

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: July 22, 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, July 22, 2013.

The Commissioners present or absent were as shown following:

Present: Mahoney, Sobolik, Williams, Wimmer, Walaker.

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved omitting Item "ee4" in the Consent Agenda and Item No. 1 in the Regular Agenda.

Second by Williams. All the Commissioners 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 8, 2013 be approved as read.

Second by Wimmer. 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. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 7/8/13:
- (1) Amending Section 10-0304 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Carrying, Possession, Discharge of Dangerous Weapons.
 - (2) Amending Section 8-0310 of Article 8-03 of Chapter 8 of the Fargo Municipal Code Relating to Persons Under the Influence of Intoxicating Liquor or Controlled Substances Not to Operate Vehicle.
 - (3) Amending Section 10-0322 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Harassment.
 - (4) Amending Sections 1-0301, 1-0302, 1-0303 and 1-0304 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Ordinance Violations.
 - (5) Amending Section 8-0320 of Article 8-03 of Chapter 8 of the Fargo Municipal Code Relating to Driving Without Liability Insurance.
 - (6) Rezoning Certain Parcels of Land Lying in Hector's Subdivision, Fargo, Cass County, North Dakota.

- (7) Rezoning Certain Parcels of Land Lying in Wm. G. Johnson Addition, Fargo, Cass County, North Dakota.
 - (8) Rezoning Certain Parcels of Land Lying in Eagle Pointe Second Addition, Fargo, Cass County, North Dakota.
 - (9) Rezoning Certain Parcels of Land Lying in Crofton Coves First Addition, Fargo, Cass County, North Dakota.
- b. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 25-1506.Y of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- c. PEC recommendations to implement classification, reclassification and department restructure requests:

Assessors:

Request to reclassify one Deputy Assessor (Grade 16) to (Grade 17) with proposed rating changes. Annual cost of request: \$4,826.

PEC recommends approval retroactive to July 1, 2013.

Engineering:

Request to reclassify one Engineering Tech III (Grade 13) to Engineering Tech Supervisor (Grade 15) with proposed rating changes. Annual cost of request: \$4,260.

PEC recommends approval effective January 1, 2014.

Solid Waste:

Request to classify one Leachate & Landfill Gas Technician at a Grade 10 with proposed ratings. Annual cost of request: Approved in the 2013 budget.

PEC recommends approval effective immediately.

Request to reclassify one Scale Operator (Grade 5) to (Grade 7) with proposed rating changes. Annual cost of request: \$2,163.

PEC recommends approval effective January 1, 2014.

Fire:

Request to reclassify two Assistant Chiefs (Grade X19) to Battalion Chiefs (Grade X17) with proposed rating changes. Annual cost of request: -\$73,478.

PEC recommends approval effective January 1, 2014.

Request to reclassify one Fire Fighter (Grade X11) to Battalion Chief (Grade X17) with proposed rating changes. Annual cost of request: \$26,290.

PEC recommends approval effective January 1, 2014.

Health:

Request to reclassify one WIC Certifier I (Grade 3) to an Office Associate II (Grade 6) with proposed rating changes. Annual cost of request: \$2,642.

PEC recommends approval effective January 1, 2014.

Water:

Request to classify one Instrumentation & Controls Technician at a Grade 11 with proposed ratings. Annual cost of request: Cost will be included in the 2014 budget request.

PEC recommends approval effective January 1, 2014.

Library:

Request to classify one Technology Assistant (Library Associate III) at a Grade 9 with proposed ratings. Annual cost of request: Cost will be included in the 2014 budget request.

PEC recommends approval effective January 1, 2014.

Request to approve title change of Collections Manager to Collection Development/Technical Services Manager. Annual cost of request: \$0.

PEC recommends approval effective immediately.

Police:

Request to classify one Evidence/Property Assistant at a Grade 10 with proposed ratings. Annual cost of request: Cost will be included in the 2014 budget request.

PEC recommends approval effective January 1, 2014.

Transit:

Request to classify one Public Information Specialist at a Grade 12 with proposed ratings. Annual cost of request: Cost will be included in the 2014 budget request.

