

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                      Monday:                                      March 21, 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, March 21, 2011.

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 moving Item "e" from the Consent Agenda to the end of the Regular Agenda and amending Item "p" on the Consent Agenda.

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 Monday, March 7, 2011 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. Notice of Appeal From Decision of Local Governing Body in the matter of Stanley Township and Fred M. Hector, Jr. vs. the City of Fargo, Inspections Department and/or Dakota Boys and Girls Ranch (and/or Dakota Boys and Girls Ranch Foundation).
- b. Request from the El Zagal Shrine to hang banners in the skyway from March 22nd to April 8th to promote the El Zagal Shrine Circus.
- c. Resolution authorizing the Deer Management Program for 2011 – 2012 (Attachment "A").
- d. Revised employment contract with Greg Anderson for the new public safety CAD/RMS system.
- e. Position Evaluation Committee recommendations (moved to the Regular Agenda).

- f. Health Department budget adjustments and grant agreement with the North Dakota Department of Health for \$17,126.00 for the Public Health Emergency Preparedness and Response/PHER Redirection Equipment (CFDA #93.069).
- g. Agreement with Roger Johnson & Associates for purchase and service of AED's.
- h. Amendment to contract with the North Dakota Department of Health relating to family planning services (CFDA #'s 93.217 and 93.116).
- i. Amended Site Authorization for Team Makers Club, Inc. at the Fargodome.
- j. Applications for Games of Chance:
  - (1) Fargo Babe Ruth League, Inc. for a calendar raffle from 5/1/11 to 6/29/11.
  - (2) Fargo Babe Ruth League, Inc. for a raffle on 5/7/11.
  - (3) Knights of Columbus #6570 for a calendar raffle from 6/1/11 to 6/30/11. El Zagal Arab Patrol for a raffle on 5/12/11.
  - (4) Juvenile Diabetes Research Foundation for a raffle on 4/19/11; Public Spirited Resolution.
  - (5) Weible Hall – NDSU for bingo and a raffle on 4/7/11 (amended).
  - (6) Roger Maris Celebrity Golf Tournament for a raffle on 6/26/11.
- k. Plats for the following:
  - (1) Vista Village Fourth Addition
  - (2) Woodhaven Seventh Addition.
  - (3) Robust Second Addition.
- l. Purchase of 2 loader mounted snowplows from RDO Equipment for \$43,780.00.
- m. Memorandum of Understanding with the NDDOT for Traffic Signal and Video System Interconnects along both the 45th Street and 12th Avenue North corridors.
- n. Change Order No. 1 for an increase of \$6,116.00 for Project No. 5906.
- o. Scope of Work and Cost Proposals in the total amount of \$12,656.40 for Project No. 6019.
- p. Engineering Services Contract Amendment No. 1 for an increase of \$36,900.00 for Project No. 5840.
- q. Bid award for Project No. 5990 to Roadway Services, Inc. in the amount of \$37,100.00.
- r. Professional Services Agreements for engineering and technical support for 2011 flood assistance with SRF Consulting Group, Inc., Apex Engineering

Group, Inc., Advanced Engineering and Environmental Services, Inc. and Moore Engineering, Inc.

- s. Contracts and bonds for Project Nos. 5951-1.
- t. Bills in the amount of \$8,683,193.30.

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

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

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 14 and 21, 2011 and protests representing 5.42 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

Second by Wimmer. 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.

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, March 16, 2011 and the bids were found to be as follows:

Adelman Concrete and Excavating Bid:	West Fargo, ND \$80,479.00
Key Contracting Bid:	Fargo, ND \$81,192.00
Heston Contracting, Inc. Bid:	Frazee, MN \$86,529.75
All Finish Concrete Bid:	Moorhead, MN \$91,640.75
Paras Contracting, Inc. Bid:	Fargo, ND \$92,423.90

Red River Concrete and Construction, Inc. Bid:	Fargo, ND \$93,966.28
Dakota Underground Company Bid:	Fargo, ND \$94,566.00
Opp Construction Company Bid:	Grand Forks, ND \$103,364.70

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 Awarded to Adelman Concrete and Excavating in the Amount of \$80,479.00:

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 16, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 shows the bid of Adelman Concrete and Excavating of West Fargo, North Dakota, in the sum of \$80,479.00 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 Adelman Concrete and Excavating in the sum of \$80,479.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5972 in the City of Fargo, North Dakota, be and the same is hereby awarded to Adelman Concrete and Excavating for the sum of \$80,479.00, 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 Piepkorn, Wimmer, Williams, Mahoney and Walaker voted aye.

