

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:

Monday:

November 24, 2014:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, November 24, 2014.

The Commissioners present or absent were as shown following:

Present: Williams, Mahoney, Sobolik, Piepkorn, Walaker.

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved, moving Item Nos. "1," "4" and "26" from the Consent Agenda to the end of the Regular Agenda.

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Special Meeting of the Board held on November 10, 2014 and the Regular Meeting of the Board held on November 10, 2014 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

1. State Water Commission cost reimbursement request in the amount of \$1,390,928.00 for the FM Diversion flood project (moved to the end of the Regular Agenda).
2. Receive and file Year to Date – Budget to Actual Report for October 2014.  
2nd reading, waive reading and final adoption of the following Ordinances; 1st Reading, 11/10/14.
3. Enacting Section 20-0805 of Article 20-08 of Chapter 20 of the Fargo Municipal Code.
4. Relating to Arts and Culture Commission.
5. Rezoning Certain Parcels of Land Lying in Brandt Park Addition, Urban Plains Medical.

7. Park Addition and Urban Plains by Brandt First Addition, Fargo, Cass County, North Dakota.
8. Rezoning Certain Parcels of Land Lying in Timber Creek First Addition, Fargo, Cass County, North Dakota.
9. 1st reading of an Ordinance Amending Sections 8-1401 and 8-1425 and Repealing Sections 8-1402, 8-1403, 8-1404, 8-1405, 8-1406, 8-1407, 8-1408 and 8-1424 of Article 8-14 of Chapter 8 of the Fargo Municipal Code Relating to Bicycles (moved to the end of the Regular Agenda).
10. Receive and file Ordinance Amending Article 21-06 of Chapter 21 of the Fargo Municipal Code Relating to Flood Plain Management.
11. Receive and file Ordinances Amending Section 25-1501 of Article 25-15, of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages and Amending Section 25-1506 of Article 25-15 of Chapter 25, of the Fargo Municipal Code Relating to Alcoholic Beverages (relative to the sale of growlers).
12. Receive and file Ordinance Repealing Article 3-14 of Chapter 3 of the Fargo Municipal Code - Relating to Taxation of Telephone Access Lines and Wireless Service Systems (effective January 1, 2015).
13. Communication and Resolution relating to the public sale of property located at 302 and 322 22nd Street North (Attachment "A").
14. Contract with the North Dakota Department of Health to partially fund the salary of a Public Health Accreditation Coordinator (Contract #PF13.242).
15. Contract with the North Dakota Department of Health for the West Nile Virus Program (CFDA #93.323).
16. Contract with the North Dakota Department of Health for the Foodborne Illness Risk Study (CFDA #93.103).
17. Authorize the Fire Department to submit a 2014 Assistance to Firefighters Grant application.
18. Direct City Attorney to draft an Ordinance pertaining to the City Lodging tax to mirror State Law.
19. Tax exemptions for improvements made to buildings:
  - a. Stacy and Debra Matter, 627 Hackberry Drive South (3-year).
  - b. Adam and Jessica Skalsky, 1349 Tenth Street South (5-year).
20. Resolution Authorizing a Lease and Sublease with Alerus Financial, N.A. in the amount of \$3 million to replenish the Solid Waste Utility Fund for funds expended on a baling facility (Attachment "B").

21. Amendment No. 4 to Agreement with First Transit.
22. Three-Year Contract with Valley Rental for bus advertising.
23. Applications for Games of Chance:
  - a. Nativity Elementary School for a raffle on 1/30/15.
  - b. El Zagal Temple Holding Company for a raffle on 2/21/15.
  - c. Muskie's, Inc. F-M Chapter for a raffle on 2/12/15.
  - d. Kari Greuel Anderson Benefit for a raffle on 2/27/15; Public Spirited Resolution.
24. Contract with Cougar Tree Care, Inc., in the amount of \$85,086.00, for the winter pruning project.
25. Encroachment Agreement for 1026 NP Avenue.
26. Deferral Agreements for 3475 39th Street South, 3525 38th Street South and 4001 36th Avenue South in connection with Project No. BN-14-4.
27. Contract time extension for Project No. 5902-02 to 5/15/15.
28. Final Balancing Change Order No. 1, for an increase of \$549.00, for Project UR-14-41.
29. Contract and bond for Project No. TN-14-01.
30. Contract Amendment No. 1 for Improvement District No. PR-14-20 (moved to the end of the Regular Agenda).
31. Bills in the amount of \$17,098,404.74.

