

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: November 28, 2011:

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 28, 2011.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Mahoney.

Absent: Mayor Walaker.

Deputy Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Wimmer moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Wimmer moved the amended minutes of the October 31, 2011 Regular Meeting of the Board, adding additional information on pages 348 through 354 relating to approval of the recommendation from the Position Evaluation Committee to implement job evaluation rating changes and pay grade changes and that the Minutes of the Regular Meeting of the Board held on Monday, November 14, 2011 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. Appointment of Nancy Morris as Assistant City Attorney.
- b. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading 11/14/11:
 - (1) Amending Ordinance No. 4780 Rezoning Certain Parcels of Land Lying in R & B Subdivision, Cass County, North Dakota.
 - (2) Rezoning Certain Parcels of Land Lying in GSR Addition, Cass County, North Dakota.
 - (3) Rezoning Certain Parcels of Land Lying in MGB Second Addition, Fargo, Cass County, North Dakota.
- c. Approve listing agreements with Dave Lanpher of Park Company for 2501 58th Avenue South with a listing price of \$294,900 and listing fee of 5.5% of the listing price; Jeff Shipley of Keller Williams for 2502 58th Avenue South with a

listing price of \$219,000 and 5.5% listing fee of the listing price; Dave Noah of REMAX Realty 1 for 2853 Lilac Lane with a listing price of \$534,900 and for 4332 Timberline Drive South with a listing price of \$525,000, both with a listing fee each of 5.5% of the listing price, and to authorize the sale if an offer is received for the amount of the listing price.

- d. Health Department budget adjustment in the amount of \$9,700.00 and agreement with Deb Haugen to support a Cass Clay Healthy People Initiative.
- e. Extension of contract with Elert & Associates to include additional work, thus adding \$36,000.00 to the original contract.
- f. Grant from the Federal Transit Administration in the amount of \$1,029,200.00 for the purchase of 2 hybrid buses.
- g. Rejection of proposals for exterior advertising on buses; authorization for staff to work with existing companies that currently advertise on buses and continue sales in-house.
- h. Concur with the City of Moorhead's contract award for an Automatic Voice Announcement (AVA) system to RouteMatch Software, Inc.
- i. Application filed by Muskie's, Inc.- F-M Chapter for a raffle on 2/9/12.
- j. 2011/2012 hydrant guard contract with Team Laboratory Chemical Corp. in the amount of \$75,000.00.
- k. Proposal from Sanitation Products for purchase of a rear load refuse packer in the amount of \$57,790.00.
- l. Change Order No. 1, for an increase of \$1,090.46 for Project No. 5909-02.
- m. Change Order No. 6, for an increase of \$5,805.00 for Project No. 5906.
- n. Contract time extension for Project No. 6042.
- o. Direct City Attorney to draft an Ordinance dealing with construction of sidewalks and driveways.
- p. Engineering Contracts for the following Projects:
 - (1) Apex Engineering Group for Nos. 6063-1, 6063-2 and 6063-3.
 - (2) Houston Engineering for Nos. 6063-4 and 6063-5.
 - (3) Kadrmas, Lee & Jackson for No. 6063-6.
- q. Bills in the amount of \$6,681,127.20.

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

Absent and not voting: Mayor Walaker.
The motion was declared carried.

Contract for Storm Sewer and Incidentals Improvement District No. 5945-03
Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Storm Sewer and Incidentals Improvement District No. 5945-03 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.
The motion was declared carried.

Contract Bond for Storm Sewer and Incidentals Improvement District No. 5945-03
Approved:

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

The Guarantee Company of North America USA, in the amount of \$322,524.68, for Storm Sewer and Incidentals Improvement District No. 5945-03 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.
The motion was declared carried.

Introduction of the New Fire Chief:

City Administrator Pat Zavoral introduced Steve Dirksen who is the new Fire Chief, replacing Bruce Hoover who retired in July.

