

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: December 8, 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, December 8, 2014.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Piepkorn, Mahoney.

Absent: None.

Mayor Mahoney presiding.

Mayor Timothy Mahoney requested a moment of silence in honor of Mayor Dennis Walaker, who recently passed away.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Piepkorn moved that the Minutes of the Regular Meeting of the Board held on November 24, 2014 be approved as read.

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

Consent Agenda Approved:

Commissioner Sobolik moved the Consent Agenda be approved as follows:

1. Meter Reader I contract with Christopher McCormack.
2. 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 (microbrew pub and production brewery licenses and the sale of growlers).
3. 1st reading of an Ordinance Amending Section 25-1501 of Article 25-15, of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (definitions).
4. 1st reading of an Ordinance Repealing Article 3-14 of Chapter 3 of the Fargo Municipal Code - Relating to Taxation of Telephone Access Lines and Wireless Service Systems.
 - a. Memorandum of Understanding regarding 911 emergency services communications fees between Fargo, West Fargo and Cass County.

5. 1st reading of an Ordinance Amending Article 21-06 of Chapter 21 of the Fargo Municipal Code Relating to Flood Plain Management.
6. Receive and file Ordinance Amending Section 3-1301 of Article 3-13 of Chapter 3 of the Fargo Municipal Code Relating to the Lodging Tax (to mirror State Law).
7. 2nd reading, waive reading and final adoption 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.
8. 2nd reading, waive reading and final adoption of an Ordinance Enacting Article 25-24 of Chapter 25 of the Fargo Municipal Code Relating to Mobile Homes and Recreational Vehicles.
 - a. Adopt Resolution setting licensing fees (Attachment "A").
9. Designation of the Rape and Abuse Crisis Center as a pass-through grant recipient of the grant award from the Byrne Justice Assistance Grant Program in the amount of \$17,550.00 for FY 2015.
10. Tax exemptions for improvements made to buildings:
 - a. Lance Ludemann, 1542 23rd Street South (3-year).
 - b. William and Cynthia Broekemeier, 2301 25 1/2 Avenue South (3-year).
 - c. Lois and Wylie Briggs, 2525 West Country Club Drive South (5-year).
 - d. Willard and Vicki Dekkers, 2301-2303 15th Street South (5-year).
 - e. Julia Winegar, 1809 5th Avenue South (5-year).
 - f. Carl Knudson, 1226 13 1/2 Street South (5-year).
11. Authorize the expenditure of \$36,500.00 for Fargo's participation in a comprehensive housing analysis through the Fargo Housing and Redevelopment Authority.
12. Applications for Games of Chance:
 - a. Fargo Motor Patrol, Inc. for a raffle on 2/20/15.
 - b. ND USA Wrestling for a raffle on 7/24/15.
13. Contract with Creative Outdoor Advertising for transit courtesy benches.
14. Change Orders for the Fargo Cass Public Health Remodeling Project:
 - a. No. M-3, for an increase of \$1,964.00.
 - b. No. G-4, for an increase of \$505.46.
 - c. No. G-5, for an increase of \$10,326.45.
 - d. No. G-6, for an increase of \$1,628.48.
 - e. No. G-7, for an increase of \$2,220.55.
15. Junked vehicle removal contract with Hazer's Auto and Truck Parts, Inc.

16. Bid awards for chemicals for the Water Treatment Plant for 2015.
17. Bid awards for chemicals for the Wastewater Treatment Plant for 2015.
18. Purchase Agreement – Temporary Easements for Fargo Commercial Properties, LLC for Project PN-15-A1.
19. Temporary Construction Easement from McNeilus Steel, Inc. for Project PN-15-A1.
20. Change Order No. 1, for an increase of \$36,800.00, for the Capital Project Management Software Implementation.
21. Developer's Agreement regarding Commerce on I-29 (Project No. VF-14-B).
22. Payment to Xcel Energy in the amount of \$27,180.40 in connection with Project No. 5902-02.
23. Contract Amendment #2 for Project No. 6234.
24. Contract time extension for Project No. TR-14-31 to 1/31/15.
25. Contract time extension for Project No. FM-14-02 to 5/3/15 for substantial completion.
26. Bills in the amount of \$10,069,741.40.

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

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

Reimbursement Request from R.D. Offutt Co. for Repairs to a Sprinkler System Damaged by Improvement District No. BR-14-11:

The Board received a communication from the Public Works Projects Evaluation Committee (PWPEC) stating a request for reimbursement of \$2,608.50 was received from R.D. Offutt Co. for a sprinkler system that was damaged during the completion of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. BR-14-11 on 7th Street South and 8th Street South between 5th and 9th Avenues South.

