

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: December 15, 2008:**

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, December 15, 2008.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

**Order of Agenda Approved:**

Commissioner Mahoney moved the Order of the Agenda be approved.

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

**Minutes Approved:**

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on December 1, 2008 be approved as read.

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

**Consent Agenda Approved:**

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. 1st reading of an Ordinance Amending Section 8-1606 of Article 8-16 of Chapter 8 of the Fargo Municipal Code Relating to Parking Tickets.
- b. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Rezoning Certain Parcels of Land Lying in Erskine's Addition to the City of Fargo.
- c. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 12/1/08:
  - (1) Rezoning Certain Parcels of Land Lying in Maple Valley Addition to the City of Fargo.
  - (2) Amending Section 20-0302(E) of Chapter 20 of the Fargo Municipal Code (Land Development Code) Related to Eligible Modifications for Planned Unit Development Proposals.
- d. Health Department 2008 and 2009 budget adjustments in the total amount of \$9,485 and contract with the American Heart Association, Midwest Affiliate, for the "Go Red" Campaign.

- e. Contract with the North Dakota Department of Health for the Women's Way Program (CFDA #93.919).
- f. Personal Service Agreement with Ori A. Oksendahl, doing business as North Star Polygraph & Forensic Services, for polygraph services for the Police Department.
- g. Application filed by Helen Levitt for a 5-year property tax exemption for improvements made to a building at 714 24th Avenue South.
- h. Health Insurance Plan Amendment No. 5 effective 1/1/09.
- i. Amended Site Authorization for Red River Human Services Foundation at The Hub.
- j. Applications for Games of Chance:
  - (1) NDSU Hospitality Student Association for a raffle on 2/18/09.
  - (2) North American Game Warden Museum for a raffle on 3/8/09.
  - (3) Fargo South High School Athletics for raffles from 12/8/08 to 4/1/09.
  - (4) Washington Elementary School PTA for a raffle on 2/13/09.
  - (5) Washington Elementary School PTA for a raffle on 2/13/09.
- k. Special Assessment Deferral Agreement with Stan Ryland along 25th Street South from 64th to 76th Avenues South.
- l. Accept proposals for interior office and library furnishings for the Main Library.
- m. Bid awards for chemicals for the Water Treatment Plant.
- n. Purchase of laboratory equipment for the Water Treatment Plant to Perkin Elmer in the amount of \$50,874.10.
- o. First Amendment to Agreement with Cass Rural Water Users District extending the completion date for construction of the 64th Avenue South water tower.
- p. Final costs in connection with the Landfill gas compressor station upgrade project.
- q. Change Order No. 1 for an increase of \$8,031 for the Primary Clarifier No. 2 Rehabilitation at the Wastewater Treatment Plant.
- r. NDDOT Preliminary Engineering Agreement for Project No. 5839.
- s. Amendment to NDDOT Cost Participation and Maintenance Agreement for Improvement District No. 5530.
- t. Cost Share Agreement with the City of Moorhead for engineering and repair costs for Project No. 5852.

- u. Engineering Services Contract Amendments with Houston Engineering for Project No. 5031-2.
- v. Engineering Services Contract Amendment with Moore Engineering for Project No. 5073-1.
- w. Engineering Services Contract Amendment with Houston Engineering for Project No. 5073-5.
- x. Final Balancing Change Order No. 1 for an increase of \$28,075.78 for Project No. 5802.
- y. Contract and bond for lighting work at the Ground Transportation Center.
- z. Contract and bond for Project No. 5854.
- aa. Bills in the amount of \$2,933,819.86

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

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

**No Protests Received for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5:**

The Statutory Resolution of Necessity for the construction of Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on October 13 and 20, 2008 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5.

