

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: April 5, 2010:

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, April 5, 2010.

The Commissioners present or absent were as shown following:

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

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Piepkorn moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on March 22, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

- a. Receive and file the following Ordinances:
 - (1) Repealing Section 12-0111 of Article 12-01 of Chapter 12 of the Fargo Municipal Code Relating to Dogs and Cats.
 - (2) Repealing and Re-Enacting Section 8-0320 of Article 8-03 of Chapter 8 of the Fargo Municipal Code Relating to Driving Without Liability Insurance.
- b. Waive the requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Sections 19-0101 and 19-0102 of Article 19-01, Article 19-02, and Section 19-0302 of Article 19-03, and Enacting Section 19-0304 of Article 19-03, All in Chapter 19 of the Fargo Municipal Code Relating to the Department of Forestry – Trees, Parks and Boulevards.
- c. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Brandt Crossing First Addition, Cass County, North Dakota; 1st reading, 3/22/10.

- d. Direct City Attorney to draft ordinances for adoption of the 2009 International Codes.
- e. Direct City Attorney to draft ordinance changing requirements for use of right-of-way dealing with driveway aprons.
- f. Precinct inspectors for the 2010 June Primary Election and the November General Election.
- g. Police Department budget adjustments and contract with the North Dakota Department of Emergency Services to purchase ballistic helmets for the regional SWAT Team (CFDA #97.074).
- h. Fire Department budget adjustments for FY2009 Assistance to Firefighters Grant for emergency response to hazardous materials incidents training (CFDA #97.044).
- i. Health Department budget adjustments and grant agreement with the North Dakota Department of Health to support development of a community immunization coalition (CFDA #93.712).
- j. Contract with the North Dakota Department of Health for the CDC Tobacco Prevention and Control activities (CFDA #93.283).
- k. Contract with the North Dakota Department of Health for the WIC program for participation in training (CFDA #09-307A).
- l. Agreement with The Bacchus Network for the campus tobacco policy and development and cessation training programs.
- m. Application filed by Senad and Senija Mehinagic for a 5-year property tax exemption for improvements made to a building at 322 23rd Street South.
- n. Resolution authorizing the 2010-2011 Deer Management Program (Attachment "A").
- o. Site Authorizations for Jon Greenley Amvets Post #7 at the Amvets and the Nestor.
- p. Applications for Games of Chance:
 - (1) Knights of Columbus #6570 for a calendar raffle from 6/1/10 to 6/30/10.
 - (2) Fargo Jaycees for a raffle on 6/15/10.
 - (3) SENDCAA Head Start and Early Head Start Policy Council Parent Earnings for a raffle on 5/18/10.
 - (4) NDSU Residence Hall Assoc. Weible Hall Government for a raffle on 4/29/10.

- q. Retention of Vareberg Engineering, Ltd. as the engineering and design firm for the lighting system review at the Fargodome.
- r. 5-year lease with Charism, Inc. in the amount of \$72,370.00 annually.
- s. Expenditure of NSP funds for the acquisition of 1430 10th Street South for \$42,000.00 and 810 25th Street North for \$32,850.00.
- t. Bid awards for the Ground Transportation Terminal Remodeling: general work to Meinecke-Johnson in the amount of \$575,300; plumbing work to Cote Mechanical in the amount of \$59,200; HVAC work to SA Mechanical in the amount of \$318,150; fire sprinkler work to Nova Fire Protection in the amount of \$20,625; electrical work to JDP Electric in the amount of \$372,828; and for asbestos abatement to Environmental Abatement Services in the amount of \$4,598.
- u. First Amendment to Lease of Rights to Sewer System with the City of Harwood.
- v. Bid award for water tower No. 11 to Caldwell Tanks, Inc., in the amount of \$3,025,000.
- w. Emergency sewer repair by Dakota Underground at 23rd Street South between 3rd and 5th Avenues South.
- x. Agreement Regarding Special Assessments and Memorandum Agreement with Landco Fargo, LTD for property south of 52nd Avenue South.
- y. Engineering Services Contract with Houston Engineering in the amount of \$80,456.00 for the FM Metro Study (Project No. 5683-04).
- z. Contract Amendment No. 4 in the amount of \$245,978.00 and Amendment No. 5 in the amount of \$573,500.00 for the FM Metro Flood Study (Project No. 5683-05).
- aa. Project Concept Report and NDDOT Agreement for bike trail construction (Improvement District No. 5905).
- bb. Right of Entry and License Agreement with 45th Street Villa Homeowners Association (Improvement District No. 5912-03).
- cc. Lease/purchase of a robotic total station for the Engineering Department in the amount of \$26,160.00.
- dd. Bid awards for the following Project's No. 5921 to Fargo Electric Construction in the amount of \$86,059.00, No. 5927 to Roadway Services, Inc. in the amount of \$48,950.00, No. 5936-1 to Tom's Backhoe Service in the amount of \$175,280.50, No. 5936-2 to Excavating, Inc. in the amount of \$55,288.00 and

No. 5937 to Industrial Builders in an amount expected to be less than \$20,000 due to the bid being an hourly contract.

