

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: September 19, 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, September 19, 2011.

The Commissioners present or absent were as shown following:

Present: Mahoney, Piepkorn, Williams, Wimmer (via conference call), Walaker.

Absent: none.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved moving Item "dd" from the Consent Agenda to the Regular Agenda and omitting Item No. 6 in the Regular Agenda.

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on September 6, 2011 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 9/6/11:
 - (1) Amending Ordinance No. 4674 Rezoning Certain Parcels of Land Lying in Corwin Addition to the City of Fargo.
 - (2) 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.
 - (3) Rezoning Certain Parcels of Land Lying in West 29 3rd Addition, Fargo, Cass County, North Dakota.
- b. Receive and file Year to Date – Budget to Actual Report for August 2011.
- c. Agreement with Cass County Emergency Management for emergency and disaster response for the southeast region of North Dakota.
- d. Contract with the Mapleton School District for nursing services for the 2011-2012 school years.

- e. Support for a joint application for State Small Business Credit Initiative (SSBCI) funds.
- f. NDPERS health insurance premium structure effective January 1, 2012.
- g. Master Agreement for Consulting Services and PCI Compliance Assessment Statement of Work with Quality Business Solutions (QBS).
- h. Police Department budget adjustment in the amount of \$29,600.00 and NDDOT grant agreements for Impaired Driving Enforcement (CFDA #20.601 and Safety-Belt Education and Enforcement (CFDA #20.600).
- i. Acceptance of grant funding in the amount of \$92,399.00 and the required matching contribution of \$19,750.00 for the Federal COPS Secure Our Schools Grant (CFDA #16.710).
- j. Memorandum of Understanding with FirstLink to allow the use of 2-1-1 as a resource for specialized transportation providers.
- k. Funding assistance in the amount of \$2,500.00 for the Red River Youth Festival.
- l. Request of the Downtown Community Partnership for an extension of the noise ordinance from 10:00 p.m. to 11:00 p.m. on Saturday, October 8, 2011 for live music on Broadway in front of the Old Broadway and in the Empire Tavern North parking lot for Oktoberfest 2011 and to hang banners in the skyway from October 1 to October 9, 2011 to promote the Oktoberfest Fargo event.
- m. Site Authorization for Team Makers Club, Inc. at Lucky's 13 Pub.
- n. Applications for Games of Chance:
 - (1) Centennial School PTA for bingo from 10/28/11 to 4/27/12.
 - (2) Student Dietetic Association for a raffle on 11/3/11.
 - (3) NDSU Sigma Alpha Epsilon for a raffle on 9/30/11.
 - (4) Dan Fischer Benefit for a raffle on 10/23/11; Public Spirited Resolution.
- o. Bid award for fine aggregate for the Street Department to Aggregate Industries at \$8.49/ton.
- p. Purchase of copy machine for the Public Works Department from Reardon Office Equipment, Inc. for \$16,542.00.
- q. Lease purchase one motor grader with wing from Swanston Equipment for \$203,210.00.
- r. Amended capital improvements plan for the 2011 Landfill budget.
- s. Request for Proposals for the potential sale of 282 acres of City owned property in Harwood Township.

- t. Third Amendment to Lease of Rights to Sewer System with the City of Harwood.
- u. License Agreement with WAPA for municipal infrastructure occupying WAPA power line easement across Silverleaf Addition (Improvement District No. 6057).
- v. CenturyLink proposal in the amount of \$22,546.12 for utility line relocation within the Timberline Flood Risk Management area (Project No. 5949-03, Phase 2).
- w. Special assessment financing for rail spur extension at 1210 47th Street North (Project No. 6073).
- x. Engineering Services Agreement with Ulteig Engineers in the amount of \$8,500.00 for Project No. 6042.
- y. Agreements for Entry and Construction for the following Projects:
 - (1) Engkjer Financial, LLLP (No. 5949-3).
 - (2) The Evangelical Lutheran Good Samaritan Society (No. 6032).
- z. Declaration of Flood Protection Elevation agreements with Iyad Alkhouri, Thomas and Mary Moberg, Shirley Sorenson, John and Bonita Greenwood and Carl and Nancy Granberg.
- aa. Change Orders 3A and 3B for time extensions to Project No. WW0901.
- bb. Change Order No. 4 for an estimated increase of \$743.00 and Change Order No. 5 for an increase of \$33,402.65 for Project No. 5906.
- cc. Contract time extension for Project No. 6030.
- dd. Change Order No. 2 for an increase of \$313,539.45 for Project No. 6031 and contract time extension (moved to the Regular Agenda).
- ee. Change Order No. 6 for an increase of \$27,103.15 for Project No. 5944 and contract time extension No. 2.
- ff. Bid awards for Project Nos. 5958-02 to North Pine Aggregate in the amount of \$590,017.35; and 6064 to Northern Improvement Company in the amount of \$182,965.00.
- gg. Bid advertisement for Project No. 6041.
- hh. Contract and bond for Project No. 6059.
- ii. Bills in the amount of \$7,501,831.56.

