

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                      Monday:                                      August 8, 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, August 8, 2011.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Piepkorn moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Piepkorn moved that the Minutes of the Regular Meeting of the Board held on July 25, 2011 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. Amended and Restated Resolution Authorizing the Issuance and Sale of \$4,071,140 to City of Fargo Sales Tax Revenue Bonds, Series 2010D (Attachment "A").
- b. Receive and file Year to Date – Budget to Actual Report for July 2011.
- c. Agreement for Management and Maintenance of Newman Outdoor Stadium.
- d. 1st reading of an Ordinance Rezoning Certain Parcels of Land Lying in Charles A. Roberts Addition, Fargo, Cass County, North Dakota.
- e. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Ohmers Addition and James Hole Addition, Fargo, Cass County, North Dakota; 1st reading, 7/25/11.
- f. Plat of Christianson Addition.
- g. Web Site Accessibility Policy for the City of Fargo.

- h. Amendment to Joint Powers Agreement for Transit Support and Agreement for Transit Services for 2011-2012 with NDSU.
- i. Expenditure of Neighborhood Stabilization Program funds for acquisition of property at 418 22nd Street South for \$20,000.00; convey property to Lake Agassiz Habitat for Humanity.
- j. Agreement for Services with Roger Johnson and Associates for the purchase and service of AED's.
- k. Grant Agreement with Dakota Medical Foundation for the Baby Steps/Nurse-Family Partnership Program.
- l. Applications for Games of Chance:
  - (1) Spartan Boosters, Inc. for raffles from 8/25/11 to 5/30/12 at the Fargodome, the Coliseum, Scheels Urban Plains Center, Fargo North High School.
  - (2) Holy Spirit Catholic Church for bingo, raffles and a calendar raffle from 10/5/11 to 10/30/11.
  - (3) YWCA Cass Clay for a raffle on 9/8/11.
- m. Ladder truck purchase from Custom Fire for \$842,875.00.
- n. Accept proposal from Cougar Tree Care, Inc. for contract tree pruning services and authorize transfer of \$25,000.00 from other utility funds.
- o. Joint Powers Agreement with Cass Rural Water Users District for water main installation in Davies Second Addition (Improvement District No. 6060).
- p. Cost Participation and Maintenance Agreement with the NDDOT for West Fargo Main Avenue reconstruction from 5th Street East to 45th Street South.
- q. Engineering Task Order No. 6 with Apex Engineering Group, Inc. in the amount of \$216,950.00 for Project WW1103.
- r. Engineering Task Order No. 7 with Apex Engineering Group, Inc. in the amount of \$45,850.00 for Project No. 6058.
- s. Excess clay and topsoil handling charges in the amount of \$64,455.68 for Tom's Backhoe for Project No. 5725.
- t. Change Order No. 2 for an increase of \$127,062.60 and Change Order No. 3 for an increase of \$46,157.28 for Project WW0902.
- u. Change Order No. 1 for an increase of \$1,159.46 and Change Order No. 1 for an increase of \$10,141.40 for Project WA1101.
- v. Change Order No. 1 for Project No. 5928.

- w. Replacement of pump at Storm Sewer Lift Station 12 in the amount of \$69,254.00 for Project No. 5970-02.
- x. Agreement for Special Improvements for Matrix Properties (Improvement District No. 6055).
- y. Agreements for Entry and Construction (Project No. 5949-3):
  - (1) Julie Thorson.
  - (2) Steven and Tara Thom.
  - (3) Winifred Christianson.
- z. Levee construction in River Vili Addition as part of the City's Flood Mitigation Plan (Project No. 6043).
- aa. Cost reimbursement in the amount of \$23,524.50 for 2011 Flood Restoration at the Fargo Country Club; authorize appraisals for acquisition of easements/right-of-way for permanent levee construction in the Fargo Country Club and Southwood area (Project No. 6002-02).
- bb. Proposal solicitation for consulting services to prepare a Storm Sewer Lift Station Capital Improvements Plan (Project No. 6063).
- cc. Contract time extension request for Project No. 6024.
- dd. Bid awards for Project Nos. SW1102 to Northern Improvement Company in the amount of \$134,008.50 and 5951-2 to Key Contracting in the amount of \$1,453,024.80.
- ee. Bid advertisement for Project No. 6059.
- ff. Contracts and bonds for Project Nos. 5982, 6026 and 6028-01.
- gg. Bills in the amount of \$6,373,190.00.

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.

Contract Time Extension for Improvement District No. 5938-04 Approved:

Commissioner Wimmer moved approval of a Contract Time Extension to July 29, 2011 for Improvement District No. 5838-04.

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.

