

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                  Monday:                                  May 17, 2010:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, May 17, 2010.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved adding an extra item at the end of the Regular Agenda to approve a Request for Proposals for Phase I Cultural Resources Investigation for the Fargo-Moorhead Metro Flood Risk Management Project.

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

Minutes Approved:

Commissioner Wimmer moved that the Minutes of the Regular Meeting of the Board held on May 3, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 5/3/10:
  - (1) Amending Section 18-0305 of Article 18-03 of Chapter 18 of the Fargo Municipal Code Relating to Public Ways and Places (prohibiting the sale of items on public property including driveway approaches).
  - (2) Amending Section 10-0304 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Breaches of Peace and Order.
- b. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Enacting Those Powers Contained in the Constitution and Laws of the State of North Dakota and Article 3 of Fargo's Limited Home Rule Charter.

- c. Receive and file Ordinance Amending Section 12-0105 of Article 12-01 and Section 12-0201 of Article 12-02 of Chapter 12 of the Fargo Municipal Code Relating to Dogs and Cats.
- d. Receive and file the following Ordinances:
  - Amending Article 21.1-01 of Chapter 21.1 of the Fargo Municipal Code Relating to the International Residential Code.
  - Amending Article 31-01 of Chapter 31 of the Fargo Municipal Code Relating to the International Property Maintenance Code.
  - Amending Section 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code Relating to the International Mechanical Code.
  - Amending Section 30.1-01 of Chapter 30.1 of the Fargo Municipal Code Relating to the International Fuel Gas Code.
  - Amending Article 21.2-01 of Chapter 21.2 of the Fargo Municipal Code Relating to the International Existing Building Code.
  - Amending Article 21-01 of Chapter 21 of the Fargo Municipal Code Relating to the International Building Code.
  - Amending Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code Relating to Fire Protection and Prevention.
- e. Receive and file Year to Date – Budget to Actual Report for April 2010.
- f. Receive and file First Quarter Financial Status Report for Major Operating Funds.
- g. Second Amendment to Agreement between the City of Fargo and Laidlaw Transit Services, Inc. d/b/a First Transit, Inc.
- h. Request for Proposals for Mass Transit operational services to provide management, driver and fixed route dispatch services.
- i. Site Authorizations for Games of Chance:
  - (1) Team Makers Club, Inc. at the Fargodome and the Holiday Inn.
  - (2) Northern Prairie Performing Arts at the Old Broadway, the Windbreak and the Doublewood Inn.
  - (3) North Dakota Association for The Disabled, Inc. at O’Kelly’s.
  - (4) Teamsters at the Teamsters.
  - (5) West Fargo Hockey Association at Fort Noks and Old Chicago.
  - (6) National Multiple Sclerosis Society – NTH Chapter at Rick’s Bar and Grill and the Select Inn.
  - (7) American Gold Gymnastics at SideStreet Grille & Pub and Big D’s Bar & Grill.

- j. Applications for Games of Chance:
  - (1) FM Walleyes Unlimited, Inc. for a raffle on 9/16/10.
  - (2) Fargo Moorhead Symphony Orchestra for a raffle on 6/2/10.
- k. Application filed by Brian Dahlin for a five-year exemption from taxation for improvements made to a building at 1431 4th Avenue South.
- l. Agreements with Lake Agassiz Habitat for Humanity for the redevelopment of 1205 2nd Avenue South and 1534 1st Avenue South.
- m. 2010 Community Development Block Grant facility, capital and downtown projects.
- n. Change Orders for the Skyway Project: No. 7 from Comstock Construction for an increase of \$2,232.00; No. 1 from Manning Mechanical for an increase of \$2,182.00.
- o. Contracts for remodeling the Human Resources offices.
- p. Purchase of one flush truck with anti-ice from Stepp Mfg. for \$86,674.00.
- q. Acceptance of proposal from Knight Printing for printing and mailing services associated with distribution of the 2009 Water Quality Report.
- r. AE2S Contract Amendment No. 2 for an increase of \$44,700.00 for Project WA0901.
- s. Amendment No. 2 to the Harwood Sewer Agreement.
- t. Change Order No. 1 for an increase of \$113,726.89 for Project No. 5728.
- u. Change Orders for Project No. 5726: No. 6 for a time extension and No. 7 for an increase of \$25,794.00.
- v. Change Order No. 1 for an increase of \$6,198.00 for Project No. 5936-2.
- w. Purchase Agreements – Temporary Construction Easements in connection with Improvement District No. 5700:
  - (1) Old Orchard, LLC.
  - (2) Evangelical Lutheran Good Samaritan Society.
- x. RFP for Project Nos. 5946, 5949 and 5950 and Improvement District No. 5945.
- y. Contract with Houston Engineering in the amount of \$96,538.50 for Project No. 5944.

