

- d. State Water Commission request #4 for cost reimbursement in the amount of \$861,162.00, for the FM Diversion flood project related to the Oxbow/Hickson/Bakke ring levee.
- e. Receive and file Year to Date – Budget to Actual Report for August 2014.
- f. Appointment of attorneys in the Cass County States Attorney's office to act as Assistant City Attorneys.
- g. Contract with the North Dakota Department of Health for the Women's Way Program (CFDA #93.919).
- h. Contract with the Fargo Public Schools for nursing services for Special Education services for the school year 2014-2015.
- i. Change Order No. M-2, for an increase of \$5,046.00, for the Fargo Cass Public Health Remodeling Project.
- j. Agreement with the North Dakota State University for exterior advertising on City buses through June 30, 2015 for \$55,000.00.
- k. Donation of a 2003 Nissan Maxima (Project Blue Thunder) to Fargo South High School.
- l. Applications for Games of Chance:
 - (1) ND Section of American Water Works Association for a raffle on 10/15/14.
 - (2) Friends of NRA for a raffle on 9/18/14.
 - (3) The Village Family Service Center for a raffle on 11/6/14.
 - (4) Kappa Delta Sorority for a raffle on 9/22/14.
 - (5) Kappa Delta Sorority for a raffle on 9/26/14.
 - (6) NDSU Development Foundation Bison Bidders Bowl for a raffle on 10/11/14.
- m. Award of the 2015 tree order to Paul Bunyan Nurseries for \$38,510.50 plus freight.
- n. Encroachment Agreement for balcony installation at 503 7th Street North.
- o. Installation of an interim signal at the intersection of 36th Street and 52nd Avenue South by Strata Corporation (Project No. FM-14-61).
- p. Relocation of the alley between 3rd and 5th Avenues North and 18th and 19th Streets North, allowing the alley to remain unpaved but requiring installation of storm sewer.
- q. Permanent Utility Easement for Sprint, Cable One and CenturyLink on property at 5508 University Drive South (Project No. FM-14-21).

- r. Developer's agreement and preliminary acceptance of the infrastructure for Project No. VF-14-A.
- s. Final Balancing Change Orders for the following Projects:
 - (1) No. 1, for an increase of \$3,487.50, for Project No. 6051.
 - (2) No. 1, for an increase of \$8,090.94, for Project No. 6196.
- t. Bid award for Project No. FM-14-51 to H & S Contracting, Inc. in the amount of \$1,895,981.45.
- u. Contract and bond for Project No. PR-14-A1.
- v. Bid advertisement for Project No. HD-14-5.
- w. Bills in the amount of \$12,857,572.41.

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

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

Contract Amendment No. 1 for Improvement District No. 6204 Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating the Committee received a communication from Division Engineer Brenda Derrig related to a contract amendment in the amount of \$13,800.00 from Ulteig Engineers. They said the additional costs covered are related to additional administration, inspection and survey time required to complete the contract requirements.

Commissioner Sobolik moved Contract Amendment No. 1, in the amount of \$13,800.00, for Improvement District No. 6204 be approved.

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

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

Contract Amendment No. 1 for Improvement District No. 6211 Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating the Committee received a communication from Division Engineer Brenda Derrig related to a contract amendment in the amount of \$26,000.00 from Ulteig Engineers. They said the additional costs covered are related to additional administration, inspection and survey time required to complete the contract requirements.

Commissioner Sobolik moved Contract Amendment No. 1, in the amount of \$26,000.00, for Improvement District No. 6211 be approved.

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

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

Contract Amendment No. 1 for Improvement District No. 6243 Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating the Committee received a communication from Division Engineer Brenda Derrig related to a contract amendment in the amount of \$32,000.00 from Ulteig Engineers. They said the additional costs covered are related to additional administration, inspection and survey time required to complete the contract requirements, as well as the redesign and staking of the water main for Avery Lane and the additional services to create the additional storm sewer easements.

Commissioner Sobolik moved Contract Amendment No. 1, in the amount of \$32,000.00, for Improvement District No. 6243 be approved.