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

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

No Protests Received for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on August 15 and 22, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2.

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

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

Bids Received for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2:

The bids for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 14 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$515,956.39
Paras Contracting, Inc. Bid:	Fargo, ND \$599,337.96
Opp Construction Company Bid:	Fargo, ND \$612,579.76
Northern Improvement Company Bid:	Fargo, ND \$622,426.68

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 Awarded to Dakota Underground Company in the Amount of \$515,956.39:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 14, 2011 for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 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. 5945-2 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$515,956.39 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 \$515,956.39 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$515,956.39, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Asphalt Pavement and Incidentals Improvement District No. 6038: Protests
Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of Asphalt Pavement and Incidentals Improvement District No. 6038 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on August 15, 22 and 29, 2011 and protests representing 42.95 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

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

Bids Received for Asphalt Pavement and Incidentals Improvement District No. 6038:

The bids for Asphalt Pavement and Incidentals Improvement District No. 6038 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 14, 2011 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$133,053.00
Border States Paving, Inc. Bid:	Fargo, ND \$135,618.75
Central Specialties Bid:	Alexandria, MN \$141,377.50

Contract for Asphalt Pavement and Incidentals Improvement District No. 6038
Awarded to Northern Improvement Company in the Amount of \$133,053.00:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Asphalt Pavement and Incidentals Improvement District No. 6038; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 14, 2011 for Asphalt Pavement and Incidentals Improvement District No. 6038 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Pavement and Incidentals Improvement District No. 6038 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$133,053.00 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 Northern Improvement Company in the sum of \$133,053.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Pavement and Incidentals Improvement District No. 6038 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$133,053.00, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Piepkorn, Williams, Wimmer and Walaker voted aye.

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals
Improvement District No. 6049:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6049 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 14, 2011 and the bids were found to be as follows:

Ryan Contracting	Shakopee, MN
Bid:	\$404,560.72

Kindred Plumbing and Heating, Inc.	Kindred, ND
Bid:	\$415,310.18

Dakota Underground Company	Fargo, ND
Bid:	\$419,706.80

Shermans, LLC	West Fargo, ND
Bid:	\$451,794.02

Sellin Brothers, Inc.	Hawley, MN
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Bid:

\$486,522.18

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6049 Awarded to Ryan Contracting in the Amount of \$404,560.72:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6049; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 14, 2011 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6049 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6049 shows the bid of Ryan Contracting of Shakopee, Minnesota, in the sum of \$404,560.72 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 Ryan Contracting in the sum of \$404,560.72 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6049 in the City of Fargo, North Dakota, be and the same is hereby awarded to Ryan Contracting for the sum of \$404,560.72, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on August 15 and 22, 2011 and protests representing 39.1 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

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

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 14, 2011 and the bids were found to be as follows:

Key Contracting Bid:	Fargo, ND \$123,716.00
Adelman Concrete and Excavating Bid:	West Fargo, ND \$131,853.00
Opp Construction Company Bid:	Fargo, ND \$150,803.40
Dakota Underground Company Bid:	Fargo, ND \$165,213.00

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 Awarded to Key Contracting in the Amount of \$123,716.00:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 14, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 shows the bid of Key Contracting of Fargo, North Dakota, in the sum of \$123,716.00 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 Key Contracting in the sum of \$123,716.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6053 in the City of Fargo, North Dakota, be and the same is hereby awarded to Key Contracting for the sum of \$123,716.00, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Piepkorn, Williams, Wimmer and Walaker voted aye.