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

No Protests Received for Seal Coat and Incidentals Improvement District No. 5989:

The Statutory Resolution of Necessity for the construction of Seal Coat and Incidentals Improvement District No. 5989 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 14 and 21, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Piepkorn moved that the Board declare that no protests have been filed to the construction of Seal Coat and Incidentals Improvement District No. 5989.

Second by Wimmer. 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.

Bids Received for Seal Coat and Incidentals Improvement District No. 5989:

The bids for Seal Coat and Incidentals Improvement District No. 5989 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 16, 2011 and the bids were found to be as follows:

Asphalt Surface Technologies Corporation Bid:	St. Cloud, MN \$382,888.30
Pearson Brothers., Inc. Bid:	Hanover, MN \$402,366.78
Bituminous Paving, Inc. Bid:	Ortonville, MN \$483,459.13

Contract for Seal Coat and Incidentals Improvement District No. 5989 Awarded to Asphalt Surface Technologies Corporation in the Amount of \$382,888.30:

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Seal Coat and Incidentals Improvement District No. 5989; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 16, 2011 for Seal Coat and Incidentals Improvement District No. 5989 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Seal Coat and Incidentals Improvement District No. 5989 shows the bid of Asphalt Surface Technologies Corporation of St. Cloud, Minnesota, in the sum of \$382,888.30 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 Asphalt Surface Technologies Corporation in the sum of \$382,888.30 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Seal Coat and Incidentals Improvement District No. 5989 in the City of Fargo, North Dakota, be and the same is hereby awarded to Asphalt Surface Technologies Corporation for the sum of \$382,888.30, 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 Piepkorn, Wimmer, Williams, Mahoney and Walaker voted aye.

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

Bids Received for Water Main Replacement and Incidentals Improvement District No. 5993:

The bids for Water Main Replacement and Incidentals Improvement District No. 5993 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 16, 2011 and the bids were found to be as follows:

Riley Brothers Construction Bid:	Morris, MN \$99,575.00
Master Construction Company, Inc. Bid:	Fargo, ND \$104,589.50
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$107,885.00
Dakota Underground Company Bid:	Fargo, ND \$114,265.00
Shermans, LLC Bid:	West Fargo, ND \$115,669.00
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$122,514.00
Northern Improvement Company Bid:	Fargo, ND \$131,670.00

Contract for Water Main Replacement and Incidentals Improvement District No. 5993 Awarded to Riley Brothers Construction in the Amount of \$99,575.00:

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Water Main Replacement and Incidentals Improvement District No. 5993; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 16, 2011 for Water Main Replacement and Incidentals Improvement District No. 5993 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement and Incidentals Improvement District No. 5993 shows the bid of Riley Brothers Construction of Morris, Minnesota, in the sum of \$99,575.00 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 Riley Brothers Construction in the sum of \$99,575.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement and Incidentals Improvement District No. 5993 in the City of Fargo, North Dakota, be and the same is hereby awarded to Riley Brothers Construction for the sum of \$99,575.00, 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 Piepkorn, Wimmer, Williams, Mahoney and Walaker voted aye.

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

Change Order No. 1 for Improvement District No. 5931 Approved:

Commissioner Piepkorn moved approval of Change Order No. 1 for an increase of \$60,007.11 for Improvement District No. 5931.

Second by Wimmer. 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.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5973 (Country Club Acres Addition):

Commissioner Piepkorn moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5973:

Adopt Resolution Creating Improvement District No. 5973:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5973 in the City of Fargo, North Dakota, be created

On 9th Street South from 24th Avenue South to 26th Avenue South.  
 On 26th Avenue South from 9th Street South to 12th Street South.  
 On 12th Street South from 26th Avenue South to 30th Avenue South.  
 On 30th Avenue South from 12th Street South to University Drive South.

COMPRISING:

Lot 1, inclusive, Block 3.  
 All in Country Club Addition.

Lot 1, the East 20 feet of Lot 29 and all of Lot 30, inclusive, Block 2.  
 Lots 6 through 16, inclusive, Block 4.  
 Lots 1 through 11, inclusive, Block 5.  
 Lots 1, 2 and 23, inclusive, Block 6.  
 All in Country Club Acres Addition.

