

5. Endorsement of participation in the Georgetown University Energy Prize competition (moved to the end of the Regular Agenda).
6. Six-month extension of Ordinance 25-1512 for Quaker Steak & Lube's Class "FA" Alcoholic Beverage License to 2/1/15.
7. Applications for Games of Chance: NDSU for a raffle on 12/5/14; United Way of Cass-Clay for a raffle on 11/6/14; Grace Lutheran School for a raffle on 3/28/15; Children's Village Family Service Foundation for a raffle on 11/14/14.
8. 2014/2015 Hydrant Guard contract award to Hawkins Water Treatment Group for \$53,520.00.
9. NDDOT State Aid Contract in the amount of \$791,416.79 for transit funding.
10. Contract Amendment No. 3 for an increase of \$127,078.00 for Project No. FM-14-50.
11. Contract Amendments for Improvement Districts: No. 3 for an increase of \$191,140.55 for No. UN-14-11; No. 1 for an increase of \$3,500.00 for No. UN-14-41; and No. 2 for an increase of \$4,200.00 for No. PN-14-11.
12. Change Order No. 1 for an increase of \$200,643.01; and No. 2 for an increase of \$169,500.00 and time extension to 9/15/15 for Project No. FM-14-61.
13. Change Order No. 1 for an increase of \$362,231.25 for Project No. FM-14-51 (moved to the end of the Regular Agenda).
14. Bid award for Project No. TN-14-0 to Fritz Electric in the amount of \$29,710.00.
15. Bills in the amount of \$13,428,353.00.

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.

Change Order No. 2 for Improvement District No. BN-14-71 Approved:

Commissioner Piepkorn moved approval of Change Order No. 1 for an increase of \$40,200.00 for Improvement District No. BN-14-71.

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

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and George E. Haggart, Inc. for Storm Sewer Repairs Improvement District No. UR-14-11 in the City of Fargo, North Dakota.

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 Bond for Storm Sewer Repairs Improvement District No. UR-14-11 Approved:

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

Travelers Casualty and Surety Company of America, in the amount of \$338,945.00, for Storm Sewer Repairs Improvement District No. UR-14-11 in the City of Fargo, North Dakota.

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 with John Olson to Provide Lobbying Services During the 2015 Legislative Session Approved:

City Administrator Pat Zavoral said the City of Fargo has used the services of John Olson the last three legislative sessions and he has been a valuable resource. Mr. Olson's role has been to coordinate and make sure the behind the scene things are happening. He said Mr. Olson has been contacted about providing lobbying services again for the 2015 Legislative Session at the same rate as in the past

Commissioner Williams moved a contract with John Olson to provide lobbying services for the City of Fargo from December 15, 2014 through May 15, 2015 for purposes of the interim and 2015 Legislative Session for a fee of \$30,000.00 plus out-of-pocket expenses be approved.

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.

Encroachment Agreement at 609 NP Avenue Approved:

The Board received a communication from the Public Works Projects Evaluation Committee (PWPEC) regarding a desired encroachment into City right-of-way on NP Avenue. The applicant is seeking the encroachment to provide ADA compliant access to the building at 609 NP Avenue, they said, and staff brought it to PWPEC recommending approval with the following provisions:

- Encroacher must agree to hold the City harmless against any and all expenses, demands, claims or losses sustained by the City by the use of the public right-of-way of the Encroacher. A certificate of insurance must be provided indicating acceptance by the insurer of its obligation to defend and hold harmless the City.
- Application fee for the encroachment in the amount of \$500.00.
- An annual fee of \$500.00 per year.

City Engineer April Walker said the recommendation from PWPEC was to approve a onetime encroachment fee with no annual fee and that the City

Commission consider provisions associated with self insurance. She said there is no problem with the encroachment; however, she brings it to the attention of the Board due to the applicant's desire to use self insurance. She said the applicant is part of the same group as Vinyl Taco and are also self insured. Self insurance deviates from the normal format of the standard practice for encroachment agreements, she said, and she wants to be sure the Board is comfortable inserting the same language as was used for the agreement with the Vinyl Taco for self insurance.

Commissioner Williams moved the Encroachment Agreement at 609 NP Avenue subject to a one time encroachment fee and no annual fee with appropriate language associated with the insurance requirements be approved.

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

Not voting: Commissioner Sobolik (due to phone connection issues).

The motion was declared carried.

Second Reading and Final Adoption 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 Fargo Municipal Code Relating to the Public Health Department:

Commissioner Mahoney moved that the proposed 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 which was placed on its first reading October 13, 2014 be now placed on its second reading and a vote taken on the question of its final passage and adoption.

