

Dakota Department of Health Baby and Me Program grant awards (Contract Nos. G11.341).

- f. Contract with Lutheran Social Services of North Dakota for the Refugee Program (Contract # 2012-19).
- g. Memorandum of Understanding with the West Fargo Police Department for Safe Communities server training classes for alcoholic beverage license holders.
- h. Contract with the North Dakota Department of Health for the WIC Program (CFDA #10.557).
- i. Extension of the existing bus shelter snow removal service agreement with Grasshopper Lawn Service throughout the upcoming 2011-2012 winter season.
- j. Resolutions approving the following Plats:
 - (1) Town Square Village 2nd Addition (Attachment "A").
 - (2) Amber Valley West 2nd Addition (Attachment "B").
- k. Agreement for Cost-Share Reimbursement – City of Fargo’s Reverse Osmosis Pilot Study with the North Dakota State Water Commission, Project No. WA1101 (moved to the end of the Regular Agenda).
- l. Concurrence with consultant selection and contract award for consulting services for the following Projects: Apex Engineering Group, Inc. for Project Nos. 6063-01, 6063-02 and 6063-03; Houston Engineering, Inc. for Project Nos. 6063-04 and 6063-05; and Kadrmas, Lee & Jackson, Inc. for Project No. 6063-06.
- m. Purchase Agreements – Permanent Storm Sewer Easements with the following for Project No. 5944:
 - (1) Linda Beare.
 - (2) Samy and Louise Karaz.
- n. NDDOT Contract No. 19112475 for Permit to Construct a Project (flood protection levee) within Highway Right-of-Way across I-29 and 64th Avenue South (Project No. 6041).
- o. NDDOT Cost Participation and Maintenance Agreement for Project No. 5698.
- p. NuStar Right-of-Way Encroachment Agreement for the Southwood/Fargo Country Club Area Flood Risk Management Project (Project No. 6002-2).
- q. Memorandum of Understanding prepared by F-M Metro COG for street improvements on the 12th Avenue North corridor from 45th Street North to County Road 19 (Improvement District No. 6093).

- r. Declaration concerning dedication documents in connection with Improvement District No. 5969.
- s. Use of alternative bids to include an RCP alternate and approve City funding, if required, to award bids with RCP alternate (Improvement District No. 5699).
- t. Removal of rear yard bike trail in Timberline Addition as approved by the Fargo Park Board (Project No. 5949).
- u. Change Order No. 1 for a reduction of \$110,412.50 for Project No. 5949-3.
- v. Bid awards for Project Nos. 6041 to Excavating, Inc. in the amount of \$66,739.00 and 6091 to Key Contracting in the amount of \$11,400.00.
- w. Contracts and Bonds for Project Nos. 6029, SW 11-03.
- x. Bills in the amount of \$6,993,099.00.

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

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

Storm Sewer and Incidentals Improvement District No. 5945-03 (A portion of MGB 1st Addition):

Commissioner Mahoney moved the following action be taken in connection with Storm Sewer and Incidentals Improvement District No. 5945-03:

Adopt Resolution Creating Improvement District No. 5945-03:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5945-03 in the City of Fargo, North Dakota, be created

South of 64th Avenue South between University Drive and 25th Street South for a distance of approximately 450 feet then east to the City of Fargo owned property adjacent to University Drive South, south of 64th Avenue South and north of 73rd Avenue South.

COMPRISING:

Portions of the Northeast and Southeast quarters of Section 11, Township 138, Range 49 bounded to the west by a 300' offset from the westernmost Right-of-Way line for 25th Street South, bounded to the north by 65th Avenue South.

All of the platted and unplatted lots located in Section 12, Township 138, Range 49, bounded to the north by 65th Avenue South or a line 2,219.24' north of the quarter section line.

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 land lying outside said city limits is deemed not a part of the district.

NOW, THEREFORE, BE IT RESOLVED, That Storm Sewer and Incidentals Improvement District No. 5945-03 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. 5945-03:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5945-03 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 \$448,800.)

Order Plans and Specifications for Improvement District No. 5945-03:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5945-03 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5945-03:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5945-03 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. 5945-03 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. 5945-03:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5945-03 in the City of Fargo, North Dakota.

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

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

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 in the City of Fargo, North Dakota.

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

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

Contract Bond for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 Approved:

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

United Fire and Casualty Company, in the amount of \$515,956.39, for P.C. Concrete Pavement and Incidentals Improvement District No. 5945-2 in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 Approved:

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

United Fire and Casualty Company, in the amount of \$271,974.00, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6057 in the City of Fargo, North Dakota.

