

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: December 5, 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, December 5, 2016.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Mahoney presiding.

Members of Boy Scout Troop 276 led the Pledge of Allegiance.

Mayor Mahoney read a statement announcing that utility bills and parking tickets can be paid online or through the automated phone system. He said the Fire Department is involved in research projects that will assist in delivery of CPR training. A permit has been issued for the wrap of the Roberts Street building, he said, and foundation work has begun on the \$8.6 million private building. He reminded residents to lock their vehicles and avoid thefts of opportunity. The Solid Waste Department has completed a reclamation and reuse project at the former landfill located east of the current landfill, he said, and the eleven-acre project is the first of eight planned reclamation projects. He said City staff partnered with Washington Elementary fourth graders and Concordia College students on a service learning project examining the impact of hunger in the area and he brought attention to their posters on display in the back of the room.

Order of Agenda Approved:

Commissioner Grindberg moved the Order of the Agenda be approved, moving Item No. "11" from the Consent Agenda to the end of the Regular Agenda, and withdrawing Item No. "35."

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 November 21, 2016 be approved as read.

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

Consent Agenda Approved:

Commissioner Grindberg moved the Consent Agenda be approved as follows:

1. 1st reading of the following Ordinances:
 - a. Amending Sections 3-2110 and 3-2111 of Article 3-21 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales, Use and Gross Receipts Tax (Flood Risk Mitigation and Reduction Improvements).
 - b. Amending Sections 3-2210 and 3-2211 of Article 3-22 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales, Use and Gross Receipts Tax (Infrastructure Improvements Including Flood Protection).
2. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 11/21/16:
 - a. Amending Section 25-1501 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
 - b. Rezoning Certain Parcels of Land Lying in Noridian Center Addition, Fargo, Cass County, North Dakota.
3. Applications for Games of Chance:
 - a. Muskies Inc. F-M Chapter for a raffle on 2/9/17.
 - b. USA Wrestling of ND for a raffle on 4/1/17.
 - c. Benefit for Julie Skeldum for a raffle on 12/11/16; Public Spirited Resolution.
4. Applications for property tax exemptions for improvements made to buildings:
 - a. Chad R. and Andrea E. Coleman, 2725 24th Avenue South (3 Year).
 - b. Saba Al Dahwi and Maytham R. Alsaegh, 55 Fremont Drive South (3 Year).
 - c. Gregory J. and Jill K. Post, 50 14th Avenue North (4 Year).
 - d. Gregory J. and Jill K. Post, 50 14th Avenue North (5 Year).
 - e. Weston E. Junior, 902 3rd Street North (5 Year).
 - f. Kerry Shelton and Nancy Fix, 1246 Elm Street North (5 Year).
 - g. Maureen Z. and Warren J. Hintz, 2523 West Country Club Drive South (5 Year).
 - h. Aaron M. and Megan M. Nelson, 2909 3rd Street North (5 Year).
 - i. Bryce L. and Lisa P. Niemiller, 2490 West Country Club Drive South (5 Year).
 - j. Thomas Henry and Allison J. Ollenburger, 1301 Elm Circle North (5 Year).
 - k. Brian P. Peterson and Susan N. Kenien, 3620 Fairway Road North (5 Year).
 - l. Warren E. and Roberta G. Shreve, 3401 Evergreen Road North (5 Year).
 - m. Bruce E. and Elizabeth M. Thompson, 1008 5th Street North (5 Year).
 - n. Jeffrey S. and Heidi M. Vanlaningham, 96 Meadowlark Lane North (5 Year).

