

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: August 27, 2007:

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, August 27, 2007.

The Commissioners present or absent were as shown following:

Present: Coates, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Discussion Regarding Assistance for the City of Northwood:

City Administrator Pat Zavoral said the City of Fargo communicated with the City of Northwood regarding the need for generators in the aftermath of a recent tornado that hit that City on August 26th. He said they responded that they did not need generators but may need equipment to haul rubbish. Mr. Zavoral said the City will stay in communication with Northwood to respond to their needs.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved omitting Item No. "F" in the Consent Agenda and moving Item No. "3" in the Regular Agenda to the beginning of the Public Hearings.

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

Minutes Approved:

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on August 13, 2007 be approved as read.

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

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. Delay consideration of the tax increment financing policy and application until 9/10/07.
- b. 2nd reading, waive reading and final adoption of an Ordinance Enacting Section 25-1540.3 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (requiring attendance at annual meeting); 1st reading, 8/13/07.

- c. Receive and file Ordinances Relating to License Classifications; Alcoholic Beverages; Alcoholic Beverage License fees; Issuance and Transfer of Licenses; Restrictions on Sale, Service or Dispensing Alcoholic Beverages; Live Entertainment License; Requirements for Licensed Premises; and Licenses-Termination, Suspension, Revocation and Sanctions (the new "FA-Entertainment" Alcoholic Beverage classifications).
- d. Health Insurance Plan Amendment No. 3 to include coverage for the Board of City Commissioners and Municipal Judge effective January 1, 2008.
- e. Health Department budget adjustments and contract with the State Health Department for a regional Public Health Nurse/Immunization Consultant.
- f. Agreement for transit services for an NDSU Union Fargodome route (omitted).
- g. Site Authorizations for Games of Chance:
 - (1) Ducks Unlimited, Inc. for a raffle at the Holiday Inn on 9/19/07.
 - (2) Teammakers at the Fargodome.
- h. Applications for Games of Chance:
 - (1) Riverview Place for a raffle on 10/14/07.
 - (2) North Dakota Medical Association Alliance for a raffle on 9/20/07.
- i. Set September 10, 2007 as a hearing date on a dangerous building at 313 19th Street North.
- j. Quit Claim Deed for 344 9th Avenue South.
- k. Plat of Elise's First Addition.
- l. Plat of Concierge Southwest Addition.
- m. Acquisition of 1218 49th Avenue South for flood mitigation purposes.
- n. Acquisition of 4410 South University Drive for water utility and flood mitigation purposes.
- o. Bid advertisement for Project Nos. 5765 and 5767.
- p. Bid awards for Project Nos. 5654 to Key Contracting in the amount of \$67,463.00; 5692 to Key Contracting in the amount of \$68,085.61; 5751 to Opp Construction Company in the amount of \$103,775.00; and 5761 to Central Specialties in the amount of \$32,578.65.
- q. Contract and bond for the 64th Avenue South water tower.
- r. Bills in the amount of \$4,658,456.51.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on July 23 and 30, 2007 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Coates moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 22, 2007 and the bids were found to be as follows:

Aggregate Industries Bid:	Moorhead, MN \$589,326.45
Master Construction Company, Inc. Bid:	Fargo, ND \$613,307.61
Border States Paving, Inc. Bid:	Fargo, ND \$630,298.10
Northern Improvement Company Bid:	Fargo, ND \$633,885.23
Central Specialties, Inc. Bid:	Alexandria, MN \$655,518.55

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743 Awarded to Aggregate Industries in the Amount of \$589,326.45:

Commissioner Coates 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, Sidewalks and Incidentals Improvement District No. 5743; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 22, 2007 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743 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, Sidewalks and Incidentals Improvement District No. 5743 shows the bid of Aggregate Industries of Moorhead, Minnesota, in the sum of \$589,326.45 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Aggregate Industries in the sum of \$589,326.45 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743 in the City of Fargo, North Dakota, be and the same is hereby awarded to Aggregate Industries for the sum of \$589,326.45, 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 Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Asphalt Alley Paving and Incidentals Improvement District No. 5753: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of Asphalt Alley Paving and Incidentals Improvement District No. 5753 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on July 9 and 16, 2007 and protests representing 43.94 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Commissioner Coates moved the protests be received and filed and declared insufficient.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Asphalt Alley Paving and Incidentals Improvement District No. 5753:

The bids for Asphalt Alley Paving and Incidentals Improvement District No. 5753 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 8, 2007 and the bids were found to be as follows:

Border States Paving, Inc.
Bid:

Fargo, ND
\$59,865.00

Northern Improvement Company	Fargo, ND
Bid:	\$71,275.55

Aggregate Industries	Moorhead, MN
Bid:	\$71,306.00

Contract for Asphalt Alley Paving and Incidentals Improvement District No. 5753 Awarded to Border States Paving in the Amount of \$59,865.00:

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Asphalt Alley Paving and Incidentals Improvement District No. 5753; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 8, 2007 for Asphalt Alley Paving and Incidentals Improvement District No. 5753 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Alley Paving and Incidentals Improvement District No. 5753 shows the bid of Border States Paving of Fargo, North Dakota, in the sum of \$59,865.00 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 in the sum of \$59,865.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Alley Paving and Incidentals Improvement District No. 5753 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving for the sum of \$59,865.00, 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 Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314 (52nd Avenue South from University Drive to 45th Street South):

Commissioner Coates moved the following action be taken in connection with Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314:

Adopt Resolution Creating Improvement District No. 5314:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5314, in the City of Fargo, North Dakota, be created

On 52nd Avenue from 45th Street South to South University Drive.

On 25th Street South from 900' south of 52nd Avenue South to 600' north of 52nd Avenue South.

COMPRISING:

All of the land lying in the North half of Section 1, Section 2 and Section 3, Township 138, Range 49 bounded on the West by 45th Street South and on the East by the Red River of the North.

All of the land lying in Section 32, Section 33, Section 34, Section 35 and Section 36, Township 139, Range 49 bounded on the West by the Sheyenne River and bounded on the East by the Red River of the North.

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

NOW, THEREFORE, BE IT RESOLVED, That Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314, 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. 5314:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5314, 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 \$54,826,585.)

Order Plans and Specifications for Improvement District No. 5314:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5314, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5314:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5314, 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. 5314, 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 Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail 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 Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals,

Street Lighting, Bike Trail & Incidentals Improvement District No. 5314 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 Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail & 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. 5314:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5314, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740 (52nd Avenue South and I-29):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740:

Adopt Resolution Creating Improvement District No. 5740:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5740, in the City of Fargo, North Dakota, be created

LOCATION (5740-01):

This project is for the installation of sanitary sewer, water main and storm sewer:

On 52nd Avenue South from 42nd Street to 38th Street South.

And also for the installation of sanitary sewer, water main and storm sewer at the locations described as follows:

On 38th Street South from 52nd Avenue to 55th Avenue South.

On 53rd Avenue and 55th Avenue South from Interstate 29 to 38th Street South.

LOCATION (5740-02):

This project is for the installation of concrete paving & street lights at the location described as follows:

On 38th Street South from 52nd Avenue to 55th Avenue South.

On 53rd Avenue and 55th Avenue South from Interstate 29 to 38th Street South.

COMPRISING (5740-01):

All of the unplatted within the limits of the City of Fargo in the NE ¼ of Section 3, Township 138, Range 49, a portion of which is to be platted as The District of Fargo Addition inclusive.

All of the unplatted in the west 1,150 feet of the SE ¼ of Section 34, Township 139, Range 49.

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

COMPRISING (5740-02):

The portion of the unplatted in the NE ¼ of Section 3, Township 138, Range 49, which is to be platted as The District of Fargo Addition inclusive.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740, 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. 5740:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5740, 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 \$5,016,000.)

