

- c. Fire Department budget adjustment in the amount of \$2,244.87 for haz mat training.
- d. COPS Secure Our Schools Grant and Police Department budget adjustment in the amount of \$131,600.
- e. COPS Methamphetamine Initiative Grant and Police Department budget adjustment in the amount of \$382,533.44.
- f. Settlement Stipulation between Work Force Safety & Insurance, Noel Walter and the City of Fargo.
- g. Application filed by Paul and Janine Carson for a 3-year property tax exemption for improvements made to a building at 37 35th Avenue NE.
- h. Applications for Games of Chance:
 - (1) Cass County Wildlife Club for a raffle on 1/26/08.
 - (2) Nativity School for a raffle on 2/22/08.
- i. Extension of and Amendment of Lease - 2007-09 Farm Seasons with Larry Richard for property in Harwood and Barnes Townships.
- j. Bid award for carpet replacement in the downtown skyway system to Weivoda Carpets in the amount of \$34,650.00.
- k. Agreement for Entry and Construction on a portion of Fred and Earlyne Hector's land in connection with the 52nd Avenue improvement project.
- l. Building Elevation Agreement and Easement for Fargo Country Club 2nd and Southwood Additions.
- m. Acquisition of flood prone house at 4414 South University Drive.
- n. Bid award for Project No. 5696 to S.J. Louis Construction, Inc. in the amount of \$3,482,424.00.
- o. Change Order No. 1 for an increase of \$67,390 for Project No. 5654.
- p. Bid advertisement for Project No. 5747-2.
- q. Contract and bond for Project No. 5765.
- r. Bills in the amount of \$6,486,465.69.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

No Protests Received for Dike Construction and Incidentals Improvement District No. 4980:

The Statutory Resolution of Necessity for the construction of Dike Construction and Incidentals Improvement District No. 4980 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on September 17 and 24, 2007 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved that the Board declare that no protests have been filed to the construction of Dike Construction and Incidentals Improvement District No. 4980.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Dike Construction and Incidentals Improvement District No. 4980:

The bids for Dike Construction and Incidentals Improvement District No. 4980 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 17, 2007 and the bids were found to be as follows:

Rising Sun Construction, Inc.	Fargo, ND
Bid:	\$65,406.00

Industrial Builders, Inc.	Fargo, ND
Bid:	\$71,543.50

Northern Improvement Company	Fargo, ND
Bid:	\$75,874.71

Robert Gibb & Sons, Inc.	Fargo, ND
Bid:	\$76,932.00

Dennis Drewes, Inc.	Frazee, MN
Bid:	\$78,946.00

Excavating, Inc.	Fargo, ND
Bid:	\$86,154.40

Contract for Dike Construction and Incidentals Improvement District No. 4980 Awarded to Rising Sun Construction, Inc. in the Amount of \$65,406.00:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Dike Construction and Incidentals Improvement District No. 4980; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 17, 2007 for Dike Construction and Incidentals Improvement District No. 4980 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Dike Construction and Incidentals Improvement District No. 4980 shows the bid of Rising Sun Construction, Inc. of Fargo, North Dakota, in the sum of \$65,406.00 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 Rising Sun Construction, Inc. in the sum of \$65,406.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Dike Construction and Incidentals Improvement District No. 4980 in the City of Fargo, North Dakota, be and the same is hereby awarded to Rising Sun Construction, Inc. for the sum of \$65,406.00, 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 Williams, Wimmer, Coates and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 17, 2007 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$2,283,797.40
Ryan Development, Inc. Bid:	Shakopee, MN \$2,569,046.50
Master Construction Company, Inc. Bid:	Fargo, ND \$2,598,966.83
S.R. Weidema, Inc. Bid:	Maple Grove, MN \$3,018,711.94
Sellin Brothers, Inc. Bid:	Hawley, MN \$3,051,422.80
Kvamsdal Construction Bid:	Willmar, MN \$3,081,730.50

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 Awarded to Dakota Underground Company in the Amount of \$2,283,797.40:

Commissioner Williams 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. 5759; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 17, 2007 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 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. 5759 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$2,283,797.40 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 Company in the sum of \$2,283,797.40 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. 5759 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$2,283,797.40, 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 Williams, Wimmer, Coates and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