P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 (MGB First Addition):

Commissioner Wimmer moved the following action be taken in connection with P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2:

Adopt Resolution Creating Improvement District No. 5945-2:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5945-2 in the City of Fargo, North Dakota, be created

On 70th Avenue from South University Drive west a half mile to the quarter section line.

COMPRISING:

The south 1,320 feet bounded to the east by South University Drive of the Northeast quarter of Section 12, Township 138 North, Range 49 West.

The north 1,320 feet of the Southeast quarter of Section 12, Township 138 North, Range 49 West.

All of the foregoing land lying in the City of Fargo, Cass County, North Dakota, said district to include only land lying within the city limits of the City of Fargo and any land lying outside said city limits is deemed not a part of the district.

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 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. 5945-2:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5945-2 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 \$1,914,000.)

Order Plans and Specifications for Improvement District No. 5945-2:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5945-2 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5945-2:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5945-2 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. 5945-2 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 Pavement 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 Pavement and Incidentals Improvement District No. 5945-02 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 P.C. Concrete Pavement and Incidentals improvement is to be paid from Sales Tax and approximately 23% 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 P.C. Concrete Pavement 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. 5945-2:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5945-2 in the City of Fargo, North Dakota.

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.

Asphalt Pavement and Incidentals Improvement District No. 6038 (South Acres):

Commissioner Wimmer moved the following action be taken in connection with Asphalt Pavement and Incidentals Improvement District No. 6038:

Adopt Resolution Creating Improvement District No. 6038:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6038 in the City of Fargo, North Dakota, be created

On 48th Avenue South.

COMPRISING:

Lots 2 & 3, Block 2.

All in Maier 1st Subdivision.

Tax Lot 21

Tax Lot 22

All in Unplatted Southside Annex.

All of the unplatted land in the SE 1/4 of Section 36, T139N, R49W.

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

NOW, THEREFORE, BE IT RESOLVED, That Asphalt Pavement and Incidentals Improvement District No. 6038 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. 6038:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6038 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 \$140,000.)

Order Plans and Specifications for Improvement District No. 6038:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6038 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6038:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6038 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. 6038 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 Asphalt Pavement 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 Asphalt Pavement and Incidentals Improvement District No. 6038 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 Asphalt Pavement and Incidentals improvement is to be paid from Flood Sales Tax and approximately 37% 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 Asphalt Pavement 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. 6038:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6038 in the City of Fargo, North Dakota.

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.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 (Between 11th and 12th Streets North from 14th to 15th Avenues North):

Commissioner Wimmer moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053:

Adopt Resolution Creating Improvement District No. 6053:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6053 in the City of Fargo, North Dakota, be created

From 11th to 12th Street North between 14th and 15th Avenue, Todd's Subdivision and Coulter's Subdivision.

COMPRISING:

Lots 1 through 16, Block 1.  
All in Todd Subdivision.

Lots 1 through 16, Block 1.  
All in Coulter's Subdivision.

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. 6053 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. 6053:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6053 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 \$166,320.)

Order Plans and Specifications for Improvement District No. 6053:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6053 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6053:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6053 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. 6053 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. 6053 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. 6053:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6053 in the City of Fargo, North Dakota.

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.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 Approved:

Commissioner Wimmer moved approval of the Contract between the City of Fargo and Adelman Concrete and Excavating, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota.

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.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 Approved:

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

United Fire and Casualty Company, in the amount of \$58,465.00, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota.

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.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 Approved:

Commissioner Wimmer moved approval of the Contract between the City of Fargo and Adelman Concrete and Excavating, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of Fargo, North Dakota.

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.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 Approved:

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

United Fire and Casualty Company, in the amount of \$111,789.50, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of Fargo, North Dakota.

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.

(Commissioner Mahoney present).

Request for Construction onto the Rear of an Existing Home at 626 Hackberry Drive South Denied:

The Board received a communication from the River Lot Moratorium Committee stating the staff committee selected by the Board to review requests for construction on river lots within Fargo's jurisdiction has reviewed a request from Dan and Becky Fisher for a planned addition at 626 Hackberry Drive South and recommends denial of the request. They stated the Committee determined that neither the existing home nor the proposed addition are located far enough from the floodway line to allow construction of either a floodwall or levee that would be certifiable to FEMA standards. They said other concerns that were addressed by the Committee included the probability of later acquisition of the property after its value was increased as a result of the proposed project. The principal consideration, they said, was that no protection measure the City would make is capable of being certified to secure the eventual removal of the property from the regulatory floodplain.

Dan Fisher, the owner of the home at 626 Hackberry Drive South, provided pictures of the home as it had been prior to the 2009 flood and as it is now with most of the deck and the gazebo removed in anticipation of the 2011 flood. He said he is asking the City to approve a permit to square off the house adding 220 square feet in the back. He said a permanent dike over 41 feet has been placed and sodded in the rear yard through the City's incentive program. He said he has learned now the City set a protection goal of 42.5 feet and does not feel it is fair to change the rules.

