

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Tuesday: September 6, 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., Tuesday, September 6, 2011.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Mahoney,

Absent: Mayor Walaker.

Deputy Mayor Mahoney presiding.

Order of Agenda Approved:

Commissioner Williams 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 August 22, 2011 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. First reading of an Ordinance Amending Ordinance No. 4674 Rezoning Certain Parcels of Land Lying in Corwin Addition to the City of Fargo.
- b. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Rezoning Certain Parcels of Land Lying in the Northwest Quarter of Section 5, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.
- c. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 8/22/11:
 - (1) Rezoning Certain Parcels of Land Lying in 42nd Street Addition, Fargo, Cass County, North Dakota.
 - (2) Rezoning Certain Parcels of Land Lying in Urban Plains by Brandt First Addition, Fargo, Cass County, North Dakota.
 - (3) Rezoning Certain Parcels of Land Lying in Osgood Townsite Eighth Addition, Fargo, Cass County, North Dakota.
 - (4) Rezoning Certain Parcels of Land Lying in Courts Plus Addition, Fargo, Cass County, North Dakota.

- d. Forgiveness of housing rehab loan at 1411 10th Street North due to a demonstrated hardship.
- e. Receive, file and submit the 2010 Consolidated Annual Performance Evaluation Report to HUD.
- f. Acceptance of 2011 Emergency Shelter Grant allocation in the amount of \$16,666.67 from the State of North Dakota, Department of Commerce to assist with operations at the Gladys Ray Shelter (CFDA #14.231).
- g. Health Department contracts:
 - (1) Agreements with the Clay County Public Health Department in the event of a public health emergency and with Richland County Health Department to facilitate the provision of 24/7 on call public health services for the southeast region.
 - (2) North Dakota Department of Health contract for Title X Family Planning Program (CFDA #FP 93.217).
 - (3) Contract with Fargo Public Schools for nursing services for Special Education services for the 2011-2012 school year.
 - (4) Nursing services contracts with Central Cass School District, Fargo Public School District, Kindred Public School District and Northern Cass School District for the 2011-2012 school year.
- h. Application filed by Uptown Chattels, LLC for a five year tax property exemption for improvements made to a building at 6 Broadway.
- i. Site Authorizations:
 - (1) Ducks Unlimited, Inc. at the Doublewood Inn.
 - (2) Fargo Youth Hockey Association at Teamsters Arena.
- j. Applications for Games of Chance:
 - (1) United Way of Cass Clay for a raffle on 12/18/11.
 - (2) The Arc of Cass County for a raffle on 10/18/11.
- k. Purchase of one Trommel Screen from Sanitation Products for \$219,000.00.
- l. Memorandum of Understanding with the City of Moorhead and the Fargo Park District for the Pedestrian/Bicycle Bridge across the Red River (Project No. 5884-01).
- m. Program for homeowner licensing of vacant City lots previously acquired for flood mitigation purposes.
- n. Flood mitigation cost reimbursements to the Fargo Country Club: \$15,953.14 for golf course architectural services associated with proposed permanent clay levee; \$31,840.00 for tree removals associated with 2011 emergency flood levee construction.

- o. Declaration of flood protection elevation agreements with Cheryl Olson, Lee and Dorothy Allen, Gregory Butler, Milton and Barbara Lund, Karry and Tammy Hoganson, James and Carol Padden and Marc and Susan Shannon.
- p. Receive and file status report on FEMA cost recovery for 2011 flood event.
- q. Independent Auditor's Report and the City Comprehensive Annual Financial Report for the year ending December 31, 2010.
- r. Agreements for Entry and Construction in connection with the following projects:
 - (1) Robert Seinmyint Koh and Soe Soe Maw and Rick and Kim Rayl (No. 5949-3).
 - (2) Eric and Betty Nygaard (No. 6032).
 - (3) U-tag Investments I, LLC (No. 6042).
- s. Change Orders for the following Project Nos.:
 - (1) No. 1 for an increase of \$1,973.80 for No. 5919-01 (Final Balancing).
 - (2) No. 1 for an increase of \$1,549.00 for No. 5920-01 (Final Balancing).
 - (3) No. 1 for an increase of \$15,064.10 for No. 5921 (Final Balancing).
 - (4) Change Order No. 1 for an increase of \$28,822.50 for No. 6013-02.
- t. Bid award for Project No. 6059 to Key Contracting in the amount of \$44,300.00.
- u. Bid advertisement for Project No. 6058.
- v. Contracts and bonds for Project Nos. 5944-03, 6025, 6042.
- w. Bills in the amount of \$7,117,031.76.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. 5905 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$17,501.97 for Improvement District No. 5905.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract Time Extension for Improvement District No. 5963 Approved:

Commissioner Piepkorn moved approval of a Contract Time Extension to August 24, 2011 for Improvement District No. 5963.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Bids Received for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2:

The bids for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 31, 2011 and the bids were found to be as follows:

Tom's Backhoe Service, Inc. Bid:	Brainerd, MN \$1,061,222.50
Industrial Builders, Inc. Bid:	Fargo, ND \$1,325,767.75
Riley Brothers Construction Bid:	Morris, MN \$1,400,000.00

Contract for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 Awarded to Tom's Backhoe Service, Inc. in the Amount of \$1,061,222.50:

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 Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 31, 2011 for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 shows the bid of Tom's Backhoe Service, Inc. of Brainerd, Minnesota in the sum of \$1,061,222.50 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, Inc. in the sum of \$1,061,222.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 in the City of Fargo, North Dakota, be and the same is hereby awarded to Tom's Backhoe Service, Inc. for the sum of \$1,061,222.50, 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 Piepkorn, Wimmer, Williams and Mahoney voted aye.

Absent and not voting: Mayor Walaker.

The Resolution was adopted.

Bids Rejected for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045: Project to be Rebid:

The Board received a communication from City Engineer Mark Bittner stating bids were opened at 11:30 a.m. on August 31, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045. He said only two bids were received on this project and they were considerably higher than the Engineer's estimate. He recommended all bids be rejected, the assessment district be recreated and re-advertised based on the original petition and the results of the original protest period, with construction to be scheduled for the 2012 construction season.

Commissioner Piepkorn moved the bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045 be rejected and the project be rebid for the 2012 construction season.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Bids Rejected for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046: Project to be Rebid:

The Board received a communication from City Engineer Mark Bittner stating bids were opened at 11:30 a.m. on August 31, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046. He recommended all bids be rejected, the assessment district be recreated and re-advertised based on the original petition and the results of the original protest period, with construction to be scheduled for the 2012 construction season.

Commissioner Piepkorn moved the bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046 be rejected and the project be rebid for the 2012 construction season.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Bids Rejected for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052: Project to be Rebid:

The Board received a communication from City Engineer Mark Bittner stating bids were opened at 11:30 a.m. on August 31, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052. He said only two bids were received on this project and they were considerably higher than the Engineer's estimate. He recommended all bids be rejected, the assessment district be recreated and re-advertised based on the original petition and the results of the original protest period, with construction to be scheduled for the 2012 construction season.

Commissioner Piepkorn moved the bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052 be rejected and the project be rebid for the 2012 construction season.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6060 (Davies 2nd Addition):

Commissioner Piepkorn moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6060:

Adopt Resolution Creating Improvement District No. 6060:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6060 in the City of Fargo, North Dakota, be created

67th Avenue South from 25th Street South to its termination approximately 900 feet to the east.

68th Avenue South from 24th Street South to its termination approximately 100 feet to the east of 23th Street South.

23th Street South from 68th Avenue South to 70th Avenue South.

24th Street South from 68th Avenue South to 70th Avenue South.

COMPRISING:

All lots platted in the Davies 2nd Addition bounded to the north by 65th Avenue South and bounded to the south by 70th Avenue South located in the Northwest Quarter of Section 12, Township 138 North, Range 49.

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 Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6060 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. 6060:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6060 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$2,094,546.30.)

Order Plans and Specifications for Improvement District No. 6060:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6060 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6060:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6060 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. 6060 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6060:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6060 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6037 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Opp Construction Company for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6037 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6037 Approved:

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

Travelers Casualty and Surety Company of America, in the amount of \$55,259.95, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6037 in the City of Fargo, North Dakota.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

(Mayor Walaker present via conference call.)

Application Filed by Danial Curtis to Lower the 2009 and 2010 Valuation on 924 5th Street South Approved:

The Board received a communication from City Assessor Ben Hushka recommending the application filed by Danial Curtis for Abatement or Refund of Taxes #4378 and #4379 on 924 5th Street South for the 2009 and 2010 tax years, reducing the valuation from \$98,200 to \$72,200 be approved. He said in attempting to appraise this property for building permit work done several years ago, the Assessor's Office was unable to gain entrance and subsequently had to estimate a value based on certain assumptions. He said after being allowed into the property, the Assessor's Office conducted market research and reduced the valuation from \$98,200.00 to \$72,200.00. The applicant is also asking for a disability exemption, he said, but at this point he is only recommending the disability tax credit for this year. He stated if documentation is received showing Mr. Curtis is eligible for a disability exemption in previous years that credit can be granted without going through the abatement process.

