

- (7) Amending Section 20-0202 of Article 20-02 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to AG, Agricultural Districts.
- b. Receive and file an Ordinance Amending an Ordinance Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition to the City of Fargo.
- c. Receive and file an Ordinance Amending Section 8-1003.D of Article 8-10 of Chapter 8 of the Fargo Municipal Code Relating to Parking Regulations.
- d. Receive and file the 2009 Consolidated Annual Performance Evaluation Report for the Community Development Program and submit to HUD.
- e. Second addendum to the purchase agreement with Stan Hoglund for 4125 32nd Avenue South amending the legal description and adjusting the purchase price to \$61,342.00.
- f. Receive and file Year to Date – Budget to Actual Report for July 2010.
- g. Health Department budget adjustments and contract with the North Dakota Department of Health for the WIC Program (CFDA #10.557).
- h. Notice of Grant Awards amendments with the North Dakota Department of Health for the Public Health Emergency Preparedness for Response (PHEP) for the Region, County Allocation and City Readiness Initiative (CFDA # 93.069).
- i. Allocate \$783,723.00 in transit capital funds.
- j. Offer to purchase property at 616 23rd Street North for \$80,000.00.
- k. Loan Agreement and Resolution Authorizing the Issuance and Sale of \$3,149,575.00 City of Fargo Sales Tax Revenue Bonds, Series 2010D for the financing of improvements to the City's wastewater stabilization ponds (Attachment "A").
- l. Easement with Robert and Patty Nelson and County 20 Storage and Transfer, Inc.
- m. Plat of Urban Plains Starion Addition.
- n. Sale of used bus to White Earth Public Transit for \$5,000.00.
- o. Site Authorizations for Games of Chance:
 - (1) Metro Sports Foundation at the Urban Plains Center.
 - (2) Fargo Youth Hockey Association at the Teamsters Arena.
 - (3) Team Maker Club, Inc. at the Hilton Garden Inn.
- p. Applications for Games of Chance:
 - (1) YWCA Cass Clay for a raffle on 9/16/10.
 - (2) March of Dimes Foundation for a raffle on 9/13/10.

- q. Recommendation from the Utility Committee to charge a reduced rate for water needed for snowmaking at the ISOC Snowcross Tour to be held at Newman Outdoor Field on December 11, 2010.
- r. Agreement for Entry and Construction with Kevin and Holly Prodoehl in connection with Improvement District No. 5499.
- s. Purchase Agreement – Permanent/Temporary Easements in connection with Improvement District No. 5499:
 - (1) Lynn and Ellen Nilson.
 - (2) Edward and Jennifer Schwind.
- t. Contract awards for consulting services for the following Improvement Districts: Nos. 5971, 5727, 5974 and 5975 to Ulteig Engineers and 5730, 5973 to Bonestroo.
- u. Contract Amendment with Minnkota Power in the amount of \$708,571.50 for Improvement District No. 5314-7.
- v. Contract Amendment No. 2, in the amount of \$19,500.00 for engineering services in connection with Project No. 5574.
- w. Action Plan for flood protection improvements along Drain 53 north of 52nd Avenue South.
- x. Change Orders for the following Projects: No. 1 for an increase of \$20,046.40 for No. 5661 and No. 1 for an increase of \$22,021.32 for No. 5691.
- y. Bid awards for Project Nos. 5747-26 for Demolition, Site Restoration and Incidentals to Excavating, Inc. in the amount of \$251,193.05 and 5967 for P.C. Concrete Pavement and Incidentals to Opp Construction Company in the amount of \$90,188.80.
- z. Bid advertisement for Project No. 5968.
- aa. Contract and bond for Project No. 5919-2.
- bb. Bills in the amount of \$5,196,410.67.

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.

Change Order No. 1 for Improvement District No. 5732 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of \$334,837.75 for Improvement District No. 5732.

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.

Change Order No. 1 for Improvement District No. 5819 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of \$43,851.79 for Improvement District No. 5819.

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.

