

- g. Site Authorizations for Games of Chance:
 - (1) Team Makers Club, Inc. at the Fargodome and the Fargo Holiday Inn.
 - (2) Northern Prairie Performing Arts at the Windbreak Lounge, the Old Broadway and the Doublewood Inn.
 - (3) North Dakota Association for the Disabled, Inc. at the Bulldog Tap and O'Kelly's.
 - (4) Prairie Public Broadcasting, Inc. at Dempsey's Public House, Labby's and Tailgator's.
 - (5) ShareHouse, Inc. at Vista Inn/Alibi, Woody's and the Bismarck Tavern.
 - (6) VFW Club of Fargo at the VFW.
 - (7) American Gold Gymnastics, Inc. at Big D's Bar and Grill and SideStreet Grille and Pub.
- h. Applications for Games of Chance:
 - (1) YWCA Cass Clay for a raffle on 6/2/11.
 - (2) Fargo Moorhead Symphony Orchestra for a raffle on 6/1/11.
 - (3) Lake Agassiz Exchange Club for a raffle on 6/5/11.
- i. Acceptance of the 2011 CLG grant award to the City of Fargo from the State Historical Society of North Dakota.
- j. Receive and file Ordinance Amending Section 1-0305.A.1 and Section 1-0305.C.8 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to the Traffic Code.
- k. Sale of one used dump box to the City of Harwood for \$1,500.00.
- l. Contract with Paul Bunyan Tree Service for potential ash tree injection services.
- m. Conversion of utility department radios to digital radios.
- n. Sulfate Removal Pilot Study project to include engineering task order with AE2S, emergency declaration due to timing of pilot study and City share costs from Fund 450.
- o. Purchase Agreements between Bryan and Diane Nordhougen, et. al. for property needed for improvement of 64th Avenue South and improvements to Drain #53.
- p. Temporary Easement Agreements for U. S. Bank National Association (Improvement District No. 5929).
- q. Agreement for Entry and Construction with Todd and Colleen Cameron (Project No. 5949).
- r. Access Agreements with Wilberscheid Properties, LLC, Intense LLC, Todd and Lori Funfar and Gregg and Lynn Funfar (Improvement District No. 5960).

- s. Engineering Services Contract Amendment No. 2 in the amount of \$13,288.85 for Improvement District No. 5905.
- t. Contract Amendment in the amount of \$18,274.25 for Improvement District No. 6019.
- u. Engineering Services Contract Amendment No. 1 in the amount of \$12,500.00 for Project No. 5983.
- v. Utility Relocation Agreements with Cable One and Qwest (Improvement District No. 5969-03).
- w. Xcel Energy Power Line Relocation Agreement (Project No. 5984).
- x. RFP for analysis of potential levee construction across the Fargo Country Club (Project No. 6002-02).
- y. Final Change Order No. 2 for an increase of \$100,786.90 for Project No. 6002-01.
- z. Bid advertisements for Project Nos. 5958-2 (moved to the Regular Agenda), 6030 and 6031.
- aa. Contract for Project No. 6023.
- bb. Contract and bond for Project Nos. 6013-1, 6013-2 and 6014.
- cc. Bills in the amount of \$2,956,296.26.

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.

Bid Award for Improvement District No. 5960 Moved to the Regular Agenda:

The bid award for Improvement District No. 5960 was moved to the Regular Agenda.

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 11 and 18, 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 Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727.

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.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 11, 2011 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$2,256,245.50
Dakota Underground Company Bid:	Fargo, ND \$2,361,667.65
Tom's Backhoe Service Bid:	Brainerd, MN \$2,397,815.00
Key Contracting Bid:	Fargo, ND \$2,578,480.25
Riley Brothers Construction Bid:	Morris, MN \$2,622,863.76
Northern Improvement Company Bid:	Fargo, ND \$3,209,480.90

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 Awarded to Master Construction Company, Inc. in the Amount of \$2,256,245.50:

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 Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 11, 2011, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$2,256,245.50 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 Master Construction Company, Inc. in the sum of \$2,256,245.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5727 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$2,256,245.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

No Protests Received for Mill and Overlay and Incidentals Improvement District No. 5987:

The Statutory Resolution of Necessity for the construction of Mill and Overlay and Incidentals Improvement District No. 5987 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 11 and 18, 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 Mill and Overlay and Incidentals Improvement District No. 5987.

