

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. 1st reading of an Ordinance Amending Section 25-1506 of Article 25-15, of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (Production Brewery License).
- b. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 9/29/14: Amending Ordinance No. 4933 Rezoning Certain Parcels of Land Lying in Valley View Third Addition to the City of Fargo, Cass County, North Dakota; Rezoning Certain Parcels of Land Lying in Valley View Addition to the City of Fargo, Cass County, North Dakota; Rezoning Certain Parcels of Land Lying in The Pines at the District Third Addition to the City of Fargo, Cass County, North Dakota.
- c. Receive and file Year to Date – Budget to Actual Report for September 2014.
- d. Receive and file Third Quarter Financial Status Report for Major Operating Funds.
- e. Receive and file quarterly report of City investments compiled by the City's asset manager.
- f. State Water Commission cost reimbursement request in the amount of \$1,799,198.00 for the FM Diversion flood project.
- g. Meter Reader I contract with Christopher McCormack.
- h. Affordable Care Act (ACA) compliance plan, renewal of MetLife Dental Insurance and renewal of the flexible spending accounts with a grace period effective January 1, 2015.
- i. One-year contract extension with First Transit to be effective January 1, 2015 and approval of Amendment No. 3 to the contract.
- j. Contract with the North Dakota Department of Health for the WIC Program (CFDA #10.557).
- k. 2014 and 2015 Health Department budget adjustments and contracts with the ND Department of Health, F-M Metro COG and Megan Myrdal for chronic disease program (Contract #G13-1039).
- l. 2014 Health Department budget adjustments and contract with Dakota Medical Foundation and Consultant Deb Haugen in the amount of \$12,000.00 for dietitian consulting services for the Cass-Clay School Wellness Policy Project.
- m. 2015 Health Department budget adjustments and contract with Dakota Medical Foundation and Consultant Deb Haugen in the amount of \$12,000.00 for dietitian consulting services provided by Deb Haugen for the Cass-Clay School Wellness Policy Project.

- n. Change Order No. G-3, for an increase of \$6,568.85, for the Fargo Cass Public Health Remodeling Project.
- o. Fire Department budget adjustment and contract with the ND Department of Homeland Security in the amount of \$6,000.00 for overtime and backfill for regional training exercises (CFDA #97.067).
- p. Fire Department budget adjustment and contract with the ND Department of Homeland Security in the amount of \$28,634.00 for replacement and maintenance of hazardous materials equipment (CFDA #97.067).
- q. Fire Department budget adjustment and contract with the ND Department of Homeland Security in the amount of \$28,000.00 for technical rescue and hazardous materials training (CFDA #97.067).
- r. Application filed by Sara Sheehy for a 5-year tax exemption for improvements made to a building at 1122 9th Street South.
- s. RFP to sell vacant land at 316 11th Street North.
- t. Site Authorization for Fargo Youth Hockey Association at Teamsters Arena.
- u. Applications for raffles filed by Kappa Psi Pharmaceutical Fraternity on 10/18/14 and Bethany Auxiliary on 12/11/14; bingo filed by Bennett Elementary PTA on 10/24/14; and a raffle filed by Jason Lundblad Benefit Fund on 1/3/15, along with a Public Spirited Resolution.
- v. Authorize formation of a Fuel Procurement Committee to purchase fuel for the City.
- w. Purchase one sign truck from Service Trucks International for \$76,792.84.
- x. Six-month land lease with Valley Express, Inc. for property at 4000 36th Avenue South.
- y. Agreement for Special Improvements Master Security with Urban Plains Land Company LLC for improvements in Urban Plains Addition.
- z. Agreement for Special Improvements Master Security with Jetland Properties LLC for improvements in Rocking Horse Farm 2nd Addition.
- aa. Bid award for Project No. HD-14-51 to Landwehr Construction, Inc. in the amount of \$781,855.00.
- bb. Contract time extensions for Project No. 6234 to 11/30/14; No. SR-14-11 to 10/10/14 (deny); No. UR-14-21 to 7/31/15 (moved to the end of the Regular Agenda).
- cc. Bills in the amount of \$9,665,650.88.