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 14, 2011 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$271,974.00
Shermans, LLC Bid:	West Fargo, ND \$300,244.15
Ryan Contracting Bid:	Shakopee, MN \$303,700.45
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$317,465.25
Sellin Brothers, Inc. Bid:	Hawley, MN \$376,972.75

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 Awarded to Dakota Underground Company in the Amount of \$271,974.00:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 14, 2011 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$271,974.00 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 Dakota Underground Company in the sum of \$271,974.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$271,974.00, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Piepkorn, Williams, Wimmer and Walaker voted aye.

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

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

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Tom's Backhoe Service, Inc. for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 Approved:

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

Granite Re, Inc., in the amount of \$1,061,222.50, for Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729-2 in the City of Fargo, North Dakota.

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

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

Final Form of the Developer Agreement for Tax Increment Financing District 2011-01 Approved:

The Board received a communication from Planning Director Jim Gilmour stating the Developer Agreement for the Shotwell Commons Tax Increment Financing Plan which was approved at the April 4, 2011 Commission Meeting is now in final form. A notable change in the agreement, he said, is to allow the developer more time to complete the project. The change, he said, would add up to 17 months to complete the project moving the completion date from July 31, 2012 to December 31, 2013. He said the project has taken the developer longer to start than was anticipated and while the additional time has been requested, it will not increase the maximum time, 15 years, of the TIF district.

Commissioner Williams said he would like to reiterate that this project would have happened whether or not the City approved this TIF.

Commissioner Piepkorn moved the final form of the Developer Agreement with SCD, LLC for Tax Increment Financing District 2011-01 for the Shotwell Commons development project be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Staff Directed to Continue to Monitor the Speeding Situation on 18th Avenue South:

The Board received a communication from Tony Gehrig, 806 18th Avenue South, stating in the summer of 2010 the City Commission approved four medians on 18th Avenue South. These medians, he said, were placed with minimal resident input for the stated reason of slowing traffic flow. By minimal, he said, a proposal letter was sent out and a week later the project began with no resident feedback. He said to date he has counted at least five signs being knocked down by vehicles traveling on 18th Avenue South. He said his proposal would be to remove the medians and to add more speed limit signs and police enforcement.

Senior Engineer Jeremy Gorden said what the Engineering Department is trying to do in this area is create a visual buffer and add friction to the street to get drivers to slow down. He said the Engineering Department was asked to address a speeding and pedestrian issue and Engineering and staff felt that the medians were the right thing to do in this area.

Chief of Police Keith Ternes said this is the first he has been made aware that there is a problem in this area. He said he will have his officers pay more attention to this area and work with Jeremy Gorden to gather more data by possibly setting up a speed trailer to get an idea of the times when speeding seems to be a problem.

Commissioner Williams moved the appropriate staff be directed to continue to monitor the speeding situation on 18th Avenue South.

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

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

Renaissance Zone Project for Wheeler and Associates, PC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Wheeler and Associates, PC at 35 North 4th Street.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Wheeler and Associates, PC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved. He said there is no local tax benefit for this business as it was used by the previous owner of the building.

Commissioner Piepkorn moved the Renaissance Zone application filed by Wheeler and Associates, PC for a project located at 35 North 4th Street be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Renaissance Zone Project for The Title Company, LLP Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for The Title Company, LLP at 35 North 4th Street.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by The Title Company, LLP meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Piepkorn moved the Renaissance Zone application filed by The Title Company, LLP for a project located at 35 North 4th Street be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Parcels of Land in Davies Second Addition Rezoned (6744 25 Street South):

At a Hearing held on September 6, 2011 the Fargo Planning Commission recommended approval of a change in zoning from SR-4, Single-Dwelling to MR-3, Multi-Dwelling on Lots 1-3, Block 1; Lots 4-18, Block 1; Lots 2-10; Lots 12-15, and Lots 17-37, Block 2; all of Block 3 and Block 4 be reaffirmed as SR-4, Single-Dwelling; and from SR-4, Single-Dwelling to P/I, Public Institutional on Lot 19, Block 1 and Lots 1, 11, and 16, Block 2 all in the proposed Davies Second 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 Mahoney 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 Mahoney, Piepkorn, Wimmer and Walaker voted aye.

Commissioner Williams voted nay.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Davies Second Addition, Fargo, Cass County, North Dakota:

Commissioner Mahoney 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 Davies Second Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Commissioner Williams voted nay.