Change Order No. 1 for Improvement District No. 5880 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of \$39,417.89 for Improvement District No. 5880.

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.

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on July 19 and 26, 2010 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823.

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.

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 18, 2010 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$1,569,867.52
Master Construction Company, Inc. Bid:	Fargo, ND \$1,712,743.75
Dakota Underground Company Bid:	Fargo, ND \$1,750,387.55

Aggregate Industries Bid:	Moorhead, MN \$1,839,761.84
Border States Paving, Inc. Bid:	Fargo, ND \$1,928,461.00
Central Specialties, Inc. Bid:	Alexandria, MN \$2,105,983.94

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 Awarded to Northern Improvement Company in the Amount of \$1,569,867.52:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 18, 2010 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$1,569,867.52 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 \$1,569,867.52 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$1,569,867.52, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Piepkorn, Wimmer and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Paras Contracting, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 in the City of Fargo, North Dakota.

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.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 Approved:

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

Merchants Bonding Company, in the amount of \$87,237.10, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5940 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5942 Approved:

Commissioner Williams 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. 5942 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5942 Approved:

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

United Fire and Casualty Company, in the amount of \$1,096,979.65, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5942 in the City of Fargo, North Dakota.

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.

Request for an Extension of the Noise Ordinance for a Welcome Back Students Party Approved:

The Board received a communication from Kerry Fernholz of The Hub requesting an extension of the City's Noise Ordinance on September 9, 2010 from 10:00 p.m. to 11:00 p.m. for a Welcome Back Students Party at The Hub.

Commissioner Wimmer moved the request for a one hour extension of the City's noise ordinance for a Welcome Back Students Party from 10:00 p.m. to 11:00 p.m. on September 9, 2010 be approved.

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.

Kristine Fremstad, Jeffrey Morrau and Rich Slagle Reappointed to the Planning Commission:

The Board received a communication from Mayor Walaker recommending that Kristine Fremstad, Jeffrey Morrau and Rich Slagle be reappointed to the Planning Commission.

Commissioner Piepkorn moved Kristine Fremstad, Jeffrey Morrau and Rich Slagle be reappointed to the Planning Commission for three year terms ending June 30, 2013.

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.

Property Located at 806 Southwood Drive Placed on the Priority List for Acquisition for Flood Mitigation Purposes:

The Board received a communication from City Engineer Mark Bittner stating property located at 806 Southwood Drive should be placed on the priority list for acquisition for flood mitigation purposes. He said a number of acquisitions in that area are nearing completion and the acquisition of 806 Southwood Drive would significantly improve the flood plan for that area.

Commissioner Piepkorn moved to place the property located at 806 Southwood Drive on the priority list for acquisition for flood mitigation purposes.

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.

Acquisition of the Properties Located at 4602, 4603 and 4609 Rose Creek Parkway South Approved: Staff Authorized to Continue Development of Flood Protection Alternatives:

The Board received a communication from City Engineer Mark Bittner stating since the Flood of 2010, the City has worked with Fargo Park's staff in reconstructing temporary earth levees across the middle of Rose Creek Golf Course to prevent Rose Creek Coulee from breaking out to the south. Due to soil stability problems and proximity of the first three houses east of 25th Street, he said, the very west end of the earth levee could not be connected to 25th Street. He said the City received permission from the owners of the three properties during the flood to construct a temporary levee in their back yards which has subsequently been removed. He said the City is now examining potential options for more permanent protection and he outlined two options being considered.

Commissioner Piepkorn moved the acquisition of the properties located at 4602, 4603 and 4609 Rose Creek Parkway South be approved and staff authorized to continue development of flood protection alternatives.

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.

