



- e. Mass Transit Agreement with the City of West Fargo for 2014.
- f. Contract for Employment Agreement with Debbie Ensrud to be an Office Associate II for the Planning and Development Department.
- g. Amended Agreement with Lutheran Social Services of North Dakota for refugee health services and interpreters (Contract #2013-32).
- h. Fargo Detox Facility/Gladys Ray Shelter staff to be placed on payroll effective December 16, 2013 for the purposes of orientation and training.
- i. Extension of leave, not to exceed 90 days, for Solid Waste employee Aaron Cockfield.
- j. Lease agreement with Swanston Equipment Company for the use of two Bobcats for 2014 by the Fire Department, and Buildings and Grounds.
- k. Application for Games of Chance for Muskies, Inc. F-M Chapter for a raffle on 2/6/14.
- l. Change Order No. 1, for an increase of \$109,372.00, for Project No. 6234.
- m. Final Balancing Change Order No. 2, for an increase of \$16,930.98, for Project No. 5958-02.
- n. Professional Services Agreement Amendment #5 with Ulteig Engineers, in the amount of \$52,600.00 for Project No. 5958-03.
- o. Chemical bid awards for the Water Treatment Plant for 2014.
- p. Extension of the Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP for a term of three years beginning on January 1, 2014 (moved to the end of the Regular Agenda).
- q. Authorize the Dome Corporation of North America to complete roof repairs at the sand storage dome at a cost of \$74,760.00.
- r. Accept quote from SimplexGrinnell, in the amount of \$36,598.00, for security upgrades at the Public Works Building.
- s. Bills in the amount of \$7,832,903.31.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Contract Amendment No. 1 for Improvement District No. 6104 Approved:

Commissioner Mahoney moved Contract Amendment No. 1 with Houston Engineering, in the amount of \$39,479.58, for Improvement District No. 6104 be approved.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Contract Time Extension for Improvement District No. 6237 Approved:

Commissioner Mahoney moved approval of a contract time extension to December 20, 2013 for Improvement District No. 6237.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 6209 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$34,787.87 for Improvement District No. 6209.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 6241 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$27,710.89 for Improvement District No. 6241.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Final Balancing Change Order No. 2 for Improvement District No. 6161 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 2 for an increase of \$25,903.93 for Improvement District No. 6161.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Updated Infrastructure Funding Policy Approved:

The Board received a communication from the Public Works Projects Evaluation Committee (PWPEC) stating the Infrastructure Funding Policy has been periodically updated; however, it is overdue for an update. Staff conducted a series of meetings to attempt to bring the policy in line with current practices and evaluate assessment limits associated with the various categories for funding, they said, and an updated draft was presented to PWPEC at the November 4, 2013 meeting. There

was substantial discussion regarding why the policy changes were being proposed, they said, and staff was asked to provide additional supporting documentation. A draft policy was presented at the December 2nd meeting, they said, incorporating comments that were previously provided. They stated topics discussed included the following:

- Increases in project costs and their relationship to the assessment limits.
- Appropriate assessment limits.
- Acceptable increases.
- Impacts to average lot.
- The demand on the special assessment assistance program.
- Possibility of setting fixed triggers for assessment limit modifications in the future to prevent funding formula from getting too skewed toward public financing sources.
- Areas of missing information or gaps in the policy with respect to the types of projects that have been constructed such as railroad quiet zones and alley reconstructions.

City Engineer April Walker said it is necessary to update the policy to provide guidance and to revise limits due to escalating costs. She said it is important for staff to look at how projects are coming in each year and bring the policy back to the Board at least every two years.

In response to a question from Commissioner Mahoney about whether increased costs are due to product or labor, Ms. Walker said it is some of each. Costs are slightly higher overall due to the tremendous amount of construction across North Dakota, she said.

Mayor Walaker said he agrees that every two years is adequate and staff can always come more frequently should they see the need.

Commissioner Wimmer moved the updated Infrastructure Funding Policy be approved.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

#### Application Filed by BHC Builders, LLC for a Ten-Year Payment in Lieu of Tax Exemption (PILOT) Approved:

A Hearing had been set for this day and hour on an application filed by BHC Builders, LLC for payment in lieu of property tax exemption (PILOT) for a proposed townhome style apartment project near NDSU at 1030 and 1034 15th Street North.

