

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: April 27, 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., Monday, April 27, 2015.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Piepkorn, Mahoney.

Absent: None.

Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Sobolik moved the Order of the Agenda be approved omitting Item No. "22" from the Consent Agenda.

Second by Piepkorn. All the Commissioners 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 April 13, 2015 and the Special Meeting held April 16, 2015 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

1. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Original Townsite Addition to the City of Fargo and Part of the North Half of Section 7, Township 139 North, Range 48 West to the City of Fargo, Cass County, North Dakota; 1st reading, 4/13/15.
2. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 20-0805 of Article 20-08 of Chapter 20 of the Fargo Municipal Code Relating to Arts and Culture Commission; 1st reading, 4/13/15.
3. Receive and file Year to Date - Budget to Actual Report for March 2015.
4. Amendment to the investment management contract with PFM Asset Management, LLC reflecting a reduction in fees for assets managed in excess of \$100 million.

5. Assignment of existing tax increment financing note 2007-02 from Feder Properties, LLC to DFI AL, LLC.
6. Agreement regarding special assessment and interest in the Nandan, LLP et al v. City of Fargo case.
7. Amended Contract with the North Dakota Department of Health for the Title X Family Planning Program (CFDA #93.217).
8. Proposal for Earthwork Services for The Fargo Project.
9. Applications for 5-year tax exemptions for improvements made to buildings:
 - a. Jeff Avelsgaard, 2926 10th Street North.
 - b. R. Chaz and Sarah Bombenger, 117 Woodland Drive North.
10. Site Authorizations for Games of Chance:
 - a. American Gold Gymnastics, Inc. at The Box.
 - b. American Gold Gymnastics, Inc. at SideStreet Grille & Pub.
11. Application filed by Lincoln PTA for a raffle on 5/18/15 (amended).
12. Lawn maintenance service contract with JT Lawn Service and Style-It-Services for the 2015 mowing season.
13. Accept quote from Industrial Builders, Inc., in the amount of \$44,760.00, for 2015 Cleanup Week services.
14. Memorandum of Offer to Landowner (Target Corporation) for a permanent easement (Project No. PR-14-01).
15. Contract Amendment #1, for an increase of \$15,610.00, for Project No. 6076.
16. Task Order 7 for KLJ Engineers for Project No. MS-15-J0.
17. Change Order No. 1, for an increase of \$20,279.16 for Project No. HD-14-51.
18. Bid award for Project No. FM-14-62 to Sellin Brothers, Inc. in the amount of \$909,212.00.
19. Bid advertisement for Project No. FM-14-1.
20. Contracts and bonds for Projects SW 15-01 and WA 1301 (General, Electrical and Mechanical).
21. Bills in the amount of \$6,910,758.17.

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.

Item No. 22 Omitted:

Item No. 22 (Bid Award for Improvement District No. NN-14-21) was omitted.

Contract Amendment No. 1 for Improvement District No. 6093 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating the Committee received a communication from Traffic Division Engineer Jeremy Gorden relating to a contract amendment with Apex Engineering and the City of West Fargo. They said the City of Fargo, West Fargo and Cass County negotiated with Apex Engineering Group and have come to terms with an amendment. They said the City of Fargo's share of the original contract was \$156,106.80, and its portion of the amendment is \$87,339.20, bringing the contract amount to \$243,446.00.

Commissioner Piepkorn moved Contract Amendment No. 1 in the amount of \$87,339.20 for Improvement District No. 6093 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.

Amended Engineer's Report for Improvement District No. PN-15-B Approved:

The Board received an Amended Engineer's Report from City Engineer April Walker stating P.C. Concrete Pavement, Traffic Signals, Street Lighting and Incidentals Improvement District No. PN-15-B is scheduled for bid opening May 6, 2015. She said staff has evaluated the project and the traffic impact of this construction project is expected to be limited. She said the project involves construction of the northern three lanes and applicable left turn lanes on 32nd Avenue South from 45th Street to Veterans Boulevard. The southern three lanes were built in 2008/2009, she said, and head-to-head traffic will be routed onto two of these lanes and barrel off the third lane for construction to take place in certain areas. There is no detour associated with this project, she said, and no adjacent properties being served directly from this roadway. Staff recommends that there be no incentive/disincentive clause associated with this contract, she said.

