

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: November 23, 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, November 23, 2015.

The Commissioners present or absent were as shown following:

Present: Gehrig, Piepkorn, Sobolik, Williams, Mahoney.

Absent: None.

Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Sobolik moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on November 9, 2015 be approved as read.

Second by Piepkorn. All the Commissioners 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 Year to Date – Budget to Actual Report for October 2015.
2. Receive and file quarterly report of City investments as of September 30, 2015.
3. Extend additional time as needed for the City Attorney to draft an ordinance regarding regulation of news racks on City sidewalks.
4. Extension of the Class FA liquor license for Quaker Steak and Lube to 6/30/16.
5. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 11/9/15:
 - a. Amending Sections 25-1506, 25-1507, 25-1508, 25-1511 and 25-1512 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (Renaissance Venue, Class RZ-V license).
 - b. Amending Sections 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (distillery hours of operation, Class DD license).

6. Fire Department budget adjustment and FEMA U.S. Department of Homeland Security Assistance to Firefighters grant in the amount of \$90,910.00 (CFDA #97.044).
7. Contract amendment to the Standard Software License and Service Agreement with New World Systems.
8. Applications for tax exemptions for improvements made to buildings:
 - a. Allen and Heidi Brosius, 3208 Hickory Street North (3-year).
 - b. Michael and Pia McGregor, 59 Fremont Drive South (3-year).
 - c. Carol and Garry Schneck, 2002 29th Avenue South (3-year).
 - d. Damian Cihak, 1353 2nd Street North (5-year).
 - e. Donald and Sherry Kirschenmann, 2537 Arrowhead Road South (5-year).
9. Applications for Games of Chance:
 - a. Fargo-Moorhead Cosmopolitan Club for a calendar raffle from 12/3/15 to 6/30/16.
 - b. Fargo Davies High School for a calendar raffle from 11/23/15 to 2/14/16.
 - c. Home Builders Care of Fargo-Moorhead Foundation for a raffle on 3/18/16.
 - d. FM Walleyes Unlimited for a raffle on 2/18/16.
 - e. Easton Olson Medical Benefit for a raffle on 12/18/15; Public Spirited Resolution.
 - f. Fargo Moorhead Derby Girls for a raffle on 12/5/15.
 - g. Ryer Hoeg Benefit for a raffle on 12/6/15; Public Spirited Resolution.
10. Adopt Resolutions Approving the following Plats:
 - a. Gamma Fargo Addition (Attachment "A").
 - b. Cottagewood Second Addition (Attachment "B").
11. Purchase of one loader mounted snow blower from Titan Equipment for \$106,950.00.
12. Award contract for winter pruning projects to Cougar Tree Care, Inc. in the total amount of \$125,928.20.
13. Request for Right of Entry from the Cass County Joint Water Resource District.
14. Procurement of a monochloramine analyzer for \$38,620.00 and an automatic titrator for \$37,274.00 for the Water Treatment Plant (Project No. WW1301).
15. Procurement of four lime slakers for \$727,744.00 for the Water Treatment Plant.
16. Change Order No. 2 for an increase of \$99,057.24 for the Mechanical Construction Contract at the Water Treatment Plant (Project No. WA1301).

17. Change Order No. 1 for an increase of \$2,533.00 for Lift Station #46 (Project No. WW1404).
18. Encroachment Agreement along 13 1/2 Street at 1431 University Drive South with a \$500 application fee and a yearly fee of \$705.29 for the parking encroachment.
19. Change Orders for the following Projects:
 - a. Final Balancing No. 1 for an increase of \$33,563.32 for Project No. 6172-03.
 - b. No. 2 for an increase of \$8,410.00 for Project No. FM-14-62.
 - c. No. 1 for an increase of \$47,273.55 for Project No. HD-14-11.
 - d. Final Balancing No. 1 for an increase of \$61,136.58 for Project No. SN-15-B1.
20. Contract and bond for Project No. HD-15-B1.
21. Bills in the amount of \$12,181,289.07.

