

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: September 10, 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, September 10, 2007.

The Commissioners present or absent were as shown following:

Present: Coates, Mahoney, Williams, Wimmer (via conference call), Walaker.

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on August 27, 2007 be approved as read.

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

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances relating to the new "FA-Entertainment" alcoholic beverage classifications; 1st reading, 8/27/07:
 - (1) Amending Sections 25-1501 and 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to License Classifications.
 - (2) Enacting Section 25-1504.4 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
 - (3) Amending Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverage License Fees.
 - (4) Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Issuance and Transfer of Licenses.
 - (5) Amending Section 25-1509 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Restrictions on Sale, Service or Dispensing Alcoholic Beverages.
 - (6) Amending Section 25-1510 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Live Entertainment License.

- (7) Amending Section 25-1511 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Requirements for Licensed Premises.
 - (8) Amending Section 25-1512 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Licenses-Termination, Suspension, Revocation and Sanctions.
- b. Recommendation from the City Attorney's Office regarding refund or credit of administrative fees.
 - c. City Commission meeting schedule for 2008.
 - d. Receive and file Year to Date - Month to Actual Report for August 2007.
 - e. Applications for Games of Chance:
 - (1) Fargo South HS Athletics for raffles from 8/30/07 to 8/30/08.
 - (2) St. Mark's Lutheran Church for a raffle on 11/18/07.
 - (3) Church of the Nativity for bingo on 10/7/07.
 - (4) Benefit for Pam Knapper for a raffle on 9/28/07; Public Spirited Resolution.
 - f. Agreement for Special Improvements with White Oaks Trust for Improvement District No. 5740.
 - g. Bid award for 3 sander dump bodies to Swanston Equipment Company in the amount of \$93,956.
 - h. Purchase of Lot 5, Block 1, Asleson Commercial Second Addition in the amount of \$243,578 for Water Tower No. 11.
 - i. Quote from Peterson Mechanical in the amount of \$46,525 for replacement of the ozone gas delivery piping at the Water Treatment Plant.
 - j. Cost Participation and Maintenance Agreement with the NDDOT for 52nd Avenue South construction from University Drive to 31st Street (Project No. 5314).
 - k. Cost Participation and Maintenance Agreement with the NDDOT for the 52nd Avenue South and I-29 Interchange Bridge and south frontage roads (Project No. 5314).
 - l. Proposal from Ulteig Engineers for an intersection study at 40th Avenue and 36th Street South (Project No. 5667).
 - m. Advertise for bids for Project No. 5766.
 - n. Contracts and bonds for Project Nos. 5654, 5692 and 5755.
 - o. Bills in the amount of \$4,840,837.91.

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

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., September 5, 2007 and the bids were found to be as follows:

MIC Bid:	Moorhead, MN \$1,006,871.50
Dakota Underground Bid:	Fargo, ND \$1,066,974.00
Rising Sun Construction, Inc. Bid:	Fargo, ND \$1,102,038.00
Ernst Trenching, Inc. Bid:	Fargo, ND \$1,124,169.95
Shermans, LLC Bid:	West Fargo, ND \$1,242,856.92
George E. Haggart, Inc. Bid:	Fargo, ND \$1,274,158.00
Master Construction Company, Inc. Bid:	Fargo, ND \$1,280,558.35
Robert Gibb & Sons, Inc. Bid:	Fargo, ND \$1,379,749.00
Sellin Brothers, Inc. Bid:	Hawley, MN \$1,585,157.50

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 Awarded to MIC in the Amount of \$1,006,871.50:

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. 5757; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received September 5, 2007 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5757 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. 5757 shows the bid of MIC of Moorhead, Minnesota, in the sum of \$1,006,871.50 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 MIC in the sum of \$1,006,871.50 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. 5757 in the City of Fargo, North Dakota, be and the same is hereby awarded to MIC for the sum of \$1,006,871.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Dike Construction and Incidentals Improvement District No. 4980 (Rear Yard Lines of Lots 41 through 45, Southwood Addition and the Adjoining Fargo Country Club Property):

Commissioner Coates moved the following action be taken in connection with Dike Construction and Incidentals Improvement District No. 4980:

Adopt Resolution Creating Improvement District No. 4980:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 4980, in the City of Fargo, North Dakota, be created

Along the rear yard lines of Lots 41 through 45, Southwood Addition and the adjoining Fargo Country Club property adjacent to these lots.

