

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting:

Monday:

June 13, 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 4:15 o'clock p.m., Monday, June 13, 2011.

The Commissioners present or absent were as shown following:

Present: Williams, Piepkorn, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on Tuesday, May 31, 2011 be approved as read.

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

Mayor Walaker announced that there are pending litigation matters to be discussed in Executive Session, specifically the claim against the City by Comstock Land Company and EMC Insurance.

Commissioner Wimmer moved the Commissioners convene in Executive Session in the River Room as authorized by NDCC, Section 44-04-19.1 for the purpose of consulting with the City's attorneys regarding reasonably predictable litigation in the Comstock Land Company and EMC Insurance matter.

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

At 4:20 p.m. the Board moved to the River Room to discuss the litigation matters in Executive Session.

Members present were: Williams, Piepkorn, Wimmer and Walaker.

Absent and not voting: Mahoney.

The Executive Session closed at 4:55 o'clock p.m. and the Commission reconvened in public session at 5:00 o'clock p.m.

All Commissioners present except Commissioner Mahoney. Mayor Walaker presiding.

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 5/31/11:
 - (1) 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 (relating to penalties).
 - (2) Ordinance Rezoning Certain Parcels of Land Lying in Brandt Crossing First Addition and Brandt Crossing Second Addition, Fargo, Cass County, North Dakota.
- b. Receive and file Year to Date – Budget to Actual Report for May 2011.
- c. Transfer of ownership of a 1947 American LaFrance aerial ladder truck to the Cass County Historical Society.
- d. Acceptance of 2011 Fargo-Moorhead Area Foundation grant in the amount of \$4,000.00 for the Gladys Ray Shelter.
- e. Revenue Note and Private Placement Memorandum for TIF District No. 2006-02 to JPR Development #14, LLC.
- f. Request of Sidestreet Grille & Pub for an extension of the noise ordinance until 11:30 pm on June 30, 2011 for the “Best Bets” promotion.
- g. Site Authorization for Metro Sports Foundation at Scheels Arena.
- h. Applications for Games of Chance:
 - (1) Steve Weidner FM Junior Tour for a calendar raffle from 7/1/11 to 6/30/12.
 - (2) Kringen Club, Inc. for a raffle on 10/9/11.
 - (3) North Dakota Bar Foundation, Inc. for a raffle on 6/16/11; Public Spirited Resolution.
 - (4) Fargo Moorhead AM Rotary for a sports pool from 9/8/11 to 5/5/12.
- i. Renewal of 2011-2012 Alcoholic Beverage and Live Entertainment licenses upon the conditions as outlined by the City Auditor.
- j. Community Development Committee and Historic Preservation Commission recommendation for storefront rehabilitation projects at 208-212 Broadway, 314 Broadway and 910 Main Avenue.
- k. Impound and Towing Services Agreement with Border Cities Services, Inc. for 36 months.
- l. 5-year extension of the Minnkota Recycling Agreement effective 5/1/11.
- m. One-year extension of the building lease agreement at 909 25th Street North for the Solid Waste Department.

- n. Sewer Agreement with Round Hill Estate Improvement Association.
- o. Amendment to the 45th Street Corridor Interceptor SRF loan and associated task order with Apex Engineering Group.
- p. Agreement for Special Improvements with Osgood Investment LLC (Improvement District No. 6001).
- q. Vacation of Permanent Easement on Lots 4 and 5, Block 8, West Acres 4th Addition.
- r. Change Order No. 1 for an increase of \$73,518.10 for Project No. 6014.
- s. Master Service Agreement with Midwest Testing for 2011 quality control testing on City projects and authorization to solicit proposals for future testing services.
- t. 2009 flood cost reimbursement to Master Construction in the amount of \$5,371.86 for work completed during the 2009 spring flood.
- u. Amendment No. 1 to the Brandt Crossing First Addition amenities plan.
- v. Bid awards for Project Nos. 6030 to Asplin Excavating in the amount of \$201,820.95; 6031 to H&S Contracting in the amount of \$215,864.82; SW 11-01 to Burski Excavating Incorporated in the amount of \$437,868.50.
- w. City cost reimbursement of architectural services for development of flood mitigation options at the Fargo Country Club (Project No. 6002-02).
- x. Ridgewood Flood Control Project Tree Mitigation/Replacement Plan (Project No. 5229-11).
- y. Bid advertisement for Project Nos. 5747-28, 5949-3, 5982 and 6042.
- z. Bills in the amount of \$3,931,002.67.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03:

The bids for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03 in the City of Fargo, North Dakota were opened by NDDOT on May 20, 2011 and the bids were found to be as follows:

Dakota Underground Company
Bid:

Fargo, ND
\$2,566,678.74

Northern Improvement Company	Fargo, ND
Bid:	\$2,578,563.93

Master Construction Company, Inc.	Fargo, ND
Bid:	\$2,994,137.00

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03 Awarded to Dakota Underground Company in the Amount of \$2,566,678.74:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 20 for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$2,566,678.74 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 \$2,566,678.74 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5908-03 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$2,566,678.74, 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 Williams, Wimmer, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Bids Received for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4:

The bids for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 8, 2011 and the bids were found to be as follows:

Tom's Backhoe Service	Brainerd, MN
Bid:	\$728,400.00

Key Contracting	Fargo, ND
Bid:	\$851,790.00

Contract for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4 Awarded to Tom's Backhoe Service in the Amount of \$728,400.00:

Commissioner Williams 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 Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 8, 2011 for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4 shows the bid of Tom's Backhoe Service of Brainerd, Minnesota, in the sum of \$728,400.00 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 Tom's Backhoe Service in the sum of \$728,400.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 5955-4 in the City of Fargo, North Dakota, be and the same is hereby awarded to Tom's Backhoe Service for the sum of \$728,400.00, 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 Williams, Wimmer, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5974: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5974 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 9 and 16, 2011 and protests representing 1 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5974:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5974 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 8, 2011 and the bids were found to be as follows:

Tom's Backhoe Service Bid:	Brainerd, MN \$1,030,121.50
Master Construction Company, Inc. Bid:	Fargo, ND \$1,079,620.75
Dakota Underground Company Bid:	Fargo, ND \$1,148,262.45
Riley Brothers Construction Bid:	Morris, MN \$1,160,479.70
Northern Improvement Company Bid:	Fargo, ND \$1,216,059.75
Border States Paving, Inc. Bid:	Fargo, ND \$1,248,475.26

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5974 Awarded to Tom's Backhoe Service in the Amount of \$1,030,121.50:

Commissioner Williams 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. 5974; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 8, 2011 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5974 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. 5974 shows the bid of Tom's Backhoe Service of Brainerd, Minnesota, in the sum of \$1,030,121.50 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 Tom's Backhoe Service in the sum of \$1,030,121.50 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. 5974 in the City of Fargo, North Dakota, be and the same is hereby awarded to Tom's Backhoe Service for the sum of \$1,030,121.50, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Wimmer, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 (10th to 11th Avenue North between 4th and 5th Streets):

Commissioner Williams moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022:

Adopt Resolution Creating Improvement District No. 6022:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6022 in the City of Fargo, North Dakota, be created

From 10th to 11th Avenue North between 4th and 5th Street, Block 2 of Hector's and Block 13 of Truesdells 2nd Addition.

COMPRISING:

Lots 1 through 6, Block 2.

All in Hector's Addition.

Lots 1 through 6, Block 13.

All in Truesdells 2nd Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 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. 6022:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6022 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 \$81,840.00)

Order Plans and Specifications for Improvement District No. 6022:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6022 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6022:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6022 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. 6022 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed P.C. Concrete Alley Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

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

Direct City Auditor's Office to Call for Bids for Improvement District No. 6022:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6022 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 (13th to 14th Avenue North between 1st and 2nd Streets):

Commissioner Williams moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033:

Adopt Resolution Creating Improvement District No. 6033:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6033 in the City of Fargo, North Dakota, be created

From 13th to 14th Avenue North between 1st Street and 2nd Street, Block 7 of Holes 1st Addition.

COMPRISING:

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

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 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. 6033:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6033 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 \$141,240.00.)

Order Plans and Specifications for Improvement District No. 6033:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6033 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6033:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6033 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. 6033 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct PC Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of

Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed P.C. Concrete Alley Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

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

Direct City Auditor's Office to Call for Bids for Improvement District No. 6033:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6033 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Request to Repurpose the Growth Initiative Fund Approved:

The Board received a communication from Finance Director Kent Costin stating the Greater Fargo Moorhead Economic Development Corporation (GFMEDC) is requesting a modification of the existing Growth Initiative Fund (GIF). The GIF, he said, is a revolving public fund that is administered by the staff of the GFMEDC and was originally set up to be the "community" portion of the PACE loan program. He said the demand for the PACE loan program has declined over the years; therefore, the GFMEDC is considering other uses that align with the GFMEDC economic plan for the region. The GIF, he said, will continue to participate in qualifying PACE loans; however, the GFMEDC Board, along with the Cass County Commission, believes this tool could be used in other strategic ways to promote primary sector economic development.

