

- e. Grant Awards from the North Dakota Department of Health for the following:
 - (1) Emergency Preparedness County Allocation (CFDA #93.069).
 - (2) Emergency Preparedness and Response for the region (CFDA #93.069).
 - (3) Emergency Preparedness and Response City Readiness Initiative (CFDA #93.069).
- f. Grant award from the North Dakota Department of Transportation in the amount of \$266,502 for transit funding from 7/1/09 through 6/30/10.
- g. Bid award for interior painting of the Ground Transportation Center to Protech Contracting Services, Inc. in the amount of \$37,991.
- h. City Commission meeting schedule for 2010.
- i. Resolution Approving the Execution of Documents Relating to the Remarketing of Industrial Development Revenue Bonds (Cass-Clay Creamery, Inc. Project) Series 2002 (Attachment "A").
- j. Site Authorization for Fargo Youth Hockey Association at the Teamsters Arena.
- k. Applications for Games of Chance:
 - (1) Cardinal Muench Seminary for bingo and a raffle on 1/31/10.
 - (2) Zonta Club of Fargo-Moorhead for a raffle on 9/24/09.
 - (3) Make-A-Wish Foundation of North Dakota for a raffle on 9/11/09.
 - (4) Logan Frank Benefit Carnival for bingo and a raffle on 9/12/09; Public Spirited Resolution.
- l. Change Orders for the Main Library: G-13 for an increase of \$18,911.00; E-6 for an increase of \$4,774.09.
- m. Bid award for one articulating wheel loader to Titan Machinery in the amount of \$171,900.
- n. Bid award for clarifier improvements at the Wastewater Treatment Facility to PKG Contracting, Inc in the amount of \$294,760 and to JDP Electric, Inc. in the amount of \$25,997.
- o. Resolutions of Support for the Fargo-Moorhead Metropolitan Traffic Operations Action Plan and a TIGER Grant Application (Attachments "B1" and "B2").
- p. Purchase agreement with Delmer and Renee Hofer for temporary and permanent sanitary sewer easement (Improvement District No. 5726).
- q. Public utility easement along 1209 52nd Avenue South.

- r. Joint Powers Agreement with SE Cass Water Resource District for Drain 27 and Drain 53 improvements (Improvement District Nos. 5903 and 5904).
- s. Engineering Services Contract Amendment with Houston Engineers for Project No. 5683-4.
- t. Engineering Services Contract Amendment with Ulteig Engineers, Inc. for Improvement District No. 5202.
- u. Final Balancing Change Orders for the following Improvement Districts: No. 1 for an increase of \$6,263.79 for No. 5760; No. 1 for an increase of \$100,089.20 for No. 5782; No. 1 for an increase of \$2,486.64 for No. 5792; No. 8 for an increase of \$88,800.59 for No. 5824; No. 1 for an increase of \$5,124.73 for No. 5832; No. 1 for an increase of \$3,379.80 for No. 5833; No. 2 for an increase of \$2,911.05 for No. 5845; No. 1 for an increase of \$201,278.23 for No. 5893.
- v. Bid advertisement for Project No. 5860.
- w. Contracts and bonds for Project Nos. 5871 and 5873.
- x. Bills in the amount of \$7,480,475.54.

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.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202 (1st Avenue North from University Drive to 25th Street):

Commissioner Piepkorn moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202:

Adopt Resolution Creating Improvement District No. 5202:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5202, in the City of Fargo, North Dakota, be created

1st Avenue North from University Drive to 25th Street.

COMPRISING:

Lots 9-17 and all of vacated alley, Block 24, Tylers Addition.

Lots 1, 2, 8, 9 & 10, Block 23, Tylers Addition, and South 40' of Lot 3, Block 1, McDermotts Subdivision of Lots 8-22.

Lots 10-21, Block 22, Tylers Addition.

Lots 14-16 and parts of Lots 17-22, Block 21, Tylers Addition.

Lots 10-24, Block 20 and part of Lot 10, all of Lots 11-13, Block 21, and parts of vacated alleys in area, Tylers Addition.

Lots 6 and 7, Block 1, PM Addition.

Most of Lot 5, all of Lot 8 and parts of Lot 9, PM Properties Subdivision, Block 1 and parts of Lots 8 and 9, and all of Lots 14 and 15, plus a part of the vacated alley in area, Block 16, Reeves Addition.

