

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting: Monday: December 7, 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, December 7, 2015.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Mahoney presiding.

Mayor Timothy Mahoney requested a moment of silence in honor of the victims of the recent attacks in San Bernardino, California.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved omitting Item No. "11" from the Consent Agenda.

Second by Sobolik. 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 November 23, 2015 be approved as read.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

1. Health Department budget adjustment in the amount of \$7,500.00 and contract with the North Dakota Department of Health for Regional Public Health Network Strategies (CFDA #93.991).
2. Contract with First Transit, Inc. for Fargo Transit Operational Services from January 1, 2016 through December 31, 2018.
3. Meter Reader I contracts with Christopher McCormack and Andrew Gudding for 2016.
4. Contract with Randy Lindgren for bailiff services for 2015 and beyond.
5. Tax exemptions for improvements made to buildings:
  - a. Brent and Jenel Wavra, 2719 28th Avenue South (3-year).
  - b. Vernon Schock, 2944 Southgate Drive South (3-year).

- c. Scott and Constance Peterson, 2719 Cobblestone Court (3-year).
  - d. Kathleen Nesemeier, 1515 23rd Street South (3-year).
  - e. Todd and Carol Anhorn, 2522 25th Avenue South (3-year).
  - f. Mark and Nancy Koehn, 2914 Southgate Drive South (5-year).
  - g. David and Laura Langemo, 1407 5th Street North (5-year).
  - h. Stephen and Kathleen Shiels, 1134 1st Street North (5-year).
  - i. Marcel and Yvonne Lepage, 2856 Hickory Street (5-year).
  - j. Peter and Christine Murch, 2501 West Country Club Drive South, Unit A (5-year).
  - k. Amy and Devin Mertes, 1537 4th Street North (5-year).
  - l. Daniel and Carol Labernik, 306 22nd Avenue North (5-year).
  - m. Ronald and Barbara Martin, 2301 Willow Road North (5-year).
6. Agreement with Hazer's Auto and Truck Parts, Inc. for junk vehicle removal services for 2016.
  7. Receive and file Ordinance Amending Sections 13-1001, 13-1002, 13-1003, 13-1008, 13-1012 and 13-1013, Repealing Sections 13-1004 through 13-1007 and Enacting Sections 13-1014 and 13-1015 of Article 13-10 of Chapter 13 of the Fargo Municipal Code Relating to Recreational Aquatic Facilities.
  8. Application filed by Muskie's Inc. for a raffle on 2/11/16.
  9. Purchase one Leak Detection Correlator from FCS for \$25,000.00.
  10. Annual Maintenance Certification with NDDOT.
  11. Overdimensional policy update (omitted).
  12. Contract Amendment No. 4 for an increase of \$107,000.00 for Project No. 6153.
  13. Change Order No. 1 for an increase of \$78,122.50 and contract time extension to 11/23/15 for Project No. FM-14-03.
  14. Final Balancing Change Order No. 3 for an increase of \$43,918.71 for Project No. FM-14-51.
  15. Change Order No. 8 for an increase of \$10,564.00 for Project No. FM-14-61.
  16. Contract Amendment No. 2 for an increase of \$107,210.00 for Project No. FM-15-C0.
  17. Bid advertisement for Project No. FM-15-A.
  18. Bills in the amount of \$12,688,096.35.

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.

Contract Amendment No. 2 for Improvement District No. BN-14-50 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating the Committee received a communication from Project Engineer Jason Leonard relating to a contract amendment submitted by Houston Engineering in the amount of \$30,077.00. They said the additional costs covered in this request are associated with a time extension along with construction related issues that came up in the field.

Commissioner Williams moved Contract Amendment No. 2 in the amount of \$30,077.00 for Improvement District No. BN-14-50 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.

Change Order No. 3 and Contract Time Extension for Improvement District No. BN-15-L1 Approved:

Commissioner Williams moved approval of Change Order No. 3, for an increase of \$94,551.50 and contract time extension to November 30, 2015, for Improvement District No. BN-15-L1.

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.

Change Order No. 2 for Improvement District No. PN-14-C1 Approved:

Commissioner Williams moved approval of Change Order No. 2 for an increase of \$33,538.08 for Improvement District No. PN-14-C1.

