

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: November 5, 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, November 5, 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 "b" from the Consent Agenda to the end of the Regular Agenda and omitting Item "f2" from the Consent Agenda.

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

Minutes Approved:

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on October 22, 2007 be approved as read.

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

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. Appointment of NDSU police officer Nathan Moen as a special police officer.
- b. Precinct locations for the June 10, 2008 Primary Election and the November 4, 2008 General Election (moved to the Regular Agenda).
- c. Acceptance of collective allocation of Juvenile Accountability Block Grant Award through Cass County.
- d. Employer participation and portability enhancement provision agreements for enrollment in the North Dakota Public Employee Retirement System effective 1/1/08.
- e. Resolution Authorizing the Sale of \$1,500,000 Clean Renewable Energy Bonds for the methane gas collection system at the landfill (Attachment "A").

- f. Take the following action in connection with the emergency shelter/detox center:
 - (1) Approve contracts and bonds.
 - (2) Award employment contract for Emergency Shelter Executive Director (omitted).
 - (3) Formally recognize the emergency shelter advisory board to assist the City Administrator in oversight of the emergency shelter.
- g. Application filed by Nathan and Sarah Flynn for a 5-year property tax exemption for improvements made to a building at 418 10th Avenue South.
- h. Amended Site Authorization for Red River Human Services Foundation at 2525 9th Avenue South.
- i. Applications for Games of Chance:
 - (1) Fargo North Girls Basketball for a calendar raffle from 12/7/07 to 3/6/08.
 - (2) Fargo South High – Bruinkix for a raffle on 11/17/07.
 - (3) Fargo Jaycees for a raffle on 11/17/07.
- j. Agreement for Special Assessments for Calico Prairie Addition and Valley Realty.
- k. Resolutions Approving the following Plats:
 - (1) Isaak-Dosch Addition.
 - (2) Liberty Square South First Addition.
- l. Proposal from High Plains for replacement of the City Hall iSeries with an IBM System i525.
- m. Resolution authorizing the submittal of a formal loan application with the North Dakota Department of Health under the Safe Drinking Water Act for the Southside Water Transmission, Storage and Pumping System.
- n. Contract Amendment No. 6 for geotechnical work for Project No. 5073-1.
- o. Cooperative Agreement with the U.S. Fish and Wildlife Service for Project No. 5153-3.
- p. Contracts and bonds for re-roofing a portion of the Public Works Building, Phase I of the Central Garage Renovations and Project No. 5696.
- q. Bills in the amount of \$4,377,001.65.

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.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, October 31, 2007 and the bids were found to be as follows:

Rising Sun Construction Bid:	Fargo, ND \$228,365.85
Ernst Trenching, Inc. Bid:	Fargo, ND \$231,334.55
MIC Bid:	Moorhead, MN \$234,299.65
Master Construction Company, Inc. Bid:	Fargo, ND \$241,937.80
Shermans, LLC Bid:	West Fargo, ND \$242,999.99
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$288,026.25
Robert Gibb and Sons, Inc. Bid:	Fargo, ND \$295,275.00
Dakota Underground Bid:	Fargo, ND \$298,801.00
George E. Haggart, Inc. Bid:	Fargo, ND \$300,370.00
Earth Developers, Inc. Bid:	Fargo, ND \$302,145.74
S.J. Louis Construction, Inc. Bid:	Waite Park, MN \$361,989.50

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762 Awarded to Rising Sun Construction in the Amount of \$228,365.85:

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 Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 31, 2007 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762 shows the bid of Rising Sun Construction of Fargo, North Dakota, in the sum of \$228,365.85 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 Rising Sun Construction in the sum of \$228,365.85 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5762 in the City of Fargo, North Dakota, be and the same is hereby awarded to Rising Sun Construction for the sum of \$228,365.85, 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Williams, Mahoney and Walaker voted aye.

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

Change Order No. 1 for Improvement District No. 5740 Approved:

Commissioner Coates moved approval of Change Order No. 1 in the amount of an increase of \$30,977.55 for Improvement District No. 5740.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Dakota Underground for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 Approved:

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

United Fire and Casualty Company, in the amount of \$2,283,797.40, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Border States Paving, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 in the City of Fargo, North Dakota.