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. 1 for Improvement District No. BN-14-41 Approved:

Commissioner Piepkorn moved Change Order No. 1 for an increase in the amount of \$129,784.62 for Improvement District No. BN-14-41 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.

Change Order No. 1 for Improvement District No. 6236 Approved:

Commissioner Piepkorn moved Change Order No. 1 for an increase in the amount of \$118,088.60 for Improvement District No. 6236 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.

Final Balancing Change Order No. 1 for Improvement District No. PR-14-41 Approved:

Commissioner Piepkorn moved Final Balancing Change Order No. 1 for an increase in the amount of \$2,479.04 for Improvement District No. PR-14-41 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.

Joint Powers Agreement Establishing the Cass-Clay Food Systems Advisory Commission Approved: Commissioner Williams Appointed to Serve on the Cass-Clay Food Systems Advisory Commission:

Fargo Public Health Nutritionist Kim Lipetzky said the Fargo-Moorhead Council of Governments (Metro COG) completed the Metropolitan Food Systems Plan in October, which establishes a framework for understanding the local food system. She said the Plan lists issues, objectives and desired outcome as it relates to food access and food infrastructure, health outcomes and community health indicators, food security and urban agriculture and land use. The Metropolitan Food Systems Plan was approved by the City of Fargo, Clay County and Fargo Cass Public Health, she said, and the Cass-Clay Food Systems Initiative (CCFSI) Steering Committee requested assistance from Metro COG regarding the development and implementation of a Food Systems Advisory Commission which, among other activities, will oversee the plan.

Metro COG Community and Transportation Analyst Adam Altenburg said Metro COG and the CCFSI Steering Committee have developed a Joint Powers Agreement (JPA) which would establish the Cass-Clay Food Systems Advisory Commission for the FM Metropolitan area. He said the purpose is to establish a public entity to advise policy makers and elected officials on how to assure residents have access to safe, nutritious and affordable foods. The Commission would support community wellness activities, he said, provide guidance on policies and propose recommendations on ways to improve the food system in the FM Metropolitan area.

Cass-Clay Food Systems Advisory Commission Project Coordinator Megan Myrdal said some intentions in the JPA are to assess the area food system, educate policy makers on food system issues, provide language for local policies and codes based on research, support community wellness, cultivate partnerships, encourage inquiries on food system issues, propose recommendations on ways to improve the food system and oversee the implementation of the Metropolitan Food Systems Plan.

She stated following the terms of the JPA, the Advisory Commission would consist of six appointed members, one from the following governing bodies:

- City of Fargo, one member of the City Commission
- City of Moorhead, one member of the City Council
- City of West Fargo, one member of the City Commission
- City of Dilworth, one member of the City Council
- Cass County, one member of the County Commission
- Clay County, one member of the County Commission

In addition to the six appointed members from the area governing bodies, she said, five at-large members shall be recommended by the CCFSI Steering Committee and agreed upon by a majority of appointed members at the first meeting. Once all members have been

selected, she said, Metro COG and herself as Project Coordinator for the Advisory Commission, will coordinate with members to determine a time and date for the first meeting. She said she anticipates the meetings to be held the third or fourth week of January, with bi-monthly meetings after that, approximately six to seven meetings per year.

She stated some of the resources already in place for the Advisory Commission are three task forces: Urban Agriculture, Food Access Outreach and Education, and Food Infrastructure and Economic Development. She said funding has been secured from the Northwest Regional Sustainable Development Partnership which will be used to create a series of blueprints and from the State of North Dakota Department of Health to contract with Metro COG for Mr. Altenberg's position and for her position as a project coordinator to help pull the group together.

In response to a question from Commissioner Mahoney about the reason for five at-large members in addition to the representatives from area governing bodies, Mr. Altenberg said this is to allow for representation for other areas of expertise. There will be eleven voting members, he said.