Commissioner Williams administered the Oath of Office to Fire Chief Dirksen. He said there were three great candidates who interviewed for the position of Fire Chief and Fargo is fortunate to have Chief Dirksen and the other two internal candidates who remain a part of Fargo's team.

Appointments to the Historic Preservation Commission:

The Board received a communication from Mayor Walaker recommending that Peter Moynihan, David Shultz and John Bye be reappointed to the Historic Preservation Commission.

Commissioner Wimmer moved Peter Moynihan, David Shultz and John Bye be reappointed to the Historic Preservation Commission for three-year terms ending October 31, 2014.

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

Absent and not voting: Mayor Walaker.
The motion was declared carried.

John Gunkelman Appointed to the Planning Commission:

The Board received a communication from Mayor Walaker recommending that John Gunkelman be appointed to the Planning Commission to fill the unexpired term of Rich Slagle.

Commissioner Wimmer moved John Gunkelman be appointed to the Planning Commission for the term ending June 30, 2013.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Ivory Keys, Inc. d/b/a Garden Bar to Fargo Lodging Associates d/b/a Hilton Garden Inn Fargo Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "ABH" Alcoholic Beverage License from Ivory Keys, Inc. d/b/a Garden Bar at 4351 17th Avenue South to Fargo Lodging Associates d/b/a Hilton Garden Inn Fargo, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Deputy City Auditor Sharon Plecity said the Liquor Control Board approved the application.

Commissioner Piepkorn moved the application be approved.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Proposed Increase in Passenger Fares for Metro Area Transit and MAT Paratransit Effective January 1, 2012 Approved:

A hearing had been set for this day and hour to consider the following proposed increase in passenger fares for Metro Area Transit and MAT Paratransit, effective January 1, 2012:

MATBUS – Fixed Routes

	<u>Existing</u>	<u>Proposed</u>	<u>Change</u>
Cash Fares			
Adult	\$1.25	\$1.50	+\$0.25
Elderly, disabled & youth	\$0.60	\$0.75	+\$0.15
Single Ride Tickets (sold in packs of 20)			
Adult	\$1.25	\$1.50	+\$0.25
Elderly, disabled & youth	\$0.60	\$0.75	+\$0.15

30-day Passes

Adult	\$40.00	\$40.00	None
Elderly, disabled & youth	\$26.00	\$26.00	None
14-day Pass – All Customers	None	\$21.00	New
4-day Pass (for Approved Conventions Only)	None	\$10.00	New
1-day Pass – All Customers	None	\$5.00	New

MAT Paratransit

	<u>Existing</u>	<u>Proposed</u>	<u>Change</u>
Cash Fare	\$2.50	\$3.00	+.50
Cash Fare (Sold in books of 20)	\$2.50	\$3.00	+.50
Personal Care Attendant	Free	Free	None
Agency Rate	\$15.00	\$25.00	\$10.00

The Board received a communication from Transit Administrator Julie Bommelman stating the joint Fargo-Moorhead MAT Coordinating Board met in August and again on November 16, 2011 to discuss fare revenue and unanimously recommended approval of the proposed cash fare, MAT Paratransit increases and implementation of the new passes. Notices were sent through social media, she said, as well as posted on the MATBUS website and mailed to 200 agencies. A public information meeting was held at the GTC on Monday, November 21, 2011, she said, and two passengers stopped at the informational meeting to ask questions. Of those, she said, one indicated raising cash fares was too much for the elderly and disabled, and the other individual indicated as operating costs are going up there would be the need to raise fares. One written comment was received from a MAT passenger, who was not in favor of the increase, she said. Ms. Bommelman said in addition to the increase in cash fares, the introduction of one-day and fourteen-day unlimited ride passes is being proposed which will be beneficial to the occasional or visiting rider and those with insufficient income for a 30-day pass. The current MATBUS Fixed Route cash fare has been at \$1.25 since January 1, 2009 and the previous increase was in 1998, she said. Although transit has seen a sizeable increase in ridership in the past few years, the fare revenue has not been enough to pay for rising operating costs, she said, and the proposed increase in fares will generate an estimated \$51,000 for Fargo Fixed Routes. The last fare increase for MAT Paratransit service for persons with disabilities was in 2009 when the fare increased from \$2.00 to \$2.50, Ms. Bommelman stated. The \$2.50 fare currently pays approximately 13% of the full cost per ride, she said, and according to the Americans with Disabilities Act, MAT Paratransit rates cannot exceed twice the full fare of the Fixed Routes. The proposed increase from \$2.50 to \$3.00 meets this requirement, she said.

