

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                      Monday:                                      December 21, 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 21, 2015.

The Commissioners present or absent were as shown following:

Present: Gehrig, Piepkorn, Williams, Mahoney.

Absent: Sobolik.

Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved.

Second by Piepkorn. All the Commissioners present 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 December 7, 2015 be approved as read.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

1. Receive and file Year to Date – Budget to Actual Report for November 2015.
2. Position Evaluation Committee Recommendations:

Engineering:

Request to reclassify the Special Assessment Coordinator position from a Grade 17 to a Grade 18. Annual cost of Request: \$4,493.00

PEC recommends approval of this request effective January 4, 2016.

FM Diversion Project -New Position Request:

Request to add a Fargo Project Manager – FM Diversion Project Manager Position to be classified at a Grade 22 and filled by a Diversion Engineer placed at a Step 6 (\$119,870.00). This would result in an out-of-grade assignment for a CEII (Grade 17) to serve as a Division Engineer for Storm Water Utility at a Grade 22, Step 1 (\$104,229.00). Annual cost of Request: \$119,870.00.

PEC recommends approval of this request effective upon approval.

City-Wide Departmental Reorganization

Request to create an Assistant City Administrator position (Grade 25).

PEC recommends the creation and classification of an Assistant City Administrator position (Grade 25) effective upon approval.

Request to move the Transit Department to a stand-alone department. Annual cost of Request: \$10,302.00.

PEC Recommends approval to move the Transit Department to a stand-alone department under City Administration upon approval.

Airport:

Request to reconsider the reclassification and/or market adjustment request for the Airport Executive Director from a Grade 23 to a Grade 24. Request to review the Assistant Director's salary based on market data.

PEC recommends the Airport Executive Director and Assistant Director positions remain in the current assigned pay grades with no reclassification or market adjustment at this time.

FargoDome:

Update on the status of the compensation plan for full time Fargodome employees to move onto the City of Fargo payroll effective January 1, 2016.

PEC recommends the City of Fargo pay the equivalent of the employer portion +2% of the COBRA premium for Fargodome employees for the month of January, 2016.

Police:

Police Chief David Todd requests to fill a Deputy Chief position (Grade 20).

PEC reviewed the request to fill the vacant Deputy Chief position. No action required as the position had been retained when Chief Todd moved to Interim Chief.

3. Agreement with Richland County Health Department for nurse practitioner services in Wahpeton, North Dakota.
4. OMB Uniform Guidance updates to the grants fiscal cash management policy and the grants administrative policy.
5. Purchase of Service Agreement with Centre, Inc. for a five-year period ending 12/31/20.
6. Extension Agreement with Cass County Electric Cooperative.

7. Amendment to the Water Services Cooperation Agreement with Cass Rural Water Users District.
8. Change Order No. G-14 for an increase of \$6,534.49 for the Fargo Cass Public Health Remodeling Project.
9. Unpaid medical leave for Melissa Asa-Attuah from January 7, 2016 to February 18, 2016.
10. Grant award from the North Dakota Department of Health for the immunization program (CFDA #93.268).
11. Agreement between the Fargo Dome Authority and Spectra Food Services and Hospitality.
12. 1st reading of an 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.
13. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 8-1606 of Article 8-16 of Chapter 8 of the Fargo Municipal Code Relating to Parking Tickets and Amending Section 1-0305.12 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Parking Tickets.
14. MATBUS U-Pass Program expansion to include NDSCS Fargo students from January 1, 2016 to July 31, 2016 at the rate of \$3.00 per enrolled FTE student.
15. Agreement extending the contract employment of Kit Powell from January 1, 2016 through December 31, 2016.
16. Resolutions Approving the following Plats:
  - a. DETW Addition (Attachment "A").
  - b. West 29 Sixth Addition (Attachment "B").
17. Tax exemptions for improvements made to buildings:
  - a. Troy Elseth, 72 Prairiewood Drive South (3-year).
  - b. Shanna Lee and Luis Agostinho, 1550 8th Street South (5-year).
  - c. Thomas and Laura Carvell, 1736 9th Street South (5-year).
  - d. E & L Enterprises, LLC, 1117 10th Avenue North (5-year).
  - e. Samantha Herness, 1910 11th Avenue South (5-year).
  - f. Dennis and Kathryn Hogan, 710 University Drive South (5-year).
  - g. Michael and Susan Krueger, 3643 Evergreen Road (5-year).
  - h. Max and Linda Melby, 519 University Drive South (5-year).
  - i. Jason and Carmen Sivers, 1417 21st Street South (5-year).
18. Site Authorization for the Fargo Air Museum at the Air Museum.

