

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:

Monday:

July 7, 2014:

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 4:30 o'clock p.m., Monday, July 7, 2014.

The Commissioners present or absent were as shown following:

Present: Mahoney, Sobolik, Williams, Piepkorn.

Absent: Walaker

Commissioner Mahoney presiding.

Commissioner Mahoney announced that the Board will meet in Executive Session in the River Room for attorney consultation pursuant to NDCC §44-04-19.1 (2) in the pending litigation matter of Highland Park Properties, LLC v. the City of Fargo.

Commissioner Williams moved the City Commission meet in Executive Session in the River Room as authorized by NDCCC §44-04-19.1 (2) to discuss said pending litigation matter.

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

At 4:33 p.m. the Board moved to the River Room to discuss the litigation matter in Executive Session.

Members present were: Williams, Mahoney, Sobolik and Piepkorn.

Absent: Walaker.

The Executive Session closed at 4:50 o'clock p.m. and the Commission reconvened in public session at 5:00 o'clock p.m.

All Commissioners present except Mayor Walaker. Commissioner Mahoney presiding.

Order of Agenda Approved:

Commissioner Sobolik 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 Sobolik moved that the Minutes of the Regular Meeting of the Board held on June 23, 2014 and the adjourned Regular Meeting on June 24, 2014 be approved as read.

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

Consent Agenda Approved:

Commissioner Sobolik moved the Consent Agenda be approved as follows:

- a. 1st reading of an Ordinance Amending Sections 25-1506 and 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- b. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 6/23/14:
  - (1) Amending Section 20-0305.J.1 of Article 20-03 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Specific Historic Overlay (H-O) Districts.
  - (2) Rezoning Certain Parcels of Land Lying in RHI Addition to the City of Fargo, Cass County, North Dakota.
  - (3) Rezoning Certain Parcels of Land Lying in Prairie Farms Addition to the City of Fargo, Cass County, North Dakota.
  - (4) Rezoning Certain Parcels of Land Lying in Woodhurst Addition to the City of Fargo, Cass County, North Dakota.
- c. Receive and file an Ordinance Amending Section 8-1003 of Article 8-10 of Chapter 8 of the Fargo Municipal Code Relating to the Traffic Code; and an Ordinance Amending Sections 9-0503.1, 9-0705, 9-0706 and 9-0708 of Articles 9-05 and 9-07 of Chapter 9 of the Fargo Municipal Code Relating to Fire Protection and Prevention.
- d. Appointment of Jared Hines as an Assistant City Attorney.
- e. Request from Cass Clay Healthy People Initiative to hang banners in the skyway from June 30 until July 14, 2014 and from August 15 to August 25, 2014.
- f. Contract with Fargo Public Schools for nursing services for Special Education services for summer school 2014.
- g. Grant Awards with the North Dakota Department of Health for the Public Health Emergency Preparedness for Response for the Regional Staff Support, City Readiness Initiative and All-Hazards Allocation (CFDA #93.074).
- h. Purchase of Service Agreement Amendment for the Ryan White Part B/Case Program/ Management for People Living with HIV/AIDS (CFDA #93.917).
- i. Notice of Grant Award with the North Dakota Tobacco Prevention and Control Executive Committee for Tobacco State Aid to Local Public Health Units (Contract #G13-86).
- j. Contract with the North Dakota Department of Health for the Title X Family Planning Program (CFDA #FP93.217).

