

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: July 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., Monday, July 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 reversing Items 6 and 7 and delaying Item 8 in the Regular Agenda until July 30, 2007.

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 June 18, 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, 6/18/07:
 - (1) Rezoning a Certain Parcel of Land Lying in Sullivan Addition to the City of Fargo.
 - (2) Amending Section 20-0505, Subparagraph A.3., of Article 20-05 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Bonus Density.
- b. Agreement with John Baird to serve as Health Officer for Fargo and Cass County.
- c. Submittal of a joint application with the Fargo Park District and Fargo and West Fargo Public School Districts for a wind energy project under the CREBs program.

- d. Applications for 5-year property tax exemptions for improvements made to buildings:
 - (1) Harmon Real Estate Company, 1114 North University Drive.
 - (2) Lance and Rita Ludemann, 1217 14th Street South.
 - (3) Lance and Rita Ludemann, 1439 10th Street South.
 - (4) LeAnne and Scott Wilcox, 916 1st Street North.
- e. Storefront Rehab grant in the amount of \$40,000 for 305-309 Broadway.
- f. Sale of NRI property at 808 8th Street North for \$69,000 and 814 8th Street North for \$68,500.
- g. List price for NRI Infill property at 1113 11th Street North at \$134,900.
- h. Taxicab license for Cowboys on Call Taxi Service.
- i. Applications for Games of Chance:
 - (1) St. Anthony of Padua Church for bingo and a raffle on 9/30/07.
 - (2) Freedom Resource Center for Independent Living, Inc. for a raffle on 9/13/07.
 - (3) El Zagal Provost Guard for a sports pool from 7/5/07 through 12/30/07.
- j. Sale of property at 44 5th Avenue North to Stan Hoglund.
- k. Quit Claim Deed for 4,135 square feet of property located in the West Acres Business Park First Addition to Paradox Properties, LLC.
- l. Engineering Services Contract Amendment for Project No. 5646.
- m. Updated arterial street project schedule and funding.
- n. Bid award for Project No. 5718 to 3M Company in the amount of \$198,500 annually for seven years.
- o. Contracts and bonds for Project Nos. 5645 and 5714.
- p. Bills in the amount of \$4,743,622.09.

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.

Asphalt Alley Paving and Incidentals Improvement District No. 5753 (11th and 12th Avenues North Between 17th and 18th Streets):

Commissioner Coates moved the following action be taken in connection with Asphalt Alley Paving and Incidentals Improvement District No. 5753:

Adopt Resolution Creating Improvement District No. 5753:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5753, in the City of Fargo, North Dakota, be created

From 11th to 12th Avenue North between 17th Street and 18th Street, in Block 3 of Beardsley's Addition.

COMPRISING:

Lots 2 through 22, inclusive, Block 3.
Beardsley's Addition.

Lot 1, Block 8.
Wm G. Johnson Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Asphalt Alley Paving and Incidentals Improvement District No. 5753, 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. 5753:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5753, 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 \$96,360.)

Order Plans and Specifications for Improvement District No. 5753:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5753, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5753:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5753, 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. 5753, 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 Asphalt Alley Paving 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 Asphalt Alley Paving & Incidentals, Improvement District No. 5753 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 Asphalt Alley Paving & 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. 5753:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5753, in the City of Fargo, North Dakota.

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.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5756 (16th and 17th Avenues North Between 7th and 8th Streets):

Commissioner Coates moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5756:

Adopt Resolution Creating Improvement District No. 5756:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5756, in the City of Fargo, North Dakota, be created

From 16th to 17th Avenue North between 7th Street and 8th Street, in Block 13 of Chandler's Broadway Addition.

COMPRISING:

Lots 1 through 24, inclusive, Block 13.
Chandler's Broadway Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley

Paving and Incidentals Improvement District No. 5756, 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. 5756:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5756, 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 \$85,008.)

Order Plans and Specifications for Improvement District No. 5756:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5756, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5756:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5756, 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. 5756, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving 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 PC Concrete Alley Paving & Incidentals, Improvement District No. 5756 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 PC Concrete Alley Paving & 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. 5756:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5756, in the City of Fargo, North Dakota.

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.

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712 in the City of Fargo, North Dakota.

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.

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712 Approved:

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

United Fire and Casualty Company, in the amount of \$1,876,116.15, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712 in the City of Fargo, North Dakota.

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.

Bids Awarded for the Main Fargo Public Library:

The Board received a communication from Richard Moorhead of IMAGE Group submitting a tabulation of the June 20, 2007 bid opening for the Main Fargo Public Library. Mr. Moorhead recommended award of the following bids and alternate No. 7 for a total amount of \$8,376,157 with the remaining alternate bids to be considered for award within 30 days based upon recommendations to be received from the Library Building Committee:

General Construction to Meinecke-Johnson Company	
Base Bid	\$6,060,700
Alternate 7 (non-certified steel fabricator)	Deduct (\$210,000)
Mechanical Construction to Robert Gibb & Sons, Inc.	
Base Bid	\$1,468,300
Electrical Construction to Scott's Electric	
Base Bid	\$1,057,157

Total Contract Awards

\$8,376,157

Mr. Moorhead said bids came in below the estimated construction costs and he said alternate bids on steel will be coming as well.

