

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: October 18, 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, October 18, 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.

Second by Wimmer. All the Commissioners 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 October 4, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. Waive the requirement to receive and file an Ordinance one week prior to first reading and first reading of an Ordinance Rezoning Certain Parcels of Land Lying in Deer Creek Addition, Cass County, North Dakota.
- b. Modification of the penalty included in the Ordinance regarding compression brakes.
- c. Extension of the Bridge Company's right to continue to operate the 12th Avenue North Bridge for an additional five years from and after June 1, 2013, contingent upon conditions outlined in the 10/14/10 letter from City Attorney Erik Johnson being met.
- d. Receive and file Year to Date – Budget to Actual Report for September 2010.
- e. Settlement and Mutual Release of Claims Agreement in the matter of City of Fargo v. Combined Transport, Inc.

- f. Contract with the North Dakota Department of Transportation for the Safe Communities Program (CFDA #20.600).
- g. Contract with the North Dakota Department of Health for the WIC Program (CFDA #10.557).
- h. Agreements with Klein Buendel, Inc. and Debra Haugen for the Moving More, Eating Smarter community program.
- i. Acceptance of Juvenile Accountability Block Grant funds in the amount of \$19,560 and distribution of funds to Fargo, West Fargo and Cass County.
- j. Acceptance of the Bureau of Justice Assistance Bulletproof Vest Partnership Grant in the amount of \$16,740.61 (CFDA #16.607).
- k. Grant submittals for North Dakota Energy Efficiency and Conservation Block Grant funds, acceptance of the grant if awarded and staff direction to proceed with energy efficient lighting upgrades in the Radisson Ramp, Public Works building, Civic Center and Centennial Hall.
- l. Site Authorizations for Games of Chance:
 - (1) North Dakota Association for the Disabled at the Bulldog Tap.
 - (2) Boys & Girls Club of the Red River Valley d/b/a Fargo Youth Commission at WOW the Bar (Amended).
- m. Applications for Games of Chance:
 - (1) NDSU Alpha Tau Omega Fraternity for a raffle on 11/2/10.
 - (2) NDSU Hospitality Student Association for a raffle on 12/4/10.
 - (3) Chad Lorenzen Benefit Fund for a raffle on 10/24/10; Public Spirited Resolution.
- n. Bid awards for Hazardous Materials Response Equipment for the Fire Department to Grand Forks Fire Equipment LLC for eight MSA self-contained-breathing apparatuses in the amount of \$42,360.00 and to Alex Air Apparatus for plugging and patching equipment in the amount of \$51,662.00.
- o. Acceptance of proposal from Swanston Equipment Co. in the amount of \$34,451.00 for a utility work machine.
- p. Acceptance of proposal from Butler Machinery in the amount of \$24,284.00 for a 5 month motor grader rental contract.
- q. Change Order No. 2 for an increase of \$2,495.00 in connection with the skyway reconstruction.
- r. Farm land rental agreements with Evan Holmen for Tract 1 in Harwood Township, Tract 2 in Reed Township and Tract 3 in Barnes Township and with Claude Richard for Tract 4 in Stanley Township.

- s. Advertisement of RFP's for general engineering services for the Water and Wastewater Utilities.
- t. Contract Amendment No. 1 with Ulteig Engineers, Inc. in the amount of \$29,000.00 for Project WW0901.
- u. Change Order No. 2 for Contract #3 for an increase of \$12,827.00 for Project No. 5725.
- v. Change Order No. 3 for an increase of \$50,160.80 for Project No. 5799.
- w. Change Order No. 1 for an increase of \$14,114.00 for additional work done at the Osgood Recycling Site.
- x. Engebretson property Agreement for Entry and Construction for Improvement District Nos. 5969-2, 5966-2 and 5915.
- y. Agreement for Special Improvements with CORN II, LLC in Deer Creek Addition.
- z. Agreements with Xcel Energy and approval of financing costs through the existing Matrix TIF District No. 2001-01.
- aa. Contact with Ulteig Engineers, Inc. in the amount of \$39,035.00 for Project No. 5958.
- bb. Change Order No. 1 for an increase of \$31,816.00 for Project No. 5938.
- cc. Change Order Nos. 1, 2 and 4 for a total increase of \$134,608.79 for Project No. 5839.
- dd. Bid awards for Project Nos. 5928 to Northern Improvement Company in the amount of \$91,100.00; SW 10-01 to Industrial Builders, Inc. in the amount of \$263,444.50; and SW 10-02 to Terra Engineering and Construction Corporation in the amount of \$189,949.50.
- ee. Contracts and bonds for Project Nos. 5944, 5949 and 5968.
- ff. Bills in the amount of \$5,243,611.94.