5. Recommendation from the PEC to reclassify the Public Safety Administrator II position (Grade 13) to a Public Safety System Administrator III position (Grade 15) effective immediately.
6. Direct City Attorney's Office to revise Article 25-24 of the Fargo Municipal Code relating to mobile homes and recreational vehicles.
7. Resolution of Necessity and authorization to commence legal action to acquire property at 3365 39th Avenue South (Attachment "A").
8. Resolution of Necessity and authorization to commence legal action to acquire property at 4027 Copperfield Court South (Attachment "B").
9. Purchase Agreement and Quitclaim Deed with Arnold Berg Jr. for property located in Tyler's Addition.
10. Revised Agreement for Services with Valley Veterinary Hospital, P.C.
11. Allocation of Community Development Block Grant funds in the amount of \$500,000.00 for acquisition of property at 4462 30th Avenue South by the Fargo Housing & Redevelopment Authority (moved to the end of the Regular Agenda).
12. Appointments to the Sidewalk Marketing Review Committee.
13. Purchase of three automated side-load refuse trucks: two ASL trucks from Olympic Sales and one from Northern Truck Equipment in the amount of \$661,743.00.
14. Purchase of one rear load refuse packer from Sanitation Products in the amount of \$70,918.00.
15. Resolution Prescribing Rates and Charges for Solid Waste Services effective 1/1/17 (Attachment "C").
16. One-year Extension to Agreement with AE2S/Black & Veatch.
17. Memorandum of Offer to Landowner for permanent easement from Alerus Financial Corporation (Project No. PR-17-A0).
18. Memorandum of Offer to Landowner for temporary and permanent easements from East Central Petroleum Services, Inc. (Project No. PR-17-A0).
19. Request to modify the FM Metro Transportation Improvement Program as recommended by the Public Works Projects Evaluation Committee.
20. Contract Amendment No. 1 to the Engineering Services Agreement with HDR Engineering for an increase of \$22,345.00 for Project No. FM-15-J0.

21. Change Order No. 4 for an increase of \$38,520.33 (Project No. BP-00-26).
22. Contract time extension to 7/15/17 for Project No. FM-15-A1.
23. Release of Permanent Easement on recorded document No. 1312860 Project No. 5906.
24. Execution of the Community Acknowledgement form by the Storm Sewer Utility Division Engineer on behalf of the City of Fargo.
25. Federal Aid Recommendations for 2021 as recommended and submit to Metro COG.
26. Bills in the amount of \$11,502,436.04.

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.

Change Order No. 1 for Improvement District No. PN-16-A1 Approved:

Commissioner Grindberg moved approval of Change Order No. 1 for an increase of \$18,261.61 for Improvement District No. PN-16-A1.

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.

Change Order No. 1 and Time Extension for Improvement District No. BN-16-F1 Approved:

Commissioner Grindberg moved approval of Change Order No. 1 for an increase of \$27,938.70 and a time extension for substantial completion to November 3, 2016 and final completion to December 3, 2016 for Improvement District No. BN-16-F1.

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.

Change Order No. 2 for Improvement District No. BN-15-N1 Approved:

Commissioner Grindberg moved approval of Change Order No. 2 for an increase of \$10,500.00 for Improvement District No. BN-15-N1.

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.

Change Order No. 2 for Improvement District No. PN-15-J1 Approved:

Commissioner Grindberg moved approval of Change Order No. 2 for an increase of \$10,855.00 for Improvement District No. PN-15-J1.

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.

Final Balancing Change Order No. 2 for Improvement District No. PN-15-K1 Approved:

Commissioner Grindberg moved approval of Final Balancing Change Order No. 2 for an increase of \$18,610.72 for Improvement District No. PN-15-K1.

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.

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

Commissioner Grindberg moved approval of the Contract between the City of Fargo and Ryan Contracting 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.

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.

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

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

Arch Insurance Company, in the amount of \$1,158,219.82, 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.

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.

Franchise Agreement with Cass County Electric Cooperative Approved:

The Board received a communication from Assistant City Attorney Nancy Morris stating the proposed Franchise Agreement between Cass County Electric Cooperative (CCEC) and the City of Fargo is similar to the existing franchise agreement. She said the term of the agreement is for twenty years and the franchise fee is indicated at 2% of gross revenues, payable monthly. The franchise agreement is in essence an agreement for CCEC's use of the Public Rights of Way (PROW) for the placement of poles and underground wires for the construction of an Electrical

Distribution system to the inhabitants of Fargo, she said, with the territory served by CCEC and Xcel controlled by statute. She said terms new to the agreement include CCEC's provision of public liability insurance and indemnity to the City and an agreement to provide a written summary of CCEC's capital improvement plan on a yearly basis. It also addresses the parties' remedies in the event of default, includes termination provisions and recognizes the parties desire to increase energy efficiencies, she said, and goal of providing reliable, affordable and clean energy to the residents.