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.

Planning Director Jim Gilmour said the developer has requested PILOT assistance for a 12-unit townhome style apartment project to be built at 1030 and 1034 15th Street North, where two older homes will be demolished. The request was reviewed by the City's financial advisors, he said, and the report concluded that the project would unlikely be feasible without assistance and also recommended reducing the assistance to \$171,336.00. He said the recommendation is for approval of a maximum of \$171,336.00 of PILOT assistance, with the PILOT exemption to be for a

maximum of ten years with 100% exemption the first five years and reduced exemption years 6 through 10. He said City policy calls for a five percent administrative fee, which increases the amount of the PILOT to \$179,902.00.

Commissioner Wimmer moved that the application filed by BHC Builders, LLC for a ten-year payment in lieu of tax exemption in the amount of \$179,902.00 pursuant to Chapter 40-57.1, NDCC be approved.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Application Filed by Appareo Systems, LLC for a Five-Year Property Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by Appareo Systems, LLC for a five year property tax exemption for an expansion to their operation in the NDSU Technology Park at 1810 NDSU Research Circle North where the applicant will develop and manufacture low-cost innovative avionic and agricultural solutions for original equipment manufacturers and end users.

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 that on the second page of the application a figure of over \$17,000.00 is used as the estimated annual amount of the exemption; however, due to the reduced mill levy it is more in line with \$13,000.00.

Commissioner Wimmer moved that the application filed by Appareo Systems, LLC for a five-year 100% property tax exemption pursuant to Chapter 40-57.1, NDCC be approved.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Parcels of Land in Valley View Second Addition Rezoned (3600 Veterans Boulevard South and 5460 36th Avenue South):

At a Hearing held on November 5, 2013 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to MR-1, Multi-Dwelling on Lot 1, Block 1 of the proposed Valley View Second 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.

Commissioner Wimmer 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Valley View Second Addition, Fargo, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Valley View Second Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Resolution Adopted Approving Valley View Second Addition:

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Valley View Second Addition" containing 1 Lot, 1 Block and 14.57 acres of land more or less, located at 3600 Veterans Boulevard South and 5460 36th Ave South; and

WHEREAS, A Hearing was held November 5, 2013 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 25 and December 2, 2013 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., December 9, 2013 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 "Valley View Second Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the Office of the Recorder of Cass County, North Dakota.

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

Absent and not voting: Commissioner Sobolik.  
The motion was declared carried.

Parcels of Land in Brandt Crossing First, Fourth, Sixth and Seventh Additions Rezoned (5250 and 5310 32nd Avenue South; 4609, 4801, 4949 and 5503 33rd Avenue South; 3217 and 3239 47th Street South; 3210, 3225, 3230 and 3253 51st Street South; and 3230 Seter Parkway South):

At a Hearing held on November 5, 2013 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial with a Conditional Overlay to LC, Limited Commercial with a modification of the Conditional Overlay on Lot 1, Block 4 and Lot 1, Block 1, Brandt Crossing First Addition; Lots 1, 2, 4 and 5, Block 1, Brandt Crossing Fourth Addition; Lots 1 and 2, Block 1, Brandt Crossing Sixth Addition; Lots 1, 2, 3 and 4, Block 1, Brandt Crossing Seventh Addition.

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

Planning Administrator Nicole Crutchfield said the rezoning request from the developer is to modify and streamline the terms of an existing, complex Conditional Overlay. She said the proposed overlay, which has the support of staff, helps with design standards and is easier for the developer and staff to understand.

Commissioner Wimmer 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 and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

Absent and not voting: Commissioner Sobolik.  
The motion was declared carried.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Brandt Crossing First Addition, Brandt Crossing Fourth Addition, Brandt Crossing Sixth Addition and Brandt Crossing Seventh Addition, Fargo, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Brandt Crossing First Addition, Brandt Crossing Fourth Addition, Brandt Crossing Sixth Addition and Brandt Crossing Seventh Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioner Sobolik.  
The motion was declared carried.