In response to a question from Mayor Walaker about how much funding is available, Ms. Lipetzky said a \$26,000.00 grant was secured this year from North Dakota and she anticipates something similar to that next year as well, and the funding for the series blueprints is in the neighborhood of \$5,000.00. She said ideally there will be a wider base plan that looks at all the issues and this Advisory Commission can bring findings to all the jurisdictions.

Commissioner Williams said the Health Department has already established good connectivity with many nonprofits, NDSU, and the Extension Service and it seems like this may be a good one-stop shop to combine research between all these groups.

Commissioner Williams moved the Joint Powers Agreement establishing the Cass-Clay Food Systems Advisory Commission 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.

Commissioner Mahoney moved Commissioner Williams be appointed to serve on the Cass-Clay Food Systems Advisory Commission.

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.

Application Filed by Mama Jean's Eatery, LLC d/b/a Mama Jean's Custom Catering for an Alcoholic Beverage License Referred Back to the Liquor Control Board for Further Review:

A Hearing had been set for this day and hour on the application filed by Mama Jean's Eatery, LLC d/b/a Mama Jean's Custom Catering for a Class "GH" Alcoholic Beverage License at 3241 42nd Street South, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

City Auditor Steve Sprague said the applicant has been in the catering business for a while and is now expanding, adding some indoor seating and now applying for a beer and wine license.

Commissioner Sobolik said she has concerns about an item in the background history of an applicant and would like the Liquor Control Board to look at it again.

Commissioner Sobolik moved the application be referred back to the Liquor Control Board for further review.

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

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

Application to Transfer the Alcoholic Beverage License from Apple Acres, Inc. d/b/a Applebee's Neighborhood Bar and Grill to The Herd & Horns Sports Bar & Grill, LLC d/b/a Herd & Horns Referred Back to the Liquor Control Board for Further Review:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Apple Acres, Inc. d/b/a Applebee's Neighborhood Bar and Grill at 1414 12th Avenue North, Suite F to The Herd & Horns Sports Bar & Grill, LLC d/b/a Herd & Horns 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.

In response to a question from Commissioner Sobolik about background checks for liquor licenses and what could result in a liquor license denial and specifically whether domestic violence is a factor, Interim Chief of Police David Todd said alcohol violations, credit history and criminal records are considered, as well as how recent a violation happened.

Commissioner Williams said there have been cases where a business has been told to make other arrangements due to the background of an applicant. He said he shares the concerns expressed by Commissioner Sobolik about the significance of domestic abuse type violations and that they need to be considered. He said returning questionable items to the Liquor Control Board would help assure the Commission that all the history in an applicant's background is being looked at as seriously as prior drug and alcohol offenses.

Commissioner Sobolik said she would like the Liquor Control Board to look at the domestic abuse history and occurrence of several violations.

Commissioner Sobolik moved the application be referred back to the Liquor Control Board for further review.

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

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

Application Filed by Blage, LLC d/b/a Fargo Stopping Center for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Blage, LLC d/b/a Fargo Stopping Center for a Class "I" Alcoholic Beverage License at 4510 19th

Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner 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.

Appeal of the Board of Adjustment's Denial of a Request for a Variance at 224 14th Street North: Variance Granted: Staff Directed to Create a Task Force to Review Adapting Codes to Older Neighborhoods:

A Hearing had been set for this day and hour on the appeal of an October 28, 2014 ruling of the Board of Adjustment denying the request at 224 14th Street North to allow a proposed house addition to encroach approximately 7 feet into the 10 foot interior-side setback in the SR-3 zoning district which requires structures to be setback at least 10 feet from the interior-side lot line.

No written protest or objection to the granting of the variance has been received or filed in the office of the City Auditor.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

The Staff recommended denial of the requested variance.

Planning Director Jim Gilmour said there have been several denials for variances that have come before the Board in recent months due to an addition or new house in an older neighborhood, which could indicate that current zoning for older neighborhoods needs review. He suggested a small committee could look at how staff could allow adjustments to setbacks in unusual circumstances.

