

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Tuesday: January 2, 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., Tuesday, January 2, 2007.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

**Order of Agenda Approved:**

Commissioner Coates moved the Order of the Agenda be approved moving Item No. "m" from the Consent Agenda to after Item No. "3f" in the Regular Agenda.

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

**Consent agenda approved:**

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 1st reading of an Ordinance Amending Section 1-0305(C) of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Ordinance Violations (urinating in public).
- b. 2nd reading, waive reading and final adoption of the following Ordinances (1st reading, 12/18/06):
  - (1) Amending Section 10-0320 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Registration in Schools.
  - (2) Amending Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Ordinance Violations.
  - (3) Rezoning Certain Parcels of Land Lying in Hector Subdivision to the City of Fargo.
  - (4) Rezoning a Certain Parcel of Land Lying in Hector Subdivision to the City of Fargo.
- c. Resolution authorizing the issuance of Lease Revenue Refunding Bonds, Series 2007A and Lease Revenue Bonds, Series 2007B (NDSU Lease Obligations) (Attachment "A").
- d. City of Fargo/Municipal Airport Authority/Martin Agreement concerning the Martins not erecting any building or structure on the portion of land recently rezoned for a period of three years.

- e. Amended Articles of Association for the Fargo-Moorhead Metropolitan Council of Governments to allow the Chair to declare a quorum to be six members at a regularly scheduled meeting if there are fewer than eight present.
- f. Junked vehicle removal contract with Hazer's Auto and Truck Parts, Inc.
- g. Three-year contract with The Village EAP for Employee Assistance Program services effective January 1, 2007.
- h. Re-establishment of the position of Scale Operator (B21) and the elimination of one Equipment Operator II position in the Solid Waste Department.
- i. Speed limit reduction along 52nd Avenue South from University Drive to 25th Street from 45 mph to 35 mph effective January 8, 2007.
- j. Change Orders for the Metro Transit Garage: M-12 for an increase of \$686.00; G-40 for an increase of \$1,571.49.
- k. Site authorization for F-M Curling Club at the F-M Curling Club.
- l. Applications for Games of Chance:
  - (1) Muskies, Inc. F-M Chapter for a raffle on 2/1/07.
  - (2) Washington School PTA for a raffle on 2/9/07.
  - (3) Holy Spirit Elementary School for a raffle on 1/26/07.
- m. Contract with Mobile Ads for Transit advertising services (moved to after Item No. "3f" in the Regular Agenda).
- n. Bid award for custodial services for the Ground Transportation Center and Metro Transit Garage.
- o. Contract award for one new truck mounted sewer jet for the Mains and Hydrants Department to Sanitation Products, Inc. in the amount of \$97,857.75.
- p. Change Order No. 1 for an increase of \$3,419.54 for the Fargodome Sound System.
- q. Bills in the amount of \$4,345,987.70.

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.

**Resolution Adopted Approving a Two-Year Tax Exemption for New Homes Starting Between February 1, 2007 and January 31, 2008:**

The Board received a communication from Ben Hushka, City Assessor and Member of the Tax Exempt Review Committee, stating the Tax Exempt Review Committee met to discuss the extension of the two-year tax exemption for new residences. Mr. Hushka said currently the policy approved by resolution on January

3, 2006 allows the full exemption available by current law (\$75,000 of building value) for new homes constructed between February 1, 2006 and January 31, 2007. Mr. Hushka stated after discussion and dialog with representatives of the FM Home Builders Association, the Committee recommends continuing the exemption for homes constructed in the 2007 tax year according to the existing policy. Mr. Hushka also submitted historical information relating to the exemption.

