

- d. Receive and file amendment to the limited franchise agreement with Cass County Electric adding area annexed by the City on 8/11/08.
- e. Mass Transit Agreement with the City of West Fargo for 2009.
- f. Contract with New World Systems for a new Computer Aided Dispatch/Records Management System.
- g. Revised Joint Powers Agreement and CAD/RMS Software Users Agreement for the Red River Regional Dispatch Center.
- h. Resolution authorizing deposit of funds to obtain right-of-way and temporary construction easement from River Square II, LTD Partnership for Improvement District No. 5601.
- i. Site Authorization for Boys Girls Club of the Red River Valley d/b/a Fargo Youth Commission at Mr. G's.
- j. Applications for Games of Chance:
 - (1) Fargo South Club Baseball for a raffle on 5/31/09.
 - (2) Muskies Inc. F-M Chapter for a raffle on 2/5/09.
 - (3) El Zagal Director's Staff for a raffle on 5/17/09.
 - (4) Fargo All City Youth Hockey for a raffle on 1/30/09.
 - (5) Fargo All City Youth Hockey for raffles from 1/2/09 through 3/15/09.
- k. Use of the Fannie Mae line of credit to provide the Fargo Housing and Redevelopment Authority with financing to purchase property for a senior housing project at 17th Avenue and 25th Street South.
- l. Bid awards for chemicals for the Wastewater Treatment Plant.
- m. Transportation Planning Agreement with FM Metro COG for the University Drive Corridor Study.
- n. Voluntary acquisition of property at 42 and 44 North Terrace for flood mitigation purposes.
- o. Addendum to Agreement and Memorandum of Agreement Regarding Special Assessments with Matrix Properties Corporation (Improvement District No. 5663).
- p. Contract amendment with Moore Engineering for Improvement District No. 5824.
- q. Contract time extension for Project No. 5828.
- r. Change Order No. 1 for an increase of \$4,369.34 for Project No. 5761.

- s. Bid award for Project No. 5726 to John T. Jones Construction Company in the amount of \$10,025,000.
- t. Advertise for bids for Project No. 5728.
- u. Contracts and bonds for Project Nos. 5725 and 5813.
- v. Bills in the amount of \$6,610,559.69.

Second by Wimmer. 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.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547 in the City of Fargo, North Dakota were opened by NDDOT on November 21, 2008 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$10,460,010.29
Northern Improvement Company Bid:	Fargo, ND \$10,868,517.40
Dakota Underground Bid:	Fargo, ND \$12,070,346.91
Strata Corporation Bid:	Grand Forks, ND \$12,357,789.93
Upper Plains Contracting Bid:	Aberdeen, SD \$12,250,021.95
Duininck Brothers, Inc. Bid:	Prinsburg, MN \$13,994,833.14
Opp Construction Bid:	Grand Forks, ND \$14,006,286.70

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547 Awarded to Master Construction Company, Inc. in the Amount of \$10,460,010.29:

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 Lighting, Bridge Construction and Incidentals Improvement District No. 5547; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received November 21, 2008 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals, Improvement District No. 5547 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 Lighting, Bridge Construction and Incidentals Improvement District No. 5547 shows the bid of Master Construction Company, Inc. of Fargo, ND, in the sum of \$10,460,010.29 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 \$10,460,010.29 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$10,460,010.29, 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, Williams, Wimmer, Piepkorn and Walaker voted aye.

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

Change Order Nos. 5 and 6 for Improvement District No. 5824 Approved:

Commissioner Mahoney moved approval of Change Order Nos. 5 and 6 for an increase of \$145,114.90 for Improvement District No. 5824.

Second by Wimmer. 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.

Change Order No. 7 for Improvement District No. 5824 Approved:

Commissioner Mahoney moved approval of Change Order No. 7 for an increase of \$32,969.23 for Improvement District No. 5824.

Second by Wimmer. 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.

Change Order No. 2 for Improvement District No. 5758 Approved:

Commissioner Mahoney moved approval of Change Order No. 2 for an increase of \$117,243.80 for Improvement District No. 5758.

Second by Wimmer. 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.

