

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting:

Monday:

April 16, 2012:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 4:00 o'clock p.m., Monday, April 16, 2012.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

City Attorney Erik Johnson announced that there are pending litigation matters to be discussed in Executive Session, as authorized by NDCC Section 44-04-19.1 for the purpose of conferring with the City's attorneys regarding pending or threatened litigation with the following parties: Linda Bellemare and Wild Rice River Estates, and Sioux Equipment.

Commissioner Wimmer moved the Commissioners meet in Executive Session in the River Room as authorized by NDCC, Section 44-04-19.1 to discuss said pending litigation matters.

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

At 4:07 p.m. the Board moved to the River Room to discuss the litigation matters in Executive Session.

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

Absent and not voting: Commissioner Mahoney

The Executive Session closed at 4:37 o'clock p.m. and the Commission reconvened in public session at 5:00 o'clock p.m.

All Commissioners present except Commissioner Mahoney. Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Wimmer moved the Order of the Agenda be approved moving Items "g," "j," "x3" and "x4" from the Consent Agenda to the Regular Agenda.

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

Minutes Approved:

Commissioner Wimmer moved that the Minutes of the Regular Meeting of the Board held on April 2, 2012 be approved as read.

Second by Piepkorn. 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. Receive and file Ordinance Amending Section 8-0925.8 of Article 8-09 of Chapter 8 of the Fargo Municipal Code Relating to Equipment of Vehicles—Size, Weight, and Height and Load Restrictions.
- b. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in the Northeast Quarter of Section 27, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota; 1st reading, 4/2/12.
- c. Receive and file Year to Date – Budget to Actual Report for March 2012.
- d. Receive and file First Quarter 2012 Financial Status Report for Major Operating Funds.
- e. Police Department budget adjustment in the amount of \$3,000.00 and amendment to the North Dakota Department of Transportation grant funding for impaired driving enforcement (CFDA #20.601).
- f. Out-of-grade pay for Assistant Fire Chief Robert Cuchna retroactive to 2/8/12.
- g. Trade agreement between the Transit Department and Fargo Baseball, LLC (moved to the Regular Agenda).
- h. Requests for extensions of the noise Ordinance as follows:
 - (1) 11:00 p.m. for the Rib Fest & More event at the Fargodome from June 6-9, 2012 and for low level sound until midnight.
 - (2) Midnight for an outdoor movie at Stockbridge Hall at NDSU on April 20, 2012.
- i. Applications for five-year tax exemptions for improvements made to buildings:
 - (1) Matthew Trefz, 390 8th Avenue South.
 - (2) Peggy Herz, 317 15th Street South.
 - (3) James and Barbara Nash, 607 14th Street South.
 - (4) James and Barbara Nash, 805 15th Street South.
- j. Conveyance of a parcel of land along the westerly and northerly borders of the Cass-Clay Creamery property to Kemps, LLC (moved to the Regular Agenda).
- k. Site Authorizations for Jon Greenley Amvets Post #7 at the Nestor Tavern and Amvets.
- l. Applications for Games of Chance:
 - (1) Ron Felix Benefit for a raffle on 4/29/12; Public Spirited Resolution.
 - (2) Lewis and Clark PTA for bingo and a raffle on 4/30/12.