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

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on September 17 and 24, 2007 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Williams 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. 5763.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

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

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 17, 2007 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$135,714.40
MIC Bid:	Moorhead, MN \$136,303.75
Northern Improvement Company Bid:	Fargo, ND \$141,656.05
Earth Developers, Inc. Bid:	Fargo, ND \$146,181.57
Ernst Trenching, Inc. Bid:	Fargo, ND \$152,476.50
Shermans, LLC Bid:	West Fargo, ND \$155,042.90
George E. Haggart, Inc. Bid:	Fargo, ND \$159,943.10
Robert Gibb & Sons, Inc. Bid:	Fargo, ND \$162,521.60

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 Awarded to Border States Paving, Inc. in the Amount of \$135,714.40:

Commissioner Williams 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. 5763; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 17, 2007 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 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. 5763 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$135,714.40 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 Border States Paving, Inc. in the sum of \$135,714.40 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. 5763 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$135,714.40, 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 Williams, Wimmer, Coates and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Contract for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314-10 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314-10 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314-10 Approved:

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

United Fire and Casualty Company, in the amount of \$334,119.50, for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5314-10 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740 Approved:

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

United Fire and Casualty Company, in the amount of \$3,713,874.90, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5740 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 Approved:

Commissioner Williams moved approval of the Contract between the City of Fargo and MIC for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 Approved:

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

Granite Re, Inc., in the amount of \$1,006,871.50, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

City Attorney Directed to Request an Attorney General's Opinion Regarding Questions Relating to the Proposed Ordinance Allowing Smoking in Certain Places:

The Board received a communication from City Auditor Steve Sprague stating his Office received a petition for a smoking ban with certain exceptions consisting of enclosed bar areas, designated truckers' smoking areas and the JT Cigarro establishment. He said the validity and sufficiency of the petitions were examined on October 17, 2007. Mr. Sprague said during this procedure 4,199 signatures were examined and approximately 12.84% of the required number of petitioners needed to refer an ordinance were contacted by phone. He said the phone conversations verified the signer indeed signed the petition and verified their address and that they are qualified to vote in the City of Fargo. He said the Auditor's Office is of the opinion that the petitions are valid and sufficient and the requisite numbers of signatures were gathered. The petitioner, he said, is requesting the question be placed on the June 10, 2008 ballot.

Commissioner Wimmer stated the proposed ordinance is the same one that is in effect at the present time. He questioned what would be gained by placing it on the ballot.

Commissioner Williams stated the proposed ordinance does specify exempting JT Cigarro from the smoking ban. He said the petitioners are using the process that is allowed and it is their right to put it on the ballot.

City Attorney Erik Johnson stated the law does not address the issue of voting on an ordinance that is already in effect. However, he continued, there is nothing that says this cannot be done. He said he does question what would happen if the proposed ordinance did not pass.

(Commissioner Mahoney present)

Commissioner Coates stated there seems to be some confusion as to whether an existing ordinance can be put on the ballot and she would like to get some clarification on this matter. She said she thinks the wise thing to do is to get an Attorney General's opinion.

Mayor Walaker stated almost 5000 citizens have signed the petition and they should be given the right to vote on this issue.

Commissioner Mahoney stated there was some confusion when this issue was voted on the last time. He said it is unusual to vote on something that has already been voted on.

Commissioner Wimmer stated the proposed ordinance was initiated after the City Commission passed second reading on a smoking ban.

In answer to a question, Mr. Johnson stated once the question is submitted the Attorney General's office would like to have 60 days to respond.

Randy Thorson, 4204 Timberline Drive, stated his group would like the voters to have the opportunity to vote on this and the other proposed ordinance that is going to be submitted.

Commissioner Wimmer stated it does sound like there is going to be another ordinance submitted for a vote of the people.

There was discussion regarding what law would be in effect if the proposed ordinance fails.

Mr. Thorson stated if the City Commission wants to table this until the other ordinance has been verified that would be fine with his group.

Commissioner Coates moved the City Attorney be directed to prepare a letter to the Attorney General requesting his opinion on voting on a proposed ordinance that is already in effect and, if the proposed ordinance fails, if that would negate the previous ordinance.

Second by Wimmer.

