



West Fargo City Commission Meeting  
Monday September 19, 2016  
Commission Chambers 5:30 PM

The West Fargo City Commission met on Monday September 19, 2016, at 5:30 pm. Those present were Rich Mattern, Mark Simmons, Mark Wentz and Mike Thorstad. Commissioner Duane Hanson was absent. The President of the Board Rich Mattern called the meeting to order.

The Pledge of Allegiance was recited.

Commissioner Mattern advised that a proposed Resolution Approving Contract and Contractor's Bond for Sewer, Water, Storm and Street Improvement District No. 1293 has been added to the Consent Agenda; and the Public Hearing for the Special Assessment Policy was in the packet but not listed on the Regular Agenda. Item number 13 from the Regular Agenda will be removed at this time, since Jenna is attending a conference this week and is not in attendance. Commissioner Wentz moved and Commissioner Simmons seconded to approve the Order of Agenda, with the added Resolution to the Consent Agenda and the Public Hearing to the Regular Agenda; as well as removing item 13 from the Regular Agenda. No opposition. Motion carried.

Commissioner Simmons moved and Commissioner Wentz seconded to approve the minutes of August 29, 2016. No opposition. Motion carried.

The Commission reviewed Building Permits #707-811, and the Building Activity Report dated September 19, 2016.

Commissioner Thorstad moved and Commissioner Wentz seconded to approve the following items from the Consent Agenda:

- Bills
- Resolution Approving Contract and Contractor's Bond for Sewer, Water, Storm and Street Improvement District No. 1298.
- Gaming Site Authorization for North Dakota Association for the Disabled, Inc. Games Conducted: Pull tab dispensing device on 10/1/16 to 6/30/17, at Blvd Pub, Inc. 3147 Bluestem Drive.
- Gaming Site Authorization for Boys & Girls Club of the Red River Valley. Games Conducted: Raffle, Pull Tab Jar, Twenty-One, and Paddlewheels w/Tickets on 09/15/16 to 6/30/17, at Work Zone 701 Main Avenue E.

- Games of Chance for Ducks Unlimited NDSU Chapter. Games Conducted: Raffle on 9/15/16, at Speedway Event Center 680 Main Avenue W.
- Hold First Reading and Public Hearing on October 3, 2016, for proposed West Fargo 7<sup>th</sup> Addition: Replat of Block 1 and Lots 1&2, Block 2 of West Fargo 3<sup>rd</sup> Addition and Subdivision and Rezoning from Agricultural to P: Public Facilities and M: Heavy Industrial, Rezoning from Agricultural to M: Heavy Industrial Lot 5, Block 2 of West Fargo 3<sup>rd</sup> Addition, from P: Public Facilities to M: Heavy Industrial Lot 12, Block 2 of West Fargo 3<sup>rd</sup> Addition; and from Agricultural to P: Public Facilities Lot 14, Block 2 of West Fargo 3<sup>rd</sup> Addition.
- Liquor License Application for Tru Blu Social Club, LLC at 925 19th Avenue E, order background check and set Public Hearing for October 17, 2016, at 5:30 pm.
- Sewer, Water, Storm and Street Improvement District No. 1301, Sandhills 3rd Addition: Review Assessment District, Create Assessment District, and Authorize Engineer to Prepare Engineer's Report. No opposition. Motion carried.
- Resolution Approving Contract and Contractor's Bond for Sewer, Water, Storm and Street Improvement District No. 1293.

No opposition. Motion carried.

City Attorney John Shockley appeared before the Commission on the Special Assessment Policy, and advised that the State of North Dakota requires a city with a population over 10,000 to provide a Special Assessment Policy, which provides the methodology for allocating special assessments. This is to present that policy and request a motion from the Commission to approve the city-wide policy or recommend changes. A public hearing was held. A lengthy discussion occurred.