Lots 10-13, Block 16, Reeves Addition.

Lots 9-16 & West 10' of vacated alley adjacent to Lots 9-16, Block 17, Reeves Addition.

Lots 1-8 & East 10' of vacated alley adjacent to Lots 1-8, Block 17, Reeves Addition.

Lots 5, 6, 7, 8, 9, 10 & 11, Block 17, Reeves Addition.

Parts of Lot 2 & all of Lots 3 & 4, Block 17, Reeves Addition.

Lots 13-23, and part of Lot 24, Block 18, Reeves Addition.

Part of Lot 13 and all of Lots 14-24, Block 19, Reeves Addition.

Parts of Lots 7, 8 and 9, all of Lots 10-12, vacated 24th Street, Block 26, Tylers Addition, and Lots 1-9, Block 25, Tylers Addition & parts of SW 1/4 OF SEC 1, TWP 139N, RGE 49W.

Lots 1-5, excluding that part reserved for GN RR CO R/W & Lot 6, 7 & 8 lying east on NP RW CO SPUR, excluding that part reserved for NP RW CO R/W, Block 26, Tylers Addition.

Lots 1-4 & parts of Lots 5-12, Block 27 & W 1/2 of vacated street between Lot 1, Block 27 & Lot 12, Block 28, Tylers Addition.

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202, 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. 5202:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5202, 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 \$4,504,790.50.)

Order Plans and Specifications for Improvement District No. 5202:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5202, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5202:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5202, 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. 5202, 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights & Incidentals Improvement District No. 5202 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights & Incidentals improvement is to be paid from street sales tax and approximately 30% 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights & 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. 5202:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5202, in the City of Fargo, North Dakota.

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.

Railroad Spur Tracks and Incidentals Improvement District No. 5827 (West Edge of Fayland Industrial First Addition):

Commissioner Piepkorn moved the following action be taken in connection with Railroad Spur Tracks and Incidentals Improvement District No. 5827:

Adopt Resolution Creating Improvement District No. 5827:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5827, in the City of Fargo, North Dakota, be created

This project is for the construction of railroad spur tracks beginning at the end of the existing spur line near 14th Avenue North and 47th Street North south through Fayland Industrial First Addition.

ASSESSMENT AREA DESCRIPTION:

Lots 1 through 3.

All in Block 5, Fayland Industrial First Addition.

Lots 1 and 2.

All in Block 3, Sheyenne Industrial Center Third Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Railroad Spur Tracks and Incidentals Improvement District No. 5827, 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. 5827:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5827, 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 \$611,427.00.)

Order Plans and Specifications for Improvement District No. 5827:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5827, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5827:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5827, 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. 5827, 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 Railroad Spur Tracks 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 Railroad Spur Tracks and Incidentals Improvement District No. 5827 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 Railroad Spur Tracks 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. 5827:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5827, in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5898 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5898 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5898 Approved:

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

United Fire and Casualty Company, in the amount of \$765,360.70, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5898 in the City of Fargo, North Dakota.

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.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5890: Protests Received and Declared Sufficient to Protest Project Out:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5890 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 52 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

The Board received a communication from Deputy City Engineer David Johnson 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 initial protest period expired on July 21, 2009 and at that time there were 11 properties (52%) supporting the project and 10 properties (48%) opposed to the project and 4 (18%) non-responding properties. He said following input from property owners, the protest period was extended to August 6, 2009 by City Commission action on July 27, 2009. At the August 10th meeting, he said, after receiving additional protests and hearing additional comments from property owners both for and against the project, the protest period was further extended until August 19, 2009 to ensure input from the affected property owners. He said letters to property owners were sent out informing them of the time extensions following each of these Commission meetings. The final tally of responses, he said, are summarized as follows:

10 properties support project	48%
11 properties oppose project	52%
0 properties did not respond	0%

Jay Felton, 1530 North 3rd Street, said the neighborhood has been waiting 15 years for the alley paving project. He said the initial protest period favored the project but the City Commission extended the protest period for one owner. After the extension, he said, the tally went in favor of the opposition. He said it is not fair to

make an extension for one property owner when the published deadline had been met.