The motion was declared carried.

Resolution Adopted Approving Davies Second Addition:

Commissioner Mahoney 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 "Davies Second Addition" containing 90 Lots, 4 Blocks, and 43.687 acres of land more or less, located at 6744 25th Street South; and

WHEREAS, A Hearing was held September 6, 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 September 12 and 19, 2011 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 19, 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 "Davies Second 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 Mahoney, Piepkorn, Wimmer and Walaker voted aye.

Commissioner Williams voted nay.

The Resolution was adopted.

Parcels of Land in Phoenix Addition Rezoned (4301 19th Avenue North):

At a Hearing held on September 6, 2011 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LI, Limited Industrial on Lot 1, Block 1 of the proposed Phoenix 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 Piepkorn 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 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.

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

Commissioner Piepkorn 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 Phoenix Addition to the City of Fargo, Cass County, North Dakota be placed on first reading.

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

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

Resolution Adopted Approving Phoenix Addition:

Commissioner Piepkorn 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 "Phoenix Addition" containing 1 Lot, 1 Block, and 30.00 acres of land more or less, located at 4301 19th Avenue North; and

WHEREAS, A Hearing was held September 6, 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 September 12 and 19, 2011 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., September 19, 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 "Phoenix 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Williams, Mahoney, Wimmer and Walaker voted aye.

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

Draft Fargo Sign Code Approved:

A Hearing had been held by the Fargo Planning Commission on July 5, 2011 to consider approval or denial of the draft Fargo Sign Code, and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

The Board received a communication from Senior Planner Jim Hinderaker stating on March 22, 2011 the Sign Code Committee held three public meetings and one Technical Committee Meeting wherein the Committee recommended a number of changes to the Fargo Sign Code as adopted via Ordinance No. 4772. The primary changes, he said, include the following:

1. Modification of the total number of days that a portable sign may be placed at the same location as a single occurrence from 14 days to 30 days.
2. Modification of the total number of days per year a portable sign can be placed at a single location from 84 days to 98 days.
3. Creation of a Community Wide Event signage provision that allows 501(C) tax exempt organizations to use portable signs at off-site locations without signs being deemed as "off-premise" signs.

The only other thing he would like to point out, he said, is that the existing language that was adopted at the end of last year regarding on and off premise signs is intact. He said there were no changes to those particular sections of the sign code.

Tracy Slaaen, Scott's Signs, said this has been a long process and the portable sign industry feels that some ground has been made during this time; however, the portable sign industry hopes this will be something that will be reviewed again down the road.

Commissioner Piepkorn said there was a lot of agreement with things in the Sign Code; however, with the portable sign industry there are still some things that they have some concerns about. His suggestion, he said, would be to split the ordinance into two separate ordinances with the majority of the ordinance going into one part and the portable sign information into another. That way, he said, if the portable sign industry comes back and wants to make changes the whole Sign Code would not have to be addressed; just the portable sign section could be focused on.

Commissioner Piepkorn moved the Fargo Sign Code be approved as presented separating the portable sign section into a separate ordinance.

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

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

Fargo Public Schools RFP for Garbage Collection Services Approved:

The Board received a communication from Solid Waste Utility Manager Terry Ludlum stating Fargo Public Schools recently contacted the Division of Solid Waste giving notification of a Request for Proposals (RFP) that had been advertised for a new contract for garbage collection services. He said the RFP asked for a monthly charge for the nine school months plus an "on-call charge" (price per cubic yard) through the summer vacation months. The RFP also stated, he said, that additional consideration would be given to companies that can assist in reducing the waste stream through better recycling efforts and could assist in disposal of yard and tree waste. He said in response to the RFP the following are the proposed fees:

Monthly Charge – September through May	\$8,533
Per yard "on-call" Charge – June through August	\$2.65
Price per roll-off construction dumpster's	\$75/pull, plus If-fees

He said one of the things that Solid Waste pursued was trying to look for a way to give the School District a discount to the City's resolution fee matrix due to the fact that they are a similar taxing entity. Solid Waste, he said, was able to do that with the revenue that would be generated from the School District's cardboard. He said this will not be an offer that is made to anyone else in town, but rather as another way of helping a similar taxing entity.

