

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: February 8, 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, February 8, 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 adding a State Revolving Fund loan approval at the end of the Regular Agenda.

Second by Piepkorn. 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 January 25, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of an Ordinance Amending Sections 25-0401, 25-0406, 25-0411, 25-0413, 25-0414, 25-0416, 25-0417, 25-0419, 25-0421, 25-0422, 25-0423, 25-0424, 25-0428, 25-0430 and 25-0433 of Article 25-04 of Chapter 25 of the Fargo Municipal Code Relating to Taxicabs, Owners and Drivers, Limousines and Handicapped Vans; 1st reading, 1/25/10.
- b. 1st reading of an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Issuance and Transfer of Licenses (requiring that Class "E" Alcoholic Beverage Permit applications be received seven days prior to event).
- c. 1st reading of an Ordinance Amending Sections 12-0104, 12-0105 and 12-0111, Repealing and Re-Enacting Section 12-0112, Repealing Section 12-0113 and Enacting Sections 12-0113 through 12-0117 of Article 12-01 and Amending Sections 12-0201 and 12-0203 of Article 12-02, all in Chapter 12 of the Fargo Municipal Code Relating to Dogs and Cats and an Ordinance

Amending Section 1-0305.A of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Ordinance Violations (potentially dangerous and dangerous dogs).

- d. Corrected Resolution Prescribing Rates and Charges for Forestry Utility Services for 2010 (Attachment "A").
- e. Contract with Anna Welder for Records Manager Services within the Police Department.
- f. Vehicle Lease Agreement to allow the lease of a Moorhead bus in 2010 for Fargo Transit.
- g. Contract with Steve Martens in the amount of \$8,998.00 to write the Oak Grove National Register nomination.
- h. Acceptance of Department of Commerce/DHS FY 2007 Public Safety Interoperable Communications Grant (CFDA #11.555) and Police Department budget adjustment in the amount of \$64,264.00.
- i. Fire Department budget adjustments in the amount of \$5,710.11 for M-F Haz Mat training.
- j. Homeland Security grants (CFDA #97.067) and Fire Department budget adjustments in the amount of \$542,067.98 to respond to chemical, biological, radiological and explosive events.
- k. Expenditure of Neighborhood Stabilization funds in the amount of \$611,890.00 for the development of 113 and 123 16th Street South.
- l. Memorandum of Understanding with the Southeast Community Action Agency to provide case management and reporting requirements associated with the Homeless Prevention and Rapid Re-Housing Grant.
- m. Expenditure of \$12,000 in CDBG funds for a neighborhood sign project in the Roosevelt Neighborhood Association.
- n. Contract extension with Ulteig Engineers for completion of a lighting study at the Radisson Ramp.
- o. Applications for property tax exemptions for improvements made to buildings:
 - (1) Eric and Jessie Berg, 1257 3rd Street North (5 years).
 - (2) Aaron and Alyssa Solseng, 49 16th Avenue North (5 years).
 - (3) Robert and Celeste Sticca, 1230 5th Street North (5 years).
 - (4) John Osborne, 1427 5th Avenue South (5 years).
 - (5) Clem Schnase, 708 8th Street North (5 years).
 - (6) David and Heidi Huus, 616 1st Street North (5 years).
 - (7) Scott and Shannon Dahms, 423 8th Street South (5 years).