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

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

Contract Time Extension for Improvement District No. BN-14-01 Approved:

Commissioner Sobolik moved approval of a contract time extension to October 24, 2014 for Improvement District No. BN-14-01.

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

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

Contract Time Extension for Improvement District No. UN-14-11 Approved:

Commissioner Sobolik moved approval of a contract time extension to October 30, 2014 for Improvement District No. UN-14-11.

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

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

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on August 11 and 18, 2014 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Sobolik moved that the Board declare that no protests have been filed to the construction of Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 10, 2014 and the bids were found to be as follows:

J.R. Ferche, Inc. Bid:	Rice, MN \$5,051,720.30
Ryan Contracting Company Bid:	Shakopee, MN \$5,216,249.20
KPH, Inc. Bid:	Kindred, ND \$5,343,175.10
Dakota Underground Company Bid:	Fargo, ND \$5,724,913.60
R.L. Larson Excavating, Inc. Bid:	St. Cloud, MN \$5,954,089.70
Duininck, Inc. Bid:	Prinsburg, MN \$6,465,875.15

Contract for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71 Awarded to J.R. Ferche, Inc. in the Amount of \$5,051,720.30:

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 10, 2014 for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71 shows the bid of J.R. Ferche, Inc. of Rice, Minnesota, in the sum of \$5,051,720.30 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 J.R. Ferche, Inc. in the sum of \$5,051,720.30 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. BN-14-71 in the City of Fargo, North Dakota, be and the same is hereby awarded to J.R. Ferche, Inc. for the sum of \$5,051,720.30, 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 Piepkorn. On call of the roll Commissioners Sobolik, Piepkorn, Williams, Walaker and Mahoney voted aye.

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

Sanitary Sewer and Incidentals Improvement District No. UR-14-6 (504, 508, 512, 516, 520 and 524 11th Street South):

Commissioner Sobolik moved the following action be taken in connection with Sanitary Sewer and Incidentals Improvement District No. UR-14-6:

Adopt Resolution Creating Improvement District No. UR-14-6:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. UR-14-6 in the City of Fargo, North Dakota, be created

In the alley between 10th and 11th Street South from 5th Avenue South south 260 feet.

COMPRISING:

Lots 6 through 11, inclusive, Block 41.
All in Northern Pacific Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer and Incidentals Improvement District No. UR-14-6 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. UR-14-6:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. UR-14-6 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 \$147,126.60.)

Order Plans and Specifications for Improvement District No. UR-14-6:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. UR-14-6 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. UR-14-6:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. UR-14-6 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. UR-14-6 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. UR-14-6:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. UR-14-6 in the City of Fargo, North Dakota.

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

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

Contract for Storm Sewer, Paving and Incidentals Improvement District No. BN-14-61 Approved:

Commissioner Sobolik moved approval of the Contract between the City of Fargo and Key Contracting, Inc. for Storm Sewer, Paving and Incidentals Improvement District No. BN-14-61 in the City of Fargo, North Dakota.

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

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

Contract Bond for Storm Sewer, Paving and Incidentals Improvement District No. BN-14-61 Approved:

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

Western Surety Company, in the amount of \$549,967.45, for Storm Sewer, Paving and Incidentals Improvement District No. BN-14-61 in the City of Fargo, North Dakota.

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

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

License Agreement with Vinyl Taco for a Pilot Project to Install a Parklet in the Right of Way at 520 1st Avenue North Approved:

The Board received a communication from City Engineer April Walker stating at the last City Commission meeting the Commission directed staff to work with Vinyl Taco on a potential stage within the right of way. She said they have developed an agreement and have come to terms on all items except for the insurance requirements. She said Vinyl Taco is self insured and they feel that it would be a burden to secure a certificate of insurance as outlined in the agreement. Vinyl Taco would like to discuss the removal of this language, she said; however, if this language is removed there may need to be proof of appropriate coverage.

Assistant City Attorney Jason Loos said he was able to look at Global Development, LLC, the parent company of Vinyl Taco, and they have agreed to have that company indemnify the City in the case of a loss. He said he did review their self insurance policy and it does seem to be adequate.