John McIntosh, Account Manager for Waste Management, said Waste Management has been the hauling and recycling company for the Fargo Public Schools for 15 plus years with consecutive three year contract terms. He said he was told by the City of Fargo that the City could not legally bid at rates that were below the published rates and was very surprised at the bid opening to see that the City of Fargo had bid the contract below the published rates. The City, he said, will be spending more money to buy equipment and charging less and eliminating the money collected from Waste Management for disposal and taking away opportunity and business from private haulers. It may be legal, he said, but it does not seem ethical.

Commissioner Piepkorn said his main concern is that the City wants to work with the School District, however, the key thing is when the City is setting the price and then the City bids against a company who is buying something from the City, there has to be a conflict there. The City, he said, competing against a private business is questionable.

Commissioner Williams said he does not feel the private sector is always the answer and he feels that it helps to level the market.

Commissioner Williams moved the proposed fees in response to the Fargo Public Schools RFP for garbage collection services be approved.

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

Commissioner Piepkorn voted nay.

The motion was declared carried.

At 6:15 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Tax Levies for the Budget Year Beginning January 1, 2012 and Ending December 31, 2012 Approved:

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for a Hearing on the 2012 Budget and Tax Levies at which time all interested persons could appear and would be heard.

The Board received a communication from Director of Finance Kent Costin stating during the last legislature HB 1194 was passed with the intention of increasing the public's awareness of changes in the proposed property tax levies for 2011, payable in 2012 for all political subdivisions. Two key provisions, he said, of the newly adopted bill are to publish a larger than average ad in the newspaper indicating the proposed tax levies and inviting the public to comment on them at a public hearing which must be held before the preliminary budget hearing. He said only one written comment was received regarding the budget and that was from Vivian Dunford, 1721 14 1/2 Street South.

Commissioner Williams said in the narrative Mr. Costin provided, it states that the City of Fargo currently ranks in the lower 3rd of the recent regional survey. He said he believes that there is a mistake with that calculation and that the City is actually the 3rd highest in the tri-state region. Since the City is getting more money from the state, he said, and the City has some good efficiency revenues from innovative projects, the City could do without the utility increase.

Eric Dodds, AE2S, said the utility rate survey is from respondents in the tri-state region that AE2S puts together every year. The water utility rate survey this year, he said, is based upon average usage of about 55,000 gallons per household, which is fairly accurate for the City of Fargo. He said Fargo is typically in the upper end of the water utility rates. This is a rate survey and not every utility responds, he said, and there are many different ways to fund projects within utilities. He said utility rates are just one barometer for a comparison with other utilities, but it is not the only barometer. It is great information, he said, that a lot of utilities like to have, but it must be recognized that it is a rate survey and there is a lot of complex information that goes into managing the utilities.

Enterprise Director Bruce Grubb said back in November of 2008 the City had an informational meeting where a financial model, which was called a revenue adequacy model, was presented. He said the reasoning behind this model was to determine what needed to happen with water and sewer rates over the 20 year life of the new infrastructure sales tax that was set to initiate in 2009. At that time, he said, he presented the models for both utilities to the Commission with a warning that he would like to hold the line for three consecutive years with no rate increases, due to the fact that the infrastructure sales tax was starting in 2009. Then after that, he said, he asked AE2S to keep the rate increases lower than the inflationary rate which at that time was 3%. That model, he said, took all of the comprehensive water utility expenses and waste water utility expenses as well as all of the comprehensive revenues including infrastructure expenses and infrastructure sales tax revenue so, at the end of the day, what came out of the model was that the rate increase would happen in 2012. He said when he went into the budget meeting; he informed the Mayor that he would like to update the model because the City had three years of actual numbers. He said from the revenue and expense standpoint, although infrastructure sales tax revenues have been slightly less than what was projected, infrastructure construction cost expenses have also been less. He said the model has been updated and still promotes the rate increase.

Commissioner Piepkorn said, in regard to the City pension, in 2008 the investment income was at a loss of \$18.5 million which is obviously where the set back occurred and the City is still trying to catch up. Again this year, he said, the taxpayers will be putting in another \$5 million to the retirement funds. He said he would like to propose as of January 1, 2012 that any new employee, excluding Fire and Police employees, go to a 401k type plan. He said this would be just the beginning of firming up the pension plan.