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

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

No Protests Received for Relocate Utilities and Incidentals Improvement District No. BN-15-M1:

The Statutory Resolution of Necessity for the construction of Relocate Utilities and Incidentals Improvement District No. BN-15-M1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on October 19 and 26, 2015 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 Relocate Utilities and Incidentals Improvement District No. BN-15-M1.

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

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

Bids Received for Relocate Utilities and Incidentals Improvement District No. BN-15-M1:

The bids for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., November 18, 2015 and the bids were found to be as follows:

Master Construction Company, Inc.
Bid:

Fargo, ND
\$209,135.50

Shermans, LLC Bid:	West Fargo, ND \$234,303.70
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$243,748.00
KPH, Inc. Bid:	Kindred, ND \$264,175.05
Ryan Contracting, Inc. Bid:	Shakopee, MN \$266,804.35
Hough, Inc. Bid:	Detroit Lakes, MN \$267,022.94
Dakota Underground Company, Inc. Bid:	Fargo, ND \$308,461.50
Sellin Brothers, Inc. Bid:	Hawley, MN \$328,196.00

Contract for Relocate Utilities and Incidentals Improvement District No. BN-15-M1
Awarded to Master Construction Company, Inc. in the Amount of \$209,135.50:

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 Relocate Utilities and Incidentals Improvement District No. BN-15-M1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received November 18, 2015 for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$209,135.50 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 \$209,135.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$209,135.50, 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, Gehrig, Piepkorn and Mahoney voted aye.

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., November 18, 2015 and the bids were found to be as follows:

KPH, Inc. Bid:	Kindred, ND \$194,071.00
Dirt Dynamics, LLC Bid:	Fargo, ND \$223,981.50
Ryan Contracting, Inc. Bid:	Shakopee, MN \$229,161.00
Sherman's, LLC Bid:	West Fargo, ND \$230,838.50
Dakota Underground Company, Inc. Bid:	Fargo, ND \$233,631.00
H & S Contracting, Inc. Bid:	Moorhead, MN \$236,485.00
Vortex Drain Tiling, LLC Bid:	Grand Forks, ND \$248,113.05
Master Construction Company, Inc. Bid:	Fargo, ND \$265,031.00
Northwest Asphalt, Inc. Bid:	Shakopee, MN \$288,024.00
Quam Construction Company, Inc. Bid:	Willmar, MN \$294,226.70
George E. Haggart, Inc. Bid:	Fargo, ND \$297,520.00
Key Contracting, Inc. Bid:	Fargo, ND \$309,321.00
Robert Gibb & Sons, Inc. Bid:	Fargo, ND \$317,356.00

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 Awarded to KPH, Inc. in the Amount of \$194,071.00:

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 Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received November 18, 2015 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 shows the bid of KPH, Inc. of Kindred, North Dakota, in the sum of \$194,071.00 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 KPH, Inc. in the sum of \$194,071.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 in the City of Fargo, North Dakota, be and the same is hereby awarded to KPH, Inc. for the sum of \$194,071.00, 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, Gehrig, Piepkorn and Mahoney voted aye.

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

Change Order No. 2 for Improvement District No. PR-14-21 Approved:

Commissioner Sobolik moved approval of Change Order No. 2 for an increase of \$48,258.00 for Improvement District No. PR-14-21.

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

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

Final Balancing Change Order No. 1 for Improvement District No. BR-14-31 Approved:

Commissioner Sobolik moved approval of Final Balancing Change Order No. 1 for an increase of \$96,269.57 for Improvement District No. BR-14-31.

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

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

Change Order No. 2 for Improvement District No. BN-14-51 Approved:

Commissioner Sobolik moved approval of Change Order No. 2 for an increase of \$32,846.00 for Improvement District No. BN-14-51.