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

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

Amended Location and Comprising for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5955-1 Approved:

The Board received a communication from Civil Engineer Jonathan Youness submitting the amended location and comprising for Improvement District No. 5955-1. He said the amendment integrates the changes from the approved platted lots.

Commissioner Mahoney moved the location and comprising for Improvement District No. 5955-1 be amended as follows:

56th Avenue South between 49th Avenue South & 58th Street South.
 57th Avenue South between 66th & 67th Streets South.
 55th Avenue South between 58th Street South & Deer Creek Parkway.
 58th, 59th, 60th, & 62nd Streets South between 55th & 56th Avenues South.
 61st Street South between 56th & 57th Avenues South.
 Deer Creek Parkway between 55th & 56th Avenues South.
 66th & 67th Streets South between 56th & 57th Avenues South.

COMPRISING:

Lots 1-42, inclusive, Block 1
 Lots 1-11, inclusive, Block 2
 Lots 1-9, inclusive, Block 3
 Lots 1-24, inclusive, Block 4
 Lots 1-26, inclusive, Block 5
 Lots 1-14, inclusive, Block 6
 Lots 1-14, inclusive, Block 7
 Lot 1, inclusive, Block 8
 Lots 1-23, inclusive, Block 9
 Lots 1-32, inclusive, Block 10
 Lots 1-123, inclusive, Block 11
 Lots 1-17, inclusive, Block 12
 Lots 1-22, inclusive, Block 13
 Lots 1-26, inclusive, Block 14
 Lots 1-35, inclusive, Block 15
 Lots 1-31, inclusive, Block 16
 Lots 1-89, inclusive, Block 17
 Lots 1-21, inclusive, Block 18
 Lots 1-20, inclusive, Block 19
 Lots 1-40, inclusive, Block 20
 Lots 1-43, inclusive, Block 21
 Lots 1-38, inclusive, Block 22
 Lots 1-31, inclusive, Block 23
 Lots 1-33, inclusive, Block 24
 All platted in Deer Creek.

All of the unplatted land in Section 5, Township 138, Range 49 West lying east of the Centerline of the Sheyenne River and bounded by a line 664' north of the quarter section line and a line 774' south of the quarter section line.

All of the foregoing land lying in the City of Fargo, Cass County, North Dakota, said district to include only land lying within the city limits of the City of Fargo and land lying outside said city limits is deemed not a part of the district.

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

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

Change Order No. 1 for Improvement District No. 5862 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$93,976.11 for Improvement District No. 5862.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5821:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5821 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 13, 2010 and the bids were found to be as follows:

Shermans, LLC Bid:	West Fargo, ND \$100,879.58
Dakota Underground Company Bid:	Fargo, ND \$115,077.68
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$118,794.50
Ernst Trenching, Inc. Bid:	Fargo, ND \$119,858.60
Rising Sun Construction, Inc. Bid:	Fargo, ND \$132,598.00
Hough, Inc. Bid:	Detroit Lakes, MN \$147,221.83
George E. Haggart, Inc. Bid:	Fargo, ND \$148,596.50
Sellin Brothers, Inc. Bid:	Hawley, MN \$159,167.00

Duininck Brothers, Inc.
Bid:

Prinsburg, MN
\$203,624.80

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5821 Awarded to Shermans, LLC in the Amount of \$100,879.58:

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 and Incidentals Improvement District No. 5821; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 13, 2010 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5821 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 and Incidentals Improvement District No. 5821 shows the bid of Shermans, LLC of West Fargo, North Dakota, in the sum of \$100,879.58 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 Shermans, LLC in the sum of \$100,879.58 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5821 in the City of Fargo, North Dakota, be and the same is hereby awarded to Shermans, LLC for the sum of \$100,879.58, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5964:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5964 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 13, 2010 and the bids were found to be as follows:

Shermans, LLC
Bid:

West Fargo, ND
\$329,113.67

Dakota Underground Company
Bid:

Fargo, ND
\$345,205.25

Northdale Construction
Bid:

Albertville, MN
\$383,723.62

Rising Sun Construction, Inc. Bid:	Fargo, ND \$421,181.50
Tom's Backhoe Service Bid:	Brainerd, MN \$444,235.00
Sellin Brothers, Inc. Bid:	Hawley, MN \$448,790.00
Hough, Inc. Bid:	Detroit Lakes, MN \$480,785.72
Duininck Brothers, Inc. Bid:	Prinsburg, MN \$528,457.20

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5964 Awarded to Shermans, LLC in the Amount of \$329,113.67:

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 and Incidentals Improvement District No. 5964; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 13, 2010 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5964 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 and Incidentals Improvement District No. 5964 shows the bid of Shermans, LLC of West Fargo, North Dakota, in the sum of \$329,113.67 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 Shermans, LLC in the sum of \$329,113.67 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5964 in the City of Fargo, North Dakota, be and the same is hereby awarded to Shermans, LLC for the sum of \$329,113.67, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Storm Water Detention and Park Land Acquisition Improvement District No. 5955-3 (Deer Creek Addition):

Commissioner Mahoney moved the following action be taken in connection with Storm Water Detention and Park Land Acquisition Improvement District No. 5955-3:

Adopt Resolution Creating Improvement District No. 5955-3:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5955-3 in the City of Fargo, North Dakota, be created

56th Avenue South between 49th Avenue South & 58th Street South.
57th Avenue South between 66th & 67th Streets South.
55th Avenue South between 58th Street South & Deer Creek Parkway.
58th, 59th, 60th, & 62nd Streets South between 55th & 56th Avenues South.
61st Street South between 56th & 57th Avenues South.
Deer Creek Parkway between 55th & 56th Avenues South.
66th & 67th Streets South between 56th & 57th Avenues South.

COMPRISING:

Lots 1-42, inclusive, Block 1
Lots 1-11, inclusive, Block 2
Lots 1-9, inclusive, Block 3
Lots 1-24, inclusive, Block 4
Lots 1-26, inclusive, Block 5
Lots 1-14, inclusive, Block 6
Lots 1-14, inclusive, Block 7
Lot 1, inclusive, Block 8
Lots 1-23, inclusive, Block 9
Lots 1-32, inclusive, Block 10
Lots 1-123, inclusive, Block 11
Lots 1-17, inclusive, Block 12
Lots 1-22, inclusive, Block 13
Lots 1-26, inclusive, Block 14
Lots 1-35, inclusive, Block 15
Lots 1-31, inclusive, Block 16
Lots 1-89, inclusive, Block 17
Lots 1-21, inclusive, Block 18
Lots 1-20, inclusive, Block 19
Lots 1-40, inclusive, Block 20
Lots 1-43, inclusive, Block 21
Lots 1-38, inclusive, Block 22
Lots 1-31, inclusive, Block 23
Lots 1-33, inclusive, Block 24
All platted in Deer Creek.

All of the unplatted land in Section 5, Township 138, Range 49 West lying east of the Centerline of the Sheyenne River and bounded by a line 664' north of the quarter section line and a line 774' south of the quarter section line.

All of the foregoing land lying in the City of Fargo, Cass County, North Dakota, said district to include only land lying within the city limits of the City of Fargo and land lying outside said city limits is deemed not a part of the district.

