BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: July 23, 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 5:00 o'clock p.m., Monday, July 23, 2012.

The Commissioners present or absent were as shown following:

Present: Mahoney, Sobolik, Williams, Walaker.

Absent: Wimmer.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved omitting Item "t" in the Consent Agenda.

Second by Williams. All the Commissioners present 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 July 9, 2012 be approved as read.

Second by Williams. All the Commissioners present 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:
   (1) Enacting Article 3-22 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales, Use and Gross Receipts Tax (Infrastructure Improvements Including Flood Protection).
   (2) Rezoning Certain Parcels of Land Lying in Huntington's Addition, Fargo, Cass County, North Dakota.

b. Year to Date – Budget to Actual Report for June 2012.

c. Pledged securities as of June 30, 2012.

d. Live entertainment license for WOW.

e. Third Amendment to the Third Amended and Reconstituted Joint Powers Agreement for the Red River Regional Dispatch Center.

f. Contract with Cass County Social Services for Fargo Cass Public Health to provide in home services to eligible individuals.

g. Grant award from the North Dakota Tobacco Prevention and Control Executive Committee for the Tobacco Prevention and Control Local Grants Program.

h. Police Department budget adjustment in the amount of $7,000.00 and ND Highway Patrol grant funding for enforcement of underage drinking laws.

i. Police Department 2013 lease renewal with CHARISM in the amount of $16,056.00.

j. Noise ordinance extensions until 11:00 p.m.:
(1) 8/7/12 for an outdoor movie at Horace Mann.
(2) 7/31/12 for pyrotechnics for the Sanford Health Groundbreaking.
(3) 8/24/12 and 9/15/12 for outdoor music at Big D's Bar and Grill.

k. Receive, file and submit the 2011 Consolidated Annual Performance Evaluation Report for the City's Community Development Grant Programs to HUD.

l. Comment submission on the ND Statewide Housing Needs Assessment to the ND Housing Finance Agency.

m. Acceptance of the 2012 Emergency Shelter Grant allocation in the amount of $25,400.00 from the State of North Dakota Department of Commerce to assist with operations at the Gladys Ray Shelter and Veterans Drop-In Center.

n. Partnership with the Fargo Public School District to redevelop 119 14th Street South and 922 Tenth Street North with Neighborhood Stabilization Program funds.

o. Resolution approving Plat of 42nd Street Second Addition (Attachment "A").

p. Contracts with Central Cass School District and Kindred Public School District for nursing services for the 2012-2013 school year.

q. Site Authorizations for Games of Chance: Sts. Anne & Joachim Catholic Church at 5202 25th Street South; Metro Sports Foundation at Scheels Arena; Fargo Youth Hockey Association at the Teamsters Arena.

r. Applications for Games of Chance: Fargo Lions Club for a sports pool from 9/10/12 to 12/22/12; Theatre B for a raffle on 7/31/12; Public Spirited Resolution; Red River Valley NAVHDA, Inc. for a raffle on 7/28/12.

s. Purchase of one auto side load refuse packer from Sanitation Products for $205,546.00.

t. Purchase of one backhoe from RDO Equipment for $56,600.50 (omitted).

u. Consulting Services Agreement with Alfred Benesch & Company for Project No. 6076-01.

v. Early building permit at 4083 37th Street North.

w. Engineering Services Contract Amendment for Ulteig Engineers in the amount of $148,903.50.

x. Authorize installation of a temporary water line at 3155 44th Avenue North.

y. Change Order No. 1 for an increase of $31,087.02 and time extension for Project No. 6002-2.

z. Final Balancing Change Order for an increase of $32,949.57 for Project No. 6029.

aa. Reject bids for Project No. 6113-02.

bb. Bid award for Project No. 6115 to Midwest Landscaping in the amount of $158,607.00.

cc. Bid advertisement for Project No. 5992.

dd. Contract and bond for Project No. 5747-29.

ee. Bills in the amount of $6,779,983.54.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 6106 Approved:

