



Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. 1st reading of the following Ordinances relating to e-cigarettes:
  - (1) Amending Section 10-0103 of Article 10-01 of Chapter 10 of the Fargo Municipal Code Relating to Restraint of Minors and Section 10-1001 of Article 10-10 of Chapter 10 of the Fargo Municipal Code Relating to Tobacco Vending Machines.
  - (2) Amending Section 35-0101 of Article 35-01 of Chapter 35 of the Fargo Municipal Code Relating to Authority for the Sale of Tobacco Products.
- b. 2nd reading, waive reading and final adoption of Ordinances Rezoning Certain Parcels of Land Located in the following Additions; 1st reading, 12/9/13:
  - (1) Valley View Second Addition, Fargo, Cass County, North Dakota.
  - (2) Brandt Crossing First Addition, Brandt Crossing Fourth Addition, Brandt Crossing Sixth Addition and Brandt Crossing Seventh Addition, Fargo, Cass County, North Dakota.
  - (3) Brandt Park Addition and Urban Plains Medical Park Addition, Fargo, Cass County, North Dakota.
- c. Receive and file an Ordinance Amending Ordinance No. 4893 Rezoning Certain Parcels of Land Lying in James Holes Subdivision, Fargo, Cass County, North Dakota.
- d. Receive and file Year to Date – Budget to Actual Report for November 2013.
- e. State Water Commission request for cost reimbursement for the FM Diversion flood project in the amount of \$3,722,125.00.
- f. Fourth Amendment to the Third Amended and Reconstituted Joint Powers Agreement with the Red River Regional Dispatch Center to Exercise a Real Estate Lease Purchase Option and authorize borrowing needed to purchase their facility in the amount of \$320,707.00.
- g. Acceptance of North Dakota Department of Emergency Services Grant Funding in the amount of \$44,485.00 for the Red River Regional SWAT Team (CFDA #97.067).
- h. Grant Award from the Byrne Justice Assistance Grant Program in the amount of \$16,250.00 for FY 2014 and designate the Rape and Abuse Crisis Center as a pass-through grant sub recipient (CFDA #16.738).
- i. Sale of 25-foot strip of City-owned land at the Public Safety Building in the Industrial Park to M & R North Dakota, LLC.
- j. Request for proposals for NSP property at 721 First Street North.
- k. Six-month extension of the Class “FA” Alcoholic Beverage License held by Applebee’s.

- l. Applications for five-year tax exemptions for improvements made to the following:
  - (1) Nicholas Paulson, 523 15th Street South.
  - (2) Nicole (Moen) Holden, 722 9th Street North.
  - (3) Brenda Degenstein, 1430 6th Street South.
  - (4) Scott and LeAnne Wilcox, 916 1st Street North.
  - (5) Timothy Manke, 1431 6th Avenue South.
  - (6) Terry and Shirley Nerby, 2515 2nd Street North.
  - (7) Andrew Wichman, 1002 21st Street South.
  - (8) Michael Zimney, 1501 9th Street South.
  
- m. Site Authorizations for Games of Chance:
  - (1) West Fargo Hockey Association at the Holiday Inn.
  - (2) Outdoor Adventure Foundation, Inc. at the Hilton Garden Inn.
  - (3) North Dakota Association for the Disabled, Inc. at Shotgun Sally's Rock N Roll Saloon.
  
- n. Applications for Games of Chance:
  - (1) Washington School PTA for a raffle on 3/14/14.
  - (2) Benefit for Amber Lockwood for a raffle on 1/17/14; Public Spirited Resolution.
  - (3) Muskies, Inc. F-M Chapter for a raffle on 2/6/14.
  
- o. Contract with T.L. Stroh Architects, Ltd. for the new City Hall.
  
- p. Bid award to Mavo Systems ND, in the amount of \$59,000.00, for asbestos abatement at the former Sunmart building at 25th Street and 13th Avenue South, the future home of Fargo Cass Public Health.
  
- q. Purchase of a Toro Groundskeeper from MTI Distributing in the amount of \$91,691.84.
  
- r. Purchase of a street sweeper from Swanston Equipment in the amount of \$192,340.00.
  
- s. Resolution Prescribing Rates and Charges for Solid Waste Services effective 1/1/14 (Attachment "A").
  
- t. Agreement with Kit Powell to perform the duties and services of Maintenance Attendant II at the Water Treatment Plant through 12/31/14.
  
- u. Acceptance of quote from Ferguson Waterworks, in the amount of \$46,500.00, for replacement of the City's water meter reading equipment.
  
- v. Bid awards for chemicals for the Wastewater Treatment Plant for 2014.
  
- w. Bid awards for chemicals for the Effluent Reuse Facility for 2014.
  
- x. Adjusted MATBUS exterior advertising rates.