Commissioner Piepkorn moved the applications #4378 and #4379 filed by Danial Curtis for Abatement of 2009 and 2010 real estate taxes on property located at 924 5th Street South be approved and that the City Auditor's Office be directed to certify this action on the part of the Board to the County Auditor of Cass County, North Dakota.

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

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

Contract Time Extension for Improvement District No. 5805 Denied:

The Board received a communication from the Public Works Projects Evaluation Committee stating the Committee reviewed correspondence from Master Construction regarding a contract time extension and completion dates for Improvement District No 5805. They said notice to proceed was issued on June 30, 2010 with a completion date set for October 22, 2010. Late in the summer of 2010, they said, staff became concerned with Master Construction's ability to successfully complete this project and connecting Improvement District No. 5806, therefore, Master Construction was directed to concentrate efforts on Improvement District No. 5806 since Master Construction was unable to field the necessary construction crews for completion of both projects as required. Master Construction, they said, has requested a contract time extension to August 19, 2011 (substantial) and August 26, 2011 (final completion) citing delays associated with the 2011 spring flood, private utility relocation delays and material delivery delays as a basis for the request. They said the Committee is recommending denial of the request.

Mr. Bittner said the Committee also recommended staff limit the use of administrative time extensions for things that are out of the control of the contractor such as bid award delays, conflicting project priorities or early winter project shutdowns.

Commissioner Williams moved the Contract Time Extension to August 19, 2011 for Master Construction for Improvement District No. 5805 be denied and

appropriate staff be directed to limit use of administrative time extensions with submission of such actions to the City Commission as soon as practical.

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

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

Gary Groberg Appointed to the Library Board:

The Board received a communication from Mayor Walaker recommending that Gary Groberg be appointed to the Library Board to fill the unexpired term of Dawn Morgan who resigned.

Commissioner Wimmer moved the appointment of Gary Groberg to the Library Board for the term ending June 30, 2014 be approved.

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

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

Parcels of Land in West 29 3rd Addition Rezoned (2801 39th Street South):

At a Hearing held on August 2, 2011 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agriculture to GC, General Commercial on Lots 1 and 2, Block 1, West 29 3rd Addition.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

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

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

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, Williams, Walaker and Mahoney 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 West 29 3rd 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 West 29 3rd Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

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

Resolution Adopted Approving West 29 3rd 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 "West 29 3rd Addition" containing 2 Lots, 1 Block, and 7.22 acres of land more or less, located at 2801 39th Street South; and

WHEREAS, A Hearing was held August 2, 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 August 22 and 29, 2011 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 6, 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 "West 29 3rd 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 Applicant 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, Walaker and Mahoney voted aye.

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

Discussion Regarding City Pension Plans:

Commissioner Piepkorn said he would like to discuss the City's pension plans because he has concerns with the funding of the existing pension plans. The City has outstanding employees, he said and this is not about employees, this is about the City's financial situation. His main concern, he said, is taxpayers are exposed to potential losses if there is a large drop in the stock market because losses to the pension funds would have to be recouped.

Commissioner Williams said it is good to revisit the topic and there may be ways to transition a change. He said it is important that the pension funds are stabilized and that there is representation and input from employees regarding changes. A proposal in the budget to change the retirement age in the City Pension Plan from age 62 to age 65 should involve some transition time, he said.

Director of Finance Kent Costin said a decision involving changes to the pension plan would be premature. The Finance Committee deferred action on the pension plan directly to the Budget Development Team, he said, and what is in the budget now is a result of that action which also addresses some of the budget shortfalls. Currently, he said, the City contributes to four different pension systems, all having different plan and benefit designs: the Police plan, the Fire plan, NDPERS plan and the City Employee's Pension Plan. He said Police and Fire opted out of Social Security years ago so the pension plan is their primary retirement funding. A section in the budget book is dedicated to pensions, he said, which covers funding, systems, plans and how they work, as well as a Public Funds Study of similar plans. He said ninety percent of government systems offer a defined benefit pension plan. Pension funding took a big hit in 2008 and 2009 due to the national economy but it is coming back slowly, he said. He said the City has been proactive in moving the core group to NDPERS and contemplating increasing the retirement age. Investment strategies have not been changed at this point, he said, and the City is following the path of the State Legislature, which endorsed continuing a defined benefit structure and mandated more funding.

