

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: March 26, 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, March 26, 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 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 March 12, 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. Receive and file the following Ordinances:
 - (1) Relating to Alcoholic Beverage Classifications (Class "B-Limited").
 - (2) Relating to Alcoholic Beverage License Fees (Class "B-Limited").
 - (3) Relating to Issuance and Transfer of Licenses (Class "B-Limited").
 - (4) Relating to License Classifications.

- b. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in That Portion of Auditors Lot One (1) of the South Half of Section Twelve (12), Township One Hundred Forty (140) North, Range Forty-Nine (49) West, County of Cass, State of North Dakota; 1st reading, 3/12/07.

- c. Increase Police Department "extra-duty" rate for security services for police officers to \$40.00/hour for a minimum of three hours and sergeants to \$45.00/hour for a minimum of three hours.

- d. Contract employee position to provide bailiff services to the Municipal Court.
- e. Resolution authorizing the Deer Management Program for 2007-2008 (Attachment "A").
- f. Sale of 1538 2nd Avenue South to Lake Agassiz Habitat for Humanity for \$20,000 and designation of site for a HOME funded Habitat for Humanity Project.
- g. One year extension on the final payment of the \$20,000 Home on the Range CDBG loan to April 1, 2008.
- h. Application filed by Blaise and Helen O'Connor, 803 10th Avenue North, for a five-year property tax exemption for improvements made to a building.
- i. Application filed by PATH ND, Inc. for a raffle on 5/11/07.
- j. Landfill Agreements with the cities of West Fargo and Casselton.
- k. Sole source procurement of goods and services related to the modification and upgrade of the landfill gas compressor station: LFG Technologies, Inc. in the amount of \$297,875 for compressor, motors, valves, control system, heat exchanger and coalescing filter; Olander Contracting Co. in the amount of \$58,850 for piping and electrical; and Gateway Building Systems, Inc. in the amount of \$13,500 for concrete and building expansion.
- l. Fargo Dome Authority Change Orders: Change Order No. 006 for Gast Construction Co., Inc. in the amount of a decrease of \$1,047.00 for the escalator, meeting room and "cut-through" project; Change Order No. 2 for Audiovisual, Inc. for a decrease of \$33,458.00 for the sound system project.; and Change Order No. 3 for Audiovisual, Inc. for an increase of \$4,600 for the sound system project.
- m. Agreement with Houston Engineering in the amount of \$83,540 for Project No. 5073-5.
- n. Contract amendment in the amount of \$15,996 for Project No. 5031-2.
- o. Bid awards for Project Nos. 5707 to Border States Paving, Inc. in the amount of \$217,817.85; 5716 to Ti-Zack Concrete, Inc. in the amount of \$133,640.00; 5717 to Adelman Concrete and Excavating in the amount of \$141,590.00 and 5721 to Merritt Landscape Design in the amount of \$102,315.00.
- p. Bid advertisement for Project No. 5679.
- q. Contracts and bonds for asbestos and hazardous material abatement at the library and Project No. 5709.

r. Bills in the amount of \$1,896,084.78.

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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 19 and 26, 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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694.

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 Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 21, 2007 and the bids were found to be as follows:

Dakota Underground Bid:	Fargo, ND \$295,553.85
Master Construction Company, Inc. Bid:	Fargo, ND \$295,609.00
Border States Paving, Inc. Bid:	Fargo, ND \$314,825.46
Specialized Contracting Bid:	Fargo, ND \$335,258.66
Northern Improvement Company Bid:	Fargo, ND \$358,021.54
Central Specialties, Inc. Bid:	Alexandria, MN \$403,704.14

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 Awarded to Dakota Underground in the Amount of \$295,553.85:

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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 21, 2007 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$295,553.85 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 \$295,553.85 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground for the sum of \$295,553.85, 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, Mahoney, Wimmer and Walaker voted aye.

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

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 (8th to 10th Streets and 13th to 18th Avenues South):

Commissioner Coates moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682:

Adopt Resolution Creating Improvement District No. 5682:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5682, in the City of Fargo, North Dakota, be created

On 9th Street South from 13th to 18th Avenue South.