Commissioner Mahoney moved approval of Change Order No. 1 for a reduction of $520,665.50 for Improvement District No. 6106.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Tree Planting and Incidentals Improvement District No. 6141: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of Tree Planting and Incidentals Improvement District No. 6141 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 21 and 28, 2012 and protests representing 3.27 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 Sobolik. On call of the roll Commissioners Mahoney, Sobolik, Williams and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Bids Received for Tree Planting and Incidentals Improvement District No. 6141:

The bids for Tree Planting and Incidentals Improvement District No. 6141 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 18, 2012 and the bids were found to be as follows:

Merritt Landscape Design	Fargo, ND
Bid:	$71,972.50
S & S Landscaping Company, Inc.	Fargo, ND
Bid:	$74,353.20
Hoffman & McNamara Nursery & Landscape	Hastings, MN
Bid:	$77,401.00

Contract for Tree Planting and Incidentals Improvement District No. 6141 Awarded to Merritt Landscape Design in the Amount of $71,972.50:

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 Tree Planting and Incidentals Improvement District No. 6141; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 18, 2012 for Tree Planting and Incidentals Improvement District No. 6141 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Tree Planting and Incidentals Improvement District No. 6141 shows the bid of Merritt Landscape Design of Fargo, North Dakota, in the sum of $71,972.50 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Merritt Landscape Design in the sum of $71,972.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Tree Planting and Incidentals Improvement District No. 6141 in the City of Fargo, North Dakota, be and the same is hereby awarded to Merritt Landscape Design for the sum of $71,972.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 18 and 25, 2012 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 18, 2012 and the bids were found to be as follows:

Northern Improvement Company	Fargo, ND
Bid:	$1,324,588.22
Dakota Underground Company	Fargo, ND
Bid:	$1,328,013.63
Master Construction Company, Inc.	Fargo, ND
Bid:	$1,392,682.63
Sellin Brothers, Inc.	Hawley, MN
Bid:	$1,395,807.54
George E. Haggart, Inc.	Fargo, ND
Bid:	$1,397,657.77

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150 Awarded to Northern Improvement Company in the Amount of $1,324,588.22:

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, Paving, Street Lights and Incidentals Improvement District No. 6150; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 18, 2012 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150 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, Paving, Street Lights and Incidentals Improvement District No. 6150 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of $1,324,588.22 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 $1,324,588.22 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6150 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of $1,324,588.22, 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 Sobolik. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Sobolik, Williams and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6154:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6154 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 18, 2012 and the bids were found to be as follows:

Dakota Underground Company	Fargo, ND
Bid:	$1,174,295.00
Sellin Brothers, Inc.	Hawley, MN
Bid:	$1,349,162.00
Master Construction Company, Inc.	Fargo, ND
Bid:	$1,680,933.00

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6154 Awarded to Dakota Underground Company in the Amount of $1,174,295.00:

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. 6154; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 18, 2012 for Sanitary Sewer, Water Main, Storm

Sewer and Incidentals Improvement District No. 6154 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. 6154 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of $1,174,295.00 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 $1,174,295.00 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. 6154 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of $1,174,295.00, 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 Sobolik. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Sobolik, Williams and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6161 (MGB 1st Addition):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6161:

Adopt Resolution Creating Improvement District No. 6161:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6161 in the City of Fargo, North Dakota, be created

15th Street South from 115 feet south of 72nd Avenue South to 70th Avenue South
14th Street South from 70th Avenue South to 525 feet north 76th Avenue South
73rd Avenue South from 15th Street South to 270 feet west of 16th Street South

COMPRISING:
All lots platted in the MGB 1st Addition Plat.

All lots replatted in the MGB 1st Addition Plat.

All unplatted lots in Section 12, Township 138, Range 49 located in the Southeast Quarter Section within the City of Fargo City Limits.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6161 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. 6161:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6161 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is $1,673,760.00.)