In response to a question from Commissioner Mahoney regarding what to expect if this works, Ms. Walker said over the winter the City Attorney's Office, and Engineering and Planning Departments will be working on updating a number of ordinances if this is going to be implemented on a wider scale. She said there would then be a reapplication process next year for any parties that are interested.

Commissioner Williams moved the license agreement with Vinyl Taco for a pilot project to install a Parklet in the right of way at 520 1st Avenue North be approved and to initiate an indemnification agreement with Global Development, LLC.

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

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

Preliminary Approval of \$324,450.00 of PILOT Assistance to SRS Properties for a Proposed Project in the 1400 Block of 8th Avenue North:

The Board received a communication from Planning Director Jim Gilmour stating SRS Properties has requested \$324,450.00 of PILOT assistance for a proposed project to be located in the 1400 block of 8th Avenue North near North Dakota State University. He said three older houses are now located on this property and the proposed project would be redevelopment of the site and construction of three townhouse-style apartment buildings, for a total of eighteen units. He said Fargo PILOT policy calls for the Board to review the request to determine if staff should proceed to work with the developer on the project and forward the PILOT application to the City's financial advisors for review.

Commissioner Sobolik moved preliminary approval of \$324,450.00 for a proposed project in the 1400 block of 8th Avenue North and staff be directed to submit the proposal to the City's financial advisors for review, and to draft a development agreement for the redevelopment of the property.

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

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

Update on the 19th Avenue North Construction Project:

Commissioner Piepkorn said he asked to have this item added to the agenda for an update on this project. He said this is a heavy traffic area and it was his understanding that the goal was to have the project completed by the time school started.

City Engineer April Walker stated there were no incentives associated with this contract; however, the City did control what could be closed at a given time. She said there was no limit to the number of days that they could be closed other than the initial notice to proceed and the final completion date on the project. The final completion date was scheduled to be September 12th, she said; however, they did receive a request from the contractor for an extension and Engineering is currently reviewing the request. She said there are reasons to give them additional days, and which Engineering is still considering what those days should or should not.

Commissioner Piepkorn said his main concern is that the small businesses along the project are losing 40% of their revenue and with school starting and athletic events going on, it is a huge inconvenience. He said he does not feel that the City is doing everything possible to encourage the contractor to get the project done and he feels that with the problems that have gone on in the past this is a big concern.

Ms. Walker said Engineering does anticipate Phase 2 of the project to be open on September 26th and does not feel that all of the delays were the fault of the contractors. She said there were delays associated with relocation of utilities, as well as the weather, and with a busy construction time across the City it was difficult for the contractor to keep on schedule.

Renaissance Zone Project for United Savings Credit Union Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for United Savings Credit Union at 1001 1st 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.

The Board received a communication from Planner Joe Nigg stating the Renaissance Zone Project application presented by United Savings Credit Union meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. He said this project is located where the old Taco Bell used to be. Mr. Nigg recommended that the project be approved.

Commissioner Sobolik moved the Renaissance Zone application filed by United Savings Credit Union for a project located at 1001 1st Avenue North be approved and the property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Renaissance Zone Project for Kilbourne Group, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Kilbourne Group, LLC at 670 4th Avenue North and 321 7th Street 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.

The Board received a communication from Planner Joe Nigg stating the Renaissance Zone Project application presented by Kilbourne Group, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. He said the applicant is rehabilitating the former St. Mark's Lutheran Church into an event space and approximately 8,000 square feet of office/commercial space. Mr. Nigg recommended that the project be approved.

Commissioner Piepkorn moved the Renaissance Zone application filed by Kilbourne Group, LLC for a project located at 670 4th Avenue North and 321 7th Street North be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Petition for a Zoning Change and Platting of Gracie's Glade Addition Withdrawn (1900 and 2270 64th Avenue South, 6470 19th Street South and 6483 21st Street South):

A Hearing had been set for September 2, 2014 on a petition for rezoning and platting of Gracie's Glade Addition.

At the September 2, 2014 meeting, the Hearing was continued to this date and hour; however, the petition has been withdrawn by the petitioner.

