

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: July 12, 2010:

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 12, 2010.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved.

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 June 29, 2010 be approved as read.

Second by Williams. 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 rezoning Ordinances; 1st reading, 6/29/10:
 - (1) Certain Parcels of Land Lying in Amber Valley West First Addition to the City of Fargo, Cass County, North Dakota.
 - (2) Certain Parcels of Land Lying in West Park Addition to the City of Fargo, Cass County, North Dakota.
- b. Receive and file Year to Date – Budget to Actual Report for June 2010.
- c. Contract for interpreter services between the Fargo Police Department and Language Line Services, Inc.
- d. Agreements with MeritCare Hospital and Innovis Health for the Tobacco Prevention Program.
- e. Notice of Grant Award Amendment with the ND Department of Health for the Title X Family Planning Program (CFDA #FP 93.217).

- f. Amendment to the Grant Agreement with the ND Department of Health for H1N1 vaccination administration (CFDA #93.069).
- g. Bid award for furnishings for the new Municipal Court and Prosecutor's Office to Brown and Saenger in the amount of \$30,938.27.
- h. Application filed by Bert and Lisa Meyers for a 5-year exemption from taxation for improvements made to a building at 1605 8th Street North.
- i. Site Authorization for Sts. Anne & Joachim Catholic Church, at the Church from 8/1/10 through 6/30/11.
- j. Applications for Games of Chance:
 - (1) Gateway Lions Club of Fargo for a raffle on 7/21/10; Public Spirited Resolution.
 - (2) Steve Weidner F-M Junior Tour for a calendar raffle from 7/14/10 to 6/30/11.
 - (3) ND Peace Officers Association for poker on 8/4/10.
 - (4) El Zagel Directors Staff for a raffle on 10/10/10.
- k. Right of Entry and Access Agreement for Lots 15, 16 and 20, Block 1, Oak Grove Addition adjacent to 73 South Terrace.
- l. NDDOT Cost Participation and Maintenance Agreement for 9th Street/I-94 Pedestrian Underpass (Project No. 5820).
- m. NDDOT Cost Participation and Maintenance Agreement for Project No. 5923.
- n. Form of Access Agreement and authorize staff to obtain property owner approval of site specific agreements (Project No. 5949).
- o. Land acquisition at 433, 437 and 441 Oxbow Drive for access to the Hickson Dam (Project No. 5153-3).
- p. Early Building Permit Agreement for 2312, 2334, 2366 and 2382 55th Street South (Project No. 5942).
- q. Early Building Permit Agreement at 5550 30th Avenue South (Improvement District No. 5964).
- r. Purchase of two Para Hybrid Buses for a total of \$247,542 with funding from ND Department of Transportation.
- s. Purchase of an Ion Chromatograph in the amount of \$41,530.03 from Dionex.
- t. Payment of \$44,594.42 to Reile's Transfer for services provided relative to hauling, handling and securing of long-term storage sandbags.

- u. Contract Amendment No. 3 with Moore Engineering in the amount of \$129,627 for Improvement District No. 5729.
- v. Contract Amendment in the amount of \$26,275 for Project No. 5683-07.
- w. Change Order No. 8 for an increase of \$52,416 for Project No. 5726.
- x. Partial relinquishment of Negative Easement and Access Easement at 4742 Amber Valley Parkway.
- y. Agreements for Special Improvements:
 - (1) Brandt Crossing, LLC in Brandt Crossing First Addition (Nos. 5822 and 5823).
 - (2) Osgood Investments, LLC in Osgood Third Addition (No. 5963).
 - (3) Amber Valley West Investments, LLC in Amber Valley West First Addition (No. 5942).
 - (4) Level 1A Investments, LLC in Commerce on 52nd First Addition (No. 5943).
- z. Bid award for Project No. DOE091 to Graybar Electric in the amount of \$142,722.58.
- aa. Bills in the amount of \$6,774,386.02.

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

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

Bids Received for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732:

The bids for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 7, 2010 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$2,794,643.65
Master Construction Company, Inc. Bid:	Fargo, ND \$3,100,000.00
S. R. Weidema, Inc. Bid:	Maple Grove, MN \$3,273,524.20
George E. Haggart, Inc. Bid:	Fargo, ND \$3,291,810.00

Park Construction Company
Bid:

Hampton, MN
\$3,472,396.60

Contract for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 Awarded to Dakota Underground Company in the Amount of \$2,794,643.65:

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 and Incidentals Improvement District No. 5732; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 7, 2010 for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$2,794,643.65 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 \$2,794,643.65 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5732 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$2,794,643.65, 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, Piepkorn, Wimmer and Walaker voted aye.