The Board received a communication from Bryce Johnson, Executive Vice President, and Mike Arnold, President, Home Builders Association of Fargo-Moorhead, stating the last five years have seen a steady shift of the housing market away from Fargo and into West Fargo. For example, they continued, as recently as 2000, Fargo controlled over twice the market share that West Fargo had, however, in 2003 and 2004, West Fargo actually held more of the market share than Fargo. They said according to the 2005 year-end permit report, of the 1,238 residential units built in the region, Fargo received 40 percent of the market share while West Fargo received 39 percent. Ms. Johnson and Mr. Arnold stated with the number of choices now given to consumers, it is more apparent than ever that cities must compete for that growth and the two-year tax exemption is a very important consideration to the consumer when the decision to buy is being made. They said according to a report by Mr. Hushka, the total taxes exempt in 2006 were \$747,368 and Fargo's share of those exempt taxes was \$100,147. They said considering that 513 houses were exempt in 2006, that is an average cost per house of \$195 and, since the year 2000, the cost has been an average of \$158 per house per year. Ms. Johnson and Mr. Arnold stated considering the taxes that will be paid in the future, the positive economic impacts of building the home itself and the many jobs one home creates, this minor cost to incent a person or family to buy a home in Fargo seems like a small price to pay. They said the City provides opportunities to attract growth in the form of interest free loans, property tax forgiveness and other governmental incentives to businesses. Also, they stated, City tax dollars are used in infrastructure investment to spur growth and granting a short-term property tax exemption for homeowners should be no different. They said while many business sectors are hurting, the building industry remains strong and continues to be a mainstay for the local and national economy. They said Fargo should consider continuing an incentive that helps in building the tax base which, in turn, keeps creating jobs and contributing to the local economy.

There was discussion regarding eliminating the tax exemption or using a graduated scale.

Commissioner Wimmer stated he hesitates to see what would happen if Fargo were not on a level playing field with the surrounding communities.

Commissioner Williams stated Fargo has not been building as many homes as West Fargo and they have the same incentive package. He said this has been happening over the past five to six years and there must be a lot of factors involved in this equation.

Mr. Hushka stated the numbers that are coming in for 2006 show a 50-50 ratio for Fargo and West Fargo.

Commissioner Coates questioned if the exemption is becoming an entitlement rather than an incentive. She said the surrounding communities are allowing the exemption and she does not think it would be in Fargo's best interest if the exemption were not continued.

Commissioner Williams stated he is not suggesting elimination of the exemption but to go back to a graduated scale which would apply to the people that need the exemption the most. He said the last time this was voted on there was a 3 to 2 vote to go to a graduated scale.

Commissioner Mahoney stated in looking at the graphs that were submitted, it looks like construction went down with the graduated scale.

Commissioner Williams stated the home owners' evaluations have been going up six to eight percent a year. He said when Fargo goes to the legislature to tell them more money is needed for education, it would be nice to tell them the City has also been doing something.

Mayor Walaker stated the playing field needs to be the same for the surrounding communities and West Fargo has already passed their two-year exemption. He said he thinks it would be a disadvantage for Fargo not to pass the exemption.

Mr. Arnold stated if Fargo goes to a graduated scale, it will just add one more area of confusion to potential homeowners. He said the two-year tax exemption has become the norm and it is something that has done well for all the communities.

Kathy Onsum, 1117 10th Avenue South, stated she bought her home in 1976 for \$18,000 and now it has been appraised at \$98,000. She said with her disability she will receive \$610 a month. She said her property goes up about 20% every year and her SDI goes up 2% a year which ends up being a minus 18%. She said when she was working she could deduct her property taxes. She said before the Commission grants other people tax credits they should look at the elderly and disabled to see what can be done so they can keep their homes.

Mayor Walaker stated that is why he pushed for the mill levy decrease, however, Fargo has to have an incentive when it goes up against their competitor which is West Fargo.

Commissioner Williams stated reducing the mill levy is one way to reduce taxes but the City should also go back to a graduated scale.

Commissioner Coates moved a graduated scale be implemented.

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

Commissioners Mahoney, Wimmer 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, Section 57-02-08 of the North Dakota Century Code permits up to \$75,000 of the true and full value of all single family, town-home, twin-home and condominium residential property, exclusive of the land on which it is situated, to be exempt from taxation for up to the first two taxable years after the taxable year in which construction is begun.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo, in accordance with Section 57-02-08, NDCC, hereby grants approval of a two-year tax exemption for new homes started between February 1, 2007 and January 31, 2008.

BE IT FURTHER RESOLVED, That all properties eligible for the exemption will receive the full allowable exemption of up to \$75,000 of the building value.

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

Commissioner Williams voted nay.

The Resolution was adopted.

Commissioner Williams stated he would like to see a task force created to analyze the two-year tax exemption to determine its effectiveness.

Commissioner Wimmer questioned if that was what the Tax Exempt Review Committee was for.

Commissioner Mahoney stated he thinks what Commissioner Williams is really looking at is stimulating new growth in the community.