On a 40' easement from the intersection of 18th Avenue South and 9th Street to the intersection of 21st Avenue South and 9th Street.

On 14th Avenue South from 8th to 9th Street.

On 15th Avenue South from 9th to 10th Street.

On 16th Avenue South from 8th to 9th Street.

On 17th Avenue South from 8th to 10th Street.

COMPRISING:

Lots A through F, inclusive, Block 5.
Lots 3 through 9, inclusive, Block 5.
Lots 14 through 26, inclusive, Block 4.
Lots 1 through 13, inclusive, Block 10.
Lots 14 through 26, inclusive, Block 11.
Lots 1 through 13, Block 19.
Lots 14 through 26, inclusive, Block 18.
All in Huntington's Addition.

Lots 1 through 8, inclusive, Block 3.
Lots 9 through 16, inclusive, Block 4.
All in Lewis Addition.

Lots 12 through 22, inclusive, Block 4.
Lots 1 through 11, inclusive, Block 5.
All in Fargo Investment Company 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682, 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. 5682:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5682, 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 \$3,535,750.00.)

Order Plans and Specifications for Improvement District No. 5682:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5682, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5682:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5682, 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. 5682, 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 Water Main Replacement, Street Reconstruction 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 Water Main Replacement, Street Reconstruction & Incidentals, Improvement District No. 5682 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 Water Main Replacement, Street Reconstruction & 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. 5682:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5682, 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.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702 (Woodhaven 5th Addition):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702:

Adopt Resolution Creating Improvement District No. 5702:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5702, in the City of Fargo, North Dakota, be created

On Marion Street, Hawthorne Street & Woodhaven Street South from 49th Avenue to 51st Avenue South.

On 50th Avenue and 51st Avenue South from 42nd Street to Woodhaven Street South.

On 42nd Street, Loden Court, Woodhaven Drive, 43rd Street & 44th Street South from 49th Avenue to 52nd Avenue South.

COMPRISING:

Lots 1 through 7, inclusive, Block 1.
Lots 1 through 38, inclusive, Block 2.
Lots 1 through 9, inclusive, Block 3.
Lots 1 through 9, inclusive, Block 4.
Lots 1 through 20, inclusive, Block 5.
Lots 1 through 11, inclusive, Block 6.
Lots 1 through 16, inclusive, Block 7.
Lots 1 through 12, inclusive, Block 8.
All in Woodhaven 5th Addition.

All of the unplatted in the south 1,460 feet of the west half of the SE ¼ of Section 34, Township 139, Range 49.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702, 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. 5702:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5702, 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 \$2,655,840.00.)

Order Plans and Specifications for Improvement District No. 5702:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5702, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5702:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5702, 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. 5702, 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, Paving, Street Lights 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, Paving, Street Lights & Incidentals, Improvement District No. 5702 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, Paving, Street Lights & 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. 5702:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5702, 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.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736 (Taylor and Polk Streets South):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736:

Adopt Resolution Creating Improvement District No. 5736:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5736, in the City of Fargo, North Dakota, be created

57th Avenue South between 24th Street South and Bishops Boulevard.
Taylor Street and Polk Street between 36th Avenue South and 38th Avenue South.

COMPRISING:

Lots 14 through 27, inclusive, Block 2.
Lots 1 through 30, inclusive, Block 3.
Lots 1 through 16, inclusive, Block 4.
All platted in Pointe West 3rd 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, Paving, Street Lights and Incidentals Improvement District No. 5736, 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. 5736:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5736, 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 \$809,160.00.)

Order Plans and Specifications for Improvement District No. 5736:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5736, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5736:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5736, 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. 5736, 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, Paving, Street Lights 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, Paving, Street Lights & Incidentals, Improvement District No. 5736 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, Paving, Street Lights & 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. 5736:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5736, 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.