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

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 7, 14 and 21, 2010 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878.

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

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

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 7, 2010 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$644,166.97
Aggregate Industries Bid:	Moorhead, MN \$705,651.52
Northern Improvement Company Bid:	Fargo, ND \$730,227.00
Central Specialties, Inc. Bid:	Alexandria, MN \$781,901.87

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 Awarded to Border States Paving, Inc. in the Amount of \$644,166.97:

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 7, 2010 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$644,166.97 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 Border States Paving, Inc. in the sum of \$644,166.97 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5878 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$644,166.97, 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, Piepkorn, Wimmer 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. 5941: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 7 and 14, 2010 and protests representing 1 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 Williams. On call of the roll Commissioners Mahoney, Williams, Piepkorn, Wimmer and Walaker voted aye.

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

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 7, 2010 and the bids were found to be as follows:

Asplin Excavating, Inc. Bid:	Fargo, ND \$90,965.90
Adelman Concrete and Excavating Bid:	West Fargo, ND \$93,383.00
Heston Contracting, Inc. Bid:	Frazee, MN \$97,633.00
Opp Construction Company Bid:	Fargo, ND \$98,857.05

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 Awarded to Asplin Excavating, Inc. in the Amount of \$90,965.90:

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. 5941; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 7, 2010 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5941 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. 5941 shows the bid of

Asplin Excavating, Inc. of Fargo, North Dakota, in the sum of \$90,965.90 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 Asplin Excavating, Inc. in the sum of \$90,965.90 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. 5941 in the City of Fargo, North Dakota, be and the same is hereby awarded to Asplin Excavating, Inc. for the sum of \$90,965.90, 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, Piepkorn, Wimmer and Walaker voted aye.

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

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 (A Portion of Brandt Crossing First Addition between 45th and 50th Streets South from 35th to 36th Avenues South):

Commissioner Mahoney moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823:

Adopt Resolution Creating Improvement District No. 5823:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5823 in the City of Fargo, North Dakota, be created

34th Avenue South and Chelsey Lane South between 47th and 49th Streets South.

35th Avenue South and Spencer Lane South between 47th and 50th Streets South.

36th Avenue South between 45th and 47th Streets South.

47th Street South between 33rd and 36th Avenues South.

49th Street South between 34th Avenue South and 145' South of Spencer Lane South.

50th Street South between 35th Avenue South and Spencer Lane South.

COMPRISING:

Lot 1, inclusive, Block 5.

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 27, inclusive, Block 14.
All platted in Brandt Crossing.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 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. 5823:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5823 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 \$2,178,000.)

Order Plans and Specifications for Improvement District No. 5823:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5823 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5823:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5823 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. 5823 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5823 in the City of Fargo, North Dakota, according to 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.

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks 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. 5823:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5823 in the City of Fargo, North Dakota.

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

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

Drain Improvements, Flood Protection and Incidentals Improvement District No. 5904 (Drain 53 from Confluence with Drain 27/Rose Coulee to 64th Avenue South):

Commissioner Mahoney moved the following action be taken in connection with Drain Improvements, Flood Protection and Incidentals Improvement District No. 5904:

Adopt Resolution Creating Improvement District No. 5904:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5904 in the City of Fargo, North Dakota, be created

On Drain 53 from 64th Avenue South to a point approximately 2640 feet north of 52nd Avenue South.

COMPRISING:

Lot 10, inclusive, Block 1
Lots 1 through 6, inclusive, Block 2
Lot 16, inclusive, Block 2
All in Coulee's Crossing Addition

Lots 9 through 25, inclusive, Block 1
Lots 48 through 50, inclusive, Block 1
All in Meadow Creek Addition

Lots 1 through 16, inclusive, Block 1
Lot 1, inclusive, Block 4
Lots 1 through 46, inclusive, Block 5

Lots 1 through 24, inclusive, Block 6
Lots 1 through 13, inclusive, Block 7
All in Prairie Grove Addition

Lots 1 through 4, inclusive Block 1
All in Prairie Grove 2nd Addition

Lots 1 through 23, inclusive, Block 1
All in Whispering Creek 1st Addition

Lot 1, inclusive, Block 1
Lot 1, inclusive, Block 2
All in Alverson Subdivision

Lots 1 through 3, inclusive
All in Alverson 2nd Subdivision

Lots 1 and 2, inclusive, Block 1
All in Trappers Run Addition

Lots 1 through 14, inclusive, Block 1
All in Custer's Crossing Addition

Lots 1 through 20, inclusive
All in Januscheitis Subdivision

Lot 1, inclusive, Block 1
Lot 1 through 41, inclusive, Block 2
Lot 9 through 17, inclusive, Block 3
Lot 1 through 27, inclusive, Block 4
Lot 1, inclusive, Block 5
All in Silverleaf Addition

