect the additional children have on resources. He said the numbers will keep going up and he will not quit asking the questions. He said there are a multitude of costs that the taxpayer is paying, including housing assistance and food stamps, and the taxpayer should know what the costs are and he is trying to find out the facts.

Kathy Coyle, 220 8th Street South, said she has been aware of the impression the topic has on the public and the mixed messages being sent. She said she finds LSSND CEO Jessica Thomasson and Community Development Administrator Dan Mahli to both be high in ethics and intellect, and dedicated to the community. She said she is involved with a local support group for LSSND and local refugees who are concerned about the negative atmosphere locally and nationally. She said the group is working on ways to bridge the gap and reach out to those new in the community and she invited those interested to join the group.

Mayor Mahoney said the Board will await the report from the Human Relations Commission on the topic of refugee resettlement.

Application Filed by Fargo Roosevelt Village Apartments LLC/G.A. Haan Development for Payment in Lieu of Tax Exemption (PILOT) Approved:

A Hearing had been set for this day and hour on an application filed by Fargo Roosevelt Village Apartments LLC/G.A. Haan Development for payment in lieu of property tax exemption (PILOT) for a project the applicant will use in the operation of the construction of a new senior apartment housing development under the Low Income Housing Tax Credit program located at 6475 19th Street South.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

City Assessor Ben Hushka said policy for the for-profit low income housing projects sets the PILOT schedule basically as taxing on the restricted rents so the payment schedule was derived by valuing the property at 5.5 times the gross income under the restricted rent program.

In response to a question from Commissioner Gehrig about whether the money the taxpayers are paying goes to lower the rent for the low income people or goes to the developer's bottom line, Mr. Hushka said by offering the program it is possible to offer lower rents. The incentive is to encourage development of low income projects in Fargo, he stated.

Commissioner Gehrig said he will not support the PILOT because it does not go toward lowering rent for low income people. He said the developer is basically getting higher profits based on what the taxpayer is giving them.

Commissioner Piepkorn said the developer said the PILOT was necessary or he would not be able to do the project. There is a need for more low income housing, as soon as they are built they are full, he said.

Commissioner Piepkorn moved that the application filed by Roosevelt Village Apartments, LLC/G.A. Haan Development for a 15-year payment in lieu of tax exemption pursuant to Chapter 40-57.1, NDCC be approved as follows:

Year	In Lieu Payment
1	\$15,517
2	\$15,827
3	\$16,144
4	\$16,466
5	\$16,796
6	\$17,132
7	\$17,474
8	\$17,824
9	\$18,180
10	\$18,544
11	\$18,915
12	\$19,293
13	\$19,679
14	\$20,072
15	\$20,474

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

Commissioner Gehrig voted nay.

The motion was declared carried.

Resolution Adopted Approving BLU Water Creek Addition (Formerly Advertised as Bentley Square Second Addition) (4609 33rd Avenue South):

A Hearing had been set for October 24, 2016 on a Plat of Bentley Square Second Addition (Minor Plat)

At the October 24, 2016 meeting, the Hearing was continued to this date and hour.

Planning Administrator Nicole Crutchfield said since the August 2, 2016 Planning Commission meeting, the applicant has proposed a new name for the plat: BLU Water Creek Addition. She said the application has been previously known and advertised as Bentley Square Second Addition, and this application is now a replat of Lot 1, Block 1, Bentley Square Addition. Also, she said, after review by the Planning Commission at the August 2, 2016 meeting, a street and utility easement located on the northeast corner of the site has been dedicated as right-of-way. She said the plat

was originally a minor subdivision, however, due to the right-of-way dedication, the plat is now a major subdivision, and the proper notification and paperwork has been done to bring this forward. She said this was brought back to the Planning Commission because the applicant decided they would like to get a right-in right-out on 45th Street, which as platted was a negative access easement along 45th Street. The Land Development Code (LDC) has spacing requirements along 45th Street, she said, and this is outside the realm of the City Engineer and staff. She said staff does not support the plat because the applicant is asking for a right-in, right-out at the 432-foot mark while the LDC indicates spacing on the principal arterial of 45th Street is 600 feet and Planning Commission approved staff's recommendation to deny access off 45th Street.

Nate Vollmuth, Pace's Lodging Corporation, shared a presentation highlighting examples of intersections within the city with the same variables within the LDC and an overview of the 45th Street Corridor. He said he feels the LDC needs to be looked at and he asked the Board to approve the plat with the right-in, right-out on 45th Street.