Senior Planner Jim Hinderaker said preliminary indications are that the addition would be too close to the floodway and there is a high probability of a buyout or at least a partial buyout of the property. It does not make sense to add on to a property that may be part of an acquisition at a later date, he said. He stated the major issue is the property is too close and cannot accommodate construction of floodwall or a levee that is certifiable to FEMA standards. That, and the probability of issues with soil subsidence is another reason the Committee is recommending the Board deny the request, he said.

Commissioner Williams said there is some evidence that property values can be preserved by being protected and houses on the market without flood protection have not been selling.

City Engineer Mark Bittner commended the neighborhood for implementing the floodwalls. The improvements have made it possible to protect to higher levels with emergency measures, he said, however in the long term, for those levees to obtain certified status, property would have to be acquired. He stated with floods getting bigger now the cost difference between protecting property to a certain level and removing it are coming together. He said the rules do continue to change, and it

cannot all be done at once -- priorities need to be set on where there is a need for flood protection. He said protecting Hackberry Drive is important in the short term, however, a long term goal would be to acquire properties due to the fact that it is the only way a certifiable level of protection could be obtained.

Commissioner Wimmer said he could not support putting up a new structure where there was not one before; however, he would not be against any improvements in the interior.

At 5:15 p.m., the time advertised for public hearings, the Board deferred additional discussion on this item until after the hearings.

Parcels of Land in Brandt Crossing Third Addition Rezoned (4608 33rd Avenue South):

A Hearing had been held by the Fargo Planning Commission on July 5, 2011 to consider a petition requesting that the zoning on Brandt Crossing Third Addition be changed from LC, Limited Commercial and MR-3, Multi-Dwelling to LC, Limited Commercial with a Conditional Overlay.

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.

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 Plans, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Brandt Crossing Third Addition, Fargo, Cass County, North Dakota:

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

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

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

Resolution Adopted Approving Brandt Crossing Third Addition:

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 "Brandt Crossing Third Addition" containing 17 Lots, 1 Block, and 14.07 acres of land more or less, located at 4608 33rd Avenue South; and

WHEREAS, A Hearing was held July 5, 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, As announced in the City Commission agenda which was made available on August 4, 2011 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., on August 8, 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 "Brandt Crossing 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 the 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.

Request for Construction onto the Rear of an Existing Home at 626 Hackberry Drive South Denied (Continued):

City Administrator Pat Zavoral said staff discussion on the permit for the addition was only about changing the footprint of the building, not the interior. He said a suggestion is that if the City allows Mr. Fisher's expansion the value added could be a credit against future acquisitions. He said that could allow him to move on and the City would recognize there is some value to it and it can be a credit once it is established the property would be purchased.

Commissioner Mahoney suggested the compromise as stated by Mr. Zavoral be approved.

Notification and Acknowledgement Document of Pending Floodplain Revisions Approved:

The Board received a communication from City Engineer Mark Bittner stating FEMA has again revised the schedule for releasing for public comment updated Flood Insurance Rate Maps (FIRM). The proposed revisions, he said, will raise the Base Flood Elevation by approximately one foot through Fargo to River Gauge 39.5 feet. Mr. Bittner said the proposed raise will expand the 100 year flood

coverage area and the City, in conjunction with FEMA, will create a public information plan to advise potentially impacted property owners. As part of the public outreach plan, he said, PWPEC is recommending distribution of a "Notification and Acknowledgement" document to all building permit applicants located in the current or proposed floodplain.

Senior Engineer April Walker said the document is intended to provide information on the benefits of flood proofing to anyone who would be constructing new buildings or homes in the new floodplain and encourage building a flood proof foundation. She said they would acknowledge they have been informed of pending changes in the floodplain and benefits of flood proofing and would be required to sign off that they are choosing not to flood proof any future construction. Areas in the 100-year floodplain already require flood proofing, she said.

City Engineer Mark Bittner said currently developers are asked to voluntarily build to new floodplain requirements; however, there is no ordinance to enforce that. He said recommendations will come before the Board to adopt the new floodplain prior to FEMA adopting it.

Commissioner Piepkorn moved the Notification and Acknowledgement Document of Pending Floodplain Revisions for Distribution with Permit Applications be approved.

