

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: April 4, 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, April 4, 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.

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 March 21, 2011 be approved as read.

Second by Piepkorn. 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. Amend minutes of the October 4, 2010 Regular Meeting (Attachment "A")
- b. Memorandum of Understanding with F-M Ambulance for Disaster Emergency Assistance -- Spring Flood 2011.
- c. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 3/21/11:
 - (1) Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition to the City of Fargo, Cass County, North Dakota.
 - (2) 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.
- d. Applications for five-year tax exemptions for improvements made to buildings:
 - (1) TTC LLP, 35 4th Street North.
 - (2) PSJ Acquisitions, 390 6th Avenue South.

- e. Applications for Games of Chance:
 - (1) NDSU Sigma Chi Fraternity for a raffle on 4/16/11.
 - (2) Tim Seitz Benefit for a raffle on 4/16/11; Public Spirited Resolution.
 - (3) The Scottish Rite Holding Company for a raffle on 8/1/11; Public Spirited Resolution.
 - (4) Ryan Anderson Benefit for a raffle on 6/3/11; Public Spirited Resolution.
- f. Sole source procurement of Eicholtz Masonry, Inc. for repair of the decorative column on Broadway and 4th Avenue North in the amount of \$25,034.00.
- g. Contract with Cougar Tree Care, Inc. for 2011 residential brush chipping.
- h. Agreement for Special Improvements with Denise and Duane Mischel for improvements in Maple Valley Addition (District Nos. 5821 and 5978).
- i. Award of proposal for pump replacement for Storm Sewer Lift Station #12 to Water Smith, Inc. in the amount of \$66,650.00 (District No. 5970-02).
- j. Geotechnical Engineering Services proposal for Brandt Crossing (District No. 6020).
- k. Bid award for Project No. 5929 to Border States Paving, Inc. in the amount of \$85,429.60.
- l. Professional Services Agreements with Houston Engineering, Inc. and Ulteig Engineers, Inc. for 2011 flood assistance.
- m. Contracts and bonds for Project Nos. 6010-04-A, 6010-04-B.
- n. Bills in the amount of \$7,419,479.19.

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.

No Protests Received for Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730:

The Statutory Resolution of Necessity for the construction of Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 14 and 21, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730.

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 Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730:

The bids for Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 30, 2011 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$2,736,814.85
Sellin Brothers, Inc. Bid:	Hawley, MN \$2,766,111.64
Master Construction Company, Inc. Bid:	Fargo, ND \$2,915,655.90

Contract for Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730 Awarded to Dakota Underground Company in the Amount of \$2,736,814.85:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 30, 2011 for Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$2,736,814.85 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 Dakota Underground Company in the sum of \$2,736,814.85 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Distribution, Water Main Replacement and Incidentals Improvement District No. 5730 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$2,736,814.85, 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.

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 21 and 28, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2.

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 30, 2011 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$1,846,158.62
Northern Improvement Company Bid:	Fargo, ND \$1,863,778.38
Aggregate Industries Bid:	Moorhead, MN \$1,969,964.28
Central Specialties, Inc. Bid:	Alexandria, MN \$2,327,105.45

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2 Awarded to Border States Paving, Inc. in the Amount of \$1,846,158.62:

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 30, 2011 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$1,846,158.62 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 Border States Paving, Inc. in the sum of \$1,846,158.62 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5955-2 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$1,846,158.62, 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.

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 28 and March 7, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965.

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 30, 2011 and the bids were found to be as follows:

Border States Paving, Inc.	Fargo, ND
Bid:	\$652,993.49
Northern Improvement Company	Fargo, ND
Bid:	\$669,688.60

Central Specialties, Inc.	Alexandria, MN
Bid:	\$676,093.38
Aggregate Industries	Moorhead, MN
Bid:	\$686,285.95

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965 Awarded to Border States Paving, Inc. in the Amount of \$652,993.49:

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 30, 2011 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$652,993.49 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 Border States Paving, Inc. in the sum of \$652,993.49 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5965 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$652,993.49, 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.

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 28 and March 7, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985.

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, Paving, Street Lights and Incidentals Improvement District No. 5985:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 30, 2011 and the bids were found to be as follows:

Dakota Underground Bid:	Fargo, ND \$169,695.20
Master Construction Company, Inc. Bid:	Fargo, ND \$179,328.00
Border States Paving, Inc. Bid:	Fargo, ND \$180,128.74
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$188,756.75
Northern Improvement Company Bid:	Fargo, ND \$192,160.65
Aggregate Industries Bid:	Moorhead, MN \$192,591.80
Riley Brothers Construction Bid:	Morris, MN \$204,149.75
Central Specialties, Inc. Bid:	Alexandria, MN \$209,035.91

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985 Awarded to Dakota Underground in the Amount of \$169,695.20:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 30, 2011 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$169,695.20 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Dakota Underground in the sum of \$169,695.20 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5985 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground for the sum of \$169,695.20, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by 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.