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

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

Change Order No. 3 and Contract Time Extension for Improvement District No. BN-15-A1 Approved:

Commissioner Sobolik moved approval of Change Order No. 3 for an increase of \$85,210.00 and contract time extension to July 30, 2015 for Improvement District No. BN-15-A1.

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

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

Change Order No. 1 and Contract Time Extension for Improvement District No. BN-15-G1 Approved:

Commissioner Sobolik moved approval of Change Order No. 1 for an increase of \$75,600.00 and contract time extension to December 15, 2015 for Improvement District No. BN-15-G1.

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

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

Contract Time Extension for Improvement District No. BR-15-B1 Approved:

Commissioner Sobolik moved approval of a contract time extension to November 28, 2015 for Improvement District No. BR-15-B1.

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

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

Contract Time Extension for Improvement District No. BR-15-F1 Approved:

Commissioner Sobolik moved approval of a contract time extension to December 2, 2015 for Improvement District No. BR-15-F1.

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

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

Update on the Operation of the LinkFM Route:

The Board received a communication from Transit Administrator Julie Bommelman stating the Transit Department has been requested to provide a six-month update on the operation of the LinkFM route which started June 1, 2015

and circulates between the Fargo and Moorhead downtown areas. She said one of the original intentions of the route was to alleviate parking issues anticipated by the construction of the new Fargo City Hall; however, in light of that project being delayed, the main target group continues to have access to parking. The original agreement with the City of Moorhead states the City of Fargo will provide a total of \$130,000.00 towards the operation and marketing of LinkFM through February of 2016, she said.

Moorhead Center Mall General Manager Melissa Rademacher said this has become a great tool to bring Fargo and Moorhead together. She said from the Moorhead Center Mall standpoint, they would like to see it continue, and area businesses are excited about the advertising and promotional opportunities.

Ms. Bommelman said the route had a slow start and she shared ridership statistics, a proposed timetable and marketing plans. She said the City of Moorhead is supportive of the route and plans to address the budget issue in the near future.

Senior Transit Planner Gregg Schildberger demonstrated the smartphone app matbusmobile.com which tracks the location of the Transit buses in real time and gives the arrival time at bus stops.

Commissioner Gehrig said when the circulator route was proposed, he was told that if ridership is at 10-20 riders per hour, the Board would consider continuing the route since it takes time to grow a route. Attaining around 30 riders per hour would be called a success, he said; however, now with the average of only 5 riders per hour, at a cost of about \$50.00 per hour it comes to \$10.00 per person. He said a rider could get counted twice in the ridership statistics if he parks his car and uses the bus, gets off at a restaurant then returns on the bus back to his car. He suggested the Commission end the program due to the low ridership and the money could be used more effectively elsewhere within the Transit budget. If Moorhead or the mall, or anyone else wants to start paying for it, then it would make more sense to continue, he said; however, he does not foresee ridership tripling with such low trends. He said the target was hit during the Street Fair which means it could be used for events or special occasions. He said it was a good idea and he would have liked it to work out; however, he feels it is good leadership to look at outcomes and make adjustments, and in this case he does not feel that is being done.

Commissioner Piepkorn said the initial reason for the circulator route was in anticipation of parking problems and with lots happening downtown, parking will be impacted. He said it would be a mistake to remove the route now that it is incrementally growing and will be needed more as time goes by. If it is stopped now, it will take time to build it up again, he stated.

Commissioner Williams said Transit is a big part of how the city will continue to grow. He said currently none of the routes attain 30 rides per hour, and he feels ridership could increase to 15 per hour since it has seen a slow steady growth. He said ending LinkFM now would be premature.

Commissioner Williams moved to receive and file the update on the LinkFM route.

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

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

Hearing on a Request for Rezoning and Planned Unit Development Overlay, Planned Unit Development Master Land Use Plan and Plat of Amity South at Cottagewood First Addition Continued to December 21, 2015 (3801 and 4101 51st Avenue South):

A Hearing had been set for July 20, 2015 on a Request for Rezoning and Planned Unit Development Overlay, Planned Unit Development Master Land Use Plan and Plat of Amity South at Cottagewood First Addition.