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

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

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 Approved:

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

Liberty Mutual Insurance Company, in the amount of \$135,714.40, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 in the City of Fargo, North Dakota.

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

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

American Public Works Association Project of the Year Award Presented to Enterprise Director Bruce Grubb:

Mayor Walaker stated the City has been notified that Enterprise Director Bruce Grubb has been selected as the recipient of the American Public Works Association Project of the Year Award. He presented the award to Mr. Grubb and commended him for his efforts and achievement.

Communication Received from Eugene Dumont Regarding the City's Practice of Rewriting State Laws to Benefit the City:

The Board received a communication from Eugene Dumont, 2825 9th Street North, regarding the City's practice of rewriting state laws to benefit the City and the attorney fees associated with the cost for rewriting state laws.

Mr. Dumont requested the City of Fargo reconsider the recent adoption of the Ordinance that relates to liability insurance. He stated there is no reason for the City to adopt an Ordinance that is already state law except for financial gain. He said there is concern the Police Department will target the poor and disabled by stopping people according to the appearance of their vehicle.

Police Chief Keith Ternes said minor changes to the City Ordinance were made because of changes made to the state statutes and Chief Ternes assured Mr. Dumont that officers do not make stops based on the appearance of the vehicle. Chief Ternes

said investigating a crash or stopping for other reasons is the only way coverage of liability insurance comes to the attention of the Police Department.

Mayor Walaker said the current Ordinance mirrors the state law and the City's budget is not based on increased revenues from the Police Department.

Resolution Adopted Approving the Issuance of University Facilities Revenue Bonds (NDSU Development Foundation Project) Under Chapter 40-57 N.D.C.C. and Authorizing the Preparation of Necessary Documents Therefor:

Commissioner Coates moved the Resolution entitled "Resolution Approving the Issuance of University Facilities Revenue Bonds (NDSU Development Foundation Project) Under Chapter 40-57 N.D.C.C. and Authorizing the Preparation of Necessary Documents Therefor" and referred to as Attachment "B", be adopted and attached hereto.

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.

Application to Transfer the Alcoholic Beverage License from Nine Dragons of Fargo, Inc. d/b/a Nine Dragons Restaurant to Nine Dragons of Fargo, Inc. d/b/a Nine Dragons Restaurant Approved (Change in Corporate Ownership and Location):

A Hearing had been set for this day and hour on an application to transfer the Class "F" Alcoholic Beverage License from Nine Dragons of Fargo, Inc. d/b/a Nine Dragons Restaurant to Nine Dragons of Fargo, Inc. d/b/a Nine Dragons Restaurant, at 4525 17th Avenue South notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner Mahoney moved the application be approved.

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

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

Application to Transfer the Alcoholic Beverage License from Roger Teegarden d/b/a Garden Pavilion to Renee and Robert Teegarden d/b/a Garden Pavilion Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "F" Alcoholic Beverage License from Roger Teegarden d/b/a Garden Pavilion to Renee and Robert Teegarden d/b/a Garden Pavilion, 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 Mahoney moved the application be approved.

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

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

Hearing on the Appeal of the Planning Commission's Denial of a Conditional Use Permit Continued to November 19, 2007 (4269 40th Avenue North):

This was the time and date set for a Hearing on an appeal of the Planning Commission's decision on a petition for a Conditional Use Permit to allow non-farm commercial uses within an Agricultural Zone District for property located within the West 1/2 of Section 15, Township 140 North, Range 49 West, however, Planning staff has requested that the Hearing be continued to November 19, 2007.

Commissioner Coates moved the Hearing be continued to November 19, 2007.

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

Parcels of Land in Bohnsacks 1st Addition and Fargo Investment Co. 1st Addition Rezoned (1707 and 1720 University Drive South and 1701, 1719, 1723 and 1747 11th Street South):

At a Hearing held on October 10, 2007 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial to GC, General Commercial on Lot 3, part of Lots 4, 19 and 20, Block 1, and the adjacent vacated 15 feet of 13 1/2 Street South of Bohnsacks 1st Addition; and part of Block 8 of Fargo Investment Co. 1st Addition; and from SR-2, Single-Dwelling Residential to GC, General Commercial on Lots 1 through 6 and Lot 12, Block 7 of Fargo Investment Co. 1st 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.