Application Filed by Crossroads, LLLP and the Fargo Housing and Redevelopment Authority for a Payment in Lieu of Tax Exemption for Property Approved:

A Hearing had been set for this day and hour on an application filed by Crossroads, LLLP and the Fargo Housing and Redevelopment Authority for payment in lieu of tax exemption for construction of a low income housing project at 1670 East Gateway Circle South.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

Commissioner Piepkorn moved that the application filed by Crossroads, LLLP and the Fargo Housing and Redevelopment Authority for a 15 year payment in lieu of tax exemption pursuant to Chapter 40-57.1, NDCC be approved as follows:

Year 1 through 3 - \$0

Year 4 through 15 - pay in lieu payments to total no less than 5% of collected annual rents.

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.

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

Absent and not voting: Commissioner Mahoney.

No Commissioner being absent and none voting nay, 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 Williams said he would approve the assessment list with the understanding that the baluster damaged by a car would not be assessed out of this

maintenance district. He said the repair should come out of sales tax money due to the fact that this is infrastructure that the whole city enjoys.

Planning Director Jim Gilmour stated the Finance Committee's recommendation is to have it fixed using the Broadway Mall Maintenance District funds and then to repay the maintenance district with sales tax funds.

Commissioner Williams moved repair of the damaged baluster be paid with sales tax funds and the remainder of the special assessment list for maintenance of the Broadway Mall be and the same is hereby approved and confirmed as submitted 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 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.

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 approved as submitted.

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 approved as submitted.

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.

P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969 in the City of Fargo, North Dakota, was duly published

in the official newspaper for the City of Fargo, North Dakota, on July 19 and 26, 2010 and protests representing 20 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Senior Engineer Brenda Derrig stated the Engineering Department met with several of the landowners in this district to explain what the City's policies and procedures are for spreading special assessments for arterial roadways. She said the roadway is being requested due to the fact that the new Davies High School is being built in that area. Land owners with residential lots wider than 135 feet, she said, are eligible for deferrals to help ease the financial burden of the assessments.

City Engineer Mark Bittner stated the school is not the only development in this area of town. He said there have been requests to the east of the school for improvements, and utilities and paving are needed for more than just the school.

Commissioner Williams stated there is no law that says the City has to pay for infrastructure for new developments regardless of where they are located. He said there is a need for the City to work closer with the school board to have long term planning in place. The school district has a separate fund that is used for special assessments and there is no limit on that fund, he said, and he would like to make sure that the schools are paying as much of the impact as possible through their special assessments fund, which may help reduce some of the costs to the City and its taxpayers. He said development is low to the east and the City should not be encouraging growth in that area when the City is fighting as hard as it can to protect the properties and growth areas that already exist.

City Administrator Pat Zavoral said the Mayor and he did have a conversation with the school superintendent asking for more funding from the schools, however the superintendent would like to proceed as normal at this stage.

(Commissioner Mahoney present)

Ben Davidson, 2816 64th Avenue South, stated there was a question raised as to why there were so few signatures from residents along 25th Street South for the deferral and the reason being is that if a resident signs the deferral, he/she relinquishes their right to protest the assessments. He said most of the residents signed the deferral in the year 2000 and a lot of the residents felt that their hands were tied. If you look at the protests that were received, he said, 50 percent of the residents living in that area signed the protest.

Jonathan Garaas, Attorney for Fred and Earlyne Hector, stated he sent a letter to the Commission dated August 3, 2010 and just wanted to amplify what was stated in that letter and that is that this land should not be subjected to duplicate assessment fees.

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

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

Commissioners Wimmer and Williams voted nay.

The motion was declared carried.

Update on Flood Projects:

City Administrator Pat Zavoral gave a brief overview of the flood projects that the Engineering Department has been working on this spring and summer. He said he would like to give Mark Bittner, Kent Costin and April Walker a special thank you

for putting together all the information regarding costs, revenues and expenditures for all the flood projects that the City is working on.

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

After recess: All Commissioners present. Mayor Walaker presiding.

City Engineer Mark Bittner gave a presentation of the flood projects that are being proposed and some of the projects that have already been completed.

Director of Finance Kent Costin gave an overview of financing for current flood projects and how future projects fit into the City's financing plans.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, September 7, 2010.

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

The time at adjournment was 6:46 o'clock p.m.