Change Order No. 2 for Improvement District No. 5966-01 Approved:

Commissioner Mahoney moved approval of Change Order No. 2 for an increase of \$33,279.90 for Improvement District No. 5966-01.

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 Orders For Flood Projects Approved:

Commissioner Mahoney moved the following Change Orders for flood projects be approved: No. 1 for an increase of \$238,660.80 to Industrial Builders for Project No. 5747-24; No. 1 for an increase of \$47,541.00 to Industrial Builders for Project No. 5747-25; No. 1 for an increase of \$225,619.40 to Master Construction Company for Project No. 6002-01; Final Balancing Change Order No. 2 for an increase of \$6,463.75 to Riley Brothers Construction for Project No. 6003; No. 1 for an increase of \$63,976.25 to H & S Construction for Project No. 6005; No. 1 for an increase of \$31,002.00 to Asplin Excavating for Project No. 6006.

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.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 (12th Avenue North from 9th Street to Elm Street):

Commissioner Mahoney moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727:

Adopt Resolution Creating Improvement District No. 5727:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5727 in the City of Fargo, North Dakota, be created

From 10th Ave North to 15th Ave North between 9th Street North and the Red River.

COMPRISING:

Lots 1 through 8, inclusive, Block 1
All platted in James Holes Addition

Lots 1 through 8, inclusive, Block 2
All platted in James Holes Addition

Lots 1 through 8, inclusive, Block 3
All platted in James Holes Addition

Lots 1 through 18, inclusive, Block 1
All platted in El Zagal Replat

Lots 1 through 18, inclusive, Block 2
All platted in El Zagal Replat

Lot 1, inclusive, Block 1
All platted in El Zagal Addition

Lots 1 through 5, inclusive, Block 3
All platted in El Zagal Park Addition

Lots 1 through 6, inclusive
All platted in Buena Vista Addition

Lot 1, inclusive, Block 1
All platted in Ridgewood Addition

All unplatted in sw 1/4 sec 32, twp 140n, rge 48w, a pt of gov lt 3 sec 32, twp 140n, rge 48w, desc as foll: beg at a pt on w ln of sec 32, 1164.3 ft n of sw cor of sec 32, n 45 deg e 340 ft more or less to w bank of red river of n, then nly alg w bank of red river to n ln of gov lt 3, then w alg sd n ln of govt lt 3 to nw cor of govt lt 3, then s & alg w ln of sec 32 to pt of beg

All unplatted in sw 1/4 sec 32-140-48
 all lying in gov lt 3 of sd sw
 1/4 of sec 32, comm at a pt on w
 ln of sd sw 1/4 of sec 32 twp 140
 rge 48 1377.7 ft s of n-w cor of
 sw 1/4, sd pt being the inter pt
 with a 573.63 ft radius curve, e
 tangent of which makes an angle
 of 50 deg 15 min with w ln, then
 sely alg the sd 573.63 ft radius
 curve a dist of 44.6 ft then sely
 alg tangent 304.89 ft, then nwly
 alg a ln to a pt on w ln of sec
 32, a dist of 326.37 ft, sd ln
 making an angle with w ln of sd
 sec of 55 deg 25 min, then n alg
 w ln of sd sec a dist of 38.23 ft
 to pt of beg, less the foll desc
 parcels to bernard r & anna l
 holes, w l zitzows 1st & the foll
 desc tract to city of fargo less,
 beg at a pt on w ln of sd sec 32
 twp 140n rge 48w 1,164.3 ft n of
 sw cor of sd sec 32, then n 45
 deg e 340 ft more or less to the
 w bank of red river of the n,
 then nly alg sd w bank of red
 river of the n to n ln of said
 govt lt 3, then w alg sd n ln of
 govt lt 3 to nw cor of sd govt lt
 3, then s & alg w ln of sd sec 32
 to pt of beg, less a tract of ld
 sit in a pt of w 1/2 sec 32, twp
 140n, rge 48w desc as foll: comm
 at an iron monument which desig
 most nly cor of lt 1 blk 1 anna l
 holes, sd pt bg the pt of beg,
 then n 00 deg 00 min 00 sec e on
 an assmd brg on ext nly of the
 most wly ln of lt 1 blk 1 anna l
 holes for a dist of 28.32 ft,
 then s 67 deg 38 min 20 sec e a
 dist of 35.47 ft, then s 52 deg
 46 min 00 sec e a dist of 147.37
 ft to a pt on the nly ext of most
 ely ln of lt 1 blk 1 anna l
 holes, then s 00 deg 00 min 00
 sec w on nly ext of most ely ln

of It 1 blk 1 anna l holes for a
dist of 29.16 ft to most nely cor
of It 1 blk 1 anna l holes, then
n 55 deg 25 min 04 sec w on most
nely ln of It 1 blk 1 anna l
holes for a dist of 182.36 ft to
pt of beg