Senior Planner Jim Hinderaker said MeritCare wants to bring the current parking ramp and parking lots into compliance. He said MeritCare also wants to add additional parking to the east. He said the Planning Department staff's main concern was compatibility of parking with the existing neighborhood but landscaping and increased green space on the lots would have a positive effect.

Commissioner Williams expressed concern about the loss of affordable, single family homes. He questioned if MeritCare has considered expanding the parking ramp on the west side of University Drive.

MeritCare Attorney Dan Bueide said there is nothing easy about this issue. He said MeritCare has a growing need for services but has space limitations. MeritCare, he said, has worked with Planning Department staff to alleviate the parking problems and agreed to the Planning Department's suggestion to remove the vacant lot that has homes on both sides from the rezoning request in order to bring the larger structures and parking lots into compliance. Concerns regarding limiting growth to the west side of 11th Street, he said, are understandable but MeritCare has intentions of only rezoning the west side for parking and not expanding south or east. Mr. Bueide

commended Planning staff for helping find a workable situation for the neighborhood and MeritCare.

Commissioner Coates stated the neighborhood is concerned about receiving market value for their homes.

In response to Commissioner Coates' question, Mr. Bueide said MeritCare always orders an appraisal for a starting point in negotiations and acts reasonably.

Tom Carpenter, 4924 Amber Valley Parkway, said he supports the idea of adding onto the ramp to prevent the loss of affordable housing to the area around MeritCare. He said housing is better than parking lots.

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 findings of staff be accepted and the rezoning be approved with the Conditional Overlay on the basis that review criteria of Section 20-0906.F (1-4) has been met.

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

Commissioner Williams voted nay.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Bohnsacks 1st Addition and Fargo Investment Co. 1st 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 Bohnsacks 1st Addition and Fargo Investment Co. 1st Addition to the City of Fargo be placed on first reading.

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

Commissioner Williams voted nay.

The motion was declared carried.

At 6:00 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Parcels of Land in Eddy and Fullers Auditors Outlots Rezoned (1402 1st Avenue South):

A Hearing had been held by the Fargo Planning Commission on October 10, 2007 to consider a petition requesting that the zoning on the north 5 feet of Lot C and all of Lot A, Block 13, Eddy and Fullers Auditors Outlots be changed from MR-3, Multi-Dwelling Residential to GC, General Commercial, however, the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the zoning be changed to LC, Limited Commercial.

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.

Senior Planner Jim Hinderaker said Planning staff recommended approval of zoning that more closely fits the actual use of the property. He said it has been a small engine repair shop for many years and the owner wants the property to comply with the proper zoning. He said the north side of 1st Avenue South is General Commercial but because of the size of the building and other residential property zoned LC on the south side of 1st Avenue South, Planning staff recommended LC, Limited Commercial.

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 zoning be approved as recommended by the Planning Commission on the basis that review criteria of Section 20-0906.F (1-4) has been met.

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.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Eddy and Fullers Auditors Outlots 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 Eddy and Fullers Auditors Outlots to the City of Fargo be placed on first reading.

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

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

First Reading of an Ordinance Re-Enacting and Amending Article 10-11 of Chapter 10 of the Fargo Municipal Code to Prohibit Smoking In all Public Indoor Workplaces Except for in All Enclosed Bar Areas Which Prohibit Entry of Any Customers Under the Age of 21; In Designated Areas of Truck Stops Restricted for Use of Professional Drivers and Their Adult Companions Only; and in JT Cigarro Tobacco Bar:

The Board received a communication from City Attorney Erik Johnson stating at their October 22, 2007 City Commission meeting, the Board received the verification of signatures certification by the City Auditor for a proposed initiated ordinance. Mr. Johnson said if approved, the proposed ordinance would be nearly identical to the City's existing "smoking law", except that the new proposal contains a provision granting an exemption from the smoking ban to JT Cigarro's, an entity that currently has an exemption under City and State law as a bar. Thus, he continued, the proposed Cigarro Exemption Ordinance is identical to the City's existing law. He said according to the Home Rule Charter, the City has 21 days (until November 8, 2007) to approve the ordinance and adopt the same. He said if approval does not

occur within 21 days, the Home Rule Charter requires the ordinance be placed on a city-wide vote. He said the City Commission directed him to request an Attorney General's opinion on a couple of questions pertaining to the proposed ordinance, however, the November 5th meeting would be the last regular meeting when the Board would have an opportunity to approve the proposed ordinance. Mr. Johnson stated in regard to some of the background on this item, the City Commission tabled second reading and final passage of another related smoking ban ordinance which was a more-or-less complete smoking ban in indoor public places. He said the City Commission was considering whether to approve an ordinance creating the authority to place the proposed ordinance to the voters for approval and all of that was placed on hold until the Attorney General opined regarding two issues. He said the first was whether the City Commission had the authority to revise (by adopting the more complete smoking ban) an ordinance that had been initiated by the voters in November 2004 and the second was whether the City Commission had the authority to submit proposed ordinances to a city-wide vote. He said the request for the Attorney General's opinion was submitted August 31, 2007. He said with that background, he suggests that the Board's options include the following:

Option 1. (A) Approve the Comprehensive Smoking Ban Ordinance (presumably after receiving a favorable opinion from the Attorney General authorizing the Board to do so despite the fact that the current law was initiated by the voters in November, 2004) and (B) take no action on the proposed Cigarro Exemption Ordinance.

Option 2. Assuming the City receives a favorable opinion from the Attorney General, (A) enact the ordinance authorizing the City Commission to submit proposed ordinances to a city-wide vote and (B) thereafter, take action to remit the Comprehensive Smoking Ban Ordinance to a city-wide vote at the June election. (C) Third, take no action on the Proposed Cigarro Exemption Ordinance and allow that to move forward to the city-wide ballot.

Option 3. (A) Do not approve the Comprehensive Smoking Ban Ordinance (either by choice or because the Attorney General has advised against it) and (B) take no action on the proposed Cigarro Exemption Ordinance (subject to the Attorney General stating that it should not be placed on a ballot) which would cause the proposal to go on the city-wide ballot.

Options 1, 2 and 3 require no action to be taken at the November 5th meeting.

Option 4. (A) Approve and accept the proposed Cigarro Exemption Ordinance, as is the Board's option under the Home Rule Charter. (B) If, at a later date, the Commission chooses to take final adoption of the Comprehensive Smoking Ban Ordinance that has been tabled, it may do so.

Mr. Johnson stated other additional forms of smoking ban ordinances may be proposed by initiative between now and the June election in which case the voters would have multiple forms of smoking bans to consider. However, he continued, the City does have the benefit of the October 2004 Attorney General's opinion which was rendered in view of the November 2004 vote in which there were three versions of a smoking ban ordinance placed on the ballot. He said the Attorney General opined that

if two or more of the three initiated ordinances received a majority vote, the ordinance receiving the most votes would win.

Mr. Johnson reviewed the four options and stressed tonight's meeting is the last Commission meeting the initiated Ordinance can be adopted by the City Commission.

Commissioner Coates stated, with all the possibilities of what could happen regarding the initiated Ordinance and no matter which option is chosen, there is a strong likelihood one or two initiated Ordinances could end up on the ballot.

Commissioner Williams said he would like to see the proposed Ordinance go to the vote of the people.

Randy Thorson, 4202 Timberline Drive, said the initiated Ordinance came about because of the City Commission's action several months ago on a proposed smoking ban. He said the only option was to counter with the initiated Ordinance so the item would end up on the ballot after the City Commission stopped action on a complete smoking ban Ordinance.

Commissioner Wimmer questioned what would happen to the existing Ordinance if the initiated Ordinance is voted down. The City Commission, he said, stopped halfway through their action, forcing Mr. Thorson to bring the petitions forward.

Mr. Johnson said if the initiated Ordinance did not carry, the existing Ordinance would remain as is.

Commissioner Williams said two groups are getting involved with petitions and the City Commission should let the public decide.

In response to Mayor Walaker's question regarding the wording of the ballot, Mr. Johnson said City Auditor Steve Sprague and County Auditor Mike Montplaisir would determine the wording for the ballot.

Commissioner Mahoney said multiple questions will confuse the public.

