

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: May 7, 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, May 7, 2007.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

**Order of Agenda Approved:**

Commissioner Coates moved the Order of the Agenda be approved moving Item No. "i" from the Consent Agenda to the beginning of the Regular Agenda.

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

**Minutes Approved:**

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on April 23, 2007 be approved as read.

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

**Consent Agenda Approved:**

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 1st reading of an Ordinance Amending Sections 25-1506 and 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to License Classifications and Fees.
- b. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 4/23/07:
  - (1) Rezoning Certain Parcels of Land Lying in Keeney and Devitts 2nd Addition to the City of Fargo.
  - (2) Rezoning Certain Parcels of Land Lying in Darlings 1st Addition to the City of Fargo.
  - (3) Amending Sections 20-0802.D.4, 20-0901, 20-0907.B.3, 20-0907.B.4, 20-0907.B.5, 20-0907.B.6, 20-0907.C and 20-1202.66.b; of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Minor Subdivisions.

- c. Receive and file Year to Date - Budget to Actual Report for April 2007.
- d. 4th Amended Lease between the Fargo Dome Authority and NDSU.
- e. Contract with the Office of State Tax Commissioner for collection of City sales, use and gross receipts tax from 7/1/07 through 6/30/09.
- f. First Quarter Financial Report.
- g. Resolution Relating to MIDA bond financing for the Metro Sports Foundation, Inc.; set the hearing for 6/4/07 (Attachment "A").
- h. Sole source procurement of George K. Baum & Company to provide CREB financial consultant services.
- i. 100% Renaissance Zone property tax credit for the Great Northern Depot facility (moved to the beginning of the Regular Agenda).
- j. Resolution Authorizing Issuance of a tax increment revenue note in the amount of \$300,000 payable to Broadway Street Development, LLC (Attachment "B").
- k. Forgiveness of HOME funded housing rehab and homebuyer assistance loans at 1542 6th Avenue South due to a demonstrated hardship.
- l. Amendment #3 to the architectural/engineering services agreement for the joint transit facility for an increase of \$65,000.
- m. Site Authorizations for Games of Chance:
  - (1) Team Makers Club, Inc. at the Holiday Inn.
  - (2) ShareHouse, Inc. at Woody's Bar and the Bismarck Tavern.
  - (3) Jon Greenley Amvets Post #7 at the Amvets.
  - (4) American Gold Gymnastics at Big D's (amended through 6/30/07), Big D's, The Nestor and SideStreet Grille & Pub.
- n. Applications for Games of Chance:
  - (1) Elizabeth Gilbertson Family Benefit for a raffle on 6/2/07; Public Spirited Resolution.
  - (2) Fargo Lions Club for a sports pool calendar from 9/10/07 to 12/24/07.
  - (3) Benefit for Kayla Prestegaard for a raffle on 7/14/07; Public Spirited Resolution.
- o. Mutual Aid and Hold Harmless Agreement with the City of Bismarck, Burleigh County and the City of Fargo/Fargo Cass Public Health to share resources in case of a public health emergency.
- p. Memorandum of Understanding with the Fargo Public School District to utilize school district buildings and staff during emergencies.

- q. Contract with Wenck Associates, Inc. for environmental consultation.
- r. Service Agreement with Friendship, Inc. for mowing flood lots.
- s. Quit Claim Deed from the City of Fargo to JSH Enterprises, Inc. for property in the southwest corner of NP Avenue and 8th Street North.
- t. Agreement between the City of Fargo, the Municipal Airport Authority and Ward Harris.
- u. Indemnification Agreement between the City of Fargo and Northern Improvement Company concerning a previously approved construction contract for a shared use path.
- v. Transportation planning agreements with FM Metro COG for two corridor studies (25th Street and 64th Avenue Corridors).
- w. Engineering Services Agreement with SRF Consulting Group for Project No. 5499.
- x. Bid awards for Project Nos. 5679 to Master Construction Company, Inc. in the amount of \$96,273.83; 5734-1 to Strata Corporation in the amount of \$54,480.00; and SW 07-02 to Olander Contracting Company in the amount of \$208,650.00.
- y. Bid advertisement for Project Nos. 5720 and 5645.
- z. Contract and Bond for Project No. 5716.
- aa. Bills in the amount of \$2,718,435.99.

