

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting:

Monday:

April 22, 2019:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Chambers at City Hall at 5:00 o'clock p.m., April 22, 2019.

The Commissioners present or absent were as shown following:

Present: Gehrig, Grindberg, Piepkorn, Strand, Mahoney.

Absent: None.

Mayor Mahoney presiding.

The Mayor read a message with the following information: Fargo, West Fargo and Horace, Cass County and the ND Department of Transportation are working together to share information on large construction projects in the southwest portion of the metro area and have created the website www.southwestmetroworkzones.com to share information and updates; the Fire Department has offered Firefighter positions to three candidates; today is Earth Day and the Main Library is celebrating tonight with several events including a lesson on planting trees by City Forester Scott Liudahl, tree giveaways from the ND Forestry Service and upcycling t-shirts into tote bags, attendees can also take a walk along the river to help pick up litter, the Main Library building is celebrating its 10th anniversary next week with several events; MATBUS invites residents to celebrate Earth Week with its Get Your "Can" on the Bus promotion when residents can ride the bus for free when they donate an aluminum can with proceeds donated to the Homeward Animal Shelter.

Order of Agenda Approved:

Commissioner Grindberg moved the Order of the Agenda be approved, adding an extra item to the end of the Regular Agenda to consider a "Declaration of Intention: No Special Assessments as Direct Revenue Source for Diversion Project."

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

Minutes Approved:

Commissioner Gehrig moved that the Minutes of the Regular Meeting of the Board held on April 8, 2019 be approved as read.

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

Consent Agenda Approved:

Commissioner Strand moved the Consent Agenda be approved as follows:

1. Receive and file an Ordinance Amending Section 4-0106 of Article 4-01 of Chapter 4 of the Fargo Municipal Code Relating to the General Provisions Governing City Officials and Employees; Amending Section 11-0814 of Article 11-08 of Chapter 11 of the Fargo Municipal Code Relating to Environmental Nuisances; and Amending Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Ordinance Violations.
2. 2nd reading and final adoption of the following Ordinances; 1st reading on 4/8/19:
 - a. Rezoning Certain Parcels of Land Lying in Case, Peake and Hall Addition to the City of Fargo, Cass County, North Dakota
 - b. Rezoning Certain Parcels of Land Lying in Eagle Valley Third Addition to the City of Fargo, Cass County, North Dakota
 - c. Repealing and Re-Enacting Articles 17-02, 17-04 and 17-05 and Enacting Articles 17-06 through 17-16 of Chapter 17 of the Fargo Municipal Code Relating to Sewers and Sewerage.
3. Applications for property tax exemptions for improvements made to buildings:
 - a. Amy Jo and Eric Bye, 226 28th Avenue North (3 year).
 - b. Amy Jo and Eric Bye, 226 28th Avenue North (5 year).
 - c. Keith J. and Deborah A. Battles, 160 Eagle Street North (5 year).
 - d. Michael J. and Angela Mathers, 401 18th Street South (5 year).
 - e. Banner LLC, 222 Broadway North (5 year).
 - f. Marie E. and Nicholas G. Anderson, 305 15th Avenue South (5 year).
4. Site Authorizations for Games of Chance:
 - a. Northern Prairie Performing Arts at the Pour House, O'Clevy's at the Ramada, Space Aliens and Windbreak Lounge.
 - b. Red River Human Services Foundation at Fargo Elks Lodge #260 and The Northern.
 - c. Team Makers Club, Inc. at the FARGODOME, Frank's Lounge, Holiday Inn, Lucky's 13 Pub, Sanford Health Athletic Complex and Scheel's Center.
 - d. Jon Greenley Amvets Post #7 at the Amvets.
5. Applications for Games of Chance:
 - a. YWCA Cass Clay for a raffle on 5/6/19.
 - b. HERO (Healthcare Equipment Recycling Organization) for a raffle on 5/10/19; Public Spirited Resolution.
 - c. Chelsey Smedsrud Haukos Benefit for a raffle on 5/19/19; Public Spirited Resolution.
 - d. Fargo Lions for a sports pool from 9/9/19 to 12/23/19.
 - e. EL Zagal Provost for a sports pool from 9/8/19 to 12/29/19.
6. General Fund – Budget to Actual through March 2019 (unaudited).
7. Purchase of Service Agreement with Northern Cass Public School District for nursing services for the 2019-2020 school year.