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.

Bids Received for Mill and Overlay and Incidentals Improvement District No. 5987:

The bids for Mill and Overlay and Incidentals Improvement District No. 5987 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 11, 2011 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$459,440.67
Northern Improvement Company Bid:	Fargo, ND \$459,738.18
Aggregate Industries Bid:	Moorhead, MN \$491,221.04
Central Specialties, Inc. Bid:	Alexandria, MN \$520,488.60

Contract for Mill and Overlay and Incidentals Improvement District No. 5987 Awarded to Border States Paving, Inc. in the Amount of \$459,440.67:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Mill and Overlay and Incidentals Improvement District No. 5987; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 11, 2011, for Mill and Overlay and Incidentals Improvement District No. 5987 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Mill and Overlay and Incidentals Improvement District No. 5987 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$459,440.67 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Border States Paving, Inc. in the sum of \$459,440.67 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Mill and Overlay and Incidentals Improvement District No. 5987 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$459,440.67, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5975 (Various Locations in South Fargo):

Commissioner Mahoney moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5975:

Adopt Resolution Creating Improvement District No. 5975:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5975 in the City of Fargo, North Dakota, be created

On 7th Street South from 13th to 17th Avenue South.

On 6th Street South from 13th to 15th Avenue South.

On 14th Avenue South from 5th to 7th Street South.

On 15th Avenue South from 5th to 7th Street South.

COMPRISING:

Lots 8 through 14, inclusive, Block 1.

Lots 1 through 7, Lots 9 through 13 and the east 55.5 feet of Lot 8, Block 2.

All in Benedict's Addition.

Lots 6 through 10, inclusive, Block 1.

Lot 13 and west 15 feet of Lot 8, Block 2, Benedicts Addition.

Lots 1 through 10, inclusive, Block 2.
Lots 1 through 13, inclusive, Block 3.
Lots 1 through 13, inclusive, Block 12.
Lots 1 through 26, inclusive, Block 13.
Lots 11 through 20, inclusive, Block 14.
Lots 14 through 26, inclusive, Block 16.
Lots 1 through 13, inclusive, Block 17.
All in Huntington's Addition.

Lots 1 through 8, inclusive, Block 5.
Lots 9 through 16, inclusive, Block 6.
All in Lewis 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. 5975 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. 5975:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5975 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,542,000.)

Order Plans and Specifications for Improvement District No. 5975:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5975 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5975:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5975 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. 5975 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. 5975 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 Water Main Replacement, Street Reconstruction and Incidentals improvement is to be paid from Street Sales Tax and approximately 41% 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 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. 5975:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5975 in the City of Fargo, North Dakota.

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.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 (Tuscan Villas at Osgood 2nd Addition):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001:

Adopt Resolution Creating Improvement District No. 6001:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6001 in the City of Fargo, North Dakota, be created

Tuscan Court South, a road located within the 5500 Block on 44th Avenue South.

COMPRISING:

Lot 1 through 16, inclusive, Block 1.

Lot 1 through 7, inclusive, Block 2.

All platted in Tuscan Villas at Osgood 2nd Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 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. 6001:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6001 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 \$265,320.)

Order Plans and Specifications for Improvement District No. 6001:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6001 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6001:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6001 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. 6001 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights 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. 6001:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6001 in the City of Fargo, North Dakota.

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.

Contract for Asphalt Wearing Course and Incidentals Improvement District No. 5988 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Border States Paving, Inc. for Asphalt Wearing Course and Incidentals Improvement District No. 5988 in the City of Fargo, North Dakota.

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.

Contract Bond for Asphalt Wearing Course and Incidentals Improvement District No. 5988 Approved:

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

Liberty Mutual Insurance Company, in the amount of \$1,279,375.80, for Asphalt Wearing Course and Incidentals Improvement District No. 5988 in the City of Fargo, North Dakota.

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.

Presentation by the Happy Hooligans:

Colonel Ron Solberg presented a plaque and flag to Mayor Walaker and the City of Fargo on behalf of the 119th Wing Happy Hooligans and the men and women of the Army National Guard in appreciation of the ongoing support from the City of Fargo. He said the American flag had been flown in a combat mission in western Iraq in May, 2007 and the accompanying certificate gives details on that mission.