Ms. Crutchfield said the LDC is being looked at, a draft was presented to the Homebuilders Association and ended up back at the drawing board. Meanwhile, she said, the application in front of the Board needs action. She said staff recommends approval of the plat as presented with the following conditions: that the proposed vacation of the negative access easement along 45th Street South be removed from the plat, so the negative access easement remains along 45th Street South, and that the signed plat be submitted and reviewed, approved and signed by the City Engineer prior to recordation.

Planning Director Jim Gilmour said in most of the cases referenced, the Planning Commission looked at it differently because they were developed before the interchange went in at I94 and the function was different. In this case it is a six lane roadway that carries a lot of traffic, he said, and there is a better way to get access to this site than a right-in right-out. He said the more access points, the more traffic and more crashes and in this case, 45th Street deserves to have less access.

City Engineer April Walker said that with a mix of speeds, if drivers get the green light and are building up speed while those in front of them slow to turn in, there is a conflict point. She said the system was designed for a 20 to 25-year life and each time a decision is made that creates a conflict point, it degrades the ability to get functional life out of a street and could result in premature obsolescence of the utility. She said even though more traffic lights will go in, the speed between them is higher in this area than in the more urbanized areas.

Commissioner Grindberg said there is the option of slowing traffic down with speed limit changes as density grows.

Commissioner Gehrig offered the following Resolution and moved its adoption, with the condition that the signed plat be submitted and reviewed, approved and signed by the City Engineer prior to recordation:

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 "BLU Water Creek Addition" containing 6 Lots, 1 Block, and 26.190 acres of land more or less, located at 4609 33rd Avenue South; and

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

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on October 17 and 24, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., October 24, 2016. At the October 24, 2016 Hearing this item was continued to this date 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 "BLU Water Creek 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 Strand. On the vote being taken on the question of the adoption of the Resolution Commissioners Gehrig, Strand, Grindberg and Piepkorn voted aye.

Mayor Mahoney voted nay.

The Resolution was adopted.

Appeal of a Board of Adjustment's Denial of a Request for a Variance at 3101 Peterson Parkway North: Variance Granted:

A Hearing has been set for October 24, 2016 on an appeal of a September 27, 2016 Board of Adjustment denial on a variance request to allow a proposed shed to encroach into the required interior setback at 3101 Peterson Parkway North.

At the October 24, 2016 meeting, the Hearing was continued to this day and hour.

Planning Administrator Nicole Crutchfield said the existing shed was built too close to the property line and the option exists that the shed could be built into the rear yard setback.

Jeremy Magelky, 3101 Peterson Parkway North, said he removed the existing shed from beside his house and then was denied a permit to rebuild it in the same place. The shed he is replacing was 9' x 19' and the new one will be 8' x 18' and he has approval from his neighbors. He said he has not talked with any neighbors who have issues with replacing it in the same location, in fact they prefer it because it is hidden and placing it in the rear yard would mean removal of trees to fit it in.

Commissioner Grindberg moved the variance be granted.

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.

Implementation Schedule for Transition to Single Stream, Flat Rate System for Residential Recycling Collection Approved:

Solid Waste Utility Director Terry Ludlum gave an overview of the plan to implement a single stream recycling program for residential collection in Fargo. He reviewed the Feasibility Study, survey results, RFP, cost of service and rate structure. He said citizen feedback indicated about 33% do not want to pay additional for single sort making it important that when the program gets rolled out, there is a provision for an opportunity to opt out. MinnKota Recycling was selected for the processing and marketing service of recyclable materials based on a number of categories in an RFP, primarily cost, he said. He said participants in the program would get a 96-gallon cart and collection would be with the automated side load trucks every other week at a proposed \$3.00 per month. He said for those folks who feel they cannot afford the extra cost, if those citizens qualify for the Homestead Property Tax Credit Program available through the Assessor's office, they are eligible for a reduced rate for utilities and in this case the cost could be \$1.00 instead of \$3.00 per month. He said currently 525 people take advantage of that program in the City of Fargo through the Solid Waste Department. There is also the option of changing to a smaller size garbage collection container to reduce cost, he said. If approved, he said, the first step will be to send out information and allow residents an opportunity to opt out. He said sorted material would no longer be picked up for those who opt out; however, they will still have the option to use the drop off sites. He said the first phase of the program would be to convert the current single sort recycling program to a single stream flat-rate system for residential recycling collection with a one-time opt-out provision and the second phase would be to start working with the multi-family dwellings to see how they could be serviced also. He said the drop sites would continue to be utilized and maintained.

