

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Tuesday: June 29, 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., Tuesday, June 29, 2010.

The Commissioners present or absent were as shown following:

Present: Mahoney, Williams (via conference call), Walaker.

Absent: Piepkorn, Wimmer.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on June 14, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. Receive and file Comprehensive Annual Financial Report (CAFR) and Independent Auditor's Report for the year ending December 31, 2009.
- b. Police Department budget adjustment in the amount of \$9,200 and North Dakota Highway Patrol grant agreement to provide funding for alcohol compliance checks, server training and enforcement of underage drinking laws (CFDA #16.727).
- c. Contracts with the North Dakota Department of Health for VFC/AFIX Immunization Program (CFDA #93.268) and Immunization Program (CFDA #93.268).
- d. Amended agreement for the Statewide Tobacco Prevention Program.
- e. Contract amendment with the North Dakota Department of Health for the Women's Way Program (CFDA #93.919).

- f. Contract with the North Dakota Department of Health for Title V Maternal and Child Health Block Grant (CFDA #93.994).
- g. Grant Award from the North Dakota Tobacco Prevention and Control Executive Committee Center for Tobacco Prevention and Control Program (Contract No. G09-61).
- h. Direct City Attorney to revise and update the Hotel/Motel, Child Care, Pet Store and Food Service Ordinances.
- i. Purchase of one Asphalt Roller from Titan Machinery for \$30,421.43.
- j. Purchase of one Backhoe from RDO Equipment for \$74,000.00.
- k. Resolution placing restrictions on over-width movements on 36th Street South from 32nd to 35th Avenues South. (Attachment "A")
- l. Warranty deeds and temporary construction easements with William Spiry and Mark Richman for Water Tower No. 11.
- m. Contract with Commissioning Solutions in the amount of \$9,500 for commissioning services for the Metro Transit Garage.
- n. Contract with MBN Engineering in the amount of \$6,400 for commissioning services for the Osgood Fire Station.
- o. Amendment to the New Freedom Transit grant agreement with the North Dakota Department of Transportation to provide funding for mobility management activities.
- p. Memorandum of Understanding covering metropolitan planning within the Fargo-Moorhead Metropolitan Area.
- q. Amended Site Authorizations for ShareHouse Inc, at the Bismarck Tavern, Woody's and Vista Inn/Alibi.
- r. Applications for Games of Chance:
 - (1) Kringen Club, Inc. for bingo from 7/1/10 to 6/30/11.
 - (2) Fargo Lions Club for a sports pool from 9/13/10 to 12/27/10.
 - (3) Riverview Place for a raffle on 10/10/10.
 - (4) St. Anthony's for a raffle and bingo on 9/26/10.
 - (5) FM-AM Rotary for a sports pool from September 13, 2010 through February 6, 2011.
- s. Application filed by Nathan and Stacy Schwarz for a five-year property tax exemption for improvements made to a building at 2706 12th Street South.

- t. Set July 12, 2010 at 5:15 p.m. as the date and time for hearings on dangerous buildings located at 118 24th Street South and 17-19 North University Drive.
- u. Request from the Multiple Sclerosis Society to hang banners in the skyway from July 1 to July 31, 2010 to promote Bike MS: Ride the Wind.
- v. Purchase Agreement with Xcel Energy concerning property in Porritt's Subdivision.
- w. Negotiate a land swap agreement with Howard Gensler at 52nd Avenue South and 63rd Street (Improvement District No. 5955).
- x. Engineering Services Contract Amendment No. 2 for Improvement District No. 5202-01.
- y. Engineering Services Contract Amendment for Levee Breach Analysis for the FM Metro Study (Project No. 5683-04).
- z. Change Order No. 1 for an increase of \$250.00 for Project No. 5936-1.
- aa. Bid award for Project No. 5900-02 to Northern Improvement Company in the amount of \$904,895.90.
- bb. Bid advertisement for Project No. 5947.
- cc. Bills in the amount of \$5,713,553.72.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Amended Engineer's Report for Improvement District No. 5938 Received and Filed:

Commissioner Mahoney moved the communication from Senior Engineer Jeremy Gorden be received and filed.