The East 17 feet of Lot 14 and all of Lot 15, inclusive, Block 4.  
 All in Schonberg's Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5973 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. 5973:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5973 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$2,312,500.00.)

Order Plans and Specifications for Improvement District No. 5973:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5973 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5973:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5973 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. 5973 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Water Main Replacement, Street Reconstruction and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5973 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 Water Main Replacement, Street Reconstruction 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. 5973:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5973 in the City of Fargo, North Dakota.

Second by Wimmer. 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.

Contract for Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Kuechle Underground, Inc. for Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 in the City of Fargo, North Dakota.

Second by Wimmer. 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.

Contract Bond for Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 Approved:

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

Employers Mutual Casualty Company, in the amount of \$2,330,302.46 for Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 in the City of Fargo, North Dakota.

Second by Wimmer. 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.

Presentation of Award to the Native American Commission:

Deputy Mayor Mahoney said the Native American Commission (NAC) received the second place National League of Cities 2011 Cultural Diversity Award for the population category of 25,001 - 100,000 and he and Willard Yellow Bird, Jr. were in Washington, D.C. to accept the award last month. He said the NAC was selected for its demonstration of quality and innovation in relation to cultural diversity. Since its inception in 2006, he said, the NAC has directly participated in a number of projects and initiatives that address Native American needs and promote cultural diversity.

Willard Yellow Bird, Jr., Sharon White Bear and Crystal Gonzales were present representing the NAC. Mr. Yellow Bird said the NAC is well known and is the only one in the area that operates under a City Commission and often other cities are interested to know how it was started and use it as an example.

Mayor Walaker accepted the award on behalf of the City stating he was proud of what the City and the Native American Commission have done and will continue to do. He said communication and understanding are important.

Second Reading and Final Adoption of an Ordinance Amending Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to States of Emergency – Declaration and Duration Continued to April 4, 2011:

City Attorney Erik Johnson said at the last meeting it was determined the Commissioners should weigh in on proposed amendments to the Ordinance relating to States of Emergency - Declaration and Duration prior to finalizing it. He said he has made revisions to the draft related to floods, limiting business, and issuance of evacuation orders basing authority on the size of the evacuation area.

Commissioner Wimmer said he is concerned about responsibility all being put on one person, the Incident Commander, in this case.

Commissioner Piepkorn said Commissioners can now be easily reached and he does not see a need to rush into the amendments until everyone is in agreement.

Mayor Walaker said it is difficult to write an ordinance that speaks to every circumstance. He said the amendments refer to the Mayor or a Commissioner acting for the Mayor as authorized and he feels it flows well. He said the Commission could pass the amended Ordinance and make changes later. If delayed another two weeks, he said, each Commissioner must be sure to get any proposed revisions to Mr. Johnson so the Ordinance can be finalized.

City Administrator Pat Zavoral said it is not large evacuation situations that concern him. He said clearly those decisions would be made through the authority of the Mayor and Commissioners. He said in 2009 it was written that the Police Chief made the decisions; however, circumstances forced engineers and a desk sergeant to take quick action. He said he wants to protect the ability for staff to make decisions on incidents on a small scale and give them a level of protection for their jobs.

Commissioner Mahoney said the amendments to the Ordinance read better and make it clear who is in command.

Commissioner Williams said the document speaks to accountability and line of authority but could be made more easily understandable.

Commissioner Williams moved second reading and final adoption of the Ordinance Amending Section 10-0317 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to States of Emergency – Declaration and Duration be continued to the April 4, 2011 Regular Meeting and that the City Attorney be directed to obtain and incorporate revisions from each Commissioner.

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

Commissioners Mahoney and Walaker voted nay.

The motion was declared carried.

Hearing on a Dangerous Building Located at 3700 42nd Street South: No Further Action Needed:

A Hearing had been set for February 22, 2011 on a dangerous building located at 3700 42nd Street South.

At the February 22, 2011 meeting, the Hearing was continued to this day and hour.

The Board received a communication from Inspections Administrator Ron Strand stating the cleanup has been completed and the foundation remains. He said he received a report from a structural engineer and a testing agency indicating the remaining foundation from the original structure has been analyzed as being capable of supporting a new project superstructure. He said since the reports have been received and the structure has been demolished, it will no longer be necessary to hold the hearing scheduled today as the original order has been complied with.