- k. Contract with the North Dakota Department of Health for Title V Maternal and Child Health Block Grant (CFDA #93.994).
- l. Contract with the North Dakota Department of Health for Suicide Prevention – Family Planning Program (Contract #G13.873).
- m. Applications for 5-year tax exemptions for improvements made to buildings:
  - (5) Jason and Moriah Loos, 2801 Maple Street North.
  - (6) Alan and Joanna Jesser, 1519 11th Avenue South.
- n. Applications for Games of Chance:
  - (1) St. Anthony of Padua Church for bingo and a raffle on 9/28/14.
  - (2) Fargo North High School Booster Club for calendar raffles at The Coliseum from 8/30/14 to 6/30/15.
  - (3) Fargo North High School Booster Club for calendar raffles at Fargo North High School from 8/15/14 to 6/30/15.
- o. Resolution Approving Plat of Amber Valley 9th Addition (Attachment “A”).
- p. Resolution Approving Plat of Parkview at Silverleaf Addition (Attachment “B”).
- q. Authorize execution of a sole source consulting services contract with Forecast Public Art, in an amount not to exceed \$10,000.00.
- r. Issuance of a Parking Management Services Request for Proposals.
- s. Expenditure of Neighborhood Stabilization Program funds for the acquisition, demolition and redevelopment of property at 1406 16½ Street South and 11 11th Street North.
- t. Declaration of Easement (Utility) for City-owned property abutting a portion of 39th Street ROW at 4000 36th Avenue South.
- u. Purchase of the home owned by Wilbur and Carolyn Wright at 3808 River Drive South through the flood buyout program.
- v. Purchase of a sander box, plow and wing from Northern Truck Equipment for \$85,961.00.
- w. Encroachment Agreement for Hornbachers at 2510 North Broadway.
- x. Partial release of the storm sewer easement on Lots 10 and 11, Block 1 of Commerce on 52nd First Addition.
- y. Change Order G-2, for an increase of \$55,721.14, for added structural reinforcement and some additional asphalt paving repairs at the new Cass Public Health Building.

- z. Contract Amendment #2, in the amount of \$42,000.00, for Project No. FM-14-50.
- aa. Pavement marking quote from NorthStar Safety, Inc., in the amount of \$25,971.00, to stripe NP Avenue from University Drive to Broadway.
- bb. Change Order No. 1, for an increase not to exceed \$40,000.00, for Project No. PR-14-11.
- cc. Bid awards for Project Nos. SR-14-11 to Master Construction Company, Inc. in the amount of \$229,425.00; TN-14-21 to Key Contracting in the amount of \$96,132.00; and TR-14-31 to Aevenia in the amount of \$169,896.00.
- dd. Bid advertisement for Project Nos. PR-14-A and UR-14-0.
- ee. Contracts and bonds for Project Nos. FM-14-01, FM-14-02 and UR-14-41.
- ff. Bills in the amount of \$5,073,252.95.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

No Protests Received for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 19 and 26, 2014 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Sobolik moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Bids Received for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61:

The bids for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 2, 2014 and the bids were found to be as follows:

Northern Improvement Company  
Bid:

Fargo, ND  
\$1,621,561.50

Border States Paving, Inc.	Fargo, ND
Bid:	\$1,643,981.08
Central Specialties	Alexandria, MN
Bid:	\$1,940,524.90

Contract for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61 Awarded to Northern Improvement Company in the Amount of \$1,621,561.50:

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 2, 2014 for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$1,621,561.50 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Northern Improvement Company in the sum of \$1,621,561.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-61 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$1,621,561.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

No Protests Received for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 16 and 23, 2014 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Sobolik moved that the Board declare that no protests have been filed to the construction of P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Bids Received for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71:

The bids for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 2, 2014 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$659,998.50
Northern Improvement Company Bid:	Fargo, ND \$692,200.00
Central Specialties, Inc. Bid:	Alexandria, MN \$864,928.50

Contract for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71 Awarded to Master Construction Company, Inc. in the Amount of \$659,998.50:

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 2, 2014 for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$659,998.50 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$659,998.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-14-71 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$659,998.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Mayor Walaker.  
The Resolution was adopted.

Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 2 and 9, 2014 and protests representing less than 1% percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

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

Bids Received for Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1:

The bids for Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 2, 2014 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$1,162,093.60
Aggregate Industries Bid:	Moorhead, MN \$1,285,282.90
Border States Paving, Inc. Bid:	Fargo, ND \$1,495,579.70
Central Specialties, Inc. Bid:	Alexandria, MN \$1,567,466.65

Contract for Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1 Awarded to Northern Improvement Company in the Amount of \$1,162,093.60:

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 2, 2014 for Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$1,162,093.60 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Northern Improvement Company in the sum of \$1,162,093.60 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Wear Course and Incidentals Improvement District No. PN-14-B1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$1,162,093.60, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

No Protests Received for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 2 and 9, 2014 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Sobolik moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Bids Received for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1:

The bids for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 2, 2014 and the bids were found to be as follows:

Border States Paving, Inc.  
Bid:

Fargo, ND  
\$795,530.15



Northern Improvement Company  
Bid:

Fargo, ND  
\$820,222.00

Contract for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1 Awarded to Border States Paving, Inc. in the Amount of \$795,530.15:

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 2, 2014 for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$795,530.15 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Border States Paving, Inc. in the sum of \$795,530.15 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-14-E1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$795,530.15, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Mayor Walaker.  
The Resolution was adopted.

City of Fargo Concurs with the NDDOT Bid Award for Improvement District No. SN-14-21:

Commissioner Sobolik moved the City of Fargo concur with the NDDOT bid award for Shared Use Path and Incidentals Improvement District No. SN-14-21 to Opp Construction Company in the amount of \$277,698.00.

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

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

Storm Sewer, Paving and Incidentals Improvement District No. BN-14-6 (26th Avenue South extending east of 45th Street East 300'):

Commissioner Sobolik moved the following action be taken in connection with Storm Sewer, Paving and Incidentals Improvement District No. BN-14-6:

Adopt Resolution Creating Improvement District No. BN-14-6:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. BN-14-6 in the City of Fargo, North Dakota, be created

26th Avenue south extending east of 45th Street approximately 520 feet.

COMPRISING:

Lot 4, Block 1 of Anderson Park 2nd Addition

Lots 2 and 4, Block 1 of Calico Prairie Addition (Lots 1-6 of the proposed Calico Prairie 2nd Addition).

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Storm Sewer, Paving and Incidentals Improvement District No. BN-14-6 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. BN-14-6:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. BN-14-6 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$418,409.55.)

Order Plans and Specifications for Improvement District No. BN-14-6:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. BN-14-6 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. BN-14-6:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. BN-14-6 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. BN-14-6 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Storm Sewer, Paving and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Storm Sewer, Paving and Incidentals Improvement District No. BN-14-6 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans

and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Storm Sewer, Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. BN-14-6:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. BN-14-6 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

Receive and File Second Quarter Financial Status Report for Major Operating Funds:

Commissioner Sobolik moved the Second Quarter Financial Status Report for Major Operating Funds be received and filed.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-31 Approved:

Commissioner Sobolik moved approval of the Contract between the City of Fargo and Dakota Underground Company for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-31 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-31 Approved:

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

United Fire and Casualty Company, Inc. in the amount of \$2,181,559.30, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-31 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract for Retention Pond and Incidentals Improvement District No. FP-14-01 Approved:

Commissioner Sobolik moved approval of the Contract between the City of Fargo and Wanzek Construction, Inc. for Retention Pond and Incidentals Improvement District No. FP-14-01 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract Bond for Retention Pond and Incidentals Improvement District No. FP-14-01 Approved:

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

Travelers Casualty and Surety Company of America in the amount of \$303,930.50 for Retention Pond and Incidentals Improvement District No. FP-14-01 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. PN-14-91 Approved:

Commissioner Sobolik moved approval of the Contract between the City of Fargo and Aggregate Industries-MWR, Inc. for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. PN-14-91 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract Bond for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. PN-14-91 Approved:

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

Western Surety Company, in the amount of \$1,282,405.80 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. PN-14-91 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Annual Update on the Status of City Defined Benefit Pension Funds:

Consulting Actuary Mark Meyer from Van Iwaarden and Associates provided an update on the status of City defined benefit pension funds for the year ending December 31, 2013. He said good investment performance and the implementation of the City's funding policy to increase contributions have the City on the right track to achieve the goals set. New accounting rules will come into effect next year that require unfunded liability to be shown on the balance sheet, he said, and not as a footnote. Steps taken two years ago to shore up funding by increasing contributions will help the balance sheet, he said. Expected life expectancies have not been updated in quite awhile, he said, and a review of the funds for expected mortality assumptions is recommended for each of the funds.