Kevin McKinnon, President of the Greater Fargo Moorhead Economic Development Corporation, stated the GFMEDC was started in 1993 as a joint effort between Cass County and the Cities of West Fargo and Fargo to promote economic development in the county. The purpose and approach will not change, he said, and the amended bylaws and memorandum of understanding have been approved by the Cass County Commission, the City of West Fargo and the Finance Committee has recommended approval. He said future loans will continue to be reviewed by the GIF board.

John Strinden, the City's appointee to the Growth Initiative Fund Board, said there has been less demand for PACE loans recently and the GIF Board is looking for additional tools to promote economic growth to retain and promote jobs.

Commissioner Piepkorn moved the request from the GFMEDC to repurpose the Growth Initiative Fund to include targeted private sector economic development as authorized in the Cass County Growth Plan be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Alex Macdonald Reappointed to the Airport Authority:

The Board received a communication from Mayor Walaker recommending that Alex Macdonald be reappointed to the Airport Authority.

Commissioner Williams moved Alex Macdonald be reappointed to the Airport Authority for a five-year term ending April 8, 2016.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Mayor Authorized to Submit Comments to the North Dakota Public Service Commission Regarding the Proposed Routing of the CapX2020 Transmission Line:

The Board received a communication from Assistant City Attorney Butch McConn stating the proposed CapX2020 high-capacity electrical transmission line is in close proximity to the proposed diversion channel. He said it appears to be prudent for the Commission to discuss the transmission line in light of the line's location to the proposed diversion channel and to submit comments to the North Dakota Public Service Commission. He said there is a hearing on the CapX2020 transmission line in late June

Mark Nisbet, Principal Manager of Xcel Energy, said the route is south of the proposed diversion which may be in a ponding area and it is projected to be on the west side of Mapleton. He said the route that had a conflict with the proposed diversion has been taken off the table

Commissioner Wimmer moved the Mayor be authorized to submit comments to the North Dakota Public Service Commission in regards to the routing of the proposed CapX2020 transmission line.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Resolution Adopted Approving Hornbacher's First Addition (1532 32nd Avenue South and 3225 15th Street South):

Senior Planner Jim Hinderaker stated the replat is to divide the gas station portion of this site from the grocery store portion of the site.

In answer to a question from Mayor Walaker regarding why the property owner requested the replat, Mr. Hinderaker said he is not aware of any transfer in ownership. He said he believes the property owner just wants the replat to define the two properties. There were a number of long linear property lines on the plat, he said,

so this is also an opportunity to clean up the plat and make one large lot where the grocery store is located and isolate out the gas station.

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 "Hornbacher's First Addition" containing 2 Lots, 1 Block and 5.838 acres of land more or less, located at 1532 32nd Avenue South and 3225 15th Street South; and

WHEREAS, A Hearing was held March 1, 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 June 6 and 13, 2011 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., June 13, 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 "Hornbacher's First 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 and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

City of Fargo's Section 5307 Federal Transportation Administration Grant Preliminary Program of Projects for 2011 Approved:

A Hearing had been set for this day and hour to consider the City's Section 5307 Federal Transportation Administration grant preliminary Program of Projects for 2011.

The Board determined that there have been no written or verbal protests and no one is present to protest thereto.

The Board received a communication from Transit Administrator Julie Bommelman stating the Federal Transit Administration will make available to the City \$1,860,920 to be used for the transit system. She said the City of Fargo is required to hold a public hearing prior to submitting this application. She said the Program of Projects, which she attached, was developed by the Transit Division to be submitted with the application for the funds.

Planning Director Jim Gilmour stated the grant amount is consistent with the transit budget approved last fall. He said of the local share, over half comes from

other sources such as NDSU, West Fargo and the State of North Dakota, so less than \$1,000,000 comes from the transit budget.

In response to a question from Commissioner Williams regarding whether or not ridership is still increasing, Mr. Gilmour said yes, higher gas prices bring increased bus ridership, as well as an increase in bike riders.

Commissioner Piepkorn moved the Program of Projects for 2011 and Federal Transit Grant Award of \$1,860,920 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

River Lot Moratorium Clarification Received:

The Board received a communication from Senior Planner Jim Hinderaker stating on June 3rd property owner Timothy LeClair requested a building permit to construct a detached garage on his property located at 5310 68th Street South. He said the property is located within the City's extraterritorial jurisdiction and is abutting the Sheyenne River, which is subject to the river lot moratorium. He said this is before the Board because staff is seeking clarification on this permit application and the river lot moratorium that is currently in place.

