

- e. Community Development:
 - (1) Forgiveness of Fargo Housing Rehab assistance of \$5,333 for property at 1214 2nd Street North due to demonstrated hardship.
 - (2) Sale of NRI property at 806 8th Street North for \$61,000.
- f. Application filed by Gary and Amie Haugo for a five-year tax exemption for improvements made to a building at 808 8th Street South.
- g. Gaming Site Authorizations:
 - (1) Northern Prairie Performing Arts at the Windbreak Lounge, Old Broadway and Doublewood Inn.
 - (2) Team Makers Club, Inc. at the Holiday Inn and Fargodome.
 - (3) Prairie Public Broadcasting, Inc. at Tailgator's, Labby's and Dempsey's Public House.
 - (4) Special Olympics North Dakota at Rooters Bar, Inc.
 - (5) National Multiple Sclerosis Society – North Central States Chapter at TGIF Friday's, The Box – Select Inn and Rick's Bar and Grill.
 - (6) ShareHouse, Inc. at the Bismarck Tavern and Woody's Bar.
 - (7) North Dakota Association for the Disabled, Inc. at O'Kelly's.
 - (8) Plains Art Museum at Blue Wolf Casino located in Cactus Jack's Saloon (Amended).
- h. Application filed by the Fargo Moorhead Symphony Guild for a raffle on 6/3/09.
- i. Agreement with the Fargo Country Club for restoration of property damaged by installation and removal of an emergency levee across the Club's property.
- j. Resolution Relinquishing Extraterritorial Authority of a Portion of Warren and Mapleton Townships (The Northeast Quarter of Section 35 and Section 36, Mapleton Township and the North Half and the Southeast Quarter of Section 01, Warren Township) (Attachment "A").
- k. Bid award for replacement of the transit electronic fare collection system to GFI Genfare.
- l. Bid awards for water main repair materials to Northern Water Works in the amount of \$7,504.79 and to Fargo Water Equipment in the amount of \$44,226.92.
- m. Resolution Regarding Management of Fargo Landfill (Attachment "B").
- n. Automated refuse truck leases with Northern Truck Equipment and Sanitation Products for the total cost of \$170,071.90.
- o. Proposals from Sanitation Products for residential refuse containers in the amount of \$789,410 and Ameri-kart for curbside recycling bins in the amount of \$121,250.

- p. Relinquishment of Easement documents for property owned by the Municipal Airport Authority regarding the sewer collector project along County Road No. 20 from 45th Street SW to University Drive (Project No. 5799).
- q. Revised Flood Protection Incentive Program.
- r. Development Agreement with Wal-Mart for 53rd Avenue South extension.
- s. Cost Participation and Indemnity Agreement for the Red River Zoo frontage road relocation (Improvement District No. 5837).
- t. NDDOT Cost Participation Agreements for Project Nos. 5881, 5882-02 and 5886 and Improvement District No. 5883.
- u. Change Order No. 1 for an increase of \$19,069 for Project No. 5726.
- v. Contract and bond for Project No. 5869.
- w. Bills in the amount of \$4,196,470.95.

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.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5784 (7th Street North from 12th to 13th Avenues North and 13th Avenue North from Broadway to 10th Street North):

Commissioner Mahoney moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5784:

Adopt Resolution Creating Improvement District No. 5784:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5784, in the City of Fargo, North Dakota, be created

On 7th Street North from 12th Avenue to 13th Avenue North.
On 13th Avenue North from Broadway to 10th Street North.

COMPRISING:

Block 1-4.

Block 21-24.

All in Ohmers Addition.

Lots 2-3.

All in Cityscapes 1st Addition.

All of the foregoing is 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. 5784, 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. 5784:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5784, 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 \$704,000.00)

Order Plans and Specifications for Improvement District No. 5784:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5784, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5784:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5784, 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. 5784, 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. 5784 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 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. 5784:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5784, 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, Sidewalks and Incidentals Improvement District No. 5844 (49th Street South between 30th Avenue South and 32nd Avenue South):

Commissioner Mahoney moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5844:

Adopt Resolution Creating Improvement District No. 5844:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5844, in the City of Fargo, North Dakota, be created

49th Street South between 30th Avenue South and 32nd Avenue South.

COMPRISING:

Lots 1 through 6, inclusive, Block 1.
All platted in Urban Plains Rec facility Addition.