Parcels of Land in West Acres Fourth Addition Rezoned (1847 and 1855 38th Street South; 1832, 1840 and 1874 39th Street South; and 3901 20th Avenue South):

At a Hearing held on July 1, 2014 the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to MR-3, Multi-Dwelling on all of Lots 16 and 17, and a portion of Lots 6-8 and Lot 18, Block 5, West Acres Fourth Addition.

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

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

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

Parcels of Land in TSPA Addition Rezoned (4377 15th Avenue South):

At a Hearing held on August 5, 2014 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial to MR-3, Multi-Dwelling on Lot 2, Block 1 of the proposed TSPA Addition.

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

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in TSPA Addition to the City of Fargo, Cass County, North Dakota:

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

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

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

Resolution Adopted Approving TSPA Addition:

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "TSPA Addition" containing 2 Lots, 1 Block, and 3.71 acres of land more or less, located at 4377 15th Avenue South; and

WHEREAS, A Hearing was held August 5, 2014 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on September 1 and 8, 2014 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 15, 2014 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "TSPA Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the Office of the Recorder of Cass County, North Dakota.

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

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

Parcels of Land in Commerce on 12th Addition Rezoned (5401 12th Avenue North):

At a Hearing held on July 1, 2014 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LI, Limited Industrial of the proposed Commerce on 12th Addition.

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

Planning Administrator Nicole Crutchfield stated she would like to bring to the Commission's attention that during the platting phase one of the notifications went to a pipeline on the north end of the property that was unmapped and unmarked. She said Cenex Company and the applicant were able to come to an agreement to alter the plat boundaries accordingly.

Commissioner Sobolik offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Commerce on 12th Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Sobolik moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Commerce on 12th Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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

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

Resolution Adopted Approving Commerce on 12th Addition:

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Commerce on 12th Addition" containing 21 Lots, 3 Blocks, and 140.28 acres of land more or less, located at 5401 12th Avenue North; and

WHEREAS, A Hearing was held June 12, 2014, and continued to July 1, 2014 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on September 1 and 8, 2014 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 15, 2014 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Commerce on 12th Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the Office of the Recorder of Cass County, North Dakota.

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

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

Discussion on Solutions for Elm Street in the El Zagal Area Continued to October 13, 2014:

Commissioner Piepkorn stated he asked that this item be added to the agenda to discuss possible solutions for Elm Street in the El Zagal area. He said he is a north side resident and Elm Street was recently closed again, and it is actually closed so often that swing arms have been installed. He said swing arms are not a solution and he understands that it would be expensive but a solution needs to be found. He said El Zagal is being reconfigured and maybe something could be done with Elm Street at the same time.

Director of Operations Ben Dow said this is a popular topic for north side residents. He said Elm Street is often closed during flood season and over the last couple of years the City has experienced longer closures than in the past. Since 2004, he said, it has been closed a total of 603 days with the longest period of time being in 2011 with 153 days closed. In 2012, he said, it was never closed and in 2014 it has been closed 47 days. He said the Street Department put the swing gates in because it is more cost effective than hiring a company every time the street needs to be closed.

City Engineer April Walker said there are a number of limitations for providing protection in this area due to the fact that the entire road is located in the floodway and within the setbacks. She said she reached out to a couple of individuals who construct bridges and they said they are running between \$125-\$150 per square foot, and for an area of this size it would equate to about a \$10 million project for just the construction costs of the bridge. She said Engineering has not been directed to date to conduct this type of study; however, if the Commission directs the Engineering Department, it could be looked into. She said it is an awful lot of City dollars to designate to a one block area.

Mayor Walaker said the City has been fighting this for a long time and the solutions are very expensive. He said he feels this project would have to stand in line with the other projects that are necessary in the City as well. He said he does not have a problem studying options for a solution to determine if the City can afford it.

Ms. Walker said it would be nice to have a month to prepare some scopes to bring back to the Commission.

Commissioner Mahoney said he would like to see a list of project priorities as well.

In response to a question from Ms. Walker regarding other locations that the Commission would like to see analyzed, Commissioner Piepkorn said he would also like to add the 12th Avenue and North Broadway bridges to that analysis.