19. Applications for Games of Chance:
  - a. El Zagal Temple Holding Company for raffle boards and a raffle on 2/20/16.
  - b. Fargo-Moorhead USBC Women's Bowling Association for a calendar raffle from 4/1/16 to 5/1/16.
  - c. Saddle and Sirloin Club for a raffle on 2/13/16.
20. Award 2016 tree and stump removal operations contract to Cougar Tree Care, Inc. at an estimated annual cost of \$160,000.00 to \$195,000.00.
21. Purchase a new Compact Track Loader from Minnesota State Equipment Contract #T-631(5) for \$59,198.05.
22. Bid award for chemicals for the Wastewater Department for 2016.
23. Bid award for chemicals for the Water Treatment Plant for 2016.
24. Submittal of Transportation Alternative Program Funds application for the Oak Grove/Memorial Park Lift Bridge and the 5th Street shared use path extension from 5th to 7th Avenue South.
25. Prioritized street light project schedule.
26. Change Order No. 1 for an increase of \$2,403.50 for Project WW 1402-9.
27. Sole source procurement of spare parts for Project WW 1403 in the amount of \$76,403.00.
28. Procurement of pumps and electrical equipment for the West Fargo booster stations in advance of bidding and sole source of a water quality instrument panel.
29. One-year extension to the Guaranteed Cost Contract with Aqua-Pure, Inc. for polymer chemicals at the Water Treatment Plant.
30. Bid advertisement for water tower reconditioning at 3320 32nd Avenue South and 3434 15th Street South.
31. Final Balancing Change Order No. 2, for an increase of \$47,263.85 for Project No. 5958-03.
32. Final Balancing Change Order No. 2 for an increase of \$1,385.00 for Project No. TN-14-21.
33. Bills in the amount of \$12,490,607.15.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Contract Amendment No. 2 for Improvement District No. 6236 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating the Committee received a communication from Division Engineer Brenda Derrig relating to a contract amendment submitted by Moore Engineering in the amount of \$1,578.87.

Commissioner Williams moved approval of Contract Amendment No. 2 for an increase of \$1,578.87 for Improvement District No. 6236.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

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

Commissioner Williams moved approval of Final Balancing Change Order No. 1 for an increase of \$309.80 for Improvement District No. AN-15-C1.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Change Order No. 3 for Improvement District No. PN-14-C1 Approved:

Commissioner Williams moved approval of Change Order No. 3 for an increase of \$162,390.34 for Improvement District No. PN-14-C1.

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

Absent and not voting: Commissioner Sobolik

The motion was declared carried.

Final Balancing Change Order No. 3 for Improvement District No. PN-14-E1 Approved:

Commissioner Williams moved approval of Final Balancing Change Order No. 3 for an increase of \$4,812.70 for Improvement District No. PN-14-E1.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Final Balancing Change Order No. 2 for Improvement District No. PN-14-01 Approved:

Commissioner Williams moved approval of Final Balancing Change Order No. 2 for an increase of \$15,560.85 for Improvement District No. PN-14-01.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

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

Commissioner Williams moved approval of Final Balancing Change Order No. 1 for an increase of \$58,921.50 for Improvement District No. PN-14-31.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Change Order No. 3 for Improvement District No. BN-14-51 Approved:

Commissioner Williams moved approval of Change Order No. 3 for an increase of \$30,963.07 for Improvement District No. BN-14-51.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. PN-14-91Approved:

Commissioner Williams moved approval of Final Balancing Change Order No. 1 for an increase of \$4,449.97 for Improvement District No. PN-14-91.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Change Order No. 2 for Improvement District No. UN-15-E1 Approved:

Commissioner Williams moved approval of Change Order No. 2 for an increase of \$23,400.00 for Improvement District No. UN-15-E1.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

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

Commissioner Williams moved approval of Change Order No. 2 for an increase of \$16,998.96 for Improvement District No. NN-14-21.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. NN-14-0 (Various Locations in South Fargo):

Commissioner Williams moved the following action be taken in connection with Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. NN-14-0:

Adopt Resolution Creating Improvement District No. NN-14-0:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. NN-14-0 in the City of Fargo, North Dakota, be created

An area bounded to the north by 64th Avenue South, to the east by 25th Street South, to the south by 76th Avenue South and to the west by Cass County Drain 53.

COMPRISING

Lots 1 through 32, Inclusive.