- z. Bid awards for Project Nos. 5900 to Border States Paving, Inc. in the amount of \$810,990.68, 5917 to Shermans, LLC in the amount of \$57,025.00 and 5918 to Adelman Concrete and Excavating in the amount of \$287,945.00.
- aa. Contract and bond for Project No. 5920-01.
- bb. Bills in the amount of \$4,974,124.56.

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

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

Bids Received for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1:

The bids for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 12, 2010 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$1,712,597.90
Master Construction Company, Inc. Bid:	Fargo, ND \$1,751,040.10
Paras Constructing, Inc. Bid:	Fargo, ND \$1,826,612.22
Opp Construction Company Bid:	Fargo, ND \$1,889,560.65
Dakota Underground Bid:	Fargo, ND \$2,028,899.40
Strata Corporation Bid:	Grand Forks, ND \$2,341,992.95

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 Awarded to Northern Improvement Company in the Amount of \$1,712,597.90:

Commissioner Wimmer 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. 5908-1; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 12, 2010 for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 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. 5908-1 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$1,712,597.90 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 Northern Improvement Company in the sum of \$1,712,597.90 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-1 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$1,712,597.90, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

No Protests Received for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 12 and 19, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Wimmer moved that the Board declare that no protests have been filed to the construction of Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914.

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

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

Bids Received for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914:

The bids for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 12, 2010 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$1,065,354.03
Border States Paving, Inc. Bid:	Fargo, ND \$1,086,926.50
Northern Improvement Company Bid:	Fargo, ND \$1,095,371.17

Dakota Underground Bid:	Fargo, ND \$1,103,047.55
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$1,103,685.85
Central Specialties, Inc. Bid:	Alexandria, MN \$1,194,785.80

Contract for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914 Awarded to Master Construction Company, Inc. in the Amount of \$1,065,354.03:

Commissioner Wimmer 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 Construction and Incidentals Improvement District No. 5914; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 12, 2010 for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$1,065,354.03 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 \$1,065,354.03 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Construction and Incidentals Improvement District No. 5914 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$1,065,354.03, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 (From 13th Avenue South to I-94 between 9th Street South and the Red River):

Commissioner Wimmer moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805:

Adopt Resolution Creating Improvement District No. 5805:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5805 in the City of Fargo, North Dakota, be created

From 13th Avenue South to I-94 between 9th Street South and the Red River.

COMPRISING:

Lots 1 through 318, inclusive.

All platted in Belmont Park Addition

Lots 1 through 14, inclusive, Block 1

Lots 1 through 13, inclusive, Block 2

All platted in Benedict's Addition

Lots 1 through 18, inclusive, Block 1

Lots 1 through 8, inclusive, Block 2

Lots 1 through 39, inclusive, Block 7

All platted in South Park Addition

Lots 1 through 24, inclusive, Block 1

Lots 1 through 23, inclusive, Block 2

Lots 1 through 22, inclusive, Block 3

Lots 1 through 22, inclusive, Block 4

All platted in Fargo Investment Co. 1st Addition

Lots 1 through 10, inclusive, Block 1

Lots 1 through 10 & 13, inclusive, Block 2

Lots 1 through 26, inclusive, Block 3

Lots 1 through 26, inclusive, Block 4

Lots 1 through 26, inclusive, Block 11

Lots 1 through 26, inclusive, Block 12

Lots 1 through 26, inclusive, Block 13

Lots 1 through 26, inclusive, Block 14

Lots 1 through 26, inclusive, Block 15

Lots 1 through 26, inclusive, Block 16

Lots 1 through 26, inclusive, Block 17

Lots 1 through 26, inclusive, Block 18

All platted in Huntington's Addition

Lots 1 through 16, inclusive, Block 4

Lots 1 through 16, inclusive, Block 5

Lots 1 through 16, inclusive, Block 6

Lots 1 through 16, inclusive, Block 7

All platted in Lewis Addition

Lots 10 through 25, inclusive, Block 1

Lots 1 through 17, inclusive, Block 2

Lots 9 through 34, inclusive, Block 3  
Lots 7 through 24, inclusive, Block 4  
Block 6, inclusive.  
All platted in Harry A. Schnell Addition