Commissioner Coates stated one possibility would be the jurisdictions of Fargo, Moorhead, Cass and Clay Counties and the Home Builders Association taking a look at this issue on a regional level.

Commissioner Wimmer suggested referring this to the Tax Exempt Review Committee for a recommendation to the City Commission.

Ms. Johnson stated the Home Builders Association would be happy to be a resource and involved in the study.

Commissioner Wimmer moved the Tax Review Exempt Committee be directed to analyze the two-year tax exemption to determine its effectiveness.

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

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

**Application Filed by Josak, Inc. d/b/a Happy Joe's Pizza for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by Josak, Inc. d/b/a Happy Joe's Pizza for a Class "H" Alcoholic Beverage License at 3132 North Broadway, 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 Mahoney moved the application be approved.

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

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

**Amendment to the Growth Plan Approved (West of 45th Street South, North of 48th Avenue South and East of 47th Street South):**

A Hearing had been set for this day and hour to consider approval of a Growth Plan Amendment to modify the Growth Plan from low/medium and medium/high residential and office to commercial on Lots 1, 2 and 3, Block 1, and medium/high residential on Lots 4 and 5, Block 1, Osgood Townsite 8th Addition.

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their October 11, 2006 meeting.

No written protest or objection to the amendment to the Plan has been received or filed in the Planning and Development Department.

The Board determined that no person is present to protest or offer objection to the Growth Plan amendment.

Commissioner Coates moved the amendment to the Growth Plan 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.

**Parcels of Land in Osgood Townsite 8th Addition Rezoned:**

At a Hearing held on October 11, 2006 the Fargo Planning Commission recommended approval of a change in zoning with a Conditional Overlay that includes signage restrictions from GO, General Office, MR-2, Multi-Dwelling, and SR-4, Single Dwelling to LC, Limited Commercial on Lots 1, 2 and 3, Block 1 and MR-2, Multi-Dwelling on Lots 4 and 5, Block 1, Osgood Townsite Eighth 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.

In answer to a question, Senior Planner Jim Hinderaker stated he has discussed the signage restrictions with the billboard providers and they chose not to contest this issue.

In answer to another question, Mr. Hinderaker stated on-premise signs are allowed.

Commissioner Coates 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 rezoning and Conditional Overlay be approved.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney, Williams 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 Townsite 8th Addition to the City of Fargo:**

Commissioner Coates 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 Townsite 8th Addition to the City of Fargo be placed on first reading.

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.

**Resolution Adopted Approving Osgood Townsite Eighth Addition to the City of Fargo, Cass County, North Dakota:**

Commissioner Coates 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 Townsite Eighth Addition", containing 5 Lots, 1 Block and 40.78 acres of land more or less, located west of 45th Street South, north of 49th Avenue South and east of 47th Street South.

WHEREAS, A Hearing was scheduled to be held October 11, 2006, 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 December 18 and 25, 2006, 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., January 2, 2007, at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the Plat entitled "Osgood Townsite Eighth Addition" be and the same is hereby in all things affirmed and approved, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney, Williams and Walaker voted aye.

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

**Resolution Adopted Approving LexLi First Addition to the City of Fargo, Cass County, North Dakota (3401 Fiechtner Drive South):**

Commissioner Coates 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 "LexLi First Addition", containing 1 Lot, 1 Block and 1.769 acres more or less, located at 3401 Fiechtner Drive South; and

WHEREAS, A Hearing was scheduled to be held December 13, 2006, 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 December 25, 2006 and January 1, 2007, 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., January 2, 2007, at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the Plat entitled "LexLi First Addition" be and the same is hereby in all things affirmed and approved, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney, Williams and Walaker voted aye.

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

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

After recess: All Commissioners present. Mayor Walaker presiding.

**Communication Received Regarding an Appeal to a Vehicle Removal Notice Filed by Michael Augustine:**

A Hearing had been set for this day and hour on an appeal to a vehicle removal notice filed by Michael Augustine, 1814 31st Avenue South.

The Board received a communication from Mr. Augustine stating he was in disagreement with Building Inspections as to the definition of the term "inoperable" in referring to his vehicle.

Mr. Augustine stated he has received several vehicle removal notices over the years and they are very confusing. He summarized the sections of Article 13-09 of the Municipal Code that he felt were unclear and he requested clarification of what determined a vehicle to be inoperable.

