

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                Monday:                                August 19, 2013:

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, August 19, 2013.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

(Commissioner Mahoney present)

Order of Agenda Approved:

Commissioner Wimmer moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Sobolik moved that the Minutes of the Regular Meeting of the Board held on August 5, 2013 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. Second Quarter 2013 Financial Status Report for Major Operating Funds.
- b. Receive and file Year to Date – Budget to Actual Report for July 2013.
- c. Second Amendment to the Limited Joint Powers Agreement for the Metro Flood Project.
- d. Memorandum of Understanding between the Metro Flood Diversion Authority and the City of Oxbow for the ring-levee project.
- e. Communication to homeowners in Parkview South First through Fifth Additions regarding parkland lots.

- f. 2013 Emergency Shelter Grant allocation from the State of North Dakota Department of Commerce in the amount of \$20,000.00 to assist with operations at the Gladys Ray Shelter and Veterans Drop-In Center (CFDA #14.231).
- g. Service Agreement with Fargo Public Schools for nursing services for Special Education services for the 2013-2014 school year.
- h. Tobacco Prevention and Control Program agreements for North Dakota State University, Family HealthCare, ShareHouse, Inc. and Innovis Health DBA Essentia Health.
- i. Grant Award from the North Dakota Tobacco Prevention and Control Executive Committee for the Tobacco Prevention and Control Public Education Task Force (Contract #G13-7A).
- j. Contract with the North Dakota Department of Health for the Women's Way Program (CFDA #93.919).
- k. Purchase of Service Agreements with the North Dakota Department of Health:
  - (1) Amendment of the Ryan White Part B/Case Program/Management for People Living with HIV/AIDS (CFDA #93.917).
  - (2) State Viral Hepatitis Program activities (Contract #PF13.044).
- l. Agreement with the Downtown Community Partnership in an amount not to exceed \$20,000.00 for 2013 marketing.
- m. Acceptance of \$10,000.00 in 2012 and \$8,000.00 in 2013 CLG grant awards from the State Historical Society (Grant #38-12-41941-27 and #38-13-51941-27).
- n. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 8/5/13:
  - (1) Rezoning Certain Parcels of Land Lying in Chas. A. Roberts Addition and King's Subdivision of Northern Pacific Addition, Fargo, Cass County, North Dakota.
  - (2) Rezoning Certain Parcels of Land Lying in D.S.I. Addition and Southwood Park Addition to the City of Fargo, Cass County, North Dakota.
    - i. Approve Alternative Access Plan with Innovis Health, LLC.
  - (3) Rezoning Certain Parcels of Land Lying in Valley View Addition, Fargo, Cass County, North Dakota.
  - (4) Amending Sections 20-0216 and 20-0901 of Articles 20-02 and 20-09 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to UMU, University Mixed-Use District and General Development Review Procedures.