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.

**No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682:**

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 2 and 9, 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. 5682.

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.

**Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682:**

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 2, 2007 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$2,152,163.35
Dakota Underground Bid:	Fargo, ND \$2,287,640.50
Northern Improvement Company Bid:	Fargo, ND \$2,351,574.13
Opp Construction Company Bid:	Fargo, ND \$2,573,324.23

**Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 Awarded to Master Construction Company, Inc. in the Amount of \$2,152,163.35:**

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. 5682; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 2, 2007 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 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. 5682 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$2,152,163.35 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$2,152,163.35 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. 5682 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$2,152,163.35, 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 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.

**No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697:**

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697.

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.

**Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697:**

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 2, 2007 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$261,831.34
Dakota Underground Bid:	Fargo, ND \$268,031.79
Central Specialties, Inc. Bid:	Alexandria, MN \$277,049.30
Aggregate Industries Bid:	Moorhead, MN \$286,595.69
Border States Paving, Inc. Bid:	Fargo, ND \$291,571.83
Northern Improvement Company Bid:	Fargo, ND \$293,919.12
Sherman, Inc. Bid:	West Fargo, ND \$303,872.35
George E. Haggart, Inc. Bid:	Fargo, ND \$305,818.75
Robert Gibb and Sons, Inc.	Fargo, ND

Bid: \$368,752.60

**Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 Awarded to Master Construction Company, Inc. in the Amount of \$261,831.34:**

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 2, 2007 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$261,831.34 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$261,831.34 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$261,831.34, 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 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.

**No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702:**

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 2 and 9, 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702.

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.

**Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702:**

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 2, 2007 and the bids were found to be as follows:

Dakota Underground Bid:	Fargo, ND \$1,782,751.80
Master Construction Company, Inc. Bid:	Fargo, ND \$1,791,470.15
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$2,538,844.50

**Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702 Awarded to Dakota Underground in the Amount of \$1,782,751.80:**

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 2, 2007 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5702 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$1,782,751.80 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 \$1,782,751.80 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for 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 awarded to Dakota Underground for the sum of \$1,782,751.80, 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 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.

**No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736:**

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 2 and 9, 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736.

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.

**Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736:**

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 2, 2007 and the bids were found to be as follows:

Dakota Underground Bid:	Fargo, ND \$555,743.00
Master Construction Company, Inc. Bid:	Fargo, ND \$574,344.07
Aggregate Industries Bid:	Moorhead, MN \$607,309.50
Central Specialties, Inc. Bid:	Alexandria, MN \$628,566.73
Northern Improvement Company Bid:	Fargo, ND \$629,851.69
Border States Paving, Inc. Bid:	Fargo, ND \$630,657.32
George E. Haggart, Inc. Bid:	Fargo, ND \$634,467.30
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$808,765.76

**Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736 Awarded to Dakota Underground in the Amount of \$555,743.00:**

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 2, 2007 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5736 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$555,743.00 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 \$555,743.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for 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 awarded to Dakota Underground for the sum of \$555,743.00, 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 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.

**Bids Received for Water Main and Incidentals Improvement District No. 5741:**

The bids for Water Main and Incidentals Improvement District No. 5741 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 2, 2007 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$51,865.00
MIC Bid:	Moorhead, MN \$53,962.50
Sherman, Inc. Bid:	West Fargo, ND \$56,143.00
Dakota Underground Bid:	Fargo, ND \$58,353.50
Ernst Trenching, Inc. Bid:	Fargo, ND \$59,553.80
Kindred Plumbing and Heating, Inc.	Kindred, ND

Bid:	\$60,676.70
Rising Sun Construction, Inc.	Fargo, ND
Bid:	\$62,881.00
Robert Gibb and Sons, Inc.	Fargo, ND
Bid:	\$75,897.00

**Contract for Water Main and Incidentals Improvement District No. 5741 Awarded to Master Construction Company, Inc. in the Amount of \$51,865.00:**

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 and Incidentals Improvement District No. 5741; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 2, 2007 for Water Main and Incidentals Improvement District No. 5741 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main and Incidentals Improvement District No. 5741 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$51,865.00 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$51,865.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main and Incidentals Improvement District No. 5741 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$51,865.00, 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 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.