Commissioner Sobolik moved the reimbursement request in the amount of \$2,608.50 from R.D. Offutt Co. for repairs to a sprinkler system be approved.

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

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

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

The Board received a communication from the Public Works Projects Evaluation Committee stating Change Order No. 1 for Improvement District No. BN-14-41 has been revised due to an error in Masterworks.

Commissioner Sobolik moved the Revised Change Order No. 1 for an increase of \$3,484.00 for Improvement District No. BN-14-41 be approved.

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

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

Contract Time Extension for Improvement District No. 6243 Approved:

Commissioner Sobolik moved approval of a contract time extension to September 29, 2014 for Improvement District No. 6243.

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

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

Resolutions Adopted Authorizing the Issuance of Refunding Improvement Bonds, Series 2014F and 2014G (Attachment "B"):

The Board received a communication from Finance Director Kent Costin stating the City of Fargo is scheduled to issue Refunding Improvement (Special Assessment) Bonds on December 8, 2014. He said these issues will reimburse the capital project fund for special assessment funded project costs. He said interest rates continue to be very low by historical standards and investors are seeking very high quality investments. Moody's Investors Service has reaffirmed the City of Fargo's Aa1 credit rating, he said, which reflects the strength of the local and statewide economy.

PFM Financial Advisor Jessica Cameron Mitchell reviewed the bond sale results and said the bond sales were very well received.

Commissioner Williams moved the Resolutions entitled "Resolution Authorizing the Issuance of Refunding Improvement Bonds, Series 2014F Approving Certain Actions Awarding the Sale Thereof and of the Warrants Related Thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof" and "Resolution Authorizing the Issuance of Taxable Refunding Improvement Bonds, Series 2014G Approving Certain Actions, Awarding the Sale Thereof and of the Warrants Related Thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof", and referred to as Attachment "B", be adopted and attached hereto.

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

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

Contract with Interstate Parking for Parking Management Services Approved:

The Board received a communication from Planning Director Jim Gilmour and Planner Joe Nigg stating the City currently has a contract with Parking Services, Inc. to operate and manage the existing eight off-street surface parking facilities and three off-street structured parking facilities. They said the City manages approximately 2,000 off-street spaces in the downtown core. The Parking Services contract expires at the end of December, they said, and the City will need to be prepared to transition management and operations at the end of the year. The Parking Commission has been working on identifying a new parking operator, they said, and in November reviewed final fee proposals from three finalists: ABM Parking Services, Interstate Parking and Republic Parking Systems. The Parking Commission made a recommendation to pursue a contract with Interstate Parking, they said, and the City Commission concurred with this recommendation.

Paul Schnettler, Operating Partner of Interstate Parking, said he likes the vision that the City of Fargo has. He said he will be retaining as many employees from Parking Services as they can and will also be implementing automation in several locations in the next few months as well as credit card and online payment options.

Commissioner Williams moved the contract with Interstate Parking for parking management services be approved.

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

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

Update on Drug Abuse as a Public Health Issue:

The Board received a communication from Director of Public Health Ruth Bachmeier, Fire Chief Steve Dirksen and Interim Police Chief David Todd stating drug abuse is a major public health problem that impacts society on multiple levels. They said directly or indirectly every community is affected by drug abuse and addiction, as is every family, and drugs take a tremendous toll on our society at many levels. They said they know that Fargo and its citizens are not immune from this problem and have been hearing from several agencies the perceived increase in usage as well as the negative personal and community consequences.

Director of Public Health Ruth Bachmeier said there have been conversations at a variety of different meetings the last couple of months about drug abuse concerns in the City. She said the question has been raised as to whether or not drug abuse in the community is increasing and no one single department in the City has access to those statistics or the answer to that question, but everyone is wondering if there is something that the community can be doing to be pro-active about the situation. She said she has been hearing from her staff that because the Health Department now manages the Shelter/Detox they have seen an increased number of individuals accessing those services who have a known history of IV drug use and/or suspected history of drug use.

Fire Chief Steve Dirksen said the Fire Department responds to a lot of these types of calls; however, the department does not have a direct mechanism to track these types of calls. He said he did reach out to FM Ambulance and over the past four years the City has stayed pretty level to responses of overdose situations.

Interim Police Chief David Todd said from the law enforcement stand point they have not seen an increase in drug abuse cases. In 2013 there were about five cases that were heroin, opiate or an opiate derivative related, he said, and in 2014 it has been about fourteen, which is double the number but it is not a large number. He said it is something that they are definitely keeping an eye on.

Parcels of Land in Roberts Second Addition Rezoned (302, 306, 312, 316, 320 and 324 11th Street North; and 1109-1111 3rd Avenue North):

At a Hearing held on November 4, 2014 the Fargo Planning Commission recommended approval of a change in zoning from SR-4, Single-Dwelling to DMU, Downtown Mixed-Use on Lots 7-12, Block 36, Roberts Second Addition.