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

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

Contract Time Extension for Improvement District No. 5960 Approved:

The Board received a communication from the Public Works Project Evaluation Committee stating Master Construction has requested a two week time extension for Improvement District No. 5960 due to wet conditions in July and August. They said they are recommending denial of the request and concur with Project Engineer Cody Eilertson recommendation for a 5-day extension based on 2-days for completion of additional work and 3-days for rain delays. Mr. Eilertson noted that construction

started on August 8, 2011 more than a month beyond the July 5, 2011 specified startup date.

Commissioner Wimmer moved the five-day Contract Time Extension to October 5, 2011 for Improvement District No. 5960 be approved.

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.

Agreement for Right-of-Entry for Property Located at 4336 Timberline Drive Approved:

The Board received a communication from Senior Engineer April Walker stating right-of-entries have been secured with property owners in the Timberline area to construct the majority of the permanent levees and floodwalls in this area. She said access to two properties has not yet been secured and the owners of these properties have asked for appraisals to determine the value of the portions of their lots that are needed for the project. She said a final appraisal for 4336 Timberline Drive has been received and a draft agreement has been prepared. The property owner, she said, is willing to grant the City the permanent and temporary construction easements if the City allows the property owner approximately a year and a half to live at the property before the property owner decides whether or not to have the City purchase the property. At that time, she said, the City would pay to the property owner the appraised amount minus the value of the easement property.

Commissioner Williams said he is not comfortable with this arrangement. He said the City has had a lot of discussion about how to preserve the value of these homes and he does not think that the City should get into the business of swapping purchase for right-of-entry.

Commissioner Mahoney said this home is really affected by a dike and part of it is that the homeowner is not sure how it will look with a dike in the backyard. He said the property owner would really like to stay in the home and this is just another innovative idea that the Engineers came up with to get around a sticky situation.

Commissioner Mahoney moved the agreement for right-of-entry on property located at 4336 Timberline Drive be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Renaissance Zone Project for Westwind Properties, LLP Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Westwind Properties, LLP at 37 7th Street North.

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 Westwind Properties, 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 Wimmer moved the Renaissance Zone application filed by Westwind Properties, LLP for a project located at 37 7th Street North be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Renaissance Zone Project for KTL, Inc. Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for KTL, Inc. at 305 Broadway.

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 KTL, Inc. 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 Wimmer moved the Renaissance Zone application filed by KTL, Inc. for a project located at 305 Broadway be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Discussion Regarding the River Setback Ordinance:

City Administrator Pat Zavoral said the setback ordinance has been studied quite a bit by the building industry and the suggestion is to follow closely with what Cass County has adopted as a River Setback ordinance. He said what has been discussed for the Red and Wild Rice Rivers is 350 feet plus 100 feet, or 450 feet total, which would be the closest that any new building or subdivision could be constructed from the centerline of the river. The Sheyenne River, he said, it would an 8:1 ratio, which would be about 175 feet plus 100 feet for the free zone, which would be between 250 to 275 feet based on the 8:1 ratio. He said the suggestion is that any existing subdivisions that fall within those parameters, if applying for a building permit, would have to directly appeal to the City Commission. There would also need to be some sort of criteria based on soil conditions, he said, as well as some of the other floodway issues that would give some guidance as to whether or not a building permit could be issued. He said in addition to that there would need to be some guidelines for catastrophic events as well.

Senior Planner Jim Hinderaker said the recommendation from staff is that along all new drains in new developments the requirement would be a total of 350 feet of right-of-way, 175 feet from the centerline of the drain. He said there may be times where an individual would need something larger than that, up to 500 feet, so the proposal would be that if it is more than 350 feet the City would actually acquire that property or purchase that property with the additional right-of-way. In the case of existing drains, he said, it would be very similar to the scenario with the homes along the river in the amount of space that would be needed.

Commissioner Williams moved the City Attorney be directed to draft an ordinance allowing existing homes to make improvements but would not allow expansions any closer to the river and to include a 450 foot setback from the river channels on the Red and Wild Rice Rivers.

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

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

Commissioner Piepkorn moved the City Attorney be directed to draft an ordinance indicating that any new construction along the Sheyenne River would follow the 8:1 ratio or the 175 feet plus 100 feet, any new construction along the drains would follow the 350 foot total and the appropriate staff be directed to come up with a more specific appeals process.

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

Commissioner Williams voted nay.

The motion was declared carried.