Lot 1, inclusive, Block 1
All platted in Anna L. Holes Addition

Lots 1 through 5, inclusive, Block 1
All platted in W L Zitzow 1st Addition

Lot 1, inclusive, Block 2
All platted in Anna L. Holes Addition

Lots 1 through 18, inclusive, Block 2
All platted in Birnamwood Addition

Lots 1 through 3, inclusive, Block 1
All platted in Birnamwood Addition

Lots 1 through 5, inclusive, Block 3
All platted in Anna L. Holes Addition

Lot 1, inclusive, Block 2
All platted in Mickelson Fields Addition

Lot 1, inclusive, Block 1
All platted in Mickelson Fields Addition

That part of Lot 2, Block 1, North of the
Extension of the Center Line of 10th Ave
North. Between Elm Street North and
the Red River
All platted in Mickelson Fields Addition

Lots 23 & 24, inclusive, Block 8
All platted in Hectors Addition

Lots 1 through 5, inclusive, Block 8
All platted in Hectors Addition

Lots 1 through 17, inclusive, Block 1
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 2

All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 3
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 4
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 5
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 6
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 7
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 9
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 10
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 11
All platted in Hectors Addition

Lots 1 through 24, inclusive, Block 12
All platted in Hectors Addition

Lots 1 through 12, inclusive, Block 13
All platted in Hectors Addition

Lots 1 through 12, inclusive, Block 2
All platted in Truesdells 2nd Addition

Lots 1 through 12, inclusive, Block 1
All platted in Truesdells 2nd Addition

Lots 1 through 6, inclusive, Block 14
All platted in Hectors Addition

Lots A through G, inclusive, Block 17
All platted in Chapins Addition

Lots A through G and Lots 1 & 6, inclusive, Block 18
All platted in Chapins Addition

Lots 1 through 13 & Lot A, inclusive, Block 16

All platted in Chapins Addition

Lots 1 through 8, inclusive, Block 1
All platted in Chapins Addition

Lots B & C, inclusive, Block 15
All platted in Chapins Addition

Lots B through E, inclusive, Block 14
All platted in Chapins Addition

Lots 1 through 8, inclusive, Block 3
All platted in Chapins Addition

Lots 1 through 18, inclusive, Block 2
All platted in Chapins Addition

Lots 1 through 11, inclusive, Block 4
All platted in Chapins Addition

Lots C & D, inclusive, Block 5
All platted in Chapins Addition

Lots 1 through 10, inclusive, Block B
All platted in Chapins Addition

Lots 1 through 22, inclusive, Block 3
All platted in Chapins Addition

Lots 1 through 12, inclusive, Block 1
All platted in Chapins Addition

Lots 1 through 12, inclusive, Block 2
All platted in Chapins Addition

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

Lots 1 through 32, inclusive, Block 2
All platted in Holes 1st Addition

Lots 1 through 32, inclusive, Block 3
All platted in Holes 1st Addition

Lots 1 through 32, inclusive, Block 4
All platted in Holes 1st Addition

Lots 1 through 32, inclusive, Block 5

All platted in Holes 1st Addition

Lots 1 through 32, inclusive, Block 6
All platted in Holes 1st Addition

Lots 1 through 31, inclusive, Block 7
All platted in Holes 1st Addition

Lots 1 through 32, inclusive, Block 8
All platted in Holes 1st Addition

Lots 1 through 24, inclusive, Block 4
All platted in Bernard Holes 2nd Addition

Lots 1 through 13, inclusive, Block 1
All platted in Bernard Holes 2nd Addition

Lots 1 through 16, inclusive, Block 2
All platted in Bernard Holes 2nd Addition

Lots 1 through 12, inclusive, Block 1
All platted in Bernard Holes 2nd Addition

Lots 1 through 10, inclusive, Block 2
All platted in Bernard Holes 2nd Addition

Lots 1 through 18, inclusive, Block 3
All platted in Bernard Holes 2nd Addition

Lots 25 through 28, inclusive
All platted in Ohmers Addition

Lots 21 through 24, inclusive
All platted in Ohmers Addition

Lots 1 through 4, inclusive
All platted in Ohmers Addition

Lots 29 through 32, inclusive
All platted in Ohmers Addition

Lots 33 through 36, inclusive
All platted in Ohmers Addition

Lots 13 through 16, inclusive
All platted in Ohmers Addition

Lots 9 through 12, inclusive

All platted in Ohmers Addition

Lot 1, inclusive, Block 1
All platted in Stop-N-Go Addition

Lots 1 through 3, inclusive, Block 1
All platted in Cityscapes 1st Addition

Lots 7 & 8, inclusive
All platted in Ohmers 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. 5727 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. 5727:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5727 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 \$2,933,750.00.)

