

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: April 20, 2009:**

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 20, 2009.

The Commissioners present or absent were as shown following:

Present: Mahoney, Piepkorn, Wimmer, Walaker.

Absent: Williams.

Mayor Walaker presiding.

**Order of Agenda Approved:**

Commissioner Piepkorn moved the Order of the Agenda be approved omitting Item No. 1 in the Regular Agenda.

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

**Minutes Approved:**

Commissioner Mahoney moved that the Minutes of the Special Meetings of the Board held on March 25, March 26 and April 2, 2009 and the Regular Meeting of the Board held April 6, 2009 be approved as read.

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

**Consent Agenda Approved:**

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. Receive and file Ordinance Amending Section 1-0306.D and Section 1-0305.A of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Ordinance Violations.
- b. Sale of 1108 and 1110 1st Avenue South to Lake Agassiz Habitat for Humanity for \$60,000 and designation of site as the HOME-funded Habitat for Humanity build anticipated in the 2009 Action Plan.
- c. 2009 Certified Local Government grant award from the State Historical Society in the amount of \$10,815 (Grant # 38-09-21840-27).
- d. Grant award from the North Dakota Department of Transportation in the amount of \$77,850 for Job Access and Reverse Commute (JARC) funds and \$63,000 in New Freedom (NF) funds (CFDA #20.516).

- e. Police Department budget adjustment in the amount of \$259,912.10 and North Dakota Department of Emergency Services/Homeland Security Grant for a SWAT Team Armored Vehicle (CFDA #97.067).
- f. Police Department budget adjustment in the amount of \$6,000.00 and North Dakota Department of Transportation Safety Belt Education and Enforcement grant (CFDA #20.600).
- g. Police Department budget adjustment in the amount of \$607,168 and 2009 Byrne Grant (CFDA #16.804).
- h. Updated contract with ESRI for GIS infrastructure.
- i. Applications for five-year tax exemptions for improvements made to buildings:
  - (1) Margaret L. Andersen, 3113 8th Street North.
  - (2) Chad Klimek & Anderson Entities, 1438 4th Avenue South.
- j. Site Authorizations for Games of Chance:
  - (1) Plains Art Museum at The Bowler from 4/20/09 to 6/30/09 (Amended).
  - (2) VFW Club of Fargo at the VFW.
  - (3) Delta Waterfowl at Best Western Doublewood Inn on 4/22/09 (Amended).
  - (4) Red River Human Services Foundation at the Hub and The Northern.
  - (5) Jon Greenley Amvets Post #7 at the Amvets and the Nestor Tavern.
- k. Applications for Games of Chance:
  - (1) Clara Barton Hawthorne PTA for bingo and a raffle on 4/25/09 (Amended).
  - (2) Lincoln Elementary School for bingo and a raffle on 5/16/09 (Amended).
  - (3) Home Builders Care of Fargo-Moorhead Foundation for a raffle on 5/19/09 (Amended).
  - (4) Fargo Motor Patrol, Inc. for a raffle on 5/8/09 (Amended).
  - (5) Bennett PTA for bingo on 4/24/09.
  - (6) Knights of Columbus Council #6570 for a calendar raffle from 6/1/09 to 6/30/09.
  - (7) North Dakota Autism Center, Inc. for a raffle on 6/13/09; Public Spirited Resolution.
  - (8) YWCA Cass Clay for a raffle on 5/21/09.
- l. Three-year contract with Green Lights Recycling for disposal of household hazardous waste, specifically electronics and fluorescent bulb disposal services.
- m. Change Order 23977-2 from Munters Corporation for an increase of \$5,300 for Fargodome cleanup.
- n. Bid award for Project No. 5656 to Dakota Underground Company in the amount of \$1,284,915.00.

- o. Contracts and bonds for General, Electrical and Mechanical Construction of the Osgood Fire Station and Project No. 5866.
- p. Bills in the amount of \$3,553,619.78.

Second by Mahoney. On call of the roll Commissioners Piepkorn, Mahoney, Wimmer and Walaker voted aye.  
Absent and not voting: Commissioner Williams.  
The motion was declared carried.

**P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858: Protests Received and Declared Insufficient:**

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 2 and 9, 2009 and protests representing 32 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

Second by Mahoney. On call of the roll Commissioners Piepkorn, Mahoney, Wimmer and Walaker voted aye.  
Absent and not voting: Commissioner Williams.  
The motion was declared carried.

**Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858:**

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, April 15, 2009 and the bids were found to be as follows:

Key Contracting Bid:	Fargo, ND \$73,788.00
Specialized Contracting Bid:	Fargo, ND \$74,061.05
Heston Contracting, Inc. Bid:	Frazee, MN \$74,794.50
Paras Contracting, Inc. Bid:	Fargo, ND \$78,039.65
Adelman Concrete & Excavating Bid:	West Fargo, ND \$78,247.75
Gopher Auger and Excavating Bid:	Fargo, ND \$79,606.50

Asplin Excavating, Inc. Bid:	Fargo, ND \$79,735.45
Opp Construction Company Bid:	Fargo, ND \$89,082.20
Northern Improvement Company Bid:	Fargo, ND \$107,505.00

**Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858 Awarded to Key Contracting in the Amount of \$73,788.00:**

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 15, 2009 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858 shows the bid of Key Contracting of Fargo, ND, in the sum of \$73,788.00 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 Key Contracting in the sum of \$73,788.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5858 in the City of Fargo, North Dakota, be and the same is hereby awarded to Key Contracting for the sum of \$73,788.00, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney, Wimmer and Walaker voted aye.

Absent and not voting: Commissioner Williams.

The Resolution was adopted.

**P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859: Protests Received and Declared Insufficient:**

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 16 and 23, 2009 and protests representing 10 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

**Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859:**

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, April 15, 2009 and the bids were found to be as follows:

Heston Contracting, Inc. Bid:	Frazee, MN \$69,282.25
Key Contracting Bid:	Fargo, ND \$69,927.00
Specialized Contracting Bid:	Fargo, ND \$73,394.85
Adelman Concrete & Excavating Bid:	West Fargo, ND \$75,039.25
Paras Contracting, Inc. Bid:	Fargo, ND \$82,377.75
Opp Construction Company Bid:	Fargo, ND \$88,204.40
Northern Improvement Company Bid:	Fargo, ND \$104,625.00

**Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 Awarded to Heston Contracting, Inc. in the Amount of \$69,282.25:**

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 15, 2009 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 shows the bid of Heston Contracting, Inc. of Frazee, Minnesota, in the sum of \$69,282.25 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 Heston Contracting, Inc. in the sum of \$69,282.25 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 in the City of Fargo, North Dakota, be and the same is hereby awarded to Heston Contracting, Inc. for the sum of \$69,282.25, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney, Wimmer and Walaker voted aye.

Absent and not voting: Commissioner Williams.  
The Resolution was adopted.

**No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703:**

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 2 and 9, 2009 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Piepkorn moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703.

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

Absent and not voting: Commissioner Williams.  
The motion was declared carried.

**Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703:**

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, April 15, 2009 and the bids were found to be as follows:

Aggregate Industries Bid:	Moorhead, MN \$624,133.06
Border States Paving, Inc. Bid:	Fargo, ND \$669,846.77
Central Specialties, Inc. Bid:	Alexandria, MN \$687,112.80
Northern Improvement Company Bid:	Fargo, ND \$733,875.18

Specialized Contracting  
Bid: Fargo, ND  
\$750,805.86

Master Construction Company, Inc.  
Bid: Fargo, ND  
\$777,086.90

**Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 Awarded to Aggregate Industries in the Amount of \$624,133.06:**

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 15, 2009 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 shows the bid of Aggregate Industries of Moorhead, Minnesota, in the sum of \$624,133.06 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 Aggregate Industries in the sum of \$624,133.06 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 in the City of Fargo, North Dakota, be and the same is hereby awarded to Aggregate Industries for the sum of \$624,133.06, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney, Wimmer and Walaker voted aye.

Absent and not voting: Commissioner Williams.

The Resolution was adopted.