City Engineer Mark Bittner said the Century Code allows 30 days for the protest period and Engineering staff made the recommendation to extend the protest period for another two weeks. He said not much can be done except to go through the same petition process and try to convince the neighbors to support the project.

Paul Peterson, 1542 North 3rd Street, said the people that have access to the alley from their garages want to be able to improve the approaches into the garages. He said they understand not everyone adjacent to the alley has direct access. But if the City does not pave the alley, he said, they would like to see some kind of resolution towards improving the alley condition.

Mayor Walaker said the neighbors need to work with the process that is in place. He said he would like to see a larger percentage of support.

Commissioner Piepkorn moved the protests be received and filed and declared sufficient to protest the project out.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Resolution Adopted Approving Northfield Lift Station to the City of Fargo, Cass County, North Dakota (7335 37th Street North):

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Northfield Lift Station" containing 1 Lot, 1 Block and 0.450 acres of land more or less, located at 7335 37th Street North; and

WHEREAS, A Hearing was held June 10, 2009 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on August 10 and 17, 2009 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., August 24, 2009 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Northfield Lift Station" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Application Filed by Ivory Keys, Inc. d/b/a Garden Bar for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Ivory Keys, Inc. d/b/a Garden Bar for a Class "ABH" Alcoholic Beverage License at 4351 17th 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 Hacdella's LLC d/b/a Sandellas Flatbread Café for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Hacdella's LLC d/b/a Sandellas Flatbread Café for a Class "H" Alcoholic Beverage License at 1414 12th Avenue North, 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 Jitters, Inc. d/b/a Jitters Coffee Bar for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Jitters, Inc. d/b/a Jitters Coffee Bar for a Class "GH" Alcoholic Beverage License at 1414 12th Avenue North, 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.

Hearing on Special Assessments for Sewer Repairs on Certain Properties in the City of Fargo:

A Hearing had been set for this day and hour on the special assessments for sewer repairs on the list of properties on file in the City Auditor's Office.

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

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Hearing on the Special Assessment List for Maintenance of the Skyway System Approved:

A Hearing had been set for this day and hour on the special assessment list for maintenance of the Skyway System in the City of Fargo, North Dakota.

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

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Hearing on the Special Assessment List for Maintenance of the Broadway Mall Approved:

A Hearing had been set for this day and hour on the special assessment list for maintenance of the Broadway Mall in the City of Fargo, North Dakota.

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

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

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

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

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

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Hearing on Special Assessments for Abatement of Nuisances on Certain Properties in the City of Fargo:

Hearings had been set for this day and hour on special assessments for abatement of nuisances on the list of properties on file in the City Auditor's Office.

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

Commissioner Wimmer moved the special assessments for abatement of nuisances be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Petition for a Zoning Change and Platting of Dakota Boys and Girls Ranch Addition Withdrawn (2038 76th Avenue South):

A Hearing had been set for July 13, 2009 on a petition for rezoning and platting of Dakota Boys and Girls Ranch Addition.

At the July 13, 2009 meeting, the Hearing was continued to this date and hour, however, the petition has been withdrawn by the petitioner.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5891:
Protests Received and Declared Sufficient to Protest Project Out:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5891 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 44.87 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

The Board received a communication from Deputy City Engineer David Johnson 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 initial protest period expired on July 21, 2009 and at that time there were 10 properties (45%) supporting the project and 7 properties (37%) opposed to the project and 4 (18%) non-responding properties. He said following input from property owners, the protest period was extended to August 6, 2009 by City Commission action on July 27, 2009. At the August 10th meeting, he said, after receiving additional protests and hearing additional comments from property owners both for and against the project, the protest period was further extended until August 19, 2009 to ensure input from the affected property owners. He stated letters to property owners were sent out informing them of the time extensions following each of these Commission meetings. The final tally of responses, he said, are summarized as follows:

9 properties support project	41.71%
9 properties oppose project	44.87%
3 properties did not respond	13.42%

Mr. Johnson said the Special Assessment Coordinator received a phone call from one of the non-responding property owners after hours on Wednesday, August 19, 2009, indicating she was opposed to the project. However, he said, legal protests must be in writing so her protest was not included in the final results.

City Engineer Mark Bittner said he is recommending all bids be rejected because of the close tally with a 44.87% opposed.

Commissioner Wimmer said both districts were very close so there is a need to be consistent.