Planner Aaron Nelson said this variance for an addition on an existing home at 224 14th Street North failed to obtain a supermajority vote at the October 28, 2014 Board of Adjustment meeting and was denied. He said this is a corner lot and options exist for the homeowner. He said overall staff felt an addition could be made without the need for a variance.

Commissioner Piepkorn said the City encourages infill and fixing up the older neighborhoods and if the rules are too restrictive people will not make improvements.

Don Larson, 224 14th Street North, said he understands the need for staff and the Board of Adjustment to look at specific items; however, he disagrees with staff about other ways to locate the addition. He said his design is historically sensitive and he would like to keep the nature of the neighborhood and the access on the north side.

Commissioner Williams said it may not take a lot of work for a text amendment to address this specific area; however, in a larger sense more work is needed on the Land Development Code to be more context specific.

Commissioner Sobolik moved the variance be granted and that appropriate staff be directed to create a task force to review codes to adapt to existing and older neighborhoods.

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

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

Recommendation to Authorize Submittal of the "Basement Exception" request to FEMA Approved:

The Board received a communication from City Engineer April Walker stating the Preliminary FEMA floodplain maps become effective January 16, 2015 and staff has been working with FEMA to prepare for this event. As part of this process, she said, the City is required to review current ordinances, policies and procedures to determine if they still meet the minimum federal requirements. As such, she said, there are a number of changes that will be brought to the Commission for consideration and approval in the coming months. In addition, she said, since the City of Fargo was previously approved for residential floodproofing rating credit (Basement Exception) the City is required to submit a request to FEMA to continue that approval, which staff has prepared to submit to FEMA. The requirements for the Basement Exception are spelled out in the Code of Federal Regulations (CFR) and with some modifications to the City's current practices, she said, the City will be able to satisfy the requirements and comply with the rules outlined in the CFR. However, she said, there is one exception area where Engineering is proposing to seek a variance which is related to the depths of basements. She said the current construction practices require that the foundations for structures extend down to previously undisturbed soil and in areas where the City requires the placement of fill to elevate the land out of the floodplain, it would mean that the foundation would have to extend through the fill to the natural ground. The options are to comply with the code and elevate the basement floor to come into compliance, she said, or to seek approval of the current building practices. She said if this is rejected, the City would still require the basement slab to be elevated; however, this will cause the cost of construction to escalate.

Division Engineer Nathan Boerboom said some key items in federal regulations looked at are flood depths less than five feet, flood velocities and evacuation warning times greater than 12 hours, and structural design of basement walls. He said some minor modifications that will result in cost increases are the need for additional rebar in basement walls and more closely spaced anchor pins. He said Engineering has worked closely with the Home Builders Association to be sure the proposed changes are not making their construction procedures more difficult.

Past President of the Homebuilders Association John Gunkelman said it is very important to keep the basement exemption.

Incoming President of the Homebuilders Association Clay Dietrich said when costs were examined for the improvements, raising each lot for development would add about \$17,500.00. He said this means that a home in the \$280,000.00 price range would have additional costs of \$12,000.00 for a total of \$29,500.00, or 10.5 percent. He said for a mid-level home of \$350,000.00, there would be a 10.1 percent increase and for a \$500,000.00 home, the increase would be about 8.5 percent.

City Administrator Pat Zavoral said there have been discussions about not having basement exceptions available at all and there may be a need for Congressional support to obtain this exception. He said the alternative is slab on grade and the slab would have to be elevated 2.5 feet above the new flood plain. A public safety issue exists too as far as where shelter for homeowners would be in the event of a tornado, he stated.



Commissioner Mahoney moved staff be authorized to submit the "Basement Exception" request to FEMA, and that appropriate staff be directed to work with FEMA to maintain approval.

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 6:10 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

First Reading of an Ordinance Enacting Article 25-24 of Chapter 25 of the Fargo Municipal Code Relating to Mobile Homes and Recreational Vehicles:

Assistant City Attorney Jason Loos said the proposed Ordinance will switch roles for oversight of Mobile Home Parks from the State to the City as far as licensing and inspection. The State has Mobile Home Park inspectors; however, with the oil activity in the state, they are stretched very thin, he said. State law has a provision allowing cities to inspect and license on their own, he said, and the Inspections and the Environmental Health Departments are able to take this on without additional employees.

