

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: July 16, 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, July 16, 2007.

The Commissioners present or absent were as shown following:

Present: Coates, Mahoney, Williams, Wimmer (via conference call), Walaker.

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved delaying Item No. e in the Consent Agenda until the July 30, 2007 Regular Meeting, moving Item No. m in the Consent Agenda to the end of the Regular Agenda and moving Item No. 6 in the Regular Agenda to the beginning of the Regular Agenda.

Second by Williams. All the Commissioners 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 July 2, 2007 be approved as read.

Second by Williams. 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. 2nd reading, waive reading and final adoption of the following ordinances; 1st reading 7/2/07:
 - (1) Rezoning Certain Parcels of Land Lying in Kapaun's Addition to the City of Fargo (Airport Proximity Agreement).
 - (2) Rezoning a Certain Parcel of Land Lying in Woodhaven 4th Addition to the City of Fargo.
 - (3) Rezoning Certain Parcels of Land Lying in 45th Street Park 3rd Addition to the City of Fargo.
 - (4) Rezoning a Certain Parcel of Land Lying in Northern Pacific Addition to the City of Fargo.
 - (5) Amending Sections 20-0401, 20-0402 and 20-1203 of Articles 20-04 and 20-12 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Non-Farm Commercial Uses.

- b. Drug and Alcohol Policies (400-008 A and 400-008 C).
- c. Receive and file Year to Date - Budget to Actual Report for June 2007.
- d. Acceptance of 2007 ADDI grant allocation in the amount of \$33,695 to provide downpayment assistance to low income first time homebuyers.
- e. Developer's Agreement with Matrix Properties Corporation or Tax Increment Financing District No. 2001-01 (delayed until July 30, 2007).
- f. Contract with NDDOT for reimbursement of up to 75% of the cost of a new radar unit, not to exceed \$1500.
- g. Fire Department budget adjustments in the amount of \$9,675.23 for haz mat training.
- h. Health Department budget adjustments and grant agreement with Dakota Medical Foundation in the amount of \$10,000 to assist in the cost of holding a Community Toolbox on Emergency Preparedness.
- i. Application filed by Michael and Joran Flach for a 5-year property tax exemption for improvements made to a building at 1118 15 1/2 Avenue South.
- j. Applications for Games of Chance:
 - (1) Church of the Nativity for a raffle on 10/7/07.
 - (2) Villa Nazareth d/b/a Friendship, Inc. for a raffle on 10/13/07.
 - (3) FM-AM Rotary for a sports pool from 8/26/07 through 2/3/08.
- k. Metro Area Transit Paratransit Options Analysis and North Dakota State University Campus Access Studies.
- l. Staff authorization to investigate the request to provide the transfer and treatment of City of Harwood wastewater.
- m. Declaration of Dedication - 52nd Avenue Street and Public Utility Easement (moved to the end of the Regular Agenda).
- n. Contract and bond for the Fargo Water Treatment Plant Chiller mechanical construction.
- o. Contract and bond for Project No. 5720.
- p. Bills in the amount of \$3,273,311.59.

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.

No Protests Received for Street Reconstruction and Incidentals Improvement District No. 5680:

The Statutory Resolution of Necessity for the construction of Street Reconstruction and Incidentals Improvement District No. 5680 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 11 and 18, 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 Street Reconstruction and Incidentals Improvement District No. 5680.

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.

Bids Received for Street Reconstruction and Incidentals Improvement District No. 5680:

The bids for Street Reconstruction and Incidentals Improvement District No. 5680 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 11, 2007 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$153,592.50
Opp Construction Company Bid:	Fargo, ND \$168,646.13
Dakota Underground Bid:	Fargo, ND \$189,738.00
Northern Improvement Company Bid:	Fargo, ND \$197,775.40
Strata Corporation Bid:	Grand Forks, ND \$206,309.00

Contract for Street Reconstruction and Incidentals Improvement District No. 5680 Awarded to Master Construction Company, Inc. in the Amount of \$153,592.50:

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 Street Reconstruction and Incidentals Improvement District No. 5680; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 11, 2007 for Street Reconstruction and Incidentals Improvement District No. 5680 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Street Reconstruction and Incidentals Improvement District No. 5680 shows the bid of

Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$153,592.50 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 \$153,592.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Street Reconstruction and Incidentals Improvement District No. 5680 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$153,592.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by Williams. On 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.