- m. Residential Street Ash Diversification and Tree Planting Initiative.
- n. Mosquito Control Agreement with Cass County for 2012.
- o. Acceptance of quote from Master Construction Company, Inc. in the amount of \$38,950.00 for 2012 Cleanup Week services.
- p. Mutual Nondisclosure Agreement with Goldwind USA, Inc. for the City's Qualified Energy Conservation Bond wind turbine project.
- q. Professional Services Agreement with Stantec Consulting, in the amount of \$1,290.00, for Project No. 5922.
- r. Professional Services Agreement with SRF Consulting, in the amount of \$2,500.00, for Project No. 5933.
- s. NDDOT Cost Participation, Construction and Maintenance Agreements for Project No. 6119.
- t. Change Order No. 3, in the amount of \$40,220.00 for Project No. 5949-03.
- u. Bid awards for water main repair materials to Fargo Water Equipment in the amount of \$7,966.37 and \$63,233.36; janitor and cleaning service for the Fargo Public Library for a three year contract to ServiceMaster in the amount of \$226,449.00; Project No. 5884 to Swingen Construction in the amount of \$993,614.20; and Project No. 6105 to Opp Construction Company in the amount of \$218,724.70.
- v. Contract and bond for Project No. 6058.
- w. Bills in the amount of \$4,870,625.18.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092:
Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 12 and 19, 2012 and protests representing 21.97 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

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

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 11, 2012 the bids were found to be as follows:

Adelman Concrete and Excavating Bid:	West Fargo, ND \$119,960.60
Pioneer Excavating and Trucking Bid:	West Fargo, ND \$121,061.73
Opp Construction Bid:	Fargo, ND \$132,517.36
Paras Contracting, Inc. Bid:	Fargo, ND \$133,999.95
Dakota Underground Company Bid:	Fargo, ND \$148,620.00
Key Contracting Bid:	Fargo, ND \$151,724.40

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092 Awarded to Adelman Concrete and Excavating in the Amount of \$119,960.60:

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 P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 11, 2012 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6092 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. 6092 shows the bid of Adelman Concrete and Excavating of West Fargo, North Dakota, in the sum of \$119,960.60 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 Adelman Concrete and Excavating in the sum of \$119,960.60 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. 6092 in the City of Fargo, North

Dakota, be and the same is hereby awarded to Adelman Concrete and Excavating for the sum of \$119,960.60, 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 Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Asphalt Wearing Course and Incidentals Improvement District No. 6099:

The bids for Asphalt Wearing Course and Incidentals Improvement District No. 6099 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 11, 2012 and the bids were found to be as follows:

Aggregate Industries	Moorhead, MN
Bid:	\$207,294.40
Border States Paving, Inc.	Fargo, ND
Bid:	\$212,180.10
Northern Improvement Company	Fargo, ND
Bid:	\$217,109.45
Central Specialties, Inc.	Alexandria, MN
Bid:	\$243,712.05

Contract for Asphalt Wearing Course and Incidentals Improvement District No. 6099 Awarded to Aggregate Industries in the Amount of \$207,294.40:

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 Asphalt Wearing Course and Incidentals Improvement District No. 6099; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 11, 2012 for Asphalt Wearing Course and Incidentals Improvement District No. 6099 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Wearing Course and Incidentals Improvement District No. 6099 shows the bid of Aggregate Industries of Moorhead, Minnesota, in the sum of \$207,294.40 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 Aggregate Industries in the sum of \$207,294.40 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Wearing Course and Incidentals Improvement District No. 6099 in the City of Fargo, North Dakota, be and the same is hereby awarded to Aggregate Industries for the sum of \$207,294.40,

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 Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. 5914 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$139,556.29 for Improvement District No. 5914.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 5969-03 Approved:

Commissioner Piepkorn moved approval of Change Order No. 1 for an increase of \$59,141.85 for Improvement District No. 5969-03.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6068 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Key Contracting, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6068 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6068 Approved:

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

Western Surety Company, in the amount of \$110,932.00 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6068 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Seal Coat and Incidentals Improvement District No. 6103 Approved:

Commissioner Piepkorn moved approval of the Contract between the City of Fargo and Pearson Brothers, Inc. for Seal Coat and Incidentals Improvement District No. 6103 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Seal Coat and Incidentals Improvement District No. 6103 Approved:

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

Merchants Bonding Company, in the amount of \$802,847.39, for Seal Coat and Incidentals Improvement District No. 6103 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Allocation of \$50,000.00 to Support Community Efforts to Retain the Mission of the 119th Wing of the North Dakota Air National Guard Approved:

The Board received a communication from President of the Fargo Moorhead West Fargo Chamber of Commerce Craig Whitney stating the Department of Defense budget proposal retires the C27J Spartan which was scheduled to arrive in Fargo in late 2012, early 2013 and operated by the Happy Hooligans. This mission, he said, was provided following the Base Realignment and Closure (BRAC) process of 2005 that resulted in the loss of the F16 mission. Since that time, he said, the Hooligans have been flying the C21 Leer jet as a bridge mission until the C27Js arrive. Without the C27J mission, he said, the 119th Wing will become the only state in the nation without a manned air mission. He said the lack of a manned aircraft at the airport carries significant challenges that will be felt region-wide including funding for the fire and rescue station, availability and affordability of commercial air service and would leave the FEMA district vulnerable during emergency and disaster events. He said the situation is as critical today as it was in 2005 and to ensure the future is realized, it is essential to garner support from all of the stakeholders. A comprehensive strategic plan is being prepared, he said, which will identify the best possible outcome for the 119th Wing and the region, as well as the retention of a lobbyist to see that the concerns are understood by Congress as it considers the budget.

Dick Walstad, Air National Guard Support Group, said jobs are in jeopardy and expenses currently paid by the Department of Defense, such as the fire station at the airport, would need to be funded by the City. He asked for a commitment of \$50,000.00 for efforts to keep the 119th Wing of the North Dakota Air National Guard. He said retired Air Force General Paul Weaver will be in town next week and likely will help with the lobbying efforts.

Commissioner Wimmer moved \$50,000.00 be allocated to support community efforts to retain the mission of the 119th Wing of the North Dakota Air National Guard be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Application Filed by International Market Plaza for a Five-Year Property Tax Exemption Denied:

A Hearing had been set for this day and hour on an application filed by International Market Plaza for a five-year property tax exemption for the project at 1345 Main Avenue North where the applicant will operate an immigrant and refugee small business incubator public market.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

City Assessor Ben Hushka said the Tax Review Committee recommended denial of the application because the tenants in the incubator are primarily retail, which has not been encouraged under this statute. He said the applicant has been encouraged to apply for a remodeling exemption which, depending on how much of the building is remodeled, appears to be a better avenue.

Immigrant Development Center Executive Director Fowzia Adde said she is in agreement with the recommendation of the Tax Exempt Committee and intends to apply for a remodeling exemption.

Commissioner Wimmer moved that the application filed by International Market Plaza for a five-year 100% property tax exemption be denied.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Proposed Changes to the Fargo Metro Area Transit Routes Approved:

A Hearing had been set for this day and hour to receive comments on the proposed changes to the Metro Area Transit routes.

The Board received a communication from Planning Director Jim Gilmour stating upon the recommendations of the five-year Transit Development Plan (TDP) that was approved by the Board in January 2012, staff is recommending several proposed changes to the Fargo fixed routes to take effect July 2, 2012. He indicated that passengers have requested the ability to use transfers at sites not currently designated as approved transfer points. He said staff would like to research this issue further, including conducting a peer analysis among other transit systems, to identify potential lost revenue considerations and ways to prevent fraudulent uses of transfers. He said the changes to the routes address on-time performance, the increase of ridership on many routes and traffic that is more congested, making it difficult to stay on schedule.

Jim Cleveland, 509 1st Street North; Rolf Brakvatne, 302 Forest Avenue; and Nancy Shappell, 1314 3rd Street North, spoke in opposition to specific aspects of the route changes with concerns about how particular route and time changes affect bus riders.

Commissioner Williams said the focus of neighborhood development was to serve more frequently and draw more riders. He said with some concessions are being made.

Mr. Gilmour said the changes do not take effect right away, so there is time to inform the public. It is a work in progress, he said, and major problems will be addressed immediately.

Commissioner Williams moved the route changes be approved as advertised in the public hearing notice effective July 2, 2012 and the appropriate staff be directed to research and potentially modify the transfer policies on MATBUS fixed routes.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

At 5:45 p.m. the Board took a five-minute recess.