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

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

No Protests Received for Storm Sewer Repairs Improvement District No. UR-14-11:

The Statutory Resolution of Necessity for the construction of Storm Sewer Repairs Improvement District No. UR-14-11 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 14, 2014 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Storm Sewer Repairs Improvement District No. UR-14-11.

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

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

Bids Received for Storm Sewer Repairs Improvement District No. UR-14-11:

The Board received a communication from City Engineer April Walker stating the Engineer's estimate done when the project was in preliminary design was \$705,275.00; however, since then the estimate has been updated based on the final design that was used for bidding the project. She said the final estimate was \$582,680.00, less than the original due to the final design not requiring a new large storm sewer structure that was part of the preliminary design. This design change also meant less pavement removals were necessary, she said, and that other miscellaneous items could be removed from the project.

The bids for Storm Sewer Repairs Improvement District No. UR-14-11 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 8, 2014 and the bids were found to be as follows:

George E. Haggart, Inc. Bid:	Fargo, ND \$338,945.00
Key Contracting Bid:	Fargo, ND \$472, 572.00
Subsurface, Inc. Bid:	Moorhead, MN \$476,155.00

Contract for Storm Sewer Repairs Improvement District No. UR-14-11 Awarded to George E. Haggart, Inc. in the Amount of \$338,945.00:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Storm Sewer Repairs Improvement District No. UR-14-11; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 8, 2014 for Storm Sewer Repairs Improvement District No. UR-14-11 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Storm Sewer Repairs Improvement District No. UR-14-11 shows the bid of George E. Haggart, Inc. of Fargo, North Dakota, in the sum of \$338,945.00 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 George E. Haggart, Inc. in the sum of \$338,945.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Storm Sewer Repairs Improvement District No. UR-14-11 in the City of Fargo, North Dakota, be and the same is hereby awarded to George E. Haggart, Inc. for the sum of \$338,945.00, 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 Sobolik. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Sobolik, Williams, Piepkorn and Walaker voted aye.

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

Change Order No. 1 for Improvement District No. PN-14-01 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$34,626.00 for Improvement District No. PN-14-01.

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

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

Change Order No. 1 for Improvement District No. PR-14-21 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$77,303.50 for Improvement District No. PR-14-21.

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

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

Change Order No. 1 for Improvement District No. BN-14-11 and Contract Time Extension Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$179,162.54 for Improvement District No. BN-14-11 and a contract time extension with a final completion date of June 1, 2015.

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

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

Contract Time Extensions for Improvement District Nos. BR-14-31, PN-14-81 and PN-14-31 (Moved to the End of the Regular Agenda):

These items were moved to the end of the Regular Agenda.

Street Lighting Improvements and Incidentals Improvement District No. SL-14-0 (University Drive North from 19th Avenue to 7th Avenue North):

Commissioner Mahoney moved the following action be taken in connection with Street Lighting Improvements and Incidentals Improvement District No. SL-14-0:

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

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

University Drive North from 19th Avenue to 7th Avenue North.

COMPRISING:

Lot 1, Block 1.
NDSU 1st Addition.

Lots 13 through 24, Block 7.
Lots 14 through 24, Block 8.
All in Chandler's Broadway Addition.

Lots 33 through 46.
All in Coulter's Subdivision.

Lots 33 through 48.
All in Lanes Subdivision of Lots 65-68 of Ohmer's Subdivision.

Lots 1 through 4.
All in Lanes Subdivision of Block 69, Ohmer's Subdivision.

Lots 61 and 70 through 72
All in Ohmer's Subdivision.

Lots 1 and 15 through 23, Block 9
Lots 1 through 11, Block 10.
All in Chapins Addition.

Lots 1 through 6, Block 1.
Lots 1 through 8, Block 2.
All in Stern's Addition.

Lots 1 through 10, Block 7.
All in Harwood's Addition.

Lots 6 through 12, Block 1

Lots 6 through 10, Block 5
Lots 1 through 5, Block 6.
All in Kirkham's Addition.

Lots 6 through 14, Block 11.
Lots 6 through 14, Block 12.
All in Kirkham's 2nd Addition.

NDSU Campus.

All of the unplatted land lying in the N ½ of Section 31, Township 140 North, Range 48 West, lying between 10th Street North and University Drive North.

