BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: February 7, 2011:

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, February 7, 2011.

The Commissioners present or absent were as shown following:

Present: Mahoney, Piepkorn, Williams, Wimmer.

Absent: Walaker.

Deputy Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on January 24, 2011 and the Special Meeting of the Board held on January 25, 2011 be approved as read.

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

Communication from Frank Anderson Received and Filed:

The Board received a communication from Frank Anderson, 1725 North Elm Street, stating he would like to be added to the next City Commission Meeting agenda to discuss his concerns about the inaccuracy of the City Commission Meeting minutes.

Commissioner Wimmer moved the communication from Frank Anderson be received and filed.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

a. St. Patrick's Day Parade Committee request to hang banners in the skyway from March 5 to March 13, 2011 to promote the Parade.

b. Extension of unpaid leave for Maynard Johnson through 3/15/11.

c. Extension of unpaid leave for Bette Deede through 2/22/11.

d. Applications for five-year tax exemptions for improvements made to buildings:
   (1) Vernon and Linette Senger, 221 23rd Avenue North.
   (2) Daniel and Lida Deutsch, 2934 Tenth Street North.

e. Distribution of surplus computer equipment to designated non-profit organizations.

f. Grant acceptance in the amount of $2,000.00 from the Walmart Corporation for the 2011 Martin Luther King, Jr. Celebration.

g. Applications for Games of Chance:
   (1) Benefit for Chip Johnson for a raffle on 2/26/11; Public Spirited Resolution.
   (2) Community Day for Carl Sinner for a raffle on 3/5/11; Public Spirited Resolution.
   (3) Amvets Auxiliary Dept. of North Dakota for a raffle on 5/14/11.
   (4) Char (Capouch) Gilbraith Benefit for a raffle on 3/13/11; Public Spirited Resolution.
   (5) Chris Loe Benefit for a raffle on 2/20/11; Public Spirited Resolution.
   (6) Shanley High School for a raffle on 4/30/11.
   (7) Amvets of North Dakota for a raffle on 5/14/11.

h. Sole source purchase of a used loader mounted snow blower from Harding Equipment, Inc. in the amount of $63,000.00.

i. Purchase of new water distiller from Siemens in the amount of $11,895.45.

j. Purchase Agreement with Donna Allard in connection with Improvement District No. 5153-3.

k. Contract award to Watersmith, Inc. in the amount of $95,922.00 for repairs to Storm Sewer Lift Station No. 6.

l. Funding plan and bid award for Project No. 5153-3.

m. Contract Amendment No. 4 with AE2S in the amount of $15,000 for Project No. 5725-1.

n. Change Order No. 1 for a time extension and deduction in the amount of $12,000.00 for Grant’s Mechanical, Inc. for Project No. 5725.

o. Change Order No. 2 for a time extension for Rice Lake Construction Group for Project No. 5725.

p. Change Order No. 3 for a time extension for JDP Electric, Inc. for Project No. 5725.

q. Change Order No. 10 for John T. Jones Construction Co. for an increase of $10,558.00 for Project No. 5726.

r. Contract with KLJ in the amount of $25,000.00 for Project No. 5951-01.

s. Declarations of flood protection elevation:
(1) Douglas Herman and Sarah Herman, 602 Hackberry Drive South.
(2) Ajit Kumar and Chitra Damle, 610 Hackberry Drive South.
(3) Michael and Constance Molony, 520 Hackberry Drive South.

t. Bid award for Project Nos. 5747-24 to Industrial Builders, Inc. in the amount of $500,747.86 and 5747-25 to Industrial Builders, Inc. in the amount of $290,135.00.

u. Bid advertisement for Project No. 5990.

v. Bills in the amount of $4,331,459.88.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Resolution Adopted Regarding Improvement District No. 5700 Recognizing the Project is Substantially Complete (Attachment "A"):

The Board received a communication from City Auditor Steve Sprague stating the City of Fargo has entered into an agreement with the ND Department of Transportation for the construction of 45th Street South from the I-94 interchange to 52nd Avenue South (Improvement District No. 5700). Construction of this roadway is substantially complete, he said, with some punch list items, landscaping and seeding remaining to be completed. He said the Resolution recognizes the incomplete work as a separate section or work unit.

