

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                      Tuesday:                      February 17, 2015:

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., Tuesday, February 17, 2015.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Piepkorn.

Absent: Mahoney.

Commissioner Williams presiding.

Order of Agenda Approved:

Commissioner Piepkorn moved the Order of the Agenda be approved.

Second by Sobolik. 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 February 2, 2015 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:

1. Receive and file Ordinance Amending Sections 12-0102 and 12-0103 of Article 12-01, of Chapter 12 of the Fargo Municipal Code Relating to Animal Licenses (license and registration required, terms of license).
2. Waive requirement to receive and file Ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
  - a. Rezoning Certain Parcels of Land Lying in Eagle Valley Addition, Fargo, Cass County, North Dakota.
  - b. Annexing a Certain Parcel of Land Lying in the East Half of Section 3, Township 138 North, Range 49 West in Cass County, North Dakota.
3. 1st reading of an Ordinance Amending Section 11-0401 of Article 11-04 of Chapter 11 of the Fargo Municipal Code Relating to Public and Sanitary Nuisances (regarding parking trailers in front yards).
4. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 2/2/15):

- a. Amending Article 13-10 of Chapter 13 of the Fargo Municipal Code Relating to Recreational Aquatic Facilities.
  - b. Amending Section 11-0209.F of Article 11-02 of Chapter 11 of the Fargo Municipal Code Relating to Noise Control and Radio Interference (relating to noise in parks).
  - c. Rezoning Certain Parcels of Land Lying in Valley View Fifth Addition, Fargo, Cass County, North Dakota.
5. Amendment to Lease and Vending Agreement with Breezeway Café, LLC at the Fargo Library.
  6. Request for Proposals for a nonprofit organization to utilize property at 2102 6th Avenue South.
  7. Sole Source Letter of Agreement with Kon Majok for community outreach services for The Fargo Project.
  8. Contract Amendment with the North Dakota Department of Health for the Women's Way Program (CFDA #93.752.).
  9. Tax exemptions for improvements to buildings:
    - a. Joyce Mortensen, 93 Meadowlark Lane North (3-year).
    - b. James Ohnstad, 1201 41st Avenue North (3-year).
    - c. Wilbur and Carolyn Wright, 2846 27th Street South (3-year).
    - d. Dave and Linda Bergeron, 3668 Fairway Road North (3-year).
    - e. Marc Vein, 1254 4th Street North (5-year).
    - f. Sue Evans, 501 21st Street North (5-year).
    - g. Lori Fairbanks, 1538 14th Street South (5-year).
    - h. Russell and Audrey Newman, 912 Southwood Drive South (5-year).
    - i. Donna Teegarden, 1530 11th Avenue South (5-year).
    - j. Melissa Durensky, 72 16th Avenue North (5-year).
    - k. Melissa Bossman and Steven Tedford, 3541 Par Street North (5-year).
    - l. David and Marilyn Isaacson, 816 2nd Street North (5-year).
    - m. Robert and Pamela Modin, 716 2nd Street North (5-year).
    - n. Steven and Annette Sprague, 1301 4th Street North (5-year).
    - o. Kyle Thomas, 330 20th Street North (5-year).
    - p. Rolf and Diane Brakvatne, 302 Forest Avenue North (5-year).
    - q. Holice Heitkamp, 1021 5th Street North (5-year).
    - r. Steven and Rebecca Knutson, 1222 1st Street North (5-year).
    - s. Brett and Stevie Wayland, 1433 10th Avenue South (5-year).
  10. Site Authorization for The Outdoor Adventure Foundation, Inc. at The Hilton Garden Inn Convention Center.
  11. Applications for Games of Chance:
    - a. Marsha Gladue Benefit for a raffle on 2/21/15; Public Spirited Resolution.
    - b. El Zagal Arab Patrol for a raffle on 3/20/15.