Mr. Johnson stated once the petitions have been verified by the City Auditor the Commission has 21 days to act on the proposed ordinance. He said the Commission cannot put this issue on hold for longer than 21 days.

Commissioner Williams suggested the motion be amended to accept the sufficiency and validity of the smoking ban petition and place the question on the ballot for the June 10, 2008 election.

Commissioner Williams stated denying the citizens the right to vote on this issue will probably work in favor of the petitioner. He said the City Commission can ask for the Attorney General's opinion and also put it on the ballot and let the process work.

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.

Renaissance Zone Project Application for James Wong Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for James Wong at 319 North Broadway, #305.

No written protest or objection to the Project 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 Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by James Wong meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by James Wong for a project located at 319 North Broadway, #305 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Application Filed by Fargo Seafood Ventures, LLC d/b/a Up the Creek Fish Camp & Grill for an Alcoholic Beverage License Approved:

A Hearing had been set for September 24, 2007 on the application filed by Fargo Seafood Ventures, LLC d/b/a Up the Creek Fish Camp & Grill for a Class "FA" Alcoholic Beverage License at 2350 45th Street South, notice of which had been duly published in the official newspaper for the City of Fargo.

At the September 24, 2007 meeting the Hearing was continued to this day and hour.

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

Commissioner Williams voted nay.

The motion was declared carried.

Application Filed by Las Vegas Buffet Corporation d/b/a Las Vegas Buffet for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Las Vegas Buffet Corporation d/b/a Las Vegas Buffet for a Class "GH" Alcoholic Beverage

License at 1000 45th Street South, Suite 100, 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 Wimmer. On call of the roll Commissioners Mahoney, Wimmer, Coates, Williams and Walaker voted aye.

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

Resolution Adopted Determining Protests Insufficient on Resolution Annexing a 60 Foot Strip of Land in Sections 28 and 33 of Township 138 North, Range 49 West and Section 4 of Township 137 North, Range 49 West (Along Portions of 100th Avenue and 57th Street South):

The Board received a communication from Senior Planner Jim Hinderaker stating on August 13, 2007 the City Commission adopted a resolution annexing 102.16 acres of land in portions of Sections 28 and 33 of Township 138 North and Section 4 of Township 137 North. Mr. Hinderaker said the land primarily includes a 60 foot strip along portions of 100th Avenue and 57th Street South and he submitted a copy of the annexation resolution and map of the area. He said notice of the resolution/hearing was published in the newspaper and copies were sent to all owners of property in the annexation area. Mr. Hinderaker stated the purpose of the hearing is to determine if protests to the annexation have been filed. He said according to 40-51.2-07.3 of the North Dakota Century Code, in the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the City. He said a protest petition has been filed with the City Auditor's office by Terry and Kristie Sauvageau which includes three separate parcels or 7.27 acres of land within the annexation area. He said in order for a protest to be valid, one-fourth of the territory must be included in the protest and he submitted a copy of the signed protest petition. Mr. Hinderaker stated the minimum area for protest is 25.54 acres.

Richard Freeman, 2914 124th Avenue South, stated his concerns regarding the proposed annexation. He said the Planning Department has said 124th Avenue will not be affected for 50 years and he thinks this statement is a big stretch. He questioned what the Planning Department is planning for the 60 foot strip. He said the proposed annexation and future extraterritorial zoning are serious problems for the rural residents.

Planning Director Jim Gilmour encouraged the Board to pass the annexation. He said this annexation is the only way to ensure that millions of dollars in flood control will benefit Fargo and not other cities.

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, The City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, with about ninety-five thousand (95,000) inhabitants; and

WHEREAS, The Board of City Commissioners on February 28, 2007 resolved to annex a tract of land 100' wide lying parallel to and south and east of the following described line:

Beginning at the current corporate limits of the City of Fargo at the northeast corner of the northwest quarter of Section 28, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota; thence west along the north line of Section 28 to the west line of said Section 28; thence south along the west line of Sections 28 and 33, Township 138 North, Range 49 West and the west line of Sections 4 and 9, Township 137 North, Range 49 West to the south line of Section 9 and thence terminating said 100' tract;

said tract containing 54.55 acres, more or less; and

WHEREAS, Said Resolution called for a hearing to determine the sufficiency of protests be held on August 27, 2007; and

WHEREAS, The Board of City Commissioners on August 13, 2007 resolved to amend the Resolution of Annexation of February 28, 2007 thus modifying the description of land sought to be annexed and modifying the date of the hearing on the same; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said annexation in the official newspaper for the City of Fargo on August 27, 2007 and September 03, 2007 that a Hearing would be held in the City Commission Room at City Hall, Fargo, North Dakota at 5:15 o'clock p.m., October 22, 2007 to hear and determine the sufficiency of protests.