\$30,000 Allocated Toward the Cost of a Needs Assessment for a Performing Arts Center:

The Board received a communication from Commissioner Coates stating for several decades the community has discussed the need and desire for a performing arts center. She said the most recent comprehensive study for such a facility is several decades old and outdated and now that an updated Downtown Framework Plan has been completed for the Cities of Fargo and Moorhead and is set for official presentation in the very near future, this topic has again arisen for serious consideration. She said a Performing Arts Center is a significant feature in the recommended plan for completing the transformations of the downtowns, however, talk of a specific site or location is premature until there are many more facts in hand. Commissioner Coates stated the first priority must be an assessment of the physical needs of the regional performing arts organizations, a study of other possible multi-purpose uses for such a facility, an operations and governance plan, an idea of what such a facility might include from an architectural and technical standpoint, and a rough estimate of both cost of construction and operating endowment (to offset annual operating expenses). To that end, she continued, Lake Agassiz Arts Council has convened a broad-based steering committee to begin this study which include representatives from the arts community, the City of Fargo (Linda Coates and Pat Zavoral), the City of Moorhead (Mark Hintermeyer and Bruce Messelt), NDSU, Concordia, MSUM, Downtown Community Partnership, Fargo Park District, Convention and Visitors Bureau and area business leaders. Commissioner Coates stated this group is seeking financial contributions from all its member entities (two cities, three colleges/universities, major performing organizations, the arts council, and various private funds) to fund this feasibility study. She said using the MetroCOG cost sharing model as a rough guideline, the steering committee

requests \$30,000 as Fargo's share of a total \$60,000 to \$70,000. She said funding has already been secured from the City of Moorhead in the amount of \$10,000, all three higher education institutions and several arts organizations. She said funding proposals are being considered by several private foundations and donors and the request has been approved by the Finance Committee.

Lake Agassiz Arts Council Executive Director Martha Olson stated the needs assessment will consider short and long term needs for all art disciplines as well as other uses including a possible community center featuring the arts.

In response to Commissioner Williams' question regarding a timeline, Ms. Olson stated an RFP could be developed in the next few months, submitted to interested parties for selection of a consultant and be completed in a year.

Commissioner Coates moved \$30,000 be allocated from the 2006 year-end surplus funds toward the cost of a needs assessment for a Performing Arts Center.

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

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

Application Filed by Marketa Jindrisek d/b/a Silver Spoon for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Marketa Jindrisek d/b/a Silver Spoon for a Class "GH" Alcoholic Beverage License at 505 40th Street South, notice of which had been duly published in the official newspaper for the City of Fargo.

City Auditor Steve Sprague said this application was approved two weeks ago with an incorrect address. He said the application was republished in order to hold the hearing with the correct address.

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 Wimmer moved the application 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.

Resolution Adopted Approving Kounovsky's First Addition to the City of Fargo, Cass County, North Dakota (4453 Main Avenue):

Commissioner Coates offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Kounovsky's First Addition" containing 2 Lots, 1 Block and 2.956 acres of land more or less, located at 4453 Main Avenue; and

WHEREAS, A Hearing was scheduled to be held January 10, 2007 by the Fargo Planning Commission, and notice of such Hearing had been published, as

required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on March 12 and 19, 2007 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., March 26, 2007 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the Plat entitled "Kounovsky's First Addition" be and the same is hereby in all things affirmed and approved, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

Parcels of Land in Kirkham's 2nd Addition Rezoned (1414, 1416, 1420, 1424/1426, 1430, 1434 and 1436 12th Avenue North):

At a Hearing held on March 14, 2007 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Family to LC, Limited Commercial with a Conditional Use Permit to allow residential on Lots 12 through 18, including part of vacated alley, Block 14, Kirkham's 2nd 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 with the following Conditional Overlay requirements:

1. The building designs are required to meet the architectural requirements of the DMU-Downtown Mixed Use Zoning District (section 20-0212 DMU of the Land Development Code).
2. Vehicular access shall not be permitted to 12th Avenue North upon substantial completion of redevelopment.
3. All signage other than wall signs shall be limited in height to four (4) feet above ground level, as is required in a "NC", Neighborhood Commercial, District.
4. A reduction in the number of parking spaces required by the Land Development Code, as authorized by LDC section 20-0701.E, to no fewer

than twenty-nine (29) parking spaces is allowed for the subject property.