All platted within the South Haven Subdivision.

Lots 1 through 19, Inclusive, Block 1.

Lots 1 through 26, Inclusive, Block 2.

Lots 1 through 17, Inclusive, Block 3.

Lots 1 through 20, Inclusive, Block 4.

Lots 1 through 6, Inclusive, Block 5.

All platted within the Golden Valley Addition.

All unplatted land located in the area bounded to the north by 64th Avenue South, to the east by 25th Street South, to the south by 76th Avenue South and to the west by Cass County Drain 53 located in the east half of Section 11, Township 138 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota.

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

NOW, THEREFORE, BE IT RESOLVED, That Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. NN-14-0 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. NN-14-0:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. NN-14-0 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 \$1,680,076.49.)

Order Plans and Specifications for Improvement District No. NN-14-0:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. NN-14-0 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. NN-14-0:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. NN-14-0 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. NN-14-0 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. NN-14-0:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. NN-14-0 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Contract for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Contract Bond for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 Approved:

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

Western National Mutual Insurance Company, in the amount of \$209,135.50, for Relocate Utilities and Incidentals Improvement District No. BN-15-M1 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.



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

Commissioner Williams moved approval of the Contract between the City of Fargo and KPH, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 Approved:

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

Western Surety Company, in the amount of \$194,071.00, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. UN-15-N1 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Presentation of APTA AdWheel National Grand Award to MATBUS:

Mayor Mahoney said the American Public Transportation Association (APTA) announced awards for creative excellence in marketing and communications in transportation, and recognized MATBUS with the Grand Award for its marketing campaign with the Red River Zoo. He said the Grand Award is the highest honor conveyed upon transit markets and this is a first for MATBUS and the State of North Dakota. He presented the 2015 AdWheel National Grand Award from the American Public Transportation Association (APTA) to MATBUS Staff: Fargo Transit Administrator Julie Bommelman, Senior Transit Planner Gregg Schildberger, Moorhead Transit Manager Lori Van Beek and Moorhead Assistant Transit Planner Taaren Haak.

Report Regarding Recent Events and Programs at the Fargo Public Library:

Commissioner Williams said he was impressed at last week's Library Board meeting when he heard of all the unexpected events and activities that happen at the libraries. This year more than a million items have been circulated, he said, and over 500,000 people have participated in the diverse library programs.

Reference Librarian and Staff Representative to the Library Board Stephen Hubbard gave an overview of the programs and scheduled events taking place at the Fargo Public Library locations. He said some of the examples of activities at the library are: book clubs, baby rhyme time, Lego design contests, teen craft events, read-a-thons, art workshops, community reading project, New Year, Star Wars & Harry Potter themed events, Cocoa with a Cop, theatre troop performance, lefse making, train days and Project English.

FM Diversion Authority Program Budget for FY2016 Approved:

The Board received a communication from the FM Diversion Authority stating the Authority approved a budget for the 2016 fiscal year. They said the amount approved totaling \$239.7 million will be funded by State of North Dakota appropriations, local sales taxes and borrowing. A six-member entity educational meeting was held on December 15, 2015 to review the goals and objectives of the budget, they said, and pursuant to the terms of the FMDA Joint Powers agreement, all participating units are required to approve the FMDA's budget annually.

Interim City Administrator Bruce Grubb said the Program Management Team presented the Diversion budget and work plan for 2016 at the last FM Diversion meeting. He said the total amount is \$237.5 million, slightly different than in the communication contained in the agenda packet, he said, which came from an earlier draft estimate. He said the dollar amount is similar to this year's and is focused on the continuation of flood protection efforts. He said it anticipates three things: that the project gets a federal funding appropriation, that the Minnesota DNR will issue its final EIS, and that the injunction for the Oxbow/Hickson/Bakke ring levee is lifted.

In response to a question from Commissioner Piepkorn about where the money is coming from, Finance Director Kent Costin said the Finance Committee discussed having about \$60 million in cash reserves available now and on an ongoing basis, the 1% sales tax generates about \$28 million, and there is about \$150 million available through State Water Commission appropriations for Fargo flood control. There is a gap of about \$125 million, he said, with the intention being able to borrow probably \$100 million as in the past. He said \$100 million in bank loans has been incurred. A P3 (Public Private Partnership) arrangement would likely pay off existing debt and reamortize it, he said; however, that would come after federal authorization and appropriation and the timeline going forward will depend on how the P3 parts and pieces are put together. Those results will be brought forward in February or March once the design team brings forward the cost schedule. He said work is being done with Ernst and Young to put together the details of the P3 transaction.