**City of Fargo Concurs with the North Dakota State University Bid Award for Improvement District No. 5723:**

Commissioner Coates moved the City of Fargo concur with the North Dakota State University bid award for Improvement District No. 5723 to Northern Improvement Company in the amount of \$857,740.40.

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.

**City of Fargo Concurs with the NDDOT Bid Award for Improvement District No. 5163-7:**

Commissioner Coates moved the City of Fargo concur with the NDDOT bid award for Improvement District No. 5163-7 to S & S Landscaping in the amount of \$150,830.30.

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.

**Storm Sewer and Incidentals Improvement District No. 5744 (Urban Plains by Brandt 1st Addition):**

Commissioner Coates moved the following action be taken in connection with Storm Sewer and Incidentals Improvement District No. 5744:

**Adopt Resolution Creating Improvement District No. 5744:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5744, in the City of Fargo, North Dakota, be created

in a portion of Lot 1, Block 3 and Lot 10, Block 2 of Urban Plains by Brandt 1<sup>st</sup> Addition.

**COMPRISING**

Lot 8, 9 and 10, Block 2.

Lots 1, 2 and 3, Block 3.

Lots 3 through 9, inclusive, Block 6.

Lots 5 through 12, inclusive, Block 7.

All in Urban Plains by Brandt 1<sup>st</sup> Addition.

Lots 3 and 4, Block 1.

Urban Plains Medical Park Addition.

(A replat of Lots 1 and 2, Block 5 of Urban Plains by Brandt 1<sup>st</sup> Addition.)

Lots 1 through 7, inclusive, Block 1.

Urban Plains Recreational Facility Addition.

(A replat of Lots 1, 2, 3, and 4, Block 7 of Urban Plains by Brandt 1<sup>st</sup> Addition.)

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

NOW, THEREFORE, BE IT RESOLVED, That Storm Sewer and Incidentals Improvement District No. 5744, 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. 5744:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5744, 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 \$841,031.00.)

**Order Plans and Specifications for Improvement District No. 5744:**

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5744, in the City of Fargo, North Dakota.

**Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5744:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5744, 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. 5744, 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. 5744:**

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5744, in the City of Fargo, North Dakota.

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.

**Contract for Asphalt Wearing Course and Incidentals Improvement District No. 5710 Approved:**

Commissioner Coates moved approval of the Contract between the City of Fargo and Border States Paving, Inc. for Asphalt Wearing Course and Incidentals Improvement District No. 5710 in the City of Fargo, North Dakota.

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.

**Contract Bond for Asphalt Wearing Course and Incidentals Improvement District No. 5710 Approved:**

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

Liberty Mutual Insurance Company, in the amount of \$367,013.00, for Asphalt Wearing Course and Incidentals Improvement District No. 5710 in the City of Fargo, North Dakota.

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.

**100% Renaissance Zone Property Tax Credit for Tom and Kari Smith d/b/a T & K Property Management for a Project Located at 425 Broadway Approved (Great Northern Depot):**