City Administrator Bruce Grubb said this is a follow-up to a discussion at a brown bag session a couple weeks ago. He said two utility power providers operate in the city currently; Cass County Electric Cooperative and Xcel Energy. He said Xcel Energy operates under an existing city ordinance and CCEC operates under a franchise agreement which was due to expire at the end of last year and was extended an additional year. He said discussions on the agreement included length of term, franchise fee, capital improvements and maintenance plans for reliability of service and overhead versus buried infrastructure. Also, he said, a citizen's group inquired about the opportunity to incorporate more renewable energy-type requirements within the agreement, citing what the City of Minneapolis has done. He said in researching what has been done in Minneapolis, it was learned they operate under a franchise agreement and a separate but related MOU. He said the question had been raised about how often the terms of the twenty-year agreement could be looked at and adjusted if needed and although the language is not contained in the agreement, the city has the right to meet with any frequency desired and CCEC has acknowledged that. He said the Utility Committee has committed to review the agreement every two years, bringing in CCEC as needed.

Commissioner Gehrig said the agreement can be looked at every week if desired and he feels the document does not need to be changed.

Ms. Morris said the franchise agreement has been in ongoing discussions for about a year and a half. She said Xcel operates under the same ordinance and when those terms are negotiated again this agreement will be used as an example to enter into a new agreement with Xcel. She said the agreement outlines the service territory and annexations, proposes a twenty-year term and a 2% fee, which is a pass through surcharge and has been working well. She said for 2016 thus far, the CCEC franchise fee is \$1,105,962.00, which is a revenue stream for the city.

CCEC President and CEO Marshal Albright gave an overview on the history, core values, corporate structure, governance, resources, infrastructure and commitment to the community. Reliability is very important, he said, and last year the average outage time was 46 minutes, which is the best in the nation for a cooperative the same size.

In response to a question from Commissioner Strand about whether there is enough flexibility regarding amendments within the twenty-year window, or if perhaps that language needs to be included, Ms. Morris said the language is standard for an amendment and allows amendments if agreed to by both parties. She said the twenty-year term would give CCEC the certainty they seek to continue to build the infrastructure.

Commissioner Gehrig moved the Franchise Agreement between Cass County Electric Cooperative and the City of Fargo 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.

City Auditor Directed to Publish a Notice of Hearing on an Application Filed by Emmanuel Otchere dba Ash Town Taxi for a Taxicab License: Commissioner Piepkorn Appointed to Serve on the Taxicab License Committee: Appropriate Staff Directed to Review Existing Ordinance:

The Board received a communication from City Auditor Steve Sprague stating his office received an application from Emmanuel Otchere dba Ash Town Taxi for a Taxicab License. He stated in accordance with Article 25, Section 0403, Paragraph B of the Fargo Municipal Code, the application shall be submitted by the City Auditor to the Board of City Commissioners who will set a date for a public hearing and appoint a member of the City Commission to serve on a committee to examine the need for the license.

Mr. Sprague said this is an unusual ordinance. He said the application is received, background checks done, a Commissioner is appointed to oversee a hearing for a recommendation and then the application is brought back to the Board. He said he has visited with Commissioner Piepkorn who is willing to serve and he will work with Commissioner Piepkorn to set the Hearing.

Commissioner Grindberg moved that the City Auditor's Office be directed to publish a notice of hearing on the application and Commissioner Piepkorn be appointed to serve on the taxicab license committee.

Second by Gehrig.

Commissioner Gehrig moved to amend the motion to include a review of the existing Ordinance to be sure it is still relevant.