Lots 4 through 7, inclusive, Block 8.
All platted in Urban Plains by Brandt 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5844, 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. 5844:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5844, 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 \$205,000.00)

Order Plans and Specifications for Improvement District No. 5844:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5844, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5844:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5844, 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. 5844, 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, Sidewalks 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, Sidewalks and Incidentals Improvement District No. 5844 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, Sidewalks and 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. 5844:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5844, 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.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5862 (Various Locations in South Fargo):

Commissioner Mahoney moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5862:

Adopt Resolution Creating Improvement District No. 5862:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5862, in the City of Fargo, North Dakota, be created

On 7th Street South from 17th to 18th Avenue South.

On 8th Street South from 13th to 18th Avenue South.

On 14th Avenue South from 7th to 8th Street South.

On 15th Avenue South from 7th to 9th Street South.

On 16th Avenue South from 7th to 8th Street South.

On 17th Avenue South from 7th to 8th Street South.

COMPRISING:

Lots 13 through 23, inclusive, Block 2.

Lots 1 through 22, inclusive, Block 3.

Lots 1 through 11, inclusive, Block 4.

All in Fargo Investment Addition.

Lots 1 through 5 and 14 through 26, inclusive, Block 3.

Lots 1 through 13, inclusive, Block 4.

Lots 1 through 15, inclusive, Block 11.

Lots 14 through 26, inclusive, Block 12.

Lots 14 through 26, inclusive, Block 17.

Lots 1 through 13, inclusive, Block 18.

All in Huntingtons Addition.

Lots 1 through 8, inclusive, Block 4.

Lots 9 through 16, inclusive, Block 5.

All in Lewis 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. 5862, 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. 5862:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5862, 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 \$2,014,445.00)

Order Plans and Specifications for Improvement District No. 5862:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5862, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5862:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5862, 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. 5862, 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. 5862 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 Water Main Replacement, Street Reconstruction and Incidentals improvement is to be paid from Street Sales Tax and approximately 36% 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 Water Main Replacement, Street Reconstruction and 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. 5862:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5862, 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Aggregate Industries - North Central Region, Inc. for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 Approved:

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

Safeco Insurance Company of America, in the amount of \$624,133.06, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5703 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.

Petition for Annexation of Land in Section 13, Township 138 North, Range 49 West Received and Filed:

The Board received a communication from Planning Director Jim Gilmour stating the City received a Petition for Annexation from Dakota Boys and Girls Ranch for the following tracts of land which contain 36.26 acres more or less:

The North half of the East half of the Northwest Quarter of Section 13, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota excepting therefrom the north 100 feet of said North half of the East half of the Northwest Quarter of Section 13 previously annexed to the City of Fargo per the Annexation Plat recorded as document number 1254145 in the office of the Cass County Recorder

Mr. Gilmour said Dakota Boys and Girls Ranch is interested in developing the property for their programs and has submitted an application for rezoning and a subdivision.

Commissioner Williams stated, instead of annexing land to the south, it would be more economical for the City to focus on developing existing areas that already have parks and infrastructure. He said the City has set a good example with development of the downtown area.

Mr. Gilmour said the goal is to increase density but there is a need to be cautious so as not to stop growth. He said there will be several opportunities for public input in the upcoming weeks.

Commissioner Wimmer moved the City Attorney be directed to draft an annexation Ordinance to be placed on 1st reading at the next regular meeting of the Board.

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

Commissioners Williams and Walaker voted nay.

The motion was declared carried.

Three Month Moratorium for On-Premise LED Signs Approved Effective Immediately:

The Board received a communication from James Alger, 330 8th Avenue South, on behalf of the Hawthorne Neighborhood Association Executive Committee, requesting that the City of Fargo stop further use of LED signs in the City, until the City can make sufficient research into the new technology in signs and can put in place a pervasive policy on the use of such signs.

Natasha Neihart, 1102 9th Street South, said the Hawthorne neighborhood supports the moratorium on LED signage based on the following points: Mr. Stremick's large LED sign is a safety hazard, the size and design does not keep with the neighborhood's character, proper notification was not followed for the rezoning request and the current sign code is unregulated. She submitted signage design guidelines for the Board's consideration.

Jaime Langness, 376 8th Avenue South, said as a concerned parent she is opposed to the large LED sign on that particular corner because of the large number of students that cross the busy intersection at 13th Avenue and University Drive. She said research shows that the amber LED lights with limited lines of scrolling advertising are less distracting on LED signs.