Commissioner Coates said the Library Board will convene as soon as possible to discuss the alternate bids with the goal of completing the bid process.

Mike Allmendinger, 45 Fremont Drive, stated the benefits of including a green roof into the library structure are threefold - providing ecological benefits, technical benefits and owner incentives.

Commissioner Coates moved the bids be awarded as outlined above.

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.

**Request for an Extension of the Noise Ordinance for the Fargo Blues Festival
Approved:**

The Board received a communication from Dan Bredell, Executive Director of the Fargo Blues Festival, requesting extension of the City's noise ordinance from 10:00 p.m. to 11:00 p.m. on Friday, August 17 and Saturday, August 18, 2007 for the 12th Annual Fargo Blues Festival at Newman Outdoor Field. He said due to extended travel by a number of people, it is vital to move the Friday and Saturday schedules up. He said the final headliner on Friday is scheduled to end at 10:30 p.m., and the final headliner on Saturday is scheduled to end at 9:30 p.m., however, extra time is needed in case of unexpected delays.

Commissioner Mahoney moved the request for a one hour extension of the City's noise ordinance from 10:00 p.m. to 11:00 p.m. on August 17 and 18, 2007 be approved.

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

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

**Request for an Extension of the Noise Ordinance for an Outdoor Event
Approved:**

The Board received a communication from Jared Eisenzimmer, Beverage Manager, Fargo Holiday Inn, requesting an extension of the City's Noise Ordinance on August 24, 2007 from 10:00 p.m. to 11:00 p.m. for an outdoor event at the Holiday Inn.

Mr. Eisenzimmer said last year's event had three bands, but because of time constraints, they cut it back to two bands this year. He said this should prevent the concert from going later than requested.

Commissioner Mahoney moved the request for a one hour extension of the City's Noise Ordinance on August 24, 2007 from 10:00 p.m. to 11:00 p.m. be approved.

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

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

Request for an Extension of the Noise Ordinance for a Starlite Movie Night:

The Board received a communication from Tracy Walvatne, Social Chair, Horace Mann Area Neighborhood Association, requesting extension of the City's noise ordinance from 10:00 p.m. on August 16, 2007 to 12:30 a.m. on August 17, 2007 for a Starlite Movie Night at Roosevelt Park on 12th Avenue North.

Commissioner Wimmer moved the request for an extension of the City's noise ordinance from 10:00 p.m. on August 16, 2007 to 12:30 a.m. on August 17, 2007 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.

Donald Martin and Ronald Laverdure Reappointed to the Native American Commission:

The Board received a communication from Mayor Walaker recommending that Donald Martin and Ronald Laverdure be reappointed to the Native American Commission.

Commissioner Coates moved the reappointment of Mr. Martin and Mr. Laverdure to the Native American Commission for the term ending June 30, 2010 be approved.

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.

Parcels of Land in Kapaun's Addition Rezoned (1920 and 2002 12th Avenue North):

At a Hearing held on May 9, 2007 the Fargo Planning Commission recommended approval of a change in zoning from LI, Limited Industrial to MR-3, Multi-Dwelling Residential on Lots 3 through 5, Block 1, Kapaun's Addition.

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

Commissioner 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 be approved.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer 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 Kapaun's 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 Kapaun's Addition to the City of Fargo be placed on first reading and the second reading be delayed until after receipt of the Proximity Agreement.

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.

Parcels of Land in Woodhaven 4th Addition Rezoned (4705 44th Street South):

At a Hearing held on June 13, 2007 the Fargo Planning Commission recommended approval of a change in zoning from MR-1, Multi-Dwelling Residential and SR-3, Single-Dwelling Residential to SR-4, Single-Dwelling Residential on Lots 13 and 14, Block 1, Woodhaven 4th Addition.

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

Commissioner 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 be approved.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer 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 Woodhaven 4th 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 Woodhaven 4th Addition to the City of Fargo be placed on first reading.

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.

Parcels of Land in 45th Street Park 3rd Addition Rezoned (4375 4th Avenue South, 4402 2nd Avenue South, and 209 43 ½ Street South):

At a Hearing held on June 13, 2007 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling Residential

to LI, Limited Industrial (with a Conditional Overlay) to allow for industrial uses on Lots 3, 4 and 5, Block 1 of 45th Street Park 3rd Addition.