All of the unplatted land and tax lot 1 of the NE ¼ of Section 36, Township 140 North, Range 49 West.

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

NOW, THEREFORE, BE IT RESOLVED, That Street Lighting Improvements and Incidentals Improvement District No. SL-14-0 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. SL-14-0:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. SL-14-0 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$417,432.00.)

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

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

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

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. SL-14-0 in the City of Fargo, North Dakota, as required by law; and

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

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. SL-14-0 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Street Lighting Improvements 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 Street Lighting Improvements and Incidentals Improvement District No. SL-14-01 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 a portion of said Street Lighting Improvements and Incidentals improvement is to be paid from Infrastructure Sales Tax and approximately 4% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Street Lighting Improvements 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. SL-14-0:

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

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-14-41 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Duinick, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-14-41 in the City of Fargo, North Dakota.

Second by Sobolik. On call of the roll Commissioners Mahoney, Sobolik, Williams, Piepkorn and Walaker 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-14-41 Approved:

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

Western Surety Company, in the amount of \$1,678,915.50 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. BN-14-41 in the City of Fargo, North Dakota.

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

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

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

Commissioner Mahoney moved approval of the Contract between the City of Fargo and J.R. Ferche, Inc. 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.

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

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

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

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

Travelers Casualty and Surety Company of America, in the amount of \$5,051,720.30, 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.

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

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

Appointments to the Historic Preservation Commission:

The Board received a communication from Mayor Walaker stating that the terms for Peter Moynihan, David Shultz and John Bye on the Historic Preservation Commission will expire on October 31, 2014 and all three members have indicated they do not wish to be reappointed. He said he is recommending that Mike Hahn, Paul Gleye and Heather Fischer be appointed to the Historic Preservation Commission for three-year terms.

Commissioner Sobolik moved Mike Hahn, Paul Gleye and Heather Fischer be appointed to the Historic Preservation Commission for three-year terms beginning November 1, 2014 and ending October 31, 2017.

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

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

Update on Water Main Replacement, Street Reconstruction and Incidentals Improvement District BR-14-11:

Commissioner Piepkorn requested an update on the 8th Street South construction project. He said he is pleased that the Engineering Department was able to retain the iconic street lights when doing the project.

City Engineer April Walker said the street lights were somewhat of an effort. She said they were taken down and sandblasted, then repainted in the historic preservation effort. She said the old yellowed acrylic fixtures were replaced with LED fixtures and a couple complaints have been made about the intensity, so they are working to bring the wattage down a step to see if that improves the situation. She said the bid opening for the project was April 23, 2014, with a start date of May 27, 2014. The substantial completion date of September 12, 2014 is 31 days past, she said, and the total liquidated damages are \$96,500.00 to date. Eighth Street is complete except for manholes being brought to grade, signs and punch list work, she said, and boulevard topsoiling and street light wire repairs are being done this week on 7th Street South.

Contract Time Extension for Improvement District No. PR-14-21 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating the Committee reviewed correspondence submitted from Master Construction and the consultant engineering firm Houston Engineering. A contract time extension was requested due to early season weather, additional work and conflicts with private utilities. Staff recommended adding 37 days to the contract, she said, and PWPEC concurred.

City Engineer April Walker said the original extension request from the contractor was for 64 days and Houston Engineering reviewed the delays that were outside the control of the contractor. Staff worked with Houston Engineering to revise the original recommendation, she said, and five rain associated days were removed resulting in a recommendation to add 37 days to the contract with a substantial completion date of October 19, 2014. She said the City sees its role in the projects that are consultant managed as keeping consistency with all the projects. The plans and specifications form the basis for the contract and possible conflicts are anticipated when the plans are put together, she said, although there are inevitably unforeseen conflicts. Conflicts are often due to inconsistencies or inaccuracies in plans or records, damage encountered, work being added, utility conflicts or the discovery of private utilities, she said. Rain days are not allowed when extensions are considered, she said, although a project with mass grading that has delays because of the field conditions may warrant additional time. She said the contractor is required to keep access to property at all times. A summary was done of the projects so far in 2014, she stated, and 30 time extensions have been granted. She said Master Construction and Dakota Underground have the most with 5 projects each, and both have 7 extensions on those 5 projects. She shared a liquidated damage schedule and a comparison to the damages assessed by the North Dakota and Minnesota DOTs. Staff did check periodically with this contractor, she said, and did their best to assert their concerns.