Public Health Department Directed to Conduct a Study on Urban Agriculture:

The board received a communication from Planning Director Jim Gilmour stating the City of Fargo has received some complaints about people housing chickens in residential zoning districts, as well as residents wanting to have chickens

on their residential property. He said Planning has been of the opinion that keeping chickens is “animal confinement”, which is not allowed in most residential zoning districts by the Land Development Code. This opinion was appealed to the Board of Adjustment and may be further appealed to the City Commission, he said. He stated Section 12 of the Municipal Code contains language that allows chickens in the City under certain circumstances, including approval of neighbors. Individuals reading this portion of the Code, he said, have come to the conclusion that it is permissible to keep chickens if they have the approval of neighbors.

Mayor Walaker said he feels there is a need for more information as far as what type of impact this is going to have, the size of the structure and how many residents are going to want chickens.

Fargo Cass Public Health Nutritionist Kim Lipetzky said from a health stand point there is no health reason why a person could not have chickens. She said a lot of communities are starting to allow chickens with certain stipulations and she would be willing to help with research to bring forward recommendations and stipulations.

Commissioner Sobolik pointed out a Metro COG agenda item that will be discussed is the creation of the Food Systems Advisory Commission. She asked whether or not chickens would be a topic that Commission would handle,

Ms. Lipetzky stated this topic is a perfect example of why that Commission is needed. Right now, she said, the hope is to have the Commission formed the first part of January/February timeframe. She said the Commission will provide advice on different policy issues, ordinances and zoning as they relate to urban agriculture and food access in general.

Diane Davies-Luger, 2525 Lilac Lane, said she has urban chickens and before she got the chickens she checked out the statute and it does state that chickens are allowed within the City of Fargo. She said she did not check out the LDC; however, she has since looked at it and the opinion that was presented talks about horses, not chickens and also about commercial agriculture. She said she feels that her experiment in urban poultry was within the law of the City of Fargo. She said she did not tell anyone in her direct neighborhood that she had chickens to see how it would work; however, she did get permission from a neighbor within the 75 foot zone. In the last year, she said, she has had six chickens and two ducks and residents walk by her home all the time and no one knows that she has chickens. She said they do squawk, but generally only when there is a predator and she would encourage the Commission to keep an open mind.

Anna Royce, 1626 West Gateway Circle South, said she has two hens and loves them. She said she would also encourage the Commission to keep an open mind about having chickens in the City.

Cole Hooey, 1143 2nd Street North, said he does not currently have chickens; however, he and his wife have discussed getting them possibly next summer. He said he feels that Fargo needs to set a precedent for forwardness and be a trend setter; along with other major cities, by establishing itself as a forward thinker with urban agriculture. He said he feels that there should be a melding of urban and rural in Fargo and he encouraged the Commission to make changes to allow chickens.

Eric Momsen, 1220 4th Street North, said if the Commission is looking for experts the library hosted a series on urban homesteading this spring which included a topic about raising chickens.

Lisa Cook, 1338 10th Street South, said she does not have chickens but feels the City is in a time when residents are looking at local food and gardening as a way to provide for them.

Commissioner Sobolik moved the Public Health Department be directed to conduct a study on urban agriculture, incorporating it into the Food Systems Advisory Committee.

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

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

At 6:02 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Deputy Mayor Mahoney presiding.

Tax Levies for the Budget Year Beginning January 1, 2015 and Ending December 31, 2015 Approved:

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for a Hearing on the 2015 Budget at which time all interested persons could appear and would be heard.

Commissioner Sobolik said she had the privilege of sitting down with Planning staff and discussed what the 2015 and even 2016 work plan is for Planning. She said the Commission has seen that the LDC needs some tweaking and rewriting when it comes to the older neighborhoods, which is on Planning staff's radar with other planning items. The City needs a future land use plan, she said, and staff is also working hard on revising policies and procedures. She said when everything was laid out, it became very clear that Planning cannot do everything being asked of them at their current staffing level and they need at least one more staff person to accomplish, what is being asked of them. She said she would ask for the Commission's support to go back and look to see if there is a way another position can be made in that department. Engineering, she said, has received additional staff; however, there is a cap on expenditures. She said she would like to see if there is a way to make this shift and remain budget neutral. Another option, she said, is that Planning did receive approval for a 1/2 time employee that will be shared with Metro COG and it would be about a \$35,000 increase if that 1/2 time position would be moved to a full-time planner position. She said she does not know if that would be allowable in the numbers as they are, but would encourage the Commission to find a way to increase staffing in Planning or take some things off their plates.