Order Plans and Specifications for Improvement District No. 5740:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5740, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5740:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5740, 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. 5740, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740: Resolution Adopted Determining that a Waiver of Protest has Been Received Eliminating the 30 Day Waiting Period Required by a Resolution of Necessity:

WHEREAS, Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740 was created for the purpose of installing improvements in The District of Fargo Addition to the City of Fargo; and

WHEREAS, White Oaks Trust and the Harris Family Trust, is the owner of a majority of the area of the property included within the district; and

WHEREAS, Section 40-22-15, NDCC, requires a resolution of necessity for such improvements unless a written petition for such improvement is received by the owners of a majority of the area of the property included in the district.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo hereby determines that a written petition for the improvement to be constructed pursuant to Special Assessment District No. 5740 has been received from all affected property owners and that such petition has been signed by the White Oak Trust and the Harris Family Trust, owners of the property included within the district and that the improvement may be constructed without the adoption and a publication of a resolution declaring the improvements necessary.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5740:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5740, in the City of Fargo, North Dakota.

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

Absent and not: Commissioner Mahoney.

The motion was declared carried.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5758 (Prairie Grove 1st Addition):

Commissioner Coates moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5758:

Adopt Resolution Creating Improvement District No. 5758:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5758, in the

City of Fargo, North Dakota, be created

53rd Avenue South, Prairie Grove Avenue South, 54th Avenue South, 55th Avenue South, between 25th and 27th Street South.

COMPRISING:

Lots 1 through 16, inclusive, Block 1.

Lot 1, Block 2

Lot 1, Block 3

Lot 1, Block 4

Lots 1 through 46, inclusive, Block 5

Lots 1 through 24, inclusive, Block 6

Lots 1 through 13, inclusive, Block 7

To be platted in Prairie Grove 1st Addition.

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 and Incidentals Improvement District No. 5758, 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. 5758:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5758, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,240,800.)

Order Plans and Specifications for Improvement District No. 5758:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5758, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5758:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5758, 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. 5758, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5758: Resolution Adopted Determining that a Waiver of Protest has Been Received Eliminating the 30 Day Waiting Period Required by a Resolution of Necessity:

WHEREAS, Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5758 was created for the purpose of installing improvements in Prairie Grove 1st Addition to the City of Fargo; and

WHEREAS, Rommesmo Family Limited Partnership, is the owner of a majority of the area of the property included within the district; and

WHEREAS, Section 40-22-15, NDCC, requires a resolution of necessity for such improvements unless a written petition for such improvement is received by the owners of a majority of the area of the property included in the district.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo hereby determines that a written petition for the improvement to be constructed pursuant to Special Assessment District No. 5758 has been received from all affected property owners and that such petition has been signed by the Rommesmo Family Limited Partnership, owners of the property included within the district, and that the improvement may be constructed without the adoption and a publication of a resolution declaring the improvements necessary.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5758:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5758, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5748 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Dakota Underground for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5748 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5748 Approved:

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

United Fire and Casualty Company, in the amount of \$1,045,664.40, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5748 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5756 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Key Contracting for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5756 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5756 Approved:

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

Western Surety Company, in the amount of \$60,777.50, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5756 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Request for an Extension of the Noise Ordinance for Muscular Dystrophy Association Fundraiser/Street Dance Approved:

The Board received a communication from Dave Anderson, MDA Committee Member and Sponsor and President of the Downtown Community Partnership, requesting an extension of the City's Noise Ordinance on September 8, 2007 from 10:00 p.m. to 11:00 p.m. for the Muscular Dystrophy Association fundraiser/street dance in the Old Broadway parking lot.

Commissioner Wimmer moved the request for a one hour extension of the City's Noise Ordinance on September 8, 2007 from 10:00 p.m. to 11:00 p.m. be approved.

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

Absent and not voting Commissioner Mahoney.

The motion was declared carried.

(Commissioner Mahoney present)

**Revised Developer Agreement for Tax Increment Financing District No. 2007-02
Approved:**

The Board received a communication from Planning Director Jim Gilmour stating, following City Commission approval of a Developer Agreement with Feder Properties, the City Attorney worked with the attorney for Feder Properties on minor changes to the Agreement. Mr. Gilmour said the changes did not affect any of the levels of TIF assistance or the type of project to be developed on the site. Mr. Gilmour submitted a copy of the pages changing the Agreement and stated the City Attorney is comfortable with the revised Agreement.

Commissioner Wimmer moved the revised Developer Agreement with Feder Properties, LLP for Tax Increment Financing District No. 2007-02 be approved.

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

Commissioner Williams voted nay.