Commissioner Piepkorn moved the Amended Engineer's Report for Improvement District No. PN-15-B to not include the incentive/disincentive clause into the contract 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.

Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-E (Rocking Horse Farms 2nd Addition):

Commissioner Piepkorn moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-E:

Adopt Resolution Creating Improvement District No. PN-15-E:

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

On 48th Avenue South between Veterans Boulevard and Rocking Horse Circle South.

On 49th Avenue South between 63rd Street South and Rocking Horse Circle South.

On 51st Avenue South between 63rd Street South and 61st Street South.

On 59th Street South between 48th Avenue South and Wildflower Drive South.

On 61st Street South between 51st Avenue South and Rocking Horse Circle South.

On 63rd Street South between 52nd Avenue South and 51st Avenue South.

On 63rd Street South between 49th Avenue South and Wildflower Drive South.

On Marigold Loop South off of 61st Street South from 250' north of 51st Avenue South to 275' southwest of Rocking Horse Circle South.

On Cattail Cove South east of 63rd Street South to 400' east of 63rd Street South.

On Prairie Pond Xing South between Wildflower Drive South and Rocking Horse Circle South.

On Tallgrass Cove South south of Wildflower Drive South to 400' south of Wildflower Drive South.

On Wildflower Drive South between 63rd Street South and 48th Avenue South.

COMPRISING

Lots 1 through 67, Inclusive, Block 1.

Lots 1 through 10, Inclusive, Block 2.

Lots 1 through 28, Inclusive, Block 3.

Lots 1 through 26, Inclusive, Block 4.

Lots 1 through 7, Inclusive, Block 5.

Lots 1 through 3, Inclusive, Block 6.

Lots 1 through 5, Inclusive, Block 7.

All platted in Rocking Horse Farms Second Addition.

All the unplatted land in the SE ¼ of Section 32, T139N, R49W.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-E 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. PN-15-E:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PN-15-E 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 \$6,258,810.00.)

Order Plans and Specifications for Improvement District No. PN-15-E:

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

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

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. PN-15-E 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. PN-15-E 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 Concrete Curb and Gutter, Asphalt Paving, Street Lights 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 Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-E 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 Concrete Curb and Gutter, Asphalt Paving, Street Lights 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. PN-15-E:

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

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.

Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-H (Urban Plains – 49th Street from 30th to 32nd Avenue South):

Commissioner Piepkorn moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-H:

Adopt Resolution Creating Improvement District No. PN-15-H:

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

49th Street South between 30th Avenue South and 32nd Avenue South.

COMPRISING:

Lots 1 through 6, Inclusive, Block 1.
All platted in Urban Plains Rec Facility Addition.

Lots 1 through 7, Inclusive, Block 8.
All platted in Urban Plains by Brandt 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-H 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. PN-15-H:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PN-15-H 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 \$854,597.78.)

Order Plans and Specifications for Improvement District No. PN-15-H:

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

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

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. PN-15-H 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. PN-15-H 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 Concrete Curb and Gutter, Asphalt Paving, Street Lights 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 Concrete Curb and Gutter, Asphalt Paving, Street Lights and Incidentals Improvement District No. PN-15-H 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 Concrete Curb and Gutter, Asphalt Paving, Street Lights 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. PN-15-H:

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

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.

Asphalt Mill and Overlay and Incidentals Improvement District No. PR-15-A (Various Locations in North and South Fargo):

Commissioner Piepkorn moved the following action be taken in connection with Asphalt Mill and Overlay and Incidentals Improvement District No. PR-15-A:

Adopt Resolution Creating Improvement District No. PR-15-A:

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

LOCATION (Section 1):

On 10th Street North from 31st Avenue North to 32nd Avenue North.

On 9 1/2 Street North from 10th Street North to 32nd Avenue North.

LOCATION (Section 2):

On University Drive South from 14th Avenue South to 18th Avenue South.

COMPRISING (Section 1):

Lot 1, Block 1.

Lots 1 through 11, Block 2.

Lots 1 through 11, Block 3.

All in Sunwood Addition.

COMPRISING (Section 2):

Lots 1 through 26, Block 11.

Lots 1 through 26, Block 12.