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 Enacting Article 25-24 of Chapter 25 of the Fargo Municipal Code Relating to Mobile Homes and Recreational Vehicles be placed on first reading.

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

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

Report on the Findings and Best Practices of the Police Department:

Brian Berg, Chair of the Police Review Committee, said the volunteer ad hoc committee consisted of himself, Jane Pettinger, James Prochniak, Jim Thoreson and Michelle Donarski, who was unable to attend this meeting. He said he speaks for all the members in expressing their appreciation in being entrusted to be named to this committee, which has worked very hard at the request of the Commission and Chief Ternes. He said at the first meeting Commissioners Piepkorn and Mahoney outlined what the tasks would be and at the second meeting a committee purpose statement was adopted. The purpose statement was to conduct a comprehensive review of the administrative practices of the Fargo Police Department concerning their handling of personnel complaints and state of morale and to offer best practices of the same. It was determined to begin by interviewing police officers to determine a direction and scope of the task, he said. They estimated 4 to 6 officers would step forward; however, the interview timeslots quickly filled up, he said, and times were expanded as to not leave anyone out. They ended up visiting with about 90 individuals, he said, including current and former Police Department employees, other law enforcement leaders and officials of Fargo. Some of the concerns raised were shared with City representatives and Chief Ternes, he said, with both parties responding quickly by finding a positive outcome for all involved. He said the Committee is here to offer observations and recommend best practices to improve on an already great Police Department. He said officers interviewed displayed great intelligence, integrity, commitment, loyalty and pride in their organization.

The Committee did not gather the findings into one report, he said, and feel the Commission should be the first to hear the findings and each member will speak. He said his suggestions are as follows:

- Endorse and support the concept of a law enforcement accreditation program or other professional recognized standards which will:
  - Help establish fair and nondiscriminatory personnel practices.
  - Solidify interagency cooperation and coordination.
  - Boost citizen and staff confidence in the agency.
  - Consider a percentage increase in the authorized personnel which would allow for an ongoing training program for new officers to fill ongoing vacancies.
- Implement a checks and balances system for disciplinary actions, to include the City Administrator and Human Resources Director.
- Encourage ongoing training in leadership and communication styles.
- Deliver a strong message of support for line officers.
- Work on diversifying the rank structures.
  - There are no females in the Sergeant rank or above.

Jim Thoreson offered the following suggestions:

- Publicize the good work the employees are doing.
- Review the entire disciplinary process so it can be done more quickly.
- Consider returning to a shift base leadership style rather than the current geographical style.
- Consider increasing authorized personnel to 105% of its current level.

Jim Prochniak said officers of varying rank all expressed passion for their profession and public safety, and spoke highly of the community and each other. He said he heard a level of concern for the health of the Fargo PD, some distrust, and a division between the line level officers, supervisors, upper level management and the Chief. Lack of communication, or a failure to communicate on a person-to-person basis, was a big concern, he said, as was public and officer safety, and operating under a certain level of fear. He said some fears mentioned were the fear of being judged improperly when doing their jobs under critical circumstances, fear their concerns would not be heard, and fear that speaking to a committee could cost them their jobs. He said the lack of proper staffing and being overworked and underappreciated was expressed and leadership was called into question. A toxicity was mentioned that causes people to leave or avoid the agency, and almost everyone interviewed felt it was time for the Chief to go, he said, with many citing a lack of visibility and connection. The Chief was described as not approachable or defensive; however, some also expressed concern about the Chief being wrongly judged or a scapegoat. He said he was prepared to recommend the Chief step down; however, since the decision has already played out, he would like to say he feels Chief Ternes served Fargo and the Fargo PD with honor and dedication. He said his other recommendations are:

- Communication must improve at several levels.
  - There is an over reliance on email that seems to have developed into a management by email style.
  - Person-to-person contact on all levels must increase.
  - The level of trust will increase with more interaction.