The Board received a communication from Finance Director Kent Costin stating the Finance Committee reviewed the Great Northern Depot project history which is currently in a tax increment district created to pay tax increment bonds issued in 1996 for Depot renovations in the amount of \$200,000. He said the debt service fund deficit as of May 1, 2007 is \$186,228 and the tax increment currently in effect will continue in place until this deficit has been recovered. He said the Finance Committee discussed how the tax increment fund recovery would be affected by a change in ownership and how long it might take to fully recover the existing deficit. He said according to County records, there would be \$72,215 of tax increment funds collected upon closing, which is scheduled for July 1, 2007. Additionally, he stated, the new owner would be paying the 2007, payable 2008 taxes in full because Renaissance Zone property tax credits would not be effective until the 2008, payable 2009 taxes and the estimated tax increment receipts for this year would be approximately \$29,000. Mr. Costin said the Finance Committee also discussed various proposals for how Renaissance Zone tax credits for this project might be granted and the options considered included a 50% tax credit because of an existing policy regarding projects receiving both RZ tax credits as well as tax increment financing, and a 100% property tax credit for five years, consistent with the purchase/rehabilitation RZ tax credit program. He said it was felt that the existing RZ/TIF policy did not apply to this project as there was never a development agreement with the applicant and, therefore, the Finance Committee is recommending a 100% RZ tax credit for this project. Mr. Costin stated under this scenario, the existing fund deficit is estimated to be fully paid by 2018, assuming the new business owner is successful in his new venture and he submitted an amortization schedule of the TIF revenue recovery for the Board's review.

Commissioner Williams moved a 100% Renaissance Zone property tax credit for Tom and Kari Smith d/b/a T & K Property Management for a project at 425 Broadway 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.

**Request for an Extension of the Noise Ordinance for Rib Fest and More Approved:**

The Board received a communication from Michael Brooks, Director of Sales, Go Radio Group and Rib Fest Committee Member, requesting a one hour extension of the City's Noise Ordinance for Rib Fest and More from June 6 through 9, 2007 from 10:00 p.m. to 11:00 p.m. for live entertainment. Mr. Brooks stated they will make certain all City guidelines are followed and that noise is reduced as much as possible by the direction of their sound equipment. He also requested that they be able to maintain low-level sound up to midnight using their low-level PA for background music while patrons are exiting.

Commissioner Wimmer moved the request for a one hour extension of the City's noise ordinance for Rib Fest and More from 10:00 p.m. to 11:00 p.m. on June 6 through 9, 2007 be approved and that they be allowed to maintain low-level sound up to midnight.

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.

**Action on a Petition Filed by Fred and Earlyne Hector for Exclusion of Property Located Northeast of I-29 and 52nd Avenue South from the City of Fargo Delayed Until July 16, 2007:**

Mayor Walaker stated action on the petition filed by Fred and Earlyne Hector for exclusion of property located northeast of I-29 and 52nd Avenue South from the City of Fargo is being delayed until July 16, 2007 at the request of the developer.

**SE Cass Water Resource District Requested to Assist in Project Development and Implementation of the Southside Flood Control Project:**

The Board received a Report of Action from the Public Works Projects Evaluation Committee on the status of the Southside Flood Control Project. They said the Status Report provides an update on project development work items completed since public information meetings conducted in December, 2006 and January, 2007 and is a work in-progress and will be updated as work items are completed and exhibits are prepared. The Committee stated many of the work items completed since January are in response to comments received during the public input process.

City Engineer Mark Bittner said the public input meetings raised issues with the first four flood protection plans so the Advisory Committee came up with three additional flood protection plans.

Jeff Volk, Moore Engineering, said the additional three plans would channel the flood waters and Red River flood stages would be reduced compared to the first four plans.

Mr. Bittner said two more rounds of public meetings will be held. He stated the City Commission must decide on a plan by mid-August in order to begin construction by next June. He recommended that SE Cass Water Resource District be asked to participate in approval of the permits and that their assistance be requested in comparing County special assessments costs with the City's special assessments.

Commissioner Williams moved the SE Cass Water Resource District be requested to assist and participate in Project Development and Implementation of the Southside Flood Control Project, and that staff be authorized to continue project development as outlined in the Status Report.

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.

**Hearing on a Petition for a Zoning Change on Part of the Southeast Quarter of Section 34, Township 139 North, Range 49 West Continued to July 16, 2007 (4005 52nd Avenue South):**

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

At the April 23, 2007 meeting, the Hearing was continued to this date and hour, however, the developer has requested that the Hearing be continued to July 16, 2007.

Commissioner Coates moved the Hearing be continued to July 16, 2007.

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.