In response to a question from Commissioner Piepkorn about the reasoning for not offering an early completion incentive for this project, Ms. Walker said it was a staff oversight. She said incentives have worked with other projects in the past and

this met the criteria to have an incentive applied. She said when looking at incentives, whether it is in a residential or commercial area is not a factor, it is the impact to the traveling public that is considered.

Mayor Walaker said 2014 was an extremely difficult and busy year for construction. He said often the amount of work involved in water main replacements is not understood by the general public, and the construction season here is short.

Commissioner Piepkorn said the construction on 19th Avenue North has harmed the businesses in the construction area. He said the penalties applied amount to just peanuts compared to the hundreds of thousands of dollars lost by the small business owners in that three block area during these six months.

In response to a question from Commissioner Williams about whether an estimate of 70 percent of projects finishing on time this year would be accurate, Ms. Walker said there were definitely less than that.

Commissioner Williams said perhaps contractors are not given enough time when the construction dates are set, and contractors may be asked to do more work than there is the capacity for.

Ms. Walker said staff has had discussions about scaling back on the capital improvement plan for next year. She said there appears to be shortages in the region for both aggregate and trucks to deliver it, as well as in the supply of cement and railcars.

In response to a question from Commissioner Mahoney about what may happen if damages were sought by business owners through a class action suit, City Attorney Erik Johnson said the law has treated that type issue as everyone must take their turn and such claims against counties or cities are not typically received well by the courts. Access is provided, he stated, although not ideal, and claims generally are not successful.

Commissioner Mahoney moved approval of a contract time extension for Improvement District No. PR-14-21 with a final completion date of November 23, 2014.

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

Commissioners Williams and Piepkorn voted nay.

The motion was declared carried.

Special Assessment Lists for Various Improvement Districts Approved:

A Hearing had been set for this day and hour on the special assessment lists for the construction of the following Improvement Districts in the City of Fargo, North Dakota, all having been approved by the Special Assessment Commission on 9/9/14; set the interest rate at 1% per annum over the net rate on bonds financing said projects:

P.C. Concrete Pavement, Grading, Storm Drains, Lighting, Street Reconstruction and Incidentals No. 5956.

Street Rehabilitation and Incidentals No. 5996.

Shared Use Path and Incidentals No. 6157.

P.C. Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Traffic Signals, Street Lighting, Shared Use Path and Incidentals No. 6163.

P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals No. 6165.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. 6203.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 6209.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 6211.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 6217.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 6241.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 6247.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. 6251.

Asphalt Mill and Overlay and Incidentals No. PR-14-91.

Park District Special Assessment 2013-01 and Incidentals No. 7140.

Park District Special Assessment 2013-02 and Incidentals No. 7141.

Park District Special Assessment 2013-06 and Incidentals No. 7142.

Park District Special Assessment 2014-01 and Incidentals No. 7143.

City Auditor Steve Sprague said he has heard concerns on P.C. Concrete Pavement, Grading, Storm Drains, Lighting, Street Reconstruction and Incidentals Improvement District No. 5956 which is on 32nd Avenue North from Broadway to University. He said the property was assessed appropriately as an east to west arterial according to policy.

Managing Partner of RH Associates Bill Block said his company owns Riviera Heights Mobile Home Park located on University Drive North and he feels this is an unfair assessment that he would like reconsidered before it is finalized. He said he is being assessed \$217,400.00 over 25 years and it would amount to a rent increase to residents of the 160 homes of about \$8.00 per month. There is no benefit to the residents of the Mobile Home Park, he said, and the assessment district is not set up properly as far as assessing the people who actually benefit. He suggested using ERU's, or Equivalent Residential Unit assessments to be fairer, and said it would be fairer to consider the property as a residential community and not a commercial property. The engineering and administrative fees are excessive too, he said.

Mr. Sprague said if the Board wishes to change an assessment, the Board would have to come up with additional funding. The next step for Mr. Block would be through the court system, he said.