- John Tassava at 833 45<sup>th</sup> Street W appeared before the Commission with comments regarding buildable areas and concerns with powerlines. They are told that they cannot build under the powerlines.
- Matt Sturlagson 4519 4<sup>th</sup> Street W appeared before the Commission with comments regarding that special assessments are based on the benefit to the property, in his opinion he should be billed by property value; bill him based on his property taxes and the value he has in his 5 acres.
- Mandii Sturlagson 4519 4<sup>th</sup> Street W appeared before the Commission with comments regarding powerline easements, and the proper way to defend the homeowner in regards to the areas under the powerlines. What is the powerline

building option, and would like a policy that is not black and white. Each situation is different. Would like to know where is the policy written that states what is buildable and what is not.

- Brian Hagen at 680 42<sup>nd</sup> Avenue W appeared before the Commission with comments that as the policy is being reviewed, to consider special benefits and the special assessment should really reflect the increased value on that specific property.
- John Tassava at 833 45<sup>th</sup> Street W re-appeared before the Commission with comments regarding the regional improvements, why was 2 acres chosen? What was the determination?
- Robert Jurva at 4425 4<sup>th</sup> Street W appeared before the Commission with comments regarding the sale of his lots and that the lots were not sub-divided.
- John Thomas at 523 42<sup>nd</sup> Avenue W appeared before the Commission with comments regarding the zoning of the development and not being able to divide the lots in half. Concerned with the fact that their development is being assessed more than any other single family development, and that they are not allowed to be re-zoned.
- Mandii Sturlagson 4519 4<sup>th</sup> Street W re-appeared before the Commission with comments regarding the policy that was already in place, questioning why it's being changed from what has been in practice. Nothing in place is consistent, and their development is paying more.

Items were addressed as follows: easements do define what is buildable and any restrictions. The policy does allow for any concerns about assessments to be brought to the Special Assessment Committee for review. The development can be re-zoned, and will have to go before the Planning and Zoning Committee for that request; the "no" sub-dividing is restricted by the covenants not the City. The City will not enforce or get involved with any covenants. Regional improvements use the equivalent unit (EU) method, which is 1 EU allocated for the first 2.0 acres of buildable/developable area, plus 0.10 EU's for each 0.10 acres over the 2.0 acres of buildable area, rounding to the nearest tenth. The 2.0 acres was chosen from reviewing other larger city's policies, a review of the number of large lots in the City of West Fargo, and many discussions with the Special Assessment Committee as far as what is a fair number. Specific district assessment questions should be brought up at the next public hearing, this is to talk about the public policy only. There was no further public comment, and the hearing was

closed. Commissioner Thorstad moved and Commissioner Wentz seconded to approve the public policy, and direct the City Attorney to prepare a written finding of facts. No opposition. Motion carried.

City Attorney John Shockley appeared before the Commission on the Assessment List for Street Improvement District No. 2236, and requests the Commission to affirm the assessment list, which will be paid over 25 years; and direct the City Attorney to prepare a written finding of facts. A public hearing was held.

- John Tassava at 833 45<sup>th</sup> Street W appeared before the Commission with comments regarding the fact that his lot is 4.1 acres and is assessed as 3.1 for a single family home and yet his benefit assessment is larger. Neighbors around him have the same amount of vehicles, but because he has a larger lot, he gets a bigger benefit, doesn't feel that this is fair.
- John Thomas at 523 42<sup>nd</sup> Avenue W appeared before the Commission with a question asking how it was deemed that his property will be assessed at 3.7 units. The road benefit is not any more for him, he only has two drivers, and he will pay more just because he has a bigger lot.
- Mandii Sturlagson 4519 4<sup>th</sup> Street W re-appeared before the Commission with comments stating now that the Special Assessment Policy has been approved what now? Besides repeating their arguments again over and over, what do they do now to request changes?
- Clifford Rott at 4212 4<sup>th</sup> Street W appeared before the Commission with comments stating his concerns that the city agreed to leave the development alone, as long as they agreed not to subdivide.
- Chris Thompson at 755 45<sup>th</sup> Avenue W appeared before the Commission with the request to the Commission to just keep the original agreement.
- Dwayne Presler at 758 42<sup>nd</sup> Avenue W appeared before the Commission with comments regarding re-zoning of their development. He brought up concerns that their current zoning requires lots not less than 2 ½ acres. If they re-zone, it could be a commercial/residential re-zoning, and that's not what they want.
- Darrin Milbrath at 679 42<sup>nd</sup> Avenue W appeared before the Commission with comments concerning the assessed amounts and how they differ between lots.
- Margaret Sheim at 600 45<sup>th</sup> Avenue W appeared before the Commission with comments questioning the amounts posted in the newspaper do not reflect what is being suggested by the policy, what would be the correct amounts assessed?