Commissioner Williams moved the FM Diversion Authority Program budget in the amount of \$237.5 million for FY 2016 be approved.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Application Filed by Digi-Key Corporation for Payment in Lieu of Tax Exemption (PILOT) Approved:

A Hearing had been set for this day and hour on an application filed by Digi-Key Corporation for payment in lieu of property tax exemption for expansion of their operation at 4310 33rd Street North where the applicant operates a design, service and distribution center of electronic components.

No written protests have been filed for the attention of the Board.

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

Commissioner Piepkorn said the Tax Exempt Review Committee is establishing a subcommittee to look into how the world is changing with businesses expanding, yet not creating a great number of jobs which has been the major

consideration for exemptions. He said Digi-Key Corporation is a great addition to the City and a good example of an industry expanding and evolving through adding skilled labor jobs and automation.

Commissioner Gehrig said he does not believe it is the role of government to incentivize businesses. He said it would be a large assumption to think businesses would not come to Fargo without paying them to come. People are coming here because it is a great community with a lot to offer, and they know they will be successful if they are a good business, he said.

Commissioner Williams said economic development and accountability tracking has improved for these investments. This is just one of many tools that draw businesses here, he said.

Commissioner Piepkorn moved that the application filed by Digi-Key Corporation for a ten-year payment in lieu of tax exemption for a 100% property tax exemption for years one through five and a 50% property tax exemption for years six through ten for the value of 75,000 square feet of the building that represents the expanded operation pursuant to Chapter 40-57.1, NDCC be approved.

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

Commissioner Gehrig voted nay.

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

#### Application Filed by DFI Black Building, LLC for Tax Exemption Withdrawn:

A Hearing had been set for this day and hour on the application filed by DFI Black Building, LLC for a project at 110 and 114 Broadway; however, the application has been withdrawn.

#### 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 January 18 or January 19, 2016 (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 November 23, 2015.

At the November 23, 2015 meeting, the Hearing was continued to this day and hour; however, Planning Administrator Nicole Crutchfield is requesting the Hearing be continued to January 18 or 19, 2016, whichever day the City Commission will meet.

Commissioner Piepkorn moved the Hearing be continued to 5:15 o'clock p.m., January 18 or 19, 2016.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Parcels of Land in Maple Valley Second Addition Rezoned (3281 63rd Avenue South and 3019 64th Avenue South):

At a Hearing held on October 6, 2015 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial and AG, Agricultural to SR-4 Single-Dwelling Residential on Maple Valley Second 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 Piepkorn 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Gehrig, Williams and Mahoney voted aye.

Absent and not voting: Commissioner Sobolik.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Maple Valley Second Addition, Fargo, Cass County, North Dakota:

Commissioner Piepkorn moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Maple Valley Second Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Resolution Adopted Approving Maple Valley Second Addition:

Commissioner Piepkorn 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 "Maple Valley Second Addition" containing 65 Lots, 2 Blocks, and 14.628 acres of land more or less, located at 3281 63rd Avenue South and 3019 64th Avenue South; and

WHEREAS, A Hearing was held October 6, 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 December 7 and 14, 2015 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., December 21, 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 "Maple Valley Second 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Gehrig, Williams and Mahoney voted aye.

Absent and not voting: Commissioner Sobolik.

The Resolution was adopted.

Parcels of Land in Christianson 32nd Avenue South Addition Rezoned (3401 32nd Avenue South):

At a Hearing held on November 3, 2015 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LI, Limited Industrial with a C-O, Conditional Overlay on Christianson 32nd Avenue South Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Planning Administrator Nicole Crutchfield said this property is currently zoned AG, Agricultural by default. She said the applicant's main purpose for rezoning and platting is to get a sign permit and in order to do that, the property must be platted and zoned.

Commissioner Piepkorn 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 and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

Absent and not voting: Commissioner Sobolik.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Christianson 32nd Avenue South Addition, Fargo, Cass County, North Dakota:

Commissioner Piepkorn moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Christianson 32nd Avenue South Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Resolution Adopted Approving Christianson 32nd Avenue South Addition:

Commissioner Piepkorn 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 "Christianson 32nd Avenue South Addition" containing 1 Lot, 1 Block, and 8.30 acres of land more or less, located at 3401 32nd Avenue South; and

WHEREAS, A Hearing was held November 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 December 7 and 14, 2015 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., December 21, 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 "Christianson 32nd Avenue South 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 Gehrig. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Gehrig, Williams and Mahoney voted aye.