PEC recommends approval effective January 1, 2014.

- d. Request from the National Suicide Prevention Committee to hang banners in the skyway from August 30, 2013 until September 13, 2013 to promote the National Suicide Prevention Week.

- e. Receive and file Year to Date – Budget to Actual Report for June 2013.
- f. Pledged securities as of June 30, 2013.
- g. Independent Auditor's Report and City Comprehensive Annual Financial Report for the year ending December 31, 2012.
- h. Receive, file and submit the 2012 Consolidated Annual Performance Evaluation Report to HUD.
- i. Expansion of the licensed liquor premise at Bulldog Tap, 4265 45th Street South to include a portion of the newly-constructed building to the south of their current location.
- j. Contract with Image Group, Inc. for architectural services for the CVS building.
- k. Grant Award from the North Dakota Tobacco Prevention and Control Executive Committee for the Tobacco Prevention and Control Client Based Program (Contract #G13-31).
- l. Contract Amendment with the North Dakota Department of Health for the WIC Program (CFDA #10.557).
- m. Contract with the Fargo Public School District for nursing services for the 2013-2014 school year.
- n. Contract with the North Dakota Department of Health for the Title X Family Planning Program (CFDA #FP93.217).
- o. Health Department budget adjustment in the amount of \$4,600.00 and grant award from the North Dakota Department of Health for the tobacco cessation Baby and Me Program (Contract #G13.181).
- p. Reimbursement request submitted by Cass County totaling \$136,039.36 for the State Water Commission.
- q. 5-year extension of the agreement with Duncan Solutions for parking ticket processing.
- r. Applications for Games of Chance:
 - (1) Knights of Columbus Council #782 for sports pools from 9/9/13 to 2/2/14.
 - (2) St. Anthony Church for bingo and a raffle on 9/29/13.
- s. State Aid to Local Public Health Units grant award with the North Dakota Department of Health.

- t. Agreement for special improvements - The District Investments, LLC (Improvement District No. 6201).
- u. Bid award for 2013-1014 Highway Deicing Salt Contract to North American Salt Company in the amount of \$71.85/ton.
- v. Lease agreement with Fargo Parks for the use of City-owned land in the South Acres area.
- w. Encroachment Agreement for a garage at 386 8th Avenue South.
- x. Access Agreements with Fargo Public Schools, and Daniel Mickelson and Kimberly Kelly (Project No. 5962).
- y. Contract Amendment #2 with Houston Engineering, Inc. in the amount of \$411,711.00, for Project No. 6153.
- z. Contract Amendment #3 with Houston Engineering, Inc. in the amount of \$25,876.00, for Project No. 5962.
- aa. Final Balancing Change Order #7, in the amount of \$46,683.38, for Project No. 5906.
- bb. Contract time extension for Project No. 6043-02 to 7/17/13.
- cc. Contracts and bonds for Project Nos. 5958-03, 6172-02 and 6235.
- dd. Bills in the amount of \$8,303,130.25.

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.

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 20 and 27, 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, Site Improvements and Incidentals Improvement District No. 6204.

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.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, July 17, 2013 and the bids were found to be as follows:

Dakota Underground Company	Fargo, ND
Bid:	\$5,688,042.75
J.R. Ferche, Inc.	Rice, MN
Bid:	\$7,238,974.05

Contract for Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204 Awarded to Dakota Underground Company in the Amount of \$5,688,042.75:

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, Site Improvements and Incidentals Improvement District No. 6204; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 17, 2013 for Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204 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, Site Improvements and Incidentals Improvement District No. 6204 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$5,688,042.75 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 \$5,688,042.75 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Site Improvements and Incidentals Improvement District No. 6204 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$5,688,042.75, 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, Williams, 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. 6211:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District

No. 6211 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 3 and 10, 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. 6211.