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

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

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

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

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Roberts Second Addition, Fargo, Cass County, North Dakota:

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

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

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

Parcels of Land in West Park Subdivision Rezoned (401 38th Street South):

At a Hearing held on November 4, 2014 the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to LI, Limited Industrial on Lot 6, Block 2, West Park Subdivision.

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

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

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

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

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying West Park Subdivision, Fargo, Cass County, North Dakota:

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

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

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

Parcels of Land in Valley View Fourth Addition Rezoned (5460 and 5640 36th Avenue South, and 3751 54th Street South):

At a Hearing held on September 2, 2014 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LC, Limited Commercial with a C/O, Conditional Overlay, MR-1, Multi-Dwelling, SR-4, Single Dwelling, and SR-4, Single-Dwelling with a C/O, Conditional Overlay of the proposed Valley View Fourth Addition.

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

Commissioner Williams said this looks like a hybridized cul-de-sac and there is no cross connectivity between the corridor. He said going forward a traffic analysis should be done to determine how this whole section of town will work as part of the system of the City to deliver services to residents.

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plans, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

Commissioner Williams voted nay.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Valley View Fourth Addition, Fargo, Cass County, North Dakota:

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

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

Commissioner Williams voted nay.

The motion was declared carried.

Resolution Adopted Approving Valley View Fourth Addition:

Commissioner Sobolik offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Valley View Fourth Addition" containing 93 Lots, 10 Blocks, and 67.607 acres of land more or less, located at 5460 and 5640 36th Avenue South; 3751 54th Street South; and

WHEREAS, A Hearing was held September 2, 2014 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on November 24 and December 1, 2014 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., December 8, 2014 at which time said Plat would be considered and all interested persons would be heard.

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

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

Commissioner Williams voted nay.

The Resolution was adopted.

Renewal Plan for Tax Increment Financing District No. 2014-01 and Developer Agreement Approved:

A Hearing had been set for this day and hour to review a Renewal Plan for Tax Increment Financing District No. 2014-01 for the parcel of property on the southeast side of Main Avenue and Interstate 29, which will include the clearing of the existing buildings on the property and the construction of approximately 179,000 square feet of industrial space.

No written protest or objection to the Plan has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Plan.

The Board received a communication from Planning Director Jim Gilmour stating the Finance Committee has reviewed the request and financial advisor report, and recommends approval of the Renewal Plan and a Developer Agreement providing up to \$2.1 million in assistance. He said the assistance includes \$100,000.00 to be paid to the City of Fargo for administrative costs.

Paul Hyde, Hyde Development, LLC said this is the first of what will hopefully be the beginning of many projects in Fargo and he has received a great reception from potential tenants.

Commissioner Piepkorn said he is hopeful that this kick starts redevelopment of Main Avenue to the Downtown corridor.

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of Industrial or commercial properties, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for Tax Increment Financing District No. 2014-01, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are buildings within the area contained within the Renewal Plan with deteriorated conditions, and other soil conditions existing that discourage redevelopment. The Renewal Area, as defined in the

Renewal Plan, is blighted due to the presence of these buildings and deteriorated conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.

4. That there are no residential buildings within the plan area so no persons will be displaced by the redevelopment.
5. That the area designated as the Renewal Plan for Tax Increment Financing District No. 2014-01 is appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for Tax Increment Financing District No. 2014-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Renewal Plan for Tax Increment Financing District No. 2014-01 is hereby officially adopted by the Board.
8. That a Developer Agreement be prepared in regard to the Tax Increment Financing.
9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof, and that the County Auditor and Treasurer shall do so in accordance with this section.

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

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

Revised Liquidated Damages Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating the Committee reviewed a letter from Division Engineer Cody Eilertson regarding proposed changes to the liquidated damages charged on City projects. They said a comparison was made to the NDDOT and the MNDOT amounts and it was determined that there are categories that the City was low in. Staff, they said, is recommending that two categories be changed to the following: the \$500,000.00 - \$1,000,000.00 be increased to \$1,200.00, and the \$2,000,000.00 - \$3,000,000.00 be increased to \$2,500.00.

City Engineer April Walker said when Engineering looked at the current liquidated damages, the City had eight categories that they charging the lowest rate in, three that the City was charging in between and three categories that the City was charging the highest rate. She said with the proposed changes the City would be highest in twelve categories and in between in two of the categories. She said they feel it is a step in the right direction to bring the City back to where the NDDOT is at and in comparison to the MNDOT. These changes will be incorporated into the 2015 bids, she said; however, they will go into effect after this meeting for any projects that are still being bid in 2014, but construction will not begin until 2015.