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.

Final Balancing Change Order No. 1 for Improvement District No. PN-15-C1 Approved:

Commissioner Williams moved approval of Final Balancing Change Order No. 1 for an increase of \$56,119.87 for Improvement District No. PN-15-C1.

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.

Change Order No. 2 for Improvement District No. PN-15-L1 Approved:

Commissioner Williams moved approval of Change Order No. 2 for an increase of \$78,824.50 for Improvement District No. PN-15-L1.

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.

Resolution Adopted Authorizing the Issuance of Taxable General Obligation Development Bonds, Series 2015E, Approving Certain Actions, Awarding the Sale Thereof, Prescribing the Terms and Covenants Thereof, Leaving a Direct, Annual and Irrepealable Tax and Creating Funds Related Thereto:

The Board received a communication from Director of Finance Kent Costin stating in September the Commission approved issuance of general obligation bonds for funding the planned downtown parking ramp project at the 2nd Street and Roberts Street location.

Terri Heaton, Client Representative with Springsted Inc., said it was a great day in the markets for the City of Fargo today. Six bids were received, she said, with the lowest bid being from Northland Securities, Inc. with an interest rate of 3.42%, which will result in a great deal of savings for the City.

Commissioner Williams moved the Resolution entitled "Resolution Authorizing the Issuance of Taxable General Obligation Development Bonds, Series 2015E, Approving Certain Actions, Awarding the Sale Thereof, Prescribing the Terms and Covenants Thereof, Leaving a Direct, Annual and Irrepealable Tax and Creating Funds Related Thereto" and referred to as Attachment "A", be adopted and attached hereto.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

Final Draft of the Metro COG Articles of Association Amendment and Fiscal Agreement Approved:

The Board received a communication from Metro COG Executive Director Bill Christian requesting action by the Commission on the final draft of the Metro Articles of Association Amendment and the associated Fiscal Agreement. He said although not required, Metro COG is seeking concurrence from local government units representing 70% of the region's population, as well as the largest city, Fargo. He said the Metro COG Policy Board will take action early in 2016 to approve the amended Articles of Association and execute the Fiscal Agreement.

Commissioner Piepkorn moved the final draft of the Metro COG Articles of Association Amendment and associated Fiscal Agreement be approved.

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

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

Resolution Adopted Recognizing the Third Monday of January as Martin Luther King, Jr. Day:

The Board received a communication from Cultural Planner Willard Yellowbird stating the City established the Fargo Human Relations Commission (FHRC) to

promote acceptance and respect for diversity and discourage all forms of discrimination. As such, he said, the FHRC is recommending approval of a resolution recognizing Martin Luther King, Jr. Day in Fargo.

Human Relations Commission Member Dave Lanpher said it has been his privilege to serve on the Human Relations Committee and as Chair of the Martin Luther King, Jr. Day Celebration for the last five years. He said in keeping with what Fargo has done over the last fifteen years by hosting this event he sees it only fitting that the City officially recognize this day as a City celebration and holiday.

Commissioner Gehrig offered the following Resolution and moved its adoption:

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

WHEREAS, Dr. Martin Luther King, Jr., changed our Nation forever through his leadership and service; and

WHEREAS, Dr. King devoted his life to strengthening the content of the American character by calling on the United States to live up to its founding principles of life, liberty and the pursuit of happiness for all citizens; and

WHEREAS, Through his determination, spirit and resolve Dr. King helped lift souls and lead one of the greatest movements for equality and freedom in history; and

WHEREAS, The United States Congress passed legislation in 1983 establishing the federal legal holiday of Martin Luther King, Jr. Day and President Ronald Reagan signed the federal MLK Holiday into law; and

WHEREAS, The City of Fargo wishes to honor the lasting legacy of this great American, remember the ideals for which he stood and recommit ourselves to ensuring that our country's promise extends to all Americans across the great land; and

WHEREAS, The diversity in the United States is one of our greatest strengths and the City of Fargo is a community that welcomes and embraces people; and

WHEREAS, The City of Fargo created the Fargo Human Relations Awards in 2002 to annually recognize individuals, youth and organizations on Martin Luther King, Jr. Day for their work to promote respect and acceptance and eliminate discrimination; and

WHEREAS, We observe Dr. Martin Luther King, Jr. Day, the City of Fargo encourages all people to celebrate Dr. King's memory by continuing to work for the dignity and humanity of every person.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the third Monday of January of each year as Martin Luther King, Jr. Day and may all citizens of the City of Fargo be encouraged to honor Dr. King by living out his teachings.