Steven Stremick, 1155 13th Avenue South, said he has followed the proper procedures and kept no secrets in his applications for rezoning and signage. He said the current sign code needs to be enforced and updated to differentiate electronic signs. The sign face, he said, will be the accepted dimensions as approved by the Board. The only difference, he said, will be the cabinet built around it to make it more appealing to the public.

In response to a question from Commissioner Wimmer asking if there is a rendering of the proposed sign, Senior Planner Jim Hinderaker said renderings were provided at the December Board meeting. He said Mr. Stremick requested additional sign trim at last week's Planning Commission but was denied. Mr. Hinderaker said the sign will comply with the Conditional Overlay and will meet the dimensions of 8.5 feet high and 8 feet wide.

Commissioner Williams said Mr. Stremick's sign request was approved so that is not the question. The question, he said, is changing the sign ordinance for future requests.

In response to a comment regarding a moratorium, City Attorney Erik Johnson said there are two options - one would be to approve a moratorium and the other would be to deny that request, which would allow Mr. Stremick to proceed with his sign. He said Planning Department staff has discussed acknowledging changes in technology since the sign code was written.

Mr. Hinderaker said Planning staff has been directed to study and update the sign code.

Russ Newman, 5015 Rosecreek Parkway, said the focus should be on residential type agreements rather than commercial corridors. Off-premise signage, he said, already has restrictions regarding distance from residential areas, schools and churches. He said the issue seems to be an on-premise issue and a general moratorium would be discouraging for his business.

Mr. Johnson said a distinction between on-premise and off-premise signage regarding the moratorium would provide clarification.

Commissioner Williams moved a moratorium be placed on all on-premise LED signs for three months effective immediately and that staff be directed to evaluate the sign code.

Second by Wimmer.

Mr. Hinderaker said Mr. Stremick followed the correct process and everything is in place in terms of his application, Conditional Overlay and Site Plan. The conditions, he said, have been met but the permit has not been issued because Engineering has not reviewed or signed off on the application.

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.

At 6:05 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Appropriate Staff Authorized to Initiate Voluntary Acquisition for Flood Prone Properties and to Prepare a Request for Proposal for Landscape Architectural Services:

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating the committee reviewed a summary of properties recommended for acquisition for flood mitigation purposes. To-date, they said, the City has received 21 written or verbal requests for acquisition from property owners. They stated the summary recommends acquisition of two vacant residential lots plus 51 flood prone homes. Planning Director Jim Gilmour will work with the City Attorney, they said, to develop standard acquisition procedures for solicitation of interest, appraisals, negotiations, etc. Engineering will complete an application for FEMA HMGP funding for three houses in the Oak Grove neighborhood, they said.

Mr. Bittner gave a status report on the recovery efforts taking place around the City. He said most earthen levies and sandbag dikes have been removed. A few residents, he said, have not signed Right-of-Entry forms and the Corps wants to move on, therefore, the City will do a Request for Proposals (RFP) and the Corps will reimburse the City. The remaining issues, he stated, are restoration and compensation. Mr. Bittner said the City is also doing inspections on streets, trees and boulevards in order to proceed with repairs. Mr. Bittner submitted a map showing the properties the City is recommending for acquisition and stated 20% of the property owners have expressed interest in buyouts. Acquisitions are voluntary and no forceful acquisitions will take place, he said, and the City will wait until properties go on the market for future buyouts if buyouts are passed up this time around.

City Administrator Pat Zavoral said restoration is the last piece of the flood cleanup. He said approximately 500 to 600 people have been affected by flood

damage in the City. The Finance Committee, he said, will be meeting to discuss a program for compensation if homeowners' claims are denied by their insurance companies. He suggested the Board authorize a Request for Proposals for landscape restoration.

Commissioner Mahoney moved staff be authorized to initiate voluntary acquisition actions for flood prone properties as summarized by the Engineering Department, as well as preparation of a Request for Proposals for landscape architectural services for restoration of flood damaged properties and the Finance Committee be directed to consider flood damage compensation programs.

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

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

Fargo Human Relations Commission 2009 Strategic Plan and Annual Report Received and Filed:

The Board received a communication from Community Development Planner Nate Bailly submitting the 2009 Strategic Plan and Annual Report of the Fargo Human Relations Commission (FHRC).

Prairie Rose, Chair of the Human Relations Commission, summarized the Commission's 2008 activities and grievances that were received.

Commissioner Mahoney moved the Annual Report be received and filed.

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

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

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 1, 2009.

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

The time at adjournment was 6:45 o'clock p.m.