Commissioner Gehrig moved the implementation schedule provided for the transition from sorted curbside recycling collection to a single stream, flat rate system for residential recycling collection be approved.

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

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

Change Order No. 1 for City Hall Project Approved:

City Administrator Bruce Grubb said even before the project bid award for the redesign of City Hall, numerous comments were received regarding the lack of windows. He said bids were awarded; however, he was asked to find out if it was possible to have more windows. He said the architect was asked to take another look at the design and come up with an alternative for the windows limiting the amount of structural, mechanical and electrical modifications to conserve cost. He said the change order is for an alternative window design, referred to as "curtain windows" and came in at about \$397,000.00, about half of what was expected but still real money. He said the architect feels it is of reasonable value and changes the appearance and natural light. The funding for this change order would reduce the amount of contingency for Furniture Furnishings and Equipment (FF&E) and landscaping, he said.

Terry Stroh, TL Stroh Architects, said it was a daunting task to change building plans in this way and he had concerns both mechanically and structurally. He said the original and second design had high performance glass, which gets better R value and energy savings. He said the element of the mosaic design windows was kept and some spans of windows were created. There is some solid material behind the windows, he said, yet the amount of natural sunlight is increased by about 40% where the windows are. He said the design of the structure or layout did not have to be changed. He said in the future, he expects to come back to the Board with a deduct or small change taking the windows out of the City Commission Room due to issues with media and for security reasons since often meetings are after dark, and he has been urged to remove those.

Commissioner Grindberg said he would like an estimate on what it will cost for furniture and fixtures. He said if there is a 5% contingency on this project, which would be \$1 million, if this change is approved, \$400,000.00 would be removed from that.

Finance Director Kent Costin said the base budget for City Hall was just the building proper. He said the FF & E was not included on the premise that it would be looked at in budgeting in subsequent budgets. He said the \$1.7 million being debated was listed by the bonding agency as a placeholder and when the bonds were sold they brought in a bit more money, so there is about a 6.8% contingency now. He said the issue going forward in subsequent budgets is to figure out a capital outlay plan so there will be a plan as to what is needed to make the building functional.

Mr. Grubb said staff can produce an FF & E as requested.

Commissioner Gehrig said the minor changes to the outside of the building are being made to make it more iconic; however, it will not make it iconic nor should that be the goal. He said the building redesign was a compromise, it went back to the drawing board because of the high price tag. He said as far as the cost for these windows, he is certain division heads would like \$400,000.00 toward something like staff or police and fire equipment. This is misguided, he said.

Commissioner Piepkorn said although care must be taken with spending, he is pleased that this estimate came in lower than expected.

Commissioner Piepkorn moved approval of Change Order No. 1 with Olaf Anderson for an increase of \$396,565.00 for the addition of curtain wall windows to the City Hall Project.

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

Commissioner Gehrig voted nay.

The motion was declared carried

Lease Agreement with the Downtown Community Partnership for the Downtown Ice Rink through the 2018-2019 Winter Season Approved:

Planner Derrick LaPoint said last year the rink on Main Avenue and Broadway averaged 30 people per day. He said it is privately funded with over \$40,000.00 raised last year with Bank of the West being the main contributor of \$10,000.00 for both last year and this year. Comments last year indicated the public wanted it larger, he said, and last year it was 70x70 feet, this year the rink will be extended to 90x70 feet. If approved, he said, the goal would be to have it in place before the Holiday Lights Parade on November 22nd.

Commissioner Gehrig moved the lease agreement with the Downtown Community Partnership for the Downtown Ice Rink be approved.

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

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

Action on Memorandum of Understanding with Johns Hopkins University and Partnership with What Works Cities Delayed:

Mayor Mahoney said the partnership with Johns Hopkins University has been pursued to obtain better data by comparing Fargo to other midsize cities in the United States to help make services and efficiencies better for the citizens.

Community Development Administrator Dan Mahli said the city was invited to participate in the What Works Cities initiative which is a large philanthropic effort sponsored by Bloomberg Philanthropies and comparing like size cities to improve the use of data in the public sector at no cost. He said data analysis has helped Fargo grow, such as information that comes out of the Police and Fire Departments as well as interactive flood stage maps that helped in flood fights. He said the endeavor is 120 days and a data governance team consisting of department representatives would dig in and the result would likely be a policy initiative that will come back to the Board.

