

**FINANCE AND IMPROVEMENTS COMMITTEE**

Tuesday, January 5, 2016 – 4:15 p.m.

City Council Chambers

A g e n d a

1. [Final Payments](#)
2. [Proposed Ordinance- Amending the 2015 Annual Budget- Fire Department](#)
3. [Proposed Ordinance- Amending the 2015 Annual Budget- Information Technology Contract Agreements](#)
4. [Proposed Ordinance- Amending the 2015 Annual Budget- Flood Control Capital Projects](#)
5. [Proposed Ordinance- Amending the 2016 Annual Budget- Flood Control Capital Projects](#)
6. [North Broadway Tree Replacement- Hess Grant](#)
7. [Engineer's Report – Paving District 495 \(4082\)](#)
8. [2015 Legislative Session and Changes to Mill Levy](#)
9. [Proposed Ordinance – Amending the 2015 Annual Budget- Oil Impact Grant, Narcotics Task Force Grant, 2015 Accident Project \(ACDT15, PD0058, PD0067\)](#)
10. [Subordination and Standstill Agreement- Cypress Development](#)
11. [Proposed Ordinance- Amending the 2015 Annual Budget- Police Patrol Maintenance \(PD0052\)](#)
12. [Forgiveness of Last Year of CDBG-DR Home Rehabilitation Obligations – Benjamin and Nikki Hickman – 611 1st Street SE](#)
13. [Ordinances on Second Reading](#)

## FINANCE AND IMPROVEMENTS COMMITTEE

January 5, 2016

Page 1

MEMO TO: Finance and Improvements Committee  
FROM: City Clerk's Office  
RE: Agenda for Tuesday, January 5, 2016 - 4:15 p.m.

### 1. Final Payments

It is recommended the Committee and Council approve the following requests for final payment:

- a. [Utility Systems of America, Inc.](#) in the amount of \$3,368.34 for the Puppy Dog Phase 6- Inverted Syphon (3020.5)
- b. [Wagner Construction](#) in the amount of \$428,893.14 for the 14<sup>th</sup> Ave, 16<sup>th</sup> Ave, 46<sup>th</sup> St. Reconstruction (3873.1)
- c. [Wagner Construction](#) in the amount of \$370,401.99 for the 55<sup>th</sup> Crossing West Street and Utility Improvements Project (3913)
- d. [Keller Paving](#) in the amount of \$433,983.14 for Paving District 494 (3982)
- e. [Dig It Up](#) in the amount of \$133,766.89 for 2016 Flood Control Demolition Project
- f. [Dig It Up](#) in the amount of \$260,228.35 for 2015 Flood Repairs #2 (3992)
- g. [Main Electric Construction Inc.](#) in the amount of \$3,513.75 for the Library Hazard Mitigation (LIB016)

### 2. Proposed Ordinance- Amending the 2015 Annual Budget- Fire Department

It is recommended the Committee and Council pass an [ordinance](#) amending the 2015 annual budget to increase the Fire Department budget for funds spent using corresponding insurance rebate revenues.

### 3. Proposed Ordinance- Amending the 2015 Annual Budget- Information Technology Contract Agreements

It is recommended the Committee and Council pass an [ordinance](#) amending the 2015 annual budget to increase revenues and expenditures in the Information Technology contract agreements account for the New World Software upgrade and decrease the capital equipment fund revenues and expenditures.

### 4. Proposed Ordinance – Amending the 2015 Annual Budget- Flood Control Capital Projects

It is recommended the Committee and Council pass an [ordinance](#) amending the 2015 annual budget to create a Flood Control Capital Projects Fund and decrease the Sales Tax Flood Control fund revenue and expenditures for the flood control environmental, permitting, and design engineering phases 1-3.

### 5. Proposed Ordinance – Amending the 2016 Annual Budget- Flood Control Capital Projects

It is recommended the Committee and Council pass an [ordinance](#) amending the 2016 annual budget to increase the Flood Control Capital Projects Fund and decrease the Sales Tax Flood Control fund revenue and expenditures for the flood control environmental, permitting, and design engineering phases 1-3.

### 6. North Broadway Tree Replacement- Hess Grant

The City of Minot Planning Department is dedicated to serving the community and making Minot a better place. During the 2011 flood, while the valley was saturated, the trees along North Broadway were water deprived due to

## FINANCE AND IMPROVEMENTS COMMITTEE

January 5, 2016

Page 2

water restrictions after their installation. Just months before this tragedy struck, the Department of Transportation (DOT) had spent over \$140,000 for a landscape enhancement project following the Broadway reconstruction, this added trees, shrubs, perennials, benches and sidewalks in this area, but after the flood, most of the plant material was lost or damaged. The Planning Department feels it is important to restore this area. An area that once had potential to be beautiful and blooming but, like most things, it was affected by the flood.