- ee. Bid advertisements for Project Nos. 5917, 5918 and 5920-01.
- ff. Contract and bond for Project No. 5919-01.
- gg. Bills in the amount of \$3,618,435.00.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

P.C. Concrete Pavement and Incidentals Improvement District No. 5908: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Pavement and Incidentals Improvement District No. 5908 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota, on February 15 and 22, 2010 and protests representing 2.8 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved the protests be received and filed and declared insufficient.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 1 and 8, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved that the Board declare that no protests have been filed to the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 31, 2010 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$743,609.00
Border States Paving, Inc. Bid:	Fargo, ND \$776,128.25
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$777,766.25
Aggregate Industries Bid:	Moorhead, MN \$836,596.35
Paras Contracting, Inc. Bid:	Fargo, ND \$839,129.50
Central Specialties, Inc. Bid:	Alexandria, MN \$850,118.15
Dakota Underground Bid:	Fargo, ND \$861,750.30
Northern Improvement Company Bid:	Fargo, ND \$867,168.90

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913 Awarded to Master Construction Company, Inc. in the Amount of \$743,609.00:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 31, 2010 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$743,609.00 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$743,609.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5913 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$743,609.00, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 (8th Street North from 12th to 14th Avenues, 14th Avenue North from 10th Street to Broadway and 7th Street North from 14th to 15th Avenues):

Commissioner Williams moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914:

Adopt Resolution Creating Improvement District No. 5914:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5914 in the City of Fargo, North Dakota, be created

On 8th Street North from 12th Avenue to 14th Avenue North.

On 14th Avenue North from 10th Street to Broadway.

On 7th Street North from 14th Avenue to 15th Avenue North.

COMPRISING:

Lots 7 & 8.

The west 100' of Lots 9-12 and the south 50' of east 149.5' of Lot 9.

The east 159.5' and 40' of west 140' of Lot 16.

The east 299.5' of Lots 13, 14 and 15.

The west 152' of Lots 21, 22, 23 and west 45' of south 140' of Lot 24.

The east 54', Lot 25.

The east 157.25' of Lot 26, 27 and 28.

All in Ohmers Addition.

Lots 5-8, Block 29.

All in Ohmers Addition, Bolleys Subdivision.

The east 1/2 of Lots 30, 31, 32 and north 50' of west 147.5' of east 294.5' of Lot 32.

Lot 33.

All in Ohmers Addition.
Lots 1 and 2, Block 1.
All in Cityscapes First Addition.

South 50' of west 147' of Lot 40.
South 50' of east 147' of west 294' of Lot 40.
North 50' of west 157' of Lot 41.
North 50' of east 137' of west 294' of Lot 41.
All in Ohmers Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5914:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5914 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,119,509.50.)

Order Plans and Specifications for Improvement District No. 5914:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5914 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5914:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5914 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5914 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Water Main Replacement, Street Reconstruction and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of

Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Water Main Replacement, Street Reconstruction and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5914:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5914 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 (Various Locations in South Fargo):

Commissioner Williams moved the following action be taken in connection with Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916:

Adopt Resolution Creating Improvement District No. 5916:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5916 in the City of Fargo, North Dakota, be created

LOCATION (Section 1):

On 43rd Street South from 15th Avenue South to 17th Avenue South.

LOCATION (Section 2):

On 47th Avenue South from Woodhaven Street South to 44th Street South.

On 49th Avenue South from 42nd Street South to 45th Street South.

On Woodhaven Street South from 47th Avenue South to 49th Avenue South.

On Woodhaven Drive South from 148' north of 47th Avenue South to 49th Avenue South.

On 43rd Street South from 47th Avenue South to 49th Avenue South.

On Arbor Court South from 47th Avenue South to 44th Street South.

On 44th Street South from 47th Avenue South to 49th Avenue South.

COMPRISING (Section 1):

Lots 1 through 7, inclusive, Block 2, West Acres 2nd Addition.
Lots 1 and 5, Block 1, Capital Square Addition.