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

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

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

On the vote being taken on the question of the final passage and adoption of the Ordinance, Commissioners Mahoney, Williams, Sobolik, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the Ordinance was duly passed and adopted.

Second Reading and Final Adoption 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 that the proposed Ordinance Amending Article 25-33 of Chapter 25 of the Fargo Municipal Code Relating to Tattoos, Body Art and Body Piercing which was placed on its first reading October 13, 2014 be now placed on its second reading and a vote taken on the question of its final passage and adoption.

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

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

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

On the vote being taken on the question of the final passage and adoption of the Ordinance, Commissioners Mahoney, Williams, Sobolik, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the Ordinance was duly passed and adopted.

Resolution Adopted Approving Inspection Fees, License Fees, Permit Fees and Reinstatement Fees – Environmental Health (Attachment “A”):

Director of Environmental Health Grant Larson said now that the Ordinances Relating to the Public Health Department and Relating to Tattoos, Body Art and Body Piercing have been restructured and adopted, the Resolution can be considered to adopt the fee schedule which increases permit fees an average of about 8 percent.

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The Board of City Commissioners is authorized to approve a schedule of application fees for inspections, licenses, permits and for reinstatement fees to offset the administrative and oversight costs of enforcement of the City's Ordinances pursuant to the provisions of the Fargo Municipal Code; and

WHEREAS, The Board of City Commissioners desires to approve a schedule of such fees.

NOW, THEREFORE, BE IT RESOLVED, That the attached fee schedule for “Inspection Fees, License Fees, Permit Fees and Reinstatement Fees – Environmental Health,” and referred to as Attachment “A”, be adopted and attached hereto.

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

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

Resolution Adopted Vacating a Public Access Easement Described as the West 12 feet of Urban Plains Medical Park Addition and the East 12 feet of Brandt Park Addition (5000 and 4840 28th Avenue South, and 4977 and 4949 30th Avenue South):

The Board received a communication from Planning Administrator Nicole Crutchfield stating the Reciprocal Release and Relinquishment of Easement document is intended to extinguish a portion of a public access easement established by Plat (Urban Plains by Brandt First Addition) on July 28, 2006. Now that the area is being developed, she said, the easement is no longer needed.

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, An access easement was established as a result of a Plat dated June 19, 2006, and recorded in the Office of the Recorder for Cass County, North Dakota on the 28th day of July, 2006, as document number 1177901, for which an access easement was appurtenant to the following described real property:

The East 12.00 feet of Lot 1, Block 1, Brandt Park Addition, together with the West 12.00 feet of Lots 3 and 4, Block 1, Urban Plains Medical Park Addition to the City of Fargo, Cass County, North Dakota.

WHEREAS, The Urban Plains Land Co. LLC and Retreat At Urban Plains LLC, are the owners of the East 12.00 feet of Lot 1, Block 1, Brandt Park Addition, together with the West 12.00 feet of Lots 3 and 4, Block 1, Urban Plains Medical Park Addition to the City of Fargo, Cass County, North Dakota, subject to the access easement for the City of Fargo; and

WHEREAS, Said owners desire the reciprocal release and relinquishment of said access easement in order to more fully utilize their properties in a manner free from said encumbrance; and

WHEREAS, The City of Fargo has determined that the access easement was originally put in by the developer and the access easement is not needed by the City of Fargo.

NOW, THEREFORE, it is hereby agreed.

1. The City of Fargo, together with Urban Plains Land Co. LLC and Retreat At Urban Plains LLC, do hereby mutually and reciprocally release, terminate and relinquish the cross easement located on The East 12.00 feet of Lot 1, Block 1, Brandt Park Addition, together with the West 12.00 feet of Lots 3 and 4, Block 1, Urban Plains Medical Park Addition to the City of Fargo, Cass County, North Dakota wherein said easement was established as a result of a Plat dated June 19, 2006, and recorded in the Office of the Recorder for Cass County, North Dakota on the 28th day of July, 2006, as document number 1177901.
2. The subject of this instrument is that certain real property described as follows:

The East 12.00 feet of Lot 1, Block 1, Brandt Park Addition, together with the West 12.00 feet of Lots 3 and 4, Block 1, Urban Plains Medical Park Addition to the City of Fargo, Cass County, North Dakota.

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

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

Application Filed by Romo's Tacos d/b/a Romo's Tacos for an Alcoholic Beverage License Denied:

A Hearing had been set for this day and hour on the application filed by Romo's Tacos d/b/a Romo's Tacos for a Class "H" Alcoholic Beverage License at 3402 13th Avenue South, Suite H, notice of which had been duly published in the official newspaper for the City of Fargo.