Mayor Walaker said his understanding is a recommendation would be brought from the Committee to the Board asking for approval or disapproval of additions along the river. He said he would like the Committee, made up of staff in Planning, Engineering and Inspections, to bring a recommendation to the Board.

Mr. Hinderaker stated a committee exists to look at the applications; however there is still a question about whether the Commission requires all river lot building applications to come to the Board.

Commissioner Piepkorn said he understood the main concern was with new construction and remodeling may have gotten confused as new construction. He agreed the intention should be clarified with staff.

Commissioner Williams stated discussion on existing property allowed expansion and development as long as it is no closer to the river. He said he liked the idea of applications going to the Committee before coming to the Board.

Commissioner Wimmer said he understood the Board would hear about applications for building on empty lots; however, he did not think it applied to an outbuilding on an existing property.

Mr. LeClair said he has lived on the property for 22 years and now would like to add a garage this summer, as well as an addition to the house later, but he did not know whether the moratorium applied to him.

In response to a question from Mayor Walaker regarding whether waiting two weeks more for a decision would be a problem, Mr. LeClair said it would not.

City Administrator Pat Zavoral said the understanding is that applications to build on empty lots would come to the Board. He said the confusion is about the Board's intent on expansions and additions. In the past, he said, the practice has been if applications met policies set in place, such requests did not have to come before the Board. The issue of river setbacks still needs to be finalized with the Board, he said, and in the interim the Committee can bring recommendations to the Board.

Mr. Hinderaker pointed out that if the Board determines staff would handle structures built no closer to the river than existing buildings, Mr. LeClair's request would not come back to this Board.

Commissioner Piepkorn said Mr. LeClair's request for a detached garage would not have to come back to the Board since it is not closer to the river; however, if an addition to the home were proposed on the side near the river, such an application would come to the Board.

In response to a question from Commissioner Wimmer regarding the status of the recommendation for a setback ordinance, Mr. Hinderaker said he is working to schedule one more meeting in the next couple weeks with geotechnical experts and following that meeting recommendations will be brought back to the City Commission.

Commissioner Wimmer moved the following be added for clarification on the River Lot Moratorium:

1. Building on undeveloped lots needs to come before the City Commission for approval.
2. Decisions on currently built upon lots need to come to the City Commission, but with the recommendation of the staff committee including the Engineering Department, the Planning Department and the Inspections Department.
3. If structures proposed to be built are no closer to the river than existing structures, those matters can be handled by staff and do not need to come before the City Commission.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Staff Directed to Proceed with Preliminary Inquiries Regarding Property Acquisition to Construct a New Parking Ramp in Downtown Fargo and to Conduct a Parking Demand Study:

The Board received a communication from Senior Planner Robert Stein stating at its April meeting the Parking Commission established a goal of moving forward on planning the construction of a new parking ramp in downtown Fargo. At their May meeting, he said, a subcommittee was appointed to explore funding strategies, location and potential property acquisition. He said the Parking Commission spent a good deal of time talking about the property that is on the east side of Roberts Street between 2nd Avenue North and the Cultural Diversity offices, as well as the US Bank Block. The Parking Commission, he said, felt that in order for the project to move forward it would be appropriate to present the following actions to the City Commission for further direction:

1. Contact adjacent property owners and gauge the level of interest in selling property to the City for a parking structure development.
2. Coordinate activities with the Kilbourne Group to ascertain the status of development on the US Bank property.
3. Conduct a demand study to determine the projected size of a parking structure at either of the aforementioned locations.

Mr. Stein said demand has increased for parking downtown, which is filled to capacity on the north end and there is a lack of publicly owned off-street parking. At

this stage, he said, it is not critical to determine an exact location; however, going forward with preliminary inquiries about property acquisition would allow the project to move ahead. A parking demand study, he said, would help determine the number of spaces.

Mr. Stein said the Kilbourne Group continues to talk with candidates as they determine what size and scale project they can put on the US Bank block. He said the Kilbourne Group had over 160 proposals submitted during a contest on how that property could be used and nearly all the proposals were mindful of open space.

Mayor Walaker said he does not have any problem with this moving forward. He said getting the property is the most important issue; however, he questions moving it up on the priority list when other important needs, such as a new City Hall, exist.

Commissioner Wimmer moved the appropriate staff be directed to proceed with preliminary inquiries regarding property acquisition to construct a new parking ramp in downtown Fargo and to conduct a parking demand study.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 27, 2011.

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

The time at adjournment was 5:42 o'clock p.m.