- o. 2nd reading, waive reading and final adoption of the following Ordinances relating to adoption and upgrading of the 2012 International Codes; 1st reading, 8/5/13:
  - (1) Amending Article 21.1-01 of Chapter 21.1 of the Fargo Municipal Code Relating to The International Residential Code.
  - (2) Amending Article 31-01 of Chapter 31 of the Fargo Municipal Code Relating to The International Property Maintenance Code.
  - (3) Amending Section 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code Relating to The International Mechanical Code.
  - (4) Amending Article 30.1-01 of Chapter 30.1 of the Fargo Municipal Code Relating to The International Fuel Gas Code.
  - (5) Amending Article 21.2-01 of Chapter 21.2 of the Fargo Municipal Code Relating to The International Existing Building Code.
  - (6) Amending Article 21-01 of Chapter 21 of the Fargo Municipal Code Relating to The International Building Code.
  - (7) Amending Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code Relating to Fire Protection and Prevention.
- p. Receive and file Ordinances Amending Article 25-10 of Chapter 25 of the Fargo Municipal Code Relating to Pawnbrokers and Amending Article 25-35 of Chapter 25 of the Fargo Municipal Code Relating to Secondhand Goods Dealers.
- q. Fire Department request to apply for the 2013 SAFER Grant to fund four positions in the Fire Department.
- r. Fire Department budget adjustment in the amount of \$100,000.00 and sole source contracts with Physio-Control, Inc., in the amount of \$37,781.35 to purchase defibrillators and with Home Heating Plumbing Air Conditioning, Inc., in an amount not to exceed \$46,200.00 for repair of the air conditioning and air handling system at the Headquarters Fire Station.
- s. Recommendation for 2014 City Commission meeting schedule.
- t. Purchase of agenda and meeting management software from Civic Systems for \$51,800.00.
- u. State Aid for Public Transit Agreement with the NDDOT for transit funding in the amount of \$657,874.00 (Contract #38131228).
- v. Agreement with NDSU for exterior advertising on buses through June 30, 2014 for \$50,000.00.
- w. Amendment to the Joint Powers Agreement for Transit Support and an Agreement for Transit Services for 2013-2014 with NDSU.
- x. Site Authorization for Metro Sports Foundation at the Scheels Arena.

- y. Applications for Games of Chance:
  - (1) March of Dimes for a raffle on 9/26/13.
  - (2) Make-A-Wish Foundation of North Dakota for a raffle on 9/6/13.
  - (3) North Dakota Dental Foundation for a raffle on 9/13/13.
  - (4) Caring for Caleb Benefit for a raffle on 8/24/13; Public Spirited Resolution.
- z. Renewal of the Landfill Agreement with the City of Valley City.
- aa. Resolution Approving Plat of Lavelle Second Addition (Attachment "A").
- bb. Resolution Approving Plat of Rocking Horse East Third Addition (Attachment "B").
- cc. Agreement for Special Improvements with Crofton Coves LLC (Imp. Dist. No. 6236).
- dd. Access Agreement – Soil Borings with Sharon Rostad (Project No. 5962).
- ee. Access Agreement with Barr Engineering to the City-owned property at 4145 and 6469 University Drive South.
- ff. Amended project budget for Project No. 6051.
- gg. Final Balancing Change Order No. 1, in the amount of \$1,789.96, for Project No. 6189.
- hh. Contract Time Extension for Project No. 6212 to 8/16/13.
- ii. Bid advertisement for Project No. 6051.
- jj. Contract and bond for Project No. 6167.
- kk. Bills in the amount of \$7,854,884.85.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6219:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6219 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 14, 2013 and the bids were found to be as follows:

Ryan Contracting  
Bid:

Shakopee, MN  
\$1,798,396.00

Dakota Underground Company Bid:	Fargo, ND \$1,995,963.50
R.L. Larson Excavating, Inc. Bid:	St. Cloud, MN \$2,190,452.00
J.R. Ferche, Inc. Bid:	Rice, MN \$2,288,318.00
Master Construction Company, Inc. Bid:	Fargo, ND \$2,419,365.05
Quam Construction DBA Kvamsdal Construction Bid:	Willmar, MN \$2,554,391.50
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$2,598,961.00

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6219 Awarded to Ryan Contracting in the Amount of \$1,798,396.00:

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. 6219; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 14, 2013 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6219 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. 6219 shows the bid of Ryan Contracting of Shakopee, Minnesota, in the sum of \$1,798,396.00 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 Ryan Contracting in the sum of \$1,798,396.00 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. 6219 in the City of Fargo, North Dakota, be and the same is hereby awarded to Ryan Contracting for the sum of \$1,798,396.00, 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 Mahoney, Williams, Wimmer, Sobolik and Walaker voted aye.