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.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6211:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6211 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, July 17, 2013 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$1,861,062.29
Northern Improvement Company Bid:	Fargo, ND \$1,872,902.68
J.R. Ferche, Inc. Bid:	Rice, MN \$1,927,118.95
Dakota Underground Company Bid:	Fargo, ND \$2,138,657.56

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6211 Awarded to Master Construction Company, Inc. in the Amount of \$1,861,062.29:

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. 6211; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 17, 2013 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6211 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. 6211 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$1,861,062.29 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$1,861,062.29 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. 6211 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$1,861,062.29, 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, Williams, Sobolik and Walaker voted aye.

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

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 17 and 24, 2013 and protests representing 21.70 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 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.

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, July 17, 2013 and the bids were found to be as follows:

Opp Construction Company	Fargo, ND
Bid:	\$126,732.50

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214 Awarded to Opp Construction Company in the Amount of \$126,732.50:

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 P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 17, 2013 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214 shows the bid of Opp Construction Company of Fargo, North Dakota, in the sum of \$126,732.50 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 Opp Construction Company in the sum of \$126,732.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6214 in the City of Fargo, North Dakota, be and the same is hereby awarded to Opp Construction Company for the sum of \$126,732.50, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Wimmer, Williams, Sobolik and Walaker voted aye.

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

Item No. ee4 Omitted:

Item No. ee4 (Bid Award for Improvement District No. 6221) was omitted.

P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6205 (Valley View):

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. 6205:

Adopt Resolution Creating Improvement District No. 6205:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6205 in the City of Fargo, North Dakota, be created

35th Avenue South between 54th Street and 55th Street.

36th Avenue South between 55th Street and 47th Street.

38th Avenue South between 50th Street South and 54th Street South.

49th Street South between Spencer Lane South and 36th Avenue.

50th Street South north of 36th Avenue South terminating in a cul-de-sac.

50th Street South from 38th Avenue South east to the easterly line of Valley View Addition.

51st Street South between 38th Avenue South and 40th Avenue South.

54th Street South between 35th Avenue South and 40th Avenue South.

55th Street South between 35th Avenue South and 36th Avenue South.

COMPRISING:

Lots 1 through 7, inclusive, Block 1
Lots 1 through 4, inclusive, Block 2
Lots 26 through 35, inclusive, Block 4
All platted in the Farmstead at Brandt Addition a replat of all of Lot 29,
Block 14, Brandt Crossing 1st 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
Lot 1, 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 Sincebough Addition, bounded on the south by 40th Avenue South and Drain 27 and bounded on the north by 36th Avenue South.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals Improvement District No. 6205 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. 6205:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6205 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 \$3,854,400.00.)

Order Plans and Specifications for Improvement District No. 6205:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6205 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6205:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6205 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. 6205 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. 6205 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 a portion of said P.C. Concrete Pavement, Concrete Curb and Gutter, Asphalt Pavement and Incidentals improvement is to be paid from Sales Tax and approximately 22% is to be assessed against the benefited property 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. 6205:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6205 in the City of Fargo, North Dakota.

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.

2013 Cass County Drain No. 10 Channel Repairs Improvement District No. 6237 (Drain 10 North of Cass County 20):

Commissioner Mahoney moved the following action be taken in connection with 2013 Cass County Drain No. 10 Channel Repairs Improvement District No. 6237:

Adopt Resolution Creating Improvement District No. 6237:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6237 in the City of Fargo, North Dakota, be created

Cass County Drain No. 10 north of Cass County Highway 20.

Comprising

Lots 1 and 2, inclusive, Block 1
All platted in the TBL subdivision

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

NOW, THEREFORE, BE IT RESOLVED, That 2013 Cass County Drain No. 10 Channel Repairs Improvement District No. 6237 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. 6237:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6237 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 \$1,300,000.00.)

Order Plans and Specifications for Improvement District No. 6237:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6237 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6237:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6237 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. 6237 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. 6237:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6237 in the City of Fargo, North Dakota.

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.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6238 (Block 3, Hogan Addition; 15th to 16th Avenues North between 3rd and 4th Streets North):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6238:

Adopt Resolution Creating Improvement District No. 6238:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6238 in the City of Fargo, North Dakota, be created

From 15th to 16th Avenue North between 3rd Street & 4th Street, Hogan Addition.

