

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Tuesday: June 1, 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., Tuesday, June 1, 2010.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved moving Item "o" from the Consent Agenda to the Regular Agenda to be discussed with Item "4d".

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on May 17, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 5/17/10:
 - (1) Enacting Those Powers Contained in the Constitution and Laws of the State of North Dakota and Article 3 of Fargo's Limited Home Rule Charter.
 - (2) Rezoning Certain Parcels of Land Lying in Buland's Subdivision Huntington Addition, Fargo, Cass County, North Dakota.
- b. 1st reading of an Ordinance Amending Section 12-0105 of Article 12-01 and Section 12-0201 of Article 12-02 of Chapter 12 of the Fargo Municipal Code Relating to Dogs and Cats.
- c. 1st reading of the following Ordinances:

Amending Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code Relating to Fire Protection and Prevention.

Amending Article 21-01 of Chapter 21 of the Fargo Municipal Code Relating to the International Building Code.

Amending Article 21.1-01 of Chapter 21.1 of the Fargo Municipal Code Relating to the International Residential Code.

Amending Article 21.2-01 of Chapter 21.2 of the Fargo Municipal Code Relating to the International Existing Building Code.

Amending Section 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code Relating to the International Mechanical Code.

Amending Section 30.1-01 of Chapter 30.1 of the Fargo Municipal Code Relating to the International Fuel Gas Code.

Amending Article 31-01 of Chapter 31 of the Fargo Municipal Code Relating to the International Property Maintenance Code.

- d. Neighborhood Stabilization Program Grant agreements for the redevelopment of 1670 East Gateway Circle South, 4955 28th Avenue South and 1209 4th Avenue North.
- e. Agreement with City Wide Express for mail delivery service at \$200 per month.
- f. Sole source contract with McArthur Tile Company in the amount of \$29,500.00 to remove and replace tile on the Metro Transit Garage.
- g. Site Authorizations for Games of Chance:
 - (1) The Arc Upper Valley, Inc. at JT Cigarros.
 - (2) Boys and Girls Club of the Red River Valley d/b/a Fargo Youth Commission at Mr. G's, Slammers Sports Bar/RR Lanes and Borrowed Bucks Roadhouse.
- h. Application filed by SW Optimist Club of Fargo for a raffle on 6/21/10.
- i. Joint Powers Agreement among the local public health units of the State of North Dakota for collective training, policy development, advocacy, planning and coordination of public health services for local public health.
- j. Memorandum of Understanding Agreement with Clay County Public Health to share resources in the event of a public health emergency.
- k. Contract with the North Dakota Department of Health for Epidemiology and Laboratory Capacity Program - West Nile Virus (CFDA #93.283).
- l. Plat of the Shoppes at Osgood Southwest First Addition.

- m. Change Order No. CO 05 for an increase of \$3,000.00 for the GTC deck repair work.
- n. Lease with Barrier Lake Investments for rental of the building at 909 25th Street North for sandbag storage at a rate of \$12,890.00 per month.
- o. Agreement for Special Improvements with Carefree Investments, LLC for municipal improvements in MGB 1st Addition (Improvement District No. 5945). (moved to the Regular Agenda to be discussed with Item "4d").
- p. Purchase Agreements – Temporary Construction Easements in connection with Improvement District No. 5700:
 - (1) First International Bank & Trust.
- q. Budget adjustment for the Traffic Engineering Department in the amount of \$65,000 for on-street bike lane striping.
- r. Purchase Agreement – Temporary/Permanent Sanitary Sewer Easements for CFJ Properties, LLC for Improvement District No. 5726.
- s. Amendment to the existing Cost Participation, Construction and Maintenance agreement for Project No. 5919-02.
- t. Engineering Services Agreement with Ulteig Engineers, Inc. in the amount of \$15,500 for Improvement District No. 5732.
- u. Engineering and survey service contract with Ulteig Engineers, Inc. in the amount of \$17,500 for Project No. 5957.
- v. Bid advertisement for Project No. 5229-6.
- w. Contracts and bonds for Project Nos. 5900 and 5917.
- x. Bills in the amount of \$5,351,805.94.

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

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

No Protests Received for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916:

The Statutory Resolution of Necessity for the construction of Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 12 and 19, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916.

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

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

Bids Received for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916:

The bids for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, May 26, 2010 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$504,190.64
Aggregate Industries Bid:	Moorhead, MN \$512,697.00
Northern Improvement Company Bid:	Fargo, ND \$516,632.00
Central Specialties, Inc. Bid:	Alexandria, MN \$608,343.90

Contract for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 Awarded to Border States Paving, Inc. in the Amount of \$504,190.64:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 26, 2010 for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5916 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$504,190.64 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 Border States Paving, Inc. in the sum of \$504,190.64 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for 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 awarded to Border States Paving, Inc. for the sum

of \$504,190.64, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams, Piepkorn, Wimmer and Walaker voted aye.