No Protests Received for PC Concrete Pavement and Incidentals Improvement District No. 5704:

The Statutory Resolution of Necessity for the construction of PC Concrete Pavement and Incidentals Improvement District No. 5704 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 11 and 18, 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 PC Concrete Pavement and Incidentals Improvement District No. 5704.

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.

Bids Received for PC Concrete Pavement and Incidentals Improvement District No. 5704:

The bids for PC Concrete Pavement and Incidentals Improvement District No. 5704 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 11, 2007 and the bids were found to be as follows:

Dakota Underground Bid:	Fargo, ND \$796,612.93
Master Construction Company, Inc. Bid:	Fargo, ND \$800,000.00
Opp Construction Company Bid:	Fargo, ND \$879,805.79
Northern Improvement Company Bid:	Fargo, ND \$882,184.10

Strata Corporation
Bid:

Grand Forks, ND
\$950,323.40

Contract for PC Concrete Pavement and Incidentals Improvement District No. 5704 Awarded to Dakota Underground in the Amount of \$796,612.93:

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 PC Concrete Pavement and Incidentals Improvement District No. 5704; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 11, 2007 for PC Concrete Pavement and Incidentals Improvement District No. 5704 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for PC Concrete Pavement and Incidentals Improvement District No. 5704 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$796,612.93 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Dakota Underground in the sum of \$796,612.93 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for PC Concrete Pavement and Incidentals Improvement District No. 5704 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground for the sum of \$796,612.93, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 11, 2007 and the bids were found to be as follows:

Shermans, LLC
Bid:

West Fargo, ND
\$353,146.12

MIC
Bid:

Moorhead, MN
\$353,996.00

Dakota Underground
Bid:

Fargo, ND
\$366,815.00

Rising Sun Construction, Inc.
Bid:

Fargo, ND
\$389,984.40

Master Construction Company, Inc. Bid:	Fargo, ND \$420,334.10
George E. Haggart, Inc. Bid:	Fargo, ND \$510,282.90
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$528,579.00

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742 Awarded to Shermans, LLC in the Amount of \$353,146.12:

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 Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 11, 2007 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742 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 and Incidentals Improvement District No. 5742 shows the bid of Shermans, LLC of West Fargo, North Dakota, in the sum of \$353,146.12 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 Shermans, LLC in the sum of \$353,146.12 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742 in the City of Fargo, North Dakota, be and the same is hereby awarded to Shermans, LLC for the sum of \$353,146.12, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743 (South Forty at Osgood 2nd Addition):

Commissioner Coates moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743:

Adopt Resolution Creating Improvement District No. 5743:

WHEREAS, The Board of City Commissioners of the City of Fargo,

North Dakota, deems it expedient that Improvement District No. 5743, in the City of Fargo, North Dakota, be created

This project is for asphalt paving with concrete curb and gutter, sidewalks, and street lights at the location described as follows:

On 51st Street South from 48th Avenue to 50th Avenue South.

On 53rd Street South from 48th Avenue to 50th Avenue South.

On 49th Avenue South from 51st Street to 53rd Street South.

On 50th Avenue South from 51st Street to 53rd Street South.

COMPRISING:

All of the unplatted in the East $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 33, Township 139, Range 49 to be platted as South Forty at Osgood 2nd Addition inclusive.

All of the unplatted in the West $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 33, Township 139, Range 49 lying south of a line parallel to and 1,855.22 feet north of the south line of said SW $\frac{1}{4}$.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5743, 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. 5743:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5743, 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 \$839,520.)

Order Plans and Specifications for Improvement District No. 5743:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5743, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5743:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5743, 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. 5743, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals, Improvement District No. 5743 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5743:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5743, in the City of Fargo, North Dakota.

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.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5748 (Urban Plains by Brandt Addition):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5748:

Adopt Resolution Creating Improvement District No. 5748:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5748, in the City of Fargo, North Dakota, be created

On 30th Avenue South from 49th Street to the west lot line of Lot 4, Block 3 of Urban Plains Center Addition.

On 31st Avenue South from 51st Street to the west lot line of Lot 4, Block 3, Urban Plains Center Addition.

On 51st Street South from 28th Avenue to 32nd Avenue.

On the east side of the lake in Park property from 28th Avenue to 30th Avenue South.

COMPRISING

Lots 1 and 2, Block 1.

Lots 1 through 10, inclusive, Block 2.

Lots 1 through 3, inclusive, Block 3.