- y. Purchase Agreements:
  - (1) Permanent and Temporary Easements for the Park District (Project No. 5902-02).
  - (2) Purchase Agreement – Permanent Easement for Russell and Neva Papachek (Project No. 5962-01).
- z. Agreement regarding services to the new softball complex site and purchase agreement, in the amount of \$239,460.00, for easements associated with the flood risk reduction project at Mickelson Field (Project No. 5902-02).
- aa. Storm Sewer Agreement with APM, LLLP.
- bb. Permanent easement for Century Link on a portion of Lot 13, Block 10, Deer Creek Addition.
- cc. 2014 Revisions to the Standard Specifications for Construction.
- dd. Consulting Engineering Services selection and contracts for Project Nos. 6259 and 6261.
- ee. Bid award for Project No. 6172-03 to Landwehr Construction, Inc., in the amount of \$549,705.75.
- ff. Contract Amendment No. 1, for an increase of \$53,100.00, for Project No. 6230.
- gg. Final Balancing Change Orders for the following Projects:
  - (1) No. 1, for an increase of \$4,379.97, for Project No. 6026.
  - (2) No. 1, for an increase of \$224.10, for Project No. 6199.
- hh. Bills in the amount of \$11,434,436.46.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

City of Fargo Concurs with the NDDOT Bid Award for Improvement District No. 6116:

Commissioner Mahoney moved the City of Fargo concur with the NDDOT bid award for Improvement District No. 6116 to Dakota Underground Company in the amount of \$1,490,142.85.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. 5978 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$38,182.78 for Improvement District No. 5978.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Contract Time Extension for Improvement District No. 6237 Approved:

Commissioner Mahoney moved approval of a contract time extension to June 13, 2014 for Improvement District No. 6237.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Contract for Water Main, Storm Sewer and Incidentals Improvement District No. 6104 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Water Main, Storm Sewer and Incidentals Improvement District No. 6104 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Contract Bond for Water Main, Storm Sewer and Incidentals Improvement District No. 6104 Approved:

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

Western National Mutual Insurance Company, in the amount of \$805,993.04, for Water Main, Storm Sewer and Incidentals Improvement District No. 6104 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

2014 City Social Service and Arts Fund Allocations Approved:

The Board received a communication from Senior Planner Dan Mahli stating the City's Social Service and Arts Fund budget is \$330,000 and on December 12th the Community Development Committee unanimously recommended the Board approve the 2014 Social Service and Arts Fund allocations. He said the proposed budget is listed as follows:

Arts Partnership - \$90,000 to support the Arts partnership's re-grant program.

CHARISM - \$15,000 to support youth development programs and skill building for low income and refugee youth.

Children's Museum at Yunker Farm - \$5,000 to support the "Hands On" educational and recreational programming for children.

Cultural Diversity Resources - \$15,000 for diversity training, annual conference, leadership building, education and interpreters.

Family HealthCare - \$5,000 to provide education services to Native American families through the Health Mentor Program.

Fargo Community Development Committee - \$10,000 to support public art projects.

Fargo Human Relations Commission - \$10,000 to support interpreter/translation needs in Fargo and fair housing activities.

Fargo Native American Commission - \$20,000 to provide support for Native American programs in Fargo.

Fargo Youth Initiative - \$5,000 to support Fargo Youth Initiative activities.

Fargo-Moorhead Coalition for Homeless Persons - \$20,000 to administer emergency taxi rides, coordinated assessment/referral and landlord risk mitigation fund.

Fargo-Moorhead Community Bicycle Workshop - \$3,000 to support operations for Earn-A-Bike Program and six week mechanics education course.

Fargo Youth Commission/Boys & Girls Club - \$10,000 to support program staff, scholarships, youth development, healthy snacks and transportation.

First Link - \$5,000 to fund the information and crisis services program.

Handi-Wheels Transportation - \$20,000 to provide accessible and affordable transportation to people with disabilities and the elderly.

Legal Services of North Dakota - \$5,000 to assist low-income and elderly people with landlord/tenant and housing law issues.

LSS of ND-Great Plains Food Bank - \$5,000 to assist in the recovery and distribution of surplus and donated food.

New Life Center - \$10,000 to provide emergency shelter, meals, clothing and other basics of life services to homeless people.

Nokomis Child Care Centers - \$5,000 to support scholarship program for low-income families.

ND Coalition for Homeless People - \$5,000 to support the development of HUD's Continuum of Care for housing programs in Fargo.

Rape and Abuse Crisis Center of FM - \$15,000 to provide crisis support and follow-up services for victims of domestic violence and assault.

Red River Human Services Foundation - \$12,000 to support educational and social activities for people with developmental disabilities.

Valley Senior Services - \$25,000 to support the Meals on Wheels and Senior Ride programs.

YWCA Emergency Shelter - \$15,000 to support shelter and housing programs, case management and advocacy services.