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, May 26, 2010 and the bids were found to be as follows:

Dakota Underground Bid:	Fargo, ND \$734,473.60
Master Construction Company, Inc. Bid:	Fargo, ND \$762,638.45
Northdale Construction Bid:	Albertville, MN \$868,821.34
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$878,289.25
Rising Sun Construction, Inc. Bid:	Fargo, ND \$889,207.00
Sellin Brothers, Inc. Bid:	Hawley, MN \$973,486.00
George E. Haggart, Inc. Bid:	Fargo, ND \$1,015,943.50
Riley Brothers Construction Bid:	Morris, MN \$1,159,458.00

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 Awarded to Dakota Underground in the Amount of \$734,473.60:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 26, 2010 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$734,473.60 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 Dakota Underground in the sum of \$734,473.60 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground for the sum of \$734,473.60, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams, Piepkorn, Wimmer and Walaker voted aye.

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

Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 (On 63rd Street from the new ground storage site to 53rd Street, on Veteran's Boulevard from the new ground storage site to 52nd Avenue, and on 52nd Avenue from Veteran's Boulevard to 47th Street South):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732:

Adopt Resolution Creating Improvement District No. 5732:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5732 in the City of Fargo, North Dakota, be created

On 63rd Street from the new ground storage site to 53rd Street, on Veteran's Boulevard from the new ground storage site to 52nd Avenue, and on 52nd Avenue from Veteran's Boulevard to 47th Street South.

COMPRISING:

Lot 1 through 3, inclusive, Block 1.
All in Dittmer Subdivision.

Lot 1, inclusive, Block 2.
All in Richard 2nd Subdivision.
Lots 1 through 4, inclusive, Block 1.
Lots 1 through 4, inclusive, Block 2.
All in Richard 3rd Subdivision.

Lots 1 through 4, inclusive, Block 1.
All in Ken's Subdivision.

Lots 1 through 2, inclusive, Block 1.
Currier Trust Subdivision.

Lots 1 through 120, inclusive, Block 1.
Lots 1 through 24, inclusive, Block 2.
Lots 1 through 20, inclusive, Block 3.
Lots 1 through 48, inclusive, Block 4.
All in Osgood Townsite Seventh Addition.

Lots 1-38, inclusive, Block 1.
Lots 1-34, inclusive, Block 2.
Lots 1-9, inclusive, Block 3.
All in South Forty at Osgood Second Addition.

Lots 1-31, inclusive, Block 1.
Lots 1-11, inclusive, Block 2.
Lots 1-15, inclusive, Block 3.
Lots 1-19, inclusive, Block 4.
Lots 1-14, inclusive, Block 5.
All in South Forty at Osgood.

Lots 1-19, inclusive, Block 1.
Lots 1-24, inclusive, Block 2.
Lots 1-34, inclusive, Block 3.
Lots 1-26, inclusive, Block 4.
Lots 1-59, inclusive, Block 5.
All in Veteran's Park First Addition.

Lots 1 through 11, Block 1.
Lots 1 through 5, Block 2.
All in Rocking Horse East First Subdivision.

Lots 2 through 8, inclusive, Block 1.
Lots 1 through 3, inclusive, Block 2.
All in Austin's Subdivision.

Lots 1 through 4, inclusive, Block 1.
Dakota Plaza Addition.

Lots 1-2, inclusive, Block 1.
L,L & L Addition.
Cass County Drain 27 ROW.
United States Department of the Interior Bureau of Reclamation - Electrical
Transmission Line, X-2 Page 224.

All of the unplatted land in Section 5 bound on the south and west by Fargo City limits, bound on the east by Veteran's Boulevard, in Township 138 North, Range 49 West. All of the unplatted land in the southeast quarter of Section 32, Township 139, Range 49 West.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 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. 5732:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5732 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 \$3,276,750.)

Order Plans and Specifications for Improvement District No. 5732:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5732 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5732:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5732 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. 5732 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5732:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5732 in the City of Fargo, North Dakota.

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

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

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 (Woodland Drive North and Plumtree Road North):

Commissioner Mahoney moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878:

Adopt Resolution Creating Improvement District No. 5878:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5878 in the City of Fargo, North Dakota, be created

On Woodland Drive North.

On Plumtree Road North.

COMPRISING:

Lot 10 through 24, inclusive, Block 1.

Lots 1 through 13, inclusive, Block 2.

Lots 1, 11 through 25, inclusive, Block 3.

Lots 1 through 10, inclusive, Block 4.

All in Ridgewood Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 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. 5878:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5878 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 \$737,155.)