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

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

**Bids Received for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5:**

The bids for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5 in the City of Fargo, North Dakota were opened at 10:30 o'clock a.m., Wednesday, November 26, 2008 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$7,237,178.85
Northern Improvement Company Bid:	Fargo, ND \$7,286,267.31
Opp Construction, LLC Bid:	Grand Forks, ND \$7,884,271.55
Upper Plains Contracting, Inc. Bid:	Aberdeen, SD \$7,991,684.31
Master Construction Company, Inc. Bid:	Fargo, ND \$8,530,481.55
Strata Corporation Bid:	Grand Forks, ND \$8,756,293.35

**Contract for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5 Awarded to Dakota Underground Company in the Amount of \$7,237,178.85:**

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received November 26, 2008 for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5 shows the bid of Dakota Underground Company of Fargo, ND, in the sum of \$7,237,178.85 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Dakota Underground Company in the sum of \$7,237,178.85 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Bridges, PC Concrete Pavement, Grading, Storm Sewer, Water Main Distribution, Signals, Street Lighting, Bike Trail and Incidentals Improvement District No. 5530-5 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$7,237,178.85, 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 Mahoney, Wimmer, Piepkorn, Williams and Walaker voted aye.

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

**Change Order No. 1 for Improvement District No. 5758 Approved:**

Commissioner Mahoney moved approval of Change Order No. 1 for an increase of \$91,482.34 for Improvement District No. 5758.

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

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

**Resolution Adopted Approving Certain Actions and Awarding Sale of \$26,285,000 Refunding Improvement Bonds, Series 2008E:**

The Board received a communication from Finance Director Kent Costin stating on December 15, 2008 the City issued Refunding Improvement Bonds, Series 2008E, to reimburse the City's capital project fund for projects that are completed and have been assessed in 2008.

Mr. Costin said the bond sale was held today and the best bid was 5.583%, slightly above the estimated 5.3%.

Commissioner Wimmer moved the Resolution entitled "Resolution Approving Certain Actions and Awarding Sale Of \$26,285,000 Refunding Improvement Bonds, Series 2008E" and referred to as Attachment "A", be adopted and attached hereto.

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

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

**Resolution Adopted Creating the Funds of Improvement Districts, Providing For and Appropriating Special Assessments for the Support and Maintenance of Said Funds, and Authorizing The Issuance of Improvement Warrants Thereon:**

Commissioner Wimmer moved the Resolution entitled "Creating the Funds of Improvement Districts, Providing For and Appropriating Special Assessments for the Support and Maintenance of Said Funds, and Authorizing the Issuance of Improvement Warrants" and referred to as Attachment "B", be adopted and attached hereto.

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

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

**Resolution Adopted Authorizing the Issuance of \$26,285,000 Refunding Improvement Bonds, Series 2008E Prescribing the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof:**

Commissioner Wimmer moved the Resolution entitled "Authorizing the Issuance of \$26,285,000 Refunding Improvement Bonds, Series 2008E Prescribing

the Terms and Covenants Thereof, and Creating a Fund for the Payment Thereof" and referred to as Attachment "C", be adopted and attached hereto.

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

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

**Appointments to the Metropolitan Council of Governments Policy Board Approved:**

The Board received a communication from Mayor Walaker stating the City has been asked by the Fargo-Moorhead Metropolitan Council of Governments to certify the names of its appointees to the Metropolitan Council of Governments Policy Board for 2009. He said current members are:

City Commissioner Tim Mahoney  
City Commissioner Dave Piepkorn  
City Commissioner Mike Williams  
City Commissioner Brad Wimmer  
Planning Commission Chair John Paulsen  
Planning Commissioner Rich Slagle  
Planning Commissioner Jan Ulferts Stewart  
Jeffrey Morrau and Kristine Fremstad will serve as the Planning Commission's alternates

Mayor Walaker requested that the Board confirm these appointments for the year 2009.

Commissioner Williams moved the Board approve and confirm the above-listed City of Fargo appointees to the Metropolitan Council of Governments Policy Board for 2009.