8. Agreement with FTJ Fund Choice as a 457 Deferred Compensation Provider.
9. Adopt Resolutions Approving the following Plats:
 - a. Gehrig Addition (Attachment "A").
 - b. Prairie Farms Second Addition (Attachment "B").
10. Extension of the Services Agreements – Lawn Maintenance Services with Glacier Snow Management Company and Valley Green & Associates for the 2019 mowing season.
11. Bid awards for Public Works East Building Renovation to Naseth Construction, Inc. in the amount of \$307,220.00 for general construction, Sheyenne Mechanical in the amount of \$152,071.00 for mechanical construction and to JDP Electric, Inc. in the amount of \$81,546.00 for electrical construction (AFB19068).
12. Mass Transit Agreement with the City of West Fargo for 2019.
13. Agreement with KLJ, Inc. for the work on the Ground Transportation Center (RFQ18325).
14. ND Department of Transportation Section 5339 Transit Grant Agreement to purchase three 35-foot replacement buses (CFDA #20.526).
15. Contract with Routematch Software, Inc. for amble software for the Transit Department.
16. Purchase Agreement with LHS Investments, LLC for City property located at 2 6th Avenue North.
17. Memorandum of Offer to Landowner for an Easement (Temporary Construction Easement) associated with Project No. FM-14-71.
18. Bid award to Strata Corporation in the amount of \$238,105.00 for Project No. TR-19-A1.
19. Change Order No. 1 in the amount of \$69,970.00 and Time Extension to 10/11/19 for Project No. SN-19-A1.
20. Change Order No. 6 in the amount of \$109,552.50 for Project No. FM-15-K1.
21. Consulting Engineering Services Contract to Houston Engineering for Project Nos. FM-19-A0, FM-19-B0, FM-19-C0, FM-19-E0 and FM-19-F0.
22. Contract and bond for Project No. TM-19-B1.
23. Bills in the amount of \$5,583,115.75.

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

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

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-J (Fitzsimonds Addition):

Commissioner Strand moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-J:

Adopt Resolution Creating Improvement District No. BN-19-J:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. BN-19-J in the City of Fargo, North Dakota, be created

51st Avenue South from 38th Street to 738' east.

COMPRISING:

Lots 1 through 7, Block 1.

All platted in Fitzsimonds Addition.

All unplatted land located in SE 1/4 of Section 34, T139N, R49W bound by 51st Avenue South and 38th Street South.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-J 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. BN-19-J:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. BN-19-J 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 \$1,039,779.12.)

Order Plans and Specifications for Improvement District No. BN-19-J:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. BN-19-J in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. BN-19-J:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. BN-19-J 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. BN-19-J in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-J in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. BN-19-J:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. BN-19-J in the City of Fargo, North Dakota.

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

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

Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-19-C (Golden Valley 2nd Addition):

Commissioner Strand moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-19-C:

Adopt Resolution Creating Improvement District No. BN-19-C:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. BN-19-C in the City of Fargo, North Dakota, be created

On 69th Avenue South between 25th Street South and 26th Street South.

On 26th Street South north of Golden Lane South.

On Golden Lane South between 26th Street South and 69th Avenue South.

COMPRISING:

Lots 1 through 8, inclusive, Block 1.

Lots 1 through 10, inclusive, Block 2.

Lots 1 through 11, inclusive, Block 3.

Lots 1 through 5, inclusive, Block 4.

All platted in Golden Valley Second Addition.

A part of the unplatted land in the northeast quarter section of T138N R49W Section 11. A portion of which is to be platted as Golden Valley Second Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-19-C in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost from the City Engineer for Improvement District No. BN-19-C:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. BN-19-C in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,013,705.76.)

Order Plans and Specifications for Improvement District No. BN-19-C:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. BN-19-C in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. BN-19-C:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. BN-19-C in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. BN-19-C in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-19-C in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals must be in writing and must be filed with the City Auditor's Office within 15 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. BN-19-C:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. BN-19-C in the City of Fargo, North Dakota.

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

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

No Protests Received for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1:

The Statutory Resolution of Necessity for the construction of Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 18 and 25, 2019 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Strand moved that the Board declare that no protests have been filed to the construction of Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1.

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

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

Bids Received for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1:

The bids for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 17, 2019 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$2,099,564.05
Border States Paving, Inc. Bid:	Fargo, ND \$2,136,747.35
FM Asphalt, LLC Bid:	Moorhead, MN \$2,149,551.20
Central Specialties, Inc. Bid:	Alexandria, MN \$2,255,990.05

Contract for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1 Awarded to Northern Improvement Company in the Amount of \$2,099,564.05:

Commissioner Strand offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 17, 2019 for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1 shows the bid of Northern Improvement Company of Fargo, North Dakota in the sum of \$2,099,564.05 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 Northern Improvement Company in the sum of \$2,099,564.05 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Mill and Overlay and Incidentals Improvement District No. PR-19-G1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$2,099,564.05, 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 Gehrig. On call of the roll Commissioners Strand, Gehrig, Grindberg, Piepkorn and Mahoney voted aye.

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

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-B1 Approved:

Commissioner Strand moved the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-B1 in the City of Fargo, North Dakota, be approved.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-B1 Approved:

Commissioner Strand moved the following described Contract Bond be approved as to sufficiency:

United Fire and Casualty Company, in the amount of \$790,790.38, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-19-B1 in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Storm Sewer, Water Main, Paving, Street Lighting and Incidentals Improvement District No. BN-19-E1 Approved:

Commissioner Strand moved the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Storm Sewer, Water Main, Paving, Street Lighting and Incidentals Improvement District No. BN-19-E1 in the City of Fargo, North Dakota, be approved.

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

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

Contract Bond for Sanitary Sewer, Storm Sewer, Water Main, Paving, Street Lighting and Incidentals Improvement District No. BN-19-E1 Approved:

Commissioner Strand moved the following described Contract Bond be approved as to sufficiency:

United Fire and Casualty Company, in the amount of \$524,783.70, for Sanitary Sewer, Storm Sewer, Water Main, Paving, Street Lighting and Incidentals Improvement District No. BN-19-E1 in the City of Fargo, North Dakota.