Finance Director Kent Costin stated the Commission has the ability to shift within line items to try to keep the budget neutral. He said the first recommendation that comes to mind is that, if the Commission wants to keep this budget neutral, staff be allowed to come up with a recommendation to reduce the capital with a corresponding amount for Planning staff that is needed.

Commissioner Williams said he agrees with what Commissioner Sobolik is saying; however, this is not new, and for many years the Commission has asked if there are enough resources in Planning. He said the City has a very good Planning staff, but he does not believe they have the resources needed to get the job done. He said in the personnel funding of the budget there are three engineers allotted right now and engineers have been hired every year. He said his suggestion would be to

take two positions from Engineering and give them to Planning which would keep the budget neutral.

Mayor Walaker said if someone wants to tweak this, that is fine and he agrees that another employee is needed in Planning; however, he is not comfortable taking employees away from Engineering. He said it is a little late in the game to be adding two employees, but feels that it would be acceptable to change the half-time position into a full-time position for the Planning Department.

Commissioner Williams moved to shift two of the full-time Engineering positions in the budget to the Planning Department, and the 12-month budget beginning January 1, 2015 and ending December 31, 2015 be approved as follows:

General Fund	\$89,857,000
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Special Revenue Funds:

City Share of Special Assessments	\$359,000
Noxious Weeds	50,000
Emergency 911	2,156,000
Convention Bureau	2,526,000
Regional Law Enforcement Training Center	84,000
Court Forfeits	160,000
Skyway Maintenance	90,000
Downtown Business Improvement District	194,000
Neighborhood Revitalization Initiatives (NRI)	21,000
Community Development Block Grants	704,000
HOME Program	30,000
Neighborhood Stabilization Grant	600,000
HOME Projects	512,000
Parking Authority Operations	993,000
Parking Repair and Replacement	75,000
Newman Outdoor Stadium	100,000
Total Special Revenue Fund Expenditures	\$8,654,000

Debt Service Fund Expenditures	\$79,350,450
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Enterprise Funds:

Water	\$20,588,224
Water Revenue Bond	3,962,050
Wastewater	11,004,366
Southeast Cass Sewer	49,163
Storm Sewer	1,997,539
Vector Control	746,081
Street Lighting	1,846,577
Solid Waste	12,434,868
Forestry	2,006,103
Total Enterprise Fund Expenses	\$56,634,971

Pension Trust Funds:

City Employee Pension	2,745,000
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Police Pension	3,521,000
Total Pension Trust Funds	\$6,266,000

Airport Authority:

Operations & Maintenance	\$4,350,145
Airport Construction	26,635,522
Passenger Facility Surcharge (PFC)	1,422,813
PFC Bond Fund	1,426,813
Total Airport Authority Expenses	\$33,835,293

FargoDome:

Operations	\$7,329,584
Sales Tax Surplus	50,000
Restricted Capital	2,370,118
Total FargoDome	\$9,749,702

Convention Bureau:

Operations	\$2,032,617
Restricted Capital	882,629
Total Convention Bureau	\$2,915,246

Grand Total - All Funds	\$285,262,662
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Preliminary Tax Levies Are:

General Fund	54.15
City Share of Special Improvements	1.00
Noxious Weeds	.10
Airport Construction	2.00
Total Proposed Mills to be Levied for 2015 Budget	57.25

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

Commissioners Sobolik, Walaker and Mahoney voted nay.

The motion died for a lack of a majority.

Commissioner Sobolik moved to add a full-time Planning position to the budget by reducing the cost in the capital, and the 12-month budget beginning January 1, 2015 and ending December 31, 2015 be approved.

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

Commissioners Williams and Piepkorn voted nay.

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, September 29, 2014.

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

The time at adjournment was 6:38 o'clock p.m.