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

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

**Contract with John Olson to Provide Lobbying Services During the 2009 Legislative Session Approved:**

The Board received a communication from City Administrator Pat Zavoral stating that at the November 3, 2008 City Commission meeting, the Board agreed to employ a lobbyist for the upcoming North Dakota legislative session. He said a lobbying list was secured from the Secretary of State website and a scope of work was prepared from which these firms could submit letters of interest. After review of the submitted letters, he said, two firms were selected to interview and Bismarck attorney John Olson is being recommended as the City of Fargo lobbyist for the 2009 Legislative Session. Mr. Olson has a great deal of lobbying experience, he said, and comes highly recommended by the North Dakota League of Cities and local legislators. Mr. Olson submitted a contract, he stated, that calls for a fee of \$30,000 over the term of the legislative session. Mr. Zavoral said Mr. Olson will be available to

elected officials and City staff during the session on an on-call basis and will participate in the weekly conference calls with the ND League of Cities.

Mayor Walaker said, at a recent meeting of area legislators, he was impressed with the rapport Mr. Olson had with the elected officials.

Commissioner Wimmer said it is important for the City to have a representative on important issues.

Commissioner Wimmer moved a contract with John Olson to provide lobbying services for the City of Fargo during the 2009 Legislative Session for a fee of \$30,000 be approved.

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

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

### **Annexation and Extraterritorial Zoning Agreement with West Fargo Approved:**

The Board received a communication from Planning Director Jim Gilmour stating there is a need to amend the extraterritorial zoning and annexation agreement with West Fargo. He said the agreement that addressed extraterritorial zoning on the north side of town has expired and on the south side of town, the outcome of the disputes with Horace regarding annexation has left portions of the Fargo extraterritorial zoning jurisdiction not contiguous to Fargo. Annexation by both cities, he stated, has eliminated the need for some portions of the previous agreement. He submitted a new extraterritorial zoning and annexation agreement with the City of West Fargo and this agreement retains the relevant aspects of the current agreements and extends the term for 10 years with the following provisions:

Fargo may annex a small parcel of property along the Sheyenne River on the north side of 52nd Avenue South. The City of Fargo owned parcel is adjacent to the city water intake on the river.

West Fargo may annex other parcels of property north of 52nd Avenue South that are already surrounded by the City of West Fargo.

Fargo may annex parcels of land in Section 5 of Stanley Township on the east side of the Sheyenne River.

The extraterritorial zoning jurisdiction boundary on the north side of town will follow the same boundary as the previous agreement.

The agreement retains language that improvements on arterial and collector roads along the boundaries of the Cities of Fargo and West Fargo will be allocated equally between Fargo and West Fargo.

Commissioner Williams moved the Annexation and Extraterritorial Zoning Agreement between the City of Fargo and the City of West Fargo be approved.

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

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

**Application Filed by Appareo Systems, LLC for a Five Year Property Tax Exemption Approved:**

A Hearing had been set for this day and hour on an application filed by Appareo Systems, LLC for a five year property tax exemption for the project at 1810 NDSU Research Circle North where the applicant will develop portable consumer electronics combined with 3D graphics software for capturing, rendering and replaying outdoor activities.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

City Administrator Pat Zavoral said there has been discussion in the Tax Review Committee regarding different businesses in the same building applying for separate tax exemptions and the committee recommended project-by-project review.

Ahron Walter, Appareo Systems, stated the company has doubled its workforce in the last year and expects continued growth with development of new software.

Commissioner Wimmer moved that the application filed by Appareo Systems, LLC for a five year 100% property tax exemption pursuant to Chapter 40-57.1, NDCC be approved.

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

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

**Parcels of Land in Asplin Third Addition Rezoned (3010, 3030, 3050 and 3100 41st Street South):**

At a Hearing held on November 12, 2008 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial and AG, Agricultural to LC, Limited Commercial on Lot 3, Block 1, Asplin Third Addition.

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

Commissioner Wimmer 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 on the basis that the proposal satisfactorily complies with the Area Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, 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 in Asplin Third Addition:**

Commissioner Wimmer 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 Asplin Third Addition to the City of Fargo be placed on first reading.