NOW, THEREFORE BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that there is insufficient protest and that the boundaries of the City of Fargo be, and they hereby are, extended so as to include and incorporate within the corporate limits of the City of Fargo, Cass County, North Dakota, the following described land:

Annexation of portions of Sections 28 and 33, Township 138 North, Range 49 West and Section 4, Township 137 North, Range 49 West, all in the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Beginning at the current corporate limits of the City of Fargo at the northeast corner of the northwest quarter (NW $\frac{1}{4}$) of said Section 28; thence west along the north line of Section 28 to the west line of Section 28; thence south along the west line of said Sections 28, 33 and 4 to the southwest corner of said Section 4; thence east along the south line of Section 4 to the east line of the west half (W $\frac{1}{2}$) of the southwest quarter (SW $\frac{1}{4}$) of said Section 4; thence north along said east line of west half (W $\frac{1}{2}$) of southwest quarter (SW $\frac{1}{4}$) of Section 4 to the north line of said southwest quarter (SW $\frac{1}{4}$); thence west along the north line of said southwest quarter (SW $\frac{1}{4}$) of Section 4 to a point on a line parallel to and 60' east of the west line of said Section 4; thence north

along said line parallel to and 60' east of the west line of said Sections 4, 33 and 28 to a point on a line parallel to and 60' south of the north line of said Section 28; thence east along said line parallel and 60' south of the north line of said Section 28 to the east line of said northwest quarter (NW ¼) of Section 28; thence north along the east line of said northwest quarter (NW ¼) of Section 28 to the point of beginning.

Said annexation tract contains 102.16 acres, more or less.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the Cass County Recorder.

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

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

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

After recess: All Commissioners present. Mayor Walaker presiding.

Request from the Fargo Dome Authority for Expenditure of Fargodome Sales Tax Funds in the Amount of \$85,000 Plus Reimbursables for a Fargodome Market Assessment Approved:

The Board received a communication from Ryn Pitts, President of the Fargo Dome Authority, stating the Fargo Dome Authority is requesting approval of an expenditure of Fargodome sales tax funds of approximately \$85,000 plus reimbursables for a Fargodome Market Assessment. Ms. Pitts submitted the Request for Proposal (RFP) which shows the study will include an assessment of the market for the existing Fargodome with specific attention to the market potential of the proposed expansion. She said the areas of research will include the market niche, the impact of expansion, revenue opportunities and the Fargodome's business model, and construction and operating economics. The project timeline, she stated, includes a target completion date of mid-March 2008. She said the Fargo Dome Authority held a special meeting October 11, 2007 to review the RFP responses from five firms and narrowed the field to three to be interviewed October 30, 2007. The three firms, she said, are Convention Sports & Leisure of Minneapolis, C.H. Johnson Consulting of Chicago and HVS Convention, Sports & Entertainment Facilities Consulting of Chicago. She stated evaluation criteria include qualifications of the consultant, understanding of the RFP, proposed study methodology and cost of services. She said the Fargo Dome Authority approved an expenditure of Fargodome sales tax funds of approximately \$85,000 plus reimbursables for the study.

Commissioner Williams questioned if the assessment would be for the existing facility and proposed expansion.

Ms. Pitts stated the Fargodome is almost 15 years old and the proposed assessment is just good planning principles for the future. She said the assessment would include the existing building and the expansion.

In answer to another question, Ms. Pitts stated it is her understanding the study will not include the Capital Improvement Plan.

Mayor Walaker stated he fully supports the market study. He said someone needs to go into the business world and find out what it takes to make the Fargodome viable.

Commissioner Wimmer moved an expenditure of Fargodome sales tax funds of approximately \$85,000 plus reimbursables for a Fargodome Market Assessment 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.