Commissioner Piepkorn said there should be a task force or some other means to speed up the process. This is a critical issue, he said, and action should be taken. He said everyone that has a pension will say they want to keep it, but the world is changing and there has to be a way to gradually move away from this old system.

Commissioner Mahoney suggested an educational session be held for Commissioners to outline various aspects of the different plans with an opportunity to hear from the pension boards and employees.

2012 Preliminary Budget Adopted: Public Hearing Set for September 19, 2011:

The Board received a communication from Mayor Walaker stating the 2012 preliminary budget has been completed. He recommended the City Commission approve the preliminary budget as presented and set the required hearing date for September 19, 2011, at which time any citizen or other interested individuals can comment or make inquiries about the proposed budget.

Director of Finance Kent Costin said he is asking for approval of the preliminary budget. He said the budget has been discussed individually with the Commissioners. He said the Home Rule Charter says the Mayor must present a preliminary budget by September 1 and the budget process must be completed by October 7. Once a preliminary budget is approved, he said, it cannot be raised, only lowered.

Commission Piepkorn said he feels he was not involved in the process and first saw the budget last Friday. He said he has a difficult time justifying a vote on a budget of nearly \$219 million dollars within such a short timeframe. He said he was shocked Commissioners would approve the budget so quickly and just accept it as staff presented.

Commissioner Williams said staff should be proud that valuations are going up. He said the departments are doing a good job of being efficient. The \$.50 forestry fee increase is justified because of an aggressive plan, he said; however, he does not agree with an increase in rates for water of 1.5% and wastewater of 2.0%. He said there are new revenues such as effluent sales to the ethanol plant and increased

innovation and efficiencies. The budget has gone up 4%, he said, and the water and wastewater increase is only a few hundred thousand dollars so it would send a good message to taxpayers and staff to hold the line on those fees.

Mayor Walaker apologized if Commissioners were not notified that they could attend budget meetings with their portfolio; however, he said, he feels the rate increases included in the preliminary budget for forestry and water/wastewater are appropriate. The cost of fuel and chemicals have increased immensely, he said, and it has been too long since an increase. He said small incremental fee increases more frequently, perhaps every three years, are better than large increases every six or ten years, for example,

Commissioner Wimmer agreed the Board could be more involved in the budget process but said he is more comfortable with the proposed budget and agrees small step increases in rates are prudent.

Commissioner Williams said he will not support the motion to approve the preliminary budget because he does not agree with an increase in water and wastewater rates. The job of government is to be more efficient and do more with the money received, he said, which is happening; however staff and citizens should be rewarded for innovation and efficiencies of the departments by not having rates increased.

Commissioner Wimmer moved the 2012 preliminary budget be received and the public hearing on the preliminary budget be set for September 19, 2011 at 6:00 p.m.

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

Commissioners Williams and Piepkorn voted nay.

The motion was declared carried.

(Mayor Walaker absent.)

Transition to the North Dakota Public Employees Retirement System Health Plan Effective January 1, 2012 Approved:

The Board received a communication from City Administrator Pat Zavoral, Director of Human Resources Jill Minette and Director of Finance Kent Costin stating over the past few years the City has been considering moving under the North Dakota Public Employees Retirement System (NDPERS) Health Insurance Plan. They said in order to ensure the City's continued status as a grandfathered plan under the Patient Protection and Affordable Care Act (PPACA) the City asked Roger Stilljes, Attorney with McGrann Shea, to review the terms of the transfer to NDPERS. Based on Mr. Stilljes legal opinion, they said, the transfer of participants from the City of Fargo Health Trust to the NDPERS plan should not compromise the grandfathered status. They said the transfer to NDPERS will result in a reduction of the total premium for family plans and an increase for the single plan. They recommended the additional contribution for the single plan be added to the City's contribution with no change to the employee's monthly contribution.

Mr. Zavoral stated health care costs have been increasing -- in 2000 it was 1% of the budget compared to a possible 6% this year. There could be an increase of 15-20% if the City stayed with the current self-funded plan, he said, while there could

be about \$600,000.00 savings over 18-months beginning in January if the City locks into the NDPERS Health Insurance Plan.