Order Plans and Specifications for Improvement District No. 5878:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5878 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5878:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5878 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. 5878 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights 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. 5878:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5878 in the City of Fargo, North Dakota.

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

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

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 (Block 10, Kirkham's 2nd Addition between College Street and 14th Street North from 10th to 11th Avenue North):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941:

Adopt Resolution Creating Improvement District No. 5941:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5941 in the City of Fargo, North Dakota, be created
From 10th to 11th Avenue North between College Street and 14th Street in Block 10 of Kirkham's 2nd Addition.

COMPRISING:

North 40 feet of Lots 1 & 2 & 3.

South 100 feet of the east 30 feet of Lot 3 & the west 10 feet of Lot 4.

East 40 feet of Lot 4.

Lots 5 through 14, inclusive.

East one-half of Lots 15 & 16.

Lots 17 through 22, inclusive.

All in Block 10, Kirkham's 2nd Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 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. 5941:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5941 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 \$90,000.)

Order Plans and Specifications for Improvement District No. 5941:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5941 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5941:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5941 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. 5941 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 P.C. Concrete Alley Paving 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 P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 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 P.C. Concrete Alley Paving 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. 5941:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5941 in the City of Fargo, North Dakota.

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

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

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Northern Improvement Company for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 in the City of Fargo, North Dakota.

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

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

Contract Bond for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 Approved:

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

Western Surety Company, in the amount of \$1,712,597.90, for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 in the City of Fargo, North Dakota.

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

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

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota.

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

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

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 Approved:

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

United Fire and Casualty Company, in the amount of \$1,065,354.03, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota.

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

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

Request for an Extension of the Noise Ordinance for a High School Aged Dance on Top of the Island Park Parking Ramp Approved:

The Board received a communication from Joe Burgum requesting an extension of the City's Noise Ordinance on June 4, 2010 from 10:00 p.m. to 12:00 a.m. for a high school aged dance on top of the Island Park parking ramp.

Assistant Chief of Police Todd Osmundson said he applauds what Mr. Burgum is doing but has a concern with allowing the event to go until 12:00 a.m. He said he foresees a lot of complaints especially if it is a nice evening and residents have their windows open.

Mayor Walaker said he feels this is a good idea and would expect a report after the event to see how things went.

Commissioner Williams moved the request for a two hour extension of the City's noise ordinance for a high school aged dance from 10:00 p.m. to 12:00 a.m. on June 4, 2010 be approved.

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

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

Request for an Extension of the Noise Ordinance for an Outdoor Concert in the Hooters Parking Lot Approved:

The Board received a communication from Hooters requesting an extension of the City's Noise Ordinance on June 10, 2010 from 10:00 p.m. to 11:00 p.m. for an outdoor concert in the Hooters parking lot at 3431 Feichtner Drive South.

Commissioner Piepkorn moved the request for a one hour extension of the City's noise ordinance for an outdoor concert in the Hooters parking lot from 10:00 p.m. to 11:00 p.m. on June 10, 2010 be approved.

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

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

Joint Powers Agreement between the City of Fargo, Cass County Joint Water Resource District and the County of Cass Approved:

The Board received a communication from Assistant City Attorney Robert L. McConn Jr. stating the United States Army Corps of Engineers is in the process of conducting surveys upon real property relative to the Fargo-Moorhead Metropolitan Feasibility Study in an effort to determine soil sufficiencies for possible diversion channels and structure locations. He said the Corps has gained entry upon several parcels of land, however, a few landowners have refused entry. The purpose of the Agreement, he said, is to authorize the Cass Joint Water Resource District access to the property that landowners have refused the Corps entry to. To date, he said, there are approximately six landowners who have refused entry.

Commissioner Wimmer moved the Joint Powers Agreement between the City of Fargo, Cass County Joint Water Resource District and County of Cass be approved.

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.

Application Filed by Li Li d/b/a 101 Sushi Bar for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Li Li d/b/a 101 Sushi Bar for a Class "GH" Alcoholic Beverage License at 4480 23rd Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

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

Renaissance Zone Project for Art Materials, Inc. Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Art Materials, Inc. for a business leasing property as part of a zone project at 300 Broadway.

No written protest or objection to the Project 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 Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Law states "a business that purchases or leases property as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone". He said the Fargo Renaissance Zone Development Plan further states "Tenant must be leasing space in a building that has been approved as a zone project to be eligible for consideration". He stated the Renaissance Zone Authority felt that lease projects such as the application from Art Materials, Inc. would generally be straightforward and could be advanced to the City Commission following staff review and would generally not require direct Authority action. He said staff review found the applicant has met the aforementioned requirements. He said the project addresses the business retention and expansion goals stated in the Renaissance Zone Development Plan.