12. Agreement with Valley Senior Services to extend hours of operation from 4:30 p.m. to 7:00 p.m., Monday through Friday.
13. Lease agreement with Marco for a photocopier and printer for the Transit Department.
14. 2015-2017 Aerial Mosquito Control Services contract with Airborne Custom Spraying, Inc.
15. Purchase one motor grader from RDO Equipment for \$164,456.00.
16. Termination of a land lease agreement with John and Susan Triebold for land intended to be utilized to construct a City-owned wind turbine.
17. Application for bonding authority under the Federal Clean Renewable Energy Bonds (CREBs) program to finance the geothermal portion of the new City Hall project.
18. Engineering Task Order Amendment #1 with AE2S in the amount of \$513,545.00 for Project No. WW1402.
19. Engineering Task Order with Apex Engineering Group in the amount of \$740,185.00 for Phase I improvements for Project No. WW1403.
20. Memorandum of Agreement Regarding Special Assessments for the Kerber Pony Land Partnership, LLLP property (Improvement Dist. No. 5956).
21. Categorical Exclusion associated with the construction of a 10-foot wide shared use trail on the north side of 40th Avenue South between Drain 27 and 18th Street South (Project No. SN-15-A1).
22. Contract time extension for Project No. TR-14-01 to 2/28/15.
23. Bid advertisements for Project Nos. PR-15-C, SR-15-A and TR-15-B.
24. Bills in the amount of \$5,064,773.84

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

Absent and not voting: Mayor Mahoney.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. PN-14-A1  
Approved:

Commissioner Sobolik moved approval of Final Balancing Change Order No. 1 for an increase of \$45,611.67 for Improvement District No. PN-14-A1.

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

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

P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-B (Alley from 17th to 18th Avenue North Between 3rd and 4th Street):

Commissioner Sobolik moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-B:

Adopt Resolution Creating Improvement District No. AN-15-B:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. AN-15-B in the City of Fargo, North Dakota, be created

From 17th to 18th Avenue North between 3rd Street & 4th Street, North Broadway Addition.

COMPRISING:

Lots 261 through 280 and 321 through 340.  
All in North Broadway Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-B 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. AN-15-B:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. AN-15-B 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 \$153,270.00.)

Order Plans and Specifications for Improvement District No. AN-15-B:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. AN-15-B in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. AN-15-B:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. AN-15-B 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. AN-15-B 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 P.C. Concrete Alley 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 P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-B 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 P.C. Concrete and Alley 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. AN-15-B:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. AN-15-B in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Mahoney.

The motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-C (Alley from 16th to 17th Avenue North Between 4th Street and 5th Street):

Commissioner Sobolik moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-C:

Adopt Resolution Creating Improvement District No. AN-15-C:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. AN-15-C in the City of Fargo, North Dakota, be created

From 16th to 17th Avenue North between 4th Street & 5th Street, North Broadway Addition.

COMPRISING:

Lots 121 through 140 and 181 through 200.

All in North Broadway Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-C 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. AN-15-C:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. AN-15-C 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 \$153,270.00.)

Order Plans and Specifications for Improvement District No. AN-15-C:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. AN-15-C in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. AN-15-C:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. AN-15-C 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. AN-15-C 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 P.C. Concrete Alley 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 P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-C 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 P.C. Concrete Alley 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. AN-15-C:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. AN-15-C in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Mahoney.

The motion was declared carried.

(Mayor Mahoney present)

State Water Commission Cost Reimbursement Request for the FM Diversion Flood Project:

Finance Director Kent Costin said the expenditures listed in the reimbursement request are \$1,370,222.00 and this particular request is eligible for 50% cost sharing ratio, making the cost reimbursement amount \$685,111.00.

Commissioner Sobolik moved the cost reimbursement request to the State Water Commission for FM Diversion Flood Project costs in the amount of \$685,111.00 be approved.