- John Tassava at 833 45<sup>th</sup> Street W re-appeared before the Commission with comments, but stated it was addressed with the previous public question.
- Mandii Sturlagson 4519 4<sup>th</sup> Street W re-appeared before the Commission with comments stating that it was stated that the numbers printed in the paper were not correct, when will the numbers be available?
- Darrin Milbrath at 679 42<sup>nd</sup> Avenue W re-appeared before the Commission with comments questioning pending specials, and why that is posted.
- Chad Johnson at 834 45<sup>th</sup> Avenue W appeared before the Commission with comments regarding the new policy in place, will the values be looked at to comply?
- Lyn Narum at 522 45<sup>th</sup> Avenue W appeared before the Commission with comments regarding if setbacks were deducted.
- Chris Erickson at 677 45<sup>th</sup> Avenue W appeared before the Commission with comments regarding horse riding easements. Also, expressed the benefits that the annexation brought to the City of West Fargo.

Items were addressed as follows: The development can be re-zoned, and will have to go before the Planning and Zoning Committee for that request; the "no" sub-dividing is restricted by the development's private covenants, not the City. The City will not enforce or get involved with any covenants. If you would like the correct assessed amounts, please call City Hall for that total. The Real Estate Association did request that pending specials be posted, in order to be aware of the amounts for the potential buyers of a property. Easements will define what is buildable and any restrictions. Assessment concerns can be brought to the Special Assessment Committee for review. There was no further public comment, and the hearing was closed. Commissioner Simmons abstained from motioning or seconding, but will vote. Commissioner Thorstad moved and Commissioner Wentz seconded to approve the Assessment List for Street Improvement District No. 2236, and direct the City Attorney to prepare a written finding of facts. No opposition. Motion carried.

Senior Planner Tim Solberg appeared before the Commission regarding a replat and rezoning of Eagle Run Plaza 5<sup>th</sup> Addition from C: Light Commercial to PUD: Planned Unit Development. It is requested the Commission approve the proposed application with the recommended conditions. A public hearing was held. There was no public comment and the hearing was closed. Commissioner Simmons moved and Commissioner Wentz seconded to approve the replat and rezoning of Eagle Run Plaza 5<sup>th</sup> Addition from C:

Light Commercial to PUD: Planned Unit Development, with the recommended conditions.

Senior Planner Tim Solberg and Steve Smith, Operations Pastor at Prairie Heights Community Church, appeared before the Commission regarding the construction of a temporary parking area at 319 32<sup>nd</sup> Avenue E. After discussion, Commissioner Simmons moved and Commissioner Wentz seconded to approve a temporary use permit to construct a gravel parking lot, but must have a permanent parking lot in place within 24 months. If it is not possible, the issue must be brought back before the Commission and ask for a recommendation. No opposition. Motion carried.

City Administrator Tina Fisk appeared before the Commission regarding the Three Lyons liquor license violations. Three Lyons partner, Andrew Marschall and Chief Mike Reitan also appeared before the Commission. The remaining violations are the barrier requirement between the bar and restaurant, and the 50/50 ratio of food to alcohol numbers. After discussion, Commissioner Simmons moved and Commissioner Thorstad seconded to grant a bar license, and when the barrier is built and the 50/50 ratio numbers are sorted out and available; reapply for the restaurant/bar license. Until then, no kids are to be in the establishment. No opposition. Motion carried.