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

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6236:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6236 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on July 15 and 22, 2013 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. 6236.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6236:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6236 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 14, 2013 and the bids were found to be as follows:

J.R. Ferche, Inc. Bid:	Rice, MN \$4,118,016.30
Dakota Underground Company Bid:	Fargo, ND \$4,452,577.50
Northern Improvement Company Bid:	Fargo, ND \$4,599,332.72

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6236 Awarded to J.R. Ferche, Inc. in the Amount of \$4,118,016.30:

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. 6236; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 14, 2013 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6236 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. 6236 shows the bid of J.R. Ferche, Inc. of Rice, Minnesota, in the sum of \$4,118,016.30 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 J.R. Ferche, Inc. in the sum of \$4,118,016.30 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. 6236 in the City of Fargo, North Dakota, be and the same is hereby awarded to J.R. Ferche, Inc. for the sum of \$4,118,016.30, 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 Mahoney, Williams, Wimmer, Sobolik and Walaker voted aye.

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

Bids Rejected for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6173: Project to be Rebid:

The Board received a communication from City Engineer April Walker stating bids were opened at 11:30 a.m. on July 31, 2013 for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6173. She said the low bid exceeded the Engineer's estimate by 51%; therefore, pursuant to State Statute 40-22-29 bids may not be awarded when the low bid exceeds the Engineer's estimate by 40%. She recommended all bids be rejected and the project be rebid.

Commissioner Mahoney moved the bids for Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6173 be rejected and the project be rebid.

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

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

Bids Rejected for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6221: Project to be Rebid:

The Board received a communication from City Engineer April Walker stating bids were opened at 11:30 a.m. on July 17, 2013 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6221. She said the low bid received exceeded the Engineer's estimate by 48%; therefore, pursuant to State Statute 40-22-29 bids may not be awarded when the low bid exceeds the Engineer's estimate by 40%. She recommended all bids be rejected and the project be rebid.

Commissioner Mahoney moved the bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6221 be rejected and the project be rebid.

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

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

Contract Time Extension for Improvement District No. 6174 Approved:

Commissioner Mahoney moved approval of a contract time extension to August 31, 2013 for Improvement District No. 6174.

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

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

Contract Time Extension for Improvement District No. 6179 Approved:

Commissioner Mahoney moved approval of a contract time extension to September 9, 2013 for Improvement District No. 6179.

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

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

Contract Time Extension for Improvement District No. 6183 Approved:

Commissioner Mahoney moved approval of a contract time extension to September 6, 2013 for Improvement District No. 6183.

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

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

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6241 (Urban Plains by Brandt First Addition):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6241:

Adopt Resolution Creating Improvement District No. 6241:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6241 in the City of Fargo, North Dakota, be created

On 28th Avenue South, 30th Avenue South, 55th Street South, and Seter Parkway.

COMPRISING:

The following described land located in the south half of Section 21, Township 138 N, Range 49 W, City of Fargo, Cass County, North Dakota:

Lot 1, Block 4,  
Lots 2, 3 & 4, Block 5  
Urban Plains by Brandt First Addition

All of Blocks 1, 2, 3, 4 & 5, Urban Plains by Brandt Second Addition;



Lots 1 & 3, Block 1, Urban Plains Recreational Second Addition;

That part of Lot 1, Block 4, Urban Plains Center Addition to the City of Fargo, said plat is on file and of record in the office of the Recorder in Cass County, North Dakota which lies westerly of the following described line:

Commencing at the southwesterly corner of said Lot 1; thence North 88 degrees 50 minutes 00 seconds East along the southerly line of said Lot 1 for a distance of 513.00 feet to the point of beginning of the line to be described; thence North 01 degree 10 minutes 00 seconds West, perpendicular to the southerly line of said Lot 1 to the southerly line of 31 Avenue South according to said Urban Plains Center Addition to the City of Fargo and said line there terminates.

All of the foregoing land lying in Cass County, North Dakota, said district to include land lying within the City limits of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6241 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. 6241:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6241 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 \$2,201,577.00.)

Order Plans and Specifications for Improvement District No. 6241:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6241 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6241:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6241 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. 6241 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6241:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6241 in the City of Fargo, North Dakota.