Lot 2, Block 1, Isaak-Dosch Addition.

COMPRISING (Section 2):

Lots 1 through 12, inclusive, Block 1.
Lots 15 through 28, inclusive, Block 1.
Lots 1 through 14, inclusive, Block 2.
Lots 1 through 36, inclusive, Block 3.
Lots 1 through 34, inclusive, Block 4.
Lots 1 through 24, inclusive, Block 5.
Lots 1 through 36, inclusive, Block 6.
All in Woodhaven 4th Addition.

Lots 1 through 11, inclusive, Block 1, 44th Street Villa Addition.
Lots 1 through 8, inclusive, Block 1.
Lots 1 through 39, inclusive, Block 2.
Lots 1 through 9, inclusive, Block 3.
Lots 1 through 9, inclusive, Block 4.
Lots 1 through 21, inclusive, Block 5.
Lots 1 through 11, inclusive, Block 6.
Lots 1 through 16, inclusive, Block 7.
Lots 1 through 13, inclusive, Block 8.
All in Woodhaven 5th Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5916:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5916 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$568,000.)

Order Plans and Specifications for Improvement District No. 5916:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5916 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5916:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5916 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5916 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Asphalt Wear Course, Mill and Overlay and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That a portion of said Asphalt Wear Course, Mill and Overlay and Incidentals improvement is to be paid from Street Sales Tax Fund and approximately 80% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Asphalt Wear Course, Mill and Overlay and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5916:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5916 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

P.C. Concrete Pavement and Incidentals Improvement District No. 5938 (39th Street South Approximately 500' South of 32nd Avenue):

Commissioner Williams moved the following action be taken in connection with P.C. Concrete Pavement and Incidentals Improvement District No. 5938:

Adopt Resolution Creating Improvement District No. 5938:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5938 in the City of Fargo, North Dakota, be created

On 39th Street South from 32nd Avenue South to approximately 500' south of 32nd Avenue.

COMPRISING:

Lots 1 and 2, Block 1 of R.D.O. Second Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Pavement and Incidentals Improvement District No. 5938 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5938:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5938 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$100,000.)

Order Plans and Specifications for Improvement District No. 5938:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5938 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5938:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5938 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5938 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

P.C. Concrete Pavement and Incidentals Improvement District No. 5938: Resolution Adopted Determining that a Waiver of Protest has Been Received Eliminating the 30 Day Waiting Period Required by a Resolution of Necessity:

WHEREAS, P.C. Concrete Pavement and Incidentals Improvement District No. 5938 was created for the purpose of installing improvements in R.D.O. Second Addition to the City of Fargo; and

WHEREAS, Love's Travel Stops and Country Stores, Inc. is the owner of a majority of the area of the property included within the district; and

WHEREAS, Section 40-22-15, NDCC, requires a resolution of necessity for such improvements unless a written petition for such improvement is received by the owners of a majority of the area of the property included in the district.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo hereby determines that a written petition for the improvement to be constructed pursuant to Special Assessment District No. 5938 has been received from Love's Travel Stops and Country Stores, Inc. and that such petition has been signed by the owners of a majority of the area of property included within the district and that the improvement may be constructed without the adoption and a publication of a resolution declaring the improvements necessary.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5938:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5938 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Dakota Underground Company for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 Approved:

Commissioner Williams moved approval of the following described Contract Bond as to sufficiency:

United Fire and Casualty Company, in the amount of \$597,624.90, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

(Commissioner Mahoney present)

Payment of the Depreciated Value and Deductibles for Sewer Backup Properties in the 3100 Block of 9 1/2 and 10th Streets North Approved: Appropriate Staff Directed to Re-evaluate Claim for Property Located at 3131 10th Street North:

The Board received a communication from Planner Mark Williams stating on November 4, 2009 sewer backup occurred in the 3100 block of 9 1/2 and 10th Streets North while testing a temporary sanitary sewer bypass and approximately 19 homes sustained damage. The North Dakota Insurance Reserve Fund (NDIRF), with assistance from several individual's homeowners' insurance companies, he said, paid for property damage incurred from the accident. However, he said, the amount did not include the depreciated value and property owners are asking the City of Fargo for reimbursement of that amount or their insurance deductibles. He said claims paid total approximately \$132,789.29 less the depreciated amount of \$24,868.03 and insurance deductible amounts are approximately \$930.00. The Finance Committee met on March 30, 2010 to discuss the inquiries, he said, and did not recommend reimbursing the depreciated amounts.