The motion was declared carried.

Appropriate Staff Authorized to Advertise for the Emergency Shelter Director Position and Bids for the Emergency Shelter/Detoxification Center at 1519 1st Avenue South:

The Board received a communication from Senior Planner Dan Mahli stating in May, 2007 the City purchased property at 1519 1st Avenue South to serve as an emergency shelter/detoxification center for men and women who are homeless and have been precluded from other housing options. Mr. Mahli said the emergency shelter seeks to avert homelessness and hospitalization by providing safe, comfortable, non-intrusive, temporary housing as well as opportunities to begin making changes to rebuild lives. He said the facility will be open 24 hours, 365 days a year and will be managed by Centre, Inc., the local service provider of social detox services. He said in the short-term, the goal is to create a 501c3 nonprofit organization to oversee operations on the shelter side of the facility. At this time, he continued, there is a committee that is formulating the plan for operations at the emergency shelter and they are recommending the director position be contracted with the City and the individual answer to the City Administrator and shelter board. Mr. Mahli stated the position will be funded from a three-year, \$300,000 grant from the Otto Bremer Foundation to provide emergency shelter services in Fargo. He said that grant was originally awarded to Mental Health America of North Dakota (MHAND) for shelter services at the Wesley Center. He said the proposal is for MHAND to reimburse the City (with the Otto Bremer funds) for salary expenses of the staff until the shelter's 501c3 designation is established and the organization can secure private funds directly.

Commissioner Coates moved the appropriate staff be authorized to advertise for the shelter director position as recommended.

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

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

Commissioner Coates distributed a floor-plan for the shelter and estimated probable construction costs in the amount of \$784,399.56 drawn up by Foss Architecture.

City Administrator Pat Zavoral stated there is a sense of urgency to proceed with requesting bids for the shelter/detox project. He said the estimated costs were double because of the detox center. He said the committee has been working with Finance Director Kent Costin on financing but there is a need to get approval from the City Commission for bids for the project to proceed.

Commissioner Coates moved the appropriate staff be directed to advertise for bids for the emergency shelter/detox center.

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

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

Renewal Plan for Tax Increment Financing District No. 2007-03 and Developer Agreement Approved:

A Hearing had been set for this day and hour to review a Renewal Plan for Tax Increment Financing District No. 2007-03 which consists of a plan to redevelop 1920 12th Avenue North for a 58 unit apartment building.

No written protest or objection to the Plan 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 Plan.

The Board received a communication from Planning Director Jim Gilmour stating the Planning and Development Department completed work on a Renewal Plan for a project on 12th Avenue North near NDSU. He said the Finance Committee reviewed the request and the financial advisor report and recommends approval of the Renewal Plan and Developer Agreement that provides \$367,500 in assistance. He said the assistance includes \$17,500 to be paid to the City of Fargo for administrative costs so the total level of assistance is \$100,000 less than what the developer had requested.

Commissioner Williams questioned if the application for the Renewal Plan for this TIF went along with the new Tax Increment Financing policy.

Mr. Gilmour stated this application was on the right track and hoped the Commission would approve it.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas or areas consisting of industrial or commercial property, or a combination of those areas of properties exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment or a combination thereof, of the area contained within the Development Plan for Tax Increment Financing District No. 2007-03 is necessary in

the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.

3. That there are several buildings in the area contained within the Development Plan with deteriorated conditions. The Renewal Area, as defined in the Development Plan, is blighted due to the presence of two buildings that are deteriorated and this condition has substantially impaired the growth of the City in this area, and has slowed the provision of appropriate housing in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in said area.
4. The development will not displace any residents.
5. That the area designated as the Development Plan for Tax Increment Financing District No. 2007-03 is appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Development Plan for Tax Increment Financing District No. 2007-03 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Development Plan for Tax Increment Financing District No. 2007-03 is hereby officially adopted by the Board.
8. That the Developer Agreement in regard to the Tax Increment Financing be accepted.
9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof and that the County Auditor and Treasurer shall do so in accordance with this section.

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

Commissioner Williams voted nay.

The motion was declared carried.