COMPRISING:

Lots 41 through 49.
Southwood Addition.

That portion of Lot 3, Block 1.
Country Club Second Addition.

Located in the south ½ of Section 19, Township 139N, Range 48W.

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

NOW, THEREFORE, BE IT RESOLVED, That Dike Construction and Incidentals Improvement District No. 4980, 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. 4980:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 4980, 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 \$77,500.)

Order Plans and Specifications for Improvement District No. 4980:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 4980, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 4980:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 4980, 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. 4980, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Dike Construction and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Dike Construction & Incidentals, Improvement District No. 4980 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Dike Construction & Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 4980:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 4980, in the City of Fargo, North Dakota.

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

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

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759 (Maple Valley Addition):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759:

Adopt Resolution Creating Improvement District No. 5759:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5759, in the City of Fargo, North Dakota, be created

On 63rd Avenue South from 36th Street to Maple Valley Drive
On 35th Street South from 59th Avenue South to Maple Valley Drive
On 59th Avenue South from Interstate 94 to Maple Valley Drive
On Autumn Drive from 59th Avenue South to north of 59th Avenue Court
On 59th Avenue Court
On Interstate Frontage Road and 36th Street South from 63rd Avenue South to ¼ line
On 64th Avenue South from Maple Valley Drive to 25th Street South
On Maple Valley Drive from north of 59th Avenue South to 59th Avenue South

COMPRISING:

A part of the south half (S 1/2) of Section 2, Township 138 North, Range 49 West of the 5th Principal Meridian to be platted as follows:

Lots 45 through 71, inclusive, Block 1
Lots 1 through 10, inclusive, Block 2
Lots 12 through 22, inclusive, Block 3
Lots 1 through 24, inclusive, Block 5
Lots 1 through 36, inclusive, Block 6
All to be platted in Maple Valley Addition

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5759, 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. 5759:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5759, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$3,775,838.79.)

Order Plans and Specifications for Improvement District No. 5759:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5759, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5759:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5759, 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. 5759, 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. 5759:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5759, in the City of Fargo, North Dakota.

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

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

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763 (Riverwood 1922 1st Addition):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5763:

Adopt Resolution Creating Improvement District No. 5763:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5763, in the City of Fargo, North Dakota, be created

On Riverwood Drive North from 1200' north of 43rd Avenue North to 1600' north of 43rd Avenue North.

COMPRISING:

Lots 7 through 10, inclusive, Block 1.
Lots 1 through 4, inclusive, Block 2.
All in Riverwood 1922 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That 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 created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5763:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5763, 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 \$184,800.)

Order Plans and Specifications for Improvement District No. 5763:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5763, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5763:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5763, 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. 5763, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights & Incidentals, Improvement District No. 5763 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights & Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5763:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5763, in the City of Fargo, North Dakota.

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

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

Contract for Asphalt Alley Paving and Incidentals Improvement District No. 5753 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Border States Paving for Asphalt Alley Paving and Incidentals Improvement District No. 5753 in the City of Fargo, North Dakota.

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

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

Contract Bond for Asphalt Alley Paving and Incidentals Improvement District No. 5753 Approved:

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

Liberty Mutual Insurance Company, in the amount of \$59,865.00, for Asphalt Alley Paving and Incidentals Improvement District No. 5753 in the City of Fargo, North Dakota.

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

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

Request for an Amendment to Ordinance 12-0105 to Allow a Dog with a Shock Collar to be Off-Leash Received:

A communication was received from David Hill, 3408 28th Avenue South, regarding a request to amend the current dog and cat ordinance. He said Ordinance

12-0105 states that no dog or cat is allowed to run at large and must be leashed with a leash not to exceed 6 feet in length. Webster, he said, defines "at large" as "to be free from restraint: at liberty." He said today's technology has enabled dog trainers and owners to control and restrain their dogs with training collars or shock collars. He requested that shock collars be added to this ordinance as a dog with a shock collar is not free or at liberty and is under supervised control of his owner.