Nathan Derby, 3141 9 1/2 Street North, said he is against this decision and has been under the impression for the past five months that he wouldn't have to pay for any of the damages caused by the sewer backup. He said the neighborhood could have banded together and filed suit against the City, but chose not to because they were told that the damages would be taken care of. He said he is frustrated that the City will spend hundreds of thousands of dollars to protect the City from flooding, but this \$25,000 seems like a lot of money to come up with for the City. The homeowners felt like they were being strong-armed into signing the agreements from the insurance company stating they would not seek further damages, he said, and if they did not sign the agreement they would not receive any compensation. Whenever the topic of this situation comes up in conversation everyone thinks they have all been 100% compensated, he said, and if this is passed tonight, he would like everyone to know that they have not been 100% compensated.

Susan Joelson, 3133 9 1/2 Street North, said they should have been made aware testing was going to be done in their neighborhood, so they could have protected their homes. The neighborhood consists of a lot of retired folks, people on fixed incomes and many young families, she said, and this is not an expense any of them were prepared for. She said they took it to heart when City officials came to the neighborhood the day of the accident and told them they would be taken care of. She said they should be fully compensated for something they had no blame in or could protect themselves against.

Commissioner Wimmer stated the City has been operating in a straightforward manner, but the City is roughly \$24,000 off the mark to make these property owners whole again. He said even if the City could do 100%, 75% or even 50% of the \$24,868 that would get the property owners closer to being whole again.

In response to a question from Commissioner Mahoney about what the City said they were initially going to do for property owners that incurred damages, City Administrator Pat Zavoral stated the contractor, the design team and the City, through NDIRF put money in to compensate the residents. He said it is his understanding that NDIRF then met individually with each homeowner and NDIRF came up with a reasonable amount minus the depreciated value that should be compensated to the

homeowners. He said there are half a dozen homeowners that did not respond to the letter that was sent out asking if they would like to see further compensation from the City.

Commissioner Piepkorn said the City is setting precedence by paying out the whole amount. He said this may have only affected a few residents, but the City could be making a commitment for the future that could be a lot more than \$24,000.

Commissioner Wimmer moved payment of the depreciated value and the deductibles for the sewer back-up properties in the 3100 block of 9 1/2 and 10th Streets North be approved and that appropriate staff be directed to re-evaluate the claim for the property located at 3131 10th Street North and come back to the Commission in two weeks with a recommendation.

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

Hearing on the Special Assessment List for the Island Park Ramp Approved:

A Hearing had been set for this day and hour on the special assessment list for the Island Park Ramp in the City of Fargo, North Dakota.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Williams moved that the special assessment list for the Island Park Ramp be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

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

Special Assessment Lists for Various Improvement Districts Approved:

A Hearing had been set for this day and hour on the special assessment lists for the construction of the following Improvement Districts in the City of Fargo, North Dakota, on which special assessment lists Hearings had been held by the Special Assessment Commission after which they had been confirmed and filed with the Board of City Commissioners.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 5384.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals No. 5385.

Water Main and Incidentals No. 5583.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals No. 5703.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. 5770.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals No. 5776.

P.C. Concrete Pavement and Incidentals No. 5777.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals No. 5797.

Recreational/Bike Trail and Incidentals No. 5817.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 5818.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5853.

P.C. Concrete Alley Paving and Incidentals No. 5855.

P.C. Concrete Alley Paving and Incidentals No. 5858.

P.C. Concrete Alley Paving and Incidentals No. 5859.

Seal Coat and Incidentals No. 5864.

No appeals have been filed in writing against any item appearing on such special assessment lists and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Mahoney moved that the special assessment lists for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

Funds Allocated From the Sales Tax Fund for Infrastructure for Improvement District No. 5547:

A Hearing had been set for this day and hour on the special assessment list for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights, Bridge Construction and Incidentals Improvement District No. 5547 in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment Commission after which no action was taken due to protests received.

The Board received a communication from City Auditor Steve Sprague stating Improvement District No. 5547 has been pulled from the assessment run while staff responds to objections raised by Attorney Jonathan Garaas on behalf of his clients. The Special Assessment Commission is requesting the City Commission make a decision on a question regarding additional funding, he said, as the Special Assessment Commission does not have the authority to apply additional funds to assessments. He said typically if assessments are made based on caps, which the Special Assessment Commission is doing in this case, the caps are applied based on the zoning that was present at the time that the district was created. In a change initiated by the Planning Commission, he said, the protester in this case had his home reclassified from MR zoning to SR zoning after creation of the Improvement District, which would result in a lower assessment. He stated there are a total of 15 properties, which are in the Roosevelt Neighborhood along 12th Avenue North that would be

affected by this change and staff is recommending the Commission allocate additional funding needed of \$3,733.95 from the Sales Tax Fund for Infrastructure.