Item No. 5a Omitted:

Item No. 5a (Hearing on a request to transfer a Class "ABH" Alcoholic Beverage License from Nodak Hotels, LLC d/b/a Expressway Inn at 1340 21st Avenue South to Choice Alliance II, Inc. d/b/a Quality Inn) was omitted.

Application Filed by Sunrise North LP and the Fargo Housing and Redevelopment Authority for Payment in Lieu of Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by Sunrise North LP and the Fargo Housing and Redevelopment Authority for payment in lieu of property tax exemption for a low income housing project at 350 26th Avenue North.

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

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

The Board received a communication from Ben Hushka, City Assessor and Tax Exempt Review Committee member, stating the Committee feels this project meets

the necessary criteria to be eligible for an exemption and they recommend approval of a 15 year, \$0 payment in lieu of taxes.

Commissioner Coates moved that the application filed by Sunrise North LP and the Fargo Housing and Redevelopment Authority for a 15 year, \$0 payment in lieu of tax for the building be approved and that the project pay in lieu payments to total no less than 5% of collected annual rents.

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

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

Hearing on the Special Assessment List for Maintenance of the Broadway Mall:

A Hearing had been set for this day and hour on the special assessment list for maintenance of the Broadway Mall in the City of Fargo, North Dakota.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

City Auditor Steve Sprague said after last year's expenses there was a negative balance but improvements have been made. He said by next year there should be a positive balance.

Downtown Community Partnership President Dave Anderson said most comments are regarding cleanliness but properties are cleaner compared to last year.

Zandbroz owner Greg Danz said he and some of his neighbors would like to have an accounting of the funds to know how they are spent; possibly a year end summary for property owners. He said the liquor establishments seem to be the areas of concern and need to be addressed. With the changes in smoking laws, he said, the sidewalks outside of bars will have more litter. He also suggested a one night a week street cleaning schedule to make it easier for compliance. Communication, he said, is a factor between the City and the property owners to help ensure cooperation.

Commissioner Coates moved that the special assessment list for maintenance of the Broadway Mall be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

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

Hearing on the Special Assessment List for Maintenance of the Skyway System:

A Hearing had been set for this day and hour on the special assessment list for maintenance of the Skyway System in the City of Fargo, North Dakota.

No appeals have been filed in writing against any item appearing on such special assessment list.

Lloyd Sampson, 118 Broadway, stated his property is assessed \$11,000 this year and he would like to know what the fees cover. He questioned how much the City of Fargo contributes and if they pay a fair share.

City Auditor Steve Sprague said it costs approximately \$75,000 to heat, cool and clean the Skyway. He said the fund currently has a negative balance, but recent roof repairs and HVAC expenses have caused the deficit. He said this situation is short-term and the City hopes the recent increase is temporary. Mr. Sprague said the City does pay over \$21,000 as well as additional for the Civic Center access. He said he would provide an accounting of the fund for Mr. Sampson.

City Administrator Pat Zavoral suggested taking the assessment list to the Finance Committee first and then having informal hearings with the property owners next year.

Commissioner Coates moved that the special assessment list for maintenance of the Skyway System be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

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

Hearing on Special Assessments for Sewer Repairs on Certain Properties in the City of Fargo:

Hearings had been set for this day and hour on the special assessments for sewer repairs on the list of properties on file in the City Auditor's Office.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Coates moved the sewer repair special assessment list be approved.

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

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

Hearing on Special Assessments for Abatement of Nuisances on Certain Properties in the City of Fargo:

Hearings had been set for this day and hour on special assessments for abatement of nuisances on the following properties:

415 14th Street South
1122 11th Street North
1542 8th Street South
390 8th Avenue South
388 8th Avenue South
1218 5th Street North
402 9th Avenue South
1001 19th Street South
402 Harwood Drive South
811 10th Avenue North
1513 7th Street North

714 20th Street North
1125 29th Street North
1025 16th Street North
215 14th Street South
1010 Main Avenue
2801 22nd Street South

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Coates moved the special assessments for abatement of nuisances on the above listed properties be approved.

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

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

At 6:00 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Hearing on the Administrative Re-Inspection/Enforcement Fee Assessment List:

A Hearing had been set for this day and hour on the assessments for administrative re-inspection/enforcement fees, pursuant to the International Property Maintenance Code, as provided by the Inspections Department.