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

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

Year-End Budget Amendments Approved:

The Board received a communication from the Finance Committee stating two budget amendments were reviewed relating to the allocation of the year-end General Fund surplus. They said one item has to do with closing out the existing E911 Fund. Voters approved consolidation of this function at the County level, they said, so the City's E911 will cease to exist and a General Fund transfer is recommended in the amount of \$350,000.00 to eliminate the deficit in this fund at year end. The second item is related to a Library technology replacement project, they said. The City approved additional funding for departmental capital outlay in the amount of \$50,000.00, they said; however, in order to complete the project, some of the 2014 operating budget has been held back to fund a portion of this project. They said a budget amendment is recommended to carry forward operational savings in the amount of \$70,000.00.

Commissioner Williams moved the year-end budget amendments to close out the E911 Fund in the amount of \$350,000.00 from the General Fund and to carry over \$70,000.00 from the 2014 Fargo Public Library operating budget authority into 2015 to complete scheduled technology initiatives be approved.

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

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

First Reading of an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages:

The Board received a communication from Assistant City Attorney Jodi Bass stating the proposed Ordinance amendment addresses applicable fees to be paid when the holder of a Class "W", "Z" or "B-Limited" Alcoholic Beverage License sells the business. She said the amendments are intended to specify that the fee applicable in situations where a business holding a Class "W", "Z" or "B-Limited" Alcoholic Beverage License is sold, the transfer fee shall be the total annual cost of the license being transferred.

City Auditor Steve Sprague said the amendment clarifies some confusing language regarding fees when transferring a liquor license when a business is sold. He said if the business is sold and remains open, the license would be transferred and an annual fee would be paid. He said in the case of a Class "W", "Z" or "B-Limited" Alcoholic Beverage License, if a business is closed, the license comes back to the City.

Commissioner Piepkorn moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages be placed on first reading.

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

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

City Attorney Directed to Draft Ordinance Amendments to Allow Parking Enforcement in City Parking Lots:

The Board received a communication from Planning Director Jim Gilmour stating the Parking Commission and the Planning and Development Department have been looking for ways to improve enforcement of parking restrictions in City parking lots used for monthly renters, as well as ways to make off-street parking available for visitors of City Hall and the Library. He said currently, parking in a City lot without a permit can only be enforced by towing or expensive control equipment-parking attendants. Parking attendants are expensive in relation to revenue of short term parking, he said, and towing is very expensive for both the City and vehicle owner. A more effective enforcement method would be issuing parking tickets to those who park in a City lot without a permit, or park all day in a visitor parking spot designated for short term parking, he said; however, City Ordinance changes are needed to implement these enforcement options. He said the draft Ordinance would go before the Parking Commission and then be brought before the Board.



Commissioner Williams said there is a City lot downtown that is owned and operated jointly with a private party. He suggested the private party also be allowed some input. He said there will likely be more public/private parking lot relationships going forward so it is important to get the Ordinance right. He said the ability to issue tickets in these public lots is critical.

In response to a question from Commissioner Sobolik about who would do the ticketing, Mr. Gilmour said likely the language of the Ordinance will be written generally enough to enable the City to authorize the police, the contracted parking management firm or a private security firm to enforce it. There may be opportunities with the Downtown Business Improvement District, he said, or, some communities have downtown ambassadors that provide information and also can issue tickets. He said enforcement would take place only where signs are posted and people know what the rules are. If a private operator did not want it enforced, he said, then the City would not enforce it.

Commissioner Williams moved the City Attorney be directed to draft Ordinance Amendments to allow the Parking Commission and the Planning and Development Department to implement programs that issue parking tickets to people who violate time zones in parking lots, or park in long-term parking lots without permits.

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

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

Ballot Language for the Proposed Home Rule Charter Amendment Eliminating the Resignation Requirement for Commissioners Seeking to Become a Candidate for Mayor and Placing the Question on the Ballot for the April 28, 2015 Election Approved:

The Board received a communication from City Auditor Steve Sprague submitting suggested ballot wording for the proposed Home Rule Charter Amendment eliminating the resignation requirement for Commissioners seeking to become a candidate for Mayor.

Commissioner Piepkorn moved the ballot language for the proposed Home Rule Charter Amendment eliminating the resignation requirement for Commissioners seeking to become a candidate for Mayor be approved and the question be placed on the ballot for the April 28, 2015 special election.