Also, the Planning Department wants to consider first time visitors coming to Minot via Minot International Airport. The first view travelers get is our beautiful walking bridge and then Broadway descends down into the valley. If Minot could provide visitors with a green and gorgeous view as they make their way into the heart of the Magic City, this could help leave a lasting impression. An impression of beauty and resilience.

The DOT was able to provide some additional money to help rejuvenate the vegetation on Broadway following the flood of 2011, but not enough to cover the replacement of all 718 perennials, 207 shrubs and 125 trees. The City of Minot Planning Department wrote a grant to the HESS Corporation asking for help in replacing 64 trees on North Broadway. In total, the [tree project](#) could cost approximately \$10,000. There is hope that a portion of the grant given can assist in giving North Broadway the liveliness it deserves in completing this project.

With this grant, thirty two trees will be purchased for replacement and will be installed by the City Forester in the spring or summer of 2016.

It is recommended the Committee and Council pass an ordinance amending the 2016 Annual Budget to increase the planning operations supplies expenditures and use cash reserve funds from a grant awarded by Hess in 2015 to purchase trees.

### 7. Engineer's Report – Paving District 495 (4082)

Attached is the [Engineer's Report for Paving District 495](#). The proposed improvements would construct an urban section roadway along 21<sup>st</sup> Ave SE from 2<sup>nd</sup> St SE westward to Main St, then along Main St to the 20<sup>th</sup> Ave SE Frontage Road.

The proposed improvements consist of subgrade preparation, geotextile fabric, aggregate base, bituminous street section, curb and gutter, storm sewer structures / piping, 8" watermain and services, and street lighting.

**Fiscal Impact:** Per the City's special assessment policy, the petitioner initiating the district will be required to upfront 35% of the cost which is \$177,455.60. The engineer's estimate for the district is \$507,016.42 including construction, contingencies, engineering, administration, financing, and miscellaneous costs. The petitioners represent 80.51% of the land area in the district, which is a majority, thus a public hearing is not required.

It is recommended the Committee and Council adopt the following proposed resolutions:

1. Create Paving District # 495.
2. Direct preparation of the Engineer's Report.
3. Approve Engineer's Report.
4. Waive the Resolution of Necessity and Public Hearing since a majority of the land area has petitioned for the project.
5. Direct preparation of Plans and Specifications.
6. Approve the request for Ackerman-Estvold Engineering to provide the necessary engineering services and authorize the Mayor to sign the contract on the City's behalf.

## FINANCE AND IMPROVEMENTS COMMITTEE

January 5, 2016

Page 3

### 8. 2015 Legislative Session and Changes to Mill Levy

The Ward County Auditor made an interpretation to the changes made during the legislative session and the impact to the City of Minot regarding mill levy limitations. Due to the interpretation, levy limits were applied to certain city funds, which has resulted in three funds not funded at the level approved by city ordinance. For example, the interpretation by the Ward County Auditor is a library may not exceed four (4) mills and the city budget ordinance allotted 5.31 mills to the library.

The Finance Director has contacted the North Dakota State Tax Commissioner's Office to determine if there is a levy limitation for Home Rule Charter cities with the appropriate language in their home rule charters, which includes the power to levy and collect taxes. The only limitation, based on the City of Minot's Home Rule Charter, is the levy may not exceed the total number of mills allotted for cities in totality. The city's 2016 budget ordinance did not exceed the total number of mills allowed to be levied by a city.

The result of the mill levy limitation has created a shortage in the following funds:

Fund	Budget	Limit	Adjustment
Library	5.23	4.00	1.23
Recreation	6.33	6.00	0.33
Emergency Levy	3.38	2.50	0.00

The total funds the City will not receive from property tax due to the mill levy limits is \$559,557. This will create a significant hardship for the Library and the Recreation Departments.

The Finance Director has initiated conversation with the Ward County Auditor to ensure this issue is fully resolved by next year. This was not brought to the City's attention in time for discussion and proper interpretation for the 2016 budget.

It is the Finance Director's recommendation that a budget amendment be passed on first reading to fund the Library and the Recreation from cash reserves second penny sales tax property tax relief for a total of \$357,887. The Finance Director further recommends not funding the Emergency Fund beyond the levy limit for 2016.

It is recommended the Committee and Council pass an [ordinance](#) on first reading amending the 2016 annual budget using second penny sales tax property relief to fund the Library and Recreation Departments as budgeted.

### 9. Proposed Ordinance – Amending the 2015 Annual Budget- Oil Impact Grant, Narcotics Task Force Grant, 2015 Accident Project (ACDT15, PD0058, PD0067)

It is recommended the Committee and Council pass an [ordinance](#) to amend the 2015 annual budget to increase revenues and expenditures in the oil impact grant- narcotics task force grant and the 2015 accident project.