NOW, THEREFORE, BE IT RESOLVED, That Storm Water Detention and Park Land Acquisition Improvement District No. 5955-3 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. 5955-3:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5955-3 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 \$1,189,400.)

Adopt Resolution Declaring Storm Water Detention and Park Land Acquisition 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 Storm Water Detention and Park Land Acquisition Improvement District No. 5955-3 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and 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. A map of the district is attached hereto and incorporated as if fully set forth herein.

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 Storm Water Detention and Park Land Acquisition 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.

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

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

Contract for Shared Use Path Improvement District No. 5838-4 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Adelman Concrete and Excavating, Inc. for Shared Use Path Improvement District No. 5838-4 in the City of Fargo, North Dakota.

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

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

Contract Bond for Shared Use Path Improvement District No. 5838-4 Approved:

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

United Fire and Casualty Company, in the amount of \$185,415.00, for Shared Use Path Improvement District No. 5838-4 in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5945-01 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5945-01 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5945-01 Approved:

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

United Fire and Casualty Company, in the amount of \$1,191,552.50, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5945-01 in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5966-2 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. 5966-2 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5966-2 Approved:

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

United Fire and Casualty Company, in the amount of \$845,912.50, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5966-2 in the City of Fargo, North Dakota.

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

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

Contract for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969-2 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969-2 in the City of Fargo, North Dakota.

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

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

Contract Bond for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969-2 Approved:

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

United Fire and Casualty Company, in the amount of \$1,603,860.55, for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969-2 in the City of Fargo, North Dakota.

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

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

Payment in Lieu of Taxes Policy to Encourage New Housing in the University Mixed Zoning District Adopted:

The Board received a communication from Planning Director Jim Gilmour stating the Planning Department has been working with the Tax Exempt Review Committee on a new policy to allow the use of the Payment in Lieu of Taxes (PILOT) program to encourage redevelopment in the University Mixed Use zoning district. He said the new policy would provide property tax incentives for new housing, similar to what has been provided downtown and would provide property tax exemptions to new

housing developments for up to a 10-year period in the University Mixed Use zoning district near NDSU. He said there would be limits on the amount of assistance that are similar to the Tax Increment Financing Policy; however the PILOT incentive makes more areas eligible for assistance due to the fact that the program is not limited to blighted areas. On March 8, 2010 the Board adopted a policy for Payment in Lieu of Taxes in the University Mixed Zoning District contingent upon eligibility of policy being clearly defined and, he said, an additional policy has been added to address this issue. He stated what the PILOT is really trying to do is to subsidize the extra ordinary costs like demolition and it is not designed to get the rents much below what the market is.

Commissioner Williams said he has two suggestions for the PILOT policy. The first suggestion is, he said, if the policy is talking about a percentage over market value the Commission would need to know what the actual market is in this area for rent and the second suggestion is that as long as a person is receiving the PILOT assistance the rents need to stay within that margin above market. He said it would be a little bit like rent control.

Commissioner Wimmer moved the policy for Payment in Lieu of Taxes Policy to encourage new housing in the University Mixed Zoning District be adopted as follows:

“The development should comply with City plans and policies that encourage the development of affordable housing and workforce housing. Rents should not substantially exceed, by more than 50%, fair market rents in Fargo.”

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

Commissioner Williams voted nay.

The motion was declared carried.

Preliminary Approval of \$675,000 of PILOT Assistance for the T Lofts Student Housing Project: Appropriate Staff and City Attorney Directed to Draft a Developer's Agreement:

The Board received a communication from Planning Director Jim Gilmour stating Roers Development has requested \$675,000 of PILOT assistance for a 105 unit apartment project adjacent to the T-Lot parking lot on NDSU campus. He stated the Finance Committee has reviewed the application along with the financial advisor's report and recommends preliminary approval of \$675,000 of PILOT assistance for the T Lofts Student Housing project.