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City has established a Special Improvement District No. 5700 which includes improvements to 45th Street South and related items; and

WHEREAS, Special Improvement District No. 5700 includes work performed by and at the direction of the North Dakota Department of Transportation the cost of which was to be funded, in part, by the City, which funding is to be obtained and financed by the City through special assessments and Special Improvement District No. 5700 includes work performed by and at the direction of the City, which work is also to be funded and financed through said special assessments; and

WHEREAS, Although portions of the above-described project is complete, nevertheless, to the extent any additional work remaining undone is the responsibility of the City and of the North Dakota Department of Transportation, it is desirable that said incomplete work be recognized as a separate section or work unit;

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota:

1. The separate sections or work units that remain incomplete are described as follows:

1.1 Punch list items.

1.2 Landscaping.

1.3 Seeding.

2. This Resolution is established for the purpose of meeting any requirements set forth in N.D.C.C. § 40-23-06.

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

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

Change Order No. 1 for Improvement District No. 5907 Approved:

Commissioner Williams moved approval of Change Order No. 1 for an increase of $76,527.80 for Improvement District No. 5907.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 (From 15th to 16th Avenues North between 5th Street and Broadway):

Commissioner Williams moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972:

Adopt Resolution Creating Improvement District No. 5972:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5972 in the City of Fargo, North Dakota, be created

From 15th to 16th Avenue North between 5th Street & Broadway, Block 1 of Hogans Addition.

COMPRISING:

Lots 1 through 13, and Lots 16 through 25, Block 1.
All in Hogans 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. 5972 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. 5972:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5972 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 $110,880.)

Order Plans and Specifications for Improvement District No. 5972:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5972 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5972:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5972 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. 5972 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. 5972 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 P.C. Concrete Alley Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

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

Direct City Auditor's Office to Call for Bids for Improvement District No. 5972:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5972 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.
The motion was declared carried.

Seal Coat and Incidentals Improvement District No. 5989 (Various Locations City-Wide):

Commissioner Williams moved the following action be taken in connection with Seal Coat and Incidentals Improvement District No. 5989:

Adopt Resolution Creating Improvement District No. 5989:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5989 in the City of Fargo, North Dakota, be created

LOCATION: (Section 1)
On 21st Avenue North from University Drive North to 16th Street North.
On 20th Avenue North from 16th Street North to a point located 554' east of 16th Street North.
On 16th Street North from 19th Avenue North to 23rd Avenue North.

LOCATION: (Section 4)
On 4th Avenue South from Fiechtner Drive South to 36th Street South.
On 34th Street South from Main Avenue to a point located 879' south of 4th Avenue South.

LOCATION: (Section 5)
On 32nd Avenue South from University Drive South to a point located 660' east of University Drive South.
On 11th Street South from 32nd Avenue South to Harwood Drive South.
On Harwood Drive South from University Drive South to 11th Street South.

LOCATION: (Section 6)
On 14th Street South from 58th Avenue South to 62nd Avenue South.
On Marten's Way South from 61st Avenue South to 16th Street South.
On 16th Street South from 61st Avenue South to 62nd Avenue South.
On 61st Avenue South from 14th Street South to 16th Street South.
On 62nd Avenue South from University Drive South to a point located 152' west of 16th Street South.

LOCATION: (Section 7)
On 36th Street South from a point located 1082' north of 60th Avenue South to a point located 373' south of 60th Avenue South

LOCATION: (Section 8)
On 44th Avenue South from 43rd Street South to 45th Street South.
On 45th Avenue South from Woodhaven Drive South to 44th Street South.

On 46th Avenue South from Woodhaven Drive South to 44th Street South.
On Woodhaven Drive South from 44th Avenue South to a point located 248' south of 46th Avenue South.
On 44th Street South from Woodhaven Drive South to 46th Avenue South.