No appeals have been filed in writing against any item appearing on such assessment list which is as follows:

1525 4th Avenue North
1201 11th Avenue North
504 14th Street South
1454 10th Street North
1145 10th Street North
1429 1st Avenue North
1012 10th Street North
1516 7th Avenue South
1426 4th Avenue North
2512 9th Street North
1340 2nd Avenue North
508 20th Street North
1421 14th 1/2 Street South
1024 9th Avenue South
2257 32nd Avenue South
713 3rd Avenue North
1315 University Drive North
1410 2nd Avenue South
602-604 3rd Street South
2913 10th Avenue North
2313-2315 18th Street South

17-19 University Drive North

John Osborne, owner of 713 3rd Avenue North, stated this property was extremely run down and he has been working on the required improvements since purchasing the property. He said the work has been completed and he asked to have the fees removed.

Inspections Administrator Ron Strand said it is important to point out the fees are justified in relation to the 14 inspections that have been done on the property.

Commissioner Wimmer said \$250 seems reasonable for 14 inspections.

Commissioner Coates moved the administrative re-inspection/enforcement fee assessment list be approved.

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

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

Appointments to the Human Relations and Native American Commissions Approved:

The Board received a communication from Mayor Walaker recommending the appointment of Joshua Boschee and reappointment of Chuck Stebbins and Prairie Rose to the Human Relations Commission. He also recommended the appointment of Prairie Rose as an ex-officio member of the Native American Commission.

Commissioner Wimmer moved the appointment of Joshua Boschee and the reappointment of Chuck Stebbins and Prairie Rose to the Human Relations Commission and the appointment of Prairie Rose as an ex-officio member of the Native American Commission for terms ending July 1, 2010 be approved.

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

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

Policy Adopted of Not Accepting Additional Monuments on the Civic Plaza:

The Board received a communication from the Red River Freethinkers regarding the proposed policy on placing monuments on the City mall that was tabled at the July 30, 2007 meeting. They stated they are seeking a final decision on their request to place a Sister Monument in that space. They said the last time their issue was before the City Commission, the ensuing discussion established that the Commission has voted unanimously to reject the Sister Monument and City Attorney Erik Johnson agreed that such a decision had been made. They said the possibility of a policy on such monuments opens the door to reconsideration. If a policy was to be established, they continued, and their monument met the requirements of the policy, the need to revisit would be self evident and they are confident their monument would meet the requirements of any such policy. They said a decision not to adopt any policy toward monuments and the previous decision to not accept the Sister Monument would clarify the Commission's position on the matter and it would also reduce their need to continue appearing on the City Commission agenda.

Commissioner Wimmer stated accepting monuments has created a controversy and it is in the best interest of the City to make a decision. He said there

was overwhelming citizen support to keep the Ten Commandments in place as well as a legal decision.

Commissioner Wimmer moved to adopt a policy of not accepting additional monuments to be placed on the Civic Plaza.

Mayor Walaker relinquished the Chair to second the motion. (Deputy Mayor Coates presiding)

Commissioner Williams said any policy would be flawed so he does not support a policy of any kind. He said he is comfortable not accepting any monuments.

Commissioner Coates said the Freethinkers' request tonight is tied to the proposed policy.

Eugene Dumont questioned why the City Commission continues to waste its time with repeating this issue.

Carol Sawicki said the Freethinkers would like to see the Commissioners decide on a policy.

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

Commissioners Williams and Coates voted nay.

The motion was declared carried.

Deputy Mayor Coates returned the Chair. (Mayor Walaker presiding)

Second Reading and Final Adoption of an Ordinance Relating to Referral to the City Voters of Ordinance by the City Commission Tabled:

Commissioner Williams moved the City Attorney be directed to obtain an Attorney General's opinion regarding the proposed Ordinance Relating to Referral to the City Voters of Ordinance by the City Commission.

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

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

Commissioner Williams said the Commission should wait to act on the second reading until after the Attorney General's opinion is received. He said this will clarify the Commission's authority.

Commissioner Williams moved this item be tabled until the City Attorney receives an Attorney General's opinion.

