

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: June 18, 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, June 18, 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.

Second by Wimmer. 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 4, 2007 be approved as read.

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. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 6/4/07:
 - (1) Amending Section 20-0402, Subparagraph C.4., of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Use Regulations.
 - (2) Rezoning Certain Parcels of Land Lying in That Portion of Section Twelve (12), Township One Hundred Forty (140) North, Range Forty-nine (49) West, County of Cass, State of North Dakota.

- b. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in the North Half of the Northwest Quarter of Section Fourteen (14), Township One Hundred Thirty-Eight (138) North, Range Forty-Nine (49) West, City of Fargo, County of Cass, State of North Dakota; 1st reading 1/15/07 (2nd reading was delayed until after approval of the Growth Plan).

- c. Receive and file Year to Date - Budget to Actual Report for May 2007.
- d. Amendment to the Interpreter Services Coordinator contract allowing a lump sum payment for work performed in the past three months.
- e. Sale of NRI Purchase Rehab property at 802 8th Street North for \$71,250.00.
- f. Fannie Mae credit to provide Beyond Shelter, Inc. with financing to construct 43 rental units in the Sunrise North project.
- g. Health Department budget adjustments and grant agreement with the North Dakota Department of Health in the amount of \$120,000.
- h. Application filed by Todd Hegney for a five-year property tax exemption for improvements made to a building at 1533 10th Street North.
- i. Interlocal Agreement between the County of Cass and the City of Fargo for use of the new 2007 Byrne grant funds.
- j. Memorandum of Understanding between the City of Fargo, Cass Rural Water Users District and Tharaldson Ethanol Plant I.
- k. Authorize a technical and economic evaluation of the City of Grand Forks' request to dispose municipal solid waste at the Fargo Landfill.
- l. Receive and file 2007 Cleanup Week report.
- m. Six-month extension of Just One's Class "CD" Alcoholic Beverage License.
- n. Applications for Games of Chance:
 - (1) Steve Weidner F-M Junior Tour for a calendar raffle from 7/4/07 through 6/30/08.
 - (2) Fargo North High School for a raffle on 7/14/07.
- o. Proposal from Foss Architecture and Interiors to provide design and project management for the emergency shelter and detox center at 1519 1st Avenue South.
- p. Agreement for Entry and Construction, Agreement Regarding Special Assessments and Memorandum Agreement for property north of 52nd Avenue South between 38th and 42nd Streets.
- q. Claim of Permanent Easement regarding the 42nd Street project.
- r. Cost Participation and Maintenance Agreement for the I-94 interchange at 57th Street South (District No. 5530-1).
- s. Engineering Services Contract Amendment No. 5 for Project No. 5073-1.

- t. Proposal acceptance for Project Nos. 5752 from Master Construction in the amount of \$23,800 and 5754 from Asplin Excavating in the amount \$24,300.
- u. Bid awards for Project Nos. 5645 to Specialized Contracting in the amount of \$216,085.00 and 5720 to Veit Environmental, Inc. in the amount of \$152,520.10.
- v. Bid advertisement for Project No. 5734-2.
- w. Bills in the amount of \$4,283,850.53.

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.

City of Fargo Concurs with the Fargo Park District Bid Award for Improvement District No. 5744:

Commissioner Coates moved the City of Fargo concur with the Fargo Park District bid award for Improvement District No. 5744 to Master Construction in the amount of \$666,005.90.

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.

Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb and Gutter, Lighting and Incidentals Improvement District No. 5690 (Agassiz Crossing Third Addition):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb and Gutter, Lighting and Incidentals Improvement District No. 5690:

Adopt Resolution Creating Improvement District No. 5690:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5690, in the City of Fargo, North Dakota, be created

West of 45th Street, extension of 23rd Ave SW and Agassiz Crossing

COMPRISING:

A tract of land in the North ½ of Section 21, Township 139 North, Range 49 West to be platted as follows:

Lots 1 through 4, inclusive, Block 1 - Agassiz Crossing Third Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb and Gutter, Lighting and Incidentals Improvement District No. 5690, 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. 5690:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5690, 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 \$1,831,503.)