LOCATION: (Section 9)
On Amber Valley Parkway South from 45th Street to a point located 144' west of the west leg of Amber Valley Court South.
On 46th Street South from 23rd Avenue South to Amber Valley Parkway South.
On Amber Valley Court South.

COMPRISING: (Section 1)
Lots 1 and 2, Block 1.
Lot 1, Block 2.
All in Vision Addition.

Lots 1 and 2, Block 1.
Lot 6, Block 1.
Lot 7, Block 2.
All in Hector Airport Addition.

Lots 1 and 2, Block 1, Hector Airport 2nd Addition.

Lot 1, Block 1.
Lots 4 through 6, Block 1.
All in Martin Hector Subdivision.

Lots 1 and 2, Block 1, Thomsak 1st Addition.

Lots 2 and 3, Block 1, Wild Wings Subway Addition.

Land in Hector Airport South Aviation, land in Hector International Airport (land).

COMPRISING: (Section 4)
Lots 3 and 4, Block 1.
Lot 1, Block 2.
All in Westrac 2nd Addition.

Lots 1 through 4, Block 1.
Lot 7, Block 1.
All in Master Addition.

Lots 1 and 2, Block 1, West Central Addition.

Lots 1 and 2, Block 1, Cape Development.

Lots 1 through 4, Block 1, Premiere 1st Addition.

Lots 1 and 2, Block 1, Timber Addition.

Lots 1 and 2, Block 1, Cody Addition.

Lot 1, Block 2, Cass County Corrections Addition.

Lots 1 through 7, Block 1, Engkjer Addition.

Lots 1 and 2, Block 1, Bachman Addition.

Lots 1 and 2, Block 1, Gehrig Properties Addition.

Lots 2 through 5, Block 1.
Lots 1 and 2, Block 2.
Lots 4 through 8, Block 2.
Lot 1, Block 3.
Lots 1 and 2, Block 4.
Lots 5 and 6, Block 4.
Lot 2, Block 6.
Lots 17 through 21, Block 7.
Lots 1 through 11, Block 8.
Lots A, B, C, D, E and F, Block 8.
All in Burlington Northern I-29 South Industrial Center.

COMPRISING: (Section 5)
Lots 1 and 2, Block 1, Villa Maria Addition.

Lot 1, Block 1, Presentation Addition.

Lots 1 and 2, Block 2.
Outlot A.
All in Harwood Groves Commercial Park.

Lots 1 through 7, Block 1.
Lots 1 through 3, Block 2.
All in Harwood Groves Commercial Park 2nd.

Lot 3, Block 1.
Lot 1, Block 3.
All in Harwood Groves 5th Addition.

Lots 1 through 16, Block 1, Waterford Addition.

COMPRISING: (Section 6)
Lot 1, Block 2.
Lot 1, Block 3.
All in Waterford Park Addition.

Lots 1 through 9, Block 1.
Lots 1 through 3, Block 2.
All in Winchester Square.

Lots 6 through 11, Block 1.
Lots 1 through 24, Block 2.
Lots 1 through 18, Block 3.
Lots 1 through 26, Block 4.
Lots 1 through 19, Block 5.
Lots 23 through 26, Block 5.
Lot 46, Block 5.
Lots 1 through 14, Block 6.
Lots 1 through 21, Block 7.
Lots 1 through 25, Block 8.
All in Marten's Way Addition.
Lots 1 through 4, Block 1, Marten's Way Twins 2nd Addition.

Lots 1 through 24, Block 1, Marten's Way West Heritage Addition.

Lots 1 through 3, Block 1, Marten's Southwest Townhomes Addition.

Lots 1 through 14, Block 1, Wellington Court.

Lots 1 through 6, Block 1, Marten's Way Salem Court Townhomes 1st Addition.

COMPRISING: (Section 7)
Lot 44, Block 1.
Lot 55, Block 1.
Lot 21, Block 6.
All in Maple Valley Addition.

COMPRISING: (Section 8)
Lots 1 through 19, Block 1.
Lots 1 through 17, Block 2.
Lots 1 through 36, Block 3.
Lot 1, Block 4.
Lots 3 through 15, Block 4.
All in Woodhaven 2nd Addition.