Second by Grindberg.

On call of the roll for the motion as amended, Gehrig, Grindberg, Strand, Piepkorn and Mahoney voted aye.

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

Resolution Adopted Declaring No Protests on Resolution Annexing Part of Section 28, Township 140 North, Range 49 West Containing 42.6 Acres More or Less (North of 19th Avenue North Approximately 1/4 Mile West of 45th Street North):

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 land 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.

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

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

Amendment to the Growth Plan Approved (5617 19th Avenue North):

A Hearing had been set for this day and hour to consider approval of an amendment to the Growth Plan consisting of Growth Plan Amendment within the boundaries of the proposed Mid America Steel Addition.

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their November 1, 2016 meeting.

No written protest or objection to the amendment to the Plan has been received or filed in the Planning and Development Department.

The Board determined that no person is present to protest or offer objection to the Growth Plan amendment.

Commissioner Grindberg moved the amendment to the Growth Plan be approved.

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.

Parcels of Land in Mid America Steel Addition Rezoned (5617 19th Avenue North):

At a Hearing held on November 1, 2016 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GI, General Industrial with a PUD, Planned Unit Development Overlay within the boundaries of the proposed Mid America Steel 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.

Senior Planner Donald Kress said Mid America Steel is relocating their operation to this site due to the fact their current site at 92 NP Avenue was bought out by the Diversion Authority. Their new building will bring activities currently taking place in fourteen separate buildings under one roof with advanced capabilities for fabrication and materials handling that will increase efficiencies and capacity. He said this site takes advantage of proximity to both road and rail transportation. He pointed out a slight revision to the information in the comparison chart, stating the proposed area of office space is 12,000 square feet not 10,000, and the building is 176,000 square feet not 186,000.

Dan Bueide, Bueide Law Firm and attorney for Mid America Steel, said he and John Simonson, Secretary/Treasurer for Mid America Steel are in attendance and available for any questions. He thanked staff and said this has been quite complicated for all involved. He said staff has put quite a bit of work together in a short period of time.

Commissioner Grindberg offered the following Resolution and moved its adoption:

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

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

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

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

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

First Reading of an Ordinance Rezoning Mid America Steel Addition to the City of Fargo, Cass County, North Dakota Approved:

Commissioner Grindberg moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Mid America Steel Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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 Approving Mid America Steel Addition:

Commissioner Grindberg offered the following Resolution and moved its adoption:

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Mid America Steel Addition" containing 1 Lot, 1 Block and 40.05 acres of land more or less, located at 5617 19th Avenue North; and

WHEREAS, A Hearing was held November 1, 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 November 21 and 28, 2016 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., December 5, 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 "Mid America Steel 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Grindberg, Gehrig, Strand, Piepkorn and Mahoney voted aye.

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

Renaissance Zone Project for DFI Black Building LLC at 110 and 114 Broadway North Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for DFI Black Building LLC at 110 and 114 Broadway North. This project will consist of the rehabilitation of a commercial property within the Fargo Renaissance Zone.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Planner Derrick LaPoint stating the Renaissance Zone Project application presented by DFI Black Building LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives, and approval is recommended.

Planning Director Jim Gilmour said a PILOT incentive was approved in January for this project and at that time it was assumed it would qualify under the Renaissance Zone program. He said the plans are now ready and the project includes renovation of two buildings, the eight story, 96,000 square foot Black Building and the two story Scan Design building adjacent to it. The buildings are valued by the City at \$2.5 million, he said, and the investment in the project will be \$7.7 million. He said approval of the Renaissance Zone application would provide a five-year property tax exemption as well as State income tax exemptions for businesses that locate within the buildings. It is estimated that about 150 people work in the buildings now, he said, and once renovated, about 350 will work in these two properties.

Commissioner Strand said this sign of progress shows how well the Downtown is doing and how successful Renaissance Zone projects are as part of that growth. He said the Black Building is an anchor building and up until the Capitol Building was constructed in 1934, was the tallest building in the state.