City Auditor Steve Sprague stated after carefully reviewing the application, Chief of Police Keith Ternes recommended denying the application primarily due to

the extensive poor credit history associated with the applicant. It was also discovered that the party the applicant is subleasing the space from does not favor having a liquor license there, he said. Once some of his credit issues are resolved, he said, the applicant does plan on reapplying for a license for his downtown location. He said the Liquor Control Committee supported Chief Ternes' recommendation of denial.

Commissioner Piepkorn moved the application be denied.

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

Not voting: Commissioner Sobolik (due to phone connection issues).

The motion was declared carried.

Application Filed by Pizza Boy Fargo, LLC d/b/a Uncle Maddios Pizza Joint for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Pizza Boy Fargo, LLC d/b/a Uncle Maddios Pizza Joint for a Class "GH" Alcoholic Beverage License at 1690 45th Street South, Suite 2, 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 a Class "GH" Alcoholic Beverage License is a beer and wine license, has a 50 percent food sales requirement and does not allow a bar.

Commissioner Piepkorn moved the application be approved.

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.

Endorsement of Participation in the Georgetown University Energy Prize Competition Approved:

Commissioner Williams said a team made up of himself, Malini Srivastava, Kristina Heggedal and Dan Mahli wrote an initial proposal for a competition that measures efficiency improvements in partnership with local utilities in residential and municipal buildings. He said the proposal, which is based on GO2030's energy policy to promote communitywide energy efficiency and renewable energy production, was successful in advancing Fargo as a quarterfinalist along with 51 other cities. He said the team is now collaborating with several community partners and NDSU faculty to prepare a detailed plan for the semifinal phase, which is due on November 10, 2014.

Community Development Administrator Dan Mahli said it was great to work with the team. He said not only is there an opportunity for the \$5 million dollar grand prize, but the great strategies they have been working on could really influence the future. He introduced the team leader, Malini Srivastava.

Malini Srivastava said the team has had the opportunity to work with community partners, including some K-12 teachers, Plains Art Museum, Cass County Electric and Xcel Energy, and everyone has come together and given their time and

expertise. The team is very proud to be one of the 52 who have been named a quarterfinalist.

Commissioner Williams said the baseline has been obtained for the last two years for power and municipal energy use for City buildings and K-12 buildings as well as houses. He said the competition is to find replicable and measurable ways for the City, schools and residents to save money. Energy efficient buildings are an area of expertise for Ms. Srivastava, he said, as she was an adjunct professor at NDSU when architecture students won a contest for designing and building a passive house at the Minnesota State Fair in 2011. He said she also was the project architect for an ice cream kitchen and retail store in downtown Minneapolis that recently won an American architecture design award. He said the team is asking for a letter of support for the proposal.

Commissioner Williams moved to endorse participation in the Georgetown University Energy Prize competition and provide a letter of support on behalf of the Fargo City Commission for the proposal.

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.

Change Order No. 1 for Project No. FM-14-51 Approved:

City Engineer April Walker said this change order concerns an earthen levee in the El Zagal bowl area. She said initial borings for the El Zagal Area Flood Reduction Project showed an existing levee to be of suitable material to reuse for a new levee. She said when the contractor began reconstructing the existing levee to build up the new levee, debris consisting of items like asphalt and concrete chunks were found. Due to the extent of the debris, she said, that source of levee material had to be deemed unsuitable for construction. Staff worked with the contractor, she said, to identify new borrow sources and material was hauled in for construction. The result is a substantial change order for an increase of \$362,231.25, she said.

In response to a question from Commissioner Piepkorn about whether the entire increase was at the City's expense, Ms. Walker said it would not be at the contractor's expense; however, costs are redistributed at the end of a project and it is not entirely the City's. She said this project is somewhat unique in that it is diversion eligible, meaning there will be local costs split between the City and County, plus the State's share and whatever may be eligible for federal credit.

City Administrator Pat Zavoral said when this change order arose there was discussion that perhaps a more aggressive approach when soil testing would prevent these situations.

Ms. Walker said several borings were done for this project and nothing was hit. She said when the Corps does a project, they test every 150 feet and an aggressive approach like that could be taken, she said; however, that costs money as well. She said it could have been assumed the fill had to be imported, and those costs could have been built in.

Commissioner Piepkorn said whatever approach is taken will draw criticism and more aggressive boring adds costs. In this case, he said, he would have preferred it happen the way it did.

Commissioner Piepkorn moved Change Order No. 1 for an increase of \$362,231.25 for Project No. FM-14-51 be approved.

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

Not voting: Commissioner Sobolik (due to phone connection issues).

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, November 10, 2014.

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

The time at adjournment was 5:36 o'clock p.m.