Communication Received Regarding Development of a Tree Preservation Ordinance:

The Board received a communication from City Forester Scott Liudahl stating at the December 13, 2010 Commission meeting direction was given to develop a tree preservation ordinance. He said since that time a committee was developed and

several drafts have been proposed, reviewed and re-worked and information was obtained from other cities. He said efforts are focused on streamlining with flexibility and a final draft has been discussed with highlights as follows:

- Riparian area and significant tree protection including public and private property
- Replacement requirements
- Variance and replacement requirements if significant trees are allowed to be removed
- Tree protection measures
- Appeal process
- Follow-up and administrative responsibilities
- Penalties and violations
- Establishment of tree fund or similar

He said the intention is to present a draft to the board within 4-6 weeks.

In response to a question from Commissioner Williams about the success of diversifying the inventory of trees, Mr. Liudahl said the Forestry Department is working to diversify species of trees with a goal of limiting the amount of certain species to 12-15% of inventory, which could take up to 20 years. He said having too large a population of a single species risks high losses and high expense if a particular insect or disease surfaces.

Commissioner Williams moved the communication from Mr. Liudahl be received and filed.

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

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

Confirmation of Five-Year Extension to the Bridge Company to Continue Operating the 12th Avenue North Bridge:

The Board received a communication from City Administrator Pat Zavoral stating last fall the owners of the 12th Avenue North toll bridge requested a 5-year extension to the contract with the Cities of Fargo and Moorhead to allow them time to operate the facility and work down debt before ownership transfers. Fargo staff, he said, is requesting guidance from the Commission on Fargo's position on the disposition of the toll bridge. He said there are two overriding questions: What should be the share of ownership for each governmental entity (Fargo and Moorhead) and, would collection of a toll continue after the public ownership transfer? He said staff feels a 50/50 split in ownership/maintenance and discontinuation of the toll would be appropriate when the cities receive ownership.

Commission Piepkorn said the arrangement with the other bridges is 50/50 so it makes sense to make it the same.

Kip Moore, President of the Bridge Company, said the 12th Avenue North Bridge was designed based on 10-year flood probability; however, it has flooded 11 times in 23 years with losses of \$50,000-\$100,000 each time it floods. He stated the original contract with Fargo and Moorhead was for 30 years, however, last year he requested an additional 10 years and compromised to add 5 years to the remaining contract which ends in 2013. Moorhead has not acted on his request, he said, and the bridge is now permanently closed unless he can get an agreement between the

two cities for the five-year extension. Existing debt is approximately \$100,000 for repairs, electrical and back taxes, he said.

Mayor Walaker said he agrees with the 50/50 ownership and the 5-year extension so when the cities take it over it is debt free.

In response to a question from Commissioner Wimmer about how much money the toll brings in, Mr. Zavoral said revenues are about \$50,000-\$60,000 per year.

City Attorney Erik Johnson said the initial agreement ends in 2013. He said the Fargo City Commission authorized the Mayor to sign a 5-year extension with some conditions; however, that agreement is still sitting with the Moorhead City Council.

Commissioner Wimmer moved the Bridge Company's 5-year extension to continue operating the 12th Avenue North Bridge be confirmed, with the agreement that when the bridge is publicly owned, the preference be a 50/50 ownership with no toll.

Second by Wimmer. 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.

Bids Received for Storm Sewer, Paving and Incidentals Improvement District No. 5960:

Mayor Walaker stated this item was moved from the Consent Agenda at the request of citizens wanting to be heard.

The bids for Storm Sewer, Paving and Incidentals Improvement District No. 5960 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 27, 2011 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$526,795.00
Northern Improvement Company Bid:	Fargo, ND \$547,070.00
Dakota Underground Company Bid:	Fargo, ND \$568,681.75
Opp Construction Company Bid:	Grand Forks, ND \$613,882.90
Tom's Backhoe Service Bid:	Brainerd, MN \$616,567.75
Sellin Brothers, Inc. Bid:	Hawley, MN \$622,651.00

City Engineer Mark Bittner said in 2008, the Austin Subdivision Owners' Association requested to privately pave the roadway; however, the project was put on

hold and later the homeowners requested the City do the paving and special assess for improvements. In May of 2010, a petition for paving signed by 13 of the 15 property owners was received, he said; however, shortly after several property owners said they were no longer in favor of the project and this prompted a meeting with property owners, which only three property owners attended. At the request of those property owners, he said, the Improvement District proceeded in order to force the issue to get a majority vote one direction or another. He said when bids were opened April 27, 2011, the bids received were 16% over the estimate and property owners were notified and a property owner asked to reopen the protest period.