Parcels of Land in Brandt Park Addition and Urban Plains Medical Park Addition Rezoned (4940 and 4972 28th Avenue South, and 4949 30th Avenue South):

At a Hearing held on November 5, 2013 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial to MR-3, Multi-Dwelling with a Conditional Overlay on Lot 1, Block 1, Brandt Park Addition and Lots 3 and 4, Block 1, Urban Plains Medical Park Addition.

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

Planning Administrator Nicole Crutchfield said this zoning change is for a vacant area that is part of the original development in Urban Plains and under a complex mixed-use design standard. She said the developer is requesting modifications to the zoning and the existing conditional overlay to develop that vacant area.

Commissioner Wimmer 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 and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

Absent and not voting: Commissioner Sobolik.  
The motion was declared carried.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Brandt Park Addition and Urban Plains Medical Park Addition, Fargo, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Brandt Park Addition and Urban Plains Medical Park Addition Cass County, North Dakota, be placed on first reading.

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

Absent and not voting: Commissioner Sobolik.  
The motion was declared carried.



Staff Directed to Gather Public Input on a Speed Limit Change on 32nd Avenue North Between Broadway and University Drive:

The Board received a Report of Action from the Traffic Technical Advisory Committee (TTAC) stating a citizen initiated the Traffic Engineering Department to examine vehicle speeds along 32nd Avenue North between Broadway and University Drive. They said it was questioned whether the existing posted speed limit of 25 miles per hour (mph) was an appropriate speed limit following the completion of the street reconstruction project this fall that widened the street and made the street an urban section (curb and gutter throughout). The Traffic Engineering Department completed a study in November, they said, showing that the 85th percentile speed (the speed at which 85 percent of vehicles are traveling at or below) of vehicles traveling on 32nd Avenue North at 8th Street was 32 mph and the 85th percentile speed at 12th Street was 35 mph. They stated at the December 4, 2013 meeting, TTAC discussed the request to increase the speed from 25 mph to 30 mph and recommended the City Commission direct staff to gather public input for 30 days and return in January with the public input received.

Commissioner Williams moved appropriate staff be directed to gather public input for 30 days on the concept of increasing the speed limit on 32nd Avenue North from Broadway to University Drive and return in January for a final decision based on public input received.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Modifications to the "No Parking November 1st to April 15th" Signage Approved:

The Board received a Report of Action from the Traffic Technical Advisory Committee (TTAC) stating in 2011 TTAC approved restricting on-street parking to one side of the street from November 1st to April 15th between 12th Avenue North and I-94 from the Red River to 25th Street, and in the Madison Neighborhood. They said the motion excluded the Central Business District from the restrictions. The motion was designed to alleviate problems with accessing the entire road surface to remove snow, they said, and allow adequate road width for emergency vehicles. They stated the City Commission supported the TTAC recommendation and directed Traffic Engineering staff to install "No Parking Nov 1-Apr 15" signs on one side of the street or avenue between 12th Avenue North and I-94 from the Red River to 25th Street, and in the Madison Neighborhood. This summer signs were installed mostly on street light poles to cut down on the amount of sign posts to install, they said, and when the restrictions went into effect on November 1st, staff soon realized some of the areas where signs were installed were prohibitive to the operation of businesses and offices. TTAC discussed the issue at length, they said, recommending that the signs on the streets between Main Avenue and 1st Avenue South between University Drive and 25th Street, as well as on 1st Avenue South from 21st Street to 24th Street be taken down. They also recommended the newly-installed signs in the area between 7th Street and 10th Street, between 1st Avenue South and 5th Avenue South be taken down.

Division Engineer Jeremy Gorden said the changes were made globally to eliminate parking on one side of the street during winter months to allow better access for snow removal in the areas of town where the lots and streets are narrower. There have been many complaints in November, he said, and TTAC is in favor of removing the new winter restrictions for this 12 block area. He said the restrictions can be lessened in this area and the restrictions can be monitored this winter to see if anything else needs to be changed.