Lots 1 through 17, Block 1, Estoria 1st Addition.

Lots 1 through 6, Block 1.

Lot 8, Block 1.
Lots 1 through 3, Block 2.
Lot 1, Block 3.
Lot 1, Block 4.
All in Woodhaven 3rd Addition.
Lots 1 and 2, Block 1, Country Grove Addition.

COMPRISING: (Section 9)
Lot 1, Block 3, Agassiz Crossing 1st Addition.

Lots 1 through 3, Block 1.
Lot 5, Block 1.
All in Amber Valley Business Center 1st Addition.

Lot 3, Block 1, Midwest Behavioral Healthcare 1st Addition.

Lots 1 and 2, Block 1, Robust Addition.

Lots 1 through 3, Block 1, Pracs Addition.

Lot 1, Block 1, Pracs 2nd Addition.

Lots 1 and 2, Block 1, C & G Addition.

Lots 1 through 3, Block 1.
Lots 2 through 4, Block 2.
All in Amber Valley 1st Addition.

Lots 1 and 2, Block 1, Amber Valley 2nd Addition.

Lots 1 through 8, Block 1, Amber Valley 3rd Addition.

Lot 1, Block 1, Amber Valley 4th Addition.

Lot 1, Block 1, Amber Valley 5th Addition.

Lots 1 through 3, Block 1.
Lots 1 through 21, Block 2.
Lots 1 through 12, Block 3.
Lot 1, Block 4.
Lot 1, Block 5.
All in Amber Valley 6th Addition.

Lots 2 through 4, Block 1, Amber Valley 7th Addition.

Lots 1 and 2, Block 1, Amber Valley 8th Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Seal Coat and Incidentals Improvement District No. 5989 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. 5989:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5989 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 $513,307.)

Order Plans and Specifications for Improvement District No. 5989:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5989 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5989:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5989 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. 5989 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 Seal Coat 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 Seal Coat and Incidentals Improvement District No. 5989 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 Seal Coat 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. 5989:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5989 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Water Main Replacement and Incidentals Improvement District No. 5993 (6th Street South from 9th Avenue South to 8th Avenue South):

Commissioner Williams moved the following action be taken in connection with Water Main Replacement and Incidentals Improvement District No. 5993:

Adopt Resolution Creating Improvement District No. 5993:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5993 in the City of Fargo, North Dakota, be created

On 6th Street South from 9th Avenue South to 8th Avenue South

COMPRISING:

Lots 6 through 13, Inclusive, Block K
East 90 feet of Lots 4 & 5, Inclusive, Block K
East 90 feet of Lots 2 & 3, Inclusive, Block K
West 50 feet of Lots 2, 3, 4, & 5, Inclusive, Block K
All platted in Chas A. Roberts Addition

Lot VAC 8 & 9 Ave S, Inclusive, Block I
All platted in Chas A. Roberts Addition

Lot legal beg at a pt 33 ft w of n/s 1/4 ln of sec 7, twp 139n, rge 48w & 293 ft n of ext s ln of blk h, then w 213 ft on a ln para to such ext s ln of blk h rng then nwly 154.35 ft to a pt 356 ft n & 50 ft e of sw cor of 13, blk h, then s to a pt 50 ft e of sw cor of 13, blk h, then e 160 min to sw cor of blk tt, then in a sely dir to se cor of blk tt, then n alg e ln of blk tt to pt of beg, less the foll: e 50 ft of w 100 ft of 8, 9, 10, 11 & 12 & also less that pt of 6 & 7 lying within the foll: beg at a pt on s bndry ln of 7, 50 ft e of sw cor of 7, then n 00 deg 00 min e for a dist of 54.3 ft, then s 65 deg 56 min e for a dist of 54.76 ft, then s 00 deg 00 min w for a dist of 31.97 ft to a pt on s bndry ln of 7, sd pt bg 100 ft e of the sw cor of 7, then w alg the s ln of lt 7, 50 ft to pt of beg block part of H & TT

All platted in Chas A. Roberts Addition

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement and Incidentals Improvement District No. 5993 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. 5993:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5993 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 $146,250.)