COMPRISING:

Lots 1 through 9, 13, 14, 17 through 26, north 25 feet and the east 80 feet of the south 25 feet of Lot 10, east 35 feet of Lot 12, west 30 feet of Lot 15, Block 3.

All in Hogan Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 6238 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. 6238:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6238 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 \$172,920.00.)

Order Plans and Specifications for Improvement District No. 6238:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6238 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6238:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6238 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. 6238 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 Alley Paving 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 Alley Paving and Incidentals Improvement District No. 6238 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 Alley Paving 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. 6238:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6238 in the City of Fargo, North Dakota.

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.

Contract for Mill and Overlay and Incidentals Improvement District No. 6198 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Aggregate Industries-MWR, Inc. for Mill and Overlay and Incidentals Improvement District No. 6198 in the City of Fargo, North Dakota.

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.

Contract Bond for Mill and Overlay and Incidentals Improvement District No. 6198 Approved:

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

Western Surety Company, in the amount of \$1,175,968.60, for Mill and Overlay and Incidentals Improvement District No. 6198 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6201 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6201 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6201 Approved:

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

United Fire and Casualty Company, in the amount of \$5,965,338.78, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6201 in the City of Fargo, North Dakota.

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.

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 6203 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Northern Improvement Company for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 6203 in the City of Fargo, North Dakota.

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.

Contract Bond for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 6203 Approved:

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

Western Surety Company, in the amount of \$744,687.57, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 6203 in the City of Fargo, North Dakota.

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.

Item No. 1 Omitted:

Item No.1 (Communication regarding request for an overwidth driveway at 2730 Samuel Drive) was omitted.

Michael Lochow Reappointed to the Fargo Access Channel Board:

The Board received a communication from Mayor Walaker recommending that Michael Lochow be reappointed to the Fargo Access Channel Board.

Commissioner Williams moved Michael Lochow be reappointed to the Fargo Access Channel Board for a 3-year term ending June 30, 2016.

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

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

Appointments to the Board of Adjustment:

The Board received a communication from Mayor Walaker recommending that Dominic Fischer be appointed to the Board of Adjustment for a three-year term and that Alternate Deborah Wendel Daub be appointed to fill the unexpired term created by the resignation of Chad Peterson.

Commissioner Wimmer moved Dominic Fischer be appointed to the Board of Adjustment for a 3-year term ending June 30, 2016, and Deborah Wendel Daub be appointed to the Board of Adjustment for a term ending June 30, 2015.

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

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

Appointments to the Ambulance Service Oversight Committee:

The Board received a communication from Director of Public Health Ruth Bachmeier stating Susan Jarvis, Sanford Health; Rachael Boyer, Essentia Health; and Peggy Hanson, Fargo VA Hospital have been recommended by their organizations to serve on the City of Fargo Ambulance Oversight Committee. She said the committee also requires one City Commissioner be appointed.

Commissioner Mahoney moved the following be appointed to the Ambulance Service Oversight Committee: Susan Jarvis for a two-year term; Rachael Boyer for a three-year term; Peggy Hanson for a one-year term and Commissioner Mahoney for a three-year term.

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.

Request from Edward Ferguson for a Setback Waiver Denied:

The Board received a communication from Attorney Jade Rosenfeldt of the Vogel Law Firm stating her firm is representing Edward Ferguson in regard to a

zoning and setback matter. She said in February of this year, Mr. Ferguson came before the Commission requesting that his property located at 4103 66th Street South be considered for a setback waiver of Ordinance No. 4818. Mr. Ferguson, she said, was told that he was not eligible for a waiver under this Ordinance due to his property being unplatted. She said she and Mr. Ferguson met with City Engineer April Walker, Assistant City Attorney Nancy Morris and Senior Planner Nicole Crutchfield and it was determined during that meeting that staff would be unable to accommodate Mr. Ferguson's request again due to the fact that Mr. Ferguson's property is unplatted. She said thus Mr. Ferguson is requesting that the Commission revise Ordinance No. 4818 to include unplatted property as part of those properties eligible for waivers of the Ordinance.