Commissioner Williams moved staff be directed to remove the "No Parking Nov 1-Apr 15" signs on the streets between Main Avenue and 1st Avenue South, between University Drive and 25th Street, as well as on 1st Avenue South from 21st Street to 24th Street, and an area bordered by 7th Street, 10th Street, 1st Avenue South and 5th Avenue South by the end of the year.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

#### Option 1F Selected as the Preferred Alignment for the 2nd Street Floodwall Project:

The Board received a communication from the Public Works Projects Evaluation Committee (PWPEC) stating the Committee reviewed a presentation by Jerry Bents of Houston Engineering that included several computer generated visualizations of the currently proposed 2nd Street alignment Option 1F. They said this alignment shifts 2nd Street to the west so that the new right of way limit is coincident to the 350 setback (MDZS) in the vicinity of 1st Avenue North. The alignment transitions off of the MDZS as the road approaches 3rd Avenue North, they said, and the transition will continue to tie into the current underpass. They said the floodwall is also shifted farther to the west, away from the river paralleling the roadway. They said the location of the roadway needs to be identified to allow for relocation of existing utilities ahead of the roadway and floodwall construction. Staff is working towards scheduling the bid for the floodwall and roadway construction for the fall of 2014, they said, with many elements of the project yet to be developed including landscape, and recreation and master planning, which are ongoing efforts.

Jerry Bents, Houston Engineering, shared the computer generated visualizations with the Board. This alignment keeps 2nd Street intact, he said, allowing for green space by closing off the 3rd Street connection, and will include an additional driveway to the Howard Johnson facility. He said the roadway offset calls for the removal of the restaurant portion of the Howard Johnson, Feder Realty property and the Fargo Public School warehouse. He said if protection is planned to 45 feet, the floodwall will be eight to ten feet high and the intention is to work with the landscape architect as they come up with additional concepts for the area directly adjacent to the floodwalls and to continue to incorporate aesthetics. He said different closure lengths in the openings will be reviewed and there may be opportunities for reduced heights in some areas of the floodwall.

City Engineer April Walker said approval for the street alignment is necessary before final floodway and landscaping designs can move forward.

Commissioner Williams said this option, a hybrid of the options heard previously, allows connectivity downtown, provides permanent protection and solves

the stability issue on 2nd Street, and since the floodwall is being moved to higher ground, it does not need to be as high.

Mayor Walaker said the big issue is whether there will be a diversion. He said as part of the diversion, it was agreed to allow a 30 foot river stage through this area. While the landscaping is important, he said, it is vital to have adequate protection.

Commissioner Williams moved Option 1F be selected as the preferred alignment for the 2nd Street Floodwall project, and the removal of 3rd Avenue North between 2nd and 3rd Streets North be approved.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Extension of the Management and Concession Agreement Between the Fargo Dome Authority and Global Spectrum, LP Delayed:

Commissioner Mahoney said he requested this item be moved from the Consent Agenda for clarification due to recent discussions about a Fargodome expansion and the possibility of a closer management and operations arrangement between the Fargodome and the Civic Center.

City Attorney Erik Johnson said he worked with the Management Contract Subcommittee in developing language for the proposed extension and an issue that had to be addressed is the possibility of remodeling or adding on to the building which may involve the need for tax-exempt municipal financing. He said the way the management contract is set up, there are certain incentives in the agreement that impede the ability to obtain tax-exempt financing of certain expenditures or improvements. Besides extending the contract, the agreement states if the City chooses to utilize tax-exempt financing, the parties will remove those incentives and negotiate other means to compensate the manager, he said.

City Administrator Pat Zavoral said he believes the group studying the Fargodome expansion expects results delivered early in the new year, and other options such as expansion space downtown are being studied. He said he does not feel the contract extension with Global Spectrum, LP deters from management decisions being made that may include both facilities.

In response to a question from Commissioner Mahoney about penalties or concessions involved if the contract is broken within the three years, Mr. Johnson said penalties may apply and he can look into it.

Commissioner Wimmer suggested extending the contract a year at a time rather than three years.

Mayor Walaker said there is another Board meeting before year end which allows time for Mr. Johnson to research any penalties.

Commissioner Mahoney moved the Extension of Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP be delayed to allow time for the City Attorney to research penalties in the contract.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 23, 2013.

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

The time at adjournment was 6:32 o'clock p.m.