Commissioner Sobolik moved the 2014 City Social Service and Arts Fund allocations be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Extension of the Management and Concession Agreement Between the Fargo Dome Authority and Global Spectrum, LP Approved:

The Board received a communication from City Attorney Erik Johnson stating at the last meeting of the Board he was directed to research penalties in the agreement between the Fargo Dome Authority and Global Spectrum, LP prior to approving an extension of the existing terms of the contract. He said he was asked whether the contract has a clause allowing the City or the Fargo Dome Authority to terminate the contract prior to the end of its stated term of years. He said the contract may be terminated by the Fargo Dome Authority for "cause"; however, there is no provision allowing the contract to be terminated at will. He said the agreement could be converted into three, one-year extensions if both parties agreed.

Commissioner Mahoney moved the extension of the Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP be approved.

Second by Williams.

Commissioner Mahoney moved the motion be amended to approve the Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP as presented, subject to the change of the three, one-year renewals being approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

On call of the roll on the original motion as amended Commissioners Mahoney, Williams, Sobolik and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Proposal from Midcontinent Media, Inc. to Provide Cable and Telecommunication Services to the City of Fargo Received and Filed:

The Board received a communication from President and CEO of Midcontinent Media, Inc. Patrick McAdaragh stating Midcontinent Communications would like the letter to serve as the first step in the application process under Article 24-02 of the Cable Services Code for the City of Fargo. He said Midcontinent Communications is extremely pleased to make this request and would be honored to provide service to the residents of Fargo. He said Midcontinent is one of the upper Midwest's leading full service cable and telecommunications companies, serving nearly 335 communities in North Dakota, South Dakota and Minnesota with cable television, phone and broadband data. He said the company's mission is to continually provide top quality service to customers and to contribute to the communities they serve.

Director of Regional Operations for Midcontinent Media, Inc. Clay Stevens said Midcontinent is very appreciative of the warm welcome and positive response they have received from City officials and civic leaders. He said once the franchise agreement has been worked out they will be able to provide more detail of what it will take to bring services to the citizens of Fargo. He said they are very excited to be a part of the Fargo community.

In response to a question from Mayor Walaker about a time line for the entire project, Mr. Stevens said the majority of the work will be done within three years but realistically it could take closer to four years to complete the entire City.

Commissioner Williams moved the proposal from Midcontinent Media, Inc. to provide full service cable and telecommunications services to the City of Fargo be received and filed, and the Cable Review Committee be directed to enter into franchise agreement negotiations with Midcontinent Media, Inc.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Renaissance Zone Project for Downtown Tavern, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Downtown Tavern, LLC for a business leasing property as part of a zone project at 210 Broadway North, Suite 91.

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.

The Board received a communication from Planning Administrator Nicole Crutchfield stating 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 Downtown Tavern, LLC would generally be straightforward and could be advanced to the City Commission following staff review and would generally not require direct Authority action. She said staff review found the applicant has met the aforementioned requirements. She said the project addresses the business retention and expansion goals stated in the Renaissance Zone Development Plan.

Commissioner Sobolik moved the Renaissance Zone application filed by Downtown Tavern, LLC for a lease project located at 210 Broadway North, Suite 91 be approved and the income tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Renaissance Zone Project for Michael J. Marcil Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Michael J. Marcil at 300 Broadway North, Unit 304.

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.

The Board received a communication from Planning Administrator Nicole Crutchfield stating the Renaissance Zone Project application presented by Michael J. Marcil meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Ms. Crutchfield recommended that the project be approved.

Commissioner Sobolik moved the Renaissance Zone application filed by Michael J. Marcil for a project located at 300 Broadway North, Unit 304 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application Filed by Blackbird Woodfire, LLC d/b/a Blackbird Woodfire for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Blackbird Woodfire, LLC d/b/a Blackbird Woodfire for a Class "I" Alcoholic Beverage License at 206 Broadway, 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 the application received was for a Class "I" license; however, after starting the remodeling process the applicant was not able to accommodate a full bar, therefore they would like to back their license down to a Class "GH".

Commissioner Mahoney moved the application for a Class "GH" license be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Labby's, Inc. d/b/a Labby's Grill and Bar to Anderson Franchise Investments d/b/a People's Organic Cafe Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Labby's, Inc. d/b/a Labby's Grill and Bar at 1180 19th Avenue North to Anderson Franchise Investments d/b/a People's Organic Café to be located at 2653 45th Street South, 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 Williams moved the application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Conditional Use Permit to Allow a Major Home Occupation Approved (117 22nd Street South):

A Hearing had been held by the Fargo Planning Commission on November 5, 2013 to consider an application for a major home occupation for medical office services on property located within a SR-3, Single Dwelling Zoned District on Lot 5, Block 8, Egbert, O'Neil and Haggarts Addition, and the Fargo Planning Commission at such Hearing did not accept the findings and recommendations of staff and approved the Conditional Use Permit with the following conditions: no truck, trailer, semitrailer, or commercial vehicle shall be parked on the street at this business location, and no more than two customers shall be permitted on site at any given time.