Lots 1 and 2, Block 4.

Lots 1 through 4, inclusive, Block 5.

Lots 3 and 4, inclusive, Block 6.

Lots 1 through 7, inclusive, Block 8.

All in Urban Plains by Brandt 1st Addition.

Lots 1 through 6, inclusive, Block 1.

All in Urban Plains Medical Park Addition.

Lots 1 through 6, inclusive, Block 1.

All in Urban Plains Rec Facility Addition.

Lots 1 through 12, inclusive, Block 1.

All in Urban Plains Retail Addition.

Lot 1, Block 1.

Lots 1 and 2, Block 2.

Lots 1 through 6, inclusive, Block 3.

Lot 1, Block 4.

Lot 1, Block 5.

All in Urban Plains Center Addition.

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 and Incidentals Improvement District No. 5748, 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. 5748:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5748, 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 \$1,848,000.)

Order Plans and Specifications for Improvement District No. 5748:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5748, in the City of Fargo, North

Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5748:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5748, 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. 5748, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5748:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5748, in the City of Fargo, North Dakota.

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.

Option 3 with 34.69 Acres Accepted in Connection with the I-29 Interchange Frontage Road at 52nd Avenue South: Recommendations for the Southeast and Southwest Frontage Roads Approved:

The Board received a Report of Action from the Public Works Projects Evaluation Committee stating they reviewed the memorandum and exhibits from City Engineer Mark Bittner, which they attached, regarding I-29 interchange roads at 52nd Avenue South scheduled for 2008 construction and they are making the following recommendations:

A. Southeast (SE) Frontage Road

1. Develop cost participation and maintenance (CPMA) agreement with City of Frontier and NDDOT for paving the southeast frontage road as shown in Exhibit A.
2. Initiate annexation discussions for 7th Day Adventist's Church property.
3. All construction to be completed by NDDOT

B. Southwest (SW) Frontage Road

1. Approve submission to NDDOT for design, R/W acquisition and frontage road construction according to Exhibit B.
2. Request NDDOT CPMA for federal cost participation for an equivalent two lane rural frontage road with the balance of frontage road costs to be special assessed.

3. All construction to be completed by the City of Fargo. Frontage road will be constructed to be consistent with White Oaks Trust development plans.
- C. North Frontage Roads
1. Approve submission to NDDOT for design, R/W acquisition and frontage road construction according to the preferred location shown on Exhibit O, Option 1.1.
 2. Request NDDOT CPMA for federal cost participation for equivalent two lane rural frontage road with balance of frontage road costs to be special assessed.
 3. All construction to be completed by NDDOT. Frontage roads shall be constructed to the following:
 - a) Three lane urban concrete street beginning at 36th Street (East frontage road) expanding at 31st to match 52nd Avenue South street return.
 - b) Three lane urban concrete street beginning at 38th Street (West frontage road) expanding at 38th Street to match 52nd Avenue South street return.

Mr. Bittner stated the DOT has requested direction from the City regarding frontage road and other issues associated with the plans for I-29 interchange reconstruction at 52nd Avenue South. He said the project is scheduled for September 2007 plan completion, November 2007 bid opening and 2008 construction and he summarized the City's options consisting of Option 1.1 (50.71 acres), Option 1 (45.83 acres), Option 2 (39.78 acres), Option 3 (34.69 acres), Option 4 (30.21 acres) and Option 5 (25.2 acres). He said his recommendations are as follows:

1. The deficiencies identified for Option 5 (Exhibit I) are a basis for rejecting this frontage road alignment option.
2. Option 1 (Exhibit M) is the preferred frontage road alignment for the following reasons:
 - (a) Consistent with recently revised and approved interchange configuration.
 - (b) Consistent with utility corridor needs identified.
 - (c) Accommodates access control and intersection spacing standards.
 - (d) Superior traffic operations functionality.
3. City Commission to clarify intent of June 18, 2007, action regarding extent of commercial zoning.
4. City staff to continue to work with Hector's and School District staff to incorporate storm water retention basins along Drain 53 to provide fill material for interchange work.
5. City decisions on preferred frontage road alignments are needed on July 16, 2007. Decisions on land use/zoning may take additional time, subject to City

Commission action on the Hector land zoning request if different than June 18, 2007 action.

6. Area plans can be developed using concepts similar to those shown in Exhibit P that will allow new development to co-exist with adjacent development.