Jeff Forward, Oakes, North Dakota, said he owns two lots in Austin Subdivision and originally did not protest, however, when he later learned not responding is technically a yes vote, he protested. He said he does not feel the project should proceed with bids being 16% over the estimate and perhaps tying the project in with another project later would be more cost effective.

Phil Buhr, 5406 53rd Avenue South, questioned whether calculations for square footage are correct and concurred with Mr. Forward that the project could be done later, perhaps with 52nd Avenue or Veterans Boulevard, which could be less expensive.

Mayor Walaker said sewer and water cannot be protested but paving can. He said interest rates of 3 or 4% are not an issue; the issue is whether the protest should be reviewed.

Mr. Bittner said the way engineer's estimates are done may be confusing; an 8% gross estimate is used with interest from the time the project is started until the bonds are sold, and the interest rate established at the end of the project.

In response to a question from Commissioner Piepkorn about whether there have been instances in the past calling for rebids, Mr. Bittner stated typically projects are rejected and rebid if high or if there is a problem at the bid opening. He said in this case, bids were higher due to the fact that an asphalt shoulder was added to the project; therefore, the bids are appropriate for the work being done. Mr. Bittner recommended awarding the bid since protests were previously declared insufficient and the protest period closed.

Commissioner Williams said to be fair, the project should start over.

Andre Arneson, President of Intense Collision Center, 5402 53rd Avenue South, said businesses in the area stand to benefit and the overall project will help with traffic safety and drainage issues. He said the project should not be rejected and tying the project in with another project later could mean more downtime for the businesses in the area.

Lyndon Binde, 5516 53rd Avenue South, stated he owns a cabinet shop in the area and does not have a lot of public traffic. He said when the City took over the road there were issues, however, snow removal and maintenance have improved. He said since water and sewer were put in, the ditches do not drain properly and in the spring, dike work and large machinery cause problems with the roads.

Director of Finance Kent Costin said while engineering proclaims 8% interest in their communications, it is actually 4-5%; however, if a project is carried over from one construction season to another the interest would increase.

Commissioner Piepkorn said the current road is not urban quality and paving will improve the value of property and drainage. He said there is a risk to waiting several years since the cost likely will not go down.

Mr. Bittner said the property owners were not given the revised estimate prior to the end of the protest period. If bids are rejected and declared insufficient, he said, the project would die and the process would start over, taking about six weeks to run a new resolution and rebid.

Contract for Storm Sewer, Paving and Incidentals Improvement District No. 5960 Awarded to Master Construction Company, Inc. in the Amount of \$526,795.00:

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 Storm Sewer, Paving and Incidentals Improvement District No. 5960; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 27, 2011 for Storm Sewer, Paving and Incidentals Improvement District No. 5960 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Storm Sewer, Paving and Incidentals Improvement District No. 5960 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$526,795.00 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 Master Construction Company, Inc. in the sum of \$526,795.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Storm Sewer, Paving and Incidentals Improvement District No. 5960 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$526,795.00, 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, Mahoney and Walaker voted aye.

Commissioner Williams voted nay.

The Resolution was adopted.

At 6:08 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Bid Advertisement for Project No. 5958-2 Tabled:

Commissioner Wimmer said he pulled the item from the Consent Agenda to discuss the levee being proposed at Rose Creek.

City Engineer Mark Bittner said this year levees were erected on the north edge of the Rose Creek Golf Course from 25th Street to Rose Creek and to University Drive through back yards of Rosewood Subdivision and those levees need to be reconstructed to permanent. The section east to the Milwaukee Bike Trail has a levee with subsoil not stable enough to build to 44 feet, he explained, therefore, Ulteig Engineering is looking at the option of lowering the footprint down to 40 feet and going with permanent floodwall on top of that. He said an option of going north, would require more acquisitions.