Order Plans and Specifications for Improvement District No. 5727:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5727 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5727:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5727 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. 5727 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. 5727 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 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. 5727:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5727 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.

Mill and Overlay and Incidentals Improvement District No. 5987 (Various Locations City Wide):

Commissioner Mahoney moved the following action be taken in connection with Mill and Overlay and Incidentals Improvement District No. 5987:

Adopt Resolution Creating Improvement District No. 5987:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5987 in the City of Fargo, North Dakota, be created

LOCATION (Section 1):

On 33rd Avenue North from Broadway to the west end of cul de sac.

LOCATION (Section 2):

On Oak Manor Avenue South from University Drive South to 15th Street South.

LOCATION (Section 3):

On 14th Street South from 25th Avenue South to 15th Street South.

On 15th Street South from 25th Avenue South to 27th Avenue South.

LOCATION (Section 4):

On 17th Avenue South from 42nd Street South to 45th Street South.

COMPRISING (Section 1):

Lots 1 through 8, Colony Addition.

COMPRISING (Section 2):

Lots 1 through 3, Block 1.

Lot 1, Block 2.

All in Oak Manor 1st Addition.

Lot 1, Block 1.

Lots 1, 3 & 4, Block 2.

All in Oak Manor 2nd Addition.

COMPRISING (Section 3):

Lots 1 through 9, Block 1.

Lots 1 through 12, Block 2.

All in Arrowhead Estates Addition.

Lots 1 and 2, Block 2.

Lots 1 through 5, Block 3.

All in replat of Fargo Mall Addition.

Lot 1, Block 5, Arrowhead South Addition.

COMPRISING (Section 4):

Lots 2 through 7, Block 2.

Lots 1 through 3, Block 3.

All in West Acres 2nd Addition.

Lots 1 through 7, Block 1.

Lot 2, Block 2.

All in West Acres Business Park 3rd Addition.

Lots 1 through 3, Block 1, Isaak-Dosch Addition.

Lots 1 through 3, Block 1, Concierge Southwest Addition.

Lot 1, Block 1, Kelly Prairie Pasta Addition.

Unplatted land in part of Section 15, TWP 139N, Range 49W.

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

NOW, THEREFORE, BE IT RESOLVED, That Mill and Overlay and Incidentals Improvement District No. 5987 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. 5987:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5987 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 \$625,000.)

Order Plans and Specifications for Improvement District No. 5987:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5987 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5987:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5987 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. 5987 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 Mill and Overlay 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 Mill and Overlay and Incidentals Improvement District No. 5987 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 a portion of said Mill and Overlay and Incidentals improvement is to be paid from Street Sales Tax Funds and approximately 31% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Mill and Overlay 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. 5987:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5987 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. 5969-3 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969-3 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. 5969-3 Approved:

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

United Fire and Casualty Company, in the amount of \$3,338,703.88, for P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 5969-3 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 Seal Coat and Incidentals Improvement District No. 5989 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Asphalt Surface Technologies Corporation for Seal Coat and Incidentals Improvement District No. 5989 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 Seal Coat and Incidentals Improvement District No. 5989 Approved:

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

Employers Mutual Casualty Company, in the amount of \$382,888.30, for Seal Coat and Incidentals Improvement District No. 5989 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 Water Main Replacement and Incidentals Improvement District No. 5993 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Riley Brothers Construction, Inc. for Water Main Replacement and Incidentals Improvement District No. 5993 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 Water Main Replacement and Incidentals Improvement District No. 5993 Approved:

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

Ohio Farmers Insurance Company, in the amount of \$99,575.00, for Water Main Replacement and Incidentals Improvement District No. 5993 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.

Communication from Steven Stremick Received and Filed:

The Board received a communication from Steven Stremick, 1155 13th Avenue South, stating he would like to purchase the property located at 1109 13th Avenue South and 1224 University Drive South and convert the properties to limited commercial. He said he would also like to convert the northern 80 feet of 1117 13th Avenue South to commercial property and would also like to discuss TIF funding to level the properties and remove the current structures.

Commissioner Mahoney moved the communication from Steven Stremick be received and filed and appropriate staff be directed to work with Mr. Stremick on his Tax Increment Financing application.