Special Assessments Coordinator Dan Eberhardt said assessments for mobile home parks are based on the property's zoning and Riviera Heights is zoned commercial. Special assessment hardship considerations are based on individuals and incomes, he said, and in this case, the assessment is billed to the owner of the Park.

Commissioner Mahoney moved that the special assessment lists for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

Second by Piepkorn.

In response to a question from Commissioner Piepkorn about whether there may be any way other than the court system to reduce the assessment for Improvement District No. 5956, City Administrator Pat Zavoral said there have been cases in the past where the Community Block Grant Program helped pay specials for qualifying individuals. He suggested staff could work with individual tenants to see if there is a way to write down some of the costs before the first special assessment is levied.

Commissioner Mahoney offered an amendment to the motion to include that staff be directed to work with Riviera Heights tenants to see if there is way to reduce the total sum of the assessment for Improvement District No. 5956.

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

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

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

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

Free Transit Rides on Election Day Approved:

The Board received a communication from Planning Director Jim Gilmour stating the City of Fargo and the City of Moorhead have offered free bus rides to the polls on Election Day during past elections. He said there is now a Minnesota statute that requires cities operating fixed route transit to provide fixed route public transit service free of charge on a day a state general election is held and all rides must be free regardless of the purpose of the ride. He said it may be confusing to MATBUS riders if the Minnesota side of the system is free and the North Dakota side is only free to get to the polls. He recommended that Fargo also provide free rides on Election Day, which will provide uniform policy on free rides on Election Day and Fargo can also use this to promote transit use. He also recommended paratransit rides to poll sites be free on Election Day and other days polls are open for early voting within the City of Fargo.

In response to a question from Commissioner Piepkorn about the cost, Mr. Gilmour said approximately \$1,200.00 is collected each day for the fixed routes, and the paratransit rides would be a few hundred dollars. He said he also suggests free rides be offered for paratransit riders on days of early voting in order to avoid trying to fit all the paratransit rides into the schedule on the one day.

Commissioner Williams moved the City of Fargo provide fixed route public transit service free of charge on days of a state general election and free paratransit rides to polling locations on days that polls are open for the general population.

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

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

First Reading of an Ordinance Enacting Section 13-0106 of Article 13-01 of Chapter 13 and Amending Section 13-1403.3 of Article 13-14 of Chapter 13 of the Municipal Code Relating to The Public Health Department:

Assistant City Attorney Jason Loos said the City Attorney's Office was directed to draft Ordinances to update Environmental Health licenses and fees. He said he reviewed the municipal code and determined some amendments and additions were needed to Article 13 and Article 25 to comply with the request.

Commissioner Mahoney moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived; and moved first reading of an Ordinance Enacting Section 13-0106 of Article 13-01 of Chapter 13 and Amending Section 13-1403.3 of Article 13-14 of Chapter 13 of the Municipal Code Relating to The Public Health Department.

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

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

First Reading of an Ordinance Amending Article 25-33 of Chapter 25 of the Fargo Municipal Code Relating to Tattoos, Body Art and Body Piercing:

Commissioner Mahoney moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived; and moved first reading of an Ordinance Amending Article 25-33 of Chapter 25 of the Fargo Municipal Code Relating to Tattoos, Body Art and Body Piercing.

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

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

Communication Regarding Proposed Permit Fees Received and Filed:

The Board received a communication from Director of Public Health Ruth Bachmeier and Director of Environmental Health Grant Larson outlining recommendations for updates to current license categories, fee structure and corresponding Ordinances and requesting that the recommended updates be considered after the final passage of the Ordinance revisions.

Director of Public Health Ruth Bachmeier said the proposed fee schedule makes the existing categories more descriptive and increases permit fees an average of about 8 percent.

Commissioner Mahoney said in the future more frequent incremental fee increases, such as every two to three years, would be better than increasing fees a large amount all at once.

Director of Environmental Health Grant Larson said the Resolution adopting the new fee schedule would be presented for adoption following the final reading of the two related Ordinances.

Commission Mahoney moved the Resolution adopting the permit fees be received and filed for consideration after the final passage of the Ordinance amendments.