Commissioner Piepkorn moved the Renaissance Zone application filed by DFI Black Building LLC for a project located at 110 and 114 Broadway be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

State Water Commission Request for Cost Reimbursement for FM Metropolitan Area Flood Risk Management Project Costs Approved:

Finance Director Kent Costin said the State Water Commission is requesting \$3,506,589.00 for cost reimbursement for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

Commissioner Grindberg moved the cost reimbursement request in the amount of \$3,506,589.00 be approved

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

Memorandum of Understanding with Johns Hopkins University and Partnership with "What Works Cities" Approved (Continued from the November 7, 2016 Regular Meeting):

Mayor Mahoney said this item had been discussed a couple weeks ago and action was delayed until after a couple of the Commissioners had attended the National League of Cities conference where they were able to see more of what this

project was about and had good dialogue. He said he is pleased Fargo was selected as one of the cities.

Community Development Administrator Dan Mahli said the City of Fargo has been invited to participate in the "What Works Cities" initiative. The goal of the initiative is to increase the use of data in decision making, he said, and the What Works team has been to Fargo, and met with the mayor and staff for an in-house workshop. He said there is the opportunity to make data more accessible to policymakers, residents and departments to improve the way performance is analyzed, service is delivered and to connect with the network of cities across the country to develop and work on best practices.

Commissioner Grindberg said he had suggested the topic be tabled until he and Commissioner Strand had the opportunity to meet independently with representatives and learn more about it. He said at first he was nebulous about more data and how that would improve decision making and whether there are strings attached; however, this has an end to it and there will be no more funding. He said he learned an ambition of former New York City Mayor Bloomberg was to put resources toward accelerating the decision-making processes for communities across the nation because in his dealings with colleagues across the country, he experienced a lot of discussion on process, yet decisions did not get made. He said this may be fun to do since there are no strings attached and an opportunity to look forward with some things in the city that have not been changed in years.

Commissioner Strand said this was also discussed, vetted and approved by the Community Development Committee and their recommendation is also to adopt, to participate in the What Works Cities initiative and authorize the mayor to sign the Memorandum of Understanding with the Johns Hopkins.

Commissioner Strand moved the Memorandum of Understanding with Johns Hopkins University and Partnership with "What Works Cities" be approved.

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

Update on the Fargo Police Department's Involvement, Support and Resources Provided in Morton and Burleigh Counties due to the Dakota Access Pipeline (DAPL) Protests:

Mayor Mahoney said an update on the involvement of the Fargo Police Department in the Morton and Burleigh Counties protests against the Dakota Access Pipeline (DAPL) was requested and now a synopsis of the Police Department's involvement will be presented. He announced the Fargo Native American Commission has elected to hold an open forum at 6:30 this evening in the Community Room of the Main Library to offer an opportunity to further expand the lines of communication and dialogue following this meeting.

Police Chief David Todd said the Fargo Police Department does not currently have any personnel in Morton County where thousands of demonstrators have gathered to protest against DAPL near the Standing Rock Indian Reservation. Just recently, on December 4, 2016, the Army Corps of Engineers made a decision not to grant an easement that may relieve some tension in the situation there, he said; however, it will remain to be seen how that decision plays out before more assistance