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

Recommendations from the Metro Flood Study Work Group to Confirm Support of the North Dakota East Alignment Approved:

City Administrator Pat Zavoral said the Metro Flood Study Work Group voted unanimously at the April 1, 2011 meeting to confirm support of the North Dakota Eastern Alignment as the Locally Preferred Plan (LPP). Fargo, Moorhead, Cass and

Clay Counties, Buffalo-Red River Watershed and Cass County Joint Water Resource District, he said, will be asked to approve the ND plan individually as the LPP before a confirmation letter will be sent to the Corps by the April 11th deadline. He said City Engineer Mark Bittner received an email from U.S. Army Corps of Engineers Project Manager Brett Coleman stating some of the language that should be included in the letter of support from the six entities. The Work Group, he said, approved the following motions at its April 1, 2011 meeting:

1. I move to reaffirm the decision identifying the North Dakota diversion as the Locally Preferred Plan.
2. I move to approve the request from the U.S. Army Corps of Engineers and the non-Federal sponsors that the cost share for the Preconstruction Engineering and Design Agreement be changed from the standard cost share of 75 percent Federal and 25 percent non-Federal to a cost share of 50 percent Federal and 50 percent non-Federal.
3. I move to support and endorse the development of upstream staging and storage in the Locally Preferred Plan, which is the North Dakota East diversion, recognizing that mitigation efforts will be borne as a local cost and the incremental cost is currently estimated at \$546,000,000.00.
4. I move to support the study and consideration during the design phase of the Metro Flood Project of alternate routing for Oxbow and West Fargo.

Commissioner Mahoney moved the recommended motions made by the Metro Flood Study Work Group as outlined above be approved.

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

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

Commissioner Wimmer moved the language in the letter of support to the U.S. Army Corps of Engineers 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.

Revisions to the City of Fargo Travel Policy Approved:

The Board received a communication from Director of Finance Kent Costin stating the Finance Committee recommends approval of a revised travel policy. He said the proposed policy provides guidance on eligible and ineligible travel costs and documentation required. The proposed policy, he said, would incorporate the IRS "high/low" method of reimbursing employees which would allow a higher amount of reimbursement if an employee travels into one of the IRS high cost cities.

Commissioner Wimmer moved the travel policy revisions incorporating the IRS "high/low" method of reimbursement for business travel events be approved.

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.

Resolution Adopted Approving the Issuance and Sale of a Bank Qualified Tax-Exempt Note, Series 2011 (NDSCS Foundation at Wahpeton, North Dakota) in the Aggregate Amount of Not to Exceed \$2,000,000 and Authorizing the Execution of Documents Relating Thereto:

The Board received a communication from Finance Director Kent Costin stating the North Dakota State College of Science Foundation at Wahpeton has received preliminary approval of a tax exempt note to fund acquisition, improvements and equipping of the Skills and Technology Training Center building located at 1305 19th Avenue North.

Commissioner Piepkorn moved the Resolution entitled "Resolution Approving the Issuance and Sale of a Bank Qualified Tax-Exempt Note, Series 2011 (NDSCS Foundation at Wahpeton, North Dakota) in the Aggregate Amount of Not to Exceed \$2,000,000 and Authorizing the Execution of Documents Relating Thereto" and referred to as Attachment "B", be adopted and attached hereto.

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.

Resolution Adopted Approving Issuance of Municipal Industrial Development Bonds by the City of Horace on Behalf of Oak Grove Lutheran School:

The Board received a communication from Finance Director Kent Costin stating Oak Grove Lutheran School is in the process of refinancing four outstanding bond issues. The IRS, he said, requires the City of Fargo to hold a public hearing due to the fact that the facilities are located within the Fargo city limits.

Commissioner Piepkorn moved the Resolution entitled "Resolution Approving the Issuance of Bonds by the City of Horace, North Dakota, on behalf of Oak Grove Lutheran School Under the Municipal Industrial Act" and referred to as Attachment "C", be adopted and attached hereto.

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.

Renewal Plan for Tax Increment Financing District No. 2011-01 and Developer Agreement Approved:

A Hearing had been set for this day and hour to receive comments on a Renewal Plan for Tax Increment Financing District No. 2011-01 for the parcel of property located on the south side of 13th Avenue South between 7th and 8th Streets South.

The Board received a communication from Planning Director Jim Gilmour stating the Planning Department has completed work on a Renewal Plan for the redevelopment of Shotwell Commons which is located on the south side of 13th

Avenue South between 7th and 8th Streets South. Mr. Gilmour also submitted a Resolution to adopt the plan, a Developer Agreement and the report from the City's Financial Advisor. He said the Finance Committee has reviewed the request and financial advisor report and recommends approval of the Renewal Plan and Developer Agreement providing up to \$409,500 in assistance. The assistance, he said, includes \$19,500 to be paid to the City of Fargo for administrative costs. The Renewal Plan, he said, calls for the clearing of the existing buildings on the property and construction of ten new attached housing units.