At the July 20, 2015 meeting, the Hearing was continued to August 31, 2015.

At the August 31, 2015 meeting, the Hearing was continued to October 12, 2015.

At the October 12, 2015 meeting, the Hearing was continued to this day and hour; however, Planning Administrator Nicole Crutchfield is requesting the Hearing be continued to December 21, 2015.

Commissioner Sobolik moved the Hearing be continued to 5:15 o'clock p.m., December 21, 2015.

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

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

Amendment to the Growth Plan within Commerce on I29 Addition Approved (3800, 3801, 3900, 4000, 4100 98th Avenue South and 9500, 9501, 9600, 9601, 9700 39th Street South):

A Hearing had been set for this day and hour to consider approval of an amendment to the Growth Plan encompassing approximately 82 acres in the northwest quadrant at the intersection of 100th Avenue South and Interstate 29. The Growth Plan currently recommends commercial for this area and the applicant is requesting an amendment to change the land use to industrial.

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their October 6, 2015 meeting.

No written protest or objection to the amendment to the Plan has been received or filed in the Planning and Development Department.

The Board determined that no person is present to protest or offer objection to the Growth Plan amendment.

Commissioner Sobolik moved the amendment to the Growth Plan be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Second Reading and Final Adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Commerce on I29 Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Sobolik moved that the proposed Ordinance Rezoning Certain Parcels of Land Lying in Commerce on I29 Addition to the City of Fargo, Cass County, North Dakota which was placed on its first reading September 28, 2015 be now placed on its second reading and a vote taken on the question of its final passage and adoption.

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

Commissioner Williams voted nay.

The motion was declared carried.

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

On the vote being taken on the question of the final passage and adoption of the Ordinance, Commissioners Sobolik, Piepkorn, Gehrig and Mahoney voted aye.

Commissioner Williams voted nay.

The Ordinance was duly passed and adopted.

Appeal of the Board of Adjustment's Denial of a Request for a Variance at 3333 39th Street South: Variance Denied:

A Hearing had been set for this day and hour on the appeal of an October 27, 2015 ruling of the Board of Adjustment denying the variance request at 3333 39th Street South to construct a new building addition with a lower earth fill elevation around the building than would otherwise be required by the City's Floodproofing Code.

Planning Administrator Nicole Crutchfield said the Board of Adjustment was not comfortable granting this variance and had extensive discussions about the technical issues. She said the application is related to the expansion to an existing building which requires the City's floodproofing policy and codes be met, and brings in the lowest elevation of the building and fill around the building. She said the applicant is requesting about a foot and a half lower fill due to the sloping involved that would make that area unusable for their purposes. She said the policies the City has adopted follow a national model and are intended to protect the buildings built today for future flood elevations and flood insurance requirements. She said if the variance were granted, there would be risks for the property owner regarding future FEMA flood requirements and the City takes on a risk not knowing costs to protect that property in the future, as well as concerns about precedent setting. She shared water surface inundation maps and reviewed floodproofing requirements.

Jerrod McPherson, representing Wholesalers Property Company, said the owner is aware of the flood risks. He said this is a plumbing/heating supply warehouse and the additional grade will affect plans for outside storage. He said it would be best if it could be kept level. He said a slope will create an unsafe environment for forklift drivers moving pipes and supplies and could have an adverse effect on neighboring properties due to drainage.

Elissa Novotny Leino, Roers Development, said she requested an opinion about the variance from FEMA representatives and was told it was acceptable in terms of NFIP enrollment.