Commissioner Piepkorn moved the revised liquidated damages be approved.

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

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

Updated Renaissance Zone Development Plan and Memorandum of Understanding Approved:

The Board received a communication from Planner Joe Nigg stating the original Renaissance Zone (RZ) legislation was signed into law on April 8, 1999 and was intended to be a 15-year program. He said the 15-year timeframe expires at the end of 2014 and therefore, pursuant to NDCC 40-63-03(1)(f), the City may submit an application to extend the duration of the RZ status in 5-year increments. As a component to this request, he said, the Renaissance Zone Authority is required to complete an update of the Renaissance Zone Development Plan, which was last updated in 2003. In addition, he said, the City is required to finalize an updated Memorandum of Understanding (MOU) with the ND Division of Community Services which authorizes the City to operate the RZ program at the local level.

Mr. Nigg provided an update on the Renaissance Zone Plan which, he said, had not been updated since 2003. According to the RZ statute, he said, the City is allocated 38 blocks; however, the City is proposing a total of 35 blocks to be included in the boundary with a total of 3 blocks being retained as inventory to allow the City to be more flexible and accommodate potential projects within identified priority blocks.

Dave Noah said he is not necessarily against changing the boundaries; however, he represents some individuals that own property that is in the current Renaissance Zone which, depending on the Commission's vote tonight, could potentially be taken out of the boundary. He said the disappointment he has is that his brother Andy was sent a questionnaire asking if they were in the mindset to do anything to the property and they are and indicated that on the questionnaire which was sent back to the Planning Department. He said they are undecided about what they will be doing to the property; however, there could have been better communication notifying them that they are going to be removed from the RZ boundary.

Commissioner Piepkorn said the City has three flexible blocks and he hopes that this will incentivize them to do something with their block.

Andy Noah said he would like to reiterate what his brother Dave said in that they purchased the property less than two years ago knowing that it was in the RZ. He said he is a little uncertain as to why this would be a motivation to get the property moving along when the property is further ahead than some other blocks that are being added into the RZ.

Commissioner Sobolik moved the Renaissance Zone Development Plan and Memorandum of Understanding be approved.

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

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

At 6:20 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Mahoney presiding.

Update from the City Attorney Regarding the Mayor's Office Vacancy:

City Attorney Erik Johnson said there are a number of issues that have come up with the unexpected death of Mayor Walaker. First of all, there is the question of the transition of power that happens and according to the Home Rule Charter (HRC) when a normal regular election occurs every two years the Commissioners are required to vote on a deputy Mayor for situations such as this. According to the HRC once Mayor Walaker passed away Deputy Mayor Mahoney became the acting Mayor and will serve as such until the City has an election to decide who will be the elected Mayor. The other question, he said, is when the City will hold an election to fill the position. He said the HRC states that the City Commission must call a special election to fill the vacancy for the Mayor's unexpired term. The determination of the election, he said, is set by two time periods. The first time frame is 64 days prior to the election when all of the candidates need to announce their candidacy by filing their needed paperwork with the City Auditor, he said, and the second time frame is 30 days prior to that 64 days deadline is letting the public know that there is going to be an election by publishing it in The Forum. He stated those two time frames add up to a 94 day time period, which would be the minimum period that a special election could be held. Next, he said, is the possibility that existing City Commissioners will run for the position of Mayor and the HRC states that a seated City Commissioner wishing to run for a vacant Mayoral position must first resign; however, that person can indicate a resignation date after the election. Then there is the possibility for the need of having another election to seat the Commissioners who ran for the vacant Mayoral position; however, it is possible when the Commissioners announce their candidacy, if it is well enough in advance of that 94 day time frame, that those vacancies could be made open and available at the same time as the Mayoral election.

In response to a question from Commissioner Sobolik regarding the cost of a special election City Auditor Steve Sprague said if the City had 15 precincts open it would cost about \$25,000.00 and if the City decided on a voting center type concept it would cost about \$22,000.00. He said in addition, if the City chose to run the early voting it would run a little more than \$1,500.00 a day.

In response to a question from Mayor Mahoney regarding the protocol to appoint a City Commissioner for the interim, Mr. Johnson stated North Dakota law provides for municipalities the opportunity to fill a vacancy 15 days after the vacancy occurs.

Mayor Mahoney said he will take over Mayor Walaker's liaison appointments; however, Commissioner Williams has asked to be on the Finance Committee and the Diversion Authority.

Commissioner Sobolik moved the appointment of Commissioner Williams to the Finance Committee and the Diversion Authority be approved.

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

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

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 22, 2014.

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

The time at adjournment was 6:59 o'clock p.m.