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

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

**Resolution Adopted Approving Asplin Third Addition:**

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, A Plat has been filed in the office of the City Auditor entitled "Asplin Third Addition" containing 3 Lots, 1 Block and 14.368 acres of land more or less, located at 3010, 3030, 3050, and 3100 41st Street South; and

WHEREAS, A Hearing was scheduled to be held November 12, 2008 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on December 8 and 15, 2008 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., December 15, 2008 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Asplin Third Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

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

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

**Parcels of Land in Laurence Yunker 1st Addition Rezoned (2900 Broadway North):**

At a Hearing held on November 12, 2008 the Fargo Planning Commission recommended approval of a change in zoning from SR-2, Single-Dwelling to LC, Limited Commercial on Block 4, Laurence Yunker 1st Addition.

The City Auditor's Office published a Notice of Hearing stating December 1, 2008 was the time and date set for said Hearing at which time all interested persons could appear and would be heard and at that meeting.

At the December 1, 2008 meeting the Hearing was continued to this day and hour.

Senior Planner Jim Hinderaker said rezoning to Limited Commercial will bring the property into compliance and allow for set back issues on the east side of the building. He said the building project will not increase seating so parking requirements are not affected.

Commissioner Wimmer 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 on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Williams, Piepkorn, Mahoney 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 Laurence Yunker 1st Addition to the City of Fargo:**

Commissioner Wimmer 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 Laurence Yunker 1st Addition to the City of Fargo be placed on first reading.

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

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

#### **Payment of Special Assessment Taxes Levied Against North Dakota Horse Park Deferred Until February 15, 2012:**

The Board received a communication from Heather Benson, General Manager of the North Dakota Horse Park, and Dr. James Tilton, Executive Board President of Horse Race North Dakota, asking for a thirty-six month deferral on their special assessment taxes levied on Parcel 01-6560-00100-000 and Parcel 01-6560-00200-000. They said the 2008 statement of taxes requires the first payment on the Special Assessment taxes to occur February 15, 2009 and they would like to defer this payment until February 15, 2012. The request for deferment, they said, is part of an

ongoing effort to allow additional time for development to occur on the parcel immediately to the east of the North Dakota Horse Park. Sheyenne Development, they said, is actively pursuing projects on the adjoining parcel to satisfy the taxation requirements of the TIF District. In addition, they said, the North Dakota Horse Park is actively pursuing development on its property as well as creating a more stable financial base from which to refund any outstanding taxes by 2012. Thirty six months, they said, would give sufficient time for these projects to occur.

City Administrator Pat Zavoral stated the thirty -six month deferral will allow for development of the adjacent properties which will help with specials along the way.

Heather Benson, General Manager of the North Dakota Horse Park, said the Horse Park consists of two non-profit entities and the deferral will allow a little more time to see development take place. She said the organization is in the midst of developing a 5 year plan to increase revenue which includes plans for more year-round equine events.

Commissioner Wimmer said this is a chance for economic development and tourism to help make the Horse Park successful.

In response to a question from Commissioner Mahoney regarding how things would be different in three years and plans in the event the deferral request is denied, Ms. Benson said she has only been with the Horse Park since March but has already added a dozen new equine events in 2009 and is planning for more year-round events. She said if the request is denied, major number crunching will occur. Ms. Benson said NDSU is also working on year-round events including horse shows, PRC rodeos and possible kennel club events - making it truly a North Dakota race park.

In response to a question from Commissioner Williams regarding funding from the FM Convention Bureau, Ms. Benson said she plans on working more closely with them but the special assessment payment is rather large for them. She said \$118,000 is due February 15, 2009.

In response to questions from Mayor Walaker regarding attendance and setting aside money for taxes, Ms. Benson said attendance is up 38% and the 5-year plan will include the funds for repayment in the budget.

Commissioner Wimmer said he supports the deferral to help the Horse Park succeed by encouraging development. He said the Horse Park is an asset to the area.

Commissioner Mahoney moved payment of special assessment taxes levied against North Dakota Horse Park property be deferred until February 15, 2012, with an annual review by the City Commission.

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

Commissioner Williams voted nay.