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

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

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6245 (Legacy I Fourth Addition):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6245:

Adopt Resolution Creating Improvement District No. 6245:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6245 in the City of Fargo, North Dakota, be created

18th Street South from 62nd Avenue South to 64th Avenue South.

COMPRISING:

Lots 10 through 35, Block 11

Lots 2 through 21, Block 12

Legacy I 4th Addition.

All of the foregoing land lying 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. 6245 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. 6245:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6245 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 \$491,040.00.)

Order Plans and Specifications for Improvement District No. 6245:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6245 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6245:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6245 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. 6245 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6245:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6245 in the City of Fargo, North Dakota.

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

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

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6248 (West 29th Addition):

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 6248:

Adopt Resolution Creating Improvement District No. 6248:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6248 in the City of Fargo, North Dakota, be created

On 24th Avenue South between 41st Street and 42nd Street South.

On 41st Street South between 24th Avenue and 26th Avenue South.

COMPRISING

Lot 1, Block 1

All in West 29 4th Addition.

The unplatted parcel adjacent to 24th Avenue South and 41st Street South.

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. 6248 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. 6248:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6248 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 \$326,040.00.)

Order Plans and Specifications for Improvement District No. 6248:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6248 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6248:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6248 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. 6248 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6248:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6248 in the City of Fargo, North Dakota.

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

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

Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6249 (Various Locations in South Fargo):

Commissioner Mahoney moved the following action be taken in connection with Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6249:

Adopt Resolution Creating Improvement District No. 6249:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6249 in the City of Fargo, North Dakota, be created

An area bounded to the north by Interstate 94, to the east by 51st Street & 47th Street South, to the south by Cass County Drain 27 & 40th Avenue South and to the west by Veterans Boulevard.

COMPRISING:

Lot 1, Block 1

Lot 1, Block 2

All platted in the Agassiz Crossing 5th Addition.

Lots 1 through 4, inclusive, Block 1

Lots 1 through 4, inclusive, Block 2

Lot 1, Block 3

All platted in Amber Valley West 1st Addition.

Lots 1 through 3, inclusive, Block 1

All platted in the Amber Valley West 2nd Addition.

Lots 1 through 3, inclusive, Block 1

Lots 1 through 21, inclusive, Block 2

Lots 1 through 12, inclusive, Block 3

All platted in the Amber Valley 6th Addition.

Lots 1 through 3, inclusive, Block 3

Lots 1 and 2, inclusive, Block 4

Lots 1 through 4, inclusive, Block 5

All platted in the Urban Plains by Brandt 1st Addition.

Lots 1 & 2, inclusive, Block 2

Lots 1 through 3, inclusive, Block 3

Lot 1, Block 4

All platted in the Urban Plains Center Addition.

Lot 1, Block 1

Platted in the Urban Plains Recreational Addition.

Lots 1 through 3, inclusive, Block 1

All platted in the Urban Plains Recreational 2nd Addition.

Lot 1, Block 1

All lots platted in Block 3

Lots 1 through 12, inclusive, Block 6

Lots 1 through 24, inclusive, Block 7

Lots 1 through 24, inclusive, Block 8

Lots 1 through 24, inclusive, Block 9

Lots 1 through 12, inclusive, Block 10

Lots 1 through 14, inclusive, Block 11

Lots 1 through 14, inclusive, Block 12

Lots 1 through 12, inclusive, Block 13

Lots 1 through 30, inclusive, Block 14

All platted in the Brandt Crossing 1st Addition.

Lots 1 through 5, inclusive, Block 1

All platted in the Brandt Crossing 4th Addition.

Lot 2, Block 1

All platted in the Brandt Crossing 5th Addition.

Lots 1 through 3, inclusive, Block 1

All platted in the Brandt Crossing 6th Addition.

Lots 1 through 4, inclusive, Block 1

All platted in the Brandt Crossing 7th Addition.