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

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

Second Reading of an Ordinance Relating to the Prohibition of Smoking in Public Indoor Workplaces as Amended:

Mayor Walaker stated he has received many e-mails regarding the smoking ban in Fargo and most of them have been in support of a complete ban.

Yvonne Bergeson, 504 31st Avenue North, said she is a victim of smoking and suffers from COPD, a lung disorder. She said her freedom to go where she wants is taken away by allowing smoking in bars so she supports a complete smoking ban.

Linda Kohls, SAFE Coalition Chairperson, said several local, state and national organizations support the complete smoking ban. She distributed letters of support to the Commission from the North Dakota Medical Association, the American Stroke and

Heart Associations, Region V Substance Abuse Prevention Coordinating Committee, North Dakota Public Health Association and the American Lung Association of North Dakota showing support for a 100% smoking ban.

Domonic Vasquez, 1337 16 1/2th Street South, said he is a NDSU student and was involved in a drive to get signatures at NDSU for the smoking ban. He said second-hand smoke is a real issue and college students make up a big part of the bar workforce, not for the type of work, but for the flexible work schedules. He said he supports a smoke-free work environment.

Randy Thorson, 4202 Timberline Drive, said he objects to how fast this ordinance is moving and final adoption tonight.

Commissioner Coates asked City Attorney Erik Johnson if it is possible to change the date of the proposed ordinance.

Mr. Johnson said if the date is changed, that would result in an amendment to the ordinance and final adoption cannot take place until the next meeting.

Commissioner Coates moved the proposed ordinance be amended to change the effective date from January 1, 2008 to March 1, 2008.

Second by Mahoney.

Commissioner Williams suggested putting the question of a smoking ban on the next available ballot contingent on the Attorney General's opinion.

On call of the roll Commissioners Coates, Mahoney, Williams, Wimmer and Walaker voted aye.

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

In response to a comment by Commissioner Mahoney regarding the affect of this ordinance on businesses such as JT Cigarro, Commissioner Coates said JT Cigarro has a full liquor license and they will have to make changes like all bars will have to in order to comply with the proposed ordinance. She said the complete ban puts all bars on an even playing field.

Commissioner Wimmer moved the requirement to read this ordinance in its entirety be waived.

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

Commissioners Williams and Mahoney voted nay.

The motion to waive failed because it was not unanimous.

At 7:20 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

City Attorney Erik Johnson read the Ordinance in its entirety.

Commissioner Coates moved that the proposed Ordinance Repealing and Re-Enacting Article 10-11 of Chapter 10 of the Municipal Code of the City of Fargo Relating to the Prohibition of Smoking in Public Indoor Workplaces which was placed on its first reading August 13, 2007 be now placed on its second reading as amended.

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

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

2008 Preliminary Budget Adopted: Public Hearing Set for September 10, 2007:

The Board received a communication from Mayor Walaker stating the Mayor's preliminary budget was released to all Department Heads for review and the entire budget booklet has been posted on the City Web site for ease of access to all interested persons. He said the next step is the annual budget hearing which is scheduled for September 10th. He submitted a copy of the public hearing notice that will be printed in The Forum and stated the final budget needs to be adopted by October 7, 2007.

Commissioner Williams said with a budget this size and new revenues, the City should not have to raise the mill levy. He said the budget shows large capital improvements and there may be flexibility in this area to find a mill. He said it would send a message to the citizens if the City can hold the line without a mill increase.

Mayor Walaker said the City has made adjustments to the budget but with the growth of the City there are demands for more services. He also said Fargo can be affected with the uncertainty of the housing market and the national situation so there is need to be careful.

Commissioner Wimmer said Mayor Walaker and City staff worked hard to develop the preliminary budget and have done a good job.

Commissioner Coates said specific proposals can be presented at the September 10th meeting.

Commissioner Mahoney moved the 2008 Preliminary Budget be adopted and the public hearing on the Preliminary Budget be set for September 10, 2007 at 5:15 p.m.

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

Commissioner Williams voted nay.

The motion was declared carried.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, September 10, 2007.

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

The time at adjournment was 7:50 o'clock p.m.