Order Plans and Specifications for Improvement District No. 5690:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5690, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5690:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5690, 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. 5690, 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 Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb and Gutter, Lighting 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 Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb & Gutter, Lighting & Incidentals, Improvement District No. 5690 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 Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb & Gutter, Lighting & 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. 5690:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5690, in the City of Fargo, North Dakota.

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.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742 (South Forty at Osgood 2nd Addition):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5742:

Adopt Resolution Creating Improvement District No. 5742:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5742, in the City of Fargo, North Dakota, be created

This project is for the installation of sanitary sewer, water main, & storm sewer at the location described as follows:

On 51st 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.

And also for the installation of storm sewer on 53rd Street South from 48th Avenue to 51st Avenue 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 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 created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5742:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5742, 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 \$607,200.)

Order Plans and Specifications for Improvement District No. 5742:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5742, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5742:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5742, 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. 5742, 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. 5742:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5742, in the City of Fargo, North Dakota.

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.

North Dakota Housing Finance Agency Leadership Award Presented to Housing and Redevelopment Authority Executive Director Lynn Fundingsland:

Mayor Walaker presented the North Dakota Housing Finance Agency Leadership Award to Housing and Redevelopment Authority Executive Director Lynn Fundingsland and commended him for his efforts and achievement.

Request from the Fargo Housing and Redevelopment Authority to Use the Fannie Mae Line of Credit to Provide Financing to Purchase Property at 414 11th Street North Approved:

The Board received a communication from Senior Planner Dan Mahli stating the Fargo Housing and Redevelopment Authority (FHRA) is requesting a loan from the City's Fannie Mae line of credit for the purpose of purchasing property at 414 11th Street North. Mr. Mahli said it is the intention of FHRA to acquire the 35,000 square

foot property, clear the site and redevelop it within 24 to 36 months. He said the FHRA has no specific plans for redevelopment at this time but will work with the City to meet identified community and neighborhood housing needs. Upon purchase, he continued, the FHRA will initiate a zoning request to allow for residential redevelopment of the site and they will likely pursue subdivision of the property to allow for a mixed income housing development. Mr. Mahli stated the FHRA is requesting \$325,000 to acquire the property with a repayment term of 36 months. He said permanent financing for the development is likely to include Low Income Housing Tax Credit equity, HOME dollars, Federal HOME Loan Bank funds and a combination of conventional and soft second financing. He said the City would make a bridge loan to the FHRA from its Fannie Mae line of credit at 10 basis points over the City's base rate with associated origination and standby fees passed onto the project. He said the FHRA pledges to repay the loan when permanent financing comes into the project.

Commissioner Wimmer moved the use of the Fannie Mae line of credit to provide the Fargo Housing and Redevelopment Authority with financing to purchase property at 414 11th Street North be approved.

Second by Coates.

Larry Bosma, 1202 4th Avenue North, stated his concerns regarding the project being located at the proposed location and questioned why the funds were not being used to repair the High Rise.

Jens Tennefos, 310 8th Street South, stated he owns low income housing units and he has vacancies all of the time. He questioned where the tenants will come from for the proposed project.

Commissioner Coates stated there are people that cannot afford some of the available apartments. She said this project will have more affordable and staff supported units.

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

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

Petition for a Zoning Change on Lot 1, Block 2, BRC Subdivision Withdrawn (6195 64th Avenue South):

This was the time and date set for a Hearing on a petition for a zoning change on Lot 1, Block 2, BRC Subdivision, however, the petition has been withdrawn by the petitioner.

Parcels of Land in Sullivan Addition Rezoned (5202 25th Street South):

At a Hearing held on April 11, 2007 the Fargo Planning Commission recommended approval of a change in zoning from P/I, Public and Institutional to GO, General Office on the westerly 745.13 feet of Lot 1, Block 1, Sullivan 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Mahoney, Williams, Wimmer and Walaker voted aye.

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

First Reading of an Ordinance Rezoning a Certain Parcel of Land Lying in Sullivan 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 a Certain Parcel of Land Lying in Sullivan Addition to the City of Fargo be placed on first reading.

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

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

Text Amendment to Section 20-0505 A.3 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 Section 20-0505 A.3 of the Land Development Code to eliminate part of Section 20-0505 A.3 that stipulates that in no event shall the building exceed 45 feet in height 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, Mahoney, Williams and Walaker voted aye.