Commissioner Williams said he wonders if the City is using the tools as strategically as possible to encourage the type of developments that the City's residents who need the help the most get the assistance. He said he is not sure he sees the fit with this project and why this project would be deserving of the TIF. He said he likes the idea of targeting the City's incentives; however, he is wondering if this project could not go without the assistance from the City.

Mr. Gilmour stated the project is deserving of the TIF due to the fact that the project has extraordinary costs of having to remove buildings, remove any saturated soil, and additional utility costs that go into the site. He said if this same project was being developed on the fringes of the City there would not be these types of costs and you would probably be able to buy the land cheaper and there would not be a need for the subsidy.

Catherine Wiley, Clara Barton resident, stated the only problem with the development is the exterior. She said all of the homes look alike and the homes do not blend into the historical characteristics of the neighborhood and from a neighbor's perspective that is an issue. What she is asking of the Commission today, she said, is to deny the TIF and ask the developer to redesign the exterior of the homes with distinct and self evident differences between them.

Rebecca Knutson, 1350 8th Street South, stated as the President of the Clara Barton Neighborhood Association she would like to ask the Commission to defer voting on the TIF for at least a month to allow more time for discussions between the neighborhood and the developer. She said after meeting with Mr. Stroh the Association was not able to meet again as a large group to determine if the concerns/questions of the neighborhood had been addressed.

Terry Stroh, Developer, said he admires what the neighborhood is doing and the concerns presented to him from the Association, which have made him think harder about the design and implementation of this project. He said he honestly believes when the project is done that the neighborhood will be proud of the project.

Natasha Neihart, 1102 9th Street South, said there are a lot of positive things about this project; however, her concern is with the issues of the design. She said what she would like to see is more harmony in the neighborhood and for the development to express more individual form between each building.

Kris Wallman, 1534 9th Street South, said Fargo has been in the news a lot lately as a great place to live, to retire and for quality of life. She said she does not feel that this property is blighted; it is beloved to the residents that live there and she hopes that the Commission makes a decision that is right for the City.

Erin Kofler, 1312 7th Street South, said she appreciates the design and feels it is a good blend of old and new. She said for a building being built in 2011, it should not look like it was built in 1911 and should have some modern design concepts and

she feels it will bring a nice bit of diversity to the area. She said she is personally happy with the project as it is.

Commissioner Wimmer said he appreciates the neighbors' concerns; however, the tax value will be a wonderful addition to the neighborhood and schools in this area. He said what people may not understand is that the property is going to be sold whether it is to Terry Stroh or someone else and the neighborhood could end up with any number of other things on that corner if this development is not approved.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of renovation in order to prevent further deterioration 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 Development Plan for Tax Increment Financing District No. 2011-01, 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 are buildings within the area contained within the Development Plan with deteriorated conditions, and other soil conditions existing that discourage redevelopment. The Renewal Area, as defined in the Development Plan, is blighted due to the presence of these buildings and these deteriorated conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate housing in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That there are no residential buildings within the plan area so no persons will be displaced by the redevelopment.
5. That the area designated as the Development Plan for Tax Increment Financing District No. 2011-01 is appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Development Plan for Tax Increment Financing District No. 2011-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Development Plan for Tax Increment Financing District No. 2011-01 is 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, Mahoney and Walaker voted aye.

Commissioner Williams voted nay.

The Resolution was adopted.

At 6:09 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Resolution Adopted Approving Osgood Third Addition (4565 Beach Lane South):

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Osgood Third Addition" containing 7 Lots, 1 Block and 2.90 acres of land more or less, located at 4565 Beach Lane South; and

WHEREAS, A Hearing was held July 14, 2010 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on March 28 and April 4, 2011 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 p.m., April 4, 2011 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Osgood Third Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

Second by 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.

Parcels of Land in R & B Subdivision Rezoned (4102 100th Avenue South):

At a Hearing held on March 1, 2011 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GC, General Commercial to Lot 1, Block 1 on R & B Subdivision.

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 there is a property owner that would like to build a permanent structure with the purpose of selling fireworks at a retail level during the fireworks season and then store the fireworks during the rest of the year.

Kevin Blanchette, 350 20th Street North, said he is wondering if this facility would have to be bought out to change the conditional use permit and what that would cost the City.

City Attorney Erik Johnson stated the conditional use permit will have something of a sunset on it and any buy-out associated with it.