Order Plans and Specifications for Improvement District No. 6161:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6161 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6161:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6161 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. 6161 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Sanitary Sewer, Water Main, Storm Sewer and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6161 in the City of Fargo, North Dakota, according to the Engineer’s Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Sanitary Sewer, Water Main, Storm Sewer and Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6161:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6161 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6162 (MGB 1st Addition):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6162:

Adopt Resolution Creating Improvement District No. 6162:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6162 in the City of Fargo, North Dakota, be created

15th Street South from 72nd Avenue South to 73rd Avenue South
70th Avenue South from 15th Street South to University Drive South
14th Street South from 70th Avenue South to a point ~800' north of 76th Avenue South
An unnamed street from 73rd Avenue South to a point 550 feet south of 73rd Avenue South

COMPRISING:

All lots platted in the MGB 1st Addition Plat.

All lots replatted in the MGB 1st Addition Plat.

All unplatted lots in Section 12, Township 138, Range 49 located in the Southeast Quarter Section within the City of Fargo City Limits.

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

All of the foregoing land lying in the City of Fargo, Cass County, North Dakota, said district to include land lying within the City limits of the City of Fargo and any land lying outside said city limits is deemed future benefitting area.

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6162 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. 6162:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6162 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is $2,508,000.00.)

Order Plans and Specifications for Improvement District No. 6162:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6162 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6162:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6162 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. 6162 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6162 in the City of Fargo, North Dakota, according to the Engineer’s Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6162:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6162 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6149 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6149 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6149 Approved:

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

Western National Mutual Insurance Company, in the amount of $2,869,782.89, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6149 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Setback Waiver Request for Lot 1, Block 1 of Sheyenne Estates Addition and Lots 15 and 16, Block 13 of Osgood First Addition Approved Contingent Upon a Favorable Geotechnical Report:

The Board received a communication from the President of Schmit Brothers Construction, Inc. Richard E. Schmit requesting a waiver of Ordinance No. 4818. He said building permits will be sought for the future construction of two houses and two pools on said property. He said the request is contingent upon a favorable soil report from Northern Technologies, Inc.

Commissioner Mahoney moved the setback waiver request from Schmit Brothers Construction, Inc. and Jon Norberg for Lot 1, Block 1 of Sheyenne Estates Addition, and Lots 15 and 16, Block 13 of Osgood First Addition be approved, contingent upon a favorable geotechnical report.

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

Commissioner Williams voted nay.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

City Auditor's Office Directed to Publish Notice of Hearing on an Application Filed by Abdoulie Barry d/b/a F-M Road Force for a Taxicab License: Commissioner Williams Appointed to Serve on the Taxicab License Committee:

The Board received a communication from City Auditor Steve Sprague stating his office received an application from Abdoulie Barry d/b/a F-M Road Force for a taxicab license. He stated in accordance with Article 25, Section 0403, Paragraph B of the Fargo Municipal Code, the application shall be submitted by the City Auditor to the Board of City Commissioners who will set a date for a public hearing and appoint a member of the City Commission to serve on a committee to examine the need for the license. He said the Ordinance calls for the City Auditor's office to publish notice at least 10 days in advance of the time and place for said Hearing, after which the committee would submit their recommendation to the Board.

Commissioner Mahoney moved that the City Auditor's Office be directed to publish a notice of hearing on the application and Commissioner Williams be appointed to serve on the taxicab license committee.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

City Attorney Directed to Draft an Ordinance Rescinding Article 25-32 and Amending Articles 25-10 and 25-35 of the Fargo Municipal Code:

The Board received a communication from City Auditor Steve Sprague stating the City of Fargo currently has three articles in the Fargo Municipal Code addressing transactions involving used or secondhand merchandise. He said staff feels the different chapters are somewhat repetitious and believe that the needs of the City and protection of its citizens could be accomplished in just two chapters. Pawnbrokers and secondhand goods dealer's licenses both require a $250 annual fee, a bond and the use of the LEADS System on-line, while Precious Metals and Gems dealers have a renewal fee of $100 and no bond, he said. Also, he said, pawnbrokers must record all transactions, while secondhand dealers are only required to record transactions over $100 or with a unique identifier, and precious metals and gem dealers have no reporting requirements. At this time the required holding period for the two licenses is different and does not require holding within the City limits, he said, therefore, staff is recommending standardizing the holding period for the two licenses and requiring items be held in the City limits. He said if the Ordinance is revoked, the City could provide a more cost effective service to the citizens of Fargo.