After recess: All Commissioners Present. Commissioner Mahoney was connected via conference call.

Mayor Walaker presiding.

Text Amendment to Amend Sections 20-0501, 20-0502 and 20-0503 and to Establish Section 20-0508 Watercourse Setbacks – Restrictions and Exceptions of Article 20-05 and to Amend Section 20-0610 of Chapter 20 of the Land Development Code Approved:

A Hearing had been held by the Fargo Planning Commission on April 3, 2012 for the purpose of considering a request for a text amendment to amend Sections 20-0501, 20-0502 and 20-0503 and to establish Section 20-0508 Watercourse Setbacks – Restrictions and Exceptions of Article 20-05 and to amend Section 20-0610 of Chapter 20 of the Land Development Code regarding dimensional standards and subdivision design and improvements specifically related to river setback provisions and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the text amendment 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.

Homebuilders Association of Fargo-Moorhead Director of Public Affairs Rocky Schneider said the Association is very supportive of the Ordinance as a whole; however, a section dealing with existing homes could cause problems obtaining mortgages or insurance, and for home improvement projects and repairs.

City Attorney Erik Johnson said he has submitted alternative language addressing those concerns.

Commissioner Williams said the prior language required that rebuilding a structure damaged more than 50% come before the Commission for permission to rebuild. He said the alternative language now allows existing properties to rebuild, provided they are no closer to the river.

Jon Norberg, 3120 25th Street South, said he is not able to build on his platted property because of the setback requirements and asked if there needs to be language in this Ordinance addressing such situations.

Commissioner Williams stated the Ordinance is not to allow new buildings in dangerous areas. He said there are going to be case-by-case situations similar to Dr. Norberg's which will need to be addressed moving forward.

Mayor Walaker said Dr. Norberg could visit with City Engineers for guidance on moving forward. He said making laws in a 100 year old, growing community is difficult and there is little funding available to purchase properties.

Commissioner Wimmer moved the request be approved on the basis the proposed Text Amendment, including revisions, complies with Section 20-0904.E (1-3) of the Land Development Code.

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

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

First Reading of an Ordinance Amending Sections 20-0501, 0502, 0503 and 0610 and Enacting Section 20-0508 of Articles 20-05 and 20-06 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Regarding Dimensional Standards and Subdivision Design and Improvements (River Setback Provisions):

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 Amending Sections 20-0501, 0502, 0503 and 0610 and Enacting Section 20-0508 of Articles 20-05 and 20-06 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Regarding Dimensional Standards and Subdivision Design and Improvements (River Setback Provisions).

Second by Williams. On call of the roll Commissioners Wimmer, Williams, Mahoney, Piepkorn 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 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 the intention is to repeal the Sign Ordinance that was in effect prior to December 20, 2012, the effective date of Ordinance No. 4772. He said the "new" Sign Code has been put into effect as a result of three separate ordinances, the first being an Ordinance that enacted the on-premise and off-premise portions; the second being the enactment of the portable-sign portion; and the third being a corrective ordinance of the first two to include provisions for high impact signs. He said now that those three most recent Ordinances are in effect, the "old" Sign Code can be repealed and this ordinance will bring that repeal into effect.

Commissioner Wimmer moved the Ordinance Repealing the 1989 Sign Code of the City of Fargo As Amended 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, Williams, Mahoney and Walaker voted aye.