Order Plans and Specifications for Improvement District No. 5993:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5993 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5993:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5993 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. 5993 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. 5993:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5993 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202 Approved:

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

United Fire and Casualty Company, in the amount of $4,097,099.77, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5202 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

First Reading of an Ordinance Repealing Ordinance No. 4772 Relating to Repealing and Re-Enacting the Sign Code of the City of Fargo:

The Board received a communication from City Attorney Erik Johnson stating at the last Regular City Commission meeting the Board directed the City Attorney's office to prepare an appropriate ordinance to repeal Ordinance No. 4772, which repealed the former Sign Code and enacted the new Sign Code. The ordinance is designed, he said, to revive the former Sign Code and declares that the former Sign Code be revived as a result of the approval of this new ordinance.

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Repealing Ordinance No. 4772 Relating to Repealing and Re-Enacting the Sign Code of the City of Fargo be placed on first reading.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Renaissance Zone Project for Donald P. Schwert Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Donald P. Schwert at 300 Broadway, #204.

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 Donald P. Schwert 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 Donald P. Schwert for a project located at 300 Broadway, #204 be approved and the

income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

2011 Community Development Action Plan for Housing and Community Development Approved:

A Hearing had been set for this day and hour on the proposed 2011 Community Development Action Plan for Housing and Community Development resources which will be used in the next fiscal year in accordance with the community's Consolidated Plan update.

The Board received a communication from Senior Planner Dan Mahli stating the Community Development Committee is recommending approval of the submitted 2011 Community Development Action Plan. He stated the proposed budget includes $700,000 in Community Development Block Grant (CDBG) funds and $660,000 in HOME funds to be available. Upon City Commission approval, he said, the plans will be forwarded to the US Department of Housing and Urban Development for final review and approval. He said projects in the 2011 Action Plan include the following activities:

HOUSING REHABILITATION - Owner Occupied: $440,000 to be available for rehabilitation of existing owner occupied housing units. This includes $90,000 in CDBG and $350,000 in HOME funds.

HOMEBUYER ASSISTANCE: $100,000 in HOME funds to be available to assist lower income families purchase homes.

AFFORDABLE HOUSING PROJECTS:

Beyond Shelter, Inc. CHDO Projects - $100,000 in HOME funds for renovations at 101 2nd Street South.

Workforce Housing - $49,000 in HOME funds for housing and related projects that address priorities established around workforce housing.

DOWNTOWN PROJECTS: $100,000 in CDBG funds for projects that address slum and blight conditions in downtown Fargo.

PUBLIC SERVICE PROJECTS:

Homebuyer and Tenant Education - $30,000 in CDBG and $5,000 in HOME funds to support the Village Financial Service Center with Homebuyer and Tenant Education programs.

Emergency Shelter - $40,000 in CDBG funds to provide operating support at the Gladys Ray Shelter in Fargo.

Snow Removal Assistance - $2,500 in CDBG funds to offer emergency snow removal assistance to low income senior households and people with disabilities.

Fair Housing Education and Outreach - $2,000 in CDBG funds to assist Fair Housing of the Dakotas with local training workshops.

Job Training - $13,500 in CDBG funds to provide job skills training and development for refugees and low income persons.
Homeless Liaison - $20,000 in CDBG funds to support a part-time Police Department liaison to Fargo's homeless population.

FACILITIES/CAPITAL:
Fargo Emergency Food Pantry - $250,000 in CDBG funds will be used to assist in the relocation of Fargo's emergency food pantry.
Neighborhood Project - $12,000 in CDBG funds will be used to enhance a low/moderate income neighborhood in Fargo.

ADMINISTRATION: $140,000 in CDBG funds for project development, planning and administrative costs associated with the delivery of the CDBG program. HOME funds will provide an additional $56,000 for administration.