Application Filed by Gilbert C. Grafton Post No. 2 American Legion d/b/a The Pickled Parrot for an Alcoholic Beverage License Approved:

A Hearing had been set for February 22, 2011 on the application filed by Gilbert C. Grafton Post No. 2 American Legion d/b/a The Pickled Parrot for a Class "AC" Alcoholic Beverage License at 505 Third Avenue North, notice of which had been duly published in the official newspaper for the City of Fargo. At the February 22, 2011 meeting, the Hearing was continued to this day and hour.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

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

Parcels of Land in Kirkham's 2nd Addition Rezoned (1414, 1424, 1426 and 1430 12th Avenue North):

At a Hearing held on March 1, 2011 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial to UMU, University Mixed Use with a Planned Unit Development overlay on Lots 12 through 18 and part of vacated alley, Block 14, Kirkham's Addition.

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

Senior Planner Jim Hinderaker said FM City Development, LLC wants to build between and connect two existing structures which requires rezoning and a zoning overlay in the form of a Planned Unit Development (PUD) to unify the three buildings under the same zoning. He said it will require looking at a setback reduction, parking modifications and landscaping issues.

In response to a question from Commissioner Williams about how the University Mixed Use zoning is accepted, Mr. Hinderaker said it is accepted well by the Roosevelt neighborhood. He said it is taking some pressure off the older neighborhood where more owner occupied houses are encouraged and the new additions have clearly been an improvement.

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

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

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

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition to the City of Fargo, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition to the City of Fargo, Cass County, North Dakota, be placed on first reading.

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

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

Amendments to Two Development Plans for Tax Increment Financing District Nos. 2007-01 and 2008-01 to Redevelop an Area Southwest of 12th Avenue North and Albrecht Boulevard Expanding the Redevelopment Area to Include a Deteriorated Property at 1424-1426 12th Avenue North Approved: Amendment to a Development Agreement Approved (FM City Development, LLC):

A Hearing had been set for this day and hour to consider approval of an amendment to the Renewal Plan for Tax Increment Financing District Nos. 2007-01 and 2008-01 to include property at 1424-1426 12th Avenue North which will include a proposed amendment to a development agreement.

No written protest or objection to the Plan 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 Plan.

The Board received a communication from Planning Director Jim Gilmour stating this is the expansion of the second phase of a project by FM City Development, LLC and will redevelop a property at 1424-1426 12th Avenue North. He said the Finance Committee has reviewed the request and recommends approval of an amended Developer Agreement providing up to an additional \$50,000 in assistance for costs to clear the site, including demolition. Mr. Jim Gilmour said boundary adjustments will also have to be made. He said having the new building built between two existing structures creates complications for the Assessor. The proposed use of the property will be for main floor commercial and upper story apartments, he said.

Commissioner Wimmer moved approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas or areas consisting of industrial or commercial property, or a combination of those areas of properties exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment or a combination thereof, of the area contained within the amended Development Plans for Tax Increment Financing District Nos. 2007-01 and 2008-01 is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there is a building in the area contained within the Development Plan with deteriorated conditions. The amended Renewal Areas, as defined in the Development Plans, are blighted due to the presence of one structure that is deteriorated and this condition has substantially impaired the growth of the City in this area, and has slowed the provision of appropriate housing in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in said area.
4. That the property comparable replacement dwellings or housing is available to persons displaced by the proposed Tax Increment Project which will not create any undue hardship to those persons. Housing vacancy rates in the area surrounding the Renewal are high enough to meet the need of the persons that will be displaced. This amended plan is to demolish a vacant building, so no displacement will occur on the property.
5. That the amended areas designated as the Development Plan for Tax Increment Financing District Nos. 2007-01 and 2008-01 are appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the amended Development Plans for Tax Increment Financing District Nos. 2007-01 and 2008-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the amended Development Plans for Tax Increment Financing District Nos. 2007-01 and 2008-01 are hereby officially adopted by the Board.
8. That a Developer Agreement be prepared in regard to the Tax Increment Financing.
9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any

modifications thereof and that the County Auditor and Treasurer shall do so in accordance with this section.

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

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

Commissioner Wimmer moved an amendment to the Developer Agreement with FM City Development, LLC be approved.