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

Request Submitted by American Builders to Deviate from the Approved Proposal to Redevelop City Owned Land at 320 and 324 7th Street North Denied:

The Board received a communication from Senior Planner Dan Mahli stating in July 2011, the Board approved the sale of the City owned lots at 320 and 324 7th Street North to American Builders for \$60,000.00 contingent on submission of final plans. He said a condition of the sale is that any deviation from the proposed development must be approved by the Board. Earlier this year, he said, the City was notified the approved project was not economically feasible and the closing did not occur. He said last month a revised plan was submitted and since that time written comments were offered. On April 3rd, he said, an ad hoc review committee made up of Commissioner Piepkorn, John Paulsen, Planning Director Jim Gilmour and himself met to discuss the request. He said the revised proposal suggests a 3 1/2 story structure made up of 28 apartments on the lots and the lot immediately south of 314 7th Street North and it calls for 22 parking stalls, he said, with an offer to the City in the amount of \$60,000.00. He said the developer intends to utilize a 10-year payment in lieu of tax exemption and after reviewing the revised housing development, the Committee's recommendation is to deny the request to amend the approved proposal.

Design-7 P.C. Architecture President Ron Dick said he has been working with Don Brown and American Builders. He said Mr. Brown asked him to relay to the Commission that he remains ready and willing to enter into an agreement if the new proposal is acceptable. Mr. Brown is the sole owner of the adjacent property, he said, and would be the buyer and sole owner of the property if this goes forward. He said the major reason the plans proposed last fall were not feasible was the height and expensive exterior of the building. He said the revisions are more typical of Fargo and make the project more affordable.

Mr. Mahli said this is a prime property for redevelopment that is located near the downtown NDSU campus. He said the recommendation is to reject the proposed change and issue another RFP to explore more options to get it done right.

Commissioner Wimmer said it was the buyer that rejected the sale, not the City, and Mr. Brown can submit a proposal again in the RFP process.

Commissioner Piepkorn moved the request submitted by American Builders to deviate from the approved proposal to redevelop City owned land at 320 and 324 7th Street North be denied.

Second by Williams. Upon 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.

Appropriate Staff Directed to Continue Dialogue with the Public to Allow More Time for Comments and Clarification of the 2012 On-Street Bike Lane Recommendations:

The Board received a communication from Traffic Engineer Jeremy Gorden stating at the February 21, 2012 City Commission meeting action on the request for on-street bike lane recommendations was postponed to allow more time for comments and clarification of the 2012 on-street bike lanes. He said the recommendation is to install on-street bike lanes on University Drive between 12th Avenue North and 19th Avenue North, on 10th Street between 12th Avenue North and 17th Avenue North, on 4th Avenue between Roberts Street and University Drive

and shared lane marking on 1st Avenue South between 10th Street and 12th Street. He said two public input meetings have taken place to update the public on what has been completed as part of the NDSU Bike and Pedestrian Access Study and what has been completed Citywide since 2009. The first meeting was held at NDSU on April 3rd, he said, and the second at City Hall on April 9th. Public meetings had 25-30 citizens in attendance, he said, and there was a good discussion on the subject both in favor and against the idea. He said he has received 17 written comments and three phone calls on the matter. The Police Department and the Communications staff will be working on a multimedia public awareness/education campaign to begin in early May, he said, to raise awareness of the rules of the road for both drivers and bicyclists when there are bike lanes or shared markings on a street. He said the striping for the projects noted will not be completed until fall, allowing additional time to further examine the issue. He proposed continuing the discussion with the public and presenting it to the Traffic Technical Advisory Committee to allow time for response to the written comments, and bringing it back to the Board within two months.

Commissioner Piepkorn said he feels the plan to add bike lanes on 10th Street, University Drive and 4th Street should be halted immediately. He said he has received more comments from the public on this topic than any other. He said he does not agree with removing a vehicle traffic lane to make a bike lane and having the bike lane on the left side does not fit with the logic of slower traffic keeping to the right. He said forcing bikes on the only north-south arterial, which is also a truck route, is incredibly wrong, and he is concerned with costs and liability issues.

Wade Savageau, 1205 4th Avenue North, said the streets are for licensed motor vehicles and bikes do not belong on the streets. Bike lanes on his street would take away parking and reduce the value of his rental property, he said. He said it should be kept away from residential areas where cars back into traffic.