Commissioner Wimmer moved the 2011 Community Development Action Plan be approved.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Appeal of the Denial of an Appeal of the Site Plan Portion of the Dakota Boys and Girls Permit Application to Construct a New Residential Treatment Center and Education Center at 7045 and 7151 15th Street South Denied:

A Hearing had been held by the Fargo Planning Commission on December 9, 2010 to consider the denial decision of an appeal of the Site Plan portion of the Dakota Boys and Girls Ranch permit application to construct a new Residential Treatment Center and Education Center at 7045 and 7151 15th Street South, and the Fargo Planning Commission at such Hearing recommended the Site Plan portion of the permit be denied.

The City received an appeal of the denial of an appeal of the Site Plan portion of the permit from Fred M. Hector, Jr. and Stanley Township, North Dakota, 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 stated the Dakota Boys and Girls Ranch submitted plans to the City requesting a building permit for a residential treatment and education center. He said as part of the permitting process the City routes plans to the various review agencies under the plan routing process which would include Planning, Engineering, Inspections, Fire, etc. He said when Planning does the Site Plan portion of the review it is the Zoning Administrator that is in charge of making sure that all of the elements of the Land Development Code are met. One of the major issues when looking at this application, he said, was determining what use the Dakota Boys and Girls Ranch would be considered due to the fact that there is an education center but also a residential treatment center on site. The Planning Department determined, he said, that the facility would best fit under the uses of

community service and group living. He said both of those uses are considered allowed uses and are subject to specific standards under the Land Development Code, both of which have been met by the applicant. He said Mr. Garaas's clients feel that the Zoning Administrator made an error in approving the Site Plan due to the fact that Dakota Boys and Girls Ranch did not obtain a Conditional Use Permit from the Planning Commission for the group living facility. Planning staff's position, he said, is that the Site Plan review was appropriately done by the Zoning Administrator and upheld by the Planning Commission.

Jonathan Garaas, Attorney representing Stanley Township and Fred M. Hector, Jr., said he feels that the law is not being followed in this case by the City of Fargo and its officials. He said he is not certain why the Site Plan Review and application fee is missing from the information that was presented to the Commission for review. He said he believes it is missing because the application does not exist and is not compliant with City law. He said under every method of uses a Conditional Use Permit process is required and he is merely asking the City Commission to honor the law that has been passed and adopted, and which is expected to be followed and honored by everyone else.

In response to a question from Commissioner Wimmer asking if City Attorney Erik Johnson is comfortable with the direction that this is headed, Mr. Johnson said he is comfortable with the approach that the Planning staff has taken.

Commissioner Piepkorn moved the appeal of the Planning Commission's denial of an appeal of the Site Plan portion of the Dakota Boys and Girls Ranch permit application to construct a new Residential Treatment Center and Education Center at 7045 and 7151 15th Street South be denied.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

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

After recess: All Commissioners present, except Mayor Walaker. Deputy Mayor Mahoney presiding.

Flood Update Received:

City Administrator Pat Zavoral gave an update on the City's preparations for the upcoming flood.

Enterprise Director Bruce Grubb said sandbag preparation will begin early this year based on the two previous flood events. Sandbag filling, he said, will begin on Monday, February 14 from 8 a.m. to 8 p.m. with a goal of making 100,000-150,000 per day.

Senior Engineer April Walker stated the original recommendation to the Commission was to purchase four homes in the Southeast Corner of River Vili. Since then, she said, two property owners to the west of those homes have independently asked to have their homes purchased and Assistant City Attorney Butch McConn has started the appraisal process. She said with those six homes removed Engineering will be able to place clay all along the south end and permanently protect the low southeast corner in that area.

Commissioner Piepkorn moved approval of the purchase of two additional homes in River Vili as recommended.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Commissioner Piepkorn moved the appropriate staff be authorized to solicit Request for Proposals for advanced measure projects.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

2011 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the matrix indicating the 2011 legislative bills the City supports and opposes and a summary of hearings taking place this week.

Commissioner Wimmer moved approval of the support and oppose matrix of bills as presented.

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

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, February 22, 2011.

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

The time at adjournment was 7:26 o'clock p.m.