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

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

Contract for P.C. Concrete Paving, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-18-B1 Approved:

Commissioner Strand moved the Contract between the City of Fargo and Dakota Underground Company, Inc. for P.C. Concrete Paving, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-18-B1 in the City of Fargo, North Dakota, be approved.

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

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

Contract Bond for P.C. Concrete Paving, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-18-B1 Approved:

Commissioner Strand moved the following described Contract Bond be approved as to sufficiency:

United Fire and Casualty Company, in the amount of \$2,802,277.40, for P.C. Concrete Paving, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. PN-18-B1 in the City of Fargo, North Dakota.

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

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

2018 Fargo Police Department Annual Report:

Police Chief David Todd shared a PowerPoint presentation of the Fargo Police Department's 2018 Annual Report. He said the report was compiled earlier in the year; however, this year due to his and Mayor Mahoney's schedules and to not detract from flood efforts, it is being released now. He said there were 6 homicides, which is unusual. There were 82 incident reviews and 20 personnel complaints, he said, with 19 resulting in disciplinary actions. Patrol officers responded to 89,565 calls for service, made 6,592 arrests, he said, issued 13,366 traffic citations and there were 4,200 traffic accidents in Fargo last year.

In response to a question from Commissioner Grindberg about the 10 percent decrease in traffic citations, Chief Todd said the traffic bureau was eliminated in order to move six officers to regular patrol to help fill beats.

Chief Todd said Fargo is broken down into four districts. Downtown Resource Officers have been valuable, he said, and they collaborated with the Downtown Community Partnership for a pilot program for alcohol consumption at events like the Street Fair. A program with the Gladys Ray Shelter was started for chronically homeless to work off fines by completing community service projects, he said, and almost \$30,000.00 worth of fines have been worked off. He said the department is proud of its robust K9 program. The Community Engagement Team has done active outreach, he said, and a nonprofit "Badges of Unity Fund" assist with a summer camp

for at-risk youth. The multi-jurisdictional Red River Valley SWAT Team was called on 14 times, he said, and they assisted when Vice President Mike Pence and President Donald Trump visited Fargo. The Criminal Investigation Unit investigated over 1,500 major cases, he said, and there were 30 overdoses and 11 overdose deaths, which is down from the previous year. He said a full-time Park Officer position was added and responded to 758 calls for service that directly related to Park District property.

In response to a question from Mayor Mahoney asking if the recent action by the Legislature allowing higher traffic fines will help, Chief Todd said there is a deterrence value to high fines. He said the recent change allows fines to be increased up to double of the State's fines.

In response to Commissioner Piepkorn about the date when the new Police Department headquarters would be done, Chief Todd said the target date is August 31, 2019.

In response to a question from Commissioner Piepkorn about whether the Police Department could benefit from accreditation, Chief Todd said a policy book rewrite has just been finished and the strategic plan this year includes putting a committee together to study accreditation to see if it is the right thing. He said currently the department uses Lexipol Policy Management software to keep up to date on policies, at a cost of about \$15,000.00/year. Accreditation would cost about that amount and more, he said, and also take one or two staff to manage it.

In response to a question from Commissioner Strand about the morale of the department, Chief Todd said while the Chief is not the first to know, he feels it is fairly good. He said staffing continues to be a challenge; currently there are 24 individuals unavailable to staff the streets due to 3 being on FMLA, 2 on military leave, 8 conditional offers, 4 at Police Academy, 5 in training and 2 vacancies. He said stretching staff can affect moral, and he feels a compensation study will be helpful.

City of Fargo's Section 5307 Federal Transportation Administration Grant Preliminary Program of Projects for 2019 Approved:

A Hearing had been set for this day and hour to consider the City's Section 5307 Federal Transportation Administration Grant Preliminary Program of Projects for 2019.

The Board determined that there have been no written or verbal protests and no one is present to protest thereto.

Transit Administrator Julie Bommelman said the Federal Transit Administration 2019 grant made available to the City of Fargo is \$2.7 million to be used for the transit system. Of that, she said, \$523,823.00 is included for meeting Small Transit Intensive Cities Performance Data indicators.

Commissioner Strand moved the Program of Projects for 2019 and the Federal Transit Grant Award of \$2,732,618.00 be approved.

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

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

Renaissance Zone Project for BCWB ND, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for BCWB ND, LLC for a business leasing property as part of a zone project at 550 2nd Avenue North.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

Planning Director Nichole Crutchfield said the Renaissance Zone Law states "a business that purchases or leases property as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone." She said the Fargo Renaissance Zone Development Plan further states "Tenant must be leasing space in a building that has been approved as a zone project to be eligible for consideration." She stated the Renaissance Zone Authority felt that lease projects such as the application from BCWB ND, LLC would generally be straightforward and could be advanced to the City Commission following staff review and would generally not require direct Authority action. Staff review found the applicant has met the aforementioned requirements, she said and the project addresses the business retention and expansion goals stated in the Renaissance Zone Development Plan.