Lots 1 through 10, inclusive, Block 1
All in Cottages of Silverleaf Addition

Lots 1 through 71, inclusive, Block 1
Lots 1 through 10, inclusive, Block 2
Lots 1 through 22, inclusive, Block 3
Lots 1 through 19, inclusive, Block 4
Lots 1 through 40, inclusive, Block 5
Lots 1 through 36, inclusive, Block 6
Lots 1 through 3, inclusive, Block 7
Lots 1 through 85, inclusive, Block 8
Lots 1 through 7, inclusive, Block 9
All in Maple Valley Addition

Auditors Lots 6 through 11, inclusive, within Section 2, Township 139, Range 49
All in 2009 Southside Annexation

All unplatted tracts of land within the City of Fargo in:
Section 2, Township 138, Range 49
Section 35, Township 138, Range 49

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

NOW, THEREFORE, BE IT RESOLVED, That Drain Improvements, Flood Protection and Incidentals Improvement District No. 5904 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. 5904:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5904 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 \$3,278,739.)

Order Plans and Specifications for Improvement District No. 5904:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5904 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5904:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5904 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. 5904 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. 5904:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5904 in the City of Fargo, North Dakota.

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

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

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5924 Approved:

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

United Fire and Casualty Company, in the amount of \$55,723.75, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5924 in the City of Fargo, North Dakota.

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

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

Request for an Extension of the Noise Ordinance for The Hotel Donaldson's DaleFest Approved:

The Board received a communication from Josh Tandberg, Operations Manager for The Hotel Donaldson, requesting an extension of the City's Noise Ordinance on July 23, 2010 from 10:00 p.m. to 12:00 midnight for The Hotel Donaldson's 3rd Annual DaleFest.

Commissioner Williams moved the request for a two hour extension of the City's noise ordinance for The Hotel Donaldson's DaleFest from 10:00 p.m. to 12:00 midnight on July 23, 2010 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.

Request for an Extension of the Noise Ordinance for the North Dakota Junior Classical League Approved:

The Board received a communication from the North Dakota Junior Classical League requesting an extension of the City's Noise Ordinance on July 29, 2010 from 10:00 p.m. to 11:00 p.m. for a street dance on the campus of NDSU for the National Junior Classical League Convention.

Commissioner Piepkorn moved the request for a one hour extension of the City's noise ordinance for a street dance from 10:00 p.m. to 11:00 p.m. on July 29, 2010 be approved.

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

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

Action on the Request from American Builders to Purchase and Redevelop City Owned Land at 320 and 324 7th Street North Continued Until July 26, 2010:

Commissioner Wimmer stated the developer has requested action from American Builders to purchase and redevelop land at 320 and 324 7th Street North is to be continued until July 26, 2010.

Commissioner Wimmer moved this item be continued to the July 26, 2010 City Commission Meeting.

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

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

Mark Lundberg and Amanda Thomas Reappointed to the Board of Adjustment:

The Board received a communication from Mayor Walaker recommending that Mark Lundberg and Amanda Thomas be reappointed to the Board of Adjustment.

Commissioner Mahoney moved Mark Lundberg and Amanda Thomas be reappointed to the Board of Adjustment for terms ending June 30, 2013.

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.

Communication Received from Attorney Jonathan Garaas Regarding Improvement District No. 5244:

The Board received a communication from Jonathan Garaas written on behalf of Fred and Earlyne Hector. He stated opposition to a recent legal publication of June 21 and 28, 2010 and a letter addressed to property owners dated June 24, 2010 concerning the special assessments for Improvement District No. 5244.

City Attorney Erik Johnson stated his recommendation would be for the Board to receive and file Mr. Garaas's communication and he will take the letter under consideration and provide a response at a later date.

Mr. Garaas said the recommendation from Mr. Johnson would not be appropriate since there is a 30-day time period for which an appeal has to be submitted and if the Board does not rescind the actions from the June 14, 2010 City Commission Meeting, he would have no choice but to protect his clients and start legal action. He said this is a jurisdictional prerequisite to a valid special assessment district and would prefer not to take legal action to protect his clients.

Mr. Johnson stated he recognizes what Mr. Garaas is saying, however; his preference would be to study the matter and come up with an appropriate response for the Board.

Mr. Garaas stated this would be an invalid action due to the Dakota Land Company case and this action would create a very major nightmare for the City of Fargo. He said if the Board does not rescind the action from June 14, 2010 it may be possible that the City of Fargo will never have another opportunity to assess a single penny against anyone as a result of the jurisdictional prerequisite not being met.