Commissioner Mahoney moved the Ordinance be enacted, the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Re-Enacting and Amending Article 10-11 of Chapter 10 of the Fargo Municipal Code to Prohibit Smoking In all Public Indoor Workplaces Except for in All Enclosed Bar Areas Which Prohibit Entry of Any Customers Under the Age of 21; In Designated Areas of Truck Stops Restricted for Use of Professional Drivers and Their Adult Companions Only; and in JT Cigarro Tobacco Bar be placed on first reading.

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

Commissioner Williams voted nay.

The motion was declared carried.

Public Health Nursing Director Ruth Bachmeier Appointed Interim Director of the City/County Community Health Department:

The Board received a communication from City Administrator Pat Zavoral regarding the resignation of Mary Kay Herrmann, Director of the City/County Community Health Department, effective November 16, 2007. Mr. Zavoral stated an Ad Hoc Selection Committee led by Commissioner Tim Mahoney has met to review the process to replace Ms. Herrmann. He said it is the recommendation of the Committee to appoint Public Health Nursing Director Ruth Bachmeier as Interim

Director for six months. The Ad Hoc Selection Committee, he said, recommends that the following people be designated by the City Commission to sit on a selection committee: Commissioner Tim Mahoney, Chair of the Board of Health Michelle Donarski, Vice Chair of the Board of Health Kay LeClerc, Environmental Health Director Myron Berglund, Public Health Nursing Manager Nancy Leith and City Administrator Pat Zavoral. He stated the Committee will review the job description and job responsibilities, recommend changes, if necessary, and also undertake an interview process within the next six months to select a person to become the next Director of Public Health. If Ms. Bachmeier is approved as the Interim Director, he said, her salary will be adjusted to reflect the added duties she will undertake during this transition period as outlined in the City's Personnel Policy.

Commissioner Mahoney commended Ms. Herrmann for the great job she has done.

Ms. Herrmann said she has enjoyed her work with the Health Department and looks forward to her new position at MeritCare.

Commissioner Mahoney moved to accept the recommendation of the Ad Hoc Selection Committee to appoint Ruth Bachmeier as the Interim Director of Public Health for the next six months, designate a Selection Committee as recommended and adjust Ms. Bachmeier's salary to recognize the additional duties during the term of her tenure as Interim Director.

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

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

Appropriate Staff to Hold a Public Forum on Proposed 2008 Polling Precincts:

The Board received a communication from City Auditor Steve Sprague submitting a listing of precinct locations for the 2008 elections. He said a number of changes have been in the works since the last election and these changes are outlined in the letter from Cass County Auditor Mike Montplaisir, which he attached. He said most legislative districts will have only two precinct locations and efforts have been made to avoid using schools. In addition, he continued, most of the precincts are larger facilities so new locations had to be found in most instances.

Barb Headrick, 204 20th Avenue North, said the City Commission should delay approving the precinct locations until more public input is gathered. Consolidating polling areas, she said, causes problems with parking, neighborhood cohesiveness and transportation of the elderly and handicapped. She said the League of Women Voters would be willing to help with publicizing a community event.

Commissioner Williams said it is a legitimate concern regarding going from 39 polling sites down to 18 locations. He said there would be no downside to having a public forum.

Lowell Wolff, Fargo Public School's Administrator for Community Relations, said School District staff has worked with the City and County Auditor's offices to accomplish the reconfiguration of the polling sites.

City Auditor Steve Sprague said there is a December 31st deadline to submit voting locations. City and County staff, he said, have been working to find polling places that provide adequate parking with ease of access.

County Auditor Mike Montplaisir said, after visiting an election day in Colorado, he came back with a blueprint of future voting sites for Cass County taking into consideration the safety issues of moving polling places out of the schools. Fewer polling sites, he said, will make it easier to try out new technology such as scanners and registration computers. He said the whole process has been studied plus there was input from district chair people and meetings were held within each precinct. He apologized that the League of Women Voters were not included but welcomed their input.

After a brief discussion it was decided that appropriate staff would arrange a public forum with the participation of the League of Women Voters and bring the item back to the City Commission for approval.

Commissioner Coates moved that the Board adjourn to 5:00 o'clock p.m., Monday, November 19, 2007.

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

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