**Bids Received for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729:**

The bids for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, March 15, 2009 and the bids were found to be as follows:

Riley Brothers Construction  
Bid: Morris, MN  
\$8,418,563.82

Sellin Brothers, Inc. Bid:	Hawley, MN \$8,789,012.60
Park Construction Company Bid:	Hampton, MN \$9,024,816.12
Dakota Underground Company Bid:	Fargo, ND \$9,052,105.50
Landwehr Construction, Inc. Bid:	St. Cloud, MN \$9,153,244.35
Duininck Brothers, Inc. Bid:	Prinsburg, MN \$9,173,243.40
S.R. Wiedema, Inc. Bid:	Maple Grove, MN \$9,796,822.90

**Contract for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729 Awarded to Riley Brothers Construction in the Amount of \$8,418,563.82:**

Commissioner Piepkorn 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 Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 15, 2009 for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729 shows the bid of Riley Brothers Construction of Morris, MN, in the sum of \$8,418,563.82 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 Riley Brothers Construction in the sum of \$8,418,563.82 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729 in the City of Fargo, North Dakota, be and the same is hereby awarded to Riley Brothers Construction for the sum of \$8,418,563.82, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney, Wimmer and Walaker voted aye.

Absent and not voting: Commissioner Williams.

The Resolution was adopted.

**Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883 (25th Street South from 32nd Avenue South to Rose Coulee):**

Commissioner Piepkorn moved the following action be taken in connection with Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883:

**Adopt Resolution Creating Improvement District No. 5883:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5883, in the City of Fargo, North Dakota, be created

On 25th Street South from 32nd Avenue South to Rose Coulee.

**COMPRISING:**

All properties within that part of Township 139 North, Range 49 West, City of Fargo, Cass County, North Dakota, described as follows:

The West half of Section 25, together with the East half of Section 26, together with the NE quarter of Section 35, together with the NW quarter of Section 36, excepting therefrom that part lying West of 32nd Street South, and also excepting therefrom Lots 16, 17 and 18, Block 1, Rose Creek Fourth Addition, and also excepting therefrom Lot 1, Block 1, Chandler First Subdivision, and also excepting therefrom Lot 4, Block 1, Rose Creek Golf Course Annex Addition and also excepting therefrom Lot 21, Block 2, Rosewood Park.

NOW, THEREFORE, BE IT RESOLVED, That Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883, 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. 5883:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5883, 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 \$605,000.00)

**Order Plans and Specifications for Improvement District No. 5883:**

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5883, in the City of Fargo, North Dakota.

**Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5883:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5883, 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. 5883, 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 Milling, Hot Bituminous Pavement, Marking 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 Milling, Hot Bituminous Pavement, Marking & Incidentals Improvement District No. 5883 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 Milling, Hot Bituminous Pavement, Marking & Incidentals must be in writing and must be filed with the City Auditor's Office within thirty 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. 5883:**

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5883, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

**Item No. 1 Omitted:**

Item No. 1 (Request from The Hotel Donaldson for an extension of the City's noise Ordinance to midnight on Friday, August 14, 2009 for the 2nd Annual Dalefest) was omitted.

**Request for an Extension of the Noise Ordinance for a Flood Victory Celebration Approved:**

The Board received a communication from Dave Anderson, Downtown Community Partnership, requesting an extension of the City's Noise Ordinance on May 7, 2009 from 10:00 p.m. to 11:00 p.m. for a Flood Victory Celebration on the US Bank Plaza and parking lot.

Commissioner Wimmer moved the request for a one hour extension of the City's noise ordinance for a Flood Victory Celebration from 10:00 p.m. to 11:00 p.m. on May 7, 2009 be approved.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

### **Two Weeks of Paid Leave for Employees Who Received Major Flood Damage to Their Personal Property Approved:**

The Board received a communication from City Administrator Pat Zavoral stating several City of Fargo employees have received major damage (i.e. basement or main floor water/sewer damage) to their personal property as a result of the 2009 flood. He said discussions have been held at the cabinet level regarding the compensation options for these individuals who will require leave to recover their personal property. The consensus at the cabinet level and proposal to the Commission, he said, is to provide up to two weeks of paid leave for these employees. Employees will be required to submit a written request to their department head explaining the nature of the loss to their personal property in order to receive up to two weeks of paid leave, he said. He stated this time should be used within a 60-day window following the end of the flood event.

Commissioner Mahoney moved the recommendation to allow up to two weeks of paid leave for employees who received major damage to their personal property due to the 2009 flood be approved.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

### **Parcels of Land in Kirkham's 2nd Addition Rezoned (1404 12th Avenue North):**

At a Hearing held on April 8, 2009 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling to LC, Limited Commercial with a Conditional Overlay on Lots 10 and 11, Block 14 of Kirkham's 2nd 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.

At the April 6, 2009 meeting the Hearing was continued to this day and hour.