Commissioner Mahoney moved the 12-month budget beginning January 1, 2012 and ending December 31, 2012 be approved as follows and that the 2012 mill levy be set at 58.25 mills:

General Fund	\$75,037,000
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Special Revenue Funds:

City Share of Special Assessments	\$850,000
Noxious Weeds	50,000
Emergency 911	1,813,000
Outdoor Warning	-
Convention Bureau	1,851,750
Regional Law Enforcement Training Center	90,544
Transit Capital Escrow	-
Court Forfeits	210,000
Broadway Mall Maintenance	49,000
Skyway Maintenance	95,000
Winter Lights Maintenance	21,000
Neighborhood Revitalization Initiatives (NRI)	125,000
Community Development Block Grants	798,000
HOME Program	30,000
Neighborhood Stabilization Grant	1,135,000
HOME Projects	597,000
Parking Authority Operations	1,149,614
Parking Repair and Replacement	75,000
Revenue Stabilization	900,000
City Building Repair Escrow	157,000
City Vehicle Reserve	1,420,000
Computer Replacement	50,000
Civic Memorial Auditorium Capital	45,000
Newman Outdoor Stadium	25,000
Total Special Revenue Fund Expenditures	\$11,536,908

Debt Service Fund Expenditures	\$70,341,108
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Enterprise Funds:

Water	\$19,361,294
Water Revenue Bond	3,965,806
Wastewater	11,147,792
Southeast Cass Sewer	48,550
Storm Sewer	1,487,708

Vector Control	678,240
Street Lighting	1,546,539
Solid Waste	13,223,055
Forestry	1,662,943
Total Enterprise Fund Expenses	\$53,121,927
Internal Service Funds:	
Health Self Insurance Fund	\$3,500,000
Total Internal Service Fund Expenses	\$3,500,000
Pension Trust Funds:	
City Employee Pension	\$2,171,500
Police Pension	3,003,300
Pension Stabilization	1,104,000
Total Pension Trust Funds	\$6,278,800
Airport Authority:	
Operations & Maintenance	\$3,688,218
Airport Construction	10,245,000
Passenger Facility Surcharge (PFC)	1,375,000
PFC Bond Fund	2,235,759
Total Airport Authority Expenses	\$17,543,977
FargoDome:	
Operations	\$4,635,030
Sales Tax Surplus	50,000
Restricted Capital	5,450,500
Total FargoDome	\$10,135,530
Convention Bureau:	
Operations	\$1,427,364
Restricted Capital	540,045
Total Convention Bureau	\$1,967,409
Grand Total - All Funds	\$249,462,659
Preliminary Tax Levies Are:	
General Fund	53.32
City Share of Special Improvements	2.83
Noxious Weeds	.10
Airport Construction	2.0
Total Proposed Mills to be Levied for 2012 Budget	58.25

Second by Wimmer.

Commissioner Williams moved the motion be amended to exclude the fee increases for water and wastewater in the 2012 budget.

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

Commissioners Wimmer, Mahoney and Walaker voted nay.

The motion died for a lack of a majority.

On call of the roll on the original motion Commissioners Mahoney, Wimmer and Walaker voted aye.

Commissioners Williams and Piepkorn voted nay.

The motion was declared carried.

Item No. 6 Omitted:

Item No. 6 (Bid Award for Project No. 6002-2 and discuss rights of entry) was omitted.

Change Order No. 2 for Project No. 6031 and Contract Time Extension Approved:

Senior Engineer April Walker said this is work in Coulee's Crossing to add in the construction of a permanent levee on the north-south portion of East Rose Creek Parkway, to build an emergency levee across three properties and tie into an emergency levee that has already been constructed. She said the Engineering Department negotiated with the contractor that the City had a contract with on a similar project. Eighty percent of the cost of the contract is for fill that is coming in to build that levee, she said.

Commissioner Piepkorn said his main concern is that the original contract was for less than the change order and at what point does the City go back and rebid the project.

Ms. Walker said what the Engineers did was compared the bid price to other jobs of similar size and the dollar amount was comparable to bids on other jobs.

Commissioner Piepkorn moved approval of Change Order No. 2 for an increase of \$313,539.45 for Project No. 6031 and contract time extension.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Wimmer, Mahoney 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, October 3, 2011.

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

The time at adjournment was 7:12 o'clock p.m.