City Engineer April Walker said staff met with Mr. Ferguson and determined that without a change to the Ordinance, staff did not have the authority to accommodate Mr. Ferguson's request as his property remains unplatted. She said staff reviewed the river setback ordinance and are recommending the ordinance stay intact and the distinction remain between platted and unplatted. Ms. Walker made a PowerPoint presentation of properties along the rivers and drain corridors that have had to be removed by the City prior to the setback ordinance being in place.

In response a question from Commissioner Williams as to what the definition of platting is, City Attorney Erik Johnson stated the term platting is clearly defined in the North Dakota Century Code as the process of laying out lots and blocks. He said in the City's Land Development Code where it is referred to as subdivisions, which is the same process. The difference between platting and zoning is that if it has been platted there is already a defined lot, he said. There is room for development on the lot, maybe just not how Mr. Ferguson intended to use the space, he said. Relative to flooding concerns, the setback is not just about flooding, he said, but also about slumping and problems of stability.

Edward Ferguson, property owner, said the platting issue is merely a matter of opinion and the fact of the matter is that what Mr. Johnson is referring to is formal platting. While the City maintains that there is still enough land to develop, which is probably technically true, the fact of the matter is, he said, that it is a really ugly area and an entire row of tree growth would have to be cut down, which is esthetically unrealistic, looks poor and would not be the best use of the land. He said his proposal is the best use of the land, would be a considerable increase to the tax base in Fargo and flood insurance would not be required.

Commissioner Williams moved to accept the City Attorney's definition of platting, and the setback waiver request from Edward Ferguson for unplatted property be denied.

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

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

Renaissance Zone Project for Land Elements, Inc. Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Land Elements, Inc. for a business leasing property as part of a zone project at 210 Broadway, Suite 302.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Planning Administrator Nicole Crutchfield stating the Renaissance Zone Law states "a business that purchases or leases property as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone". She said the Fargo Renaissance Zone Development Plan further states "Tenant must be leasing space in a building that has been approved as a zone project to be eligible for consideration". She stated the Renaissance Zone Authority felt that lease projects such as the application from Land Elements, Inc. would generally be straightforward and could be advanced to the City Commission following staff review and would generally not require direct Authority action. She said staff review found the applicant has met the aforementioned requirements. She said the project addresses the business retention and expansion goals stated in the Renaissance Zone Development Plan.

Commissioner Sobolik moved the Renaissance Zone application filed by Land Elements, Inc. for a lease project located at 210 Broadway, Suite 302 be approved and the income tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Application Filed by The Fargo Brewing Company, LLC d/b/a Fargo Brewing Company for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by The Fargo Brewing Company, LLC d/b/a Fargo Brewing Company for a Class "Y" Alcoholic Beverage License at 610 North University Drive, 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 Wimmer moved the application be approved.

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

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

Application Filed by Mosaic Foods, LLC d/b/a Mosaic Catering and Events for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Mosaic Foods, LLC d/b/a Mosaic Catering and Events for a Class "F" Alcoholic Beverage

License at 69 4th Street North, 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 Wimmer moved the application be approved.

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

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

Application to Transfer the Alcoholic Beverage License from JL Beers, Inc. d/b/a JL Beers to JLB South, Inc. d/b/a JL Beers Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "CD" Alcoholic Beverage License from JL Beers, Inc. d/b/a JL Beers at 518 1st Avenue North to JLB South, Inc. d/b/a JL Beers at the corner of 32nd Avenue South and 42nd Street South, 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 Wimmer moved the application be approved.

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

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

Application to Transfer the Alcoholic Beverage License from WOW Inc, LLC d/b/a WOW The Bar to JL Beers, Inc. d/b/a JL Beers & Vinyl Taco Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "AB" Alcoholic Beverage License from WOW Inc, LLC d/b/a WOW The Bar at 1150 43 1/2 Street South to JL Beers, Inc. d/b/a JL Beers & Vinyl Taco at 518 1st Avenue North, 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 Wimmer moved the application be approved.

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

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

Application Filed by Craig Holdings, LLC for Payment in Lieu of Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by Craig Holdings, LLC for payment in lieu of property tax exemption at 719 NP Avenue North where the applicant will construct a new apartment project.