Commissioner Sobolik moved the City Attorney be directed to draft an Ordinance Rescinding Article 25-32 and Amending Articles 25-10 and 25-35 of the Fargo Municipal Code to reflect a unified holding period and a requirement that goods be held within City limits.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Ordinance Amending Section 10-0311 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Panhandling Tabled Until August 6, 2012:

In response to a question from Commissioner Sobolik regarding how this will impact sororities' and fraternities' fundraising efforts, Assistant City Attorney Jason Loos said these changes should not have an impact as long as they are not within 10 feet of a City intersection.

NDSU Student Body President Luke Brodeur said the sororities and fraternities stand on the corners of 12th Street North and University Drive for 24 hours a day for a week soliciting donations. He said the confusion comes when the individuals come out to the cars for donations and he asked if that would be violation of the Ordinance. He said if it is a violation, the NDSU students would be against the proposed ordinance change, as this is their means of raising money for the charities they support.

Chief of Police Keith Ternes said all activities would be permissible if permission is received from the property owner, or if the individuals are within the same restrictions outlined for any other type of solicitation or panhandling. He said the event at NDSU could take place as it does today, however, the students would have to be within the 10 foot barrier. He said the desire is not to prohibit this in the City, but to improve upon the safety for both the panhandlers and pedestrians who may be approached by someone soliciting or panhandling. Solicitations, panhandling and charitable events will still take place throughout the City, he said, with some reasonable restrictions and barriers to ensure the safety of those individuals engaging in these activities.

In response to a question from Commissioner Sobolik asking whether or not the local homeless coalition or anyone from the homeless community has been contacted about the impacts to those individuals, Mr. Ternes said he has not spoken with anyone and does not believe that the proposed changes will have any direct or immediate impact on the homeless population.

Commissioner Sobolik said she would like to take a step back and get input from the homeless population by having a public input meeting.

Commissioner Sobolik moved the Ordinance Amending Section 10-0311 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Panhandling be tabled for two weeks to allow for a public input meeting with the homeless population.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Up To Par, Inc. d/b/a Sports Bubble to Cugolfin LLC d/b/a Sports Bubble Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "H" Alcoholic Beverage License from Up To Par, Inc. d/b/a Sports Bubble at 2761 12th Avenue South to Cugolfin LLC d/b/a Sports Bubble, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Williams moved the application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Bear Paw Enterprises, LLC d/b/a Grizzly's to B.A.B. 32nd Ave. S. LLC d/b/a Moe's Southwest Grill Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Bear Paw Enterprises, LLC d/b/a Grizzly's to B.A.B. 32nd Ave. S. LLC d/b/a Moe's Southwest Grill at 2511 Kirsten Lane, Suite 101, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Williams moved the application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Jose Martin Gutierrez d/b/a Acapulco Mexican Restaurant to Acapulco Mexican Restaurant, Inc. d/b/a Acapulco Mexican Restaurant Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "F" Alcoholic Beverage License from Jose Martin Gutierrez d/b/a Acapulco Mexican Restaurant at 1150 36th Street South to Acapulco Mexican Restaurant, Inc. d/b/a Acapulco Mexican Restaurant notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Williams moved the application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Parcels of Land in Northern Sheyenne Land Addition Rezoned (4500, 5002, 5052 19th Avenue North):

At a Hearing held on July 3, 2012 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GI, General Industrial of the proposed Northern Sheyenne Land 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.

Planner Nicole Crutchfield said the zoning change is from AG, Agricultural and GC, General Commercial to GI, General Industrial on the entire boundary of the plat.