Chuck Hendricks, 2308 Centennial Rose Drive, said he and homeowners bordering Rose Creek Golf Course (2316, 2312, 2304, 2224 and 2220 Centennial Rose Drive) would like Project No. 5958-2 rejected. He said work in the area is moving so quickly homeowners on Centennial Rose have not had an opportunity to investigate alternatives to maintain lot values and golf course views. During the week of May 3rd, he said, City representatives said permanent options were being looked at; however, homeowners did not come out of that meeting expecting this levee to be permanent. He stated City staff reference flood insurance certification which as he understands, would take five to ten years, so there should be time to allow the Centennial Rose homeowners to work with permanent flood options and maintain the views. He said the homeowners want to be treated fairly and, while a permanent solution is necessary, they want to maintain views and values. He asked the "fast track" for the proposed permanent levee at 43-44 feet be stopped until all alternatives can be researched and discussed with the homeowners in order to arrive at a more reasonable decision.

Mr. Bittner said right now the plan is to build levees to 44 feet; however, the next item on the agenda will clarify the City's flood protection goals. He said the intention was to move quickly due to the fact that weed season is here, however, the bid advertisements could be delayed or the date extended.

Commissioner Wimmer moved the bid advertisement for Project No. 5958-2 be tabled to allow more time for discussions to take place between the Engineering Department and the homeowners.

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.

Flood Protection Goals for the City of Fargo Adopted:

The Board received a communication from City Administrator Pat Zavoral outlining the general flood protection goals for the City of Fargo. He said the goals he has outlined below are for planning and implementation purposes and changes will be considered when details of projects are presented for approval:

1. Diversion
2. Protection along rivers and drains
 - 42.5' or higher
3. Permanent protection
 - eliminate sandbag levees if possible
 - construct earthen levees
 - consider structural options if earth is not feasible
 - consider rapid deployed protection infrastructure only where other options are not feasible
4. FEMA Certified Protection
 - Permanent protection constructed to meet certification
 - Structure options meet FEMA Certification requirements
5. Institute floodplain management regulation
 - Setback requirements
 - Raise building elevations to 1.5' above building flood elevation
 - Provide real protection to new subdivisions via road raises

Mr. Zavoral said the first line of protection is a diversion, however, that could take awhile.

Commissioner Williams said even with a 500-year diversion in place there will still be a need for protection over 41 feet inside the City.

Mr. Zavoral said a permanent protection goal is to eliminate sandbags and the construction of earthen levees. Each permanent protection measure should be certified by an engineer so it is recognized by FEMA, he stated, and the City should institute floodplain management regulations and solidify the goals. He recommended building protection to at least 42.5 feet for certification according to current FEMA guidelines.

In response to a question from Commissioner Wimmer about how protection at 42.5 feet affects the Centennial Rose Drive, Mr. Bittner said the issue for those homeowners is that a levee removes the view of the golf course. He said 42.5 feet is the absolute minimum for certification with FEMA and in River Drive South, protection would be in the back yards. He said a philosophy is needed for those situations due to the fact that a permanent floodwall makes the yards very narrow. He said not building levees to FEMA certification standards could mean a cost of \$19 million dollars in flood insurance premiums for Fargo property owners. Generally, he said, when levee work is done by the homeowner, it is not certifiable and FEMA rules state any removable sections of flood protection cannot be accredited. He said within three years, when the new floodplain map is drawn, an additional 7,500 properties will be in the floodplain, which is a critical issue as far as flood insurance premiums. He said there are some properties which cannot be protected and, in those cases, he would recommend acquisition.

Mr. Zavoral said under the present FEMA regulations for floodplains, flood insurance premiums are approximately \$300-\$800 and after FEMA sets the new floodplain, rates would be \$1,500-\$2,800, making it significant to keep as many properties out of the floodplain as possible. He said if flood insurance is currently carried, the insured will be grandfathered in for two years after new rates go into effect. He stated the City has a capacity to do \$47 million dollars of flood mitigation work over the next five to ten years, assuming there will be state assistance of some kind.

Commissioner Mahoney moved the Flood Protection Goals for the City of Fargo be adopted with the understanding these are general goals and guidelines for planning and implementation purposes and changes will be considered when details of projects are presented for approval.