- (8) Renee Godke, 1138 3rd Street North (5 years).
 - (9) Matthew and Janess Sveet, 362 9th Avenue South (5 years).
 - (10) Eric Exner, 322 24th Avenue North (5 years).
 - (11) Frank Anderson, 1225 North Elm (5 years).
 - (12) Mark and Alene Dravitz, 2431 Lilac Lane (3 years).
 - (13) David and Susan Middaugh, 3273 Evergreen Road North (3 years).
- p. Request from the El Zagal Shrine to hang banners in the skyway from March 8th to March 23rd to promote the El Zagal Shrine Circus.
- q. Applications for Games of Chance:
- (1) Shanley Auction for a raffle on 4/24/10.
 - (2) Cathedral of St. Mary for bingo and a raffle on 5/16/10.
 - (3) Red River Valley Figure Skating Club for a raffle on 3/14/10.
 - (4) Rusty Quart Brain Freeze Benefit for a raffle on 2/20/10; Public Spirited Resolution.
- r. "Water Supplier and Wastewater Treatment Supplier Certificate", including a consent to the assignment to Dougherty Funding LLC by Tharaldson Ethanol Plant I, L.L.C. of the interest of Tharaldson in the ethanol project.
- s. Contract Amendment No. 2 with Ulteig Engineers in the amount of \$31,650.00 for Project No. 5726-1.
- t. Technical Support Services Agreements with Moore Engineering and Siemens Water Technologies regarding the effluent reuse facility at the Wastewater Treatment Plant.
- u. Application to the North Dakota Industrial Commission for bonding authority under the State QECBs program for a wind energy project in the SW 1/4 of the NW 1/4 of Section 28, Township 140, Range 57.
- v. Change Order No. 1 for an increase of \$309,416.00 for Contract A and Change Order No. 1 for an increase of \$18,231.00 for Contract B for the Intermediate Clarifier Improvements at the Wastewater Treatment Plant.
- w. Change Order No. 4 for an increase of \$6,544.00 for the 64th Avenue South Water Tower.
- x. Change Order No. 5 for an increase of \$68,066.00 for Project No. 5726.
- y. Change Order No. 3, Part A for an increase of \$36,002.85 and Change Order No. 2, Part B for an increase of \$3,632.39 for Project No. 5729.
- z. Purchase Agreement with Lampert Yards, Inc. for permanent right-of-way, utility easement and Moorhead Public Service easement (Improvement District No. 5803).

- aa. Purchase Agreements – Temporary Construction Easements in connection with Improvement District No. 5700:
 - (1) Christianson Holdings, LLLP.
 - (2) WBCM of North Dakota, LLC.
 - (3) The Shoppes at Osgood, LLC.
 - (4) The Shoppes at Osgood II, LLC.
 - (5) Brandt Crossing, LLC.
- bb. Adopt Resolution in connection with Improvement District No. 5547 recognizing the project is substantially complete (Attachment “B”).
- cc. NDDOT Cost Participation and Maintenance Agreement for Improvement District No. 5700, Phase 4.
- dd. Bills in the amount of \$4,207,922.62.

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

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

P.C. Concrete Pavement and Incidentals Improvement District No. 5908 (Various Locations in North Fargo):

Commissioner Wimmer moved the following action be taken in connection with P.C. Concrete Pavement and Incidentals Improvement District No. 5908:

Adopt Resolution Creating Improvement District No. 5908:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5908 in the City of Fargo, North Dakota, be created

LOCATION:

On 7th Avenue North from I-29 to 45th Street

On 3rd Avenue North from 39th Street to 300 feet east of 43rd Street

On 40th and 42nd Street from 3rd to 7th Avenue North

COMPRISING:

Lots 1 through 5 and 10 through 14, inclusive, Block 1

Lots 1 through 24, inclusive, Block 2

Lots 1 through 11 and 14 through 22, inclusive, Block 3

Lots 1 and 2, inclusive, Block 3A

Lots 1 through 17 and 21 through 29, inclusive, Block 4

Lots 1 through 7, inclusive, Block 4A

Lots 1 through 15, inclusive, Block 5A

Lots 1 through 18, inclusive, Block 6A

Lots 1 through 9, inclusive, Block 7A

Lots 1 through 23, inclusive, Block 8A

All platted in E.G. Clapp 1st Addition

Lots 1 through 3, inclusive, Block 1
All platted in L & L Addition

Lot 1, Block 1
All platted in Lucken Addition

South 320 feet of Lot 3 and all of Lot 4, Block 1
All platted in A.I. Subdivision