is sent. The Fargo Police Department's participation in assisting Morton County has been grounded in upholding the rule of law, whether it is protecting and facilitating first amendment rights of protesters and trying to ensure a safe area to do that, or protecting private property rights of ranchers, farmers and the pipeline company. Two years ago, at a North Dakota Peace Officers Association conference, he said he made a commitment to improve the relationship of the Fargo PD with the rest of the law enforcement community and it was well received. He said the Fargo PD had been somewhat disengaged for at least 16 years for both law enforcement and legislative issues at the state level. As the largest in the state, the Fargo PD has a responsibility to provide leadership on law enforcement issue, he said, to help other departments when asked, if able. He said there have been times in his two years as chief, that he has asked other departments for help. The BCI has investigated officer involved shootings, he said, and surrounding departments helped with 30 officers during an incident of 300 to 400 people fighting in the downtown area. He said other departments stepped in to allow officers to mourn when Officer Jason Moszer was shot and killed in the line of duty, as well as taking the streets for a full day so the department could attend his funeral. That is how North Dakota law enforcement works, he said, none is so big they do not need each other's help and they literally rely on each other. During the last few months the law enforcement issues in Morton County are too big for even several departments to handle, he said, and departments across the state have committed to assist and are stepping up to help. Fargo officers and supervisors have been cycled in and out on rotations, he said, and have responded to requests in emergency situations. He said many of the protesters in Morton County are peaceful; however, unfortunately there has also been some activity that has not been lawful nor peaceful and that is the reason law enforcement has had to be there. He said through the emergency declaration by the governor, all aspects of this assistance is being reimbursed by the state. He said \$448,000.00 in reimbursement requests have been made under the North Dakota Department of Emergency Services guidelines, and \$207,000.00 has been received with the remainder expected soon. The officers from the Fargo Police Department have performed well and shown great restraint, he said, and none have used any munitions, pepper spray or a fire hose. They have stood on the line, sometimes in Bismarck or Mandan in the downtown areas, as well as in Morton County at the Backwater Bridge, in a support role, he said.

Lieutenant Governor Drew Wrigley thanked Chief Todd and the Fargo Police Department for their leadership and for being in the top, top tier of involvement in this series of incidents. He said there is a protest movement; however, there is no way to downplay it as it has been dangerous duty and there have been riots and assaults on police. He said the hope is that the Corps' recent action to not grant the easement will defuse the situation; however, the crowd has swelled to about 7,000 people. Just today, he said, 1,500 to 2,000 left the Corps land where they are illegally camping and walked illegally on the state highway to the Highway 1806 bridge. He said the situation remains very tense and that crowd is now in the face of a serious winter storm, which adds a humanitarian aspect to it. He acknowledged that law enforcement has shown tremendous restraint in light of allegations across social media which has aimed unsubstantiated claims against them. Law and order has to be maintained, he said, and nonlethal force has been required by assaultive crowds. Over 500 arrests have been made, and the reason there have not been five times

that, he said, is that all too often law enforcement is so outnumbered that there is no ability to make the arrests while people are standing unlawfully on land that they had to break through fences to get to. He said the situation is far from over, the pipeline is a \$3.8 billion infrastructure project that is critical to the safe, efficient transportation of a commodity critical to our economy and way of life. He said the most violent, difficult and challenging aspects of the protest have not been led by the people of Standing Rock and he complimented the Board on the transparency discussing the issue.

Commissioner Gehrig said he asked for this to be put on the agenda due to it going on for months now and has not been discussed at the Commission level. He said this is a big public issue and city leaders must be able to explain the issues and actions to citizens. He thanked the Fargo police officers for stepping up in a big way, both here and in helping our neighbors in Burleigh and Morton Counties.

In response to a question from Commissioner Gehrig whether there are enough police officers to do all that is necessary within the city if thirty to forty officers are called away, Chief Todd said during a large incident when forty-nine people were called out, a change was required to a 12-hour shift for coverage and did not result in any less people on the street policing the city. He said one other time when twenty people were away did not require staffing levels to change; however, some overtime was used. He pointed out the Police Department does not have an opinion on the pipeline, whether it goes through or not is irrelevant. The position of the PD is to uphold the law, whether court decisions or private property rights or protecting citizen's rights to express their views.

Commissioner Strand said Fargo is proud of its law enforcement for its class, professionalism and dedication to service. He serves on the Native American Commission, he said, and the leaders he interacts with and the people he knows, do not enforce or support agitating or unlawful behavior. He said they stand peacefully in a spiritual stead for what they believe in. He said he does not want to get into the politics of the pipeline or energy; however, the public is owed a transparent approach to the Board's decision-making. He said he appreciates that law enforcement is respecting and protecting those citizens and an element to add is honoring the Native American community and the spirit they move forward in. He said his hope is that everyone can be home for the holidays and come home safely. He believes there is an opportunity once this is done to step up relations with Native American communities, he said, and to grow with a better sense of each other and with as high a respect as possible.