Lots 1 through 26, Block 13.

Lots 1 through 26, Block 14.

Lots 1 through 26, Block 15.

Lots 1 through 26, Block 16.

Lots 1 through 26, Block 17.

Lots 1 through 26, Block 18.

Lots 1 through 16, Block 25.

Lots 1 through 16, Block 26.

Lots 1 through 16, Block 27.

Lots 1 through 16, Block 28.

All in Morton & Doty's Addition.

Lots 1 through 22, Block 1.

Lots 1 through 26, Block 2.

Lots 1 through 25, Block 3.

Lots 1 through 26, Block 4.

All in Bohnsack's 1st Addition.

Lots 1 through 22, Block 4.

Lots 1 through 22, Block 5.

Lots 1 through 23, Block 6.

Lots 1 through 12, Block 7.
Block 8.
All in Fargo Investment Company 1st Addition.

Block 1.
Block 2.
Lots 1 through 8, Block 2.
Lots 1 through 16, Block 3.
Lots 1 through 16, Block 4.
All in Lewis Addition.

Lots 1 through 24, Block 1.
Lots 1 through 17, Block 2.
Lots 1 through 24, Block 3.
Lots 1 through 19, Block 4.
All in Buland's Subdivision.

Lots 1 through 13, Block 9.
Lots 1 through 26, Block 10.
Lots 1 through 26, Block 11.
Lots 1 through 26, Block 18.
Lots 1 through 26, Block 19.
Lots 1 through 13, Block 20.
All in Huntington's Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Asphalt Mill and Overlay and Incidentals Improvement District No. PR-15-A 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. PR-15-A:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PR-15-A 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 \$414,000.00.)

Order Plans and Specifications for Improvement District No. PR-15-A:

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

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

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. PR-15-A 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. PR-15-A 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 Asphalt Mill and Overlay 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 Asphalt Mill and Overlay and Incidentals Improvement District No. PR-15-A 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 a portion of said Asphalt Mill and Overlay and Incidentals Improvement is to be paid from Street Sales Tax Funds and approximately 50% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Asphalt Mill and Overlay 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. PR-15-A:

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

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.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-A1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-A1 in the City of Fargo, North Dakota.

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.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-A1 Approved:

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

United Fire and Casualty Company, in the amount of \$159,601.00, for P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-15-A1 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-A1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Ryan Development, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-A1 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-A1 Approved:

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

Arch Insurance Company, in the amount of \$460,929.05, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-A1 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-B1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Ryan Development, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-B1 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-B1 Approved:

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

Arch Insurance Company, in the amount of \$909,586.20, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Site Grading and Incidentals Improvement District No. BN-15-B1 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lights and Incidentals Improvement District No. BN-15-F1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lights and Incidentals Improvement District No. BN-15-F1 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lights and Incidentals Improvement District No. BN-15-F1 Approved:

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

United Fire and Casualty Company, in the amount of \$1,534,007.45 for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Paving, Street Lights and Incidentals Improvement District No. BN-15-F1 in the City of Fargo, North Dakota.

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.

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-15-C1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-15-C1 in the City of Fargo, North Dakota.

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.

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-15-C1 Approved:

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

United Fire and Casualty Company, Inc., in the amount of \$1,598,153.70, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-15-C1 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-E1 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-E1 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-E1 Approved:

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

United Fire and Casualty Company, Inc., in the amount of \$4,438,618.58, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-E1 in the City of Fargo, North Dakota.

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.

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

Finance Director Kent Costin said the expenditures listed in the reimbursement request are for \$1,231,810.00

Commissioner Piepkorn moved the cost reimbursement request to the State Water Commission for FM Diversion Flood Project costs in the amount of \$1,231,810.00 be approved.

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.

Three-Year Lease with DFI Commerce, LLC for the City Assessor's Office RelocationApproved:

The Board received a communication from Director of Finance Kent Costin stating the City Commission recently approved an arrangement for the City Assessor's Office to enter into a lease for space in the Northport Mall. After the City Commission's approval of the lease with BOAS Northport Fargo LLC, he said, the Assessor's Office was contacted by DFI Commerce, LLC, the potential purchasers of the property located at 321 4th Street North commonly referred to as the former Chamber of Commerce building. He said DFI Commerce, LLC has offered to lease the property for a three-year period. He said the building is in a more desirable location and will result in a substantial cost savings over the Northport location.