In response to a question from Commissioner Williams about whether more needs to be done to get the Fire Pension plan to its goal, Mr. Meyer said the policy adopted by the Board to have the plan fully funded in the next 15 years is on track at the current contributions.

In response to a question from Commissioner Piepkorn about the City's current bond rating, Finance Director Kent Costin said the City is rated Aa1, which is an improvement within the past 5 years from the previous rating of Aa2.

Commissioner Williams moved the annual performance update and financial status report for the City's defined benefit pension funds be received and filed.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Appointments to the Parking Commission:

The Board received a communication from Mayor Walaker recommending that Randy Thorson and Tracy Walvatne be reappointed to the Parking Commission.

Commissioner Williams moved Randy Thorson and Tracy Walvatne be reappointed to the Parking Commission for three-year terms ending June 30, 2017.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Appointments to the Planning Commission:

The Board received a communication from Mayor Walaker recommending that Rocky Schneider and Jan Ulferts-Stewart be reappointed to the Planning Commission.

Commissioner Sobolik moved Rocky Schneider and Jan Ulferts-Stewart be reappointed to the Planning Commission for three-year terms ending June 30, 2017.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Application Filed by E.R.L., Inc. d/b/a Seasons at Rose Creek for an Alcoholic Beverage License Approved:

A Hearing had been set for June 23, 2014 on the application filed by E.R.L., Inc. d/b/a Seasons at Rose Creek for a Class "FA-Golf" Alcoholic Beverage License at 1500 Rose Creek Parkway East, notice of which had been duly published in the official newspaper for the City of Fargo.

At the June 23, 2014 meeting the Hearing was continued to this day and hour.

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.

City Auditor Steve Sprague said this item is related to the transfer of the Class "AB" Alcoholic Beverage License for Happy Harry's Bottle Shop and the hearings for both applications were postponed to re-advertise for an address correction.

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

Commissioner Williams moved the application be approved.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from E.R.L., Inc. d/b/a Seasons at Rose Creek to Happy Harry's Bottle Shop 52nd, LLC d/b/a Happy Harry's Bottle Shop Approved:

A Hearing had been set for June 23, 2014 on an application to transfer the Class "AB" Alcoholic Beverage License from E.R.L., Inc. d/b/a Seasons at Rose Creek to Happy Harry's Bottle Shop 52nd, LLC d/b/a Happy Harry's Bottle Shop at 4001 53rd Avenue South notice of which had been duly published in the official newspaper for the City of Fargo.

At the June 23, 2014 meeting the Hearing was continued to this day and hour.

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.

Commissioner Williams moved the application be approved.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Item No. 4c Omitted:

Item No. 4c (Hearing on a request for a rezoning and plat for Timber Creek Third Addition) was omitted.

Parcels of Land in Northern Pacific Addition Rezoned (814 and 818 4th Avenue South):

At a Hearing held on June 3, 2014 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling to SR-3, Single-Dwelling on the West three feet of Lot 3 and all of Lots 4-6, Block 36, Northern Pacific 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 zoning change is a request by Grace Lutheran Church to unify the zoning of their site to allow for consistent LDC requirements for future construction projects

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

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Northern Pacific Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Sobolik 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 Northern Pacific Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Parcels of Land in West 29 5th Addition Rezoned (2801 39th Street South and 4155 23rd Avenue South):

At a Hearing held on June 12, 2014 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to MR-3, Multi-Dwelling of the proposed West 29 5th 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 Sobolik 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Williams, Piepkorn and Mahoney voted aye.