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

First Reading of an Ordinance Relating to Bonus Density:

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 20-0505, Subparagraph A.3., of Article 20-05 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Bonus Density 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.

Amendment to the Growth Plan Approved (2801, 3001, 3107 and 3307 52nd Avenue South):

A Hearing had been set for this day and hour to consider approval of an amendment to the Growth Plan consisting of a change from Public/Institutional, Commercial/Office, Low/Medium Density, Mixed Low to High Density, Office/Mixed Medium to High Density to Commercial, Office/Commercial, Office, Low/Medium Density, Medium/High Density and Park/Open Space on part of the southeast quarter and southwest quarter of Section 35, Township 139 North, Range 49 West.

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their May 9, 2007 meeting.

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

Senior Planner Jim Hinderaker stated at their May 9, 2007 meeting, the Planning Commission recommended that the amount of park land open space be increased to include all lands located south of the proposed park land between 32nd Street South and the Coulee west of Meadow Creek as one of the stipulations for approval of the Growth Plan. He said the Fargo School and Park Districts indicated to staff that their organizations would be negatively impacted if that stipulation is adopted. He said they felt that stipulation would require a significant land dedication from the School District that is not needed in order to buffer Meadow Creek from the proposed future land uses. Also, he continued, policies within the Park District do not support ownership of land with the amount of street frontage that this stipulation would create. He said staff suggests that residential development should occur on both sides of 32nd Street South in order to better spread out the cost of improvements.

Dan Huffman, Assistant Superintendent for the Fargo School District, stated the School District changed its mind on locating a school at this location for good reasons that were arrived at for the benefit of the City of Fargo. He said the only direction for the school to go is south. He said it is also important for the Fargo School District to have commercial development on this land.

Dan Plambeck, Attorney representing Fred and Earlyne Hector, stated the Hectors had no agreement regarding the number of acres. He said they were asking for the 40 to 50 commercial acre option which would give them more flexibility for development. He said the Commission is also being faced with a decision on the frontage road to protect the neighborhood.

City Engineer Mark Bittner stated a decision does need to be made regarding the frontage road in July. He said the general location of the frontage road needs to be submitted to the DOT by mid-July. He summarized the plans for the area and stated he would like a decision soon.

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

After recess: All Commissioners present. Mayor Walaker presiding.

Gary Kubalak, 2469 Meadow Creek; Tom Haldis, 4226 Timberline Drive; Jorin Johnson, 3233 46th Avenue South; Roger Hoffman, 2645 Meadow Creek and John Strinden, 2657 Meadow Creek all spoke in opposition to the Growth Plan Amendment.

Commissioner Coates moved the amendment to the Growth Plan be approved with the following stipulations:

1. Inclusion of a design overlay for the non-residential portions of the property.
2. Increase the commercial area, as shown on Option 1 on file in the City Auditor's Office, from 20 to 25 acres to 35 acres.
3. Change the medium/high density residential classification abutting the Coulee, as shown on Option 1 on file in the City Auditor's Office, to low/medium density residential.

Second by Wimmer.

There was discussion regarding the time line and location of the frontage road and the amount of acres needed to accommodate the proposed amendment to the Growth Plan.

Commissioner Mahoney stated since this was proposed it has been a difficult issue. He said it would have been nice to have had all of the parties in the same room for discussion. He said the main issues were how to buffer the commercial and how 32nd Street South was going to be connected to 52nd Avenue. He said there is a big concern with 35 acres versus 25 acres.

Commissioner Mahoney moved the motion be amended to change stipulation No. 2 from 35 acres to 20 to 25 acres.

Second by Williams.

Commissioner Coates stated the City Commission's action will determine where the frontage road goes.

Commissioner Wimmer stated the Commission needs to make a decision and he thinks the 35 acres is a compromise. He said the Hectors would like to see much more than the 35 acres that is being proposed. He said the Hectors are going to great lengths to make that workable.

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

Commissioner Wimmer voted nay.

The motion was declared carried.

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

Commissioner Wimmer voted nay.

The motion was declared carried.

Proposed Changes to the Fargo Metro Area Transit Routes Approved:

A Hearing had been set for this day and hour to receive comments on the proposed permanent changes to the Metro Area Transit routes.