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

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

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

Commissioner Williams moved the cost reimbursement request to the State Water Commission for FM Diversion Flood Project costs in the amount of \$2,580,786.00 be approved.

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

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

Appointments to the Community Development Committee:

The Board received a communication from Mayor Mahoney recommending that Linda Klebe and Samantha McDonald be reappointed to serve as public members on the Community Development Committee.

Commissioner Sobolik moved Linda Klebe and Samantha McDonald be reappointed to serve as public members on the Community Development Committee for three-year terms ending December 31, 2018.

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.

Ordinance Amending Sections 25-1501, 25-1504.2, 25-1504.4, 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 to be Placed on First Reading at the Next Regular Meeting of the Board:

The Board received a communication from Assistant City Attorney Nancy Morris stating an ordinance has been drafted amending the City of Fargo liquor laws to add a Class FA-Cinema liquor license. She said the draft ordinance is in response to a request from the owner of Marcus Theatres as it appears there are no existing liquor license designation that would allow the owner to conduct business as proposed. She said the Liquor Control Board considered the request, directing City Auditor Steve Sprague and herself to work with the owner's representatives to draft a new license to accommodate their business model. Several drafts were presented for review and discussion with the Liquor Control Board, she said, and the proposed Ordinance is the culmination of discussions and the direction of the Liquor Control Board.

Commissioner Piepkorn said he has a few concerns about this ordinance. He said he has received about twenty phone calls, letters and emails from residents that are not in favor of having liquor in the theatres. He said he did not receive a single correspondence in support of this. He said he is in support of a standalone bar concept like the old Cinema Grill was; however, this is basically turning a theatre into a bar. He said he cannot see allowing drinks into G and PG Rated movies in addition to security issues that this will bring up.

Commissioner Gehrig said he has actually been to a theatre like this in Texas. He said when topics like security and children are brought up the person who is most concerned about these issues is the business owner due to the fact that they have the most to lose if things do not go well.

Commissioner Sobolik said she has also received several phone calls and emails from residents not in favor of this idea, only one liked this idea. She said this goes beyond whether or not Marcus Theatres will do a good job, it is more of a question as to whether or not this is the type of culture the City wants in its movie theatres. She said she does not intend to support this idea.

Commissioner Williams moved the Ordinance Relating to Alcoholic Beverages be received and filed and placed on first reading at the next Regular Meeting of the Board.

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

Commissioners Sobolik and Piepkorn voted nay.

The motion was declared carried.

Request to Waive Liquidated Damages for Improvement District No. BN-15-A1 Denied:

The Board received a communication from the Public Works Projects Evaluation Committee (PWPEC) stating the Committee reviewed information from Project Manager Mark Miller regarding a request from Ryan Contracting requesting forgiveness of liquidated damages in the amount of \$26,000.00 for Improvement District No. BN-15-A1. The project is the installation of infrastructure to support a new development, they said, and the City has limited information on file to determine the extent of actual damages from the delay. Staff recommends denial, they said, based on accurate calculation of additional days previously granted, additional costs to the City to continue to provide inspection as the project exceeded the completion dates and damages realized by the developer.

Commissioner Sobolik moved the request to waive the liquidated damages in the amount of \$26,000.00 for Improvement District No. BN-15-A1 be denied.

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.