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

Change Order No. 1 for Improvement District No. 5863 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$72,325.76 for Improvement District No. 5863.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 24, 31 and June 7, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 23, 2010 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$2,508,913.60
Dakota Underground Company Bid:	Fargo, ND \$2,716,016.30
S. R. Weidema, Inc. Bid:	Maple Grove, MN \$2,822,831.00
Northern Improvement Company Bid:	Fargo, ND \$3,173,487.38
Riley Brothers Construction Bid:	Morris, MN \$3,294,685.44

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 Awarded to Master Construction Company, Inc. in the Amount of \$2,508,913.60:

Commissioner Mahoney 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 Reconstruction and Incidentals Improvement District No. 5805; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 23, 2010 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$2,508,913.60 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 \$2,508,913.60 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5805 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$2,508,913.60, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 24, 31 and June 17, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 23, 2010 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$2,002,292.20
Dakota Underground Company Bid:	Fargo, ND \$2,126,071.18
Northern Improvement Company Bid:	Fargo, ND \$2,437,991.90

Riley Brothers Construction
Bid:

Morris, MN
\$2,631,948.92

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806 Awarded to Master Construction Company, Inc. in the Amount of \$2,002,292.20:

Commissioner Mahoney 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 Reconstruction and Incidentals Improvement District No. 5806; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 23, 2010 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806 shows the bid of Master Construction Company, Inc. of Fargo, ND, in the sum of \$2,002,292.20 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 \$2,002,292.20 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5806 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$2,002,292.20 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 24 and 31, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 23, 2010 and the bids were found to be as follows:

Rising Sun Construction, Inc. Bid:	Fargo, ND \$265,107.60
Dakota Underground Company Bid:	Fargo, ND \$274,742.25
Border States Paving, Inc. Bid:	Fargo, ND \$276,259.49
Asplin Excavating, Inc. Bid:	Fargo, ND \$292,337.39
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$296,769.75
Northdale Construction Bid:	Albertville, MN \$328,373.50
George E. Haggart, Inc. Bid:	Fargo, ND \$333,870.15
Northern Improvement Company Bid:	Fargo, ND \$335,087.60
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$359,056.00

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943 Awarded to Rising Sun Construction, Inc. in the Amount of \$265,107.60:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 23, 2010 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5943 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement

District No. 5943 shows the bid of Rising Sun Construction, Inc. of Fargo, North Dakota, in the sum of \$265,107.60 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 Rising Sun Construction, Inc. in the sum of \$265,107.60 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for 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 awarded to Rising Sun Construction, Inc. for the sum of \$265,107.60, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5822 (A portion of Brandt Crossing First Addition between 45th and 50th Streets South from 35th to 36th Avenues South):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5822:

Adopt Resolution Creating Improvement District No. 5822:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5822 in the City of Fargo, North Dakota, be created

33rd Avenue South between 45th & 47th Streets South.

34th Avenue South & Chelsey Lane South between 47th & 49th Streets South.

35th Avenue South and Spencer Lane South between 47th & 50th Streets South.

36th Avenue South between 45th & 47th Streets South.

47th Street South between 33rd & 36th Avenues South.

49th Street South between 34th Avenue South and 145' South of Spencer Lane South.

50th Street South between 35th Avenue South & Spencer Lane South.

COMPRISING:

Lot 1, inclusive, Block 4.

Lot 1, inclusive, Block 5.

Lots 1 through 12, inclusive, Block 6.

Lots 1 through 24, inclusive, Block 7.

Lots 1 through 24, inclusive, Block 8.

Lots 1 through 24, inclusive, Block 9.

Lots 1 through 12, inclusive, Block 10.

Lots 1 through 14, inclusive, Block 11.

Lots 1 through 14, inclusive, Block 12.

Lots 1 through 12, inclusive, Block 13.
Lots 1 through 27, inclusive, Block 14.
All platted in Brandt Crossing.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5822 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. 5822:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5822 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 \$1,947,000.)

Order Plans and Specifications for Improvement District No. 5822:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5822 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5822:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5822 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. 5822 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5822:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5822 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 (Block 5 Holes 1st Addition between 2nd and 3rd Streets North from 12th to 13th Avenues North):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940:

Adopt Resolution Creating Improvement District No. 5940:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5940 in the City of Fargo, North Dakota, be created

From 12th to 13th Avenues North between 2nd and 3rd Streets, Block 5 of Holes 1st Addition.

COMPRISING:

Lots 1 through 32, inclusive, Block 5.
All in Holes 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 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. 5940:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5940 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 \$124,080.)