In answer to a question, Mr. Augustine stated he received the last notice due to a broken blinker.

Head of Inspections Ron Strand stated the definition the Inspections Department uses for an inoperable vehicle is if the vehicle is clearly inoperable or clearly cannot be legally operated on the streets right-of-way. He said it is not against the law to have an inoperable vehicle in the City of Fargo but it must be inside an enclosed structure. He said Mr. Augustine has complied with the notice and there was no fine levied.

There was discussion regarding the procedures followed by the Inspections Department regarding vehicle notices.

Mr. Strand stated the notices are normally issued after his department receives a complaint.

Commissioner Coates moved the communication be received and filed.

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.

**Resolution Adopted Relating to the City's Involvement in the Regional Ad Hoc Committee Regarding the Smoking Issue:**

The Board received a communication from Commissioner Williams submitting a resolution relating to a Regional Ad Hoc Committee regarding the smoking issue and stating Moorhead City Manager Bruce Messelt has requested that the elected officials of Fargo, West Fargo and Dilworth consider adopting the proposed resolution.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The SAFE Coalition has requested the formation of a Regional Task Force, comprised of elected officials from the four metropolitan jurisdictions, to promote efforts to ensure a level playing field with respect to local ordinances limiting or prohibiting smoking in public places and facilities and to consider a uniform approach to more restrictive local ordinances prohibiting smoking in all workplaces; and

WHEREAS, On Wednesday, November 29, 2006, representatives from the four metropolitan jurisdictions (Fargo, West Fargo, Moorhead and Dilworth), as well as from Cass County, North Dakota and Clay County, Minnesota met to discuss the SAFE Coalition's request; and

WHEREAS, Based upon this discussion, several questions were crafted and were suggested to be posed to the participating jurisdictions in an effort to gauge the interest of these (and other) jurisdictions in formalizing this group into a Regional Task Force and in providing specific direction as to the work of this Task Force, once formed.

NOW, THEREFORE, BE IT RESOLVED, By the City Commission of the City of Fargo that the City Commission does hereby answer the questions posed by the Ad Hoc Committee with the following:

**Regional Task Force and Its Charge:**

1. For Fargo, West Fargo, Moorhead and Dilworth: Does the Fargo City Commission wish to continue its involvement in an open-ended, regional discussion on issues relating to local/metro-wide/statewide smoking restrictions through the creation of a formal Regional Task Force and appointment to this Task Force of two official representatives from each participating jurisdiction? Commissioners Wimmer, Coates, Mahoney, Williams and Walaker voted aye.

1b. For other neighboring jurisdictions: Does the Fargo City Commission wish to participate in an open-ended, regional discussion on issues relating to local/metro-wide/statewide smoking restrictions through the creation of a formal Regional Task Force and appointment to this Task Force of two official representatives from each participating jurisdiction? N/A.

2. Would the position of the Fargo City Commission on Question #1 be different if the work of the Regional Task Force was limited to tracking and discussion of regional issues and potential statewide debate or legislation? On call of the roll Commissioners Wimmer, Coates, Mahoney, Williams and Walaker voted nay.

3. Would the position of the Fargo City Commission on Question #1 be different if the work of the Regional Task Force may include formation of a draft model no-smoking ordinance for future consideration by the participating jurisdictions? On

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

4. Would the position of the Fargo City Commission on Question #1 be different if the work of the Regional Task Force may include formation of a draft resolution in support of reciprocal statewide no-smoking ordinances for future consideration by the participating jurisdictions? On call of the roll Commissioners Wimmer, Coates, Mahoney, Williams and Walaker voted nay.

**Potential Local Ordinance Changes:**

5. Would the Fargo City Commission support today a more restrictive no-smoking ordinance for its community, regardless of the status of no-smoking ordinances in neighboring jurisdictions? On call of the roll Commissioner Coates, Mahoney and Williams voted aye. Commissioners Wimmer and Walaker voted nay.

6. Would the Fargo City Commission support today a more restrictive no-smoking ordinance for its community if neighboring jurisdictions adopted a similar/identical no-smoking ordinance? On call of the roll Commissioners Wimmer, Mahoney, Coates, Williams and Walaker voted aye.