### 10. Subordination and Standstill Agreement- Cypress Development

Cypress Development has presented the attached [Subordination and Standstill Agreement](#). Special City Attorney, Pat Seaworth, has reviewed the document.

The following provides an understanding of the documents:

## FINANCE AND IMPROVEMENTS COMMITTEE

January 5, 2016

Page 4

The parties are Cypress, MADC and City of Minot. Simply put, the City (and MADC) agree to give up in favor of DNB National Bank the City's right to repayment and other rights under the agreements loaning Cypress an additional \$2.5 million in MADC funds (\$1.5 million in a forgivable loan with forgiveness tied to construction completion targets and \$1 million additional, to be paid back in 2025). In other words, the City would subordinate to the bank its right to payments and other rights the City has under the MADC loans.

Cypress has loans for \$5.8 million from the bank. Before Cypress may make any repayment of its loans to the City, the bank is entitled to notice and bank consent is required. Repayment to the City may be made if Cypress is current and not in default on its \$5.8 million loan with the bank.

Normally, this agreement would not be a good move for the City. However, as noted, the \$1.5 MADC loan is forgivable. If the projects are completed as scheduled, the entire \$1.5 million is forgiven (in increments based on meeting defined targets). If the projects are not completed and Cypress defaults, the City is not going to recover the \$1.5 million in any event because Cypress has no other assets. Likewise, although the \$1 million is to be paid back, if Cypress defaults on that loan there will be no assets for the City to attempt recovery. There is no risk that Cypress will walk away with any part of the \$2.5 million because of language in the loan agreements governing disbursement and approvals. The bottom line is if Cypress does not complete the projects, the City is not going to recover anything, whether the Subordination and Standstill Agreement is executed or not. Given this reality, although the Subordination and Standstill Agreement appears to be a bad deal for the City, and under normal circumstances the City should not sign the agreement, under these circumstances, there is little or no additional risk to the City.

If the Subordination and Standstill Agreement is key to getting the projects done, or if progress will be halted if the City does not agree, and only if that is the case, it makes sense for the City to approve and execute the Agreement. If the City is prepared to execute the document, there are no other concerns or suggested edits and the document can be approved as to form and legal sufficiency.

It is recommended the Committee and Council authorize the Mayor to sign the Subordination and Standstill Agreement with Cypress Development.

### **11. Proposed Ordinance- Amending the 2015 Annual Budget- Police Patrol Maintenance (PD0052)**

It is recommended the Committee and Council pass an [ordinance](#) amending the 2015 annual budget to increase the Equipment Purchases expenditures and revenues for the Oil Impact Grant and decrease the Police Patrol Maintenance revenues and expenditures for a capital purchase.

### **12. Forgiveness of Last Year of CDBG-DR Home Rehabilitation Obligations – Benjamin and Nikki Hickman – 611 1st Street SE**

The City of Minot's Home Rehabilitation and Reconstruction Policies require a homeowner who received benefits under this program to sign a promissory note, which is forgivable. The rehabilitation project requires the homeowner to remain in the home for three years after completion of the project.

Mr. and Mrs. Hickman have approached the City and are asking for forgiveness on the last year of their promissory note. It will probably be approximately six months of forgiveness if permission is granted and the home sells immediately. Mr. and Mrs. Hickman have indicated they can no longer afford to maintain their home and wish to sell the home.

## FINANCE AND IMPROVEMENTS COMMITTEE

January 5, 2016

Page 5

The Hickman's are a low – to – moderate income family based on their 2014 tax returns. With falling real estate values, the Hickmans have expressed concern about not having enough equity in their home to repay their existing debts and have a down payment on a replacement property.

The Finance Director has talked to the lender on their property and the realtor they have contacted for a market analysis. Based on the information provided by each, if the Hickman's sell their home based on the market analysis they will net approximately \$8,700 net of the payback on the forgivable loan. This is based on the home selling immediately.

Based on the current real estate market the probability exists the home may be on the market for several months. Each month that passes reduces the amount the Hickmans would owe back on the forgivable loan.

It is recommended the Committee and Council forgive the remaining amount owed on the promissory note, entered into by the Hickmans through the CDBG-DR Home Rehabilitation Program, when the Hickmans sell their home at 611 1st Street SE.

### 13. Ordinances on Second Reading

- a. [Ordinance No. 5033](#) – No Parking Zone along 10th Ave SE
- b. [Ordinance No. 5034](#) – No Parking Zone along North Side of 3rd Ave SW
- c. [Ordinance No. 5035](#) – Amend the 2016 Annual Budget- Chief Resilience Officer Position
- d. [Ordinance No. 4889](#) – Rezoning Trestle Ridge 3<sup>rd</sup> Addition, Lots 1-4
- e. [Ordinance No. 5013](#) – Rezoning Saugstad Addition, Lots 1 & 2