Lot 1, inclusive, Block 1  
All platted in St. John Lutheran Church Addition

Lot 1, inclusive, Block 1  
All platted in Lindenwood Park Addition

All unplatted land in the SW ¼ of the NE ¼, Section 18, Township 139 North, Range 48 West, which is all unplatted land located south of St. John Lutheran Church Addition to 17th Avenue South.

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. 5805 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. 5805:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5805 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 \$2,625,000.)

Order Plans and Specifications for Improvement District No. 5805:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5805 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5805:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5805 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. 5805 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. 5805 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 Funds and approximately 20% 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 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5805:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5805 in the City of Fargo, North Dakota.

Second by Mahoney. On call of the roll Commissioners Wimmer, Mahoney, Williams, Piepkorn 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. 5806 (On 5th Street South from 19th Avenue South to 24th Avenue South and On 24th Avenue South from 5th Street South to 9th Street South):

Commissioner Wimmer moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806:

Adopt Resolution Creating Improvement District No. 5806:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5806 in the City of Fargo, North Dakota, be created

On 5th Street South from 19th Avenue South to 24th Avenue South.

On 24th Avenue South from 5th Street South to 9th Street South.

COMPRISING:

Lots 22 through 24, inclusive, Block 4.

The East 149' of Block 6.  
All in Harry A. Schnell Addition.

Lots 13 through 24, inclusive, Block 7.  
Lots 9 through 21, inclusive, Block 8.  
All in Harry A. Schnell Second Addition.

Lot 1, Block 1.  
All in Brandy's Addition.

Lots 1 through 16, inclusive, Block 1.  
Lots 1 through 14, inclusive, Block 2.  
All in Thoms Addition.

Lots 1 through 11, inclusive, Block 1.  
Lots 1 through 14, inclusive, Block 2.  
Lots 1 through 15, inclusive, Block 3.  
All in Country Club Addition.

Lots 1 through 22, inclusive, Block 5.  
Lots 1 through 23, inclusive, Block 6.  
All in Country Club Acres Addition.

Lots 1 and 2 and the North portion of Lot 3 from a line extending from the South East corner of Lot 1, Block 1, Country Club 2<sup>nd</sup> Addition, East to the Red River.  
All in Country Club 2nd Addition.

All of the unplatted land lying in Section 18, Township 139, Range 48 and Section 19, Township 139, Range 48 bounded on the North by 19th Avenue South, Bounded on the West by 9th Street South, bounded on the South by 26th Avenue South, bounded on the East by the Red River of the North.

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. 5806 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. 5806:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5806 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 \$2,175,000.)

Order Plans and Specifications for Improvement District No. 5806:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5806 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5806:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5806 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. 5806 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. 5806 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 Funds and approximately 17% 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 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5806:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5806 in the City of Fargo, North Dakota.

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

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

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943 (Commerce on 52nd First Addition):

Commissioner Wimmer moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943:

Adopt Resolution Creating Improvement District No. 5943:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5943 in the City of Fargo, North Dakota, be created

On Commerce Way East of 53rd Street.

COMPRISING:

Lots 1 through 13, inclusive, Block 1.

All in Commerce on 52nd First Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943 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. 5943:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5943 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 \$291,000.)

Order Plans and Specifications for Improvement District No. 5943:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5943 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5943:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5943 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. 5943 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 and Incidentals Improvement District No. 5943 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights 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. 5943:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5943 in the City of Fargo, North Dakota.

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

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

Notice of Withdrawal of Appeal in the Matter of the Termination of Alan Weigel, Director of Operations for Public Works, Received and Filed:

The Board received a Notice of Withdrawal of Appeal in the Matter of the Termination of Alan L. Weigel, Director of Operations for Public Works.

Commissioner Wimmer moved the Notice of Withdrawal of Appeal from Attorney Robert J. Udland be received and filed.