7. If yes to Question #6, what other neighboring jurisdictions would the Fargo City Commission consider as necessary? N/A.

**Potential Future Considerations:**

8. Even if not participating or supportive today of a more restrictive no-smoking ordinance, would the Fargo City Commission be willing to consider in the future the work/recommendations of the Regional Task Force? On call of the roll Commissioners Coates, Wimmer, Mahoney, Williams and Walaker voted aye.

BE IT FURTHER RESOLVED, By the City Commission of the City of Fargo that the City Commission does hereby authorize continued staff support to the Smoking Issues Regional Ad Hoc Committee/Task Force and that Commissioners Mahoney and Williams be appointed to serve as Fargo's elected representatives on the Task Force.

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

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

**Contract with Mobile Ads for Transit Advertising Services Approved:**

The Board received a communication from Transit Administrator Julie Bommelman submitting a contract with Mobile Ads for transit advertising services and requesting the Board's approval. She said the contract has been approved by the City's legal counsel.

The Board also received a communication from Lee Hofer, President of Trans Ad, stating this serves as Trans Ad's protest to the awarding of Transit's advertising contract to Mobile Ads. Mr. Hofer said Trans Ad is currently engaged in the protest

procedure and has yet to receive a response from the City. He stated that the contract should not be awarded until the protest process has been completed and he outlined his reasons.

The Board received a communication from Ms. Bommelman, Moorhead Transit Manager Lori Van Beek, Fargo City Administrator Pat Zavoral and Moorhead City Manager Bruce Messelt in response to Trans Ad's protesting the award of the transit advertising contract to Mobile Ads. They summarized their reasons for awarding the contract to Mobile Ads and stated they felt the selection process was well defined in the Request for Proposals and that they followed the process appropriately in determining the award of the contract.

Mark Thelen stated he was speaking on behalf of Trans Ad. He said Trans Ad's proposal would bring in \$24,000 more per year than Mobile Ads' proposal. He said awarding the contract to Mobile Ads before the protest has been addressed will cause some financial damages to the City. He said the City should either delay the award of the contract until the protest is addressed or award the contract to Trans Ad which was the best bidder.

Planning Director Jim Gilmour stated the Selection Committee thought the new provider would do much better in sales and, in the end, the City would receive additional funds. He said the latest complaint did not have any new information--just a rehash of what was previously received.

Mayor Walaker stated it looks like the City has followed the proper procedures.

Ms. Bommelman stated Trans Ad certainly has the option to file a protest with the Federal Transit Administration. She said the only thing they will look at is if the City had procedures in place and if they were followed.

In answer to a question, Ms. Bommelman stated the proper procedures were in place and followed.

Commissioner Coates moved the contract with Mobile Ads be approved.

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

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

### **Erik Johnson Named City Attorney: Independent Legal Counsel Authorized to Review the New 2007 City Attorney Contract:**

The Board received a communication from City Attorney Garylle Stewart regarding proposed revisions for the City Attorney's 2007 contract with the City.

The Board received a communication from Erik R. Johnson and Associates, Ltd. and the Solberg, Stewart, Miller and Tjon, Ltd. Law Firms stating Assistant City Attorney Erik Johnson has been named the Fargo City Attorney by the City Commission effective January 2, 2007 replacing City Attorney Garylle Stewart after 38 years in that position. They said Mr. Johnson will provide legal advice and counsel to the City Commission and various City departments necessary for the day-to-day operation of the City government. They said Mr. Stewart and the Solberg Law Firm are named Assistant City Attorneys and will continue to provide legal services on select issues through an agreement with Erik R. Johnson and Associates, Ltd. and Solberg, Stewart, Miller and Tjon, Ltd. They said the agreement will also provide the City with special litigation services by Solberg, Stewart, Miller and Tjon, Ltd.

Mayor Walaker stated the City is very appreciative to Mr. Stewart for his many years of valuable service to the City and he hopes that continues for some time. He said the City will need to review the new City Attorney contract and, hopefully, it will be ready for the January 15, 2007 City Commission meeting.

Mr. Johnson thanked Mr. Stewart for mentoring him over the past several years.

Commissioner Coates moved an independent legal counsel be authorized to review the new 2007 City Attorney contract.

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

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

Commissioner Coates moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 15, 2007.

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

The time at adjournment was 6:52 o'clock p.m.