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 and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily

complies with the Comprehensive Plans, 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.

Absent and not voting: Commissioner Williams.

The Resolution was adopted.

**First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition to the City of Fargo:**

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 Kirkham's 2nd Addition to the City of Fargo be placed on first reading.

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

Absent and note voting: Commissioner Williams.

The motion was declared carried.

**Parcels of Land in Great Northern 2nd Addition Rezoned (1812, 1820, 1828 and 1840 Dakota Drive North):**

At a Hearing held on April 8, 2009 the Fargo Planning Commission recommended approval of a change in zoning from LI, Limited Industrial to UMU, University Mixed Use on Lots 25 through 34 of Great Northern 2nd Addition.

The City Auditor's Office published a Notice of Hearing stating April 6, 2009 was the time and date set for said Hearing at which time all interested persons could appear and would be heard.

At the April 6, 2009 meeting the Hearing was continued to this day and hour.

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 review criteria of Section 20-0906.F (1-4) has been met.

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.

Absent and not voting: Commissioner Williams.

The Resolution was adopted.

**First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Great Northern 2nd Addition to the City of Fargo:**

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 Great Northern 2nd Addition to the City of Fargo be placed on first reading.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

**Text Amendment to Section 20-0403(C) of Article 20-04 of Chapter 20 of the Land Development Code Approved:**

A Hearing had been held by the Fargo Planning Commission on April 8, 2009 for the purpose of considering a request for a text amendment to Section 20-0403(C) of Article 20-04 of Chapter 20 of the Land Development Code to allow property owners wishing to engage in commercial animal grooming as a home occupation and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

There have been no written or verbal protests to the request and no one is present to protest thereto.

In response to a question from Commissioner Mahoney regarding the difference between commercial and residential grooming businesses, Senior Planner Jim Hinderaker stated it has to do with the amount of employees the business has. Mr. Hinderaker stated with this type of business non-resident employees would not be allowed.

In response to a question from City Attorney Erik Johnson regarding the amount of dogs that will be groomed in a week's time, Colleen Tuhy, 1801 57th Avenue South, stated she is currently grooming 15 dogs per week, but could bump that down to the required number or a maximum allowed of 12.

Commissioner Wimmer moved the request be approved on the basis the proposed Text Amendment complies with Section 20-0904.E (1-3) of the Land Development Code.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

**First Reading of an Ordinance Amending Section 20-0403(C) of Article 20-04 of Chapter 20 of the Land Development Code Relating to Home Occupations:**

Commissioner Wimmer moved first reading of an Ordinance Amending Section 20-0403(C) of Article 20-04 of Chapter 20 of the Land Development Code relating to home occupations.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

At 5:55 p.m. the Board took a five-minute recess.

After recess: All Commissioners present except Commissioner Williams. Mayor Walaker presiding.

**Flood Update Received:**

City Administrator Pat Zavoral said staff has been working with the Corps of Engineers on specifications for removing the dikes. He said contractors have submitted bids to remove the dikes and work should start on the removal in the next couple of days.

City Engineer Mark Bittner stated the top priority for dike removal is the levees on the streets. He said there has been some talk with staff that some of the levees should remain. He said he has also been working with staff on what responsibility the City should take in restoring yards. In the past the City has not taken any responsibility, but with the amount of sand bags that were used during this flood season, he said that the City should take some responsibility in helping residents restore their homes. FEMA, he said, feels that it is a local responsibility, not theirs. Another issue is acquiring properties, he said and the City is going to have to look at using local funds to get these projects accomplished.

Commissioner Wimmer moved the recommendations presented by Mr. Bittner be accepted.

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

Absent and not voting: Commissioner Williams.

The motion was declared carried.

**2009 Legislative Issues Discussed:**

City Administrator Pat Zavoral reviewed the matrix indicating the 2009 Legislative bills that the City supports and opposes.

The Board received a communication from Senator Tim Mathern stating the State of North Dakota should lend a bigger financial hand with flood recovery efforts. He said the State should provide \$100 million for disaster recovery efforts with the money to be used for the 10 percent match requirement by the federal government for disaster recovery. He said the 10 percent match could come out of the state's oil tax trust fund.

Commissioner Mahoney moved the communication from Senator Tim Mathern be received and filed.

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

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, May 4, 2009.

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

The time at adjournment was 6:20 o'clock p.m.