Absent and not voting: Commissioner Sobolik.

The Resolution was adopted.

Text Amendment to Amend Section 20-0705.D.3 Parking Lot Perimeter Landscaping of the Land Development Code Relating to Buffer Standards Approved:

A Hearing had been held by the Fargo Planning Commission on November 3, 2015 for the purpose of considering a request for a text amendment to Amend Section 20-0705.D.3, Parking Lot Perimeter Landscaping, of Article 20-07, Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to buffer

standards and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

There have been no written or verbal protests to the request and no one is present to protest thereto.

Planning Administrator Nicole Crutchfield said this is for a minor amendment to include some clarifications and to add additional options for parking lot buffers, to add tall grasses, and signage and code clarifications, basically allowing more options for a developer.

Commissioner Piepkorn moved the request be approved on the basis the proposed Text Amendment complies with Section 20-0904.E (1-3) of the Land Development Code.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

First Reading of an Ordinance Amending Section 20-0705.D of Article 20-07 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Parking Lot Perimeter Landscaping:

Commissioner Piepkorn moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Amending Section 20-0705.D of Article 20-07 of Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to buffer standards be placed on first reading.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Appropriation in the Amount of \$70,000.00 for the Continuation of LinkFM Operations Approved:

The Board received a communication from Commissioner Williams stating LinkFM continues its incremental ridership increase for shoppers while adding more options for parking in the developing downtowns. The Parking Commission and MATBUS staff are working in a proactive manner, he said, and anticipate on and off street parking displacement with the potential City Hall construction. He said Moorhead has included a share of funding to continue operations of LinkFM through 2016 to 2017. For budget considerations for 2017 and beyond, he said, MATBUS staff will determine whether to add the LinkFM route in their annual budget requests as they do with all other routes.

Senior Transit Planner Gregg Schildberger gave an overview of activities underway to promote LinkFM and shared examples of print, videos and radio advertisements. He said exact time arrivals are available on the website now where before it was approximate. Various other forms of advertisements have also been

implemented to bring awareness, he said, and the variety of music onboard LinkFM has been a popular addition.

Fargo Transit Administrator Julie Bommelman gave an overview and history of how the NDSU circulator and partnership evolved and compared it the beginnings of LinkFM. She said the marketing effort is to get riders to give it a try and understand how easily it works. At their December 7, 2015 meeting, she said, the Moorhead City Council approved their budget for 2016 which funds 50% of LinkFM from March through December of 2016. The City of Fargo has dedicated funding through February 2016.

Commissioner Piepkorn said it is great that after Fargo funded the circulator on their own, now Moorhead is on board with it. He said the City Hall construction and other significant projects in downtown will have an impact so even though it may seem this is in advance of when it is necessary, it is better to have it up and going ahead of time.

Commissioner Gehrig said factors like NDSU moving downtown affected the success of ridership for the routes referenced. For LinkFM, he said, the advertising efforts are great; however, things have changed and adjustments need to be made. There is a rosier picture being painted than the reality and with ridership at less than half the goal, the funds could be allocated differently within the Transit budget for a more effective outcome.

Commissioner Williams said ridership is growing and it needs to be given a chance.

Commissioner Piepkorn moved \$70,000.00 for half the cost of continued LinkFM operations from March - December 2016 be approved.

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

Commissioner Gehrig voted nay.

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

First Reading of an 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 Delayed until January 4, 2016:

Mayor Mahoney said a communication has been received from Attorney Jade Rosenfeldt requesting this matter be delayed until the next meeting.

Commissioner Gehrig moved first reading of an 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 be delayed until January 4, 2016.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.



Request to Waive Liquidated Damages for Improvement District No. BN-15-B1 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 associated with Improvement District No. BN-15-B1. The documentation provided by Mr. Miller, they said, reflects 41 days of delay charges charged at \$1,000/day equaling \$41,000.00.

City Engineer April Walker shared a summary of the contracting actions that took place on the project leading up to PWPEC's recommendation to deny. She said a letter has been received from an attorney representing the contractor protesting the assignment of liquidated damages.