Order Plans and Specifications for Improvement District No. 5940:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5940 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5940:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5940 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. 5940 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 P.C. Concrete Alley 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 P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 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 P.C. Concrete Alley 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. 5940:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5940 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 Approved:

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

United Fire and Casualty Company, in the amount of \$734,473.60, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5931 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.
The motion was declared carried.

Commissioner Mahoney Appointed Deputy Mayor:

The Board received a communication from Mayor Walaker recommending that Commissioner Mahoney be appointed Deputy Mayor.

Commissioner Williams moved Commissioner Mahoney be appointed Deputy Mayor.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.
The motion was declared carried.

Liaison Commissioner Assignments Approved:

The Board received a communication from Mayor Walaker submitting the following recommendations for Liaison Commissioner assignments:

Mahoney

Departments: Health
Committees: MetroCOG, GFMEDC, Community Development, Health Insurance
Board Liaison: Board of Health, Human Relations, Native American

Piepkorn

Departments: Finance
Committees: MetroCOG, Finance, Renaissance Zone, Community Development, Liquor Control, Metro Area Transit Coordinating Board
Board Liaison: Special Assessment, Housing Authority

Walaker

Departments: Engineering, Enterprise, Operations, Police, City Commission, Human Resources
Committees: GFMEDC, Tax Exempt Review, Finance, Liquor Control, Utility, Position Evaluation, Vector Control
Board Liaison: Dome Authority, Airport Authority

Williams

Departments: Fire, Information Services
Committees: MetroCOG, Library Building, Traffic Tech, Parking, Utility, Cable Review, Metro Area Transit Coordinating Board, Renewable Energy and Conservation
Board Liaison: Library, Auditorium

Wimmer

Departments: Planning
Committees: MetroCOG, Tax Exempt Review, Position Evaluation, Renaissance Zone, Cass County Planning

Board Liaison: Planning, Board of Adjustment, Civil Service, Historic Preservation

Commissioner Mahoney moved the recommendations submitted by Mayor Walaker be approved as outlined above.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Resolution Adopting Rules and Regulations Relative to the Operation of the Agenda and Conduct of City Commission Meetings:

The Board received a communication from Executive Assistant Sharon Odegaard submitting a copy of a Resolution adopting rules and regulations relative to the operation of the agenda and the conduct of City Commission meetings.

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, It is desirable that the transaction of City business be done in an orderly fashion; and

WHEREAS, The Board of City Commissioners of the City of Fargo deems it desirable and necessary to promulgate rules and regulations for the guidance of commissioners and citizens.

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Fargo that the following rules and regulations relative to the operation of the agenda and the conduct of City Commission meetings IS HEREBY ADOPTED, superseding any and all former rules and regulations which have been adopted:

I. AGENDA

- A. There shall be one agenda prepared for each meeting.
- B. Any City Commissioner, City employee or citizen of the City may place an item or issue on the agenda.
- C. All agenda items or issues to be qualified for regular consideration must be submitted in clear, articulate and definite terms and must be communicated to the City Commission office prior to 12:00 noon on the Thursday preceding the meeting.
- D. Agenda items must be accompanied by a written explanation of the item. A "suggested" motion must be typed at the end of the communication which states the action being requested of the Board. If the communication is for information purposes only, there should be a statement to that effect at the beginning of the letter.
- E. Any correspondence or other supporting material for any item on the agenda which is intended to become a part of the public records of the City must be received in the City Commission office no later than 12:00 noon on the Thursday preceding the meeting. In the event such material is not

submitted to the City Commission office as stated above, such material and the related agenda item shall be stricken and placed on the agenda for the next regular meeting.

- F. Any item or issue placed on the agenda may be removed or withdrawn only by the person who placed it there, or by his or her duly and properly authorized agent.
- G. Any items or issues which have not qualified for the regular agenda under the rules as stated above, or any new and timely issues which arise after preparation of the regular agenda may, with the consent of a majority of the City Commissioners who are present and voting, be considered as an extra item.
- H. Ordinances shall be sponsored by a member of the Board of City Commissioners or the City Commission as a whole. Any citizen or City employee desiring any ordinance change shall submit such request to a member of the Board of City Commissioners or to the Commission as a whole. No ordinances shall be drafted by the City Attorney, except upon request of a member of the Board of City Commissioners or by the City Commission as a whole.
- I. The order of the agenda shall be as determined by the Executive Assistant to the Board of City Commissioners utilizing general guidelines as follows:
 - 1. Consent agenda at the beginning of the agenda. The consent agenda shall be non-controversial routine items as may be determined by the Executive Assistant.
 - 2. Non-consent agenda at the end of the agenda. Non-consent items shall be as determined by the Executive Assistant.
- J. The calling and conduct of special meetings shall be in accordance with ordinances of the City of Fargo and laws of the State of North Dakota.