Ordinance Enacting Article 20-13 of Chapter 20 of the Fargo Municipal Code of the City of Fargo Relating to Signs to be Placed on First Reading at the Next Regular Meeting of the Board:

The Board received a communication from City Attorney Erik Johnson stating a draft of the Fargo Sign Code was approved in late 2010 and took effect on December 20, 2010. That ordinance, he said, was the subject of a referral petition and as a result the Board elected to repeal the December 20th Sign Code Ordinance. Representatives of the portable sign industry have expressed the intent to "refer" the portable sign portion of the Sign Code, he said. With that in mind, he said, he is submitting three separate ordinances described as follows:

1. Ordinance No. 1 – The new Sign Code excluding the proposed new portable sign provisions.
2. Ordinance No. 2 – An amendment to Ordinance No. 1- to add the proposed new portable sign provisions.
3. Ordinance No. 3 – An ordinance repealing the "old Sign Code" (the so called 1989 Sign Code, as amended).

Mr. Johnson said his proposal is for all three ordinances to be received and filed at the October 17th Board meeting with only Ordinance No. 1 being placed on the agenda for first reading at the next Board meeting, October 31st. Ordinance No. 2, he said, would not be taken up for any action until the time period for referral of Ordinance No. 1 has lapsed and the same approach would be used for approval of Ordinance Nos. 2 and 3.

Commissioner Wimmer moved an Ordinance Enacting Article 20-13 of Chapter 20 of the Fargo Municipal Code of the City of Fargo Relating to Signs be received and filed and placed on first reading at the next Regular Meeting of the Board.

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

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

Ordinance Amending Section 20-1309 of Article 20-13 of Chapter 20 (Land Development Code) Of the Fargo Municipal Code Relating to Signs (Portable) Received and Filed:

Commissioner Wimmer moved the Ordinance Amending Section 20-1309 of Article 20-13 of Chapter 20 (Land Development Code) of the Fargo Municipal Code Relating to Signs (Portable) be received and filed.

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

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

Ordinance Repealing the 1989 Sign Code of the City of Fargo, As Amended Received and Filed:

Commissioner Wimmer moved the Ordinance Repealing the 1989 Sign Code of the City of Fargo, As Amended be received and filed.

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

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

Agreement for Cost-Share Reimbursement – City of Fargo’s Reverse Osmosis Pilot Study with the North Dakota State Water Commission Approved (Project No. WA1101):

The Board received a communication from Enterprise Director Bruce Grubb recommending approval of the Cost-Share Reimbursement Agreement with the North Dakota State Water Commission for 50% reimbursement of costs associated with the City’s sulfate removal pilot study which is currently being conducted at the Water Treatment Plant. On May 16, 2011, he said, the City Commission approved the pilot study project with the understanding that 50% of the project costs would be reimbursed by the State of North Dakota and the agreement being presented formally commits the State’s 50% share.

City Administrator Pat Zavoral said the Devils Lake outlet or Devils Lake outbreak of Devils Lake water will come down to the Sheyenne. Currently, he said, there is a 100 cfs State pipe that runs into the Sheyenne River from the west end of Devils Lake. He said he and the Mayor are urging the State to run the pipe year round as they believe that it could take some more water off of Devils Lake. The sulfate levels in Devils Lake range anywhere from 400 parts per million (ppm) up to 2200 ppm or higher on the east end, he said, and in the Sheyenne River are naturally about 250 ppm. The US Geological Survey has been testing the water for the last 80 years, he said, and has tested it along the run of Lake Ashtabula, all the way to

Fargo, which has shown that the average levels are something below 200 ppm. The State Water Commission adopted this as a secondary rule in terms of how much should be in drinking water years ago and the City of Fargo has abided by that until recently, he said. Due to the 100 cfs pipe coming out of Devils Lake, the elevations in sulfates have been shown in Lake Ashtabula to be about 450 ppm, he said, and in the Sheyenne at that high level as well. Mr. Zavoral explained the State is looking at putting a second pipe in further east on Devils Lake which would elevate those levels to 700 ppm or higher. The EPA and American Water Works Association recommend having sulfate levels not to exceed 400 ppm, he said, due to dietary problems that might occur in young children and the adult population. He said the City has been working with consultants to come up with a treatment process for this water and at the last legislative session the City received a commitment from the Governor's budget of \$15 million to help fund a portion of the treatment process for this water. He said, in order to treat the water, the City has estimated the cost of construction, would be somewhere between \$50 and \$60 million to build a reverse osmosis plant and the Water Commission has given a commitment to fund half of the local cost of the project. He stated the City is entering into a contract with AE2S to do a pilot study that will replicate a mini reverse osmosis plant and AE2S will test the water over the next 6-12 months to determine what the sulfate levels will be coming out of Devils Lake. If the pilot study performs the way the City thinks it will, he said, the City will go into design and hopefully have an agreement with West Fargo that would allow the City of Fargo to work with them on this effort.

Commissioner Piepkorn moved the Agreement for Cost-Share Reimbursement – City of Fargo's Reverse Osmosis Pilot Study with the North Dakota State Water Commission be approved.

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.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, October 31, 2011.

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

The time at adjournment was 6:12 o'clock p.m.