Director of Economic Development and Community Services Matt Marshall appeared before the Commission regarding the application for proposed EDAC Board candidate Paul Matthys. Paul Matthys also appeared before the Commission. Paul was unanimously voted by the EDAC, and now seeking the Commission approval. Commissioner Simmons moved and Commissioner Wentz seconded to approve the board application, and candidate Paul Matthys. No opposition. Motion carried.

Director of Economic Development and Community Services Matt Marshall appeared before the Commission regarding the Façade Grant application for Beyond Running at the corner of 9<sup>th</sup> Street and Main Avenue, the old Bottle Barn location. After discussion, Commissioner Simmons moved and Commissioner Wentz seconded to approve the Façade Grant application at the higher level, as recommended by the EDAC. No opposition. Motion carried.

City Attorney John Shockley appeared before the Commission regarding the Resolution Authorizing Issuance of Definitive Improvement Warrant, Definitive Improvement Warrant, and Loan Agreement for Street Improvement District No. 1279; recommending

to proceed with the loan agreement. After discussion, Commissioner Thorstad moved and Commissioner Wentz seconded to approve the Resolution authorizing issuance. No opposition. Motion carried.

Planning and Community Development Director Larry Weil appeared before the Commission regarding the second reading and final plat approval for the Wilds 8<sup>th</sup> Addition, Subdivision, Rezoning from Agricultural to R-1: One & Two Family Dwellings and Land Use Plan Amendment to establish land use as Low Density Residential. After discussion, Commissioner Wentz moved and Commissioner Thorstad seconded to approve the second reading and final plat approval for the Wilds 8<sup>th</sup> Addition, Subdivision, and Rezoning from Agricultural to R-1: One & Two Family Dwellings and Land Use Plan Amendment to establish land use as Low Density Residential. No opposition. Motion carried.

Planning and Community Development Director Larry Weil appeared before the Commission regarding the final plat of Butler's 11<sup>th</sup> Addition. After discussion, Commissioner Wentz moved and Commissioner Simmons seconded to approve the final plat of Butler's 11<sup>th</sup> Addition. No opposition. Motion carried.

Senior Planner Tim Solberg appeared before the Commission regarding the Planned Unit Development Amendment for a 9,000 square foot building at 1317 & 1433 Main Avenue E. After discussion, Commissioner Thorstad moved and Commissioner Wentz approved the Planned Unit Development Amendment for 9,000 square foot building at 1317 & 1433 Main Avenue E. No opposition. Motion carried.

Senior Planner Tim Solberg appeared before the Commission regarding the Conditional Use Permit for Retail and Food Service in a LI: Light Industrial District, at 756 Center Street. After discussion, Commissioner Simmons moved and Commissioner Wentz seconded the approval of the conditional use permit, subject to the conditions listed in the staff report. No opposition. Motion carried.

Planning and Community Development Director Larry Weil appeared before the Commission regarding the Second Reading and Final Plat Approval: Sandhills 3rd Addition and Rezoning from A: Agricultural to LI: Light Industrial. Mark Lemer from the school district also appeared before the Commission. Discussion was held in regards to the public dedication, which will be a total of 8 acres to the school district for the bus barn. Discussion was also held in regards to the developer reaching out to the area

residents, and listening and addressing any concerns they may have. After discussion, Commissioner Thorstad moved and Commissioner Simmons seconded the second reading on the rezoning and final plat approval, subject to the conditions recommended in the staff report.

City Administrator Tina Fisk had nothing to share at this time in regards to the administrator report.

There was no correspondence.

Commissioner Wentz moved and Commissioner Simmons seconded to adjourn the meeting. No opposition. Meeting was adjourned.



Rich Mattern  
President of the Board



Tina Fisk  
City Auditor