Commissioner Wimmer moved preliminary approval of \$675,000 of PILOT Assistance for the T Lofts Student Housing Project and that the appropriate staff and City Attorney be directed to draft a developer's agreement.

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

Commissioner Williams voted nay.

The motion was declared carried.

Renaissance Zone Project for Kotikites & Windsports, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Kotikites & Windsports, LLC at 300 Broadway.

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 Kotikites & Windsports, LLC 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 Piepkorn moved the Renaissance Zone application filed by Kotikites & Windsports, LLC for a project located at 300 Broadway be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Draft Sign Code Approved:

The Board received a communication from Jim Hinderaker stating in June of 2009, the Sign Code Committee was formed to provide recommended changes and updates to the Planning Commission. He said, the first meeting of the Committee was held on July 9 and they meet every 2 weeks after that. He stated the public was allowed to attend the meetings; however, no public comments were allowed. Consistently throughout this process individuals from the industry and citizens met with staff he continued, in October of 2009, he said, the Committee completed the initial review, provided a recommendation to staff and staff was directed to draft a Sign Code. In mid-January of 2010, he said, the first draft of the Sign Code was given to the public for review and in late February a couple of open houses were held and a series of four public meetings followed in the months thereafter. On July 13, 2010 the Committee had its last public input meeting, he said, and at that time the Committee recommended approval of the draft in a 5-0 decision and on August 3, 2010 the Planning Commission held a hearing and recommended approval of the draft Sign Code with a couple of amendments. He said the amendments were to allow portable signs in an MR-3 zoning district, to allow portable signs to be up 14 days/down 14 days totaling 84 days/year, to increase the facade calculation from 25 percent to 30 percent and to establish a curb-line method of measure for sensitive land uses. He said staff is recommending a grandfather provision and an iconic sign provision. There are a couple of outstanding issues involving portable signs, on-premise signs and off-premise signs, he said.

Natasha Neihart, 1102 9th Street South, stated she is for the sign code. She said a great deal of effort has gone into the Sign Code and she has been pleased with the efforts to try to conserve the importance of the neighborhoods to protect them from intrusive signs.

Polly Wendelbo, 1118 6th Street South, said she would like to thank the City for taking the time to look at this and for taking the concerns of the citizens as a whole, not just a select group.

Bernie Dardis, Indigo Signworks, Inc., stated he is for the Sign Code with a few exceptions and feels the Commission owes it to the community to take another look at a few small modifications. He said it is a document well done in its entirety.

Russ Newman, Newman Outdoor Advertising, said he feels there is one issue that needs to be amended in the draft and that would be to allow new signs on major arterial roads and highways. At this time, he said, the draft would not allow new signs to be built in those locations.

Krysta Erovig, Impact Ads, said she has reservations about the draft and feels at times it is deceiving. She said in the portion about portable signs it looks like portable signs are eligible to be up 14 days, down 14 days, for a total of 84 days per year; however, she has also been told that if another portion of the sign code or Land Development Code is more restrictive, the more restrictive part prevails and in the sign code it states that portable signs need to be down for 60-days. She said it appears that it is then up to the interpretation of the inspector, which she feels is a bit deceiving. She said she would like the Commission to not rush, take a step back and get it right.

At 6:07 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Sara Bolton, Horace; Kim Patterson, 2512 7th Avenue South; Matt Baasch, 4650 26th Avenue South; Diane Herzeberg, 1431 Oak Manor Ave South, #312; Tracey Slaaen, 3118 17th Street South; Paul Anderson, Fargo Tire; Jody Boeckel, Boeckel Mobil Advertising; and Ron Gilmore spoke in opposition to the draft Sign Code.

Planning Director Jim Gilmour stated there are some issues with the current Sign Code where things are not clear and that is one of the big improvements that will change with the new Sign Code. He said the new Sign Code helps to clarify what the rules are going to be.