Commissioner Grindberg moved the Renaissance Zone application filed by BCWB ND, LLC for a lease project located at 550 2nd Avenue North be approved and the income tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

Application Filed by Pho D'Licious, Inc. d/b/a Pho D'Licious for an Alcoholic Beverage License Approved:

A Hearing had been set for March 25, 2019 on an application filed by Pho D'Licious, Inc., d/b/a Pho D'Licious for a Class "H" Alcoholic Beverage License at 623 NP Avenue North.

At the March 25, 2019 Regular Meeting, the Hearing was continued to this date and hour.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

City Auditor Steve Sprague said this Hearing was delayed due to confusion over a building permit, layout and Health Department questions, all of which have been solved.

Commissioner Piepkorn moved the application be approved.

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

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

Application Filed by BCWB ND, LLC d/b/a Black Coffee and Waffle Bar for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by BCWB ND, LLC d/b/a Black Coffee and Waffle Bar for a Class "I" Alcoholic Beverage License at 550 2nd Avenue North, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Strand moved the application be approved.

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

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

Application to Transfer the Class "FA" Alcoholic Beverage License from Barbacoa ND LLC d/b/a Barbacoa to Barbacoa ND LLC d/b/a Chef's Table Private Dining and Events Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Barbacoa ND LLC d/b/a Barbacoa to Barbacoa ND LLC d/b/a Chef's Table Private Dining and Events at 670 4th Avenue North notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

City Auditor Steve Sprague said this is a transfer from Barbacoa to Chef's Table Private Dining and Events, which is in the Sanctuary Event's Center in a portion not a part of the Sanctuary's liquor premise. He said the license will be used for a catering business and each time they use the license they will have to apply for a special events Class "E" permit to cater off-premises.

Commissioner Grindberg moved the application be approved.

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

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

Application to Transfer the Class "FA-Golf" Alcoholic Beverage License from E.R.L., Inc. d/b/a Seasons at Rose Creek to Big Erv's Bar and Grill, LLC d/b/a Big Erv's at Rose Creek Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA-Golf" Alcoholic Beverage License from E.R.L., Inc. d/b/a Seasons at Rose Creek to Big Erv's Bar and Grill, LLC d/b/a Big Erv's at Rose Creek notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

City Auditor Steve Sprague said there were a couple of issues found in the background check; however, they were more than 10 years old, therefore, the Police Department had no objections with moving forward.

Commissioner Grindberg said many residents in south Fargo are anxious for Rose Creek to open again. He said Rose Creek is a destination for a restaurant as well as golf.

Commissioner Grindberg moved the application be approved.

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

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

Planning Department Updates:

Commissioner Grindberg said he asked three items: the American Planning Association Annual Meeting, the Land Development Code and Core Neighborhood RFPs and Downtown Neighborhood Association, to be placed on the agenda for updates. As a Commissioner who has the Planning Department portfolio, he said, he attended his third American Planning Association meeting last week in San Francisco. Commissioner Strand, a number of staff and Planning Commission members also attended this year, he said. Discussion tonight ties in with the Land Development Code process and Core Neighborhood RFP and for perspectives from the Downtown Neighborhood Association. People expect progress and change, he said, yet they fear the change and one takeaway he had from the meeting, he said, is that people are against infill and they are against green field development; meaning they are against all development. There were many sessions on affordable housing and one thing about affordability that hit home, he said, was an example that 50 percent of the people living in a small community outside the San Francisco area do not meet the affordable wage area of affordable housing. He said that means half the people cannot afford their rent or the price of a house. Wage rates and housing costs are different in California than Fargo, he said; however, the definition of affordable housing needs to be addressed. He said there is a need for better data of the 140,000 individuals that live and work in this region and their income levels to better define affordable housing. By definition, he said, thirty percent of one's income should go to housing.

Commissioner Strand said with the City going forward to revisit the Land Development Code and the Core Neighborhood Plans, real opportunities exist to

catch up with the times, contemporize the approach and to be smart about future growth. He said the City is fortunate in that its challenges, more often than not, are growth related.

Planning Director Nicole Crutchfield said an RFP for a Land Development Code (LDC) Diagnostic Study was approved at the March 11, 2019 Board meeting, and will be broken down into a two-step process. The first step, she said, is for a LDC audit to assess how much change needs to be made, with that RFP expected to go out April 30th. She said earlier on in developing these projects, the LDC and the Core Neighborhood Plan were like one project; however, now work is being done on two projects. The Board will be engaged along the way and make decisions such as how much change to make, she said. The Core Neighborhood Plan will be a Downtown In Focus Plan, including areas north to 19th Avenue North, south to I-94, the river on the east and 25th Street to west, and looping in the Madison Neighborhood, where the Land Use Plan and common vision are deficient. She outlined the goals, and said both the Community Development Committee and the Planning Commission will be stakeholders and champions of these two processes, knowing both processes will be seeking steering committees and a lot of engagement. She said the RFP could be published by June 1, 2019 for the Core Neighborhood RFP. It takes 6 to 9 months of good, thorough outreach to capture as much breadth as possible, she said, and the timeline is a year, knowing it may be complicated.