Lots 3 through 6 and 11 through 14 and S 1/2 of vacated 10th Avenue North
adjacent to Lots 11 and 14
All platted in Arndt's-Devener Subdivision

All unplatted land in the S 1/2 of the NW 1/4, Section 3, Township 139, Range
49.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Pavement
and Incidentals Improvement District No. 5908 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. 5908:**

Direct City Engineer to report as to the general nature, purpose and
feasibility relative to the construction of Improvement District No. 5908 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 \$2,962,000.00.)

Order Plans and Specifications for Improvement District No. 5908:

Direct City Engineer to prepare Plans and Specifications for the
construction of Improvement District No. 5908 in the City of Fargo, North
Dakota.

**Adopt Resolution Approving Plans and Specifications and Engineer's
Report for Improvement District No. 5908:**

WHEREAS, The Board of City Commissioners of the City of Fargo,
North Dakota, has created Improvement District No. 5908 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. 5908 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 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 and Incidentals Improvement District No. 5908 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 P.C Concrete Pavement and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 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. 5908:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5908 in the City of Fargo, North Dakota.

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

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

Seal Coat and Incidentals Improvement District No. 5912 (Various Locations in South Fargo):

Commissioner Wimmer moved the following action be taken in connection with Seal Coat and Incidentals Improvement District No. 5912:

Adopt Resolution Creating Improvement District No. 5912:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5912 in the City of Fargo, North Dakota, be created

LOCATION: (Section 1)

On 33rd Avenue South from 42nd Street South to 45th Street South.

On 34th Avenue South from Washington Street South to Van Buren Street South.

On 43rd Street South from 32nd Avenue South to 33rd Avenue South.

On 43rd Street South from 34th Avenue South to a point approximately 160 feet south of 34th Avenue South.

On Washington Street South from 33rd Avenue South to 34th Avenue South.

On Adams Street South from 33rd Avenue South to 34th Avenue South.
On Jefferson Street South from 33rd Avenue South to 34th Avenue South.
On Monroe Street South from 33rd Avenue South to 34th Avenue South.
On Jackson Street South from 33rd Avenue South to 34th Avenue South.
On Van Buren Street South from 33rd Avenue South to 34th Avenue South.

LOCATION: (Section 2)

On 39th Avenue South from 42nd Street South to 44th Street South.
On 39-1/2 Avenue South from 42nd Street South to 44th Street South.
On 42-1/2 Street South from 40th Avenue South to 39-1/2 Avenue South.
On 43rd Street South from 40th Avenue South to 39-1/2 Avenue South.

LOCATION: (Section 3)

On the private street located on Lot 11, Block 1, 44th Street Villa Addition from 44th Street South to 47th Avenue South.

COMPRISING: (Section 1)

Lots 1 and 8, Block 1.
All in Asleson Commercial 2nd Addition.
Lots 1 and 3, Block 2.
All in Asleson Commercial Addition.
Lot 2, Block 1.
Lots 1 and 2, Block 2.
Lots 1 through 19, Block 3.
Lots 1 through 14, Block 4.
Lots 1 through 14, Block 5.
Lots 1 through 14, Block 6.
Lots 1 through 14, Block 7.
Lots 1 through 14, Block 8.
Lots 1 through 19, Block 9.
All in Pointe West 1st Addition.

COMPRISING: (Section 2)

Lots 1 through 28, Block 1.
Lots 30 through 33, Block 1.
Lots 1 through 38, Block 2.
Lots 1 through 7, Block 3.
All in Creekside Addition.
Lots 1 through 10, Block 1.
All in Creekside 2nd Addition.

