



West Fargo Special City Commission Meeting
Wednesday, March 25, 2020
Commission Chambers 9:00 a.m.

- A. Approve the March 13, 2020 minutes **(Pg. 2)**

Regular Agenda

1. Resolution Adopting Emergency Public Hearing Alternatives – **Tina Fisk (Pg. 3-5)**
2. Resolution Adopting a Temporary Moratorium Relating to the Retail Sale of Alcoholic Beverages – **John Shockley (Pg. 6-8)**
3. Discussion on conducting virtual meetings – **John Shockley**
4. Adjourn



**West Fargo City Commission Meeting
Friday, March 13, 2020
Commission Chambers 3:30 PM**

The West Fargo City Commission met on Friday, March 13, 2020, at 3:30 pm. Those present were Brad Olson, Mark Simmons, Eric Gjerdevig, and Mike Thorstad. Bernie Dardis appeared via conference call. Commissioner Mark Simmons called the meeting to order.

City Administrator Tina Fisk appeared before the Commission to provide an update on the City of West Fargo COVID-19 response. Ms. Fisk reviewed the City of West Fargo policy prepared by City Attorney John Shockley. West Fargo Fire Chief Dan Fuller provided an update to the Commission on the Fire Department's response and policy. West Fargo Police Assistant Chief Jerry Boyer provided an update to the Commission on the Police Department's response and policy. West Fargo Park District Director Barb Erbstoesser provided an update to the Commission on the Park District's plan and response. After discussion, Commissioner Dardis moved and Commissioner Gjerdevig seconded to give City Administrator Tina Fisk the authority to make decision accurately and confidently in response to the COVID-19 pandemic, and provide the Commission with any updates as soon as possible. No opposition. Motion carried.

Commissioner Olson moved and Commissioner Gjerdevig seconded to adjourn the meeting. No opposition. Meeting adjourned.

Bernie Dardis, Commission President

Tina Fisk, City Administrator

Commissioner _____ introduced the following resolution and moved its adoption:

**RESOLUTION ADOPTING EMERGENCY
PUBLIC HEARING ALTERNATIVES**

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF
WEST FARGO, NORTH DAKOTA:

WHEREAS, on March 13, 2020, North Dakota Governor Doug Burgum declared a statewide emergency related to the Coronavirus pandemic (COVID-19); and

WHEREAS, COVID-19 is a severe respiratory illness, caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a threat to the health and safety of the residents of the City of West Fargo (the “City”); and

WHEREAS, the North Dakota Department of Health activated its Emergency Operations Center in January 2020, and has been actively coordinating and in communication with health care providers, schools, universities, childcare providers, businesses, churches, and the general public to make sure North Dakotans are educated and as prepared as possible to assist in reducing the spread of COVID-19; and

WHEREAS, it is recommended that social distancing be implemented statewide in an effort to slow the spread of COVID-19; and

WHEREAS, under N.D.C.C. § 44-04-19, “[e]xcept as otherwise specifically provided by law, all meetings of a public entity must be open to the public;” and

WHEREAS, under N.D.C.C. § 44-04-19(4), members of the Board of City Commissioners and Planning and Zoning Commission are permitted to participate in meetings via phone call or video streaming; and

WHEREAS, these City meetings may have public hearings which provide interested persons the opportunity to provide comments to the governing bodies; and

WHEREAS, in an effort to promote social distancing while still allowing interested persons to provide public comments, the City deems it necessary for the health, safety, and welfare of its citizens to adopt alternative methods for interested persons to provide public comment to the governing bodies; and

WHEREAS, this Resolution provides for implementation of alternative methods of public comment provided to the West Fargo Board of City Commissioners and the West Fargo Planning and Zoning Commission while the State and Nation are under emergency protocols related to COVID-19; and

WHEREAS, once such alternatives are in place and posted, such alternatives remain in effect until they are rescinded or altered by action of the Board of City Commissioners.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of West Fargo as follows:

1. The governing bodies of the City will limit the length of meetings or, if necessary, postpone or cancel any meetings that are deemed non-essential. If meetings cannot be postponed or cancelled, only essential business of the governing body will be considered at the meeting (e.g. paying bills, approving contracts, and other business operation items).
2. In the event the governing body holds a meeting on a non-scheduled meeting date or holds a meeting via conference call, real time/live streaming, or similar remote access, the governing body will provide public notice of this alternative access via the governing body's website, social media page(s), informing the newspaper of general circulation, and posting notice on the window or door of the governing body's principal office. The public will be asked not to attend these meetings at the governing body's principal office, but rather participate via conference call, real time/live streaming, or similar remote access.
3. If a public hearing is required for an agenda item during a special meeting as previously discussed, the governing body will accept public comment via mail, electronic mail, or other written means, by providing a deadline for interested persons to provide public comment after the governing body holds a "public hearing" via call-in numbers, real time/live streaming online, or similar remote means.
4. Before accepting the alternative methods of public comment, the governing body should provide the public with notice informing interested persons where they should send their public comment, the deadline to send public comment, and inform them that their written comments will be taken into consideration at the next regular or special meeting.
5. Upon completion of the public comment period, the governing body will consider any public comments received at its next regular or special meeting. All votes will be conducted by roll call vote that discloses each person's identity.
6. This Resolution is effective from the date of approval until such time as it is rescinded or altered by action of the Board of City Commissioners.