- Consider training on communication, emails leave too much to interpretation.
- Consider greater involvement with other law enforcement organizations on law enforcement matters.
  - Fargo PD is a progressive, well trained department that can share successes with others and Fargo PD can learn from other agencies.
  - Participate in the North Dakota Peace Officers Association meetings, and become more involved in the legislative process.
- A more efficient, streamlined review for use-of-force incidents should be implemented.
  - Such reviews are critical for law enforcement and need to continue.
  - Training, policy considerations, officer praise and development must be accomplished in a more efficient manner.
  - If an officer followed policy and training, the review should be cleared in a more timely manner.
  - Interim Chief of Police Todd's education by discipline concept is a positive step forward.
- Visibility by the Chief and upper level staff cannot be overstated.
- Officers need to understand they are as much a part of the existing culture as anyone.
  - Changes implemented by leadership will only go so far if not met halfway.
  - Change will take a concerted effort by all to create a more open and appealing environment, leadership can only motivate so far.
- The Board and City leaders need to take ownership in this fine organization.
  - The PD is in need of resources, particularly human resources.
  - It is time for a catch-up hiring of police officers to properly serve the community and keep current officers safe.
- There needs to be some sort of measurement of progress.
  - How will the progress of culture change be monitored?
  - This may not be the time to implement a 360 degree type of evaluation; the situation is too tender for this methodology at this time.

Jane Pettinger thanked the Board for their trust and reminded the Board that these police officers are people too. She said somewhere along the line that seems to have been lost. She added the following recommendations

- Place an emphasis on recruitment.
  - Students at regional police training academies in the region have been advised not to work for the Fargo Police Department and an effort needs to be made to rebuild that relationship.
  - Ask current officers to help recruit.
  - Look at reaching out to rehire officers who left the PD recently.
  - Internal and external pay needs to be investigated.
    - There is a perception that officers are underpaid.
- Improve communication.
  - More face-to-face communication and interaction with officers in their activities from the Board and all City staff.
  - Consider a newsletter celebrating life accomplishments, retirements, births, challenges, commendations and other happenings.

- The employee satisfaction survey from 2009 has indicators that can be used as a starting point. Perhaps another could be done at a later time and on a periodic basis to be sure gains made are not lost.
- There is respect for officers amongst themselves; however, trust as it moves up the levels of command needs to be rebuilt.
  - Recreate committees that involve employees on all levels in decision making, activities, events and ceremonies.
- More diversity on the force.
- Accommodate family needs.
- Generational training.
- Mutual respect and trust needs to be reestablished.

Brian Berg said these are the observations of the committee, not a cure-all. Interim Chief of Police David Todd met with the committee members, he said, and needs to be allowed to develop his leadership techniques. Law enforcement officers are selected for their independence, intelligence and leadership, he said, and those same traits can make it difficult to lead them at times. It takes an exceptional leader to bring them all to the same page, he said, and it can be an exhausting task.

In response to a question from Commissioner Williams about using funds intended for this review to implement changes, Jane Pettinger said it may be best to wait to hire a consultant until a permanent Chief is named. In the meantime, accreditation standards could be looked at, she said, as well as sharing resources and training.

Brian Berg said it is the action taken and the support the Board can lend, along with the action Interim Police Chief Todd can take, that will move things along. He said the committee was very careful not to violate any open meeting laws and interviewed individuals in two person teams. He said it was necessary to have the trust of the officers to protect their confidentiality. He asked that the report not be taken as a criticism, as this of type thing evolves in most every agency over time, he said.

Mayor Walaker said he is impressed with how the committee was able to get personal thoughts from those 80 or 90 interviews and thanked them for the report. He is still somewhat concerned, he said; however, there is only one direction to go, which is up. He said it is sometimes difficult to balance needs with budget constraints. He said police officers have to know that the Board stands behind them.

Commission Piepkorn said this is the opportunity to implement improvements and focus on the future. He said all of the officers he has talked to are pleased that David Todd was selected as the Interim Chief of Police.