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in West 29 5th Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Sobolik 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 West 29 5th Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Resolution Adopted Approving West 29 5th Addition:

Commissioner Sobolik 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 "West 29 5th Addition" containing 2 Lots, 1 Block and 23.08 acres of land more or less, located at 2801 39th Street South and 4155 23rd Avenue South; and

WHEREAS, A Hearing was held June 12, 2014 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 June 30 and July 7, 2014 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., July 7, 2014 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 "West 29 5th 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Williams, Piepkorn and Mahoney voted aye.

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

Hearing on an Application Requesting a Sidewalk Waiver Along the North Side of 31st Avenue North Between 9th Street North and 10th Street North Directly Abutting Lots 7-11, Block 3, Sunwood Addition, as Well as Part of Lot 7 and All of Lot 8, Block 8, Knollbrook Addition Continued to July 21, 2014:

A Hearing had been held by the Fargo Planning Commission on June 3, 2014 for the purpose of considering a petition to grant a Sidewalk Waiver along the north side of 31st Avenue North between 9th Street North and 10th Street North directly abutting Lots 7-11, Block 3, Sunwood Addition, as well as part of Lot 7 and all of Lot 8, Block 8, Knollbrook Addition. No action was taken by the Fargo Planning Commission on the petition.

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 block of uninstalled sidewalk was on a list of gaps submitted by Roger Van Raden resulting from his sidewalk waiver petition in November of 2013. The Land Development Code (LDC) requires sidewalks on both sides of the street, she said, and the GO2030 Plan stresses connectivity. The block is located near McKinley School, she said. She stated the sidewalk waiver petition was submitted by six property owners due to the potential sidewalk being in the rear of five single-family homes creating a maintenance inconvenience particularly during snow events. She said the Planning Commission's vote was split with half being concerned with relieving the property owners of the maintenance requirements and half concerned with the importance of connectivity and fairness. She said this problem exists when there are double-fronted lots and the Planning Department is working hard to avoid double-fronted lots in new subdivisions.

Randy Grondahl, 3102 9th Street North, said the property owner at the opposite end of the block would have sidewalk on three sides and the others would have sidewalks in their back yards. He said there is no parking on that side of the street, little traffic and a sidewalk exists across the street.

Doug Person, 3121 9 1/2 Street North, said he would have to walk around the block for access to the proposed sidewalk.

In response to a question from Commissioner Sobolik about whether any trees would be lost and whether there is an ADA requirement for sidewalks on both sides of the street, City Engineer April Walker said the sidewalk will fit without tree removal, and as long as one side is accessible, it fits the federal law requiring an option. She said it is the local Ordinance that requires sidewalks on both sides of the street.

Commissioner Piepkorn said McKinley Elementary School is on the south side of 31st Avenue North and a sidewalk exists on the south side, so there is a connection. The fact that a sidewalk would be in the property owners' back yards is a legitimate issue for the neighborhood, he said, and if the City requires a sidewalk, perhaps the City could offer to provide snow removal.

Commissioner Williams said he understands the accessibility issue; however, there are other cases like this with the same type access issues and the question is one of uniformity.

In response to a question from Commissioner Williams about whether there are cases where the City maintains the sidewalks, Public Works Services Manager Mark Williams said the City does maintain many double-fronted lots located on arterials; however, the 4 1/2 foot sidewalks are challenging because of the type of equipment used.

Commissioner Sobolik said she understands the challenges for removing snow from this type of double-fronted lot; however, the City needs to be consistent with policy and focus on connectivity. She requested that Mr. Williams look at the impacts and costs if Public Works were asked to manage snow removal on this block.

