

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. Subordination agreement with the U.S. Department of Commerce, National Institute of Standards and Technology on the Series 2007A and 2007B Lease Revenue Refunding Bonds.
- b. Request of the Horace Mann Area Neighborhood Association for an extension of the noise ordinance until 11:00 p.m. on August 2, 2011 for a block party on the Horace Mann campus.
- c. Part-time Police Support Specialist contract with Diane Jerdee.
- d. Emergency mutual aid agreements with Cass County, the Cities of Bismarck and Valley City, the Fargo Board of Education, the West Fargo Public Schools and the Fargo Park District (moved to the Regular Agenda).
- e. Summons and Complaint and Admission of Service in the matter of Shaun Duciaume v. City of Fargo, et al.
- f. Contract with Fargo Public Schools for nursing services for summer school 2011.
- g. Contract with the North Dakota Department of Health for Title V Maternal and Child Health Block Grant Program (CFDA #93.994).
- h. NDDOT State Aid for Public Transit Agreement for \$369,581.00 in state aid transit funds (Contract #38110939).
- i. List price for sale of neighborhood stabilization program property at 810 25th Street North for \$124,900.00 and 1409 10th Street South for \$139,900.00.
- j. Tax Increment Revenue Note in the amount of \$557,483.58 effective 6/15/11 and Private Placement Memorandum to FM City Development, LLC (moved to the Regular Agenda).
- k. Applications for 5-year tax exemptions for improvements made to buildings:
 - (1) R & R Investments, LLC, 701 4th Avenue North.
 - (2) R & R Investments, LLC, 430 7th Street North.
- l. Applications for Games of Chance:
 - (1) Fargo Angels Youth Hockey for a calendar raffle from 12/4/11 to 12/27/11.
 - (2) Sutton Lauinger's Meat Benefit for a raffle on 10/16/11; Public Spirited Resolution.
 - (3) Kringen Club, Inc. for bingo from 7/1/11 to 6/30/12.
- m. Plat of Osgood Farms Second Addition.

- n. Donation of sale proceeds in the amount of \$2,622.88 from a shuttle bus to Fargo Senior Ride Service.
- o. RFP award to Northern Truck Equipment in the amount of \$102,548.00 for one hook hoist, plow and wing.
- p. Addendum #5 to the Transportation Planning Agreement with FM Metro COG for the University Drive Corridor Study.
- q. Engineering Services Contract Amendment in the amount of \$7,500.00 for Project No. 5951.
- r. Convey to NDDOT the City's desire to keep the Lindenwood Red River pedestrian lift bridge replacement on a 2012 construction schedule (Project No. 5884).
- s. Modification No. 3 for Cooperative Agreement No. 301817J252 for an additional \$40,000.00 in U.S, Fish and Wildlife funding for fish passage enhancements on the Red River lowhead dams at Christine and Hickson.
- t. Final Balancing Change Order No. 1 in the amount of \$6,607.24 for Project No. 5909.
- u. Contract time extension for Project No. 5807-01.
- v. Change Order No. 1 in the amount of \$422,860.00 and contract time extensions for Project No. 5946-02.
- w. Final Balancing Change Order in the amount of \$129,384.50 for Project No. 5958-1.
- x. Bid awards for Project Nos. 5991 to Aggregate Industries in the amount of \$99,539.00, 5995 to Key Contracting in the amount of \$98,458.20 and 6032 to Asplin Excavating, Inc. in the amount of \$448,724.00.
- y. Bid advertisement for Project No. 5944-03, 6026 and 6028-01.
- z. Contracts and bonds for Project Nos. 6007, 6008, 6024, 6030.
- aa. Bills in the amount of \$6,729,473.37.

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

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

Reimbursement to the Park District for Rose Creek Levee Engineering and Clay Levee Construction (Project No. 6044):

The Board received a communication from the Public Works Projects Evaluation Committee stating during the 2011 flood Engineering staff worked with the Fargo Park District staff to construct a clay levee across the middle of Rose Creek Golf Course. The Park Board, they said, agreed to take the lead role in contracting for the upgrade and reconstruction to permanent levee standards.

Commissioner Mahoney moved reimbursement to the Park District for Rose Creek levee engineering and clay levee construction to City standards be approved.

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

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

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5963:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5963 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 9 and 16, 2011 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5963.