Commissioner Williams moved a three-year lease with DFI Commerce, LLC for the City Assessor's Office relocation, with a rental rate of \$67,926.00 per year 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.

Paul Gleye Appointed to the House Moving Board:

The Board received a communication from Mayor Mahoney recommending that Paul Gleye be appointed, as the Historic Preservation Commission's representative, to the House Moving Board.

Commissioner Sobolik moved Paul Gleye be appointed to the House Moving Board.

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.

Cassandra Maland Appointed to the Arts and Culture Commission: Term Expirations for all Members of the Arts and Culture Commission Approved:

The Board received a communication from Mayor Mahoney recommending that Cassandra Maland be appointed as the DCP representative to the Arts and Culture Commission. He said the person originally appointed was not a Fargo resident, therefore, could not serve. He said listed below are the term expiration dates of all Arts and Culture Commission members in accordance with the newly-adopted Ordinance:

David Bertolini (NDSU/Architecture and Taskforce Member) – term ending 6/1/16

Michael Olsen (The Arts Partnership Board/Musician and Taskforce Member) – term ending 6/1/16

Deb Williams (Neighborhood Rep) – term ending 6/1/16

Colleen Sheehy (Plains Art and Taskforce Member) – term ending 6/1/17

Dayna Del Val (The Arts Partnership and Taskforce Member) – term ending 6/1/17

Arlette Preston (At Large Member and Taskforce Member) – term ending 6/1/17

Chelsea Thorson (Artist) – term ending 6/1/18

Jessica Jung (NDSU Theatre Professor) – term ending 6/1/18

Cassandra Maland (DCP Rep) – term ending 6/1/18

Commissioner Sobolik moved Cassandra Maland be appointed to the Arts and Culture Commission for a three-year term ending June 1, 2018 and the term expirations for all members of the Board be approved as presented.

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.

Revisions to the Floodproof Construction Requirements Policy Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating they received a communication from Storm Sewer Utility Division Engineer Nathan Boerboom regarding proposed revisions and clarifications to the Floodproofing Policy that was adopted by the City Commission. They said since the implementation, staff has been working with developers and the Homebuilders Association to address areas requiring clarification. They said staff has identified a couple of areas of concern where the current language has led to the potential for homes to be built at less than the intended elevation. Another identified issue, they said, is related to non-primary slab on grade structures such as detached garages or sheds.

Storm Sewer Utility Division Engineer Nathan Boerboom said back in December Engineering came to the Commission with a revision to the floodproofing construction policy that the City has in place. He said the policy helps guide elevation requirements as well as construction procedures for floodproofing basements. He said the revisions were part of the basement exception process that the City went through as a requirement of FEMA for the map update that became effective in January. Since those changes have been in place, he said, Engineering has started to incorporate them into the design of new residential structures. He said the Home Builders Association (HBA) came to Engineering seeking clarification on some items. He said with the changes that were made, if a new builder were to come to town they would easily be able to see what the City of Fargo's requirements are.

In response to a question from Commissioner Williams as to whether or not the City can anticipate another elevation increase from FEMA, City Engineer April Walker said a few weeks ago Senator John Hoeven was here with FEMA staff and at that time there were discussions about the City's current floodplain and what FEMA see's happening going forward. She said FEMA indicated that it is mandatory for them to look at the City of Fargo again in 5 years, so within 5 years FEMA will come back and decide whether or not the City's elevation level is appropriate and whether or not the floodplain has changed or needs to change. She said if funding is available, the process of remapping could move very quickly because the City has already created the model that is needed as well as the hydrology and hydraulics associated with the future map change.

In response to a question from Commissioner Williams regarding sections of the City being removed from the flood insurance risk as the projects are completed, Ms. Walker stated that is the goal; however, the only project that has been submitted

to FEMA for removal is the Ridgewood project. She said that project is still under review by FEMA and the City is hopeful to get that resolved soon and move forward.

Commissioner Piepkorn moved the revisions to the Floodproof Construction Requirements Policy be approved as presented.

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.