Management and Concession Agreement Between the Fargo Dome Authority and Global Spectrum, LP Effective January 1, 2009 Approved:

The Board received a communication from Ryn Pitts, President of the Fargo Dome Authority, stating the Fargo Dome Authority requests approval of the Management and Concession Agreement effective January 1, 2009 between the Fargo Dome Authority and Global Spectrum, LP. She said the Fargo Dome Authority approved the contract at their December 9, 2008 meeting and she submitted an overview of the contract negotiation process, a summary of changes to the contract and the proposed contract.

Ms. Pitts said the new contract has been thoroughly reviewed and also studied by the FDA. She stated the new contract includes language modification regarding insurance.

In response to a question from Commissioner Wimmer regarding the length of the contract, Ms. Pitts said that the contract is for 2 years at which time there should be more information available in regards to the Dome addition.

Commissioner Wimmer moved the Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP effective January 1, 2009 be approved.

Second by Mahoney. 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.

Presentation to Officer Vince Kempf for his Role in Operation Speed Racer:

Drew Wrigley, U.S. Attorney's Office for the District of North Dakota, presented Officer Vince Kempf with a recognition plaque for his role in Operation Speed Racer, a major drug conspiracy case.

Application Filed by Settle Inn & Suites d/b/a Settle Inn & Suites-Fargo for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Settle Inn & Suites d/b/a Settle Inn & Suites-Fargo for a Class "GH" Alcoholic Beverage License at 4325 23rd Avenue 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 Mahoney. 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.

Resolution Adopted Determining Protests Insufficient on Resolution Annexing Approximately 419 Acres in Sections 2, 11, 12, 13 and 14 of Stanley Township:

The Board received a communication from Planning Director Jim Gilmour stating that on November 3, 2008 the Fargo City Commission approved a Resolution of Annexation to annex 419 acres of property in Stanley Township. The area of annexation, he stated, includes approximately 130 acres of Fargo School District property, some of which will be used for the new Davies High School. He said the Planning Commission unanimously (6-0) recommended approval of the proposed annexation on December 10, 2008. He said notice of the Resolution and the public hearing to determine sufficiency of protest was published in the Forum and copies were sent to all owners of property within the annexation area. The purpose of the public hearing, he said, is to determine if protests to the annexation have been filed. Mr. Gilmour stated in the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the city. He said the last day to file a written protest was the close of business on Tuesday, December 16, 2008 and the City Auditor's Office did not receive any written protests to this annexation.

In response to a statement from Commissioner Williams regarding the annexation of this property being premature, Mr. Gilmour said the City will not only continue to grow within the current boundaries but by 2018 growth is expected to reach 72nd Avenue South. He said now is the appropriate time to provide City services to the area because construction of the new high school will begin this spring. As far as the delay of the South Side Flood Control project affecting growth in this area, he said development will still occur according to the project timeline.

Commissioner Williams made a power point presentation regarding the national attention Fargo has received because of the positive aspects of the economy, education, infrastructure and environmental projects. He said the City should take time to evaluate its successes and focus on using existing City property for development.

Commissioner Wimmer said this dialogue should have occurred one to two years earlier. The Fargo School District, he said, chose the 72nd Avenue South location so the City needs to support that decision by providing services.

Commissioner Williams said Fargo is the only City in the state that does not allow voter input for new schools and a petition would send a message to the State Legislature. He suggested delaying the annexation 30 days to allow possible petitioners to come forward.

Karen Stoker, 101 Broadway, stated she is in agreement with a 30 day delay on the annexation request. She said there would be a benefit in hearing what the State Legislators have to say on the issue.

Mayor Walaker said this is a delay tactic and the Legislature would not make a decision until the end of the session.

Commissioner Williams moved action on the annexation be delayed until January 26, 2009.

Second by Mahoney. On call of the roll Commissioner Williams voted aye.

Commissioners Mahoney, Wimmer, Piepkorn and Walaker voted nay.

The motion was declared lost for the lack of a majority.

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, A Resolution of Annexation was published, as required by law, in the official newspaper for the City of Fargo on November 17 and 24, 2008, annexing approximately 419.93 acres of land located in Sections 2, 11, 12, 13 and 14, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota; and

WHEREAS, The Board of City Commissioners finds and declares that no protests have been filed with the City Auditor's Office after publication of the Annexation Resolution adopted by the Board of City Commissioners on November 3, 2008.