Commissioner Piepkorn moved the request to waive the liquidated damages in the amount of \$41,000.00 for Improvement District No. BN-15-B1 be denied.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

2020 Federal Aid Project Priorities Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating Metro COG is currently soliciting transportation project applications for federal aid projects for year 2020. They said staff has evaluated the needs of the City in conjunction with the Long Range Transportation Plan approved in 2014 as well as reviewing programmed projects for 2016-2019. They said staff is recommending prioritization of the following applications by fund type:

Regional Highway Funds (US 81 & US 10)

Main Avenue – University Drive to 25th Street – Estimated Project Cost \$15,412,522.00

Urban Roads Funds (Arterials and Collectors)

19th Avenue North – I-29 West Ramp to 45th Street and 45th Street and 45th Street from 16th Avenue North to 19th Avenue North Estimated Project Construction Cost \$14,186,173.00.

52nd Avenue South – 45th Street to Sheyenne Street (Co Rd. 17).  
Estimated Project Cost \$15,936,693.00.

Transit Capital – 1,250,000 Total Cost - \$1M Federal/\$250k Local.

Commissioner Williams said the budget for Transit is behind, and with buses running for about 12 years, the replacement schedule is important. He said 2017 was the first time dollars were allocated from this fund and it was agreed informally to try to supplement the transit capital coming from these sources every other year. Then, he said, there were two years it was not submitted and now it is being moved down the priority list. To move transit capital funding to a first priority would be important, he said, and with only so much money allocated, it is more likely the smaller amount

could be approved and that likely would not hinder funding for the second or even the third priority. He said the Executive Committee at MetroCOG will take this up and then submit it based on what is recommended tonight.

Commissioner Piepkorn said it would be good to keep transit as a priority every other year.

Commissioner Gehrig said Commissioner Williams has valid points; however, he does not support changing it, due to being so pressed for time.

Commissioner Williams moved the recommended prioritized project submittals for 2020 Federal Aid be approved, moving the transit capital item up from third priority to a first priority for the Urban Roads Funds.

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

Commissioner Gehrig voted nay.

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

#### Recommendation Regarding Declaring the Third Monday in January of Each Year a City Holiday Lost for the Lack of a Majority:

Mayor Mahoney said at the December 7, 2015 City Commission meeting, the Board declared the third Monday in January of each year as Martin Luther King, Jr. Day. However, he said, the Board neglected to specify this day be a City holiday for employees, which was his intent when he initially brought it up.

Commissioner Gehrig said the intent of the Human Relations Commission was only to make it a day of recognition, which is what the Board passed unanimously. He said the majority of the government employees in the region have 10 holidays, which is what the City of Fargo offers its employees, plus employees are given a flex day. The flex day can be used however staff chooses, he said, which includes observing Martin Luther King, Jr. Day. This proposal is not about Martin Luther King, Jr. or honoring a great man, this is about politics, he said, and he does not support it.

Commissioner Williams said the State of North Dakota observes Martin Luther King, Jr. Day as a holiday and it is a worthy effort and City employees deserve it.

In response to a question from Commissioner Piepkorn about the cost, Mayor Mahoney said it would cost roughly \$75,000.00.

Commissioner Williams moved to declare the third Monday in January of each year a City holiday, to direct the Human Resources office to update Policy No. 500-009 and to move the City Commission meeting currently scheduled for Monday, January 18, 2016 to Tuesday, January 19, 2016.

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

Commissioners Gehrig and Piepkorn voted nay.

Absent and not voting: Commissioner Sobolik.

The motion was declared lost for the lack of a majority.

#### Appointments to the Metropolitan Council of Governments Policy Board Approved:

The Board received a communication from Mayor Mahoney stating the Metropolitan Council of Governments Executive Director Bill Christian is requesting that the City Commission appoint its representatives to the Metro COG Policy Board

for 2016 as well as designate a Chair. Mayor Mahoney recommended the appointments remain the same as they were for 2015 which are as follows:

City Commissioner Tony Gehrig

City Commissioner Dave Piepkorn

City Commissioner Melissa Sobolik

City Commissioner Mike Williams

Planning Commission Chair Jan Ulferts Stewart

Planning Commissioner Rocky Schneider

John Q. Paulsen

John Gunkelman and Kristine Fremstad as the Planning Commission's alternates

He said he would also like to designate Commissioner Dave Piepkorn as the Chair of the Policy Board for 2016. Mayor Mahoney requested that the Board confirm these appointments for the year 2016.

Commissioner Williams moved the Board approve and confirm the above listed City of Fargo appointees to the Metropolitan Council of Governments Policy Board for 2016 and designate City Commissioner Dave Piepkorn as Chair of the Board for calendar year 2016.

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

Absent and not voting: Commissioner Sobolik.

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 4, 2016.

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

The time at adjournment was 6:23 o'clock p.m.