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

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

Flood Protection Incentive Program Approved: Staff Directed to Prioritize, Develop and Schedule a Financing Plan for Flood Mitigation Projects:

The Board received a communication from the Public Works Projects Evaluation Committee recommending the Flood Protection Incentive Program (revised 5/16/11) be approved.

City Engineer Mark Bittner said the goal is to assist individual homeowners in improving the level of basic flood protection and reducing the need for emergency

measures. Mr. Bitter recommended adoption of the Flood Protection Incentive Program on a limited basis. He said the improvements the neighbors made on River Drive South and South River Road helped significantly in reducing sandbags and did not cost the City a lot of money. The incentive program has an annual budget of \$100,000, he said, and he asked that staff be authorized to prioritize, develop and schedule a financing plan for flood mitigation projects.

Commissioner Mahoney moved the Flood Protection Incentive Program (Revised 5/16/11) be approved and staff be directed to prioritize, develop and schedule a funding and financing plan for flood mitigation projects.

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

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

At 7:00 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Implementation of a New City Pay Structure Approved:

The Board received a communication from Director of Human Resources Jill Minette stating the Position Evaluation Committee (PEC) reviewed results of the Job Evaluation Study conducted by Trusight and is recommending the new job descriptions, new job evaluation ratings and new pay structure be approved.

City Administrator Pat Zavoral said since 1992 jobs have been evaluated based on the Decision Band Method (DBM), which focused on level of decision making and responsibility for coordinating other jobs and for job complexity and diversity, task occurrence, time pressure, need for alertness and working conditions. He said the new proposal is based on a new structure and on market. He said there will be a grievance procedure beginning in July and running for 40 days to allow employees to appeal their job classification. He said the PEC recommendations for reclassification based on appeal will come to the City Commission for approval with an effective date of January 1, 2012.

Ms. Minette said the Trusight (formerly Employer's Association, Inc.) job evaluation study began in 2009 and includes a more comprehensive evaluation of positions with each position rated based on qualifications, decision making, problem solving, internal and external relationships, effort, hazards and environment. She said the study was done in three phases: (1) employee input in updating job descriptions, (2) consultant's rating of positions independently, and (3) job descriptions and rating reviewed internally. After rating, the positions were assigned to a pay grade based on the overall position rating, she said, and market data was collected to ensure the pay line was set appropriately and the range minimum and maximum were compared. She said currently there are 29 pay ranges and the proposed plan has 25 pay ranges, and 11 consistent steps. The DBM plan had a 38-50% range spread, she said, while the new plan stays consistent with a 30% difference between the minimum and maximum. The overall cost to implement the plan is approximately \$1,180,418.00, she said, a 2.196% increase to payroll budgets. She said the recommendation is to implement the new pay plan in lieu of a cost of living adjustment (COLA).

In response to a question from Commissioner Williams about the comprehensive regional market study planned for 2012 and whether that market

analysis could bring more equity for employees who have been in the same position with over 10 years service, Ms. Minette said the study will allow for a more specific look at individual market indicators.

Mr. Zavoral said some positions do not have an equal comparison in other cities and some of those cities, he explained, have a performance plan where only those that over perform are expected to make the top grade.

In response to a question from Commissioner Mahoney about employee evaluation and performance, Ms. Minette said step increases are not tied to performance evaluations; however, if performance is an issue, the step increases can be suppressed or held back. She said the cost of the old plan, assuming a 1.5% COLA, would have been \$1,020,509 and under the new plan the move to the minimum and step increases would be \$1,180,418 or a 2.916% increase making a difference in cost of \$159,909.00.

Commissioner Piepkorn stated Commissioners' salaries remain the same and he would like to go on record encouraging the pay structure to be looked at more often, perhaps every 5-10 years.

Mayor Walaker said there have been improvements to the DBM System over the 19 years it has been in effect. He said it is good to have new job descriptions, a new pay plan and an opportunity for staff to move forward.

Commissioner Mahoney moved the recommendation from the PEC to implement the new pay structure based on the new job descriptions and evaluation system be approved effective immediately according to the implementation plan and that the changes, including any retroactive pay, be processed during the June 17, 2011 payroll.

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 Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, May 31, 2011.

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

The time at adjournment was 7:40 o'clock p.m.