Commissioner Williams moved the protests be received and filed and declared sufficient to protest the project out.

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

Mayor Walaker voted nay.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Thomas Jefferson and Bryce Alme Johnson Reappointed to the Housing and Redevelopment Authority:

The Board received a communication from Mayor Walaker recommending that Thomas Jefferson and Bryce Alme Johnson be reappointed to the Housing and Redevelopment Authority.

Commissioner Wimmer moved the reappointment of Thomas Jefferson and Bryce Alme Johnson to the Housing and Redevelopment Authority for the term ending September 30, 2012 be approved.

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

Absent and voting: Commissioner Mahoney.

The motion was declared carried.

Denial Recommended on Application Filed by James and Carol Baum to Lower the 2007 Assessment Valuation on 1224 11th Avenue North:

The Board received a communication from Ben Hushka, City Assessor, submitting information relating to the Application for Abatement or Refund of Taxes #4330 filed by James and Carol Baum for the 2007 tax year and their request to reduce the valuation from \$149,500 to \$107,000. Mr. Hushka stated the property was involved in a reappraisal in 2008 and the value was reduced to \$114,000. He said as part of that reappraisal effort, certain property characteristics were changed from previous information on record in the file. One of those changes, he said, included the property being considered as a commercial four unit conversion rather than a three unit residential conversion. He said the current valuation is consistent with sales and appraisals of similar four unit properties in today's market. Upon receiving the information of the reduction in value, he said, the owner requested previous years' values be reduced as well. He said since the reappraisal was done in the 2008 calendar year, they did abate the valuation for the 2008 tax year for which the owner received a refund in taxes of \$691.39. The owner, he said, is now requesting that the reduction be made for 2007 as well. He said the value should not be abated for years prior to the year of the appraisal and he listed the reasons. He noted a 1970 North Dakota Supreme Court case ruling and stated if taxing entities reduced previous year assessments every time there was a reduction in value, they would be continually refunding levied taxes after budgets and mill levies were determined and would have great difficulties in projecting revenues. Mr. Hushka stated the applicant also asks in the application that excess taxes should be refunded back to 2001 "...when assessed value doubled." He submitted a breakdown of total appraised values on the property since 2000 and said the breakdown shows the assessed value did not double.

James Baum, 511 South 8th Street, said he was notified in 2008 that the property had been categorized incorrectly. At that time, he said, the value was lowered and he was given a rebate but he is requesting an additional rebate because of the error in the categorization. He said he did not protest before because he did not realize the property was incorrectly categorized.

Mr. Hushka said normally a property owner will contact the Assessor's Office if the assessed value appears unusually high. He said Mr. Baum can appeal to the Cass County Assessor.

Commissioner Williams moved, based upon Mr. Hushka's recommendation, that the application #4330 filed by James and Carol Baum for abatement of 2007 real estate taxes on property located on 1224 11th Avenue North be denied.

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.

Speed Limit Reduction on 32nd Avenue South from University Drive to the I-29 East Ramp Intersection Approved:

The Board received a Report of Action from the Traffic Technical Advisory Committee (TTAC) stating Traffic Engineering staff conducted speed and volume counts in June on 32nd Avenue South to gather more information in regards to a possible speed limit reduction from 40 mph to 35 mph between University Drive and the I-29 east ramp intersection. The report stated the data showed that 85% of the vehicles traveling on 32nd Avenue South in the area between University Drive and I-29 are traveling in the range of 38 to 43 mph. In addition to the speed and volume information, it continued, crash statistics were received from the NDDOT Planning and Programming Division. The report stated for the one-year period of 2007, this corridor had three intersections that made the statewide list of high crash locations - the intersection of 32nd Avenue South at 32nd Street ranked 4th on the list, with the predominant crash type being the rear end collision; the intersection of 32nd Avenue South at 15th Street ranked 7th on the list, with the predominant crash type being the right angle crash; and the intersection of 32nd Avenue South at 25th Street was 13th on the list, with the predominant crash types being the rear end collision and left turning movements. It said the reasons for reducing the speed limit include constricted right-of-way, mature trees lining the boulevards and the medians, few dedicated right turn bays to allow for smooth transitions for slower moving vehicles and commercial access directly to the street itself. The report stated this item was placed on the TTAC agenda with a request from Traffic Engineer Jeremy Gorden to decrease the speed limit from 40 mph to 35 mph. A motion was passed on a 3 to 2 vote to decrease the speed limit to 35 mph, it said, with the motion including a plan to receive public input on the motion before sending it to the City Commission. It said two block ads were placed in The Forum and one email was received from a resident protesting the speed reduction.