Commissioner Sobolik moved the application requesting a Sidewalk Waiver along the north side of 31st Avenue North between 9th Street North and 10th Street North directly abutting Lots 7-11, Block 3, Sunwood Addition, as well as part of Lot 7 and all of Lot 8, Block 8, Knollbrook Addition be denied on the basis that the proposal does not meet the intent of the Comprehensive Plan or the intent of the guidelines as set forth within Section 20-0609.A (1-7) of the Land Development Code.

Second by Williams. On call of the roll Commissioners Sobolik and Williams voted aye.

Commissioners Piepkorn and Mahoney voted nay.

Absent and not voting: Mayor Walaker.

The motion was declared lost for a lack of a majority

Commissioner Mahoney relinquished the Chair (Commissioner Williams presiding).

Commissioner Mahoney moved the waiver be granted.

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

Commissioners Williams and Sobolik voted nay.

Absent and not voting: Mayor Walaker.

The motion was declared lost for a lack of a majority

Commissioner Williams returned the Chair (Commissioner Mahoney presiding).

Commissioner Piepkorn moved the Hearing be continued to 5:15 p.m. on Monday, July 21, 2014.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Updated Concept for the Aesthetic Treatment and Landscaping Associated with the 2nd Street Flood Risk Reduction Projects Approved:

The Board received a communication from City Engineer April Walker stating staff has been working with a team of engineers, architects, landscape architects and other interested parties to prepare a concept that ties the flood risk reduction project to the new City Hall site and the greater river corridor. She said the proposed concept was reviewed and supported by the City Hall Building Committee and is in the final stages of technical review with the USACE.

Greg Thielman, Houston Moore Group, said the main component is the floodwall which has a number of criteria that must be met to assure certification. He pointed out elements of the design including structural closures on First and Fourth Avenues North, a potential river overlook, river access, articulations in the wall to make it more aesthetically pleasing, seating elements and vegetation. He said the finished wall will be colored with textured limestone. A greenway trail is included, he said, as well as a river entry walk with terraced plantings and seating elements, and decorative fencing to screen and secure the pump stations.

In response to a question from Commissioner Williams about whether these concepts fit with possible future plans for the southeast portion of the City Hall quadrant, such as a multi-use building, plaza expansion, continuous parking development or a crossing over 2nd Avenue, Richard Moorhead, IMAGE Group, said everything being talked about continues to be explored. He said the concepts presented do not hinder such possibilities.

Commissioner Williams said if City Hall includes parking underneath and the plaza is raised, the flood wall will be less of an obstacle for viewing the river.

City Engineer April Walker said in order to preserve the road and the parking lot area where City Hall will be built, the smaller, more compact element of a flood wall is necessary due to the geotechnical reports that the ground in that area cannot support the weight of an earthen levee. There will be additional costs associated with the concepts presented, she said, including additional footage for the articulation of the wall, additional grading and fill for the undulating berms, and plantings. The overall concept presented will not be accomplished in any one phase, she said, rather elements will be incorporated as the projects progress. She stated some options, such as the river overlook with a fishing pier would involve seeking out interested partners and fundraising. Other opportunities continue to be looked at, she said, and the Park District is being included in discussions. She said currently work is being done on the Second Street lift station and the lift stations on Fourth Street are being combined, as well as the building of the flood wall. She stated approval is needed to include the appropriate design elements in the plan sets that are being put out for bid. The concepts are posted on the City website for the public to view and share feedback, she said.

City Administrator Pat Zavoral said \$53 million was the amount initially used in analyzing costs for downtown flood protection, and at least half that amount, or \$26 million, is expected from the State.

Commissioner Sobolik thanked the team for taking the time to create something aesthetically pleasing where people can gather to enjoy and embrace the river, in place of what could have been a ten foot high metal wall.

Commissioner Williams moved the concept for the aesthetic treatment and landscaping associated with the 2nd Street Flood Risk Reduction Projects be approved.

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

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, July 21, 2014.

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

The time at adjournment was 6:07 o'clock p.m.