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

Commissioner 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 be approved.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Williams, Mahoney 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 45th Street Park 3rd 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 45th Street Park 3rd Addition to the City of Fargo be placed on first reading.

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.

Parcels of Land in Northern Pacific Addition Rezoned (901 5th Avenue South):

At a Hearing held on June 13, 2007 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling Residential to SR-4, Single Dwelling on the south 90 feet of the east 6 feet of Lot 11 and the south 90 feet of Lot 12, Block 37, Northern Pacific Addition.

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

Commissioner 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 be approved.

Commissioner Wimmer said concern was raised at the Planning Commission meeting that the garage was too close to the street.

Bill Mahar, Planner, said the location will not be out of character with the neighborhood and will fit into the context of the area.

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

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

First Reading of an Ordinance Lying in Northern Pacific 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 Northern Pacific Addition to the City of Fargo be placed on first reading.

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.

Text Amendment to Sections 20-0401, 20-0402 and 20-1203 of the Land Development Code Approved:

A Hearing had been held by the Fargo Planning Commission on June 13, 2007 for the purpose of considering a request for a text amendment to Sections 20-0401, 20-0402 and 20-1203 of the Land Development Code to allow language that allows for review of non-farm commercial uses in the AG zoning district in accordance with the Conditional Use review procedure of Section 20-0909 of the Land Development Code and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

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

Commissioner Coates moved the request 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.

First Reading of an Ordinance Relating to Non-Farm Commercial Uses:

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 Amending Section 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 be placed on first reading.

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.

Petitions for an Initiated Ordinance Relating to a Prohibition on the Removal of Markers and Monuments Received and Filed: Ordinance Placed on First Reading Pending Verification of Petition Signatures:

The Board received a communication from Randy Thorson requesting an item be placed on the July 2, 2007 City Commission agenda for the purpose of presenting signed petitions for the proposed initiated ordinance regarding markers or monuments on City of Fargo property for 40 or more years not being removed. He said, at that time, he would request that the petitions be received and filed by the Commission and also that the City Auditor receive and verify the petitions prior to the July 16, 2007 City Commission meeting.

Mr. Thorson said the organizers of the petition drive collected 5,265 signatures. He asked the City Commission to suspend all action on removal of any monument from City property until the initiated ordinance is adopted by the City Commission or put to a vote of the people.

Commissioner Mahoney moved the petitions for an initiated Ordinance amending the Fargo Municipal Code to provide that a marker or monument on City of Fargo property for 40 or more years may not be removed from its location on City of Fargo property be received and filed; that the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Relating to a Prohibition on the Removal of Markers of Monuments be placed on first reading pending verification of petition signatures.

Second by Wimmer.

Margaret Rafferty, 813 6th Avenue North, said the City Commission has received petitions in the past, specifically the Homeless Shelter and the Sunrise Park, and the Commission disregarded the people's wishes. She said the point of a petition is about freedom, not about a monument.

Jens Tennefos, 310 8th Street North, said the petition shows the people want the monument to stay where it stands.

Warren Ackley, 1502 9th Street South, said the monument has been at its current location for a long time and the number of signatures, 5,265, are proof the people want it to stay.

John Jones, 1257 2nd Street North, said he would like to see the monument stay where it is. He said this is a democracy and the majority has spoken to have it remain.

Sister Maris Stella Korb, 1101 32nd Avenue South, said the City Commission's decision to move the monument should be upheld because of separation of church and state and to protect the first amendment. She stated it is irresponsible to hold taxpayers at risk of possible litigation.

Sister Anne Hablas, 1101 32nd Avenue South, said she supports moving the monument. She said the monument is not critical to one's faith and the City should focus on other more pressing social needs.

Lewis Lubka, 1723 6th Street South, stated the monument serves no useful purpose and its original intent was for advertising of the Ten Commandments movie.

At 6:05 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Bruce Schoenwald, 1223 4th Street North, stated the people in favor of keeping the monument at its current location have religious reasons. Mr. Schoenwald said this will only get the City entangled in issues of church and state, so there is a need to be cautious. He said the promotional purpose of the monument could be clarified with a plaque.

Paul Gleye, 311 8th Street South, said he disagrees with those wanting the monument to stay. He said the monument celebrates the destruction of many houses and buildings through the Urban Renewal program which he feels has been detrimental to this community and many other communities throughout the country.

Commissioner Coates said it is obvious the monument means a great deal to the people of Fargo. It is important, she said, not to support one group over another. She said the tone of this debate has been anguished and to stretch it out for several more months will not serve the City's interest. She suggested creating a policy which would avoid legal challenges with future requests.

Commissioner Williams said he respects the right of the citizens to petition and supports the issue being put on the ballot. He said it would be good to review the process for submissions of additional monuments.