Police Chief Ternes stated he has not had a chance to look over Mr. Hill's request, however, he has visited with the Humane Officers and they have some concerns. He recommended that his department be given some time to research the request and come back with a recommendation.

There was consensus that this issue would be brought back in four weeks.

Michael Leier and Ron Hanson Reappointed to the Housing and Redevelopment Authority:

The Board received a communication from Mayor Walaker recommending that Michael Leier and Ron Hanson be reappointed to the Housing and Redevelopment Authority.

Commissioner Mahoney moved the reappointment of Michael Leier and Ron Hanson to the Housing and Redevelopment Authority for terms ending September 30, 2010 be approved.

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

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

Ordinance Relating to Driving Without Liability Insurance Prohibited to be Brought Back in Two Weeks for City Commission Action:

The Board received a communication from Assistant City Attorney Patricia Roscoe stating the 2007 legislature changed the state law concerning the penalty for driving a motor vehicle without a valid policy of liability insurance and she is submitting an Ordinance amending Fargo Municipal Code Section 8-0320 reflecting the 2007 legislative changes.

Ms. Roscoe stated the proposed ordinance needs some further work and she will bring it back in two weeks for City Commission action.

Commissioner Coates moved the Ordinance Relating to Driving Without Liability Insurance Prohibited be brought back in two weeks.

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

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

Application Filed by LeeLa Thai Cuisine, LLC d/b/a LeeLa Thai Cuisine for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by LeeLa Thai Cuisine, LLC d/b/a LeeLa Thai Cuisine for a Class "GH" Alcoholic Beverage License at 1450 25th Street 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 Coates. On call of the roll Commissioners Mahoney, Coates, Williams, Wimmer and Walaker voted aye.

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

Proposed Changes to the Fargo Metro Area Transit Routes Approved:

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

The Board received a communication from Transit Planner Mike Simonson stating Fargo Transit proposes to make route changes to take effect October 13, 2007. He said the changes are primarily expansions in service on existing routes enabled by receipt of additional state aid funds. Mr. Simonson requested approval of the following route changes:

Route 15: Add a second bus from 6:45 A.M. to 6:45 P.M. to provide 30 minute service between downtown and West Acres/Wal-Mart. This would run weekdays and Saturdays.

Route 21: Add a 6:50 p.m. run to extend evening service on weekdays and Saturdays.

Route 22: Add a 7:15 p.m. run to extend evening service on weekdays and Saturdays.

Route 11: Saturday service would become half-hourly from 7:15 a.m. – 6:15 p.m.

Route 14: Saturday service would become half-hourly from 7:15 a.m. – 6:45 p.m.

And the following two very minor route alignment changes:

Route 21 would exit West Acres by the theaters on 17th Avenue South instead of 38th Street by Best Buy.

Route 22 would add a small loop to maintain better service to Village West. This would involve going south from 9th Avenue South on 42nd Street to 11th Avenue South to 40th Street to the 9th Avenue South route.

Commissioner Coates moved the route changes be approved as outlined above effective October 13, 2007.

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

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

Resolution Adopting the Revised Cass County Multi-Jurisdictional, Multi-Hazard Mitigation Plan:

A Hearing had been set for this day and hour to consider formally adopting the revised Cass County Multi-Jurisdictional, Multi-Hazard Plan.

The Board received a communication from Emergency Services Coordinator Leon Schlafmann stating at their August 20, 2007 meeting, the Cass County Commissioners conducted the first public hearing on the 2007 revised Cass County Multi-Jurisdictional, Multi-Hazard Mitigation Plan. He said there were no public comments submitted prior to or at the meeting regarding the revised plan and no public comment has been received at the Emergency Management Office. Mr. Schlafmann submitted a resolution for adoption of the revised plan and requested it be formally adopted.