Carol Schlossman, Vice Chair of the Downtown Neighborhood Association, said the Downtown Master Plan has been incredibly important to the Downtown and as the Core Neighborhood Plan moves forward, she would suggest the City dedicate resources so there is a cross-team effort to use these in-depth plans as a day-to-day tool and uphold the will of those who have put forth that plan. The Downtown Neighborhood Association appreciates the re-do of Main Avenue and the bridge going across to the river and also counts on the Plan to understand the direction the City is going. She said the 4th Avenue Parking Ramp qualified for a TIF; and some "public good" needs should be included. A public water station that can be used by the public, is suggested, as well as a police substation, she said, and this is also an opportunity to introduce some green space and potentially a safe public restroom. Safety continues to be an issue for those who live and work Downtown, she said, and the beat officers and resource officers are greatly appreciated. She said ensuring resources for tighter oversight of existing liquor ordinances is important, such as compliance for underage and overserving. Paying attention to middle income and workforce affordable housing will make a difference, she said, and when people own their own homes, they stay here longer. If the community can figure out affordability in the community in the long term, she said, there will be a much stronger, stable Downtown and surrounding area.

Commissioner Grindberg said it is important as these projects move through, to look for opportunities that meet the objectives.

Commissioner Strand thanked Ms. Schlossman for sharing such relevant information. He invited her to a Community Development Committee meeting to drill deeper into her information and said the Downtown neighborhood residents are not always remembered; however, it is a shared goal to have this become a real viable neighborhood.

Josh Teigen Appointed to the Growth Initiative Fund:

The Board received a communication from Mayor Mahoney recommending that Josh Teigen be appointed to the Growth Initiative Fund Board of Directors to replace Chuck Hoge, who is moving out of the area and will no longer be eligible to serve.

Commissioner Strand moved Josh Teigen be appointed to the Growth Initiative Fund to fill the unexpired term of Chuck Hoge ending December 31, 2021.

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

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

Request for Tax Increment Financing for a Project Located Northeast of University Drive and 11th Avenue North Delayed for One Month:

Director of Strategic Planning and Research Jim Gilmour said the Planning and Development Department received a request from Roers Development for Tax Increment Financing (TIF) assistance for the portion of the St. Paul's Newman Center Addition project that includes market rate housing and townhomes to be located northeast of University Drive and 11th Avenue North. This is familiar to the Board he said, due to the rezoning of the Newman Center/Roers property earlier this year. He said policy is that prior to staff and financial advisors reviewing the request, it is brought to the Board to be certain they are comfortable with them working on it. He said he would suggest that the entire block could be looked at to see if a portion of the increment created from Roers and the market rate faith-based housing could be used for projects to redevelop blighted properties elsewhere in the neighborhood. This way, he said, the developer would benefit with a more feasible project, the neighborhood would benefit from a quality project and some housing needs elsewhere in the Roosevelt Neighborhood could be addressed. A broader look to create a renewal plan could benefit some scattered sites throughout the neighborhood as well as this development, he said. If approved, this will go back to the Tax Exempt Review Committee and Planning Commission for review and come back to the Board, he said, possibly in June.

Mayor Mahoney said the TIF policy says a developer can come forward and request to be evaluated for a TIF, which is done by an outside party, then it comes back to the Board with a recommendation. He said Mr. Gilmour's suggestion is to use part of the TIF for redevelopment.

In response to a question from Mayor Mahoney asking how much of the TIF would be used for redevelopment, Mr. Gilmour said that would depend on the financial review and the specific amount set in the Developers Agreement.

In response to a question from Commissioner Strand on how much the project is dependent on a TIF, Larry Nygard, Roers Development, said it is vitally important to have some assistance. He said in a preliminary review, there are a lot of eligible expenses that will be incurred, the biggest being storm water retention to be built underground. He said a couple homes on that block have been identified as worth saving and they are working with the Roosevelt Neighborhood Association to identify vacant lots to create additional single-family housing.

Commissioner Grindberg said he supports moving to the next steps to see the numbers and the data that come back. Creating a win-win that leverages the TIF for

redevelopment could include seed for land trusts to help with affordable housing, he said.

Commissioner Gehrig said this would be a great addition to the neighborhood; however, what is being signaled to developers is that they can buy a block of single-family homes, let them go into disrepair, and then the City will help demolish them with tax dollars, which is a silly thing to do if housing is a goal in these neighborhoods. The City is taking tax money from the School District, the Park District, the Airport, the County and Vector Control and using it for what the City thinks is good and they have little say in the matter. There is no affordable housing component for the project, he said, and while he understands the other Commissioners wanting to look at it more, he will not be supporting it.

In response to a question from Commissioner Grindberg asking to see the data that takes the current amount of tax collected on the block per year and the estimated taxable amount of what the project ends up being, for the taxable impact, Mr. Gilmour said that will all be laid out in the Renewal Plan if this goes forward.

Commissioner Strand said he would like to know what this would look like if it comes back with a win-win. Building in affordability and something like a land trust is an enticing thought, he said. This is a good project that took some yielding from the neighborhood to go forward, he said, and he has concerns about letting neighborhoods get into disrepair and deciding to address it after the fact with tax breaks, incentives and TIFs to improve them.