II. RULES GOVERNING CONDUCT OF CITY COMMISSION MEETINGS

- A. Meetings shall be conducted in accordance with Roberts Rules of Order, except that the principle of majority rule shall always prevail, and any such rule may be changed or suspended by a majority vote of the Board of City Commissioners.
- B. At each regular meeting, the first item of business shall be the consideration and approval of the agenda, including the deletion of any item which the Commission deems to be frivolous or repetitious and the addition of requested extra items.

- C. The Mayor or other presiding Commissioner will announce the item on the agenda. It is suggested the person who requested placement of the item on the agenda be given up to three (3) minutes to present any additional information not included in the letter. There will be opportunity for input after a motion is made and seconded. Proponents will be recognized first, then opponents. It is suggested persons wishing to speak be allowed no more than three minutes each. Time for each side will be designated by the Chair. Additional time will be allowed only if Commissioners have questions or if there has been a majority vote to allow additional discussion. The item will be voted upon and no further discussion will be allowed.
- D. Each member of the Board of City Commissioners shall vote on every issue unless absent from the meeting or excused from voting. Any member wishing to be excused from voting, or who does not feel qualified to vote because of a conflict of interest, shall ask to be excused from voting and state the reasons therefore. The remaining Commissioners shall, by majority vote, either grant or deny such request to be excused. If the Commissioner making such request is excused, he or she shall be deemed to be disqualified and the abstention shall not be counted as an aye or nay. If the request is denied and the Commissioner refuses to vote, his or her vote shall be deemed to be the same as the majority of those voting.
- E. The Chairman of the meeting shall not refuse to recognize any member who wishes to make a motion or to be heard on a particular item.
- F. A member of the Board of City Commissioners voting with the minority on any issue may not move to reconsider that issue or place the matter on the agenda again until a minimum of 28 days has elapsed since the issue was last considered.
- G. In the event that any member of the Board of City Commissioners moves to reconsider an issue previously decided after formal hearing pursuant to published notice, the Board shall vote on the motion to reconsider, subject to the restrictions contained in rule F above. In the event the motion for reconsideration passes, the matter shall not be reconsidered until all persons appearing at the original hearing on the matter have been advised and offered an opportunity to appear and be heard again, or until notice of rehearing on the matter has been published in the official newspaper of the City.
- H. Any on duty policeman may be considered as a sergeant at arms for Commission meetings and may be summoned to maintain order by any member of the Board of City Commissioners at any time.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

Request for an Extension of the Noise Ordinance for the Student Activities Office at North Dakota State University (NDSU) Approved:

The Board received a communication from the Student Activities Office at North Dakota State University (NDSU) requesting an extension of the City's Noise Ordinance on July 14 and August 27, 2010 to 12:00 a.m. for outdoor movies at Memorial East Patio and August 23, 2010 to 12:00 a.m. for a street dance at Administrative Avenue between the Memorial Union, Ladd Hall and Dunbar Hall.

Commissioner Mahoney moved the request from the NDSU Student Activities Office for an extension of the City's noise ordinance until 12:00 a.m. for an outdoor movie on July 14 and August 23, 2010 and for a street dance on August 27, 2010 be approved.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Renaissance Zone Project for Harlan and Sharon Ormbreck Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Harlan and Sharon Ormbreck at 300 Broadway, #203.