Lots 1 through 5, inclusive, Block 1

Lots 1 through 27, inclusive, Block 2

Lots 1 through 14, inclusive, Block 3

Lot 1, Block 4

Lots 1 through 11, inclusive, Block 5

Lots 1 through 8, inclusive, Block 6

Lot 1, Block 7

Lots 1 & 2, inclusive, Block 8

All Platted in the Valley View Addition.

All unplatted property bounded on the west by Veterans Boulevard, bounded on the east by the Sincebaugh Addition & 47th Street, bounded on the south by 40th Avenue South & Drain 27 and bounded on the north by Interstate 94.

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

NOW, THEREFORE, BE IT RESOLVED, That Storm Sewer Lift Station, Storm Sewer and Incidentals Improvement District No. 6249 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. 6249:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6249 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 \$1,570,583.52.)

Order Plans and Specifications for Improvement District No. 6249:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6249 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6249:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6249 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. 6249 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6249:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6249 in the City of Fargo, North Dakota.

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

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

Resolution Adopted Creating the Funds of Improvement Districts, Providing for and Appropriating Special Assessments for the Support and Maintenance of Said Funds, and Authorizing the Issuance of Improvement Warrants Thereon:

Director of Finance Kent Costin said the City received nine bids this morning for the improvement bonds, which is a little higher than the City has received in the past. He said overall it was a very good sale with the low bidder being Janney Montgomery Scott LLC.

Commissioner Wimmer moved the Resolution entitled "Resolution Creating the Funds of Improvement Districts, Providing for and Appropriating Special Assessments for the Support and Maintenance of Said Funds, and Authorizing the Issuance of Improvement Warrants Thereon" and referred to as Attachment "C", be adopted and attached hereto.

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

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

Resolution Adopted Authorizing the Issuance of \$16,175,000.00 Refunding Improvement Bonds, Series 2013C:

Commissioner Wimmer moved the Resolution entitled "Resolution Authorizing the Issuance of Refunding Improvement Bonds, Series 2013C Approving Certain Actions, Awarding the Sale Thereof and of the Warrants Related Thereto, Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof" and referred to as Attachment "D", be adopted and attached hereto.

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

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

2014 Preliminary Budget Received and Filed:

The Board received a communication from Mayor Walaker stating the preliminary budget is complete and ready for review at upcoming Commission meetings. He said the budget will be reviewed in more detail at the September 3rd meeting at which time the Board can either adopt or amend the Mayor's preliminary budget. He said the public hearing is planned for September 16th.

Commissioner Wimmer moved the 2014 preliminary budget be received and filed.

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

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

Receive and File Request from Bruce Meidinger for Waiver from the River Setback Ordinance: Appropriate Staff Directed to Evaluate the Waiver for Property Located at 4525 North Riverwood Drive:

The Board received a communication from Bruce Meidinger, owner of property located at 4525 North Riverwood Drive, requesting a waiver of the River Setback Ordinance for his vacant river lot. He said the materials were drawn up for him at his request by Curt Skarphol of Houston Engineering. He said the drawings contemplate a 10 foot wide primary flood protection line with minimum elevation of 897 feet.

Commissioner Mahoney moved the request from Bruce Meidinger for a waiver from the River Setback Ordinance be received and filed and appropriate staff be directed to evaluate the request for a waiver for property at 4525 North Riverwood Drive and submit their recommendation to the Board.

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

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

Conditional Use Permit to Allow a Wireless Telecommunication Support Structure (cell tower) in a P/I, Public and Institutional Zoning District Approved (1133 Elm Street North):

A Hearing had been held by the Fargo Planning Commission on June 4, 2013 to consider a request for a Conditional Use Permit to allow a wireless telecommunication support structure (cell tower) to be located closer than 300 feet from a residentially zoned property within the watercourse setback in a P/I, Public and Institutional zoning district on Lot 1, Block 1, Mickelson Fields Addition (1133 Elm Street North), and the Fargo Planning Commission at such Hearing recommended that the Conditional Use Permit be denied.