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 Kirkham's 2nd 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 Kirkham's 2nd 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.

Hearing on a Renewal Plan on the Proposed Tax Increment Financing District No. 2007-01 Continued to April 9, 2007:

This was the time and date set for a Hearing on a Renewal Plan on the proposed Tax Increment Financing District No. 2007-01 for a Plan to redevelop an area southwest of 12th Avenue North and Albrecht Boulevard, however, Planning Director Jim Gilmour has requested the Hearing be continued to April 9, 2007 as the City finance advisors are still reviewing the request.

Commissioner Coates moved the Hearing be continued to April 9, 2007.

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

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

Hearing on the Special Assessment Lists for Various Improvement Districts:

A Hearing had been set for this day and hour on the special assessment lists for the construction of the following Improvement Districts in the City of Fargo, North Dakota, on which special assessment lists Hearings had been held by the Special Assessment Commission after which they had been confirmed and filed with the Board of City Commissioners:

Water Main Replacement and Incidentals No. 5478.

Concrete Curb and Gutter, Asphalt Pavement and Incidentals No. 5606.

Street Lighting No. 5607.

Sanitary Sewer, Water Main, Storm Sewer, Paving and Incidentals No. 5614.

Concrete Curb and Gutter, Asphalt Pavement, Utilities, Street Lights, Sidewalks, Bike Paths, Parks and Incidentals No. 5627.

Water Main Replacement, Street Reconstruction and Incidentals No. 5633.

Water Main Replacement, Street Reconstruction and Incidentals No. 5634.

Water Main Replacement and Incidentals No. 5636.

Water Main Replacement, Street Reconstruction and Incidentals No. 5637.
Asphalt Wearing Course and Incidentals No. 5639.
Asphalt Wearing Course and Incidentals No. 5642.
Asphalt Alley Paving and Incidentals No. 5673.
Asphalt Alley Paving and Incidentals No. 5677; receive protest.
P.C. Concrete Alley Paving and Incidentals No. 5684.

Mayor Walaker stated, due to a protest, Improvement District No. 5677 needs to be pulled from the list and considered separately.

No appeals have been filed in writing against any item appearing on such special assessment lists, with the exception of Improvement District No. 5677, and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Mahoney moved that the special assessment lists for the construction of the above listed Improvement Districts except for Improvement District No. 5677 be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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.

Hearing on the Special Assessment List for Asphalt Alley Paving and Incidentals Improvement District No. 5677:

A Hearing had been set for this day and hour on the special assessment list for the construction of Asphalt Alley Paving and Incidentals Improvement District No. 5677 in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment Commission after which it had been confirmed and filed with the Board of City Commissioners.

The Board received a communication from Chad Peterson, 1103 2nd Street North, appealing his portion of special assessments for Improvement District No. 5677. Mr. Peterson stated he will never use the alley, however, he promised his neighbors he would help fund a reasonable portion of the improvements even though he will have no benefit. He requested to be assessed only for the amount of benefit he will receive.

Mr. Peterson stated in order to make his garage accessible to the alley, he would have to remove the garage and rebuild it. He said the only thing he uses the alley for is garbage pickup.

In response to Commissioner Mahoney's question on how assessments are figured, Special Assessments Coordinator Dan Eberhardt said this particular project is based on front footage. He said assessments do not take into account specific properties but the benefit to the whole area.

Commissioner Coates moved that the special assessment list for the construction of Asphalt Alley Paving and Incidentals Improvement District No. 5677 be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the

assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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.