In response to a question from Commissioner Sobolik about the impact of this on the City's flood efforts and the neighborhood, City Engineer April Walker said it is difficult to take the Ordinance designed for citywide protection and apply it to a single structure like this. She pointed out that if there are concerns with the safety of the slope, the fill requirement is a minimum and they are allowed to overfill to flatten it out to use for storage. She said the slope requirements are part of the submittal made to FEMA to allow the basement exception to continue in the City of Fargo. As far as FEMA stating the request is acceptable, she said, Fargo is applying a higher standard

than the current adopted floodplain, while FEMA's review would be based on the current minimum.

Commissioner Sobolik moved the variance be denied.

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

Commissioners Gehrig and Piepkorn voted nay.

The motion was declared carried.

Contract with TL Stroh Architects for Redesign and Rebid of the City Hall Project Approved:

The Board received a communication from Interim City Administrator Bruce Grubb stating construction bids for the City Hall project were previously rejected by the City Commission on March 30, 2015 due to the combined low bid total of \$31,148,713.00 exceeding the architect's estimate of \$26,500,000.00. He said at the time of bid rejection, the Board instructed staff to look into the possibility of a redesign of City Hall in an effort to reduce costs. At the November 9, 2015 meeting, a proposal was approved for additional geotechnical work to provide a second opinion of the foundation requirements, he said, and a proposal from the architect for a redesign was requested. He said the conceptual redesign has reduced the preliminary cost estimate through a reduction in the building footprint and building volume. He said The original architect fee was 7% of construction cost, he said, now, based on a design goal of \$22 million and architect fees of 6.3%, the estimated fees for the redesign, rebidding and construction administration would be \$1,386,000.00.

Terry Stroh, TL Stroh Architects, provided a Power Point presentation on the proposed location, redesign concept and timeline. The reduction is mostly in the ancillary and common spaces and not the office spaces, he said, with a proposed timeline for bidding in May and a construction start date of May 31, 2016. He said hopefully by that time, the pump station work will be completed, although there will still be activity and space constraints with the construction of Second Street and the floodwall. He said he believes the construction climate may be better now than when the project was initially bid, and it will be helpful to have a spring rather than a fall start date.

In response to a question from Commissioner Williams about how the fee for the redesign can be lower than the original, Mr. Stroh said he is able to reduce it by 10% because his team has gathered necessary information on space needs and arrangements of departments and does not need to start over with that.

Commissioner Piepkorn said he is pleased with the size and cost reductions. He emphasized that now could be a unique opportunity to rethink development on the valuable land along the river. He said buildings have been removed and a lot of land has been acquired for flood protection and he encouraged "thinking outside the box" when it comes to this project overall.

In response to a question from Commissioner Williams about whether the building design is site specific, Mr. Stroh said it is not.

Mr. Grubb said if the Board were to determine they want to sacrifice control of what happens on the civic quad area, the placement of City Hall could be considered elsewhere.

Commissioner Sobolik said the Site Selection Committee faced the same question when the process for the new City Hall began two years ago. She said the

committee members put a lot of time and energy into examining a number of sites and they determined the current site to be the best. Part of the appeal was to have a true civic quad, consisting of City Hall, Library, plaza and a performance center, to set the tone for the City.

Commissioner Williams said approving the contract does not preclude looking at other opportunities.

Commissioner Sobolik moved the contract with TL Stroh Architects for redesign and rebid of the City Hall Project be approved.

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

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

At 6:10 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

Arts and Culture Commission Recommendations for 2015 Public Art Projects

Approved:

The Board received a communication from Community Development Administrator Dan Mahli stating earlier this year the City Commission allocated \$20,000.00 from the City's arts budget for public art use. He said the Arts and Culture Commission is recommending the City Commission approve the following projects:

Public Art Projects in Fargo

In October, he said, a request for proposals was published which invited area artists to propose new and unique ideas for public art in Fargo with a total funding of \$15,000.00. Projects that proposed in-kind funding and would implement goals outlined in GO2030 were given priority, he said. A subcommittee of the Arts and Culture Commission reviewed six proposals with the following being recommended for approval:

1. WinterArts Festival: \$5,000.00 to support a community-wide Shakespeare-themed festival. Submitted by the WinterArts Fest Committee.
2. Brick Sculpture in Madison Park: \$10,000.00 to support the creation of a brick art sculpture within the proposed Madison Skate/Bike Park. Submitted by artist Brad Bachmeier and the Legacy Children's Foundation.