Mr. Bittner stated he personally benefits from the convenience of living within walking distance of a commercial area well in excess of 50 acres. He said the proximity of this commercial area does not devalue his property, but it certainly enhances the neighborhood.

Mayor Walaker stated the question is what is the best process for the location of the services and what is going to be the most beneficial.

Senior Planner Jim Hinderaker summarized what was being proposed for the area.

Commissioner Mahoney questioned if it would be easier to have the Hectors bring what they are proposing to Planning to see if it is feasible for the area.

Mr. Hinderaker stated the area does not need to be specifically zoned at this time.

There was discussion regarding the different scenarios for the frontage road.

Mr. Bittner stated there is more of an issue from a land perspective and staff did not like the 25 acre plan.

There was discussion regarding the various options and right-of-way issues.

Mr. Bittner stated the City could put the utilities in no matter what option is chosen, however, it would require the property owners wanting that option for the project to proceed.

In answer to a question, Mr. Bittner stated all of the options meet City standards with the exception of Option 5. Again, he continued, the issue is if the property owners are willing to agree to the option.

Mayor Walaker questioned how the zoning would be controlled in the area.

Mr. Hinderaker stated the zoning has to be approved by the City Commission.

There was discussion regarding the location of the frontage road for the various options.

Mick Hamerlick, 2601 Meadow Creek Circle, stated this should be left at 25 acres, the frontage road should be left where it is and the issue should be put to bed.

Mayor Walaker stated this is for the future of Fargo for 50 years from now. He said the decision that engineering made was not done lightly.

Shane Waslaski, 3518 46th Avenue South, stated he agrees with Mr. Hamerlick's statement. He said there are ways to mitigate Mr. Bittner's issues. He said he thinks the Commission made a decision on June 18th and they should stand behind their decision.

A resident of Meadow Creek stated the Commission made a decision on the issue on June 18th. He said it seems the whole reason this is being discussed again is because of engineering considerations and he does not buy that.

Bob Footitt, 2673 Meadow Creek, stated the Commission should leave it at 25 acres.

Commissioner Coates stated the City is up against a deadline. She said if she is hearing Mr. Bittner correctly, Option 5 is the one that will not work in terms of traffic and tie ins.

Commissioner Mahoney stated Option 3 seems like the option that will work.

Mr. Bittner stated his report recommends Option 1 which is the 45 acre option. He said with the exception of Option 5, they can make all of the options work.

Commissioner Wimmer stated Option 1 with 45 acres is a good compromise and it gives the DOT a chance to move on.

Commissioner Wimmer moved to accept Option 1 with 45.83 acres.

Second by Coates.

Commissioner Williams stated he is not going to support the motion. He said utilities will always be the issue. He said he thinks all of the scenarios will work and he feels Option 5 with 25 acres can work.

On call of the roll Commissioners Wimmer and Coates voted aye.

Commissioners Mahoney, Williams and Walaker voted nay.

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

Commissioner Mahoney moved to accept Option 3 with 34.69 acres.

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

Commissioners Williams and Wimmer voted nay.

The motion was declared carried.

(Commissioner Wimmer absent)

At 6:36 p.m. the Board took a five-minute recess.

After recess: All Commissioners present except Commissioner Wimmer. Mayor Walaker presiding.

Commissioner Coates moved the appropriate staff be authorized to proceed with the Public Works Projects Evaluation Committee's recommendations A and B relating to the southeast and southwest frontage roads as outlined above.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application Filed by Mexican Village II, LLP d/b/a Mexican Village for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Mexican Village II, LLP for a Class "FA" Alcoholic Beverage License at 3155 45th Street 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 Mahoney moved the application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Renaissance Zone Project Application for AB Properties 1, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for AB Properties 1, LLC at 309 Broadway.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by AB Properties 1, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Coates moved the Renaissance Zone application filed by AB Properties 1, LLC for a project located at 309 Broadway be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Renaissance Zone Project Application for MLB Properties 1, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for MLB Properties 1, LLC at 305 Broadway.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by MLB Properties 1, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Coates moved the Renaissance Zone application filed by MLB Properties 1, LLC for a project located at 305 Broadway be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Renaissance Zone Project Application for Kilbourne Group, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Kilbourne Group, LLC at 300 Broadway.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Kilbourne Group, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Coates moved the Renaissance Zone application filed by Kilbourne Group, LLC for a project located at 300 Broadway be approved as recommended by the Renaissance Zone Authority and the income tax and property tax exemptions be granted contingent upon completion of the project and verification of costs.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Hearing on a Petition for a Zoning Change on Part of the Southeast Quarter of Section 34, Township 139 North, Range 49 West Continued to July 30, 2007 (4005 52nd Avenue South):

A Hearing had been set for April 23, 2007 on a petition for a zoning change on part of the southeast quarter of Section 34, Township 139 North, Range 49 West.