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City of Fargo, North Dakota, in cooperation with Cass County, North Dakota has, as required by federal regulations, developed a Multi-Hazard Mitigation Plan (MHMP); and

WHEREAS, Such plan is for the identification of specific hazards within the City of Fargo and is used for reference when completing federal grant applications before and after a disaster; and

WHEREAS, All future federal disaster funding will require such planning process documents; and

WHEREAS, The Board of City Commissioners of the City of Fargo deems it necessary and desirable that such Multi-Hazard Mitigation Plan be adopted.

NOW, THEREFORE, IT IS HEREBY RESOLVED, That the City of Fargo, North Dakota, a municipal corporation, does hereby formally adopt the Multi-Hazard Mitigation Plan (MHMP).

BE IT FURTHER RESOLVED, That such plan be utilized in any future application for federal funds.

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

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

Hearing on a Dangerous Building Located at 313 19th Street North: City Attorney's Office Directed to Prepare the Appropriate Findings of Fact and Order:

A Hearing had been set for this day and hour on a dangerous building located at 313 19th Street North.

The Board received a communication from Head of Inspections Ron Strand submitting a Notice of Dangerous Building Order. He stated this hearing is the culmination of a notice he issued on July 9, 2007 which contained a deadline of August 9, 2007. He said his notice required removal of this structure because it had

been damaged to the extent of more than 50% of its value as determined by the City Assessment Department. He also submitted a photo representative of its condition.

Howard Johnson, owner of the building, stated he works every day and he does not get much time to spend on the building. He said he has a lot of valuable car parts in the building and it will take him a while to get his things out of there. He requested that he be given more time to remove his items from the building.

In answer to a question, Mr. Strand stated the Order gives him 30 days.

Commissioner Williams moved the City Attorney's Office be directed to prepare and serve the owner with the appropriate Findings of Fact and Order and the Inspections Department be authorized to solicit proposals for the removal of this structure if it is not removed within the time allowed by the Board's Order.

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

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

Tax Levies for the Budget Year Beginning January 1, 2008 and Ending December 31, 2008 Approved:

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for a Hearing on the 2008 Budget at which time all interested persons could appear and would be heard.

Commissioner Williams questioned the \$885,000 increase in capital improvements.

Finance Director Kent Costin stated the City has been in a growth mode and there are a number of projects that need to get done.

There was discussion regarding the revenue projections.

Mr. Costin stated staff has been extremely cautious in the revenue projections.

There was discussion regarding the budget increases.

Mr. Costin stated there has been a 7.5% increase in the overall general fund budget and energy costs are up 14%.

Mayor Walaker stated the one mill increase was not an easy decision. However, he continued, he would rather error on the cautious side. He said one mill is \$5 to \$6 on a \$100,000 home.

Commissioner Coates questioned if this budget included all of the new revenues the City will be seeing.

Mr. Costin stated it does and it also includes an increase for methane, carbon credits and electricity sales.

Commissioner Williams stated the City needs to be more diverse with funding sources and try to give more to property tax relief.

Commissioner Williams moved the budget be amended to maintain the general fund mill levy at 57.25 mills.

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

Commissioners Mahoney, Wimmer and Walaker voted nay.

The motion was declared lost for the lack of a majority.

Commissioner Mahoney moved the 12-month budget beginning January 1, 2008 and ending December 31, 2008 be approved as follows:

General Fund	\$ 59,800,000
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Special Revenue Funds:

City Share of Special Assessments	\$ 725,000
Noxious Weeds	25,000
Emergency 911	1,545,539
Outdoor Warning	50,120
Convention Bureau	918,000
Convention Bureau Surplus	331,750
Regional Training Center	64,033
Transit Capital Escrow	60,000
Southeast Cass Capital Reserve	10,939
Court Forfeits	115,000
Broadway Mall Maintenance	40,000
Skyway Maintenance	126,927
Winter Lights Maintenance	14,000
Neighborhood Revitalization Initiatives (NRI)	226,555
Community Development Block Grants	560,200
HOME Program	30,000
HOME Projects	508,702
Parking Authority Operations	1,087,891
Parking Repair and Replacement	12,500
City Building Repair Escrow	100,000
City Vehicle Reserve	1,500,000
Computer Replacement	100,000
Civic Memorial Auditorium Capital	28,500
Newman Outdoor Stadium	185,950
Library Start Up	235,276
Total Special Revenue Fund Expenditures	\$ 8,602,382