The Board received a communication from Transit Planner Mike Simonson stating Fargo Transit proposes to make five route changes to take effect August 13, 2007. He said the changes are proposed in response to public requests, needs identified in the Transit Development Plan and meetings with PRACS about partnering to meet strong transportation needs. Mr. Simonson requested approval of the following route changes:

Route 15: Would serve Wal-Mart and drop service to 9th Avenue South.

Route 17: Would serve 3rd Avenue North both ways and drop service to NDSU/SunMart.

Route 18: Would serve 9th Avenue South and SunMart.

Route 19: Would be replaced with a route serving 45th Street South and Amber Valley Parkway.

Route West Fargo: Would serve 9th Avenue South.

Commissioner Coates moved the route change be approved as outlined above effective August 13, 2007.

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.

Request for an Extension of the Noise Ordinance for Borrowed Bucks Roadhouse Approved:

The Board received a communication from Warren Ackley, Vice President, BFG, Inc. d/b/a Borrowed Bucks Roadhouse, requesting an extension of the City's Noise Ordinance on July 28, 2007 from 10:00 p.m. to 11:00 p.m. for the annual Red, White or Blue Motorcycle Giveaway promotion at Borrowed Bucks Roadhouse.

Commissioner Mahoney moved the request for a one hour extension of the City's Noise Ordinance on July 28, 2007 from 10:00 p.m. to 11:00 p.m. be approved.

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

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

T. L. Stroh Architects, Ltd. Retained for Preliminary Design of a Possible Addition to the Fargodome:

The Board received a communication from Ryn Pitts, President of the Fargo Dome Authority, stating the Fargo Dome Authority is requesting approval of the contract with T. L. Stroh Architects, Ltd., which she attached, for preliminary design of a possible addition to the Fargodome to be overseen by an appointed task force consisting of the Fargo City Commission, Fargo Dome Authority members and NDSU representatives. Ms. Pitts stated the task force received responses to their Request For Proposals from 10 firms which were narrowed down to four. She said after interviews by the task force and credentials of their national consultant, the firm of T. L. Stroh was unanimously selected for a fix fee of \$50,000 with reimbursable items not to exceed \$10,000. She said the contract has been approved by the Fargo Dome Authority.

Commissioner Wimmer moved the contract be approved.

Second by Mahoney.

Commissioner Williams stated he thinks the contract is important so the Commission will have the information they need to make an informed decision on the addition. He said this issue could be put to a vote of the people.

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

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

Offer from the Red River Freethinkers to Place a Monument next to the Ten Commandments Monument Denied: Proposals to be Received for Relocation of the Monument:

The Board received a communication from City Attorney Erik Johnson stating he reviewed the offer by The Red River Freethinkers to place a monument next to the Ten Commandments upon direction from the City Commissioners after the March 26, 2007 meeting. He said he met with Jon Lindgren, Carol Sawicki and Davis Cope on April 11, 2007 and discussed the objectives sought by the Freethinkers in making this offer. He said they prefer that their offer to donate the monument be accepted; however, they said it is possible that a lawsuit may result, depending on the City's response. He said acceptance by the City of the Freethinker's monument is not the only option. He said if the City decides to remove the Ten Commandments to a private location, then the Freethinkers indicated their monument will not be needed. Mr. Johnson stated with the foregoing in mind, the following options exist with respect to the offer of the Freethinkers:

Option 1 – Decline the Freethinkers' offer and leave the Ten Commandments monument where it is.

Option 2 – Decline the Freethinkers' offer and move the Ten Commandments monument.

Option 3 – Accept the Freethinkers' offer and allow their monument to be installed.

Option 4 – Establish a Committee to Create "Diversity" or "freedom" displays.

He said the purpose of the communication is to address the legal concerns and to provide some options. He said from a purely legal standpoint, the option with the least risk and greatest potential for cost-avoidance would be to move the Ten Commandments monument from its current location to private property. The new owner, he continued, would then be freely able to display the monument without challenge or suit. Mr. Johnson stated this is a matter of reasonably predictable civil litigation since the Red River Freethinkers have so said. Therefore, he said, if the City Commission would like the opportunity to obtain confidential legal advice before any decision, a confidential executive session is permitted under law and can be arranged.