Mayor Mahoney said the City of Fargo honors mutual aid across the state and the true intent of giving aid and helping out is so that nobody gets harmed. He said if anyone has issues with the Fargo PD being there, he would suggest they discuss it with a Commissioner, the police are asked to do that as their duty as part of the mutual aid agreement. He said the Native American Commission stands for a nonviolent protest to this issue and the forum at the library following this meeting is a good avenue for discussion on this topic and other issues in the community.

Economic Development Update Withdrawn:

The Economic Development update has been withdrawn.

Parking Rate Schedule for 2017 Approved:

The Board received a communication from Planning Director Jim Gilmour stating the Parking Commission has recommended with a 4-to-1 vote that changes be made to the monthly parking rates for city owned parking facilities. He said the proposed rates reflect more aggressive pricing in the highly demanded garages and minimal increases in the less desirable surface lots. One lot with lower demand is recommended for a decrease, he said. New rates would be effective on February 1, 2017 in order to give appropriate 30-day notice, he said.

Commissioner Piepkorn moved the 2017 Parking Rate Schedule be approved effective February 1, 2017.

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 said the construction season has wrapped up and there is no longer a need for regular construction updates.

Update on Great Rides Fargo:

Director of Operations for Great Rides Fargo Sara Watson Curry gave an update on the bike share system. The second season just concluded last month, she said, and she shared statistics about the growth and success. She said the program has eleven stations and a hundred bicycles located Downtown and on NDSU's campus. She said the seasonal average was five to six trips per bike per day, which is beyond expectations.

Don Carlton Hawley Jr. Appointed to the Library Board:

The Board received a communication from Mayor Mahoney recommending that Don Carlton Hawley Jr. be appointed to the Library Board to fill the unexpired term of Becky Walen for a term ending June 30, 2017.

Commissioner Gehrig moved Don Carlton Hawley Jr. be appointed to the Library Board for a term ending June 30, 2017.

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.

Allocation of Community Development Block Grant Funds for Acquisition of Property at 4462 30th Avenue South by the Fargo Housing & Redevelopment Authority Approved (Moved from the Consent Agenda):

The Board received a communication from Community Development Administrator Dan Mahli stating that annually the City receives funding through the US Department of Housing and Urban Development in the form of a Community Development Block Grant and HOME Partnership Grant. He said the funds are mainly required to serve low to moderate income individuals and households, address affordable housing, homelessness, neighborhoods and public services. In 2015, he said, \$500,000.00 was allocated to acquire land with the Fargo Housing and

Redevelopment Authority (FHRA) for the purpose of developing additional affordable housing and a vacant parcel at 4462 30th Avenue South has been identified for the development of affordable housing. The FHRA is requesting \$500,000.00 to assist with purchase of this land. He said priorities are: an expected increased workforce, increase in the senior population and serving those with disabilities and special needs, as well as those escaping homelessness.

Commissioner Strand said housing and affordable housing across the spectrum of homelessness is a growing priority.

FHRA Executive Director Lynn Fundingsland said the parcel is 3.8 acres near the intersection of 30th Avenue and 45th Street South. He said it is a controlled intersection, on high ground with access to many services. He said they anticipate 92 units with affordable housing on the site, half of which would be dedicated to seniors and the other half to low income individuals with or without disabilities. It would be an accessible building and it is anticipated the building would be developed in 2018 or 2019, he said. There are 3,000 households on the waiting list for affordable housing in Fargo today, he said.

Commissioner Strand moved the allocation of Community Development Block Grant Funds in the amount of \$500,000.00 for the acquisition of property at 4462 30th Avenue South by the Fargo Housing and Redevelopment Authority be approved.

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.

Commissioner Grindberg moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 19, 2016.

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

The time at adjournment was 6:30 o'clock p.m.