Commissioner Piepkorn said a key thing to see here is that this is being funded by the Bloomberg Family Foundation. He feels care must be taken when money is given out since the reason may be to benefit themselves. More needs to be learned about this, he said, and he feels it is agenda driven and not knowing what the agenda is, he is not comfortable with this and does not support it.

Mayor Mahoney said the Bloomberg Family Foundation may be funding it; however, it is the Johns Hopkins University group that is helping with it and it is not entirely clear what will be gained from this. He said similar things have been offered in the past and the City has turned them down; however, Fargo was chosen for this and it could help with best practices and help make our city better.

Mr. Mahli said this is for technical assistance, there can be as much or as little taken from the endeavor as desired. This is about how to use data and utilizing ways to better deliver services, he said.

In response to a question from Commissioner Gehrig about what Johns Hopkins may do with citizen data, Mr. Mahli said only technical assistance to staff is being provided, the data is not being handed over.

Commissioner Grindberg said he is trying to understand what will be accomplished with this and he does not see what will be different since the city already has data. He said he would prefer the item be tabled until after he and Commissioner Strand have attended the National League of Cities Conference next week where this will be included as a topic and there is an opportunity to learn more about it.

Commissioner Grindberg moved the Memorandum of Understanding Between the City of Fargo, ND and Johns Hopkins University and partnership with the What Works Cities be delayed until after the National League of Cities Conference being held November 16-19, 2016.

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

Commissioner Strand voted nay.
The motion was declared carried.

Appointments to the Historic Preservation Commission:

The Board received a communication from Mayor Mahoney recommending that Andrew Nielson be reappointed to the Historic Preservation Commission for a three-year term, and that Matthew Boreen be appointed to the Historic Preservation Commission for a three-year term to replace Dirk Ockhardt.

Commissioner Gehrig moved Andrew Nielson be reappointed and Matthew Boreen be appointed to the Historic Preservation Commission for three-year terms ending October 31, 2019.

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.

Recommended Alignment for the Proposed Levee/Floodwall and Associated Infrastructure and Authorization to Pursue Construction of the Project and Acquisition of Necessary Property Rights Using Means That May Include Eminent Domain for Project FM-15-J2 Approved (Moved from the Consent Agenda):

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating HDR, the consultant tasked with the design of the flood risk project, presented the alignment developed for a proposed levee consisting of a combination of levee and floodwall to provide a certifiable line of protection to be installed in the Belmont Park Addition. Two options were presented by the consultant, they said, one had a levee the length of the project and the second had a levee on the north end with a floodwall on the south end. They said the second option is the preferred option as it increases the number of houses that can remain and staff is seeking approval of that option and authority to pursue construction of the project, including acquisition of the necessary property rights by legal means.

Glen Krogman, HDR Engineering, gave an overview of the project. He said there have been fourteen acquisitions so far, and an additional seven acquisitions and an easement are required. The existing levee is not certifiable due to soil layers and tree roots, he said, and needs to be reconstructed. He said sixty-two people attended a public meeting and of questionnaires returned, six supported the project and two did not. The alignment was designed to save a house and as much access as possible. The project removes thirty-two properties from the 100-year floodplain, he said.

Division Engineer Jody Bertrand said he would like to offer the voluntary buyout process one more time for this area. There are several homeowners who want to stay and are not in favor of selling, he said, which means at a future date the Board will be asked to consider eminent domain on the remaining properties.

City Engineer April Walker said eminent domain is not being requested tonight, a Resolution of Necessity is needed first. Prior to that, the alignment needs to be selected and confirmed and those affected will be contacted one more time, she said.

Commissioner Piepkorn said buyouts are encouraged and the city would like to go ahead without the use of eminent domain. He said once people understand this is the alignment they will accept it.

Commissioner Piepkorn moved the recommended alignment for the proposed levee/floodwall, authorization to pursue construction of the project and acquisition of necessary property rights using means that may include eminent domain for Project FM-15-J2 be approved.

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

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

Construction Projects Update:

City Engineer April Walker shared an update of current construction projects, progress and closures. She said there were no fatalities or serious injuries to report. Most projects will be wrapping up within a couple weeks, she said.

Commissioner Gehrig moved that the Board adjourn to 5:00 o'clock p.m., Monday, November 21, 2016.

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

The time at adjournment was 7:14 o'clock p.m.