Commissioner Williams moved the speed limit be reduced from 40 mph to 35 mph on 32nd Avenue South from University Drive to the I-29 east ramp intersection with an implementation date of August 31, 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.

First Reading of an Ordinance Enacting and Establishing a Moratorium on the Issuance of Sign Permits for Certain Electronic Message Centers:

The Board received a communication from City Attorney Erik Johnson stating the Cass County District Court issued a Writ of Mandamus directing the City building inspector to issue a sign permit on the application by Steven Stremick for an 8' wide

by 8' 6" tall sign based upon his application of May 15, 2009 and the permit has already been issued. As with all trial court decisions, he said, the Writ of Mandamus is subject to appeal to the North Dakota Supreme Court, however, his recommendation is that the City not appeal this decision. He said there are two matters that may require action by the Commission, the first of which is whether or not the Commission wishes to repeal the moratorium on electronic message centers as established initially by the Board at its May 18, 2009 regular meeting. Although the Writ of Mandamus only applies to Mr. Stremick's sign permit, he stated, it is his opinion that if any other applicant for a sign permit affected by the moratorium were to apply for that similar relief in district court, they would succeed. Therefore, he stated, the Commission may wish to initiate a motion repealing the May 18th moratorium, as amended on June 15th. Second, he said, in issuing the moratorium on May 18th, the City Commission recognized that there have been concerns about incompatibility, and other concerns, regarding digital signs particularly near residential areas. He said it is assumed that the Commission continues to have those concerns while the Planning staff's sign committee is doing its work to prepare proposed revisions to Fargo's Sign Code. Therefore, he said, he has enclosed a draft moratorium by Ordinance prohibiting electronic message center signs within 150 feet of a residential zoning district with the moratorium to expire on February 18, 2010, the same deadline identified previously. He said he has inserted a specific provision in this Ordinance allowing the City Commission, by resolution, to extend the moratorium by no greater than 180 days.

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 Enacting and Establishing a Moratorium on the Issuance of Sign Permits for Certain Electronic Message Centers be placed on first reading.

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 LED Signs and Electronic Message Center Signs Repealed:

City Attorney Erik Johnson recommended the repeal of the moratorium on LED signs and electronic message center signs that was declared by the City Commission on May 18, 2009 and was amended at the June 15, 2009 Board meeting. He pointed out that sign permit applications could be approved between now and the adoption of the Ordinance Enacting and Establishing a Moratorium on the Issuance of Sign Permits for Certain Electronic Message Centers.

Commissioner Williams moved the moratorium on LED signs and electronic message center signs that was declared by the City Commission on May 18, 2009 be repealed.

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.

Action Taken Regarding US Bank Ramp:

The Board received a communication from City Administrator Pat Zavoral stating the City-owned US Bank parking ramp has been deemed structurally unsound to be used for vehicle parking. City staff, a structural engineering firm and the Finance Committee have met, he said, to discuss the options available to the City to address this matter. He said the issues within the parking ramp which will be affected by this structural deficiency include the US Bank drive-up teller service, the skyway link connected to the south columns of the ramp and the parking levels of the ramp itself. Demolition of the ramp, he said, must address the existing future uses of the site.

Mr. Zavoral said Heyer Engineering alerted City staff of the deterioration of the ramp at its annual review in July. He said the Finance Committee is recommending the following action:

“Direct staff to contract with Heyer Engineering to prepare a demolition specification for the site, as well as a plan to restore the skyway link as soon as possible.

Declare the condition of the US Bank parking ramp as an emergency situation, allowing for the suspension of the City's bidding requirement for a demolition contract to allow receipt of quotations from qualified contractors.

Work with US Bank representatives to provide drive-up teller services on the site after demolition.”

Commissioner Williams moved the Finance Committee recommendations be approved as outlined as above.

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.

Commissioner Wimmer moved the Board adjourn to 5:00 o'clock p.m., Tuesday, September 8, 2009.

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

The time at adjournment was 6:13 o'clock p.m.