The City received an appeal of the denial of the Conditional Use Permit from the Fargo Park District/Faulk & Foster (representing Verizon Wireless), which requires that a Public Hearing be held by the City Commission.

The City Auditor's Office published a Notice of Hearing stating July 8, 2013 was the time and date set for said Hearing at which time all interested persons could appear and would be heard.

At the July 8, 2013 meeting, the Hearing was continued to July 22, 2013.

At the July 22, 2013 meeting, the Hearing was continued to August 5, 2013.



At the August 5, 2013 meeting, the Hearing was continued to this day and hour.

City Attorney Erik Johnson said he feels this application complies with the River Setback Ordinance and planning staff is recommending this be approved as well. He said Verizon is also willing to protect the pole from any flooding or damages received from flooding.

Steve Wegman of Faulk & Foster on behalf of Verizon Wireless said he appreciates staffs time in moving this project forward and Verizon Wireless is willing to locate the equipment above the 500 year flood level.

In response to a question from Commissioner Williams about Verizon Wireless' comfort level in stating that they will take responsibility for any damages above the 500 year flood level, Mr. Wegman said Verizon Wireless is comfortable in taking that responsibility.

Commissioner Sobolik moved the appeal of the Planning Commission's denial of the Conditional Use Permit to allow a wireless telecommunication support structure (cell tower) to be located closer than 300 feet from a residentially zoned property within the watercourse setback in a P/I, Public and Institutional zoning district on Lot 1, Block 1, Mickelson Fields Addition be overturned and the Conditional Use Permit be approved.

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

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

Parcels of Land in Urban Plains by Brandt Second Addition Rezoned (2667 55th Street South, 2921 and 2960 Seter Parkway South and 5142, 5151, 5343, 5356 and 5447 28th Avenue South):

At a Hearing held on May 7, 2013 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling, GC, General Commercial, and LC, Limited Commercial all with a Conditional Overlay to LC, Limited Commercial and P/I Public and Institutional with the existing Conditional Overlay to remain, and MR-3, Multi-Dwelling with extinguishment of the existing Conditional Overlay of the proposed Urban Plains by Brandt Second Addition.

The City Auditor's Office published a Notice of Hearing stating August 5, 2013 was the time and date set for said Hearing at which time all interested persons could appear and would be heard.

At the August 5, 2013 meeting the Hearing was continued to this day and hour.

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 review criteria of Section 20-0906.F (1-4) has been met.

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Urban Plains by Brandt Second 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 Urban Plains by Brandt Second Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

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

Resolution Adopted Approving Urban Plains by Brandt Second 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 "Urban Plains by Brandt Second Addition" containing 11 Lots, 5 Blocks, and 67.126 acres of land more or less, located at 2667 55th Street South, 2921 and 2960 Seter Parkway South, and 5142, 5151, 5343, 5356, and 5447 28th Avenue South; and

WHEREAS, The plat includes a petition to vacate part of 28th Avenue South, 30th Avenue South, and Seter Parkway South; and

WHEREAS, A Hearing was held May 7, 2013 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, 29, and August 5, 12, 2013 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., August 19, 2013 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 "Urban Plains by Brandt Second Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

Hearing on a Petition for Annexation of 22.10 Acres of Land Located in Section 5, Township 138 North, Range 49 West in Stanley Township and Within the Extraterritorial Area Continued to September 16, 2013:

A Hearing had been set for June 24, 2013 on a petition for annexation of 22.10 acres of land located in Section 5, Township 138 North, Range 49 West in Stanley Township and within the extraterritorial area.

At the June 24, 2013, the Hearing was continued to July 22, 2013.

At the July 22, 2013 meeting, the Hearing was continued to August 5, 2013.

At the August 5, 2013 meeting, the Hearing was continued to this day and hour; however, Planning Administrator Nicole Crutchfield is requesting the Hearing be continued to September 16, 2013.