Commissioner Piepkorn moved the draft Sign Code be approved and the City Attorney's Office be directed to prepare the document in the appropriate form for final adoption, grandfathering in any existing sign that does not conform to the standards of the new Sign Code, provided that said sign is registered with the City within 2 months of implementation of the Sign Code, and that staff be directed to add definitions to terms like "placemaking" and "culturally significant" that are used in the iconic sign section of the Sign Code.

Second by Wimmer.

Commissioner Piepkorn stated he would like to see a more specific definition of what the eligible areas would be that Mr. Newman is referring to brought back to the Commission in two weeks.

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

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

Hearing on Special Assessment List for Curb and Gutter, Sidewalks and Pedestrian Median (Sanford Medical Center Agreement):

A Hearing had been set for this day and hour on the special assessment list for Curb and Gutter, Sidewalks and Pedestrian Median (Sanford Medical Center Agreement) in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment Commission after which it had been confirmed and filed with the Board of City Commissioners.

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

Commissioner Wimmer moved that the special assessment list for Curb and Gutter, Sidewalks and Pedestrian Median (Sanford Medical Center Agreement) be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

Special Assessment Lists for Various Improvement Districts Approved:

A Hearing had been set for this day and hour on the special assessment lists for the construction of the following Improvement Districts in the City of Fargo, North Dakota, on which special assessment lists Hearings had been held by the Special Assessment Commission after which they had been confirmed and filed with the Board of City Commissioners:

Drain 10 Flood Mitigation and Incidentals No. 5525.

Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals No. 5530.

P.C. Concrete Pavement and Incidentals No. 5706-01.

Street Lighting No. 5738.

Water Main Replacement, Street Reconstruction and Incidentals No. 5861.

Water Main Replacement, Street Reconstruction and Incidentals No. 5862.

Sanitary Sewer, Water Main and Incidentals No. 5880.

Milling, Hot Bituminous Pavement, Marking and Incidentals No. 5883.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5898.

Seal Coat and Incidentals No. 5912.

Edgewood Golf Course Flood Control No. 7138.

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

Commissioner Wimmer moved that the special assessment lists for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the

City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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.

Request from Jon Vannett Regarding Operation of a Business he has Started Named "Bar Hopper" asking that his Passengers be Allowed to Drink Alcoholic Beverages While on his Vehicle Denied:

The Board received a communication from Jon Vannett, owner of the Bar Hopper, stating he would like permission from the City of Fargo to allow the passengers of his non-motorized vehicle to drink alcoholic beverages while on the vehicle.

City Auditor Steve Sprague stated Mr. Vannett first introduced his concept to the City last winter and City staff's interpretation of his concept was that it did not fit within the parameters of the ordinances that the City has. Mr. Vannett then came to the Liquor Control Committee, he said, and made a similar request to the Committee at that point; however, the Committee did not act on his request.

Chief of Police Keith Ternes stated he can only presume the predominant hours of operation are going to be in the evening and after dark and his concern is how this vehicle is going to operate on City streets and mix with other vehicle traffic. He said his other concern is controlling alcohol and making sure that it stays out of the hands of underage individuals.

Commissioner Mahoney moved the request from Jon Vannett to allow passengers on the "Bar Hopper" to drink alcoholic beverages while on his vehicle be denied.

Second by Wimmer.

(Commissioner Wimmer absent)

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

Appointments to the Human Relations Commission:

The Board received a communication from Mayor Walaker recommending the following appointments to the Human Relations Commission: Amy Jacobson and Joshua Boschee be reappointed, that Sandra Holbrook be appointed to fill the vacancy created by the departure of Prairie Rose and Raul Gomez be appointed to fill the unexpired term created by the resignation of Joy Rice.

Commissioner Mahoney moved approval of the following appointments to the Human Relations Commission: the reappointment of Amy Jacobson and Joshua Boschee for three-year terms ending July 1, 2013, the appointment of Sandra Holbrook for a three-year term ending July 1, 2013 and the appointment of Raul Gomez for a term ending July 1, 2011.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

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

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

The time at adjournment was 7:23 o'clock p.m.