Dated this _____ day of _____, 2020.

APPROVED:

Bernie Dardis, President of the Board of
City Commissioners

ATTEST:

Tina Fisk, City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor thereof: _____. The following commissioners were absent and not voting: _____. The following commissioners voted nay: _____. The majority having voted aye, the motion carried and the resolution was duly adopted.

Commissioner _____ introduced the following resolution and moved its adoption:

RESOLUTION ADOPTING A TEMPORARY MORATORIUM RELATING TO THE
RETAIL SALE OF ALCOHOLIC BEVERAGES

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF
WEST FARGO, NORTH DAKOTA:

WHEREAS, on March 16, 2020, the Mayor of the City of West Fargo, North Dakota, (the “City”) declared a state of emergency as a result of the Coronavirus Disease 2019 (“COVID-19”) pandemic; and

WHEREAS, on March 19, 2020, the Governor of the State of North Dakota issued Executive Order 2020-06, declaring that, “Effective at 12:00 p.m., Friday March 20, all restaurants, bars, breweries, cafes and similar on-site dining establishments are closed to on-sale/on-site patrons; take-out, delivery, curbside, drive-through or off-sale services may continue; this requirement will continue through Monday, April 6, 2020.”; and

WHEREAS, pursuant to Chapter 40-05.1 of the North Dakota Century Code and the Home Rule Charter of the City, the City Commission has the authority to provide for the public health, safety, and morals of the City by regulating the sale and consumption of alcoholic beverages (Section 10-0101 of the Revised Ordinances of 1990 of the City of West Fargo); and

WHEREAS, section 40-05-01, subd. 1 and 29, permit the governing body of a municipality, “to enact or adopt all such ordinances, resolutions, and regulations, not repugnant to the constitution to the constitution and laws of this state, as may be proper and necessary to carry into effect the powers granted to such municipalities or as the general welfare of the municipality may require...” which includes the power “to regulate the use and sale of alcoholic beverages...”; and

WHEREAS, the City Commission finds that a resolution adopting a moratorium relating to the retail sale of alcoholic beverages will benefit the health, safety, and welfare of the City by providing appropriate means for the delivery of meals, including beverages, to individuals and families while fostering appropriate social distancing measures.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of West Fargo as follows:

1. Any sale of sealed cans or bottles of alcoholic beverages to customers taking delivery of prepared food from a restaurant within the City, also licensed to serve on-sale alcoholic beverages by way of “take-out,” “curbside delivery,” “drive-through,” or by other lawful means of delivery shall be deemed to be “on-sale” service or sale of such alcoholic beverages. Delivery

of prepared food without any accompanied sale of alcoholic beverages may be delivered by agents or third party delivery services.

2. The definition of the term, “on-sale”, as set forth in Section 10-0102 (15) of the Revised Ordinances of 1990 of the City of West Fargo, limiting the “sale of alcoholic beverages for consumption only on the Licensed Premises where sold,” shall be enforced such that sealed cans or bottles of alcoholic beverages along with such food or meals sold by the restaurant and served or delivered by means such as “take-out,” “curbside delivery,” “drive-through,” or other such lawful means are hereby deemed to have been consumed on the licensed premises so long as said alcoholic beverages are accompanied by food purchased from the restaurant.

3. The Commission President is hereby authorized to promulgate and issue one or more executive orders as may be necessary to implement and clarify the terms of this moratorium, under the authority of the Section 10-0101 of the Revised Ordinances of 1990 of the City of West Fargo and hereof, which executive orders may be further ratified or amended by the Board of City Commissioners as necessary or appropriate.

4. This moratorium as to the enforcement of certain regulations or ordinances of the City shall serve to instruct, order, and limit law enforcement officers and prosecutors of the City, or any other officer or agent to refrain from enforcing City ordinances contrary to the terms of this Resolution and to refrain from charging or citing persons, firms, or other entities accordingly. Said instruction, order, and limitation in enforcement shall survive the termination of this moratorium, whether such termination occurs by lapse of time or by an affirmative act of the City Commission.

5. This moratorium shall take effect immediately upon its adoption and shall extend until 11:59 p.m. on the 27th day of April, 2020, unless otherwise terminated or extended by resolution or motion of the Board of City Commissioners.

Dated this ____ day of _____, 2020.

APPROVED:

Bernie L. Dardis, President of the Board of
City Commissioners

ATTEST:

Tina M. Fisk, City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor thereof: _____. The following commissioners were absent and not voting: _____. The following commissioners voted nay: _____. The majority having voted aye, the motion carried and the resolution was duly adopted.