Application Filed by ICD Builders, Inc. for a Five-Year Property Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by ICD Builders, Inc. for a five-year property tax exemption for an expansion to their operations at 1819 3rd Avenue North where the applicant will manufacture prefabricated wall panels and metal/wood structures.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

Commissioner Piepkorn moved that the application filed by ICD Builders, Inc. for a five year, 100% property tax exemption pursuant to Chapter 40-57.1, NDCC be approved.

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.

Resolution Adopted Approving Craigs First Addition (10th Street North and 11th Street North, and 2nd Avenue North and 3rd Avenue North):

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 "Craigs First Addition" containing 1 Lot, 1 Block, and 0.73 acres of land more or less, located between 10th Street North and 11th Street North, and 2nd Avenue North and 3rd Avenue North; and

WHEREAS, The Plat includes the vacation of all of the alley common to Lots 7-12, Block 28, Roberts' Second Addition and Lots C, F, K and the previously vacated alley, Block 28, Douglas' Second Subdivision to the City of Fargo, Cass County, North Dakota; and

WHEREAS, A Hearing was held February 3, 2015 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 March 23 and 30; and April 6 and 13, 2015 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., April 27, 2015 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 "Craigs First 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Piepkorn, Williams and Mahoney voted aye.

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

Parcels of Land in 42nd Street Addition Rezoned (4000 36th Avenue South):

At a Hearing held on April 7, 2015 the Fargo Planning Commission recommended approval of a change in zoning from P/I, Public and Institutional to LI, Limited Industrial on Lot 5 less street right-of-way, Block 1, 42nd Street 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.

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in 42nd Street Addition, 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 42nd Street Addition, 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.

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

Discussion Regarding the FM Flood Risk Mitigation District No. 1:

Commissioner Williams said he did not feel right about this vote and feels that there should be some way that the citizens have a larger bearing on the outcome of the vote.

Chairman of the Cass County Joint Water Resource District (CCJWRD) Mark Brodshaug said the Diversion Authority assigned the task of developing a special assessment district to CCJWRD in December of 2012. He said the CCJWRD has the ability under the North Dakota Century Code to administer an assessment district throughout the benefitted area in North Dakota. He said the sales tax money will come in over a long period of time so there is a need to borrow money against the sales tax revenue in order to build the project as quick as possible to get the benefits accruing to the community as soon as possible. He said construction costs will outpace the sales tax revenues and sales tax financing will cost more than the special assessment alternative. He said the assessment district will provide better borrowing terms like a lower interest rate and lower coverage requirements.

AE2S Public Affairs Strategist Rocky Schneider said the water resource districts in North Dakota are guided under a different section of law than cities when it comes to the creation of assessment districts. Resource districts require a vote, he said, which are equal to the amount of liability to the residents' property. He said property owners are being asked to co-sign a loan with the government to get better terms with the sales tax revenue making the loan payments.

Finance Director Kent Costin said he was asked to touch base with the City's financial advisors and they ran some scenario's to look at the savings difference and the bottom line is that this is a huge savings for the City. He said \$100 million dollars would be saved over the life of the bond issue and that is an efficient means for financing.

Board of Director's President for the Home Builders Association (HBA) Clay Dietrich said HBA has been involved with the flood fight since the beginning. He said when this question came up the HBA looked at this to determine if it was something to support in the least expensive way possible. Fargo is the only city that is down in growth, he said, and the HBA feels that it is due to the uncertainty of the flooding issues in the city. He said HBA supports this because they believe this is the least expensive way to do this.

Fargo Moorhead Association of Realtor's Representative Kevin Fisher said one thing that concerns the association is that this vote has been passed by the Commission and if it is now changed he feels many people would have voted or would have voted differently had they known the situation. He said he is also very concerned with the possibility of FEMA coming back in five years to change the mapping again and what effect that will have on the housing market in Fargo. He said he wonders if this does not pass, what impression this will give to the state and federal agencies.

Commissioner Williams moved to assume the FM Flood Risk Management District No. 1, if successful and implemented, the City of Fargo Flood Sales Tax Revenue Fargo Home Rule Charter Article 3T be fully expended towards payment of FM Diversion Project construction costs including the payment of debt service before any assessment is ever certified for collection.

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.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, May 11, 2015.

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

The time at adjournment was 6:26 o'clock p.m.