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

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

Commissioner Sobolik moved that the application filed by Craig Holdings, LLC for a ten year payment in lieu of tax exemption pursuant to Chapter 40-57.1, NDCC be approved as follows:

Year 1 through 5 - \$0

Year 6 through 10 - \$11,688

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

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

Application Filed by Precision Equipment Mfg., LLC for a Five-Year Property Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by Precision Equipment Mfg., LLC for a five-year property tax exemption for an expansion of their operation to include a new building located at 4409 33rd Street North where the applicant will manufacture flame and flameless ground heaters, end-dump, side-dump and hopper-bottom trailers.

City Assessor Ben Hushka said the exemption will be for the incremental value of the new building.

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

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

Commissioner Sobolik moved that the application filed by Precision Equipment Mfg., LLC for a five-year 100% property tax exemption pursuant to Chapter 40-57.1, NDCC be approved.

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

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

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

continued to August 5, 2013. She said the petitioner desires to have the proposed plat and zoning request on the same agenda, which is projected to be August 5, 2013.

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

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

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

Hearing on an Application for a Conditional Use Permit Continued to August 5, 2013 (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 telecommunication support structure (TSS) 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 this day and hour.

The Board received a communication from Planning Administrator Nicole Crutchfield stating this application is for a conditional use permit (CUP) to allow a telecommunications support structure (TSS) on a P/I, Public and Institutional zoned property located at 1133 Elm Street North. She said the property is the site of Jack Williams Stadium at the Mickelson baseball complex. She said the Planning Commission at their June 4, 2013 meeting voted to deny the CUP 7-0 on the basis that the proposal was not compliant with all the requirements of the Land Development Code (LDC), Watercourse Setbacks and Use Standards. Currently, she said, within the LDC there is not a variance option available that would allow an applicant relief from these code requirements. After considering the codes as they are currently written staff found two options that would create an opportunity for the TSS to be located in the vicinity, she said. Potential options for resolution, she said, are as follows:

- (1) Find an alternative location for the TSS that is not in conflict with the LDZS or MDZS but that is still located within the Park District land.
- (2) Modify the Land Development Code 20-0403 to revise the 300 foot residential separation requirement.

The applicant has challenged the staff's interpretation of the code restrictions, she said.

Ralph Wyngarden said he is from Faulk & Foster on behalf of Verizon Wireless and would like to make it clear that his organization is not agreeable to a denial and would like to come to an agreement with the City. He said he does think that a

decision can be made tonight and feels that this proposal is well integrated into the parks and would fit well within the character of the property.

Jim Larson, Park District, said the Park Board is very interested in seeing this agreement go forward from the perspective of the gain or the benefit that it will have for the American Legion. He said the Board has already approved to allow the revenue from the lease to go directly to the American Legion for capital improvements on the site. The second component is that the Park District will accept the liability or risk of damage to this structure from any flooding or others, he stated, which will then be passed on to Verizon Wireless. He said it is not the Park District's intent to violate any codes and he believes that there is an option for change in the structure to make this project work for everyone.

Commissioner Wimmer moved appropriate staff be directed to meet with the Park Board and the representative from Verizon Wireless to work out an agreeable solution and come back to the Commission in two weeks with a recommendation, and that the hearing be continued to August 5, 2013.

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

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

At 6:25 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Appeal of the Board of Adjustment's Decision on a Variance Request at 1007 8th Street South: Variance Granted:

A Hearing had been set for June 24, 2013 on the appeal of the June 7, 2013 Board of Adjustment's decision on a variance request at 1007 8th Street South to allow a new house to exceed the allowable building coverage by 3%.

At the June 24, 2013 meeting, the Hearing was continued to this day and hour.

No written protest or objection to the granting of the variance has been received or filed in the office of the City Auditor.