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 and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

Commissioner Williams voted nay.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in R & B Subdivision, 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 R & B Subdivision, Cass County, North Dakota be placed on first reading.

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

Commissioner Williams voted nay.

The motion was declared carried.

Resolution Adopted Approving North Park Maintenance Addition and Vacation Plat of 6th Avenue North Between Blocks 3 and 4 and the Alley Within Block 4, All in Reeve's Addition (1505, 1515, 1517, 1527 and 1531 5th Avenue North; 1502 and 1516 6th Avenue North; and 1502 and 1522 7th Avenue North):

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "North Park Maintenance Addition and Vacation Plat of 6th Avenue North between Blocks 3 and 4, and the Alley within Block 4, all in Reeve's Addition" containing 2 Lots, 1 Block and 5.911 acres of land more or less, located at 1505, 1515, 1517, 1527 and 1531 5th Avenue North; 1502 and 1516 6th Avenue North; and 1502 and 1522 7th Avenue North; and

WHEREAS, A Hearing was held January 4, 2011 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on March 28, 2011 and April 4, 2011 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 p.m., April 4, 2011 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "North Park Maintenance Addition and Vacation Plat of 6th Avenue North between Blocks 3 and 4, and the Alley within Block 4, all in Reeve's Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

Second by 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.

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:

Asphalt Wearing Course, Mill and Overlay and Incidentals No. 5640.

2009 New Construction Sidewalks/Approaches and Bike Trails and Incidentals No. 5660.

P.C. Concrete Pavement, Grading, Storm Drains, Sanitary Sewer, Signals, Lighting and Incidentals No. 5700.

Water Main Replacement, Street Reconstruction and Incidentals No. 5784.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals No. 5819.

Railroad Spur Tracks and Incidentals No. 5827.

Water Main Replacement, Street Rehabilitation and Incidentals No. 5863.

Water Main Replacement, Asphalt Pavement and Incidentals No. 5889.
Street Flood Repair and Incidentals No. 5900.
Flood Repair and Incidentals No. 5902-01.
Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5907.
Water Main Replacement, Street Reconstruction and Incidentals No. 5913.
Asphalt Wear Course, Mill and Overlay and Incidentals No. 5916-01.
Asphalt Wear Course, Mill and Overlay and Incidentals No. 5916-02.
P.C. Concrete Alley Paving and Incidentals No. 5924.
P.C. Concrete Alley Paving and Incidentals No. 5940.
P.C. Concrete Alley Paving and Incidentals No. 5941.
Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5943.
P.C. Concrete Alley Paving and Incidentals No. 5953.

Mayor Walaker stated Improvement District Nos. 5827 and 5863 need to be pulled from the list and considered separately.

No appeals have been filed in writing against any item appearing on such special assessment lists with the exception of Improvement District No. 5827 and no person is present at this Hearing to appeal or offer any objection thereto with the exception of Improvement District No. 5863.

Commissioner Piepkorn moved that the special assessment lists for the construction of the above listed Improvement Districts except for Improvement District Nos. 5827 and 5863 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 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.

Special Assessment List for Railroad Spur Tracks and Incidentals Improvement District No. 5827 Approved:

A Hearing had been set for this day and hour on the special assessment list for the construction of Railroad Spur Tracks and Incidentals Improvement District No. 5827 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.

Special Assessments Coordinator Dan Eberhardt stated an appeal has been submitted by the Comstock Land Company, LLC on the proposed assessment. He said early on in the discussions it was determined that the costs would be split equally amongst five properties with McNeilus Steel receiving two of the special assessments. He said he believes it is a good spread and is not aware of any such agreement where the City would trade easements for special assessments as the Comstock Land Company is stating.

The Board received a communication from Comstock Land Company LLC Chief Manager Monte W. Kjos stating the cost of the assessment does not increase the value of the property to the extent of the proposed assessment. Neither Comstock Land Company nor its current tenant, he said, have ever had the need for rail service, nor is there any intent on the part of Comstock Land Company or its tenant to ever avail themselves of the use of the rail spur. He said at the time the project was discussed with property owners, Comstock Land Company was requested to provide an easement for the installation of the spur and were assured that if the land were set aside for the spur nothing would be assessed to Comstock Land Company. Therefore, he said, Comstock Land Company objects to the findings of the Special Assessment Commission and the amount being assessed to the property.

Commissioner Piepkorn moved that the special assessment list for the construction of Railroad Spur Tracks and Incidentals Improvement District No. 5827 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 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.

Special Assessment List for Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 Approved:

A Hearing had been set for this day and hour on the special assessment list for the construction of Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 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.

Kevin Blanchette, 350 20th Street North, said his main concern with this project is the work that was done and the amount of time it took to get it done. The project, he said, was started in 2009 and was not completed until the fall of 2010. He said he feels that the streets are worse off now than they were before the project started.