Dale Heger, 2525 15th Street South, spoke in opposition of the increase and said handicapped individuals and those on fixed incomes cannot afford an increase. More routes should be added, he said, particularly at night.

Commissioner Piepkorn said there is discussion about extending service on Sundays and evenings, and expanding routes, which will require increased revenue.

Ms. Bommelman said proposals in the development plan include using the fare increases to help defray the cost for the addition of two buses and the increase of Route 15 for service to the downtown area, West Acres and Walmart every 15 minutes. She said different agencies in Fargo and Moorhead participate in programs to help low income riders.

Commissioner Piepkorn moved the proposed increase in fares on Metro Area Transit and MAT Paratransit as outlined above be approved effective January 1, 2012.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Conversion of NP and 1st Avenue North to Two-way Traffic Approved: Appropriate Staff to Include Metro COG Staff Directed to Work as a Design Team to Address Items Brought Forward During the NP and 1st Avenue North Corridor Study:

The Board received a Report of Action from the Study Review Committee recommending the conversion of the NP and 1st Avenue North Corridor to two-way traffic, with the preferred alternative being the 2+1 Alternative. They said two lanes would move in the predominant direction as they do today, and the single lane would move in the other direction, with a bike lane or shared bike lane.

Senior Engineer Jeremy Gorden said after nearly three years of study and multiple public input meetings, the Study Review Committee (SRC) has recommended the 2+1 Alternative be moved forward into the project design phase. He said the following detailed items will have to be further examined and implemented during the design phase:

- Plan for railroad interaction along NP Avenue using Intelligent Transportation Systems (ITS) to prohibit left turns from the single lane when a train is occupying the tracks between Main Avenue and NP Avenue.
- Using ITS to have the ability to prohibit left turns from the single lane, anticipating that some left turn movements may need to be prohibited during AM and PM peak flow times, typically from 7:45 to 8:15 a.m. and from 4:45 to 5:15 p.m.
- The type of bicycle facility to include with the design, whether it be one bike lane on each avenue, or it be widened outside lanes (14'-15') with bicycle stencils on the right side of the lane.
- Staging construction in a manner that completes the reconstruction project and involves meticulously planning the construction in such a manner that it is least impactful to downtown residents and business and property owners.
- Determining traffic signal phasing on certain intersections throughout both Avenues from 2nd Street to University Drive.
- Addressing safe and efficient pedestrian crossings on NP Avenue between 8th Street and Broadway.
- Additional analysis of the connections to University Drive at NP Avenue.

Mr. Gorden said the SRC is recommending a complete design team made up of staff from various City departments, as well as staff from Metro COG, work towards

addressing all of the items brought forward during the course of the study. He said the infrastructure beneath the streets is worn out and would need to be replaced whether changes to traffic flow are approved or not. The downtown construction project is expected to take eight construction seasons, he said, with NP and 1st Avenue North being reconstructed in the first two years.

Doug Scraper said he is on the Board of the Downtown Community Partnership which favors converting to two-way traffic. As the downtown revitalizes, he said, the hope is people will not be in such a hurry to drive through.