Temporary Art Exhibit in City Hall

A temporary art exhibit is proposed for City Hall with the intent of displaying the talent of Fargo's artists in public spaces with proposed funding for this project of \$4,000.00. He said a request for qualifications was published in October of 2015 and the Arts and Culture Commission reviewed four applications. It is being recommended that Tania Blanich of Fargo be selected as curator for this exhibit, he said. In addition, he said, a policy for temporary exhibits in City Hall is being recommended for review and approval. He said the intent of the policy is to provide the groundwork for future temporary exhibits in City Hall.

Student Art Show

In an effort to showcase the talent of area high school students, he said, a student art show is proposed which will be located in the skyway connecting City Hall to Broadway. The Arts and Culture Commission is collaborating with the Fargo Youth Initiative with a tentative show date of spring 2016, he said, and they are recommending an allocation of \$1,000.00 to support the project.

Students from the Legacy Children's Foundation spoke, stating the project featuring student art work is important because it brings different backgrounds together and students will be proud to have their art work displayed out in the community.

Linda Boyd, Executive Director of the Fargo-Moorhead Symphony and Fargo School Board member said she would like to commend the City for all they are doing, not only for over \$2 million going toward social and human needs, but also for the small percentage given to the arts which funds 30 groups through projects such as the ones being discussed. She said public funding is important both philosophically and for the survival of some of these nonprofits.

Commissioner Gehrig said he does not support publicly funded art; however, that does not mean he does not support public art. He said funding one cause means that something else is not funded that could, or perhaps should be. Art funding can be handled through the free market and private funds, he said, without the taxpayer being required to pay for it.

Commissioner Sobolik said the City is responsible for infrastructure, which includes the cultural and social infrastructure of the community.

Commissioner Williams said Arts and Culture was a top 3 priority in the GO2030 Comprehensive Plan.

Commissioner Sobolik moved the recommendations from the Arts and Culture Commission for the proposed public art projects and policy for temporary exhibits in City Hall be approved.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

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

Commissioner Piepkorn said he supports the majority of the items; however, because he does not support the amounts for the Oxbow buyouts and would prefer the reimbursements be broken down, he will vote against it. He said 2,000 square foot houses are being bought out in Oxbow for over a million dollars.

In response to a question from Commissioner Williams about whether Fargo sales tax funds are being used to purchase homes in Oxbow, Finance Director Kent Costin said yes, the expenditures are shared between the State Water Commission and the local sponsors, the City of Fargo and Cass County.

Commissioner Williams said there are improvements being made to the Memorandum of Understanding with Oxbow and the expenditures are being made more clear.

Commissioner Williams moved the cost reimbursement request to the State Water Commission for FM Diversion Flood Project costs in the amount of \$3,767,195.00 be approved.

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

Lease Agreement with the Downtown Community Partnership for the Downtown Ice Rink Approved:

The Board received a communication from Planning Director Jim Gilmour and Planner Derrick LaPoint stating they have received a request from the Downtown Community Partnership to construct a temporary Downtown Ice Rink. They said the rink will be located on the west portion of the public parking lot located near the intersection of Main Avenue and Broadway with the Fargo Park District approving the use of the Island Park Pool lot to offset additional parking needs.

Planning Director Jim Gilmour said there are some issues with insurance due to a hold harmless agreement and being named additional insured as recommended by the Public Works Project Evaluation Committee. He said the Downtown Community Partnership (DCP) is not able to comply with the request; however, the DCP does have liability insurance, and so does both the Park District and the City. He said hopefully work can begin on the rink in the next couple weeks.