Nancy Shappel, 1314 3rd Street North, said she opposes adding the bike lanes as proposed for safety reasons.

Randy Christianson, 701 4th Avenue North, said there are ingress/egress issues and safety issues on 4th Avenue and he would hope for further dialogue and appreciates the opportunity to participate in the discussion.

Aaron Feickert, 21 8th Street North, said data supports the fact that bike lanes actually increase safety and decrease speeding. He said continuing the dialogue would allow time to investigate it more.

Director of Engineering Mark Bittner encouraged the Board to allow time to continue the discussion and determine a plan for bikes in Fargo. He said other cities have been able to successfully implement bike trails, both on and off the road.

Chief of Police Keith Ternes said bicycle safety and sharing the road is an issue across the community and more public safety education is being planned. Currently, he said, regulations for bicycle use are specific to the downtown area. He said with or without bike lanes, bicyclists can utilize University Drive, 10th Street and virtually any other street in the City. While he does not disagree with the need for more regulation for adherence to traffic laws for cyclists, he said, his department does not have resources for issuing citations to bicyclists on a large scale.

Commissioner Mahoney said bicycle use is increasing as a way to exercise and reduce motor vehicle use and safety is important. He said walking and biking

were priorities in the study for the 2030 Comprehensive Plan and dialogue with the public is important in determining what direction the City should take.

Commissioner Williams said the public has indicated walking and biking is a priority. He said it is important to connect NDSU to downtown in the safest way possible.

Commissioner Mahoney moved appropriate staff be directed to continue dialogue with the public to allow more time for comments and clarification of the 2012 On-Street Bike Lane recommendations and to prepare information in response to public comments, reporting back to the Board by June 25, 2012 with a recommendation.

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

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

Ballot Wording for Infrastructure Improvements Including Flood Protection, One-Half Percent Sales, Gross Receipts and Use Tax Proposal Approved:

The Board received a communication from City Auditor Steven Sprague submitting the suggested ballot wording for the proposed one-half percent sales, gross receipts and use tax proposal. He proposed including a header stating "Home Rule Charter Amendment" and said a description of what a yes or no vote means could also be added.

Commissioner Mahoney said adding the heading seems appropriate; however, a description of the meaning of a yes or no vote does not seem necessary.

Commissioner Piepkorn said when dealing with such a large sum of money, he would like the ballot wording to state more specifically where the funding would go.

City Attorney Erik Johnson said the resolution clearly defines eligible expenditures.

Commissioner Williams said he does not support the sales tax proposal being on the ballot at this time. He said taking action until more is clear on diversion funding or the outcome of Measure No. 2 is premature.

Commissioner Wimmer moved the heading "Home Rule Charter Amendment" be included and the ballot wording for the proposed infrastructure improvements including flood protection, one-half percent sales, gross receipts and use tax proposal, be approved as follows:

"Shall Article 3 of the Home Rule Charter of the City of Fargo be amended to authorize collection of a one-half of one percent (1/2%) municipal sales, gross receipts and use tax to commence January 1, 2013 for a period of twenty (20) years to expire on December 31, 2032, and to be utilized by the City of Fargo for such infrastructure improvements including flood protection as the governing body of the city may select, all as provided in the Notice of Proposed Home Rule Charter Amendment as published in THE FORUM on the 9th day of April, 2012.

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

Commissioners Williams and Piepkorn voted nay.

The motion was declared carried.

Tom Thompson Appointed to the City Hall-Auditorium Commission:

The Board received a communication from Mayor Walaker recommending that Tom Thompson be appointed to the City Hall-Auditorium Commission to replace Dave Selvig. He said Mr. Selvig has moved out of Fargo and City Ordinance requires members of the City Hall-Auditorium Commission to be residents of the City; therefore Mr. Selvig understands he can no longer serve on that Board.

Commissioner Williams moved Tom Thompson be appointed to the City Hall-Auditorium Commission to fill the unexpired term of Mr. Selvig ending January 1, 2015.