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

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

At 6:05 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Fire Department Permit and Construction Permit Fee Increases Approved:

Fire Chief Steve Dirksen said he has been looking at fee and permit charges administered by the Fire Department. His research revealed the last fee increases occurred in 1982, he said, and the technical nature of the permits, number of permits and the number of items now being run through the Fire Department has caused him to look at the processes. Several areas covered by the International Fire Code provide authority to require permits and charge fees, he said, and he shared a proposed Permit and Construction fee schedule comparing current fees to proposed fees. He said fees have been at \$20.00 for most services and this increase brings them more in line with neighboring communities. He said the list includes some services not currently provided but are recognized under the International Fire Code. He said most fees will increase to about \$50.00. The Fire Code is looked at every three years, he said, and in the future that is when additional fee increases could be looked at.

Commissioner Williams moved the Fire Department Permit and Construction Permit fee increase schedules be approved effective January 1, 2015.

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

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

On-Street Time Zone Changes from 5th Street to the Red River Approved:

Planner Joe Nigg said the Parking Commission has been working to develop an on-street time zone concept for the downtown core that would simplify the system and make better use of underutilized on-street capacity in fringe blocks. He said the proposed concept would make the majority of the parking four-hour time zones, other than Broadway and Roberts Street, which would remain as 90-minute time zones. There would also be a few pockets of two hour time zones in a couple specific areas,

he said, and the four-hour park ordinance would continue to apply. He said in regards to the four-hour time zones, a vehicle would still need to move at minimum once per day and the downtown re-park ordinance would continue to apply. He said the Parking Commission utilized a task force to assist in the development of this concept and it was reviewed and supported by the Traffic Technical Advisory Committee (TTAC) and the Parking Commission recommended approval at their September 26, 2014 meeting. The initial phase would be a trial implementation for the area between 5th Street and the Red River, he said, which will afford the City the ability to closely monitor the change before pursuing implementation of the entire concept. He said the signage would be changed in late October or early November.

Commissioner Williams said a contract was just awarded to begin work on the Civic Center lot and 51 spaces are being lost this fall. This time zone change would help as the parking strategies are worked through for the downtown area, he said. The task force debated about eliminating the re-parking Ordinance because it is hard to understand, he stated, but decided keeping it in effect would prevent someone taking a high demand space the entire day. He said a person willing to walk a distance could park free on the fringes of downtown all day.

Commissioner Williams moved the on-street time zone changes, as depicted in the map submitted by Mr. Nigg, from 5th Street to the Red River be approved.

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

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

Discussion Regarding Request to Provide for Elm Street to be Improved to Prevent a Closure During Flood Events:

City Engineer April Walker said following the Board's discussion on September 15, 2014 requesting possible solutions for Elm Street in the El Zagal area, staff reviewed the request to improve Elm Street to prevent a closure during flood events. Elm Street is a minor arterial roadway with an average daily traffic count of 3,400 vehicles per day, she stated, and an existing network of streets exists that provide alternatives during periods of closure. Between 2004 and 2014 the road has been closed 603 days, she said, and it currently gets wet at a river stage of 18 feet. Filling and raising the road at its current location to any increased height is prohibited by Floodplain Management rules and other federal rules, she said and there would be stability concerns with placing fill at the current location. She outlined three alternatives which could be evaluated if the Board desires to pursue the matter:

1. Relocation of the road outside of the floodway to allow for it to be placed on the protected side of a levee or floodwall.
 - a. Preliminary design assumes stability outside of the 450' setback. A feasibility level study would be required at an estimated cost of \$25,000.00 for the first phase.
 - b. Would require the acquisition of homes (estimate is 9).
 - c. Would require elimination of the El Zagal Golf Course.
 - d. A modification to completed works would need to be requested from the USACE.

- e. Estimated Construction cost of \$3M, estimated acquisition and removal of homes \$3.1M, Engineering and Administration costs approximately \$1.1M, and the estimated golf course acquisition costs are unknown.
- 2. Construction of a structural solution such as a causeway.
 - a. Would require a feasibility level study, cost estimate \$150,000.00 for first phase.
 - b. Would require acquisition of homes (estimate is 15).
 - c. A modification to completed works would need to be requested from the USACE.
 - d. Estimated Construction cost \$10-15M, estimated acquisition and removal of homes \$5.4M, Engineering and Administration \$4.6M.
- 3. Improved Detour Route.
 - a. Installation of beacons and/or message boards to alert the traveling public in advance of road closure at the El Zagal bowl. Preliminary cost estimates for two flashing beacons \$20,000.00, and for two permanently mounted message boards would be \$200,000.00.
 - b. Relocation of the detour from 3rd Street to 4th Street, a minor arterial roadway.