Recommendation to Purchase 1519 1st Avenue South for the Emergency Shelter/Detox Center Tabled for One Month:

The Board received a communication from Planning Director Jim Gilmour regarding the purchase of property for an Emergency Shelter/Detox Center. He stated the City of Fargo embarked on a search for a suitable property in or reasonably near the downtown area to serve as a shelter and "point-of-entry" to assist homeless individuals who are not able to be served by existing shelters. He said a potential site was selected at 1519 1st Avenue South because it appeared to be the best in terms of size, price and location. He said the plan is for Ray of Hope, in cooperation with the City of Fargo and Centre, Inc., to operate the shelter. He said Centre, Inc. will provide detox services in another area of the same building and manage the building and grounds and medical and security staff will be on-site. He stated the Community Development Committee recommended approval of the proposed site and Community Development Block Grant funds will be used to purchase the property. He said the City is awaiting a letter from HUD releasing funds for this project.

Senior Planner Dan Mahli presented the Commissioners with a map of the area where the proposed location for the shelter is situated. He stated members of the Community Development Committee attempted to inform the neighborhood adjacent to the site and issued news releases to gain public input. He said the Community Development Committee unanimously voted for the site based on the appropriateness of the location. He said financing of 100 percent of the funds through federal funding fits into the Ten Year Plan to End Homelessness. He said five other sites were considered downtown or around the perimeter but community service organizations cannot be located within 300 feet of each other. He stated the need to find solutions for the people the shelter would serve.

In response to a question from Commissioner Coates, Mr. Mahli stated the 7000 square foot site would be ideal for two separate entrances. He said both the shelter and detox center would be managed by Centre, Inc.

Commissioner Coates stated the other homeless shelters in Fargo-Moorhead are private and turn away people that use alcohol and/or drugs. She said there is a serious need for this facility and it comes down to location.

Josh Helmer, Director of Centre, Inc., stated the new location would allow for more clients. He said the new location would double or triple occupancy from the current maximum of 12 people. He said detox clients are not allowed to leave until sober, normally within 24 hours, and then they do not linger in the area.

In response to a question from Mayor Walaker, Mr. Helmer said they are licensed and make recommendations for clients to receive services, but it is voluntary - not court ordered. He said they are required to report to social services if certain health issues are identified.

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

After recess: All Commissioners present. Mayor Walaker presiding.

Connie Teal, Jerry Sigmund, Cindy Pfeiffer, Naomi Marchand, Dave Halverson, Jane Kelly, Kathy Larson, Angie Hauck, Bill Jordan, Scot Sorrells, Mike Dahl, and Nancy Shappell spoke in opposition to the Emergency Shelter/Detox Center for the following reasons:

- Concern for safety to families, children and elderly
- No question there is a need but too close to park and school
- Over 900 have signed a petition against the location
- Facility should be closer to railroad tracks and medical facilities
- Should seek more input from Jefferson neighborhood
- North by the jail would be a better location – industrial area
- Shelter/Detox does not coincide with Neighborhood Revitalization Incentive for this area
- Property values will drop
- Concern for elderly and employees at Bethany Homes
- Lack of communication/cancellation of meetings after site selection

At 7:00 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Lynn Gifford, Phyllis Emmel, Laurie Anderson, Howard Barlow, Margie Bailly, Josh Helmer, Susan Helgeland, Don Shoop, Michael Carbone, Gary Groberg, Joan Jirik, Sandra Berlin, Joan Bachman, and Verna Paul spoke in support of the Emergency Shelter/Detox Center for the following reasons:

- Vulnerable citizens deserve and need shelter and services
- Human rights issue
- Compassionate - the right thing to provide for those in need
- Determined by the Ten Year Plan to End Homelessness that shelter is needed
- Citizens are afraid of the unknown - fears are unfounded
- Fargo contracts with Centre, Inc. for detox services but needs more space
- Good solution to complex problem
- Will provide services to unserved group
- Shelter will be funded by private contributions
- Director of Churches United has experience with moving to a new location – it is important to have open dialogue with the community/neighbors
- Needs to be in someone's backyard
- Native Americans need a voice to support those that use Ray of Hope
- Important to have detox and shelter together

Scot Sorrells stated it is not whether a shelter should exist but a location issue. He said there are more appropriate sites.

At 8:00 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Mayor Walaker said tonight's issue is whether to purchase the building and to continue the process of working with the community.