The motion was declared carried.

### **Variance of the City's 30-Day Waiting Period Guideline for Transfer of Gaming Operations Approved:**

The Board received a communication from. Randy Thorson, President of Mr. G's, stating Mr. G's currently has a lease agreement with the North Dakota Association for the Disabled, Inc. (NDAD) for the organization's charitable gaming. He said NDAD has requested that they be released from this lease agreement and that

Mr. G's find another organization to take its place and the Fargo Youth Commission is willing and ready to commence charitable gaming at Mr. G's as soon as January 1, 2009. Mr. Thorson said Gambling Guidelines adopted by the Fargo City Commission state that a third site operated by a charitable organization must be vacant of any gaming for thirty days prior to approval and the Mr. G's location will be the third gaming site for the Fargo Youth Commission. Because this is a voluntary vacation of the gaming operation by NDAD and for the benefit of the Fargo Youth Commission, Mr. Thorson said he is requesting that a variance of the 30-day waiting period between the two gaming leases be granted. He submitted a letter from the Fargo Youth Commission supporting the waiver of the 30-day waiting period.

Gaming Auditor Terri Leier-Sprenger said in 2005, charities were only allowed 2 gaming sites and upon review, a 30-day waiting period was put into place in order to prevent pirating when charities wanted a third location. She stated NDAD volunteered to leave so it does not appear to be pirating. She said the Fargo Youth Commission has had 2 gaming sites in Fargo for many years and should be able to handle a third site. The waiting period, she said, allows time for background checks and completion of a Limited Scope Review.

Commissioner Wimmer moved, in consideration of this unique situation, the variance to the City's 30-day waiting period guideline for transfer of gaming operations at Mr. G's be approved.

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

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

At 6:02 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

### **Discussion Regarding the Amendment to "The Mayor's Committee on Site Access, 1991 Year End Report" Postponed to January 12, 2009:**

The Board received a communication from Planner Nate Bailly and Civic Auditorium Director Bob Getz, recommending that the "The Mayor's Committee on Site Access, 1991 Year End Report" be amended. They stated the purpose of the document is to ensure that the City of Fargo's buildings are in compliance with Section 504 of the Rehabilitation Act of 1973 (as amended) and the Americans with Disabilities Act (ADA), which requires all places of public accommodation and businesses with 15 or more employees to provide equal access to services and prohibits discrimination in employment. In response to a citizen inquiry, they stated, the report has been amended to reflect the designation of ADA Co-Coordinators, clarification of the Grievance Procedure and clarification of the City's responsibility to notify citizens of its ADA compliance, which includes appropriate posting of information on the City's website.

City Administrator Pat Zavoral stated the person making the inquiry is not able to be here and she was instrumental in bringing attention to this item. He said there are also sections of the amendment that need further discussion by staff.

Commissioner Wimmer moved discussion regarding Amendment of "The Mayor's Committee on Site Access, 1991 Year End Report" be postponed to January 12, 2009.

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

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

**Amendment to the Agreement for Transit Services with NDSU for an Additional NDSU Bus Route Approved:**

The Board received a communication from Planning Director Jim Gilmour recommending that an additional on-campus bus route be added. He said the route, which would connect with 13A and 13B, would also provide access between the main campus and a hotel, several restaurants and housing. He stated NDSU is willing to provide the money needed for the cost of this new route and has worked with City Attorney Erik Johnson to amend one of the existing transit agreements to provide money for this route. The current agreement, he stated, runs to August 17, 2009 and the route can be continued beyond that date as part of the transit agreements for the 2009-2010 school year.

Transit Administrator Julie Bommelman said the new route will feed into existing routes, serving more of the NDSU campus and the Stop-N-Go area. She said this agreement will terminate in August so there will be opportunity to test it out.

Commissioner Mahoney moved the Amendment to the Transit Services Agreement with NDSU for the operation of Route 34 at a cost of \$65,000 be approved.

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

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

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, December 29, 2008.

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

The time at adjournment was 6:16 o'clock p.m.