Bids Awarded for the Emergency Shelter and Detox Center at 1519 1st Avenue South: Staff Directed to Find a Funding Source for the Detox Center Portion:

The Board received a communication from Senior Planner Dan Mahli stating the City purchased property at 1519 1st Avenue South to serve as an emergency shelter and detox center in May of 2007 and, since that time, staff has been working with Foss Architecture to design and bid the project. He said the project was bid in two phases with the first phase dealing with the emergency shelter and the second phase dealing with a detox center. He summarized the low bids as follows:

	Low Bid (Total)	Emergency Shelter (Phase 1)	Detox Center (Phase 2)
General Construction			
Gast Construction	\$464,200	\$215,709	\$248,491
Mechanical			
Laney's	\$150,299	\$ 65,126	\$ 85,173
Electrical			
Contemporary Builders	\$ 72,000	\$ 19,350	\$ 52,650
Total	\$686,499	\$300,185	\$386,314

Mr. Mahli stated the emergency shelter work would be expected to be complete sometime at the beginning of January 2008 and the detox center would be expected to be complete in June 2008. He said bid prices have been compared with industry standards and it has been determined that the bids received are reasonable. He said staff is recommending the bids for the emergency shelter be awarded using CDBG funds and that action on the detox center be delayed.

City Administrator Pat Zavoral stated the project started out as a shelter with the understanding there would be some detox involved. He said detox is currently located at Centre, Inc. on First Avenue North and, as the committee became involved in this project and looked at those issues dealing with the homeless, they saw a real need for more than just a shelter. The current detox facility is inadequate and undersized and, as planning for the project continued, he said, the detox portion was increased to a much larger extent than what was originally presented. He said the

plans now reflect what the committee felt was the absolute need for the project. Mr. Zavoral stated it seems like there are only two options to accept the bids with the construction of the shelter portion to be completed some time in January, and the other is to reject the bids and have staff and the architect redesign the bid. He said the problem with rejecting the bids is that everything would have to be pushed back three weeks for rebidding and that would mean the City would not have a shelter for people in need.

Commissioner Coates stated last year the detox calls increased 45% and the need for expanded detox will not go away. She encouraged the Commission to make a decision on this issue as soon as possible.

Commissioner Wimmer stated the costs for the facility are now doubling and maybe tripling and he questioned what the cost will be to run the facility.

Mr. Zavoral stated part of it is funded through the detox center now and there is money to offset the costs. He said in terms of the shelter, the City will own the facility and the operational costs will be run through the detox center. He said staff is looking into grants and there should be funds available from HUD after the shelter is in place.

Commissioner Williams stated everyone agrees a shelter is needed. He said the project started with just the shelter and then the detox portion was added which increased the costs. He said the estimate was based solely on the shelter.

There was discussion regarding the causes for the increased costs and if the detox space would be sufficient.

Keith Gilleshammer, Executive Director of Centre, Inc., stated the size of the detox is adequate for now and he does not really know how big it will need to be in the future. He said Centre, Inc. does the detox for free and the only thing the City pays for is Centre's costs.

In answer to a question from Commissioner Mahoney regarding increased costs in the new facility, Mr. Gilleshammer stated they may need more staff.

Commissioner Coates stated the shelter will not be a City department. She said it will be an independent 503 nonprofit group. She said there will also be some federal money and homeless grants to assist with the funding.

Commissioner Williams questioned if there was a plan "b" if construction was not finished in time.

Commissioner Coates stated what triggered this project was when the City of Fargo determined Ray of Hope could not operate in their facility because of code requirements and, as a result, some people died. She said the planning process for that facility started after that occurred and they worked on this as quickly as they could because none of the other shelters can take in people who are impaired. She said their goal is to have the shelter open by winter and there is no plan "b" if that does not occur.

Mr. Gilleshammer stated one of the reasons for having the shelter and detox together was to reduce the costs. He said combining the facilities would also save on police officers' time but he does not know how much cost savings that would be to the City.

Mayor Walaker stated just having a place for these people to sleep is not the answer without also having some counseling or detox available. He said he is very concerned with the funding and no one as yet has come up with the funding for the \$336,000 plus. However, he continued, if there is going to be any hope for these people to turn a new leaf, something needs to be done. He said they are basically

harmless and having them die in Island Park is not the answer. He said the City needs to come up with some plausible way to fund the costs.