Commissioner Mahoney said after the last meeting he went back and got additional background information on the Ten Commandments monument. He said Judge Erickson ruled the Ten Commandments is considered historical and was given as a marker to commemorate Fargo's Urban Renewal project. He stated it is important to embrace and be tolerant of all people. The Commission should do the will of the people, he said, and accept the ordinance presented.

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

Commissioner Williams voted nay.

The motion was declared carried.

Vote Taken at the June 18, 2007 Regular Meeting Regarding the Motion to Donate the Ten Commandments Monument to a Private Entity Reconsidered:

The Board received a communication from Commissioner Mahoney asking that an item to reconsider the vote taken at the June 18, 2007 City Commission meeting regarding the Ten Commandments monument be placed on the July 2, 2007 agenda. He said the motion at that time was that the Ten Commandments monument be donated to a private entity which would permanently place it on private property and to receive proposals for relocation of the monument for a period of 14 days and for the City Commission to make its determination of which proposal to accept at the July 16th meeting.

Commissioner Mahoney moved to reconsider the vote taken at the June 18, 2007 Regular Meeting on a motion to donate the Ten Commandments monument to a private entity which would permanently place it on private property and to receive proposals for relocation of the monument for a period of 14 days and for the City Commission to make its determination of which proposal to accept at its July 16, 2007 meeting.

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

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

Commissioner Mahoney said the reason he requested reconsideration of the motion was to allow public dialogue regarding the Ten Commandments monument

Commissioner Coates said three parties, Scheels, Bethany Homes and Sunset Memorial Gardens, submitted requests to move the monument onto private property.

On call of the roll on the original motion, Commissioners Coates and Williams voted aye.

Commissioners Mahoney, Wimmer and Walaker voted nay.

The motion was declared lost for a lack of majority.

Request Received by the RedRiver Freethinkers to Reconsider Their Item Received and Filed:

The Board received a communication from Jon Lindgren, Interim President of the RedRiver Freethinkers, stating if the majority of the Commission votes to leave the Ten Commandments in place, they would like the Commission to also reconsider the motion which denied their request to donate a Sister Monument. He said the Sister Monument contains the inscription "The government of the United States of America, is not, in any sense founded on the Christian religion."

Mr. Lindgren said it is not the intent of the Freethinkers to take legal action but after the last legal decision involving the Ten Commandments, neither the City nor the Freethinkers are any better off. He stated if the Commission reconsiders removing the Ten Commandments, the City Commission should also revote on accepting their monument.

Commissioner Coates suggested tabling the Freethinker's request in order to develop a policy in dealing with requests for placement of monuments on City property. She said having a policy in place would provide guidelines for future requests. She stated her reason for suggesting a policy is that religious text puts the City at risk of rejecting other religious groups, putting the City at exposure for litigation. If it wasn't for the monument's religious content, she said, this debate would not be taking place.

Commissioner Williams moved the request be received and filed.

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

Commissioner Wimmer voted nay.

The motion was declared carried.

Item No. 8 Delayed:

Item No. 8 (Consider tax increment financing policy and application) was delayed until the July 30, 2007 Regular Meeting.

Pedestrian/Bicycle Safety Zone on Broadway Designated between 6th Avenue North and NP Avenue:

The Board received a communication from Senior Planner Robert Stein stating approximately one year ago the Commission approved changes to Section 8-14 of the Municipal Code Relating to Bicycles and the following are the changes relating to Section 8-1418:

“C. No person shall ride a bicycle upon a sidewalk which is posted with signs prohibiting bicycles; provided that this ordinance shall not apply to law enforcement officers riding bicycles in connection with their duties. The posting of signs shall be in accordance with the latest revision of the Manual of Uniform Traffic Control Devices as published by the U.S. Department of Transportation, Federal Highway Administration provided; however, that signs not in accordance therewith shall be in full force and effect if approved by resolution of the Board of City Commissioners.”

Mr. Stein said a request was received to establish a “Pedestrian/Bicycle Safety Zone” as authorized in Section C. above and the request was not specific to a block or blocks but asked that a boundary be proposed based on input from the Planning staff, Police Department, Downtown Community Partnership and Metro COG. In addition to input from the recommended group, he continued, a public meeting was held on June 13th to solicit input from the public. He said there were three issues that needed to be addressed in consideration of the Safety Zone concept consisting of the boundary, appropriate signage and education, of the three issues, he said action needs to be taken on two items; boundaries and signage. He said, with increased pedestrians in this area, there have been more close calls between bikes and pedestrians warranting the need to extend the boundary to 6th Avenue North. Signage, he stated, is needed for both bikes and automobiles and education is imperative to help the public understand the new codes.

Commissioner Wimmer moved the Pedestrian/Bicycle Safety Zone on Broadway be designated between 6th Avenue North and NP Avenue; and the suggested signs and stencils for designating the boundary of the zone and safety measures 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.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, July 16, 2007.

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

The time at adjournment was 7:18 o'clock p.m.