Commissioner Wimmer moved the Special Assessment Commission be authorized to assess the 15 properties that were rezoned after creation of Improvement District No. 5547 as SR zoning and that the funding shortfall occurring as a result of this action be taken from the Sales Tax Fund for Infrastructure.

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

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

Partnership with QuestCDN to Provide a Source for Electronic Downloading of Plan Sets Approved:

The Board received a communication from Deputy City Engineer Dave Johnson stating the City of Fargo has entered into a partnership with QuestCDN to provide a site for electronic download of plan sets and specifications for City projects that are advertised for bidding opportunities. He said the engineering office investigated a number of methods of providing this service and found the advantage of QuestCDN is they are an established service, they have a method to disseminate and track addendums in a timely manner and their partnership is a no-cost service to the City of Fargo. He stated this partnership will provide a source and method whereby interested contractors can download individual plan sets and the accompanying specifications for a modest fee of \$20.00, which will be split 50/50 with the City of Fargo and QuestCDN. The City will still print and assemble plans and specifications, he said, however, this is a time-consuming and labor-intensive process, therefore, with the adoption of the partnership the rates will change from \$25/set to \$125/set.

Commissioner Williams moved the partnership with QuestCDN to provide a source for electronic downloading of plan sets be approved and the charge for a set of plans and specifications be increased from \$25/set to \$125/set.

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

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

Appropriate Staff Directed to Develop a Viable Funding Participation Formula for the Boise de Sioux Red Path Retention Project:

The Board received a communication from Commissioner Mike Williams stating it would greatly enhance the efforts toward completion of the needed metro area 35,000 cfs diversion project if City Engineering Staff and the Finance Committee were to develop a viable funding participation formula based on Fargo's benefit for the Red Path Retention Project. Funding for the retention projection, he said, could come from last year's 1/2 cent sales tax revenue. He said he is aware these are relatively small projects in the Boise de Sioux Watershed District upstream and are not going to reduce the area's flood levels immediately, but this would demonstrate that the City acknowledges that upstream retention will help reduce flood impacts and work incrementally toward reducing negative impacts to Fargo's downstream friends and neighbors when the diversion is complete.

Jon Roeschlein, Administrator of the Bois de Sioux Watershed District, stated the Watershed has developed an overall plan and the goal is to develop 150,000 acre feet of storage. The project came to be because there was an opportunity to purchase some land, he said, and it looked like a good place to store some water. He said they have roughly two-thirds of the property acquired that is needed to build the project on. The project itself will roughly have a gate control storage of about 13,100 acre feet, he said, and an emergency spillway storage of 16,200 acre feet. He said this project is still in the preliminary stages and the estimated cost of the full blown project with natural resource enhancements is about \$29 million and about \$16 million without the natural resource enhancements.

Jerome Deal, Board member of the Boise de Sioux Watershed District, said the Red River Watershed Management Board has a joint powers agreement with watersheds on the Minnesota side and there is a taxing capacity in place so the board is able to move money around as needed. The Red River Watershed Management Board, he said, uses a star formula to prioritize projects which is for use on the Red only, however, the board is trying to make these projects as multi-use as possible.

In response to a question from Commissioner Williams asking if the agreement can cross state lines, Mr. Deal stated it can cross over into other states and is multi-national as well.

Chuck Fritz, Director of the International Water Institute, said the common goal has to be reduction in peak flows and without putting water storage on the landscape he is not sure how that can be done.

Commissioner Williams moved Engineering staff and the Finance Committee be directed to develop a viable funding participation formula for the Boise de Sioux Red Path Retention Project.

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

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

Memorandum of Understanding with Cass County Approved:

The Board received a communication from Mayor Walaker submitting a copy of the Memorandum of Understanding between the County of Cass and the City of Fargo agreeing to hold off on any election question regarding a sales tax for the June 2010 election and agree to not call for any special sales tax election before the November 2010 election. In the meantime, he said, the County of Cass and the City of Fargo agree to jointly work on a funding solution for the North Dakota local share of the Red River Diversion project.

Commissioner Wimmer moved the Memorandum of Understanding with Cass County be approved.

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

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

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, April 19, 2010.

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

The time at adjournment was 6:11 o'clock p.m.