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

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

Text Amendment to Amend Section 20-0216.D.3.b of Article 20-02, UMU, Building Materials, of the Land Development Code Approved:

A Hearing had been held by the Fargo Planning Commission on March 1, 2011 for the purpose of considering a request for a text amendment to amend Section 20-0216.D.3.b, UMU, Building Materials, of the Land Development Code and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

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

Senior Planner Jim Hinderaker said the University Mixed Use zoning district is fairly new and there are always changes. He said in talks with developers and suppliers, particularly in regard to types of siding, it was determined an additional material should be included as a choice for use in the UMU.

Commissioner Wimmer moved the request be approved on the basis the proposed Text Amendment complies with Section 20-0904(E)(1-3) of the Land Development Code.

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

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

First Reading of an Ordinance Amending Section 20-0216.D.3.b of Article 20-02 of Chapter 20 of The Fargo Municipal Code (Land Development Code) Relating to Base Zoning Districts:

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 Amending Section 20-0216.D.3.b of Article 20-02 of Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to base zoning districts be placed on first reading.

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

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

Appointments to the Comprehensive Plan Steering Committee Approved:

The Board received a communication from Senior Planner Jim Hinderaker recommending the following candidates be invited to sit on the Comprehensive Plan Steering Committee:

Jan Ulferts Stewart  
Jeff Morrau  
Pat Zavoral  
Jerry Feder  
Steve Swiontek  
Craig Whitney  
Bryce Johnson  
Linda Coates  
Ron Sorvaag  
Steve Stoner  
Bill Marcil, Jr.  
Rick Buresh  
Dean Bresciani  
Wade Kline

Mr. Hinderaker said the primary responsibility of each committee member will be to participate in "big picture" policy discussions on issues likely to affect the City and to review and critique major themes of the draft plan as the document evolves. He said the last time a Comprehensive Plan was done was 16 years ago but ideally it should be done every 10 years. He said the plan is a primary policy document and needs to be done right and will focus on such things as flood protection, energy reduction and sustainability. It is more of a policy making committee, he said, in comparison to the technical committee in existence which works on details. The goal, he said, would be to wrap up the plan in a year. He said a consultant team has been hired that will lead the committee. He said staff also seeks representation from members of the City Commission.

Commissioner Wimmer said initially there were 45 names on the list and it has been narrowed down to 14 with attention paid to maintaining balance. He said he would like to be on the Committee, and both Commissioner Williams and Commissioner Piepkorn have also expressed interest; however, appointing three Commissioners creates a public meeting.

Commissioner Williams said he likes the idea of three Commissioners on the Committee and having public there is a good outreach. Funding comes from renewable energy block grants, he said, and Planning Staff is a vital part of the process.

Commissioner Wimmer moved the recommendations from staff to appoint the aforesaid candidates to the Comprehensive Plan Steering Committee be approved; as well as Commissioners Wimmer, Williams and Piepkorn.

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

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

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

After recess: All Commissioners present. Mayor Walaker presiding.

#### Dennis Fuhrman, Darrell Vanyo and Deb Mathern Reappointed to the Fargo Dome Authority:

The Board received a communication from Mayor Walaker recommending that Dennis Fuhrman (Park Board nominee), Darrell Vanyo (Cass County Commission nominee) and Deb Mathern (Board of Education nominee) be reappointed to the Fargo Dome Authority.

Commissioner Wimmer moved the reappointments of Dennis Fuhrman, Darrell Vanyo and Deb Mathern to the Fargo Dome Authority for terms ending April 1, 2015 be approved.

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

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

#### Board of Equalization to meet at 7:30 a.m. on Tuesday, April 12, 2011:

Commissioner Mahoney moved the Board meet as the Board of Equalization at 7:30 o'clock a.m. on Tuesday, April 12, 2011.

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

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

#### Legislative Update:

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

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

#### 2011 Flood Preparations Status Update:

Enterprise Director Bruce Grubb reviewed the four day distribution plan for sandbags and stated there are no changes in plans since last Friday's public flood meeting. He said sandbags are filled and ready to be distributed, however, timing is dependent on weather and it appears it may snow and be below freezing until next



week. He said sandbags will be placed in public right-of-ways on a four day schedule prior to volunteers being deployed.

Senior Planner April Walker shared maps showing locations and types of levees planned or already placed and the length of levees.

The Board received a communication from City Engineer Mark Bittner recommending contract awards to Industrial Builders, Inc. and Dakota Underground Company as preferred contractors for Trap Bag installation.