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 the applicant, Beverly Greenwald, wants to reclassify her business from a Minor Home Occupation to a Major Home Occupation to allow more than one customer at her home at a time. Following the November 5, 2013 Planning Commission Hearing approving the Conditional Use Permit with conditions, she said, staff received an appeal from the neighboring property owner, Connie Danielson, 111 22nd Street South, requesting the City Commission overturn the Planning Commission decision. She said staff facilitated a meeting with both parties on November 25, 2013; however, staff does not feel a compromise can be found. The LDC states appeals are handled as a new matter, she said, and new public notifications were processed. She said with the new notification, staff received another letter of opposition. Staff has concerns with this proposed home occupation, she said, and recommended disapproval to the Planning Commission. She said the type of physical examination that the applicant will be providing is targeted toward commercial truck drivers and staff is leery about the ability to control semi-truck access to the residential home.

Connie Danielson, 111 22nd Street South, said she does not feel that they need another business in their residential area. She said she knows that Ms. Greenwald does not live at this residence because she lives right next door to her. She said she did speak with Ms. Greenwald and she led her to believe that the truckers would be driving their own personal vehicles to their physicals and not the semi's. She said she has been a truck dispatcher and most truck drivers are not from this area. She said if a driver needs a physical they are not likely going to leave their truck and take a cab to Ms. Greenwald's home to have a physical. She said she

would definitely be contacting the police if she were to see trucks at Ms. Greenwald's home.

Tim Newman, 101 22nd Street South, said the block that is being dealt with is a hodge-podge of commercial and residential. He said a lot of parking has already been lost this winter with the new parking restrictions in place and he is very concerned about the congestion in this area already.

Paul Thorson, 111 22nd Street South, said his main concerns are the parking. He said there is limited room for cars much less semis.

Ms. Crutchfield said the applicant will be taking customers by appointment only so it is not a typical commercial business where customers will be coming and going all the time.

Beverly Greenwald, said she wants to clarify that she applied for a CLI waiver which will only allow her to do urine samples and will not require her to have any biohazards in her residence. She said her request is to have two individuals come to her home for one appointment. She said she is aware that she is able to have this business in her home under a minor home occupation; however, she would like to be compliant and have the ability for an individual to bring someone to the appointment if they so chose.

Commissioner Sobolik moved the Planning Commission decision on a Conditional Use Permit to allow a Major Home Occupation for medical office services on property located within a SR-3, Single Dwelling zoned district on Lot 5, Block 8, Egbert, O'Neil and Haggarts Addition be approved on the condition that there is no truck traffic, no more than two customers at a time and the minor home occupation criteria be followed thereafter.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

#### Gambling Guidelines Amended:

The Board received a communication from Team Makers Executive Director Pat Simmers stating he would like the Board to explore the possibility of increasing the number of gaming sites allowable for a 501C3 non-profit organization within the Fargo city limits. He said current guidelines restrict each organization to three sites and a limited number of organizations are capable of handling more sites. He said with the growth of the community and the expansion of potential customers that are interested in creating a site, local charities are having a hard time meeting all the requests and are at the maximum. He said smaller organizations have a hard time servicing accounts due to limited resources and personnel, and there are new sites that are reaching out to nonprofits from outside of the Fargo area due to the lack of local services. He said he would like to ensure the quality and integrity of the services in Fargo by increasing the site limit.

Commissioner Mahoney moved an increase in the number of gaming sites from three to five in the City of Fargo be approved.

Second by Williams.

Gaming Auditor Terri Sprenger said several years ago a 30-day waiting period was added to prevent pirating when charities wanted a third location. She said since this stipulation has been put in place, two sites have been affected by the 30-day

waiting period and a couple others that have come before the Commission to ask for a waiver to the waiting period. She said she is suggesting that the 30-day waiting period be removed.

Commissioner Sobolik moved the motion be amended to approve an increase in the number of charitable gaming sites from three to five in the City of Fargo and to remove the 30-day waiting period for transfer of gaming operations.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

On call of the roll on the original motion as amended Commissioners Mahoney, Williams, Sobolik and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

#### Demonstration on the Pulse Point App:

Fire Chief Steve Dirksen provided a demonstration on the Pulse Point app which he said is available on both Apple and Android devices. This application, he said, will send out an alert to CPR-trained participants of an individual who is nearby and is suspected of having sudden cardiac arrest. With this application, he said, CPR can begin immediately by the trained individual, thus possibly saving someone's life.

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 6, 2014.

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

The time at adjournment was 6:13 o'clock p.m.