

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: July 27, 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, July 27, 2009.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved moving bid awards for Improvement District Nos. 5890 and 5891 from Item "ee" on the Consent Agenda to the Regular Agenda after Item No. 2.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on July 13, 2009 be approved as read.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

- a. Receive and file Ordinance Enacting Article 3-21 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales, Use and Gross Receipts Tax (Flood Risk Mitigation and Reduction Improvements).
- b. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in the North Half of Section 1, Township 139 North, Range 49 West, Cass County, North Dakota; 1st reading, 7/13/09.
- c. Receive and file Summons and Complaint in the matter of Howard W. Kremer v. the City of Fargo.
- d. Party Wall Declaration to allow a doorway between the Spirit Room at 113 Broadway and the second floor of the Swanson Health Building at 111 Broadway.

- e. Appointment of Allen Grensteiner, Adam Walter and Brian Willits as special police officers for NDSU.
- f. Fire Department budget adjustment in the amount of \$1,563.10 for F-M Haz Mat training.
- g. NDDOT Traffic Safety Contract for grant funding to purchase a radar unit for the Police Department (CFDA #20.600).
- h. Exercise of option to “piggyback” on the Fairfax, VA purchase of transit coaches.
- i. Addendum to Agreement with Handi-Wheels Transportation for a Jobs Access and Reverse Commute Funds (JARC) grant to extend the grant until all remaining funds are expended.
- j. Grant awards from the North Dakota Department of Health:
 - (1) State Viral Hepatitis Program activities (CFDA #09.008).
 - (2) Women’s Way Program (CFDA #93.919).
 - (3) Public Water Supply Supervision Program - EPA Block (CFDA #66.605).
 - (4) VFC/AFIX Immunization Program (CFDA #93.268).
 - (5) Water Pollution – EPA Block (CFDA #66.605).
- k. Site Authorizations for Games of Chance:
 - (1) Ducks Unlimited, Inc. at the Holiday Inn on 9/9/09.
 - (2) Sts. Anne & Joachim Catholic Church, at the Church from 8/1/09 through 6/30/10.
- l. Applications for Games of Chance:
 - (1) St. Anthony of Padua Church for bingo and a raffle on 9/27/09.
 - (2) Kringen Club, Inc. for bingo from 7/1/09 through 6/30/10.
 - (3) Rape and Abuse Crisis Center of Fargo-Moorhead for a raffle on 11/13/09.
 - (4) Fargo Lions Club for a calendar raffle from 9/14/09 through 12/28/09.
 - (5) Villa Nazareth d/b/a Friendship, Inc. for a raffle on 10/10/09.
 - (6) Nativity Church of Fargo for a calendar raffle from 9/21/09 to 10/25/09.
- m. Independent Auditor’s report and the City Comprehensive Annual Financial Report for the year ended December 31, 2008.
- n. Sale of a fire truck in the amount of \$1,700 to the Oberon Fire Department.
- o. Plat of Gehrig Properties Addition.
- p. Right-of-way acquisition along 25th Street South from 58th to 76th Avenues South and along 64th Avenue South from University Drive to Maple Valley Drive.

- q. Bid award for one refuse truck to Olympic Sales in the amount of \$53,250.00.
- r. Engineering Services contract with KLJ in the amount of \$368,700 for Improvement District No. 5601.
- s. Engineering Services Contract Amendment for Project No. 5838-01.
- t. Agreement with the State Water Commission for cost-share participation in the Ridgewood Flood Control Project.
- u. Agreement for Special Improvements with Eid Co. for Northfield First Addition (Improvement District Nos. 5609, 5610 and 5611).
- v. Relinquishment of Easement Agreement and Purchase Agreement with Bullinger Enterprises, LLLP for a permanent sanitary sewer easement (Improvement District No. 5729).
- w. License Agreement from WAPA pertaining to a storm sewer easement (Improvement District No. 5706-1).
- x. Change Order No. 1 for an increase of \$4,065.00 for Project No. 5561.
- y. Change Order No. 1 for an increase of \$56,660.50 for Project No. 5896.
- z. Bid advertisement for Project No. 5901.
- aa. Bid awards for Project Nos. 5660 in the amount of \$125,930 to Adelman Concrete & Excavating; 5747-14 in the amount of \$126,835 to Landwehr Construction; 5803 and 5804 in the amount of \$446,480.54 to Aevenia; and 5865 in the amount of \$82,565 to Adelman Concrete & Excavating.
- bb. Contracts and bonds for Project Nos. 5896, 5897 and 5899.
- cc. Bills in the amount of \$5,870,270.70.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 5744 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of \$41,312.10 for Improvement District No. 5744.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 5775 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of \$12,623.59 for Improvement District No. 5775.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 5796 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of \$59,923.86 for Improvement District No. 5796.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Final Balancing Change Order No. 2 for Improvement District No. 5749-01 Approved:

Commissioner Williams moved approval of Final Balancing Change Order No. 2 for an increase of \$49,864.32 for Improvement District No. 5749-01.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 22 and 29, 2009 and protests representing less than 1 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1:

The bids for P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 22, 2009 and the bids were found to be as follows:

Dakota Underground
Bid:

Fargo, ND
\$3,782,640.18

Master Construction Company, Inc. Fargo, ND
Bid: \$3,898,547.20

Opp Construction Company Fargo, ND
Bid: \$4,457,054.95

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1 Awarded to Dakota Underground in the Amount of \$3,782,640.18:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 22, 2009 for P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$3,782,640.18 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 \$3,782,640.18 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5706-1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground for the sum of \$3,782,640.18, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Wimmer, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

No Protests Received for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 22 and 27, 2009 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved that the Board declare that no protests have been filed to the construction of Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863:

The bids for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 22, 2009 and the bids were found to be as follows:

| | |
|---|-----------------------------|
| Master Construction Company, Inc. Bid: | Fargo, ND \$434,187.80 |
| Robert Gibb and Sons, Inc. Bid: | Fargo, ND \$497,599.00 |
| Specialized Contracting Bid: | Fargo, ND \$529,372.35 |
| Kuechle Underground Bid: | Kimball, MN \$556,110.40 |
| Rising Son Construction, Inc. Bid: | Fargo, ND \$589,530.00 |
| Dakota Underground Bid: | Fargo, ND \$604,956.00 |

Contract for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 Awarded to Master Construction Company, Inc. in the Amount of \$434,187.80:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 22, 2009 for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$434,187.80 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$434,187.80 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction

Company, Inc. for the sum of \$434,187.80, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Wimmer, Piepkorn and Walaker voted aye.

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

Bids Rejected for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5844 and Project to be Rebid:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5844 in the City of Fargo, North Dakota, were opened at 11:30 a.m., June 24, 2009.

City Engineer Mark Bittner stated the developer requested construction be delayed to 2010. He recommended the bids be rejected and the project be rebid when requested by the developer and upon receipt of the special assessment escrow.

Commissioner Williams moved the bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5844 be rejected and the project be rebid in 2010 when requested by the developer.

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

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

Water Main Replacement, Asphalt Paving and Incidentals Improvement District No. 5889 (6th Avenue North from 10th to 11th Streets and 11th Street North from 6th to 7th Avenues):

Commissioner Williams moved the following action be taken in connection with Water Main Replacement, Asphalt Paving and Incidentals Improvement District No. 5889:

Adopt Resolution Creating Improvement District No. 5889:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5889, in the City of Fargo, North Dakota, be created

On 6th Avenue North from 10th Street North to 11th Street North.
On 11th Street North from 6th Avenue North to 7th Avenue North.

COMPRISING:

Lots 1 through 6 including the vacated alley, less the Great Northern Railroad right-of-way, inclusive, Block 31.
Lots 1 through 3, the South 62.50 feet of Lot 4, and the South one third of Lots 5 & 6, Block 32.
All platted in Robert's 2nd Addition.

Lots 1 and 6, inclusive, Block 1.

All platted in Fargo Park District North Maintenance Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Asphalt Paving and Incidentals Improvement District No. 5889, 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. 5889:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5889, 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.)

Order Plans and Specifications for Improvement District No. 5889:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5889, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5889:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5889, 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. 5889, 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, Asphalt 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 Water Main Replacement, Asphalt Paving and Incidentals Improvement District No. 5889 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, Asphalt Paving 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. 5889:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5889, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5784 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Specialized Contracting, Inc. for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5784 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5784 Approved:

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

The Cincinnati Insurance Company, in the amount of \$674,334.15, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5784 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5862 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Specialized Contracting, Inc. for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5862 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5862 Approved:

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

The Cincinnati Insurance Company, in the amount of \$1,791,164.29, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5862 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Border States Paving, Inc. for Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883 Approved:

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

Liberty Mutual Insurance Company, in the amount of \$563,567.15, for Milling, Hot Bituminous Pavement, Marking and Incidentals Improvement District No. 5883 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract and Contract Bond for Project No. 5881 Approved:

Commissioner Williams moved the Contract and Contract Bond for Project No. 5881 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract and Contract Bond for Project No. 5882 Approved:

Commissioner Williams moved the Contract and Contract Bond for Project No. 5882 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract and Contract Bond for Project No. 5886 Approved:

Commissioner Williams moved the Contract and Contract Bond for Project No. 5886 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Request for an Extension of the Noise Ordinance for an Outdoor Movie and a Downtown Concert Approved:

The Board received a communication from Dave Anderson, Downtown Community Partnership, requesting an extension of the City's Noise Ordinance on September 24, 2009 from 10:00 p.m. to 11:00 p.m. for an outdoor movie and on October 10, 2009 from 10:00 p.m. to 11:00 p.m. for an outdoor concert at the Old Broadway.

Commissioner Wimmer moved the request for a one hour extension of the City's noise ordinance from 10:00 p.m. to 11:00 p.m. for an outdoor movie on September 24, 2009 and for an outdoor concert on October 10, 2009 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Appointments to Various Boards and Commissions Approved:

The Board received a communication from Mayor Walaker recommending the following appointments to several Boards and Commissions of the City for the terms listed:

Board of Adjustment

| | |
|----------------------------|---------------|
| Michael Love (replacement) | June 30, 2012 |
|----------------------------|---------------|

Fargo Access Channel Board

| | |
|-------------------------------------|---------------|
| Barbara Spaeth Baum (reappointment) | June 30, 2012 |
|-------------------------------------|---------------|

| | |
|-------------------------------|---------------|
| Todd McDonald (reappointment) | June 30, 2012 |
|-------------------------------|---------------|

Native American Commission

| | |
|-------------------------|---------------|
| Guy Fox (reappointment) | June 30, 2012 |
|-------------------------|---------------|

| | |
|-------------------------------|---------------|
| Scott Satermo (reappointment) | June 30, 2012 |
|-------------------------------|---------------|

| | |
|-----------------------------------|---------------|
| Sharon White Bear (reappointment) | June 30, 2012 |
|-----------------------------------|---------------|

Commissioner Wimmer moved the motion made at the July 13, 2009 meeting appointing Lisa Wheeler and Chad Peterson to the Board of Adjustment be reconsidered.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

The motion on the floor is to reappoint Lisa Wheeler and Chad Peterson to the Board of Adjustment for three year terms ending June 30, 2012.

Mayor Walaker said after the previous letter was written, Ms. Wheeler called to say she had reconsidered and is not able to continue her service on the Board of Adjustment.

Commissioner Wimmer offered an amendment to the motion to appoint Michael Love to replace Lisa Wheeler to the Board of Adjustment for a three year term ending June 30, 2012.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

On call of the roll on the original motion as amended Commissioners Wimmer, Piepkorn, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Commissioner Wimmer moved the appointments to the Fargo Access Channel Board and the Native American Commission be approved as outlined above.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Protests Received in Connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5890: Protest Period Extended to Noon on August 6, 2009:

The Board received a communication from City Engineer Mark Bittner stating the alley paving project was initiated by a petition signed by over 70% of the property owners. He said the project was designed, the district was created and the property owners were sent a letter informing them of the project, the estimated cost and information about the protest process. He stated the protest period expired on July 21, 2009 and the responses received are summarized as follows:

| | |
|-------------------------------|--------|
| 11 properties support project | 52.28% |
| 10 properties oppose project | 47.72% |
| 0 properties did not respond | 0% |

Rachel Benz, 1546 3rd Street North, stated she recently purchased her home and was not aware of the alley paving project planned for her neighborhood. She said the previous owners were in favor of the project but she would like to change that vote in opposition to the project.

City Engineer Mark Bittner said Ms. Benz's vote would change the protest percentage to a majority opposing the project. He said the protest period expired July 21, 2009 but the Board can either consider the protests valid or extend the protest period to allow reevaluation by the property owners.

Commissioner Williams moved the protest period for Improvement District No. 5890 be extended to noon on August 6, 2009.

Second by Wimmer.

Mr. Bittner said the property owners would be notified.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Protests Received in Connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5891: Protest Period Extended to Noon on August 6, 2009:

The Board received a communication from City Engineer Mark Bittner stating the alley paving project was initiated by a petition signed by over 55% of the property owners. He said the project was designed, the district was created and the property owners were sent a letter informing them of the project, the estimated cost and information about the protest process. He stated the protest period expired on July 21, 2009 and the responses received are summarized as follows:

| | |
|-------------------------------|--------|
| 10 properties support project | 45.55% |
| 7 properties oppose project | 36.72% |
| 4 properties did not respond | 17.72% |

Steve Hoffman, 217 15th Avenue North, stated the project does not benefit his property because he uses 3rd Street for parking and access to his garage. He said after reviewing the protest information he noticed one of the opposing votes was not counted.