Ms. Minette outlined differences between the current plan and NDPERS and said there would be potential savings to employees because of lower deductibles, co-pays and out-of-pocket maximums. She said one of the big differences is in the prescription drug coverage since NDPERS has a coinsurance compared to the current flat co-payments. She said the plan would be to allow sufficient time to prepare staff and retirees for the upcoming changes and share information at the October Employee Fair.

Commissioner Wimmer moved the transition to the North Dakota Public Employees Retirement System Health Insurance Plan effective January 1, 2012 be approved and appropriate staff be directed to execute the application and enrollment process.

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

Absent and not voting: Mayor Walaker.

The motion was declared carried.

Update on Flood Projects:

The Board received a communication from City Engineer Mark Bittner with a map outlining levee construction for Rose Creek flood risk reduction on 25th Street east to the Old Milwaukee Bike Trail. He distributed a list of fall flood acquisitions in River Vili and Harwood Groves, and an updated summary of flood projects.

In response to a question from Commissioner Wimmer about the progress in Harwood Groves, Mr. Bittner said since the last meeting an additional property owner on the east side of Harwood Groves wants to put a levee in his rear-yard, but at this point the only option is to go ahead with the project on his own through the flood protection incentive program, which the City would fund up to a cap. He said to have them build to a certifiable level in the future the City would need to provide engineering services to support that which may cost more than the homeowner is willing to pay. At this point, he said, since the Board seems most interested in setting priorities, he will continue to give overall perspectives on flood protection projects.

In response to a question from Commissioner Williams about timelines for FEMA certification and expected changes in flood insurance rates, Senior Engineer April Walker said the answer will vary with neighborhoods as flood protection and certification is attained. FEMA has indicated it is still on target and plans to have the preliminary flood maps at the end of September, she said, though it could take up to two years for FEMA to adopt, after which properties will need to be insured to that risk level. If mortgage lenders are forcing policyholders to carry flood insurance prior to new rates; that is outside of the City's control, she said. A new website, "www.fargofloodinsurance.com" has been launched, she said, to assist in educating the public about flood insurance. She said it is in a homeowner's best interest to purchase preferred risk flood insurance before that new rate goes into effect.

City Administrator Pat Zavoral said if flood insurance is in place prior to the adoption of the new flood plain, as he understands it, rates would be grandfathered in for two years. The goal, he said, is to have the entire City protected and certified to avoid higher risk rates.

Discussion Regarding the Road Map for Certified Flood Protection:

The Board received a communication from City Administrator Pat Zavoral stating the operating principles for certified flood protection should be discussed. He outlined the steps taken or proposed by the City to provide real and certifiable flood protection:

- Identify and inventory existing platted/developed neighborhoods that fall below proposed FEMA 100-year elevation either by individual lot elevations or perimeter protection.
- Adopt ordinance for all new subdivisions to meet Corps of Engineers suggested flood elevation standard - 42.5 feet and setback requirements from rivers and legal drains.
- Prepare engineering studies and plans to protect existing neighborhoods to Corps standards of 42.5 feet.
- Develop incentive plan to support individual homeowners to protect lots to 42.5 feet.
- Consider earthen levees wherever possible. Use alternative flood protection measures only if earth levee option is not feasible due to soil conditions or proximity to homes using the Corps guidelines for setback requirements and commonly accepted engineering practices.
- Recognize that existing subdivisions that are either protected or lot elevations are at or above the proposed FEMA 100-year event but not to 42.5 feet will receive a lower priority for protection until the other lower lying lots and subdivisions are addressed.
- Develop plans to protect property south of I-94 along the Red River and legal drains; north of I-94 to 5th Avenue South; 5th Avenue South to 6th Avenue North; 6th Ave North to the north of city limits along the Red River.
- Prioritize neighborhood projects relative to floodplain elevations, cost of benefit relating to buyouts versus protection (earth levees versus structural solutions versus buyouts), and availability of funding.
- Tree removal for flood control will be accepted with a requirement that there be a two for one replacement policy.
- Projects without rights-of-way issues will receive higher priority in levee development.

Mr. Zavoral suggested Commissioners take a couple of weeks to look over the principles and he will bring them back for approval.

Commissioner Wimmer said the outline of operating principles will be helpful when addressing concerns and questions from the citizens.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, September 19, 2011.

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

The time at adjournment was 6:15 o'clock p.m.