Debt Service Fund Expenditures	\$ 40,273,919
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Enterprise Funds:

Water	36,598,874
Water Revenue Bond Fund	4,147,558
Wastewater	44,190,265
Southeast Cass Sewer	60,000
Storm Sewer	903,666
Vector Control	496,752
Solid Waste	10,341,102
Forestry	1,331,000
Total Enterprise Fund Expenses	\$ 98,069,217

Internal Service Funds:

Liability Self Insurance	386,261
Health Self Insurance	5,090,500
Total Internal Service Fund Expenses	\$ 5,476,761

Airport Authority:	
Operations & Maintenance	3,246,575
Airport Construction	8,286,650
Passenger Facility Surcharge (PFC)	1,300,000
PFC Bond Fund	1,419,068
Total Airport Authority Expenses	\$ 14,252,293

Fargodome:	
Operations Fund	4,013,890
Bond Fund	7,688,674
Sales Tax Surplus Fund	1,297,500
Building Fund	1,247,500
Bond Fund Reserve #3	28,700
Total Fargodome	\$ 14,276,264

Convention Bureau	
Operations	\$ 1,084,005

Preliminary Tax Levies are:	
General Fund	53.32
City Share of Special Improvements	2.83
Noxious Weeds	0.10
Airport Construction	2.00
Total Proposed Mills to Be Levied for 2005 Budget	58.25

Total 2008 Budget \$208,721,814

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

Commissioners Williams and Coates voted nay.

The motion was declared carried.

(Commissioner Wimmer absent)

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

After recess: All Commissioners present except Commissioner Wimmer. Mayor Walaker presiding.

Recommendation Received for a Proposed Modification to the Night Parking Ordinance for Street Maintenance:

The Board received a Report of Action from the Traffic Technical Advisory Committee (TTAC) stating the Committee received a request from Steve Peterson, a resident in the 1400 block of 6th Avenue South, regarding Ordinance No. 8-1009 relating to the night parking restrictions. They said Mr. Peterson's letter stated the Ordinance only restricts six hours of the day, every other day for snow removal and street cleaning from November 1st to April 15th and his biggest issue with the ordinance is that his neighborhood is under these restrictions and subject to fines and there are other parts of town that are not under the same threat. They said City Engineer Mark Bittner explained that the Moorhead system divides the city into street

cleaning districts that are in effect 365 days a year which works well and the City of Fargo should look at possibly adopting a similar system. They stated Mr. Bittner said the City of Fargo system could have five different districts, with each district having two time restrictions; one from 7 a.m. to 7 p.m. for streets and one from 7 p.m. to 7 a.m. for avenues, allowing for street sweeping and snow removal from curb to curb in these areas one day per week. They said Mr. Bittner stated this would not mean that snow plows would only operate once a week in a particular location during a snow fall event, but rather it would allow for cleaning during the event faster knowing the crews would return on the selected day for the routine cleaning. The Committee said Engineering staff felt this system would be a good one, as the districts would be completely cleaned one day per week, minimizing the impact on citizens and maximizing the time that plows and street sweepers could concentrate on the area and the current night parking restrictions in the Central Business District would remain unchanged. The Committee stated Mr. Weigel also said higher fines were discussed as was the possibility of a graduated fine system.

Mayor Walaker summarized the background on the night parking restrictions. He said studying this process is always a good idea but he hopes it is studied in some depth. He said just because one or two people want it changed does not necessarily require a change.

Mr. Weigel stated the enforcement process is the biggest problem and that is probably what is driving this whole issue.