She said the first two proposed alternatives would affect the LOMAR application just submitted to FEMA for the Ridgewood flood control project requesting they evaluate it and hopefully remove 100 homes from the floodplain. She said if the Board would like to pursue this, the cost to study Option One is approximately \$25,000.00, Option Two is \$150,000.00, and the Option Three could be done in-house. There is no funding currently identified in the Engineering budget for 2014 or 2015 for proposed feasibility studies or implementation, she said. Based on the impact to private homes the extensive infrastructure required, the relatively low number of cars and alternative routes, staff is not recommending pursuing any of these studies at the present time, she said.

Commissioner Piepkorn said he feels more research is in order. He said it is a relatively busy arterial street and with the location of the Veteran's Hospital on that road, there are public safety issues. He said to close El Zagal Golf Course does not seem to be a viable option.

Commissioner Williams said he likes the idea of signage for advance warning to travelers about closures, which is something that the Traffic Technical Advisory Committee can discuss.

In response to a question from Mayor Walaker about what height is being proposed, Ms. Walker said that with a major investment like moving the road out of the floodway for stability, it only makes sense for protection to build up to the 100-year flood protection level.

Tim Flakoll, 1350 2nd Street North, said he lives near the Elm Street dip, and studies show a significant number of vehicles travel it daily. He said when Elm Street closes, traffic is pushed around to roads and neighborhoods not designed for high traffic, clogging the roads and adding to commute times. He said closing that one block section of road results in irreparable damage to the reputation of the City. This is the first place to flood, he said, and the street closes well below the level where most would consider flood stage and before other flood measures need to be taken. Invariably, he said, after just a little rain, he gets questions about flooding. While some of the floods have been major, the perception of frequent flooding can cause

people and businesses to reconsider their decisions about relocating to Fargo, he said. He said an investment to reduce the incidents of street closures would have a positive impact on the perception of the whole community.

In response to a question from Commissioner Williams about the average time per year that Elm Street has been closed over the last 10 years, Director of Operations Ben Dow said it is variable but on average it is about 2 to 3 times per year. Generally, he said, it is closed during the spring thaw and for a couple rain events during the year; however, one year it was closed 300 days, which really raises the average.

Commissioner Piepkorn said he would like to see the situation improved and not by updated signage. He said there must be some way of solving the problem. This is a long term thing and may require a lot of money, he said; however, other options for funding may arise.

Commissioner Piepkorn moved the communication from City Engineer April Walker be received and filed.

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

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

Contract Time Extension for Improvement District No. 6234 Approved:

Commissioner Mahoney moved approval of a contract time extension to November 30, 2014 for Improvement District No. 6234.

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

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

Contract Time Extension for Improvement District No. SR-14-11 Denied:

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating Master Construction requested a time extension request due to delays on other City projects. They said staff does not support the time extension based on the contractor choosing to start later than what was necessary to complete the work on time.

Commissioner Mahoney moved the contract time extension to October 26, 2014 for Improvement District No. SR-14-11 be denied.

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

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

Contract Time Extension for Improvement District No. UR-14-21 Approved:

Commissioner Mahoney moved approval of a contract time extension to July 31, 2015 for Improvement District No. UR-14-21.

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

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

Contract Time Extension for Improvement District No. BR-14-31 Approved:

Commissioner Mahoney moved approval of a contract time extension for Improvement District No. BR-14-31 with a final completion date of November 14, 2014.

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

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

Contract Time Extension for Improvement District No. PN-14-81 Approved:

Commissioner Mahoney moved approval of a contract time extension for Improvement District No. PN-14-81 with final completion date of December 12, 2014.

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

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

Contract Time Extension for Improvement District No. PN-14-C1 Approved:

Commissioner Mahoney moved approval of a contract time extension for Improvement District No. PN-14-C1 with final completion date of November 17, 2014.

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

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

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, October 27, 2014.

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

The time at adjournment was 6:50 o'clock p.m.