At the April 23, 2007 meeting, the Hearing was continued to May 7, 2007.

At the May 7, 2007 meeting, the Hearing was continued to this day and hour, however, the developer has requested that the Hearing be continued to July 30, 2007.

Commissioner Mahoney moved the Hearing be continued to July 30, 2007

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Validity and Sufficiency of the Petitions Initiating an Ordinance Regarding the Ten Commandments Accepted:

The Board received a communication from City Auditor Steve Sprague stating the Auditor's Office received a petition to initiate an ordinance regarding the Ten Commandments. He stated the Auditor's Office examined the validity and sufficiency of the petitions and, during this procedure, 5,250 signatures were examined and approximately 19 percent of the required number of petitioners needed to refer an ordinance were contacted by phone. He said the phone conversations verified that the signers indeed signed the petitions, verified their addresses and that they are qualified to vote in the City of Fargo. He said the Auditor's Office is of the opinion that the petitions are valid and sufficient and the requisite numbers of signatures were gathered (2,850).

Commissioner Coates moved the validity and sufficiency of the petitions for the initiated ordinance regarding the Ten Commandments be accepted.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Second Reading of an Ordinance Relating to a Prohibition on Removal of Markers or Monuments:

Commissioner Coates moved that the proposed Ordinance enacting Section 18-0514 of Article 18-05 of Chapter 18 of the Fargo Municipal Code Relating to a Prohibition on Removal of Markers or Monuments which was placed on its first reading July 2, 2007 be now placed on its second reading.

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

Commissioner Williams voted nay.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

2007 Fargo-Moorhead Downtown Framework Plan Update Approved:

The Board received a communication from Senior Planner Robert Stein submitting the final draft of the 2007 Downtown Framework Plan. He stated the Plan was developed over the past several months with the aid of a variety of downtown interests, City staff, and the consulting firm of Short Elliot Hendrickson, Inc. The Plan, he said, identified issues of importance, development principles, and recommended projects for downtown Fargo and Moorhead.

Mr. Stein made a power point presentation of the Plan.

Commissioner Coates moved the 2007 Fargo-Moorhead Downtown Framework Plan Update be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Action on a Petition Filed by Fred and Earlyne Hector for Exclusion of Property Located Northeast of I-29 and 52nd Avenue South from the City of Fargo Delayed Until July 30, 2007:

Mayor Walaker stated action on the petition filed by Fred and Earlyne Hector for exclusion of property located northeast of I-29 and 52nd Avenue South from the City of Fargo is being delayed until July 30, 2007 at the request of the developer.

Commissioner Coates moved this item be delayed until the July 30, 2007 meeting.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Request for a Tax Exempt Financing District for the Redevelopment of the Park East Apartment Site Referred to Appropriate Staff for Formal Discussions:

The Board received a communication from Larry Nygard, President of Crown Development, LLC, and Jim Roers, President of Roers' Development, Inc., stating the

redevelopment plans for the Park East Apartment site are progressing and they are requesting the authority to begin formal discussions with appropriate City staff regarding the establishment of a Tax Increment Financing District (TIF) to facilitate the redevelopment and improvement of the site. They said the plans currently include construction of approximately 50 condominium homes and floodwall protection along 2nd Street South. They also requested this site be included in the Renaissance Zone.

City Administrator Pat Zavoral stated this is a significant redevelopment proposal and would be the biggest TIF project the City has undertaken. He said it is part of the 2nd Street flood control project and they are trying to fit it in with what the Corps of Engineers wants to do. He said the City's policy requires the developers to come forward to see if the City is interested in developing this further.

Commissioner Coates moved the appropriate staff be directed to begin formal discussions on the proposed TIF district and the possibility of including the project in the Renaissance Zone.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Item No. M Delayed Until July 30, 2007:

Item No. m (Declaration of Dedication – 52nd Avenue Street and Public Utility Easement) was delayed until July 30, 2007.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, July 30, 2007.

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

The time at adjournment was 7:21 o'clock p.m.