COMPRISING: (Section 3)

Lots 1 through 11, Block 1.
All in 44th Street Villa Addition.
All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Seal Coat and Incidentals Improvement District No. 5912 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. 5912:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5912 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 \$608,900.00)

Order Plans and Specifications for Improvement District No. 5912:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5912 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5912:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5912 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. 5912 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 Seal Coat 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 Seal Coat and Incidentals Improvement District No. 5912 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 a portion of said Seal Coat and Incidentals improvement is to be paid from Street Sales Tax and approximately 11% 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 Seal Coat and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 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. 5912:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5912 in the City of Fargo, North Dakota.

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

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

City Attorney Directed to Prepare Amendments to Article 19-01 of the Fargo Municipal Code:

The Board received a communication from City Forester Scott Liudahl stating for several years the Forestry Department has been considering changes to Article 19-01 of the Fargo Municipal Code. He suggested the following changes:

- “1. Updating several sections that are over 30 years old.
2. Help ensure community involvement for programs and activities through the Fargo Forestry Committee.
3. The ability to enforce and manage a broader range of potential insect and disease issues in the future. The current ordinance relates primarily to Dutch elm disease management only.
4. Identify standards for proper tree care and safety.”

Commissioner Wimmer moved the City Attorney be directed to confer with the City Forester to prepare amendments to Article 19-01 of the Fargo Municipal Code.

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

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

Moratorium on On-Premise Electronic Messaging Center Sign Permit Applications Extended for an Additional 180 Days:

The Board received a communication from Senior Planner Jim Hinderaker stating last summer the City Commission approved a moratorium on the issuance of any electronic messaging center sign permit where the sign would be erected or placed within 150 feet of any SR or MR zoning district. He said the Ordinance is effective through February 18, 2010 and since the adoption of the moratorium, and at the direction of the Planning Commission, a Sign Code Committee was formed. The Committee's purpose, he said, is to review the existing City of Fargo Sign Code, to consider the inclusion of electronic messaging center sign regulations and to provide for recommended updates. He said the Sign Code Committee has not completed its work and staff is seeking to extend the moratorium for an additional 180 days to allow for the completion of the updates to the Sign Code.

Commissioner Wimmer stated the hope is to have the moratorium lifted sooner than the 180 days.

Commissioner Piepkorn moved the moratorium on all on-premise electronic messaging center sign permit applications be extended for a period not to exceed 180 days.

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

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

First Reading of an Ordinance Relating to Noise Control and Radio Interference:

Commissioner Mahoney moved first reading of an Ordinance Amending Section 11-0205 of Article 11-02 of Chapter 11 of the Fargo Municipal Code Relating to Noise Control and Radio Interference.

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.

First Reading of an Ordinance Relating to States of Emergency - Declaration and Duration:

The Board received a communication from City Attorney Erik Johnson stating, after conferring with the City Administrator, several changes have been suggested to the Home Rule Charter. He said language was cleaned up and consolidated allowing the Mayor's declaration to prohibit movement of persons in the City and operation of businesses. He said language was bolstered to make clear the authority to close levees, dikes and other flood protection barriers to the public and to prohibit persons from being on the dikes. The existing Ordinance, he said, indicates that the Mayor's declaration would extend for a period of 14 days and this draft would extend the initial Mayor's declaration for as long as 30 days, to be extended by vote of the City Commission.

Commissioner Mahoney moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Amending Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to States of Emergency - Declaration and Duration be placed on first reading.

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

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

Renaissance Zone Project for Michael and Lauren Falkner Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Michael and Lauren Falkner at 505 Broadway, #304.

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 Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Michael and Lauren Falkner meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Williams moved the Renaissance Zone application filed by Michael and Lauren Falkner for a project located at 505 Broadway, #304 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Parcels of Land in Osgood Villas Fourth Addition Rezoned (4106, 4108, 4110, 4124, 4138, 4144, 4159, 4165, 4171 and 4200 Clubhouse Drive South):

At a Hearing held on November 12, 2009 the Fargo Planning Commission recommended approval of a change in zoning from SR-3, Single-Dwelling to SR-5, Single-Dwelling on Lots 1 through 8, Block 2, Osgood Villas Fourth Addition.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

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

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

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Osgood Villas Fourth Addition:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Osgood Villas Fourth Addition to the City of Fargo be placed on first reading.