Commissioner Grindberg moved to authorize staff to submit the Roers proposal to the City's financial advisors for review, prepare a renewal plan that would include the entire block and draft a development agreement for the redevelopment of property northeast of University Drive and 11th Avenue North.

The motion died for lack of a second.

Commissioner Grindberg said perhaps the item should be delayed a month so more information could be gathered.

Mr. Gilmour said some information could come back; however, in some ways that would be starting down the road in providing data.

Commissioner Gehrig said he objects to that. He said the process is to either move forward or not and unless the Board says to move forward, it will not move forward.

Commissioner Gehrig moved that staff not be authorized to look into the Roers development request.

The motion died for lack of a second.

City Attorney Erik Johnson said lack of direction from the City Commission in a sense means the item dies; however, in another sense, nothing prohibits the applicant or staff from bringing it back with more information or slightly different information.

Commissioner Gehrig said Roers can come back with extra information; however, what the Board is dealing with is whether staff is authorized to spend more time. He said if the Board is not saying yes, it is in fact saying no to allowing staff to work further on this.

Mayor Mahoney said any developer can bring an application forward.

In response to a question from Commissioner Strand about whether there have been conversations with the neighborhood leadership about customizing a TIF for other benefits for the neighborhood, Mr. Gilmour said the neighborhood was initially opposed to the project and many still are. He said they have not been asked the question and if approved to work on it, they would be asked.

Mr. Nygard said when the compromise with the Roosevelt Neighborhood was reached there were discussions about this possibility; however, he does not know if that was a make or break.

In response to a question from Commissioner Strand on whether the project would die if the TIF were not in place, Mr. Nygard said yes. He said the Newman Center portion, about 60% of that block, is not seeking TIF funding or assistance in demolition costs. That portion is authorized to succeed, he said; however, the projects are coupled/built together as one, and now in this situation the financial model for the market-rate housing does not work without some TIF assistance. He said the Newman Center met their fundraising goals and has announced their project and would like to get started as soon as possible.

In response to a question from Commissioner Gehrig about the return on investment years one through five with and without the TIF, Mr. Nygard said it is 3 percent versus probably 8 percent.

Commissioner Gehrig said that is still profit. He said this is about how much profit will be made with the government giving them money or not. As an individual who does not get that same benefit, he has a hard time sympathizing with that, he said.

Commissioner Strand moved the proposal from Roers Development for a project located northeast of University Drive and 11th Avenue North be delayed for one month to allow time to reach out to the Roosevelt Neighborhood Association.

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

Commissioner Gehrig voted nay.

The motion was declared carried.

At 6:25 p.m. the board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

Cost Share Proposal for Burying Overhead Power and Telecommunication Lines in Roberts Alley Approved: Staff Directed to Continue Work on Documents to Support the Proposal:

City Engineer Brenda Derrig shared a presentation outlining the work that has been done as far as the possibility of burying overhead power lines. There have been many discussions in the past about burying lines and the associated costs and recent redevelopment along the Roberts Alley gave staff and the Kilbourne Group the ability to research the possibility of burying lines and see what costs really look like, she said. The request now is to rebuild Roberts Alley from 1st to 2nd Avenue North this summer, she stated. There will be some redevelopment on the City-owned Kesler parking lot, she said, and Kilbourne Group is working to redeveloping some storefronts and an apartment building in that area. She said Roberts Alley was reconstructed to the north last year from 2nd to 4th Avenue and conduit was installed to minimize impact if burying would occur in the future. The redevelopment area

includes the Dillard and Roberts Commons Ramp, she said. There have been meetings with the utility companies to negotiate cost share, she said, and while there has been interest, it is not known what those numbers will look like. A Cost Share proposal was approved by the Finance Committee and the Public Works Project Evaluation Committee, she said, and she shared the cost estimates and cost shares broken down for Roberts Alley from 1st to 2nd Avenue North and for 2nd to 4th Avenue. She said Xcel has agreed to pick up the cost of the primary lines, and Kilbourne will pay for secondary power lines and part of telecommunication depending on ownership with the City picking up the remaining costs. She said the total cost estimate for overhead utility burying on Roberts Alley from 1st to 4th Avenue North totals are as follows:

Power	\$1,688,065.00
Cost Share	
Xcel	\$500,000.00
Kilbourne	\$636,852.00
City	\$551,213.00

Telecommunications	\$567,800.00
Cost Share	
Kilbourne	\$207,350.00
City	\$360,450.00

The total cost to bury the overhead utility lines in Roberts Alley:

Xcel	\$500,000.00
Kilbourne	\$844,209.00
City	<u>\$911,665.00</u>
	\$2,255.874.00

Now with a pretty solid estimate, she said, the question for the Board is whether to keep moving forward.

In response to a question from Commissioner Piepkorn about the portion where there are many small buildings and whether the City and Xcel are picking up the expenses for them, Ms. Derrig said burying overhead lines really needs to be done by a single contractor due to each building needing to switch from overhead to underground, then the overhead line cannot be taken down until all are switched. She said the secondary costs come from the primary underground into the building and that includes interior work.

Commissioner Piepkorn said he is concerned that the City is paying for a betterment for the businesses.