Mr. Bittner said even though Mr. Hoffman does not use the alley from his property, the property is assigned a benefit because access to the alley could change at any time in the future. He said even with a correction for the missing no vote, the percentages would still reflect a majority in support of the project.

Mr. Hoffman stated he would be willing to sign an agreement stating he would not change the access from his yard onto the alley.

Commissioner Williams moved the protest period for Improvement District No. 5891 be extended to noon on August 6, 2009.

Second by Piepkorn.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Application Filed by RRL Fargo, LLC d/b/a Red River Lodge for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Fargo RRL Fargo, LLC d/b/a Red River Lodge for a Class "ABH" Alcoholic Beverage License at 901 38th Street 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 Wimmer. On call of the roll Commissioners Piepkorn, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Doublewood Lounge, Inc. d/b/a Doublewood Lounge to Doublewood Lounge, Inc. d/b/a Doublewood Lounge Approved (Ownership Change):

A Hearing had been set for this day and hour on an application to transfer the Class "ABH" Alcoholic Beverage License from Doublewood Lounge, Inc. d/b/a Doublewood Lounge to Doublewood Lounge, Inc. d/b/a Doublewood Lounge at 3333 13th 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 Wimmer. On call of the roll Commissioners Piepkorn, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Application Filed by Robust Properties, LLC d/b/a La Quinta Inn & Suites for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Fargo Robust Properties, LLC d/b/a La Quinta Inn & Suites for a Class "GH" Alcoholic Beverage License at 2355 46th Street 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 Wimmer. On call of the roll Commissioners Piepkorn, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Renaissance Zone Boundary Changes Approved:

A Hearing had been set for this day and hour to remove four blocks and add seven blocks to the Renaissance Zone designation.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Authority has been evaluating the Zone in order to make adjustments to the boundaries. He said the evaluation was prompted by several factors: 1) the action of the 2007 North Dakota Legislature that authorized three additional blocks for each Renaissance Zone; 2) the acquisition of properties by NDSU in the Renaissance Zone that will no longer benefit from the program and 3) the need to periodically review and evaluate conditions in the Zone. He said the process for developing the recommendations was the same as used in previous evaluations.

Mr. Stein said a public input meeting was held at 10:00 a.m. on Wednesday, July 22, 2009 in the Commission Room at City Hall and he submitted a map reflecting the recommendations made following the public meeting. He said the recommendation is that four blocks be removed from the Zone. Of those four, he said, three blocks (Blocks 33, 34, and 39) are mostly owned by governmental or non-profit owners and therefore the incentive of tax exemptions has little or no value to them. He stated Block 60 was removed with the knowledge that conditions may change in the future, but at present the redevelopment potential was greater in other areas. The seven blocks added (Blocks 23, 25, 32, 37, 51, 52, and 86), he said, all have high redevelopment potential and support the evolving growth areas in downtown Fargo.

Commissioner Wimmer moved the changes to the Renaissance Zone boundaries be approved as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Moratorium on All On-Premise Electronic Messaging Centers Sign Permit Applications Extended to February 18, 2010:

The Board received a communication from Senior Planner Jim Hinderaker stating on May 18, 2009, the City Commission approved a three month moratorium on the issuance of all on-premise LED sign permit applications. On June 15, 2009, he said, the City Commission amended the moratorium so that the moratorium only applies to all on-premise electronic messaging centers (EMC's) sign permit applications that are 150 feet or less from a residentially zoned property. At present, he said, the moratorium will lapse on August 18, 2009. At the direction of the Planning Commission, he stated, staff is working to update the City of Fargo Sign Code and a schedule has been established to have a working draft ready for review and public input by late October 2009. He said staff anticipates that a final draft would be ready for review and consideration by the City Commission in early 2010.

Natasha Neihart, 1102 9th Street South, said the Erskines and Hawthorne neighborhoods are supportive of the extended moratorium.

Jonathan Garaas, Attorney representing Steven Stremick, said he is opposed to the extended moratorium and said the City is not following its own Ordinances.

Commissioner Piepkorn moved the moratorium on all on-premise electronic messaging centers sign permit applications that are less than 150 feet from a residentially zoned property be extended to February 18, 2010.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, August 10, 2009.

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

The time at adjournment was 5:47 o'clock p.m.