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

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

Resolution Adopted Approving Osgood Villas Fourth Addition:

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Osgood Villas Fourth Addition" containing 11 Lots, 2 Blocks and 1.35 acres of land more or less, located at 4106, 4108, 4110, 4124, 4138, 4144, 4159, 4165, 4171 and 4200 Clubhouse Drive South; and

WHEREAS, A Hearing was held November 12, 2009 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on January 25 and February 1, 2010 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., February 8, 2010 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Osgood Villas Fourth Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

Parcels of Land in Kirkham's 2nd Addition Rezoned (1114, 1115, 1118, 1121 and 1136 14th Street North; 1007, 1011, 1016, 1018, 1028, 1106, 1115, 1117 and 1122 College Street North; and 1359 10th Avenue North):

At a Hearing held on January 13, 2010 the Fargo Planning Commission recommended approval of a change in zoning from MR-2, Multi-Dwelling Residential and MR-3, Multi-Dwelling Residential to SR-3, Single-Dwelling Residential on portions of Kirkham's 2nd Addition, a part of the North half of Section 1, Township 139 North, Range 49 West of the Fifth Principal Meridian.

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.

Jim Laschkewitsch, 1016 College Street North, stated this change is helpful to the growth of the neighborhood and the support of the schools.

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

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

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

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition to the City of Fargo be placed on first reading.

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

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

Emergency Procurement Policy Adopted:

The Board received a communication from City Administrator Pat Zavoral stating City staff responsible for flood protection planning and implementation met to prepare for the potential spring flooding. Given that the National Weather Service has issued a major flood projection, he said, City focus will be to begin addressing protective measures. An element of the preparation is the adoption of emergency procurement measures before and during an event, he said. He submitted a proposed Emergency Procurement Policy for procurement of goods and services prior to and during an emergency which can be made following a determination by the National Weather Service or other national or state emergency organization that there is a potential for major flooding or other catastrophic-like events in the City of Fargo. He said this means the advertising period to solicit engineering services from professional firms and solicitation of quotes for rental equipment can be accelerated which normally takes 30 days to advertise, interview and/or review quotes for goods or services requested. A second step in the emergency procurement procedures, he said, is to let department heads purchase needed equipment in a timely manner and to allow larger dollar values to be used in obtaining quotes instead of formal bids.

Commissioner Mahoney moved the following Emergency Procurement Policy be adopted:

"It is generally beneficial to the public that competitive proposals and bids be obtained for procurement of goods and services. The potential for spring flooding, however, creates urgency for city officials and staff to procure goods and services on an emergency basis, requiring a variance from the customary practice and procedures that require days, if not weeks, of time in order to solicit bids or proposals for projects. Therefore, the City of Fargo desires to adopt a policy providing for alternate procurement methods during times of emergency.

Following a determination by the National Weather Service or other national or state emergency organization that there is potential for major flooding or other catastrophic-like events in the City of Fargo, upon approval of the Board of City Commissioners, staff may depart from normal procurement policies as follows:

Solicitations for bids or quotes for goods and services may be communicated in writing, but such solicitations need not be published in the official newspaper. Also, in order to accommodate the shortened time frame for establishing an effective response to the potential emergency, City staff is authorized to shorten the time period for response by prospective bidders from the customary response time. Any written form of communication may be by e-mail, fax or other written form that result in documentation. Verbal solicitations and quotes for goods and services shall be allowed. Such verbal solicitations and quotes shall include conversations in person or by telephone (or verbally by other electronic means).