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

The Board received a communication from Planning Administrator Nicole Crutchfield stating the agenda item is the result of an appeal of a decision of the Board of Adjustment. She said having been appealed in accordance with the Land Development Code (LDC), this item must now be considered and acted upon by the Board. She said the application is for a variance of Section 20-0501 of the LDC which limits building coverage to a maximum of 35 percent of the lot area in a SR-3, Single-Dwelling Residential zoning district. She said the variance was requested in order to allow the applicant's proposed house to cover up to 38.7 percent of the lot area located at 1007 8th Street South. At their June 7, 2013 meeting, she said, the Board of Adjustment voted 2-2 to deny the variance. She said because a concurring vote by four members of the Board of Adjustment is required to grant a variance, the requested variance failed for lack of a majority. The basis for the failed motion was that not all of the criteria for approval were found to be met, she said, and staff recommends denial of the variance due to building coverage exceeding 35 percent of the lot area in a SR-3, Single-Dwelling Residential zoning district.

Commissioner Sobolik moved the findings of staff and the Board of Adjustment be denied and the variance be granted, and staff be directed to review the Land Development Code making any appropriate updates.

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 Mill and Overlay and Incidentals Improvement District No. 6098 Approved:

A Hearing had been set for June 24, 2013 on the special assessment list for the construction of Mill and Overlay and Incidentals Improvement District No. 6098 in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment Commission after which it had been confirmed and filed with the Board of City Commissioners.

At the June 24, 2013 meeting, the Hearing was continued to this day and hour.

The Board received a communication from City Engineer April Walker stating at the June 24, 2013 meeting the Board received a protest to the assessment of specials for Mill and Overlay and Incidentals Improvement District No. 6098. She said the protest was presented by Dean Hulse who represented a petition signed by 38 residents of East Gateway Circle. The protest outlined several neighborhood traffic concerns that need to be considered separately from the question of benefits and costs to the properties with respect to the constructed infrastructure, she said. The petition had been previously considered by the Special Assessment Committee (SAC), she said. The SAC did not agree with the petition as the basis for setting benefit and cost, she said, and presented the Improvement District to the Board without altering the spread of benefits. She said staff has identified three potential courses of action:

1. The Board can agree with SAC. The benefits will stand as presented and the assessments will be levied. This option is consistent with policy and statute, and staff is recommending this alternative.
2. The City Commission can also decide to pay down the assessments of any of the parcels in the Improvement District that they deem appropriate. This does not change the benefits assigned to the property and is simply the discretion of the Commission to provide additional funding to offset the assessment of a specific property. This will require a funding source to be identified. The financial impact of approving this request is estimated to be \$17,087.03. Staff is not recommending this alternative, as it is not consistent with policy.
3. The City Commission can direct staff to change the policy used to derive benefit for a property. This is the most complicated of the options available. There does not appear to be anything in statute that would prevent the City from developing a policy for assigning benefit based on traffic volumes. This would be a major change to the current funding policy for projects. To create a policy that is traffic centric would require the collection and analysis of data that does not currently exist to arrive at a policy. This policy would then require frequent updating, as traffic is variable and dependant on many factors.

Dean Hulse, 1437 East Gateway Circle, said the number of cars that these streets are designed to carry is irrelevant; the point is there is a disparity amongst traffic in this improvement district. He said the point is that the residents are all being assessed the same amount of money but are not getting the same amount of traffic. Most of the people that he spoke to when collecting the signatures for the petition were concerned about the traffic volume and the speed, he said, and this special assessment protest was their way of bringing this issue to the forefront. He said he has been talking to the traffic department about this for two years with no real resolution to the problem.

Commissioner Williams moved that the special assessment list for Mill and Overlay and Incidentals Improvement District No. 6098 be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects and that Mr. Hulse's traffic concerns be referred to the Traffic Technical Advisory Committee.

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.

Ordinance Relating to Alcoholic Beverages to be Placed on First Reading at the Next Regular Meeting of the Board:

The Board received a communication from Assistant City Attorney Jason Loos stating this Ordinance is to amend the City law addressing the factors to be considered by the Commission in granting or denying a liquor license and the 100-foot separation restriction. He said this amendment has been recommended by the Liquor Control Board.

Commissioner Williams moved the Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages be received and filed and placed on first reading at the next Regular Meeting of the Board.

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

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

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, August 5, 2013.

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

The time at adjournment was 6:59 o'clock p.m.