NOW, THEREFORE, BE IT RESOLVED, That the tract of land described in said Resolution of Annexation be and the same is hereby annexed to, made part of and included within the corporate limits of the City of Fargo, Cass County, North Dakota, and that the City Auditor's Office be and is hereby directed to record said annexation plat in the Cass County Recorder's Office in Fargo, North Dakota.

Second by Wimmer.

Commissioner Williams said he does not support the proposed annexation as premature expansion of the City's boundaries are not conducive to making better use of existing infrastructure and spreads City services in an inefficient manner that results in higher costs to the taxpayers.

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

Commissioner Williams voted nay.

The Resolution was adopted.

At 5:56 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Appropriate Staff Directed to Initiate an Advisory Board Opinion From the FTA; Current Service to be Continued With Valley Bus Company Until That Opinion Has Been Received:

The Board received a communication from Transit Administrator Julie Bommelman stating a public hearing is set for Monday, December 29, 2008 regarding the addition of Route 34 to the existing transit system effective January 1, 2009. She said the agreement for the purpose of adding Route 34 to the existing transit system was approved by the City Commission on December 15, 2008. The agreement, she said, outlines that Route 34 will operate 9.5 hours a day and travel between the North Dakota State University main campus' existing transit routes, the Skills and Technology Training Center, the Stop-N-Go Center on 19th Avenue and University Drive North, parking lots, student housing, a hotel and several restaurants. She stated NDSU will pay the City \$62,000 over the term of the agreement. This service, she said, is open to the general public and will become part of the existing transit system.

Planning and Development Director Jim Gilmour said of the 2 communications received about the new route, one concern was the cost to the taxpayers, however, NDSU will be paying the City for the route. The other concern, he said, came from Valley Bus Company. Valley Bus Company's concern, he stated, is that they have already been providing the service outlined in the proposed Route 34 beginning September 12, 2008 and that the process undertaken by MAT in seeking approval of

their proposed Route 34 attempts to circumvent the Charter Service requirements of the Code of Federal Regulations. On a conference call with FTA, Mr. Gilmour said that FTA did not feel that this was a charter service.

Mary C. Johnson representing Valley Bus Company, said she is not sure how the character of the bus charter service changed. She said they feel this is the same route that Valley Bus Company has been providing for the last 3 months and would like to continue to provide the service until an opinion from the FTA can be secured.

City Attorney Erik Johnson submitted a letter stating that his opinion is the proposed Route 34 is not a charter service under the Federal Transit Administration regulations; therefore the City is not prohibited by federal law from approving the route and providing bus service.

Bruce Frantz, NDSU Facilities Management Director, said the proposed route fits in with all the MAT Services that are already being provided.

Commissioner Mahoney moved approval of the addition of Route 34 to the existing transit system effective January 1, 2009.

Second by Williams. On call of the roll Commissioners Mahoney and Williams voted aye.

Commissioners Piepkorn, Wimmer and Walaker voted nay.

The motion was declared lost for the lack of a majority.

Commissioner Wimmer moved that an advisory board opinion from the FTA be initiated and that current service be continued with Valley Bus Company until that opinion has been received.

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

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

Revised Remodeling Exemption Policy Approved:

The Board received a communication from City Assessor Ben Hushka stating the Tax Exempt Review Committee is recommending revisions to the policy regarding the exemption for improvements made to commercial and residential buildings. He said the primary focus of the clarified interpretation involves where apartment properties fit into the matrix of the City of Fargo policy on this exemption. State law, he stated, allows up to a 5 year exemption for remodeling or additions to residential homes 25 years old or older and all commercial buildings. He said the City of Fargo has limited that to some degree allowing the full 5 years for residences 40 years old or older and commercial buildings 25 years old or older in the Central Business District. For assessment purposes, he said, an apartment with four or more units is assessed as commercial property. However, from a land use perspective, he stated, apartments are considered more residential in nature than commercial. Mr. Hushka said the Tax Exempt Review Committee feels that in order to encourage keeping apartment housing units in good repair, they should qualify for the same benefits under this exemption as residential properties.

In response to a question from Commissioner Mahoney as to whether or not other cities in the state are offering this same program, Mr. Hushka stated various versions of this same policy are being done with most Cities granting the 5-year exemption.

Commissioner Wimmer moved the revised Remodeling Exemption Policy be approved.

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.