Commissioner Mahoney moved appropriate staff be directed to work with the City Attorney to modify the current night parking ordinance language, schedule a public meeting at the October TTAC meeting and bring back proposed changes to the current Night Parking Ordinance for the City Commission in late October.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

City of Fargo Concurs with the NDDOT Memorandum of Agreement with the Hectors in Regards to the Placement of the Service Road in the Northeast Quadrant at the Intersection of 52nd Avenue South and I-29:

The Board received a communication from Senior Engineer Jeremy Gorden submitting a letter from Local Government Engineer Dave Leftwich with the North Dakota Department of Transportation (NDDOT), and a Memorandum of Agreement between NDDOT and Fred and Earlyne Hector. Mr. Gorden also attached the Report of Action from the Public Works Project Evaluation Committee dated July 10, 2007. He said all attachments are in reference to the location of the service road in the northeast quadrant of the intersection of 52nd Avenue South and I-29. He said NDDOT has agreed to place the location of the service road as requested by the Hectors because NDDOT wants to avoid any potential delays for the project and they prefer to work in cooperation with all land owners whose property is affected by any of their road construction projects. He stated the NDDOT does not feel that the placement of the service road delineates land use or zoning lines. He said the Memorandum of Agreement makes note of a special assessment agreement that both the City of Fargo and the Hectors will be party to in the future and staff is comfortable

an agreement will be worked out within the general concepts set forth in an existing agreement with the Hectors on the west side of I-29.

City Engineer Mark Bittner handed out information on the options that had been considered and stated option 3 was presented to the DOT and they worked with the property owners to obtain an agreement with that option; however they were not able to do that. He said the DOT has the authority to condemn the property for a quick take but they had to make a decision if they wanted to pursue that option and delay the project. Mr. Bittner said staff was not willing to do that and the question is if the City Commission wants to concur with the revised location. He said it does nothing with respect to the zoning and only deals with the location of the frontage road.

There was discussion regarding the timeline for the eminent domain process.

Mr. Bittner stated in order to keep the project on schedule, staff did not want DOT to go through the condemnation process.

There was discussion regarding other options.

Kevin Gorder, Assistant District Engineer with the NDDOT, stated the option was presented to the Hectors and they said this was not an option they would consider.

City Attorney Erik Johnson stated he is under the impression from the DOT's standpoint that they would not have time to pursue the eminent domain process.

Mr. Gorder stated the plan needs to be presented to the DOT by October 4th to get the funds for the project.

Mr. Bittner stated the DOT needs to make decisions on other projects if this one is dropped.

There was discussion regarding delaying the project and the affect that would have on funding from the DOT.

Mr. Bittner stated the other projects are contingent on the alignment being built.

Mayor Walaker stated the City Commission has already made a decision on the zoning and they are not going to support any zoning change no matter what happens with this project.

At 7:07 p.m. the Board took a five-minute recess.

After recess: All Commissioners present except Commissioner Wimmer. Mayor Walaker presiding.

Wally Storm, 4901 Meadow Creek, submitted a copy of a letter written by Mike Hamerlik asking that the City Commission remain steadfast in their previous decisions regarding appropriate commercial development of the land and to reject the NDDOT/Hector Agreement. He said he and his neighbors have been hearing there have been letters back and forth from the DOT that the frontage road cannot be located where it was proposed in option 3. He said they are requesting that the City Commission be careful on what is agreed on.

Commissioner Coates stated the City Commission can either keep going and acquire the land with eminent domain which will delay the project for a year or accept the offer.

Jordon Johnson, 46th Avenue South, asked that the City Commission stand firm on their original decision.

There was discussion regarding the timeline and what the City's priorities are.

Mr. Gorder stated the property owners were pretty firm during the DOT's negotiations with them.

Mayor Walaker stated this is a long process and there are too many things that hinge on the frontage road.

Commissioner Williams moved the agreement be rejected and instead move the 45th enhancement from 2008 to 2009.

Second by Mahoney for discussion purposes.

Mr. Bittner stated his recommendation is to accept the DOT's recommendation and move forward. He said the zoning is a separate issue. He questioned if the City Commission is prepared to lose this project in 2008.

On call of the roll Commissioner Williams voted aye.

Commissioners Mahoney, Coates and Walaker voted nay.

Absent and not voting: Commissioner Wimmer.