In response to a question from Commissioner Gehrig about whether every business owner on the block thinks this is a good idea, Ms. Derrig said it has been discussed with the business owners. Burying the overhead power lines is an all or nothing, she said, so either the whole block must do it or not.

Commissioner Gehrig said he had a conversation with a business owner on that block who said he would have no benefit. He would still have power, things would stay the same and he would not pay for it. He said this seems to be moving the buck from a business owner who may benefit, to the City and a taxpayer who may never go Downtown. He said it is old infrastructure that needs to be replaced so why is Xcel not paying for it? He does not see a benefit for the City to be paying for it, he said, and he challenges the Board to come up with how the City benefits. He said he

feels more effort should be put into asking the businesses if they want or need this and without money from the City.

Commissioner Piepkorn said this is a pilot and support would not be unanimous; however, it is an opportunity for vision. He said as a pedestrian walkway it will benefit the City and ideally, each business should pay for part of it; however, for this it will be impossible.

Mayor Mahoney said eventually, as an enhancement, taxes should go up, plus Roberts Alley, just like Broadway, will have a lot of activity and benefit those on it.

In response to a question from Commissioner Strand about why it could not be special assessed, Ms. Derrig said special assessments are for public utilities owned by the City such as water, sewer, storm sewer, paving, etc. She said the City does not own those utilities so costs cannot be special assessed. Some cities own the power company, she said, and then would have the ability to special assess those utilities.

Commissioner Piepkorn moved the cost share proposal for burying overhead power and telecommunications lines in an amount not to exceed \$911,665.00 be approved and to direct appropriate staff to continue to work on the necessary documents to support the proposal.

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

Commissioners Gehrig and Strand voted nay.

The motion was declared carried.

Action on a Resolution Declaration of Intention: No Special Assessments as Direct Revenue Source for Diversion Project Delayed for Two Weeks:

Commissioner Grindberg said the Diversion Authority is a separate entity and each Commissioner has a different role on it. He said he, Mayor Mahoney and Commissioner Piepkorn serve on the Diversion Authority Board, Commissioner Gehrig serves on the Finance Committee and Commissioner Strand serves on the Land Management Committee and was on the Governor's Task Force. He said he likes using a football analogy, in that the process has been underway for 10 years and each year the football has been moved 10 yards down the field. This legislative session started with a number of boxes to check to move the ball into the end zone, he said. Those boxes, he said, being a permit from Minnesota, increased funding of \$3 million from the federal government, the injunction to go away (which happened 2 weeks ago), and a request for an additional \$300 million from North Dakota to round out a budget in 2019 dollars of \$2.75 billion to begin the process. When started, he said, under the football analogy, the ball was on the 4-yard line, last week it was on the 1 inch-yard line with the ball moved in by a legislative action funding a level of \$750 million or an increase of \$180 million of the \$300 million requested. He said it is like scoring a touchdown, yet missing the extra point. This means the plan has worked, due to hard work with the Plan and Plan B, going back to 2009, he said, has put the ball in the end zone. He said Mayor Mahoney in his role as Commissioner, Mayor and member of the Diversion Authority, has put in countless hours and displayed passion to keep guiding this through. Likely, he said, he is driven by the primary economic factor that if nothing were done, Fargo would be faced with significant flood insurance premiums for residents. He said the ball is in the end zone and ready to go; however, now funding is \$120 million short and his response to the

talk of cutting the project down is that this will be managed. He said from his perspective, and as Chair of the Diversion Finance Committee, once the Legislature adjourns, work will begin to figure out the alternative path to keep the project moving, knowing the financial model is short. He said one recommendation to solve the financial perspective would be to, rather than bid a \$1 billion construction project, pare the project back to set up a base bid of \$880 million and then have a bid alternate for \$120 million. Then, he said, next year when the bids are opened for the P3, there will be a base bid and bid alternates. The alternates will need to be defined, he said, and perhaps a timeline added saying that if bid in March 2020, the successful bidder must hold the alternate bids until the following spring, then those actual costs can be taken back to the Legislature to ask for continued funding to award those additional contracts to fit in the first year of project development under the auspice that it will be built in 6 years. He said as far as special assessments, as a City Commissioner with a role on the Diversion Authority, he will say residents will not be assessed for the \$120 million, this will be worked through with the generous commitment the State has made and managed accordingly. He thanked City Attorney Erik Johnson for helping to write a Resolution that basically reiterates what took place here years ago - that the City Commission supports a Special Assessment District only for a backstop of the bond market and using local sales tax as the City's portion of the project costs. He said he was contacted by the Chair of the Diversion Authority, Mary Scherling, suggesting that action on the Resolution be delayed until the Legislature adjourns. He said he is okay with that; however, he wanted this discussion so the public knows it is this Board's decision to say a \$120 million gap would not be closed with special assessments. This amount can be managed with other means and still work with colleagues in the Legislature in 2021, he said. Just weeks ago the City was in flood preparation mode, he said, and imagine not spending time every spring thinking about how to protect the City. He said everyone should be proud of where things are at, just think about all the time and energy spent over all the years on this topic. It is time to act and time to move forward, he said and he feels in a comfortable position to do that.