A State of Emergency declaration by the Mayor would activate a policy to allow for a variance from the customary practice and procedures for procurement by the City of all goods and services and professional services by allowing such procurement to be obtained with an abbreviated procedure as follows:

- a. **Small Projects/Verbal Solicitation and Response Allowed.** As to items or projects of less than \$100,000, unless exigent circumstances exist which, in the opinion of the applicable Department Head, require a more abbreviated acquisition process to protect the health, safety and welfare of the citizens or to protect private or public property from threat of harm, Department Heads may obtain proposals for flood fighting, flood recovery and post-flood restoration upon verbal or telephonic solicitation for multiple bids or quotes and verbal responses.
- b. **Large Projects/Written Solicitation and Response Needed.** As to items or projects of more than \$100,000, unless exigent circumstances exist which, in the opinion of the applicable Department Head, require a more abbreviated acquisition process to protect the health, safety and welfare of the citizens or to protect private or public property from threat of harm, Department Heads may obtain proposals for flood fighting, flood recovery and post-flood restoration upon written solicitation for multiple bids or quotes and written responses; provided, however, that the amount of time between the solicitation for responses and the deadline for submission may be shortened to such time as may be deemed appropriate, under the circumstances, by the acquiring Department Head.

Nothing in this policy is intended to authorize the City, Department Heads, or their designees, to ignore requirements of federal, state or local law.”

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.

Amendment to the City's Purchasing Card Limits for Natural Disaster Events Approved:

The Board received a communication from the Finance Committee regarding review of a proposed change to the existing credit card purchasing limits which would be enacted concurrently with a disaster declaration. The Committee recommended approval of an amendment to the existing credit card purchasing policy to add the Emergency Operations Center (EOC) logistics staff and to increase the limits. The triggering mechanism to enact the higher policy limits would be a disaster declaration by the Mayor, they said.

In response to a question from Commissioner Mahoney regarding the procedure during last year's flood, Finance Director Kent Costin said the suggestion was to issue separate cards, but this would have been a burden on employees. He said the decision was then made to increase credit limits on existing cards once the emergency is declared.

Commissioner Wimmer moved the amendment to the City's purchasing card program to add EOC card users and to increase Divisional staff cardholder's limits to emergency levels during disaster events declared by the Mayor be approved as recommended by the Finance Committee.

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

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

Resolution Adopted Authorizing the Issuance and Sale of \$853,974 City of Fargo Sales Tax Revenue Bonds, Series 2010A (Attachment "C"):

The Board received a communication from City Attorney Erik Johnson stating the Utilities and Solid Waste Departments have submitted an application to the North Dakota Public Finance Authority for a state revolving fund loan in the amount of \$853,974. The loan, which has been approved, he said, is for one-half percent interest and is funded as part of the American Recovery and Reinvestment Act of 2009 (the Stimulus Funding Bill). The Public Finance Authority, he said, has indicated that a signed agreement would need to be on file by February 17th.

Commissioner Williams moved the Resolution entitled "Resolution Authorizing the Issuance and Sale of \$853,974 City of Fargo Sales Tax Revenue Bonds, Series 2010A" and referred to as Attachment "C", be adopted and attached hereto.

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

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

Flood Update Received:

City Administrator Pat Zavoral gave an update on the City's preparations for the upcoming flood. He said the National Weather Service will be coming out with the

latest predictions on Friday, February 19, so that may be the time that the City steps up the preparations a notch. He said sandbag building or making efforts will begin on or about the first of March.

City Engineer Mark Bittner said many improvements have been made since the flood of 2009 and the City is better protected.

Enterprise Director Bruce Grubb said he would like to find a facility to produce sandbags in and also to house sandbags. He said they would like to avoid using the Fargodome this year because of the big expense to clean it last year.

Mayor Walaker stated this is all proactive planning. Now is not the time to worry, now is the time to plan, he said.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, February 22, 2010.

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

The time at adjournment was 6:04 o'clock p.m.