### **Renewal Plan for Tax Increment Financing District No. 2007-01 Approved:**

A Hearing had been set for March 26, 2007 to receive comments on a Renewal Plan for Tax Increment Financing District No. 2007-01 for a project to redevelop an area southwest of 12th Avenue North and Albrecht Boulevard.

At the March 26, 2007 meeting, the Hearing was continued to April 9, 2007.

At the April 9, 2007 meeting, the Hearing was continued to April 23, 2007.

At the April 23, 2007 meeting, the Hearing was continued to this date and hour.

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

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

The Board received a communication from Planning Director Jim Gilmour submitting the Renewal Plan for the proposed Tax Increment Financing District No. 2007-01, a Resolution to adopt the plan, a Developers Agreement and reports from Springsted, the City's Financial Advisor.

The Board received a communication from the Finance Committee recommending approval of the tax increment financing in the amount of \$500,000.

Roger Gilbertson, President of FM Development, questioned why the amount changed to \$500,000 after the previous documents and discussions have shown \$600,000. He said they are requesting the \$600,000 in order to make this project work.

Planning Director Jim Gilmour said the City consistently attempts to allow as little as possible to make the project work. He said the Assessor's Department also confirmed that \$600,000 would provide a reasonable rate of return.

City Administrator Pat Zavoral said Springsted is one more element in determining the TIF amount. He said Springsted looks at the rate of return and the comparison between \$500,000 and \$600,000 was only 3 or 4 tenths of a percent. He said the City feels comfortable with the \$500,000 which is what the Finance Committee recommends.

City Engineer Mark Bittner said it is important to remember the public benefit to Tax Increment Financing as well as the monetary element. He said there is a pedestrian safety concern with Barrett Street but the NDDOT said it was not cost effective to realign the street. He said the TIF will allow the City to receive some benefit from the project.

Finance Director Kent Costin said the Finance Committee is charged with due diligence so the Committee suggested lowering the amount to \$500,000.

Mr. Gilbertson said he is hoping to resolve the issue tonight so he can move forward with the project which will benefit the schools and the City.

Commissioner Wimmer moved the Renewal Plan for District 2007-01, the development agreement providing public assistance through the TIF at \$600,000 and administrative fees of \$30,000 be approved, giving the staff authority to negotiate the final details of the agreement.

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

Commissioner Williams voted nay.

The motion was declared carried.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment or a combination thereof, of the area contained within the Development Plan for Tax Increment Financing District No. 2007-01 is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are several buildings in the area contained within the Development Plan with deteriorated conditions. The Renewal Area, as defined in the Development Plan, is blighted due to the presence of two buildings that are deteriorated and this condition has substantially impaired the growth of the City in this area, and has slowed the provision of appropriate housing in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in said area.
4. That comparable replacement dwellings or housing is available to persons displaced by the proposed Tax Increment Project which will not create any undue hardship to those persons. Housing vacancy rates in the area surrounding the Renewal Area are high enough to meet the needs of the persons that will be displaced.
5. That the area designated as the Development Plan for Tax Increment Financing District No. 2007-01 is appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Development Plan for Tax Increment Financing District No. 2007-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Development Plan for Tax Increment Financing District No. 2007-01 is hereby officially adopted by the Board.

8. That a Developer Agreement be prepared in regard to the Tax Increment Financing.

9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof and that the County Auditor and Treasurer shall do so in accordance with this section.

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

Commissioner Williams voted nay.

The Resolution was adopted.

At 6:14 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

**Hearing on the Application Filed by Roger Teegarden d/b/a Garden Pavilion for an Alcoholic Beverage License Continued to May 21, 2007:**

A Hearing had been set for this day and hour on the application filed by Roger Teegarden d/b/a Garden Pavilion for a Class "F" Alcoholic Beverage License at 1421 7th Avenue North, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Coates asked if the applicant was present because she had some questions about the application. (The applicant was not present.)

Police Chief Keith Ternes said the applicant has no criminal history.

Commissioner Coates moved the Hearing be continued to May 21, 2007.

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.