Commissioner Williams moved the lease agreement with the Downtown Community Partnership for the Downtown Ice Rink be approved.

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

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

Updated Infrastructure Funding Policy Approved:

The Board received a communication from City Engineer April Walker stating staff has been working to update the infrastructure funding policy for use in the 2016 construction season. She said her department has received comments that they have been unable to resolve as they are outside the scope of this particular policy and/or there has not been a unified direction provided by the Commission. She said she would like this policy to be shaped to help incentivize certain types of projects that may be desired, and to guide staff and the Special Assessment Commission in the process of formulating special assessment districts and assignment to benefitted properties. The proposal is to replace the caps with 45% of actual construction costs being assessed for 2016, she said, and raising it to 50% of actual construction costs being assessed in 2017.

Ms. Walker said the policy has always had some caps in order to predict and limit the amounts of outlay an individual could be assessed, and there needs to be a policy in place in order for the City to cost participate in assessments. Previous caps were established as dollar values which can get outdated very quickly and require frequent updating, she said, and without a policy change it will not be possible to keep up with the infrastructure needs in the future. The informational meeting held on November 12, 2015 provided some valuable feedback to shape the policy going

forward, she said, and she shared various examples of project costs with comparisons of different assessments applied.

Finance Director Kent Costin said the revenue received from the State highway funds in the past cannot be relied on. There can be risks involved with special assessments, too, he said, such as the possibility of defaults and interest rate differences. He said the purpose of the policy is sustainability, continuity, equity, longevity and consistency.

Mayor Mahoney said the team has done a good job at bringing forward a way to improve and update the policy to meet future infrastructure needs.

Commissioner Gehrig said this amounts to an increase in taxes for individuals who get assessed. He said he can support bringing up the rate; however, he would like to see the impact offset with a reduction in property tax, as well as some additional revisions to the policy.

Commissioner Williams said he would recommend that funding continue to be analyzed on a regular basis for continued improvement. The bottom line, he said, is that someone has to pay for it and one way or another, it is always the taxpayer.

Commissioner Piepkorn said he agrees it would be best to look at the policy annually.

Commissioner Piepkorn moved the updates to the Infrastructure Funding Policy be approved as presented.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

Chuck Hoge Appointed to the Growth Initiative Fund Board of Directors:

The Board received a communication from Mayor Mahoney recommending that Chuck Hoge be reappointed to the Growth Initiative Fund Board of Directors.

Commissioner Williams moved Chuck Hoge be reappointed to the Growth Initiative Fund Board of Directors for a three-year term ending December 31, 2018.

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

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

Appointments to the Land Development Code Task Force on Commercial and Industrial Zoned Properties Approved:

The Board received a communication from Commissioner Melissa Sobolik stating the individuals listed below are being recommended for appointment to a Land Development Code (LDC) Task Force on commercial and industrial zoned properties. She said the purpose is to review current LDC requirements and make recommendations for changes that would encourage redevelopment and expansion of existing businesses. Changes, she said, may include providing more flexibility for businesses that are interested in expanding and redeveloping existing commercial and industrial sites. The review, she said, should include LDC requirements for setbacks, landscaping/trees, parking/loading, driveways/access and residential protection standards. Included on the Task Force are representatives from the City

Commission, Planning Commission and developers, she said. She said the following are being recommended for appointment to the Task Force:

City Commissioners Melissa Sobolik and Tony Gehrig

Planning Commissioners Jan Ulferts Stewart, Rocky Schneider and Mara Brust

Former Planning Commissioner John Paulsen

Jim Buus, Goldmark Schlossman Commercial Real Estate Services

Shannon Roers Jones, Roers Development

Terry Stroh, TL Stroh Architects

Kevin Bartram, MBA Development Company

Mike Allmendinger, Kilbourne Group

Commissioner Sobolik moved the appointments be approved as outlined above.

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

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

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 7, 2015.

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

The time at adjournment was 7:02 o'clock p.m.