Second by Wimmer. On call of the roll Commissioners Mahoney, Wimmer, Piepkorn, Williams 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. 5963:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5963 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 8, 2011 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$134,805.59
Northern Improvement Company Bid:	Fargo, ND \$154,003.35
Key Contracting Bid:	Fargo, ND \$167,610.16
Rising Sun Construction, Inc. Bid:	Fargo, ND \$168,943.00

Second by Wimmer. On call of the roll Commissioners Mahoney, Wimmer, Piepkorn, Williams 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. 6001:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 22, 2011 and the bids were found to be as follows:

Aggregate Industries Bid:	Moorhead, MN \$269,247.11
Northern Improvement Company Bid:	Fargo, ND \$277,948.15
Dakota Underground Company Bid:	Fargo, ND \$337,832.71

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 Awarded to Aggregate Industries in the Amount of \$269,247.11:

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. 6001; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 22, 2011 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 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. 6001 shows the bid of Aggregate Industries of Moorhead, Minnesota, in the sum of \$269,247.11 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Aggregate Industries in the sum of \$269,247.11 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. 6001 in the City of Fargo, North Dakota, be and the same is hereby awarded to Aggregate Industries for the sum of \$269,247.11, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Contract for Shared Use Path, Bridge Construction, P.C. Concrete Paving and Incidentals Improvement District No. 5905-3 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Adelman Concrete & Excavating, Inc. for Shared Use Path, Bridge Construction, P.C. Concrete Paving and Incidentals Improvement District No. 5905-3 in the City of Fargo, North Dakota.

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

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

Contract Bond for Shared Use Path, Bridge Construction, P.C. Concrete Paving and Incidentals Improvement District No. 5905-3 Approved:

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

United Fire & Casualty Company, in the amount of \$48,917.25, for Shared Use Path, Bridge Construction, P.C. Concrete Paving and Incidentals Improvement District No. 5905-3 in the City of Fargo, North Dakota.

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

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

Contract for P.C. Concrete Paving and Incidentals Improvement District No. 5908-03 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for P.C. Concrete Paving and Incidentals Improvement District No. 5908-03 in the City of Fargo, North Dakota.

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

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

Contract Bond for P.C. Concrete Paving and Incidentals Improvement District No. 5908-03 Approved:

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

United Fire and Casualty Company, in the amount of \$2,566,678.74, for P.C. Concrete Paving and Incidentals Improvement District No. 5908-03 in the City of Fargo, North Dakota.

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

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

Presentation of the 100 Best Fleets Certificate of Achievement to Public Works Garage and Transit Maintenance Staff:

The Board received a communication from Fleet Services Manager Harold Peterson stating the City of Fargo Fleet was recognized as 97 of 100 Best Fleets. He said the 100 Best Fleets award program recognizes and rewards peak performing public sector fleet operations in North America.

Mayor Walaker presented the Certificate of Achievement to Fleet Services Manager Harold Peterson and the maintenance staff and commended the Public Works Garage and Transit Maintenance Staff for their efforts in this regard.

Assistant Chief Steven Balstad Appointed Interim Fire Chief and Captain Gary Lorenz Appointed Interim Assistant Fire Chief:

The Board received a communication from City Administrator Pat Zavoral stating Fire Chief Bruce Hoover is retiring July 5th. In the interim, he said, he recommends Assistant Chief Steven Balstad be appointed Interim Chief until a new Fire Chief is selected. He said the selection process will begin in mid-July and should be completed in late August. In addition to the appointment of an Interim Chief, he said, he recommends that Captain Gary Lorenz be appointed as Interim Assistant Chief during the transition period.

Commissioner Mahoney moved the recommendation to appoint Steven Balstad Interim Fire Chief and Gary Lorenz Interim Assistant Fire Chief be approved.

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

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

Emergency Mutual Aid Agreements with Political Subdivisions Approved:

The Board received a communication from Director of Finance Kent Costin stating the City of Fargo is currently processing cost recovery data for submission to FEMA from the 2011 flood event. Mutual aid agreements between political subdivisions, he said, are required as part of this process and the City intends to execute agreements with local and regional political subdivisions that the City of Fargo interacted with during recent flood events. Political subdivisions included, he said, are Cass County, the Cities of Valley City and Bismarck, Fargo Board of Education, West Fargo Public Schools and the Fargo Park District.

Chief of Police Keith Ternes stated late last week he received a request from the Minot Police Department and the Ward County Sheriff's office asking for any assistance the City of Fargo law enforcement can provide. He said before assistance is offered to them, an agreement with parameters for that assistance should be in place.

Commissioner Williams moved the Emergency Mutual Aid Agreements with Cass County, the Cities of Bismarck, Valley City and Minot, Fargo Board of Education, West Fargo Public Schools and the Fargo Park District be approved.

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

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

Spirit of Fargo Fund Allocation in the Amount of \$5,000 Approved:

City Administrator Pat Zavoral stated he is requesting that \$5,000.00 from the Spirit of Fargo Fund be contributed to the Great Plains Food Bank to go out to the City of Minot.

Commissioner Williams moved the Spirit of Fargo allocation in the amount of \$5,000.00 be approved.

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

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

Parcels of Land in Spiry First Addition Rezoned (3253 42nd Street South and 4200 32nd Avenue South):

At a Hearing held on June 7, 2011 the Fargo Planning Commission recommended approval of a change in zoning of the proposed Spiry First Addition from AG, Agricultural and MR-3, Multi-Dwelling to LC, Limited Commercial.