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

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

The Board received a communication from Hooters requesting an extension of the City's Noise Ordinance on June 3rd and June 24th, 2010 from 10:00 p.m. to 11:00 p.m. for outdoor concerts in the Hooters parking lot at 3431 Feichtner Drive South.

Commissioner Piepkorn moved the request for a one hour extension of the City's noise ordinance for outdoor concerts in the Hooters parking lot from 10:00 p.m. to 11:00 p.m. on June 3rd and June 24th, 2010 be approved.

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

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

Appropriate Staff Authorized to Advertise for Proposals for Phase I Cultural Resources Investigation for the Fargo-Moorhead Metro Flood Risk Management Project:

The Board received a communication from City Engineer Mark Bittner stating the City of Fargo on behalf of the United States Army Corps of Engineers, St. Paul District and the City of Moorhead, MN, is requesting proposals from qualified consultants for the following projects:

Fargo-Moorhead Metro Flood Risk Management Project

<u>Fargo Project No.</u>	<u>Location</u>
5683-08	Minnesota Diversion Channel Alignment
5683-09	North Dakota Diversion Channel Alignment

Mr. Bittner stated the City of Fargo will be acting as the contracting agency for project funding purposes and the St. Paul District of the United States Army Corps of Engineers will be the Project Management Agency.

City Engineer Mark Bittner stated authorization was given at the last Metro Flood Study Work Group meeting to proceed with procuring consultants to do certain work for the City because the Corps does not have the funding to do the work themselves. He said the proposal is for the cultural resources survey that needs to be completed on both the Minnesota and North Dakota diversion alignments and the total cost with options will be about \$900,000. The hope, he said, is that the cost will ultimately be part of the 50/50 cost share between North Dakota and Minnesota.

Commissioner Mahoney moved the appropriate staff be authorized to solicit Request for Proposals for Phase I Cultural Resources Investigation for the Fargo-Moorhead Metro Flood Risk Management Project.

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.

Renaissance Zone Project for Tadd and Jamie Tobkin Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Tadd and Jamie Tobkin at 505 Broadway, #303.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Tadd and Jamie Tobkin meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. He said this project was approved at the April 19, 2010 City Commission Meeting with an incorrect address and the application was republished in order to hold the hearing with the correct address. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by Tadd and Jamie Tobkin for a project located at 505 Broadway, #303 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Resolution Adopted Approving a Plat of Commerce on 52nd First Addition (5156 53rd Street South):

Planner Nicole Crutchfield stated this application is for a major plat of one large lot being divided into 13 separate lots. She said this application came to the Planning Commission in three parts; a major plat, sidewalk waiver and a conditional use permit. At the Planning Commission hearing the sidewalk waiver was denied, she said, and the conditional use permit was continued. The Planning staff directed the applicant and opposition to coordinate their issues with the conditional use permit, she said, and meanwhile, the applicant withdrew the application for a conditional use permit, so zoning is no longer a part of this application.

James Carlson, 5012 53rd Street South, stated his concern with the requested zoning change is that it would give the property owners too much latitude and would not be consistent with what is already there, however, after meeting with the property owners, an agreement was made to keep the property general commercial.

Steve Iverson, Level One A Investments, stated he is part of the ownership group that controls the parcel of property and after meeting with Mr. Carlson's group, the application for a conditional use permit was withdrawn. He said the thought when applying for the permit was that it would give some flexibility when trying to sell the properties to individuals who may have a need for a more industrial use on the lots. In hindsight, he said, this was not the best idea for the property as it is already zoned general commercial.

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 "Commerce on 52nd First Addition" containing 13 Lots, 1 Blocks and 12.87 acres of land more or less, located at 5156 53rd Street South; and

WHEREAS, A Hearing was held March 10, 2010 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on May 10 and 17, 2010 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., May 17, 2010 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Commerce on 52nd First Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

Parcels of Land in Buland's Subdivision Huntington Addition Rezoned (1201 16th Avenue South):

At a Hearing held on May 12, 2010 the Fargo Planning Commission recommended approval of a change in zoning from SR-3, Single Dwelling to SR-4, Single Dwelling on Buland's Subdivision Huntington Addition.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Buland's Subdivision Huntington Addition, Fargo, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the



Ordinance Rezoning Certain Parcels of Land Lying in Buland's Subdivision Huntington Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

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

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, June 1, 2010.

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

The time at adjournment was 5:23 o'clock p.m.