**Purchase of 1519 1st Avenue North for Emergency Shelter/Detox Center Approved:**

The Board received a communication from Senior Planner Dan Mahli stating the City Commission was directed at the March 26, 2007 Commission Meeting to form a working group in order to review possible sites for the shelter/detox center. He said the working group, made up of representatives from the City, the Jefferson area neighborhood, and the downtown and service sectors, worked over the last month and a half to review possible sites. He said three possible sites were identified that fit the criteria in the downtown area. He stated the Community Development Action Plan allocated \$310,140 in CDBG funds for a homelessness/workforce housing facility project in addition to \$110,000 in other unallocated CDBG funds which would be used to purchase and renovate the property.

Mr. Mahli stated the working group was very thorough in looking at every listing that was available in the area plus seven properties brought forward by the Jefferson neighborhood group. He said the list was narrowed to three properties and he submitted a sheet listing each property's advantages and disadvantages.

Scot Sorrells spoke in opposition to the 1519 1st Avenue South property. He said good work, good will and good discussion came out of the working groups' sessions. He said the Cooper Tire building seemed to be a superior choice based on location and extra space for expansion. Mr. Sorrells stated an architect was asked to do a site review of comparable properties to 1519 1st Avenue North and the cost estimate came in at more than one million dollars. He said this is excessive in comparison to what a contractor would charge for doing the same project.

Commissioner Coates said an architect must be asked to review potential projects over \$100,000.

Mr. Sorrells stated that substantial voter resistance to this site should be sufficient evidence for the Commission to consider 414 1st Street North.

Dawn Morgan, Jefferson neighborhood resident, spoke in favor of the shelter at 1519 1st Avenue South. She stated the Jefferson neighborhood is a diverse community and there should be more willingness to help the people that would use the shelter and detox facility. She said there is a misperception that this population is exclusive to downtown and also that they are dangerous and angry. She said they should be welcomed and not shunned.

Keith Gilleshammer, Centre, Inc., said the detox facility is a controlled environment, licensed by the state, where clients are transported by police and social service agencies. He said they leave after becoming sober and do not remain in the area. He said there is a referral process in place to determine if assessment of these individuals is necessary to get the help they need so as not to become repeat clients. He stated the proximity to the detox center from the shelter would accommodate people that would not be allowed in the shelter because of over-consumption.

At 7:08 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Dave Anderson, President of the Downtown Community Partnership, said every place is a neighborhood and he is torn by the process to find a shelter. He urged the Commission to make a decision in order to prevent future deaths.

Shawnthea Monroe-Mueller, President of the Churches United Board, stated she is familiar with opening a homeless shelter. She said numbers did go up at the Churches United shelter but that does not indicate an increase in the number of homeless people. She said it is important for the City Commission to show leadership in this matter.

Mike Carbone said this would be an opportunity for the Jefferson neighborhood to display leadership by welcoming the clients and participating at the shelter.

Sandy Berlin, consultant for Ray of Hope Shelter, stated she is speaking on behalf of the homeless and there are positive stories of how people have been helped by Ray of Hope and other shelters.

Mr. Sorrells said, in response to the people supporting the shelter at 1519 1st Avenue South, there is a better choice than the property in question.

Commissioner Coates said the Cooper Tire building has potential for future possibilities for a permanent support/transitional facility.

Fargo Housing Authority Director Lynn Fundingsland said both sites would work for the shelter/detox center, but in terms of timing and dollars, the 1st Avenue South site is better and can be up and running by winter.

Commissioner Coates moved the purchase of 1519 1st Avenue South for the emergency shelter/detox center be approved.

Second by Williams.

Commissioner Williams said the City has identified funding for projects such as Charism and the Public Safety building and there is potential for new revenues like the Landfill agreement with West Fargo. He agreed with Mr. Fundingsland that both properties should be purchased.

Commissioner Coates said the Jefferson neighborhood could remain involved by structuring a new non-profit board to include a representative from their group.

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.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, May 21, 2007.

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

The time at adjournment was 7:40 o'clock p.m.