At 7:11 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Chief Ternes stated there is no question there is a need for the facility. He said the year before last the police took just over 1000 individuals to Centre and last year there were over 1500. He said it takes approximately 30 minutes for an officer to transport an individual and, with the starting salary for a police officer at \$25 to \$26 an hour, that is a significant amount of money. He said he thinks the amount of time the officers are now spending on this will be greatly reduced if the shelter and detox are located in one facility.

Commissioner Coates moved the bids be awarded for both the shelter and the detox center as presented and that the appropriate staff be directed to recommend a funding source for the detox center.

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

Commissioners Williams and Wimmer voted nay.

The motion was declared carried.

Hearing to be Held on the Rezoning of Parcels of Land in Erskines Addition (1226 University Drive and 1117 13th Avenue South):

The Board received a communication from City Attorney Erik Johnson stating at the October 8, 2007 City Commission meeting a motion was made to adopt the findings of staff and approve the zoning change request from Steven Stremick for property at 1226 University Drive and 1117 13th Avenue South. Mr. Johnson said the motion required a four-fifths vote to carry and only one vote was cast in favor of the motion and, therefore, the motion failed. He said under normal circumstances that would resolve the issue completely, however, because it is a zoning matter, it is necessary that any denial of a zoning application also contain findings upon which the Commission bases its denial. Mr. Johnson stated upon reflection as to the events of this past meeting, it became apparent to him that some follow-up is needed by the City Commission to fully resolve this matter. Therefore, he continued, he asked that this matter be placed on the agenda to solicit a motion denying the request and identify the findings that form the basis for such denial.

Senior Planner Jim Hinderaker summarized the criteria the Planning Commission and staff based their recommendation for approval on.

Commissioner Williams stated the traffic has increased in this area and more commercial zoning might make it worse for the residential homes. He said leaving that property SR-3 still gives the owner the opportunity to do what the zoning allows but does not allow another parking lot.

Commissioner Mahoney questioned what zoning is being proposed.

Mr. Hinderaker stated the zoning being proposed is Neighborhood Commercial. He said the original request was for Limited Commercial and staff recommended denial. He said the petitioner came back and reduced the request from Limited Commercial to Neighborhood Commercial and the Planning Commission and staff recommended approval. He said the motion by the City Commission at their October

8, 2007 meeting to approve failed for the lack of a majority and the reason for the denial needs to be clarified.

Mayor Walaker stated he likes what the applicant, Steven Stremick, is doing with that house, however, his problem is with the people that have protested the zoning change.

Commissioner Wimmer stated he has received calls from neighbors who have told him they felt the zoning change was fine. He said they felt Mr. Stremick was improving the property.

There was discussion regarding setting up a meeting with the Hawthorne Neighborhood Association to see if a consensus could be reached for some type of plan for the neighborhood.

Mr. Stremick stated it is his intent to work with the community. He said he is willing to table this issue until a meeting is held with the Hawthorne Neighborhood Association.

Referring to the failed motion from the October 8, 2007 meeting, Commissioner Mahoney moved to reconsider the motion and schedule a public hearing on the matter.

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

Commissioner Coates voted nay.

The motion was declared carried.

Police Chief and City Attorney Directed to Formulate a Single Ordinance Relating to the Requirement of Mufflers:

The Board received a communication from Eugene Dumont, 2825 9th Street North, requesting that Ordinance 8-0908 relating to the requirement of mufflers be repealed.

Mr. Dumont stated the ordinance is too broad and ambiguous. He said the City has conflicting laws for their ordinances and there is another ordinance that says the same thing that Ordinance 8-0908 does. He said the ordinances should be written so people can understand them.

Police Chief Keith Ternes stated he has been in contact with Assistant City Attorney Patty Roscoe trying to address the issue of noise coming from motor vehicles and motorcycles. He said one of the City's ordinances describes noise for the downtown and one for the rest of the city and they are working at making it one ordinance. He said they are working on this issue and it is a work in progress.

Commissioner Williams moved Police Chief Ternes and the City Attorney formulate a single ordinance to clarify the law.

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

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

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

The time at adjournment was 8:04 o'clock p.m.