The Board received a communication from Martin Wishnatsky outlining his thoughts on the Freethinkers offer and their argument that their message is legally deserving of equal time on City property along with every other message on display. Mr. Wishnatsky stated if the City does not wish to accept the offer of a monument from the Red River Freethinkers, it may decline without offending the Constitution.

Mr. Wishnatsky submitted a communication from Attorney Bruce Matlom stating the Ten Commandments monument has sustained an Establishment Clause challenge as per the decision of Judge Ralph Erickson on September 29, 2005. He said it does not constitute a government endorsement of religion and has historical significance as a memorial of the urban renewal project which created the mall and its

surrounding government buildings. He summarized his view and stated the City memorialized its urban renewal project 45 years ago through a monument which it accepted from a private organization. Once accepted, he continued, that monument became City property and, in his view, the City may also decline the Freethinkers monument without incurring First Amendment liability.

Jon Lindgren, Interim President, Red River Freethinkers, stated their monument is to celebrate the opening of the new Library and their request stands.

Lawrence Moll, 629 21st Street South, urged the Commissioners not to give into the Freethinkers' agenda to rewrite American history.

Shirley McMahan, 717 7th Avenue North, spoke in favor of the Freethinkers' offer.

Jens Tennefos, 310 8th Street South, stated the Ten Commandments is pretty sacred and there are very few people who would not agree with that. He said this issue should be put to a vote of the people.

Janelle Schanilec stated she hopes the Commission has the strength and courage to support the Lord.

Commissioner Coates submitted a prepared statement and stated she has heard a very mixed message from the people who have spoken. She said there are many Fargoans of other faiths and it is not the role of government to proclaim one religion above the others.

Commissioner Wimmer moved the offer from the Red River Freethinkers to place a monument next to the Ten Commandments monument on City-owned property be denied.

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.

Commissioner Coates moved the Ten Commandments monument be donated to a private entity which will 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 Williams. On call of the roll Commissioners Coates, Williams and Mahoney voted aye.

Commissioners Wimmer and Walaker voted nay.

The motion was declared carried.

3rd Street North from 1st to 3rd Avenues Named "Hamar Drive":

The Board received a communication from Mayor Walaker stating the City established a Sister Cities relationship with the city of Hamar, Norway in 1974 and, since that time, there have been several visits between both cities. He said on June 21, 2007, Hamar Mayor Einar Busterud and City Manager Svein Skaaraas will visit Fargo and, in honor of their visit and the City's Sister Cities relationship of over 30 years, he is recommending that 3rd Street North in front of City Hall be named "Hamar Drive". He said the designation will extend from 1st to 3rd Avenues and the street will still officially be known as 3rd Street North. Mayor Walaker stated a ceremony will be held on Friday, June 22, 2007 at 11:45 a.m. unveiling the new sign.

Commissioner Wimmer moved 3rd Street North from 1st to 3rd Avenues be named "Hamar Drive".

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

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

Recommendation from Mayor Walaker for Appointments to Various Boards and Commissions Approved:

The Board received a communication from Mayor Walaker recommending the following appointments to several Boards and Commissions of the City for the terms listed:

Board of Adjustment	Term Expires
Mark Lundberg	June 30, 2010
Amanda Thomas	June 30, 2010

Board of Appeals	Term Expires
Wayne Larson	June 30, 2012
(replace Jim Heyer who does not wish to be reappointed)	

Fargo Access Channel Board	Term Expires
Ted (John T.) Schulz	June 30, 2010

Parking Commission	Term Expires
Rick Engen	June 30, 2010
Karen Burgum	June 30, 2010

Planning Commission	Term Expires
Kristine Fremstad	June 30, 2010
Jeffrey Morrau	June 30, 2010

Commissioner Mahoney moved the appointments be approved as outlined above.

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

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

2007-2008 Alcoholic Beverage and Live Entertainment License Renewals Approved:

Commissioner Wimmer moved the 2007-2008 Alcoholic Beverage and Live Entertainment License renewals be approved on the condition that all of the elements required for renewal are present by June 30, 2007.

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

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

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, July 2, 2007.

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

The time at adjournment was 7:25 o'clock p.m.