Commissioner Sobolik moved the Hearing be continued to 5:15 o'clock p.m. Monday, September 16, 2013.

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

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

Hearing on the Special Assessment List for Maintenance of the Skyway System Approved:

A Hearing had been set for this day and hour on the special assessment list for maintenance of the Skyway System in the City of Fargo, North Dakota and on file in the City Auditor's Office.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment list for maintenance of the Skyway System be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

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

Hearing on the Special Assessment List for the Island Park Ramp Approved:

A Hearing had been set for this day and hour on the special assessment list for the Island Park Ramp in the City of Fargo, North Dakota and on file in the City Auditor's Office.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

In response to a question from Commissioner Williams in regards to when the Island Park Parking Ramp will be paid off, Director of Finance Kent Costin said within two years it will be paid off.

Commissioner Williams moved that the special assessment list for the Island Park Ramp be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

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

#### Hearing on Special Assessments for Sewer Repairs on Certain Properties in the City of Fargo:

A Hearing had been set for this day and hour on the special assessments for sewer repairs on the list of properties on file in the City Auditor's Office.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Mahoney moved the sewer repair special assessment list be approved as submitted.

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

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

#### Hearing on Special Assessments for Nuisance Abatement Fees on Certain Properties in the City of Fargo:

Hearings had been set for this day and hour on special assessments for nuisance abatement fees on the list of properties on file in the City Auditor's Office.

No appeals have been filed in writing against any item appearing on such special assessment re-inspection list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Sobolik moved the special assessments for nuisance abatement fees be approved as submitted.

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

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

#### Second Reading and Final Adoption of an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages:

Jade Rosenfeldt, Attorney for The Spirit Shop, said she would again just reiterate her clients' opposition to the proposed Ordinance changes.

Harvey Nicholson of the Spirit Shop said The Spirit Shop stands to lose if the economic factors are thrown away and he feels that a statement of the impact to his business can be made without going into numbers. He said it is really difficult to

compare their store to a big box store when they are buying based on volume. He said there have been instances where a competitor's product has gone on sale for less money than what the Spirit Shop pays for the product. He continued by saying that people may not go a mile to save a dollar, but most would walk 800 feet.

Commissioner Williams moved that the proposed Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages which was placed on its first reading August 5, 2013 be now placed on its second reading and a vote taken on the question of its final passage and adoption.

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

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

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

On the vote being taken on the question of the final passage and adoption of the Ordinance, Commissioners Williams, Wimmer, Sobolik, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Ordinance was duly passed and adopted.

#### Request for an Overwidth Driveway at 2730 Samuel Drive Denied:

The Board received a communication from City Engineer April Walker stating on July 8, 2013 the Commission heard a request from Dr. Scott Van Dam to find a way to allow him to keep the overwidth driveway he installed at 2730 Samuel Drive. He installed a 45 foot wide driveway, which currently exceeds the maximum allowable variance that staff has the ability to approve according to the ordinance, by 9 feet, she said. She said to prepare a recommendation, staff reviewed the 2012 permits for sidewalks and driveway approaches to try to better understand the request and the impacts a potential Ordinance change would have. She said in 2012 there were no permitted driveways that exceeded 36 feet and the only locations where driveways were of the width proposed by Mr. Van Dam were locations that have a much larger front footage than his residential property. She said there are reasons, ranging from decreasing the amount of runoff to the storm sewer system, to supporting walkable communities, to reducing the amount of impervious surface within the community. She said if the Commission modifies the Ordinance to allow Dr. Van Dam's request, steps should be taken to severely limit the proliferation of this type of driveway in a residential setting.

Commissioner Williams moved the request for an overwidth driveway at 2730 Samuel Drive be denied.

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

Commissioners Mahoney and Walaker voted nay.

The motion was declared carried.

Commissioner Williams moved that the Board adjourn to 5:00 o'clock p.m., Tuesday, September 3, 2013.

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

The time at adjournment was 6:10 o'clock p.m.