At 5:15 p.m., the time advertised for public hearings, the Board deferred additional discussion on this item until after the hearings.

Appeal of the Denial of a Residential Protection Standard Waiver at 1117 and 1155 13th Avenue South Denied:

A Hearing had been held by the Fargo Planning Commission on June 9, 2010 to consider a request for a Residential Protection Standard Waiver for the parking lot and property on the East 16.6 feet of Lot 6, all of Lot 7, and the West 8.4 feet of Lot 8, Block SS; and the South 51 feet of Lots 1, 2, 3, 4, and 5; the South 51 feet of the

South 101 feet of the West 8.4 feet of Lot 6, Block SS, Erskine's Addition, and the Fargo Planning Commission at such Hearing recommended that the Residential Protection Standard Waiver be denied.

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.

At the June 29, 2010 meeting, the Hearing was continued to this day and hour.

Senior Planner Jim Hinderaker said he met with the abutting property owners and had a conversation with the property owners at 1101 13th Avenue South. Their concern, he said, is the overall commercialization of the corner and opposes anything that would add to the commercialization of the area. The two adjacent property owners, he said, are still comfortable with the waiver.

Steven Stremick, 1155 13th Avenue South, stated the business across the street, Art and Learn, was granted the same waiver he is requesting therefore this is not an unprecedented request.

Commissioner Piepkorn moved the appeal of the denial of a Residential Protection Standard Waiver be denied.

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

Commissioner Mahoney voted nay.

The motion was declared carried.

Hearing on a Dangerous Building Located at 118 24th Street South: No Further Action Needed:

A Hearing had been set for this day and hour on a dangerous building located at 118 24th Street South.

The Board received a communication from Inspections Administrator Ron Strand submitting a Notice of Dangerous Building Order.

Mr. Strand stated since the time of the original issuance of the Notice of Dangerous Building Order, the owner removed the building and the lot is restored to a level condition so no further action is needed.

Hearing on a Dangerous Building Located at 17-19 University Drive North: City Attorney's Office Directed to Prepare the Appropriate Findings of Fact and Order:

A Hearing had been set for this day and hour on a dangerous building located at 17-19 University Drive North.

The Board received a communication from Inspections Administrator Ron Strand submitting a Notice of Dangerous Building Order. He said the property owner has failed to remove the structure in accordance with his order and the structure has been damaged or deteriorated more than fifty percent of its original value prior to the damage or deterioration. He said the structure is full of debris and has outlived its usefulness.

In response to a question from Commissioner Wimmer regarding how this was determined, Mr. Strand stated this conclusion came through the normal rental inspection process.

Joni Larson, owner of said property, stated she has no money to tear the structure down. She said she had the structure sold, however she could not come up with the cash needed to pay off the taxes owed on the property.

Mr. Strand stated if the property owner is not able to tear the structure down, the City will hire a contractor to remove the structure and the cost will be assessed against the property.

Commissioner Wimmer moved to issue an order that the owner remove this structure within 30 days of the date of this hearing and authorize the Inspections Department to take the necessary steps to secure the removal of this structure if it is not removed within the time allowed by the Board's Order.

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

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

At 5:50 p.m. the Board took a ten-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Communication from Attorney Jonathan Garaas Regarding Improvement District No. 5244 (Continued): Further Comments Continued until July 13, 2010:

City Attorney Erik Johnson stated he had a little time to visit with staff regarding the issues Mr. Garaas has brought forward and said this is not a simple situation. He said contracts need to be let in order for the improvement district to go into south Fargo and any delays could be difficult for the City to absorb. He said he is still recommending that the Board not rescind their action from June 14, 2010.

In response to a question from Commissioner Mahoney regarding what areas this improvement district covers, Senior Engineer Brenda Derrig stated this district includes underground installation of sewer and storm sewer and also concrete paving to the new Davies school site.

City Engineer Mark Bittner stated the Engineering Department could meet the time frame if a Special Commission Meeting were held tomorrow and the engineers could create two new Improvement Districts.

Commissioner Williams moved the Board to meet in a Special City Commission Meeting on Tuesday, July 13, 2010 at 4:30 p.m. to further discuss the communication from Attorney Jonathan Garaas.

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

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

Discussion Regarding Joint Powers Agreement for the Red River Diversion Project:

The Board received a draft of the Joint Powers Agreement for the Red River Diversion project from City Attorney Erik Johnson with comments made by the member entities. Mr. Johnson summarized the comments received thus far in regards to the agreement.

Commissioner Wimmer moved that the Board adjourn to 4:30 o'clock p.m., Tuesday, July 13, 2010.

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

The time at adjournment was 6:56 o'clock p.m.