Randy Thorson, downtown business owner, said he is on the Study Review Committee primarily as a voice for the public, always questioning freight delivery and staging. He said he voted in favor of the conversion at the last meeting because he understands there will be changes in the ordinance for delivery times. He said these two corridors are important for deliveries downtown and he would like to see deliveries allowed on the single lane side as well as the double lane side. Staging of the construction is important, he said, and so is pedestrian safety and directional lighting to keep traffic moving.

Mike Bullinger, 2833 Lilac Lane, stated there were discussions about converting to two-way traffic on 1st Avenue North when Cityscapes Development chose to make a sizeable investment downtown. He said he favors the conversion to two way traffic.

Doug Burgum, The Kilbourne Group, said he is an investor in downtown buildings and urged the Commissioners to vote and move forward. He said it would be safer if pedestrians did not have to cross one-ways. He said Karen Stoker of the Hotel Donaldson was not able to attend but also favors the 2+1 option.

Tom Dawson, 1201 8th Street South, stated Dawson Insurance has been a part of downtown for over 90 years and he feels converting back to two-ways would be a positive change. He said when driving on a one-way a driver thinks about where he is heading and would notice more when in two-way traffic.

David Scheer, owner of several downtown businesses including the Drunken Noodle, said he has seen cars turn onto the one-ways going the wrong way, which is dangerous. He said he favors the 2+1 conversion, but urges thoughtful staging of construction so his business can remain open.

Commissioner Piepkorn said the result will be more congestion on the streets. He said he does not feel dedicated bike lanes on busy arterial roads makes sense.

Commissioner Williams said the decision tonight is to determine the 2+1 design and decisions on details such as bike lanes will be made later.

Tim Flakoll, 1350 2nd Street North, spoke in opposition to the change and said he is not convinced that reducing traffic will increase business. The current one-way system makes driving from point A to point B efficient, he said, and a change in parking rules downtown may do more to improve business downtown than changing traffic flow. With questions arising around funding a diversion, this project brings questions about costs and the best use of funds, he said.

In answer to a question from Commissioner Wimmer about the cost of the project if the one-ways were converted to 2+1 without the infrastructure upgrades, Mr. Gorden said it would be about \$400,000 to \$500,000 for striping, traffic lights, etc.; however, with the necessary infrastructure upgrades the downtown project is projected to cost \$5 million per year, or a total of \$40 million. Mr. Gorden said he is in favor of the conversion because the direction of travel will be simple and intuitive.

City Engineer Mark Bittner said staging concerns during construction are taken seriously and incentive clauses are written into contracts to assure work is done as quickly as possible. The conversion of the one-way pairs to two-ways is a significant project, he said, and a partnership with the downtown community will be important as the project progresses for discussions on items such as access and staging. He said Metro COG is studying the impact these changes will have on Main Avenue traffic.

Commissioner Wimmer moved the conversion of NP Avenue and 1st Avenue North to two-way traffic be approved, with the preferred alternative being the 2+1 alternative and appropriate staff to include Metro COG staff be directed to work as a design team to address items brought forward during the NP and 1st Avenue North Corridor Study.

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

Commissioner Piepkorn voted nay.

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Engineering Services Contract Amendment No. 2 for Project No. 5426 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating the scope of remaining work items previously recommended for the Downtown One-Way Pair Study changed due to the previous Amendment No. 2 being denied at the October 31, 2011 City Commission Meeting.

Senior Engineer Jeremy Gorden said the additional amount is for items necessary for the consultant to finalize the study with a report of action and to present a recommendation to the City Commission. He said he is recommending approval of the Engineering Services Contract Amendment No. 2 in the amount of \$37,848.46 for Project No. 5426.

Commissioner Wimmer moved Engineering Services Contract Amendment No. 2 in the amount of \$37,848.46 for Project No. 5426 be approved.

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

Commissioner Piepkorn voted nay.

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 12, 2011.

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

The time at adjournment was 6:17 o'clock p.m.