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

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

Request from Quaker Steak and Lube for a Six Month Extension of their Liquor License Approved:

The Board received a communication from City Auditor Steve Sprague stating Quaker Steak and Lube is requesting time to transfer their Class "FA" Alcoholic Beverage License. They are in the process of reorganizing and opening a new restaurant, he said, and are requesting a six month extension of Ordinance 25-1512 for their liquor license to allow them time to reorganize and transfer the license. He

said as he understands it, Quaker Steak and Lube is very close to having a transfer worked out.

Commissioner Piepkorn moved a six month extension to Ordinance 25-1512 until July 1, 2015 for Quaker Steak and Lube's Class "FA" liquor license be approved.

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

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

Presentation by Metropolitan Council of Governments Executive Director Bill Christian:

Metropolitan Council of Governments (Metro COG) Executive Director Bill Christian introduced himself to the Board. He was hired as Senior Transportation Planner in January 2014, he stated, and was offered the position of Executive Director in November 2014. He said his intention is to meet with the jurisdictions annually to give an update and remind the Board of the role of Metro COG. He said prior to working at Metro COG he spent 28 years as a transportation planner in Omaha, Nebraska and Wichita, Kansas. The Fargo-Moorhead Metro COG was formed as a council of governments to deal with issues that are regional in nature and transcend jurisdictional boundaries, he said. Metro COG is also the designated metropolitan planning organization for the area, he stated, and are entrusted with providing for a fair and impartial setting in making transportation decisions and Metro COG also deals with federal transportation funding. He said 7 of the 14 members on the policy board are from the City of Fargo. He outlined current projects and studies, work being done with local transportation systems and project prioritizations being submitted to the North Dakota DOT for funding. Metro COG also works the grant program for MATBUS, he said. Metro COG is a service organization, he stated, and he encouraged the Board to contact him or his staff with any questions or concerns.

In response to a question from Commissioner Piepkorn about alignment with Minnesota's Heartland Trail, Mr. Christian said proposed alignments are being looked at through Clay County which would hook in through the Dilworth/Moorhead trail systems and hopefully, more of the system would eventually tie in to the Fargo trail system. He said gathering public input is under way on some of the alignments.

Commissioner Piepkorn thanked Mr. Christian and Metro COG for all their fine work.

Legislative Update:

City Administrator Pat Zavoral provided a summary of upcoming hearings and reviewed bills supported and opposed. He said among the bills that failed is one that slightly increased speeding fees, some proposed bills addressing sales tax issues and a bill related to the diversion which limited eminent domain by water resource districts. On the list of bills supported or opposed is HB 1067 which now uses more current census data, he said, and would result in a better break in how much sales tax is returned to the City. HB 1195 relating to concealed firearms in schools is opposed, he said, and has passed in the House. HB 1322, which may become a study bill, deals with restrictions of allowable costs by special assessments, he stated. Fargo currently treats mobile home parks as commercial property, similar to an apartment

building with a number of units, he said, and does not support HB 1392 which proposes mobile home parks be treated like a single family lot for special assessment purposes. For now, he said, the City is comfortable with the progress of HB 1415 for State Water Commission appropriations. He said HB 1443, which will be heard in committee next week, provides a revolving loan pool for infrastructure loans capped at 2% and could be a good funding source going forward. The City would like to see a modification to SB 2144 which limits the Airport Authority's bonding ability, he stated. The Housing incentive fund, SB 2220, has had some amendments, he said, and is critical for the Housing Authority's being able to take care of the Fargo High Rise.

City Engineer April Walker said SB 2149 relates to public improvement contracts and requires an engineer to stamp plans prior to advertising, which is doable; however, it would place a huge burden on staff to have the plans available six weeks prior to bid opening.

Mr. Zavoral said the crossover date for the Legislature is February 27th.

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, March 2, 2015.

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

The time at adjournment was 5:46 o'clock p.m.