Mr. Stein gave an update on the Renaissance Zone Project numbers. He said currently there has been an investment of downtown Renaissance Zone projects of approximately \$92 million. He stated there have been 186 projects approved to date, including the one approved this evening, which exceeds the numbers that were projected for the Plan when it was first developed.

Commissioner Piepkorn moved the Renaissance Zone application filed by Art Materials, Inc. for a project located at 300 Broadway be approved and the income tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Resolution Adopted Approving a Plat of Woodhaven Sixth Addition (43rd and 44th Streets between 49th Avenue and 52nd Avenue South):

Commissioner Wimmer 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 "Woodhaven Sixth Addition" containing 19 Lots, 1 Block and 4.30 acres of land more or less, located on 43rd and 44th Street between 49th Avenue and 52nd Avenue South; and

WHEREAS, A Hearing was held May 12, 2010 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 May 24 and 31, 2010 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., June 1, 2010 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 "Woodhaven Sixth 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 the Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

Agreement for Special Improvements with Carefree Investments, LLC for Municipal Improvements in MGB First Addition Approved (1637 76th Avenue South):

Senior Planner Jim Hinderaker said one of the major issues with this area is mitigation of flood events and how to provide flood protection but still have an economically viable development. He said the property owner is looking at elevating the entire site, including the roads which would result in only being able to use half of the property due to the fact that the property owners would be using fill from the south half of the property and developing on the north half of the property.

In response to a question from Commissioner Williams regarding the height requirement for the property, Mr. Hinderaker stated it needs to be above the flood plain therefore the property requires being built up two and a half feet.

Commissioner Piepkorn stated this is a good example of how developments would have to be if a diversion is not approved. He said without the diversion everyone would have to be hauling huge amounts of fill into a new development which would, in turn, drive up the cost of development and in the end would cease development all together.

Commissioner Williams said he is not sure that this development would be in the City's best interest while the City tries to protect what is already here and develop within the existing infrastructure.

Commissioner Mahoney moved the agreement for Special Improvements with Carefree Investments, LLC for Municipal Improvements in MGB First Addition be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Amendment to the Growth Plan Approved:

A Hearing had been set for this day and hour to consider approval of an amendment to the Growth Plan from low-medium residential density to medium-high residential density on Lots 1 and 2, Block 4 and all of Block 5 of the proposed MGB First Addition.

The Fargo Planning Commission recommended approval of the Amendment to the Growth Plan at their March 10, 2010 meeting.

No written protest or objection to the amendment to the Plan has been received or filed in the Planning and Development Department.

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

Commissioner Wimmer moved the Amendment to the Growth Plan be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Parcels of Land in MGB First Addition Rezoned:

At a Hearing held on March 10, 2010 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to MR-1, Multi-Dwelling on Lot 2, Block 4; MR-3, Multi-Dwelling on Lot 1, Block 4 and all of Block 5; SR-2, Single-Dwelling on Lots 3 through 16, Block 1 and Lots 4 through 15, Block 4 and all of Blocks 2,3,7,8 and 9; SR-4, Single-Dwelling on Lots 1 and 2, Block 1 Lots 16 and 17, Block 4 and all of Block 6; and P/I Public Institutional on Lot 17, Block 1 and Lot 3, Block 4, all of the proposed MGB First 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 Wimmer 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 Wimmer, Piepkorn, Mahoney and Walaker voted aye.

Commissioner Williams voted nay.

The Resolution was adopted.

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

Commissioner Wimmer 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 MGB First Addition, Cass County, North Dakota be placed on first reading.

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

Commissioner Williams voted nay.

The motion was declared carried.

Resolution Adopted Approving a Plat of MGB First Addition:

Commissioner Wimmer 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 "MGB First Addition" containing 131 Lots, 9 Blocks and 66.39 acres of land more or less, located at 1637 76th Avenue South; and

WHEREAS, A Hearing was held March 10, 2010 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 May 24 and 31, 2010 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., June 1, 2010 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 "MGB First 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 Register of Deeds of Cass County, North Dakota.

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

Commissioner Williams voted nay.

The Resolution was adopted.

Mayor Walaker stated a meeting is scheduled for Monday, June 28, 2010; however, Commissioner Mahoney, City Administrator Pat Zavoral, City Engineer Mark Bittner and himself will be in Washington, DC at the request of Senator Byron Dorgan. He would suggest that the Commission meeting be changed to Tuesday, June 29, 2010 at 5:00 p.m.

Commissioner Williams moved the Board of City Commissioners meet on Tuesday, June 29, 2010 at 5:00 p.m. rather than Monday, June 28, 2010 at 5:00 p.m.

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

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 14, 2010.

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

The time at adjournment was 6:06 o'clock p.m.