Commissioner Sobolik 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 the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

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

Commissioner Sobolik 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 Northern Sheyenne Land Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Resolution Adopted Approving Northern Sheyenne Land Addition:

Commissioner Sobolik 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 “Northern Sheyenne Land Addition” containing 4 Lots, 1 Block, and 40.22 acres of land more or less, located at 4500, 5002, 5052 19th Avenue North; and

WHEREAS, A Hearing was held July 3, 2012 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 July 17 and 23, 2012 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., July 23, 2012 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 “Northern Sheyenne Land 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 Sobolik, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

Parcels of Land in Agassiz Crossing Fourth Addition Rezoned (South of I-94 and Northeast of the Intersection of 23rd Avenue South and 51st Street South):

At a Hearing held on May 1, 2012 the Fargo Planning Commission recommended approval of a change in zoning from GO, General Office and GC, General Commercial to GC, General Commercial of the proposed Agassiz Crossing Fourth 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 Sobolik 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 the vote being taken on the question of the adoption of the Resolution Commissioners Sobolik, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

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

Commissioner Sobolik 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 Agassiz Crossing Fourth Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Resolution Adopted Approving Agassiz Crossing Fourth Addition:

Commissioner Sobolik 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 "Agassiz Crossing Fourth Addition a Replat of all of Agassiz Crossing Third Addition and part of the North Half of Section 21, Township 139 North, Range 49 West of the Fifth Principal Meridian, and a Vacation of part of Agassiz Crossing right of way within Agassiz Crossing Third Addition to the City of Fargo, County of Cass, State of North Dakota" containing 3 Lots, 3 Blocks, and 35.31 acres of land more or less, located south of I-94 and northeast of the intersection of 23rd Avenue South and 51st Street South; and

WHEREAS, A Hearing was held May 1, 2012 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 June 22 and 29, 2012 and July 2, 9, and 16, 2012 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., July 23, 2012 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 "Agassiz Crossing Fourth Addition a Replat of all of Agassiz Crossing Third Addition and part of the North Half of Section 21, Township 139 North, Range 49 West of the Fifth Principal Meridian, and a Vacation of part of Agassiz Crossing right of way within Agassiz Crossing Third Addition to the City of Fargo, County of Cass, State of North Dakota" 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 Sobolik, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.
The Resolution was adopted.

Resolution Adopted Determining Protests Insufficient on Resolution Annexing Approximately 82.10 Acres of Land in a Part of Sections 14, 15 and 23, Township 140 North, Range 49 West:

The Board received a communication from Senior Planner Jim Hinderaker stating on June 11, 2012 the City Commission adopted a Resolution of Annexation to annex approximately 82.10 acres of land located in Sections 14, 15 and 23 of Reed Township. He said the land is located north of 40th Avenue North (Cass Highway 20) and primarily east of 37th Street North. He said notice of the Resolution and the public hearing to determine sufficiency of protest was published in the newspaper and copies were sent to all owners of property in the annexation area. Mr. Hinderaker stated the purpose of the hearing is to determine if protests to the annexation have been filed. He said in the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the Resolution, the territory described in the Resolution becomes a part of the City. He said the last day to file a written protest was the close of business on Monday, July 23, 2012 and the City Auditors Office did not receive any written protests to this annexation.

Planning Director Jim Gilmour stated the protest period runs up until the end of this meeting and a protest was received today from Luella Holmquist. The written protest constitutes less than 9 acres, he said, and state law reads that the annexation can proceed as long as it is less than 25% of the proposed area. Ms. Holmquist, he said, is concerned that the zoning would change; however, there will be no change in zoning at this time. She also indicates that her property taxes would change when the property is annexed into the City, he said, which is true, however, with only about 8 acres being annexed there would only be an increase of about $18/year. He stated the City does not annex any more land than is necessary. What could affect her, he said, is special assessments, but a deferral could be done for those, unless there is a change in zoning or development on her property. He said the reason the annexation extends to both sides of the property is due to the fact that it is a section line road and in order for utilities to be put in the City needs to have full jurisdiction of the roadway.

Ron Holmquist, son of Luella Holmquist, said they are concerned about the taxes if annexed into the City and he asked why it is necessary to annex their property.