Interim Chief of Police David Todd thanked the Committee and the Board for giving him the opportunity to serve in this position. Some things that are already moving forward, he said, include the response to resistance reports are being revamped, training opportunities are being researched on an education based discipline system and he has been doing a 'listening tour' of work groups within the Police Department gathering information. He said he will combine that information with information from the review committee to categorize, prioritize, act on and plan. He has established a Chief's Leadership Advisory Committee, he said, which will meet regularly. He said he also sees opportunities for team and leadership training to enhance skills as supervisors. He said it is important for the department to chart its path forward on a strategic plan, if that is something the Board feels is appropriate for him to work on. He said he is providing a weekly recap on progress and will work on developing a newsletter. There are currently 11 vacancies in the department, he said, and there are 10 people in the training program and

8 on FMLA for a total of 29 positions not available for staffing. He said he is in the process of hiring people and hopes to hire 7 people to start in January.

Mayor Walaker expressed his appreciation to the members of the Committee and excused them from their service.

State Water Commission Request for Cost Reimbursement for FM Diversion Flood Project Costs Approved:

Commissioner Piepkorn said he requested this item be moved from the Consent Agenda for a description of the reimbursement process.

Director of Finance Kent Costin said over the last three legislative sessions the State of North Dakota has appropriated funds for Fargo flood control projects, which includes the FM Diversion Flood Project. City of Fargo staff have been appointed fiscal agents for the FM Diversion Project, he said, and part of the process is to submit reimbursements to the State Water Commission for cost sharing and all the agencies involved sign off on the request. He said this particular request is related to reimbursements for the Oxbow/Hickson/Bakke ring levee project. He said all the items are moving through the FM Diversion Authority; however, the system is still evolving and content and narrative can be added to address specific City of Fargo funding and projects of interest to the Board.

Commissioner Mahoney moved the cost reimbursement from the State Water Commission for FM Diversion Flood Project costs in the amount of \$1,390,928.00 be approved.

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

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

First Reading of an Ordinance Amending Sections 8-1401 and 8-1425 and Repealing Sections 8-1402, 8-1403, 8-1404, 8-1405, 8-1406, 8-1407, 8-1408 and 8-1424 of Article 8-14 of Chapter 8 of the Fargo Municipal Code Relating to Bicycles:

Commissioner Piepkorn said he requested this item be moved from the Consent Agenda for clarification on the Ordinance amendments.

Assistant City Attorney Jason Loos said the changes bring the Ordinance in line with State Law and removes wording requiring bicycles to be licensed.

Commissioner Piepkorn moved first reading of an Ordinance Amending Sections 8-1401 and 8-1425 and Repealing Sections 8-1402, 8-1403, 8-1404, 8-1405, 8-1406, 8-1407, 8-1408 and 8-1424 of Article 8-14 of Chapter 8 of the Fargo Municipal Code Relating to Bicycles.

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 Amendment No. 1 for Improvement District No. PR-14-20 Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee (PWPEC) stating due to the time extension of the project from September 12, 2014 to October 19, 2014, Houston Engineering, Inc. was required to provide additional construction administration, construction observation and field staking resulting in increased costs in the amount of \$44,660.00.

Commissioner Piepkorn said he asked this item be moved from the Consent Agenda to discuss the additional cost for administrative services. He said it bothers him that Houston Engineering, Inc. seeks additional payment due to the time of the project being extended, yet he feels some of the reason it took longer was because the project was not well engineered. He said he has heard from many people about the 19th Avenue project, which he feels was a poorly executed project. One example, he said, is the fence in the crossing location near the Fargodome, which is dark green and not very visible and was damaged the very first day.

Director of Engineering Mark Bittner said some of the additional work was related to engineering changes. He said the contractor did not perform and additional time was needed. The additional cost is strictly for project administration for the cost of the engineer, he said, which the contractor was required to have in the field. He said the engineer is told up front what to base his proposal on and negotiations are done from there.

Commissioner Williams said this is why fines are assessed and then there are funds to cover extra costs. He said he does not feel it is the engineer's fault and in the future, he hopes a way can be found to justify who gets bids and how to be certain they do not take on more work than they can handle.

Commissioner Williams moved Contract Amendment No. 1 in the amount of \$44,660.00 for Improvement District No. PR-14-20 be approved.

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 8, 2014.

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

The time at adjournment was 7:37 o'clock p.m.