The motion was declared lost for the lack of a majority

Commissioner Mahoney moved the City of Fargo concur with the NDDOT Memorandum of Agreement with the Hectors in regards to the placement of the service road in the northeast quadrant at the Intersection of 52nd Avenue South and I-29 but that Item A relating to 50 acres of commercial zoning be deleted.

Mayor Walaker relinquished the Chair to second the motion. (Deputy Mayor Coates presiding.)

Deputy Mayor Coates stated she is concerned with what this could do to the timeline of the project. She said what the present Commission does at this time does not control what future Commissioners do. She said she does not know if Commissioner Mahoney's motion will do anything other than jeopardize the project.

Mr. Bittner stated it is critical that the project is built next year. He said \$25 million projects are not moved overnight.

Robert Grossman, Las Vegas, Nevada, stated it is unfortunate the Hectors did revert to this tactic, however, as a partner in the development in that area he has a big concern with the frontage road. He said they have very significant timelines and not going ahead with the interchange will have a devastating impact on that entire intersection. He said the concerns that have been raised were very legitimate, however, he hopes the Commissioners will look at the big picture and what impact their decision in this regard will have on everyone.

Commissioner Mahoney moved the motion be amended to direct the DOT to attempt to strike Item A from the Memorandum of Agreement and, if the Hectors do not agree, to proceed and reaffirm the 25 acres.

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

Commissioner Williams voted nay.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

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

Commissioner Williams voted nay.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Deputy Mayor Coates returned the Chair. (Mayor Walaker presiding.)

Tax Increment Financing Policy and Application Approved:

Mayor Walaker stated this item was delayed to allow the Finance Committee time to hold a public forum.

The Board received a communication from City Attorney Erik Johnson stating the Finance Committee approved the Policy and Application form for Tax Increment Financing projects. Mr. Johnson submitted a copy of the draft Policy and requested the Board's approval.

City Administrator Pat Zavoral summarized the policy and recommended it be approved.

Commissioner Williams moved the Tax Increment Financing Policy and Application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

At 8:06 p.m. the Board took a five-minute recess.

After recess: All Commissioners present except Commissioner Wimmer. Mayor Walaker presiding.

Petitions for a Proposed Initiated Ordinance Regarding Initiated Ordinances and a Vote of the Electors of the City Referred to the City Auditor:

The Board received a communication from Randy Thorson requesting an item be placed on the September 10, 2007 City Commission agenda for the purpose of presenting signed petitions for the proposed initiated ordinance and a vote of the electors of the City. He said at that time he will request the petitions be received and filed by the Commission and that the City Auditor receive and verify the petitions prior to the September 24, 2007 meeting.

Mr. Thorson stated he has 4300 signatures and they will need to be verified and the proposed initiated ordinance be placed on the ballot at the next election.

Commissioner Williams moved the petitions be received and filed and referred to the City Auditor to validate.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Final Adoption of an Ordinance Relating to the Prohibition of Smoking in Public Indoor Workplaces Tabled:

Commissioner Williams moved final adoption of the Ordinance Relating to the Prohibition of Smoking in Public Indoor Workplaces be tabled.

Second by Coates.

Commissioner Williams stated there is a citizens' group that will be collecting signatures to place this issue on the ballot.

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

Mayor Walaker voted nay.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

First Reading of an Ordinance Relating to Disposition of Ordinance Violations--Procedures:

The Board received a communication from Assistant City Attorney Patty Roscoe submitting Ordinance amendments relating to prosecution and administration of non-criminal offenses.

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Amending Section 1-0306 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Disposition of Ordinance Violations--Procedures be placed on first reading.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

First Reading of an Ordinance Relating to Administrative Fees for Ordinance Violations Processed Under the Administrative Enforcement Program:

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 Repealing Section 1-0308 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Administrative Fees for Ordinance Violations Processed Under the Administrative Enforcement Program be placed on first reading.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

First Reading of an Ordinance Relating to Ordinances-Administrative Enforcement Program:

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 Repealing Article 1-04 of Chapter 1 of the Fargo Municipal Code Relating to Ordinances-Administrative Enforcement Program be placed on first reading.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, September 24, 2007.

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

The time at adjournment was 8:20 o'clock p.m.