Mr. Gilmour said this road is under the jurisdiction of the township and in order for the City to be able to maintain it, both sides of the property need to be annexed into the City. He said the most right-of-way that would be acquired is 100 feet and 33 feet of that is already part of the township road, therefore there would only be about a 70 foot strip that may need to be acquired.

In response to a question from Mayor Walaker asking whether or not the City can wait until it is determined how much land is actually needed, Mr. Gilmour said both sides of the road need to be annexed so it was determined that it should be 150 feet. He said if it is something less than that it will have a very nominal change to the property tax or property.

City Engineer April Walker said Mr. Gilmour is correct that the actual right-of-way of the road does not have to be 150 feet; however, that amount was what

had been described as the necessary area to hold the roadway and to provide for the temporary construction easement.

Commissioner Williams said in the future he would like to see the numbers and how those were arrived at. He said he feels that it is important for the property owners to see how the City calculated the numbers.

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, A Resolution of Annexation was published, as required by law, in the official newspaper for the City of Fargo on June 18 and 25, 2012, annexing approximately 82.10 acres of land located in part of Sections 14, 15 and 23, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota; and

WHEREAS, The Board of City Commissioners finds protests representing less than 25% of the protest area have been filed with the City Auditor's Office after publication of the Annexation Resolution adopted by the Board of City Commissioners on June 11, 2012.

NOW, THEREFORE, BE IT RESOLVED, That the protests be declared insufficient and that the tract of land described in said Resolution of Annexation be and the same is hereby annexed to, made part of and included within the corporate limits of the City of Fargo, Cass County, North Dakota, and that the City Auditor's Office be and is hereby directed to record said annexation plat in the Cass County Recorder's Office in Fargo, North Dakota.

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

Commissioner Williams voted nay.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

Defined Benefit Retirement System Plan Design Amendments for City Employees, Police and Fire Pension Systems Approved:

The Board received a communication from the Finance Committee and Pension Boards stating the City Commission has engaged in a thorough review of existing City administered defined benefit pension plans over the past several months. They said based upon the discussions and directive from the City Commission, all of the Pension Boards have met to further discuss potential amendments to the plans with the goal of increasing overall funded status. The pension changes being recommended, they said, will help to reduce City pension obligations and the continuation of prudent and responsible management practices. They said failure to adopt a plan for proactively managing these obligations could have a negative impact on the City's bond rating in the future, which was recently increased due to the City's long history of conservative budgeting and the strength of the local and state-wide economy. They stated funds were restricted in the 2012 budget within the Pension Stabilization Fund for future funding; however, the funds were not formally appropriated for the Police and Fire Pension plans. There is an existing fund balance of $1,897,000.00, they said, of which $1,396,000.00 is being recommended to be transferred to the Police and Fire pension plans in the 2012 budget.

Consulting Actuary Mark Meyer said the level of the City's pension benefits is not the problem; however, what has been uncovered is that there have been two problems. The first problem, he said, has been the historical financial problems in the country for over a decade. There were three years in a row, he said, where there were negative stock returns and then the financial crisis of 2008. The next problem that was identified was the contributions from the City have not been adequate to sustain the fund, he said, and there had been the hope that investments would turn around and help solve the problem, but that has not happened. He said a funding policy, is now being recommended which will lessen the liabilities. He said the policy has been arrived at in the right way for the right reasons and still gives the City the flexibility to make real pension reform a reality, to guarantee the security of pension benefits for the employees and to do it in a way that is fiscally responsible and flexible.

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

After recess: All Commissioners present except Commissioner Wimmer. Mayor Walaker presiding.

Commissioner Mahoney moved the defined benefit retirement system plan design amendments for the City Employees, Police and Fire Pension Systems be approved as presented, that $1,396,000.00 be allocated from the Pension Stabilization Fund to the Police and Fire Pension plans and that the pension plans be re-evaluated in six months.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, August 6, 2012.

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

The time at adjournment was 6:36 o'clock p.m.