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

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

Conveyance of a Parcel of Land Along the Westerly and Northerly Borders of the Cass-Clay Creamery Property to Kemps, LLC Referred to PWPEC for a Recommendation:

The Board received a communication from City Attorney Erik Johnson stating it recently came to light that there is an L-shaped parcel along the westerly and northerly borders of the Cass-Clay Creamery property located on 3rd Avenue North between 20th and 22nd Streets. He said this L-shaped parcel is 23.5 feet wide along the westerly boundary and 10 feet wide along the northerly boundary. In 1947, he said, the City executed a Quit Claim Deed to United Biscuit Company of America which in turn conveyed it to Cass-Clay Creamery in 1955. He said beginning in 1947 this parcel was excluded and it remains in the name of the City of Fargo and he has been unable to determine why the City excluded it. He said this all came to light as a result of the payoff by Cass-Clay Creamery of certain Municipal Industrial Development Bonds. He said Cass-Clay and its successor-in-interest, Kemps, have asked for a Quit Claim Deed conveying ownership to Kemps. He said the Assessor's Department estimated a value for the property to be \$30,000.00 and when he relayed that information to the people at Cass-Clay and Kemps he was told they would appreciate it if the City would give them the property at no cost. Mr. Johnson said his recommendation is to refer it back to the Public Works Projects Evaluation Committee for their recommendation.

Kemp's representative Lonny Saulsbury said he is hoping to resolve this legal issue with the closing to move ahead with the acquisition.

Commissioner Wimmer moved the conveyance of the North 10 feet of Blocks 20 and 21 and the West 23.5 feet of Lots 24-31, Block 21, to Kemps, LLC be referred to PWPEC for a recommendation.

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

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

Trade Agreement Between the Transit Department and Fargo Baseball, LLC Referred to the Finance Committee for Review:

Director of Finance Kent Costin said he would like the agreement referred to the Finance Committee because it appears to be an advertising trade. He said

Transit is heavily subsidized by federal grants and he wants to be sure there are no compliance issues with barter type transactions.

Commissioner Wimmer moved the trade agreement between the Transit Department and Fargo Baseball, LLC be referred to the Finance Committee for review.

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

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

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100:

Commissioner Piepkorn said he had this item moved from the Consent Agenda to the Regular Agenda to allow discussion prior to awarding a contract to the low bidder Master Construction Company, Inc. He said there were challenges last year with this company and he wanted performance to be monitored to be sure a company does not continue to get bid awards if there are issues.

City Engineer April Walker said the Engineering Department now has a process in place defining non-responsible bidders. She said prior to making bid award recommendations to the Board, non-responsible bidders will be identified and given the opportunity to make corrections.

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 11, 2012 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$627,055.00
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$643,363.70
Tom's Backhoe Service Bid:	Brainerd, MN \$666,841.25
Dakota Underground Company Bid:	Fargo, ND \$692,323.60
George E. Haggart, Inc. Bid:	Fargo, ND \$697,380.10
Shermans, LLC Bid:	West Fargo, ND \$725,152.05
Border States Paving, Inc. Bid:	Fargo, ND \$733,293.18

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100 Awarded to Master Construction Company, Inc. in the Amount of \$627,055.00:

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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 11, 2012 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$627,055.00 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 Master Construction Company, Inc. in the sum of \$627,055.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6100 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$627,055.00, 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 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.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 11, 2012 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$1,535,079.60
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$1,677,948.65
George E. Haggart, Inc. Bid:	Fargo, ND \$1,682,280.80
Dakota Underground Company Bid:	Fargo, ND \$1,718,342.80

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110 Awarded to Master Construction Company, Inc. in the Amount of \$1,535,079.60:

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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 11, 2012 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$1,535,079.60 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 Master Construction Company, Inc. in the sum of \$1,535,079.60 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6110 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$1,535,079.60, 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 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.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, April 30, 2012.

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

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