Commissioner Gehrig thanked Commissioner Grindberg for bringing this important discussion forward; people are concerned about the topic. Former Governor Ed Schafer wrote the Legislature expressing concerns, he said, and basically asking the Diversion Authority for a study to find ways to reduce cost rather than increasing the amount of dollars from other entities. He said a critical element that is missing, and a subject that gets glossed over, is that the cost of the Diversion is stated to be \$2.75 billion; however, that amount is in 2018 dollars. He said the issue is that even if the amount requested, \$2.75 billion, was received, funds would be short and the Diversion Authority would be put in a position to ask for more dollars. The hope is to complete it in 6 years now, he said; however, that number then is known to be \$3.13 billion and he feels using \$2.75 billion is a dishonest number. He would ask the Board to give the real cost so the request can be for the real dollars needed to complete the project, he said, otherwise the project could be put in peril by not being honest with the number. He said he appreciates the intent of the Resolution and he does not want to special assess for the project either; however, he will vote against the Resolution because he is saying to never assess at all, there is no reason to ever assess the people of Fargo for this. He said to use it as collateral for loans is one thing; however, as a Commissioner, he will never vote to special

assess people for this project and hopes the rest of the community also feels that way.

Mayor Mahoney said the Board would not vote on the special assessment, it would be the Cass County Joint Water Resource Board that does that, and by law they already have the authority.

Commissioner Grindberg said he appreciates Commissioner Gehrig's perspective; however, getting into the details and where the experts have brought this, he is confident it is moving forward with the \$2.75 billion number. Another factor, he said, is that as a project escalates, federal money escalates. He said the model is built at \$2.75 billion with a long-term contract over 30 years and a private contractor bringing in \$400 million of their own capital.

In response to a question from Commissioner Strand about where the project is with the Legislature and how to get back on track, Commissioner Grindberg said recently the House concurred with a conference committee on SB2020 which contained the language for the FM Diversion at the \$750 million level. Today, he said, it is his understanding that will be in the message to the Governor and there is talk whether the Governor will veto the bill or not, which is part of what Diversion Chair Scherling's perspective on the Resolution enforces and perhaps it is best to wait until the end of the Legislature. He said the Diversion Budget Committee has a number of options to explore.

Mayor Mahoney said if the Governor vetoes the bill and it is upheld, the bill would go back to committee for discussion on the \$870 million. He said the reason Chair Scherling would like action on the Resolution delayed is due to the reference to \$750 million and perhaps it could go back to \$870 million. He said the tax assessment district exists to help get the bond costs down and for better interest rates. He said this discussion is for reassurance due to talk that an assessment would be used to make up the \$120 million. He said it will go back to the Finance Committee to come up with some alternatives, including Commissioner Grindberg's suggestion for ways to find cost savings. When Plan B was designed, it increased the cost, he said, and what started out as a \$1.8 billion project moved to a \$2.2 billion project, and now the longer the delay, the higher the cost and the intent is for full build in 2026 to keep to the pricing. He said the Board could take this up in two weeks with the message being the same; that the Board does not want the public to feel a deficit would be made up with the tax assessment district.

Commissioner Piepkorn said he would like stronger language stating "special assessments will not be used" period, rather than "no special assessments as a revenue source" or "used only in the event of deficiencies." He is concerned that this passed without the taxpayers being in favor of it and that the Cass County Joint Water Resource Board decides whether to assess, which is obscene, he said.

City Attorney Erik Johnson said like it or not, the legal framework is in the Joint Powers Agreement that the Water Board is the vehicle to have the special assessment. He said the special improvement district is the back up for interest rates and credit.

Commissioner Piepkorn said he was the only Commissioner that voted against it originally, which took courage. To think a special assessment can be imposed by a Water Board for all of Cass County is not good, he stated.

Commissioner Grindberg said the City of Fargo has a strong voice on the Diversion Authority.

Commissioner Grindberg moved that action on the proposed Resolution Declaration of Intention: No Special Assessments as Direct Revenue Source for Diversion Project be delayed for two weeks.

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

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

Main Avenue Construction Update:

Construction Services Division Engineer Tom Knakmuhs said Main Avenue construction started last week and there have been a number of traffic impacts, especially with the 12th Avenue and 1st Avenue bridges still being closed due to flood impacts. The portion between 2nd Street and 4th Street is closed and being detoured to NP Avenue, he said, and the project will continue to move west with a road closure on 4th Street next week. He said hopefully the 12th Avenue and 1st Avenue bridges will be open next week.

Mayor Mahoney said he is been asked why the project started while the bridges were closed.

Mr. Knakmuhs said the issue is that if the contractor were held off, it would delay the completion time of the contract. He said Main Avenue is an old corridor in the Downtown and unseen conditions are expected that could push back completion already. He said they did not want to potentially push a project back to the end of October or November that is not complete and potentially not open to the public. This is an impactful project and an inconvenience to some, he said, and the public is encouraged to find alternate routes. He said he expects it will be better in the next week to 10 days.

Commissioner Strand moved that the Board adjourn to 5:00 o'clock p.m., Monday, May 6, 2019.

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

The time at adjournment was 7:10 o'clock p.m.