Appropriate Staff Directed to Work with Steve Candor to Change the Ordinance Regarding Animals Running At Large:

The Board received a communication from Steve Candor, 1026 17th Street South, regarding an incident in which Mr. Candor's dog was attacked in south Fargo by a dog that was running at large on September 14, 2008. He stated his wife no longer feels comfortable walking their dogs in the City of Fargo and he is asking the City Commission to direct the City Attorney to rework the existing Ordinance pertaining to dangerous dogs and animals at large. He said the purpose of changing the Ordinance is so that another incident with a dangerous dog running at large is not allowed to happen and the citizens of Fargo will feel more secure to enjoy the City sidewalks, bike paths and walking trails.

Mr. Candor said he doesn't want to outlaw any certain breeds of dogs, he would just like to work with the City, Animal Control, the Fargo Police Department and Erik Johnson to change the existing ordinance, making people more responsible for their dogs. Mr. Candor said he would like to form a discussion group to bring forth recommendations for changes to the current ordinances.

Commissioner Wimmer moved the appropriate staff work with Steve Candor to make changes to the Ordinance regarding animals running at large.

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

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

Implementation Schedule for Transition to an Automated Variable Rate System of Residential Garbage Collection Approved:

The Board received a communication from Solid Waste Utility Manager Terry Ludlum and Enterprise Director Bruce Grubb stating the Division of Solid Waste is seeking Commission approval of a plan to implement an automated variable rate system for residential garbage collection in Fargo. Historically, they said, the City has operated a manual collection service under a flat rate fee structure. They summarized the residential garbage collection flat rate structure, WSI claims related to injuries and medical expenses from 2001 to 2007 and the residential recycling program. They submitted an overview of the proposed Automated Variable Rate Collection system, Curbside Recycling incentives and the financing plan. In conclusion, they said, an automated variable rate system would result in a more equitable, user based fee structure for residential garbage and curbside recycling services. They said under an automated collection system, the efficiency is anticipated to increase in excess of 500 households per truck per day and by utilizing the City's GIS mapping database with computer routing software to maximize collection route efficiencies, travel miles and fuel consumption will be reduced. It is the opinion of Workforce Safety Insurance, the City Safety Coordinator and the Division of Solid Waste, they said, that

implementation of an automated variable rate form of residential garbage collection would reduce Solid Waste injury claims by 80% to 90%. They stated a variable rate fee structure provides a financial incentive to recycle and reduce waste through a fee based on the size of the container. They submitted a proposed implementation schedule and a Residential Garbage Collection, Automated Variable Rate System report.

Mr. Ludlum said there have been only 3 concerns that have been brought to his attention about the carts. Two were that the appearance did not go with the City's All American Cities theme and the other was that they wanted the program left as it is. The first cart is going to be free to all Fargo residents at the City's cost said Mr. Ludlum, and after that, it would be the residents' responsibility to pay for any additional or larger carts. Currently, the residential truck fleet is equipped with either a fully automated arm or semi-automated cart tipper, he said, thus no vehicle expenses are anticipated outside the normal truck replacement cycle.

Commissioner Wimmer moved the implementation schedule for transition to an automated variable rate system of residential garbage collection be approved.

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.

J. Stephen Blazek Appointed to the Airport Authority:

The Board received a communication from Mayor Walaker stating the term of Bob Anderson on the Airport Authority expires on April 8, 2009; however Mr. Anderson has resigned his seat effective immediately. The Mayor recommended that J. Stephen Blazek be appointed to the Airport Authority to fill the unexpired term of Mr. Anderson as well as a complete 5 year term ending April 8, 2014.

Commissioner Wimmer moved the appointment of J. Stephen Blazek to the Airport Authority for the term ending April 8, 2014 be approved.

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.

City Attorney Erik Johnson announced that there is a pending litigation matter to be discussed in Executive Session, specifically two land acquisition cases with the Fargo School District.

Commissioner Mahoney moved the Commissioners meet in Executive Session in the River Room as authorized by NDCC, Section 44-04-19.2 to discuss said pending litigation matter.

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

At 6:55 p.m. the Board moved to the River Room to discuss the litigation matters in Executive Session.

Members present were: Mahoney, Wimmer, Williams and Walaker.

Members absent: Commissioner Piepkorn.

The Executive Session closed at 7:12 o'clock p.m. and the meeting was adjourned.

The next meeting of the Board will be held at 5:00 o'clock p.m., Monday, January 12, 2009.