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

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

Flood Mitigation Project Status Report: Appropriate Staff Directed to Research Alternative Measures for Temporary Flood Protection:

The Board received a communication from City Engineer Mark Bittner stating flood risk reduction continues to be a high priority in the City of Fargo and attention to flood protection enhancement is based on the following critical issues:

1. Severe annual spring flooding requiring maximum efforts of public and private sectors to hold off disastrous flooding.
2. The extreme wet period that continues to supply well above average precipitation amounts.
3. The continuous and on-going rainfall that has kept local rivers above flood stage nearly all spring and summer with the strong likelihood of severe flooding again in 2012.
4. The severe flooding occurring over the entire state and the mid and north central part of the USA. The extent of flooding that occurred on the Missouri River most notably in the Bismarck-Mandan area and on the Souris River in the Minot area.
5. FEMA schedule for floodplain map revisions prior to the completion of the Fargo Moorhead Metro Area Flood Risk Reduction Diversion project. This current FEMA map revision will be based on the current standard hydrology with updated hydraulic model that will raise the 100-year Base

Flood Elevation (BFE) to 39.5' from the current level of 38.5' river gauge levels.

6. U.S. Army Corps of Engineers hydrology analysis from the Fargo Moorhead Metro Flood Study revealing a 100-year (1% frequency) flood stage of 42.4' based on the extended wet weather cycle extending back to the 1950's.
7. USACE preliminary updated hydrology that includes the recent floods of 2009, 2010 and preliminary 2011 appears to increase the 100 year flood flows through Fargo approaching 36,000 to 37,000 cubic feet per second. This represents an increase of approximately 7,000 CFS (24%) increase over the current FEMA modeled Red River of 29,300 CFS.

He said a number of levee and floodwall projects are in the development stages in anticipation of the 2011/2012 construction.

City Administrator Pat Zavoral said staff is challenged about what to present as an overall flood protection plan leading up to a diversion and which parts of a flood protection plan will become part of a diversion. He said a conclusion can be drawn that eventually projects will complement whatever happens with a diversion.

Senior Engineer April Walker said the focus this year has been working emergency levees into permanent protection. She gave a presentation on some of the important flood protection measures which are completed, in process, or planned, including North Oaks, Southwood, Fargo Country Club, Harwood Drive, River Vili, Timberline, Copperfield Court and Rose Creek. She said it is not structurally possible to keep all the existing trees or have room to replant trees in the Timberline and Oakcreek areas because certification requires 15 feet clearance on each side, with root free zones, and the need for room to get equipment in. She said not all property owners in Timberline have granted rights-of-entry which is preventing phase two from proceeding and is making completion difficult this year.

Commissioner Piepkorn stated flood protection of houses has to be a priority; trees can be replaced and the public should be aware of that.

Mr. Bittner said property valuation is a challenge, past acquisitions have been purchased on pre-flood conditions, but he does not know if that is what the Board wants now. If interested in getting projects done more quickly, he said, it may be necessary to acquire property. He said there may be willing sellers and progress could still be made this year.

Mayor Walaker said the bottom line is protection -- there are few options and revenue is needed. He said funds are not available to implement this protection and still be able to fund the City's share of a diversion. There needs to be support to extend the 1/2 cent infrastructure sales tax which ends in 2012, he said, and have that revenue for flood protection.

Commissioner Piepkorn said the public should also be made aware the changes by FEMA to the map will affect flood insurance costs.

Mr. Zavoral stated communication with neighborhoods is important, but attendance has been low at meetings between neighborhoods and the Engineering staff. Having a standing agenda item addressing specific neighborhoods, he said, would be a way to encourage engagement and work through the process. He stated preparation for another possible spring flood should begin now. The City has three million empty sandbags and 700,000 filled bags on hand, he said and he asked if

alternative methods to sandbags should be analyzed during this nonemergency period.

Commissioner Williams moved the appropriate staff be directed to continue researching alternative measures for temporary flood protection.

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.

Request for Construction onto the Rear of an Existing Home at 626 Hackberry Drive South Denied (Continued):

Commissioner Williams moved the request to construct the planned addition at 626 Hackberry Drive South be denied, consistent with the intent that construction projects on river lots not be allowed to proceed unless certifiable protection can be done to eventually remove the structure from the floodplain by LOMAR (Letter of Map Area Revision).

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.

Appointments to the Fargo Access Channel Board Approved:

The Board received a communication from Mayor Walaker recommending that Jana Tronier be reappointed to the Fargo Access Channel Board and Rose Marie Gueldner be appointed to the Fargo Access Channel Board to fill the expired term of Dean Sime.

Commissioner Williams moved Jana Tronier be reappointed and Rose Marie Gueldner be appointed to the Fargo Access Channel Board for three-year terms ending June 30, 2014.

Second by Mahoney. On call of the roll Commissioners Williams, Mahoney, Piepkorn, 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., Monday, August 22, 2011.

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

The time at adjournment was 6:58 o'clock p.m.