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 Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, 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 Spiry First Addition, Fargo, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Spiry First Addition, Fargo, Cass County, North Dakota be placed on first reading.

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

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

Resolution Adopted Approving Spiry First Addition:

Commissioner Wimmer 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 "Spiry First Addition" containing 3 Lots, 1 Block, and 60,720 square feet of land more or less, located at 3253 42nd Street South and 4200 32nd Avenue South; and

WHEREAS, A Hearing was held June 7, 2011 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, As announced in the City Commission agenda which was made available on June 23, 2011 that a Hearing would be held in the City Commission Room, City Hall, Fargo, North Dakota at 5:15 p.m., on June 27, 2011 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Spiry First 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 the Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

Limited Joint Powers Agreement for the Metro Flood Diversion Project Approved:

City Attorney Erik Johnson said the Limited Joint Powers Agreement is intended to govern the design process and related elements from now until September or October of 2012 and will also authorize the creation of the Diversion Authority. This week during a meeting with the Legal Subcommittee, he said, the group was able to discuss some of the issues that were brought up during the recent Metro Flood Study Work Group meeting and proposed ways of resolving some of these issues. He said one issue is whether this revised JPA would be acceptable basically allowing the Minnesota share to be advanced by the North Dakota entities admittedly taking the risk that if the project does not happen or something stalls the project, there would be no legal obligation on the part of Minnesota. The other issue, he said, is of time value and with North Dakota entities advancing the funds for a couple of years, if there should be some sort of interest payment. The discussion was that rather than taking an interest payment, North Dakota would take the lead on advancing the funds now, he said, and later on when there are construction costs Minnesota could take the lead on, advancing the funds with things being equaled out in that manner. He stated Minnesota members felt there was a problem with having the authority to promise to pay interest without the State Legislature's authority. This

draft, he said, basically acknowledges there is a time value issue that needs to be resolved by the Metro Flood Diversion Authority and its members to be worked out in the future. The third issue has to do with voting, he said, as the draft reads there would be a nine member board, two members being from Minnesota requiring at least one vote being in favor and with bigger issues of the project a super majority vote would be required. After quite a bit of discussion, he said, no changes were made to the draft in regards to the voting issue.

Commissioner Mahoney moved the Limited Joint Powers Agreement for the Metro Flood Diversion Project be approved.

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

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

Discussion Regarding the Draft Design Agreement for the Metro Flood Diversion Project:

City Engineer Mark Bittner said he is working on a work-in-kind list which the Corps will need. He said the Corps has put together an Integral Determination Report that suggests the Corps upper management needs to approve the work tasks that the City is recommending to be done locally under the work-in-kind program. Once the report is completed, he said, the City can proceed to the next steps of the project. He said there have been a lot of alternatives looked over in the past couple of years and he wants to make sure that everything is in order.

Retention of a Lobbyist for the Metro Flood Diversion Project Approved: Staff Directed to Sign the Self Certification Documents for the Metro Flood Diversion Project:

City Administrator Pat Zavoral said he had a conference call this morning with a staff person from the Podesta Group. He said the Podesta Group is suggesting that if something is not in place by September 1st it may be very difficult to get the funding for the proposed diversion project in the President's 2013 budget. He said the idea is to hire the lobbyist at least thru December of 2011 to see if the project will make it into the President's budget.

Mayor Walaker stated the hiring of a lobbyist is a time critical process that needs to be done.

Commissioner Wimmer moved the Podesta Group be retained as the lobbyist for the Metro Flood Diversion Project for a period of six months.

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

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

Commissioner Piepkorn moved the appropriate staff be directed to sign the self certification documents for the Metro Flood Diversion Project.

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

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

Tax Increment Revenue Note and Private Placement Memorandum for TIF District No. 2008-01 FM City Development, LLC Approved:

The Board received a communication from Planning Director Jim Gilmour stating the FM City Development, LLC Tax Increment Financing Project located at 1430, 1434 and 1436 12th Avenue North (Phase Two) has been completed and eligible costs have been determined. He said review of the costs was done by the Planning and Finance Departments and documented costs and accrued interest were determined to total \$557,483.58.

Planning Director Jim Gilmour stated one additional item was needed in the Tax Increment note. He said as part of the agreement it states that if the mill levy should fall below 400 mills and stay there for the entire term of this note, the actual amount of assistance is reduced. The mill levy is currently below 400, he said, however, the City cannot determine if it will stay there until 2024.

Commission Piepkorn moved the Tax Increment Revenue Note in the amount of \$557,483.58 effective June 15, 2011 and the Private Placement Memorandum for TIF District No. 2008-01 FM City Development, LLC be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, July 11, 2011.

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

The time at adjournment was 5:58 o'clock p.m.