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 Harlan and Sharon Ormbreck meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Mahoney moved the Renaissance Zone application filed by Harlan and Sharon Ormbreck for a project located at 300 Broadway, #203 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Parcels of Land in Amber Valley West First Addition Rezoned (2301 Veterans Boulevard South):

At a Hearing held on February 17, 2010 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LC, Limited Commercial with a conditional overlay on Lots 1 through 7, Block 1, and AG, Agricultural to MR-3 Multi-Dwelling on Lots 1 through 4, Block 2 and Lot 1, Block 3 all in the proposed Amber Valley West First 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 Mahoney offered the following Resolution and moved its adoption:

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

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plans, Standards of Section 20-06 and all other applicable requirements of the LDC.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Amber Valley West First Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Mahoney 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 Amber Valley West First Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Resolution Adopted Approving a Plat of Amber Valley West First Addition:

Commissioner Mahoney 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 "Amber Valley West First Addition" containing 12 Lots, 3 Blocks and 45.58 acres of land more or less, located at 2301 Veterans Boulevard 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 June 21 and 28, 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., June 29, 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 "Amber Valley West 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

Parcels of Land in West Park Addition Rezoned (402 and 464 40th Street South):

At a Hearing held on June 9, 2010 the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to LI, Limited Industrial on a portion of Lot 3 and adjacent 20 feet of vacated street right-of-way on the west side of lot, Block 2 of the West Park 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 Mahoney 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioners Piepkorn and Wimmer.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in West Park Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Mahoney 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 West Park Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Hearing on the Appeal of the Denial of a Residential Protection Standard Waiver at 1117 and 1155 13th Avenue South Continued to July 12, 2010:

A Hearing had been held by the Fargo Planning Commission on June 9, 2010 to consider a request for a Residential Protection Standard Waiver for the parking lot and property on the East 16.6 feet of Lot 6, all of Lot 7, and the West 8.4 feet of Lot

8, Block SS; and the South 51 feet of Lots 1, 2, 3, 4, and 5; the South 51 feet of the South 101 feet of the West 8.4 feet of Lot 6, Block SS, Erskine's Addition, and the Fargo Planning Commission at such Hearing recommended that the Residential Protection Standard Waiver be denied.

The City received an appeal of the denial of the Residential Protection Standard Waiver from Steven Stremick, which requires that a Public Hearing be held by the City Commission.

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.

Senior Planner Jim Hinderaker said the petitioner is seeking to build an addition to the existing structure located on the property and the land development code requires that residential protection standards be put in place when this type of development is next to residential zoning.

Natasha Neihart, 1102 9th Street South, said she opposes any reduction of the residential protection standards and would like to preserve the intent of the Hawthorne Plan. She said it is important to maintain a buffer zone between residential and commercial property.

Steven Stremick, 1155 13th Avenue South, stated the residents most adversely affected are the residents next to the property and they have signed a letter of support. He said he does not have a problem putting in trees as a buffer zone; however, the survival rate will be fairly low with minimum sun light.

Commissioner Mahoney moved the hearing be continued to 5:15 o'clock p.m., Monday, July 12, 2010.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Discussion Regarding Joint Powers Agreement for the Red River Diversion Project:

The Board received a draft of the Joint Points Agreement for the Red River Diversion project from City Attorney Erik Johnson. Mr. Johnson summarized the comments received thus far in regards to the agreement.

MaryBeth Hegstad and Larry Peterson Appointed to the Library Board:

The Board received a communication from Mayor Walaker recommending that MaryBeth Hegstad and Larry Peterson be appointed to the Library Board to replace Herbert Snyder and Suzanne Morrison whose terms have expired.

Commissioner Mahoney moved MaryBeth Hegstad and Larry Peterson be appointed to the Library Board for terms ending June 30, 2013.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Michael Lochow Reappointed to the Fargo Access Channel Board:

The Board received a communication from Mayor Walaker recommending that Michael Lochow be reappointed to the Fargo Access Channel Board.

Commissioner Mahoney moved Michael Lochow be reappointed to the Fargo Access Channel Board for a term ending June 30, 2013.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Jeff Furstenau Reappointed to the Board of Appeals:

The Board received a communication from Mayor Walaker recommending that Jeff Furstenau be reappointed to the Board of Appeals.

Commissioner Mahoney moved Jeff Furstenau be reappointed to the Board of Appeals for a term ending June 30, 2015.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Michael Beaton Reappointed to the Special Assessment Commission:

The Board received a communication from Mayor Walaker recommending that Michael Beaton be reappointed to the Special Assessment Commission.

Commissioner Mahoney moved Michael Beaton be reappointed to the Special Assessment Commission for a term ending July 1, 2013.

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

Absent and not voting: Commissioners Piepkorn and Wimmer.

The motion was declared carried.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, July 12, 2010.

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

The time at adjournment was 6:57 o'clock p.m.