Issuance of an RFP for a Downtown City Center Comprehensive Plan Approved:

The Board received a communication from Planner Joe Nigg and Planning Administrator Nicole Crutchfield outlining a Request for Proposals (RFP) that would seek a dynamic consulting team to lead a downtown planning effort to create a coordinated and thoughtful strategic plan. The intent of the effort is to further build upon past planning efforts and the GO2030 Comprehensive Plan, they said, while also creating a cohesive plan that focuses on the following: vision and branding, market data, transportation, economic development, land use, parking and infrastructure. They said the City would be looking for a visioning document and blueprint to guide public infrastructure and decision making in the Downtown core, an effort that will require a strong public engagement process. They said the goals are threefold; to set a vision to drive investment, establish a blueprint to guide public infrastructure and investment, coordinate decision making across City departments, and between the public and private sector. The proposed submittal deadline would be January 29, 2016, they said. A budget adjustment in 2015 allocated \$330,000.00 towards this downtown master planning effort, they said, and the City is also pursuing

\$100,000.00 through Metro COG's transportation planning program, as the downtown transportation network will be a critical component of this plan.

Commissioner Williams moved the RFP for a Downtown City Center Comprehensive Plan be approved.

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

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

On-Street Parking Enforcement Changes and Contract Amendments Approved: City Attorney Directed to Prepare Ordinance Amendments:

The Board received a communication from Planner Joe Nigg and City Auditor Steve Sprague stating that the Parking Commission has been exploring on-street parking enforcement changes that would transition the parking system from a punitive to a friendlier approach. The proposed changes, they said, would be consistent with the Parking Commission's vision to simplify parking in the downtown core while also improving communication, customer service and perception associated with parking in Downtown Fargo. The key components of the proposal, they said, are as follows:

1. Interstate Parking would take over parking enforcement with the use of "parking ambassadors" in the downtown area starting in January of 2016. Ticket appeals and adjudication (specific to the downtown area) for specific citations would also be transitioned to Interstate, which is allowable per the existing city code.
2. Fargo Police Department (CSO's) would cover enforcement around the NDSU campus (previous GSSC responsibility), as well as focus on the many other duties they provide the community.
3. Parking enforcement equipment (scooters, digital handheld units, etc.) would be transitioned to Interstate Parking. The City would acquire one (1) new scooter and install a 2nd License Plate Recognition (LPR) unit. The new "Fargo Parking" brand would be used to wrap both vehicles and further brand the system.
4. Warning citations would be issued for a 1st time parking offense or violation (i.e. there would be one warning for each license plate per 6 months). This would also provide the City an opportunity to communicate some general parking information to the offender.
5. The City would transition to a "graduated" or "escalated" parking ticket fee schedule. The fee schedule would look as follows:
  - Ticket No. 1 - Warning Citation and Parking Information
  - Ticket No. 2 - \$20.00
  - Ticket No. 3 - \$25.00
  - Ticket No. 3+ - \$30.00
6. This proposal would allow the City the ability to provide more consistent night parking enforcement.

They said implementation could be feasibly done by January, 2016, and Interstate Parking would focus on time zone enforcement and parking ambassador duties, with night parking enforcement responsibilities increasing in the Spring of 2016. Amendments to three sections of the City Code will be needed as well, they said.



In response to a question from Mayor Mahoney as to where the funds are coming from, Commissioner Williams said it is coming out of various departments' budgets due to the fact that there are advantages to various departments, such as the Police Department. He said they have set aside money in the parking budget, about \$2.4 million; however, the City is aware that additional ramps are needed so the money will be broken out into chunks that will make it fair to all the departments that are getting positive benefits.

In response to a question from Commissioner Sobolik about eliminating the re-parking regulations, Commissioner Williams said it is there for a good reason; however, it is very hard to understand, even for enforcement. He said the graduated rate may be able to help with that.

Mr. Nigg said the Parking Commission has looked at the re-parking regulations on several occasions. He said it is really difficult to communicate the re-parking ordinance; however, without the ordinance it would be very difficult to handle on-street parking regulations.

Commissioner Williams moved the second amendment to the Parking Management Agreement with Interstate Parking Company of North Dakota and Addendum #3 between Citation Management, a division of Professional Account Management, LLC, a Duncan Solutions Company, for processing and collection of parking citations be approved and the City Attorney be directed to prepare necessary Ordinance amendments for on-street parking enforcement changes.

Second by Sobolik. On call of the roll Commissioners Williams, Sobolik, Piepkorn, Gehrig 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, December 21, 2015.

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

The time at adjournment was 6:17 o'clock p.m.