Commissioner Coates moved purchase of the property at 1519 1st Avenue South for the Emergency Shelter/Detox Center upon release of funds from HUD.

Second by Wimmer.

Commissioner Coates thanked all who spoke in opposition and support. She said the issue tonight is to purchase the building and it would be four to six months to rehab the building before opening and about the same amount of time to form operational plans.

Commissioner Williams said maybe a step was missed – to sit down with the neighborhood and have community dialogue to identify priorities.

In response to a question from Commissioner Coates, Mr. Mahli discussed the other locations the Committee researched and the reasons for not selecting them.

Jens Tennefos questioned the estimated cost to the taxpayer. He suggested tabling the issue in order to communicate between groups and to rid the fears that have been expressed tonight.

Commissioner Williams moved the motion be tabled for one month in order to allow community dialogue.

Second by Wimmer.

Mayor Walaker said all parties agree on the need for a facility so it comes down to finding a location. He said two or three neighborhood representatives could work with staff to provide input so the issue can be brought forward in a month. He said Commissioner Coates and the other committee members have done due diligence.

Commissioner Coates stated the importance of getting the information out to the neighborhood including cost analysis information.

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

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

Consideration of 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 Postponed for 30 Days:

The Board received a communication from Planning Director Jim Gilmour regarding the request filed by Fred and Earlyne Hector for exclusion of property located northeast of I-29 and 52nd Avenue South from the City of Fargo. Mr. Gilmour stated one of the reasons given for this request is that the property owner does not agree with the growth plans and land development ordinances adopted by the City of Fargo. He said the Planning Commission recommended denial of a request to amend the growth plan for this property and that request was then withdrawn. He said it was important to note that the development review process was not completed. He stated should this property be excluded from the City, it would still be within City extraterritorial planning and zoning jurisdiction. He also said another reason for the request is that the property will be special assessed for the benefit it receives from the improvement of 52nd Avenue South. He said the amount special assessed to the property will be done according to City policy and state law. Mr. Gilmour said it has been the practice of the City to offer special assessment deferrals to property owners who have undeveloped property adjacent to newly developed streets. He said this

allows the property owner to delay paying for their share of the improvements until the land is developed through the rezoning and subdivision process of which these owners have received such deferrals in the past. Mr. Gilmour recommended this request for exclusion not be approved for the following reasons:

“A portion of the property is going to be acquired for the 52nd Avenue South project. This roadway will be maintained by the City of Fargo, so it should remain within the City.

This land is adjacent to City infrastructure and is suitable for urban development. It is anticipated that the property will eventually be developed for housing and commercial land uses, and will need services from the City of Fargo.

The City of Fargo is best suited to provide services to the property, including police protection, fire protection, street maintenance, and other city services.”

Commissioner Wimmer stated City staff met earlier today with Mr. and Mrs. Hector regarding exclusion of their property and they agreed to postponing action on their petition for 30 days to allow input from Planning staff.

Commissioner Wimmer moved action on this issue be postponed for 30 days.

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.

Offer from the Red River Freethinkers to Present a Monument to the City to be Displayed Near the Current Ten Commandments Monument Referred to the City Attorney and City Staff for Consideration and Recommendation:

The Board received a communication from the Red River Freethinkers regarding the presentation to the City of Fargo of a gift of a sister monument to be displayed near the current Ten Commandments Monument. They said they believe by displaying the sister monument on public property, the City will encourage discussion of the proper role of religion in government. They stated the federal court decision of September 29, 2005 provided encouragement that a message such as the one to be engraved on the sister monument would be appropriate in this location. They said the court wrote this location is recognized by the community as an area where views are exchanged and to deny any group of people the opportunity to express their views could arguably be a violation of their constitutional rights. They said the court also noted the Ten Commandments Monument had been accepted by the City as part of the commemoration for the then new City Hall, Civic Auditorium and Library complex and the sister monument will be presented to commemorate completion of the new Library building. The Freethinkers requested an agreement whereby the City would accept ownership of the sister monument and responsibility for its future display and maintenance.