City Engineer Mark Bittner said he was not aware of any specific complaints about this area; however, he will go back and re-inspect the area to make sure that if there are things that need to be corrected they will be taken care of. He said it was a cut and patch job in this area, not a full reconstruction.

Commissioner Piepkorn moved that the special assessment list for the construction of Water Main Replacement, Street Rehabilitation and Incidentals Improvement District No. 5863 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 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.

First Reading of an Ordinance Enacting Section 21-0605 of Article 21-06 of Chapter 21 of the Fargo Municipal Code Pertaining to Setbacks from River and Drains:

The Board received a communication from City Attorney Erik Johnson stating the City Engineer's office submitted a recommendation at the March 7th City Commission Meeting to establish a setback of 450 feet from the centerline of a river or 100 feet from the nearest floodway, whichever is greatest. He said he has drafted an Ordinance to add a section to the Section 21-0605 of Article 21-06 of Chapter 21 relating to Flood Plain Management establishing such a setback. Mr. Johnson said the following issues may need further consideration:

- (1) Nonconforming plats: to the extent there are undeveloped lots that do not conform to this new requirement, the lots may be rendered "unbuildable" as a result of these restrictions.
- (2) This Ordinance does not address the issue of building near legal drains. Some of these drains pose little to no flooding problems.
- (3) There may be a number of miscellaneous "grandfathering" provisions that may require further consideration.
- (4) This Ordinance, as drafted, would preclude alterations or remodeling of structures that are within this river setback.

City Engineer Mark Bittner stated when looking into this recommendation further he found there were more issues than originally thought. He said he feels that the City should talk to the homebuilders and some of those other groups and deal with the drain issues right away as well. He said his biggest concern is that the City has approved some platted lots in the Osgood area and at the time the City asked the developers for special consideration which the developers complied with. He said he is uncomfortable with drafting an ordinance that prevents those properties from being built on.

Commissioner Williams said this document is a good start and will be evolving. He said he would rather buy a plot that is not developed versus a million dollar home.

Commissioner Williams moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Enacting Section 21-0605 of Article 21-06 of Chapter 21 of the Fargo Municipal Code Pertaining to Setbacks from Rivers and Drains be placed on first reading deleting the following sentence, "This section shall not limit construction on lots that were platted prior to the effective date hereof, so long as such buildings or structures are not within 100 feet of the nearest floodway."

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

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

At 7:04 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Second Reading and Final Adoption of an Ordinance Relating to States of Emergency – Declaration and Duration Denied:

City Attorney Erik Johnson stated at the last Regular Meeting it was determined that Commissioners should weigh in on the revisions to the Ordinance prior to it being finalized. He said he has received direction in two different ways and what the Commission is left with is who makes the decision on the urgent crisis situations.

Commissioner Piepkorn stated the two draft Ordinances are completely unacceptable. He said the Ordinances are basically giving the Incident Commander the ability to declare martial law and it should be the elected officials' call to evacuate the City, not the Incident Commander. He said his recommendation would be to start over and have the Commissioners involved in the creation of a new ordinance.

Commissioner Williams said the way the ordinance reads now the Mayor and Commissioners make the decisions and there are some changes that need to be made; however, the Commission needs to be involved in that process.

Commissioner Mahoney said it is a workable document and is not a new ordinance but a change to the existing ordinance. He said the Incident Commander has to work with the Commission and discuss situations with the Commission before any major decisions can be made. He said he feels the second draft is a good document that should be adopted before the City goes into its third flood.

Commissioner Piepkorn moved that the proposed 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 be denied.

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

Commissioners Mahoney and Walaker voted nay.

The motion was declared carried.

Flood Update:

Chief of Police Keith Ternes said the City's evacuation plan will be made available to the media and the general public; however, some of the sensitive information in the document has been removed; therefore, the full evacuation plan is still a confidential document. The portion that will be made available to the public, he said, describes the process the City would follow if there was a need to evacuate portions of or the entire City.

City Administrator Pat Zavoral stated the National Weather Service has predicted the river will crest at 39 feet Saturday, Sunday or Monday. Now the question, he said, is how high to build the clay levees.

City Engineer Mark Bittner stated the clay levees have been constructed to 44 feet and the levees placed by the Corps will be at 42 feet with sandbag dikes going to 42 feet.

Enterprise Director Bruce Grubb stated with the lower weather service predictions sandbag placement should take about a day and a half. Sandbags will start being delivered, he said, at 7 a.m. tomorrow morning.

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 that the Board adjourn to 5:00 o'clock p.m., Monday, April 18, 2011.

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

The time at adjournment was 8:13 o'clock p.m.