Commissioner Mahoney moved approval of the contract awards for Trap Bag installation to Industrial Builders, Inc. and Dakota Underground Company.

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

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

Commissioner Mahoney moved approval of Change Order No. 2 for an increase of \$56,813.00 for Project No. 5958-1.

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

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

Commissioner Mahoney moved approval of Change Order No. 3 for an increase of \$56,078.00 for Project No. 5958-1.

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

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

Public Works Director Ben Dow said lift stations will be protected and watched closely and there are secondary pumping plans should a large rainfall occur. Thirty-three skid steer loaders have been moved into neighborhoods to be used by staff, along with 25 operators who are on standby for when the need arises to begin placing sandbags, he explained. He said crews will be watching for water collecting inside the dikes from melting snow.

Mr. Bittner said the clay levees will be watched and pumped by the City, homeowners will be responsible to watch sandbag dikes and the City will have crews helping watch for problems. He said requests for property acquisitions are coming in but are being filed and will be dealt with post-flood; however, active acquisitions are taking place in River Vili and Southwood.

In response to a question from Commissioner Wimmer about protecting the Fargo Country Club, Ms. Walker said work is being done on a permanent solution for the Fargo Country Club. A temporary levee will be placed on the perimeter to serve as an emergency levee, she said, and will remain in place until a more permanent solution is decided on this fall.

The Board received a communication from Planning Director Jim Gilmour stating First Assembly of God Church is requesting an Indemnification Agreement with the City of Fargo. First Assembly of God Church has been helpful in volunteer

coordination and transportation efforts the last two years, he said, and City Attorney Erik Johnson has reviewed the agreement provided.

Commissioner Mahoney moved the Indemnification Agreement between First Assembly of God Church and the City of Fargo be approved.

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

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

Position Evaluation Committee Recommendations Approved:

The Board received a communication from Director of Human Resources Jill Minette. She said the Position Evaluation Committee recommends approval of the following requests:

Public Health: Request to reclassify the Safe Communities Assistant (part-time temporary seasonal) to a contract Community Health Educator (C41) with part-time benefits effective immediately. Annual cost of request: \$13,612.00.

PEC recommends approval of the contract Community Health Educator with part-time benefits (C41) effective immediately.

Planning: Request to add a contract Cultural Planner position (C43). Annual cost of request: Grant funding through 2012.

PEC recommends approval of the contract Cultural Planner position (C43) effective immediately.

Auditors: Request to add one full-time meter reader (B23) and two contract meter reader positions to work (full-time benefited) under contract. Annual cost of request: \$0 (\$144,300 paid to SL Serco less \$126,321 for 3 full-time benefited would be \$17,979.00 savings.)

PEC recommends approval to add one full-time meter reader (B23) and two contract meter reader positions to work (full-time benefited) under contract effective immediately.

Commissioner Piepkorn said he requested this item be moved from the Consent Agenda to the Regular Agenda primarily for informational purposes, specifically to discuss the meter reader positions.

City Administrator Pat Zavoral explained there has been difficulty with the current firm contracted to do meter readings as far as timeliness and missed readings. He said electronic meter reading is currently being used in new builds, however, converting the entire City would be expensive.

Enterprise Director Bruce Grubb said he favors an electronic system, has looked into possible vendors and will begin a pilot project this summer, but that does not solve the current problems. He said on a short term basis it makes sense to hire contract employees for a period of time as recommended by the PEC.

Ms. Minette said the recommendation for meter reader positions is to hire three people; one full-time benefited and two contract employees renewed annually as needed. She said two other requests were reviewed by the PEC and would be grant funded. Those positions, she said, are a public health position which was previously

a part-time temporary seasonal Safe Communities Assistant which will now become a part-time benefitted Community Health Educator position, and a full-time Cultural Planner in the Planning Department to serve as a liaison to the community. Also, she said, the job evaluation study project of rewriting job descriptions is nearing completion and options to update the pay system are being reviewed. She said the completed study can be expected in about a month and since the results will be extensive the results will be reviewed with each Commissioner individually.

Commissioner Williams said a process for employee evaluations for all City staff has been discussed in the past and if it is not part of the job evaluation study, it should be looked at.

Commissioner Piepkorn moved the recommendations submitted by the Position Evaluation Committee be approved.

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

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

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, April 4, 2011.

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

The time at adjournment was 7:16 o'clock p.m.