Jon Lindgren, Interim President of the Red River Freethinkers, stated the monument inscription is based on a historical document from the Treaty of Tripoli signed by President John Adams in 1797. He said the monument could be incorporated with the new library.

Mr. Davis Cope, Secretary of the Red River Freethinkers, said the monument would be appropriate to memorialize and honor the new library.

City Attorney Erik Johnson stated the lawsuit previously brought against the City by the Freethinkers in regards to the Ten Commandments monument complicates the current offer. He said the Commissioners and the Freethinkers should meet to talk about their goals and wishes. He said he wants to see this handled properly.

Lawrence Moll, resident of Fargo, stated the offer is misleading and if the Commissioners table the issue he will submit documents that confirm his remarks. He requested the Commission table the issue or vote no.

Commissioner Wimmer moved the offer from the Red River Freethinkers be referred to the City Attorney and City staff for consideration and recommendation.

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.

Fargo Dome Authority Authorized to Move Forward with the Request for Proposals to Retain an Architectural Firm to Assist in the Planning of a Possible Addition to the Fargodome:

The Board received a communication from Ryn Pitts, President of the Fargo Dome Authority, and Marilyn Guy, Immediate Past President of the Fargo Dome Authority, stating the Fargo Dome Authority commissioned a Capital Improvement Plan (CIP) to assess the future capital needs of the facility. In conjunction, they stated, the Fargo Dome Authority also worked with an independent financial consultant to assess financial model scenarios relative to the Fargodome's current/projected cash balances and future capital needs per the CIP. They said draft CIP results and financial models were shared with the Commission and Authority at their March 7, 2007 joint meeting and, since that meeting, the Authority's Finance and Building committees and the Fargo Dome Authority have reviewed and discussed the results. At this time, they continued, they are submitting the final documents for the Board's review and approval. They noted that following discussion among their committees, some adjustments were made to the draft plan distributed at their March 7, 2007 meeting. They said the new CIP totals are \$26,611,950 for project years 1 through 25 and \$26,554,600 for project years 26 through 50 and they summarized the changes to the CIP draft document. Ms. Pitts and Ms. Guy stated the Fargo Dome Authority reviewed the updated CIP and new financial models which incorporate the updated capital expenditures and approved the CIP. They said they believe the next step is to move forward with the Request for Proposals to retain the services of an architectural firm to assist in the planning of a possible addition to the Fargodome. They said once information has been received regarding costs associated with a possible expansion, they believe it will be appropriate to return to discussions on the options regarding annual expenditures. In closing, they stated, the Fargo Dome Authority reaffirms the Home Rule Charter requiring the Fargodome one-half cent sales tax collections and related escrow funds and interest earnings shall be used for "the construction, maintenance, and operation of the dome and related facilities."

Commissioner Wimmer moved the Capital Improvement Plan be received and filed and that the Fargo Dome Authority be authorized to proceed with the Request for Proposals.

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.

Deb Mathern, Dennis Fuhrman and Darrell Vanyo Appointed to the Fargo Dome Authority:

The Board received a communication from Mayor Walaker recommending that Deb Mathern (Board of Education nominee), Dennis Fuhrman (Park Board nominee) and Darrell Vanyo (Cass County Commission nominee) be appointed to the Fargo Dome Authority to replace Dale Beling, Russell Johnson and Marilyn Guy whose terms have expired.

Commissioner Wimmer moved the appointments of Deb Mathern, Dennis Fuhrman and Darrell Vanyo to the Fargo Dome Authority for terms ending April 1, 2011 be approved.

Second by Mahoney. 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.

Ken Pawluk Reappointed to the Airport Authority:

The Board received a communication from Mayor Walaker recommending that Ken Pawluk be reappointed to the Airport Authority.

Commissioner Williams moved the reappointment of Ken Pawluk to the Airport Authority for the term ending April 8, 2012 be approved.

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

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

2007 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the current matrix indicating the 2007 Legislative bills the City supports, opposes and monitors.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, April 9, 2007.

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

The time at adjournment was 9:22 o'clock p.m.