

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: February 9, 2009:

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, February 9, 2009.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Piepkorn moved the Order of the Agenda be approved moving Items "e", "f", "g", "h", "i" and "m" from the Consent Agenda to the Regular Agenda after Item No. 6.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on January 26, 2009 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 1/26/09:
 - (1) Enacting Section 20-0216 and Amending Sections 20-0202, 20-0401, 20-0402.N, 20-0402.S, 20-0403.B, 20-0403.D, 20-0501, 20-0504.D, 20-0609.A, 20-0611.G, 20-0611.I, 20-0611.J, 20-0701.A.3, 20-0702.A, 20-0705.C.3 and 4, 20-0705.D.3 and 20-0910.A of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Base Zoning Districts, Use Regulations, Dimensional Standards, Subdivision Design and Improvements and General Development Standards.
 - (2) Amending Section 31-0102 of Article 31-01 of Chapter 31 of the Fargo Municipal Code Relating to the International Property Maintenance Code and Inspection Fees for Activities and Services.
 - (3) Amending Sections of the Fargo Municipal Code and Land Development Code Relating to Typographical Errors.

- b. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Article 25-36 of the Fargo Municipal Code Relating to Re-Roofing Contractors.
- c. Receive GFOA Certificate of Achievement of Excellence in Financial Reporting Award for the 2007 reporting year.
- d. Fargo Dome Authority recommendation to invest excess sales tax surplus funds to the escrow account.
- e. Fire Department budget adjustments in the amount of \$1,559.14 for F-M Haz Mat training (moved to after Item No. "6" in the Regular Agenda).
- f. Fire Department FY2008 Staffing for Adequate Fire and Emergency Response (SAFER) grant in the amount of \$1,300,560 (CFDA #97.044) (moved to after Item No. "6" in the Regular Agenda).
- g. Purchase of self-contained breathing apparatus from Grand Forks Fire Equipment (moved to after Item No. "6" in the Regular Agenda).
- h. Professional services contract for indigent defense services with the Stormy Vickers Law Office for fiscal years 2009, 2010 and 2011(moved to after Item No. "6" in the Regular Agenda).
- i. Agreement and Memorandum of Agreement Regarding Special Assessments with Scott Hennen representing 64 Broadway Investments, LLC for relocation of electrical cabinets.
- j. Receive and file amendment to the limited franchise agreement with Cass County Electric adding area annexed by the City on 12/29/08.
- k. Applications for property tax exemptions for improvements made to buildings:
 - (1) Jonathan and Belinda Forknell, 3726 River Drive South (3 year).
 - (2) Wes and Mary Braunberger, 1444 Third Street North (3 year).
 - (3) Troy and Kim Kelsey, 2514 Ninth Street South (5 year).
- l. Change Orders for the Main Library furnishings: No. 1 from Function Furniture for an increase of \$2,850.78 and No. 1 from Christianson's for an increase of \$38,121.01 (moved to after Item No. "6" in the Regular Agenda).
- m. Library budget adjustment in the amount of \$53,000 and grant agreement with the ALA/FINRA Smartinvesting@yourlibrary grant program (moved to after Item No. "6" in the Regular Agenda).
- n. Revision of Policy No. 300-004 Education Assistance/Tuition Reimbursement.
- o. Revision of Policy No. 500-005 Family and Medical Leave.

- p. Applications for Games of Chance:
 - (1) Fargo Motor Patrol, Inc. for a raffle on 4/4/09.
 - (2) NDSU Saddle and Sirloin for a raffle on 4/2/09.
 - (3) Cathedral of St. Mary for bingo on 5/3/09.
 - (4) Clara Barton Hawthorne PTA for a raffle on 3/28/09.
 - (5) Kevin Scufsa Foundation Benefit for a raffle on 3/25/09; Public Spirited Resolution.
 - (6) Shanley High School for a raffle on 4/25/09.
 - (7) Sandhill Archers, Inc. for a raffle on 2/20/09; Public Spirited Resolution.
- q. Encroachment Agreement with Bullinger Enterprises, LLP for the downtown Cityscapes Development.
- r. Donation of the Water Treatment Plant's old Graphite Furness Atomic Absorption Spectrometer to NDSU.
- s. Bid award to General Repair Service in the amount of \$43,863 for a trailer mounted emergency pump at the Wastewater Treatment Plant.
- t. Engineering Contract Amendment No. 1 with Ulteig Engineers for Project No. 5726.
- u. Engineering Contract Amendment No. 1 with Moore Engineering for Project No. 5729.
- v. Engineering Contract Amendment No. 1 with Ulteig Engineers for Project No. 5808.
- w. Engineering Contract Amendment No. 2 with Kadrmas, Lee & Jackson for Project No. 5798.
- x. Change Orders 1, 3 and 4 for a total increase of \$17,548.22 for Project No. 5798.
- y. 2009 Capital Improvement Projects.
- z. \$250,000 street sales tax payment in lieu of TCSP federal grant funds for Project No. 5198.
- aa. USGS Joint Funding Agreement for 2009 spring Red River monitoring at 8 locations.
- bb. First Amendment to Joint Powers Agreement for the Southside Flood Control Project.
- cc. Addendum No. 1 for the FM COG Agreement for Project No. 5768.

- dd. Engineering Services Agreement with HWS Consulting Group for Project No. 5426.
- ee. Change Order No. 1 for an increase of \$4,452.60 for Project No. 5849.
- ff. Bills in the amount of \$3,082,628.87.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Seal Coat and Incidentals Improvement District No. 5864 (Various Locations City-Wide):

Commissioner Wimmer moved the following action be taken in connection with Seal Coat and Incidentals Improvement District No. 5864:

Adopt Resolution Creating Improvement District No. 5864:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5864, in the City of Fargo, North Dakota, be created

LOCATION: (Section 2)

On 14th Avenue South from 48th Street South to 50th Street South.

On 15th Avenue South from 45th Street South to 50th Street South.

On 16th Avenue South from 45th Street South to 336' west of 51st Street South.

On 17th Avenue South from 45th Street South to 339' west of 51st Street South.

On 19th Avenue South from 453' east of 49th Street South to 205' west of 52nd Street South.

On 50th Street South from 13th Avenue South to 15th Avenue South.

On 47th Street South from 16th Avenue South to 17th Avenue South.

On 48th Street South from 13th Avenue South to 16th Avenue South.

On 51st Street South from 16th Avenue South to 17th Avenue South.

On 49th Street South from 17th Avenue South to 21st Avenue South.

On 50th Street South from 17th Avenue South to 21st Avenue South.

On 52nd Street South from 17th Avenue South to 21st Avenue South.

LOCATION: (Section 5)

On 43rd Street South from 42nd Avenue South to 44th Avenue South.

On Ashton Court South from 41st Avenue South to 43rd Avenue South.

On Woodhaven Street South from 41st Avenue South to 44th Avenue South.

On 41st Avenue South from Ashton Court South to Woodhaven Street South.

On 42nd Avenue South from 43rd Street South to Ashton Court South.

On 43rd Avenue South from Ashton Court South to Woodhaven Street South.

On 44th Avenue South from 42nd Street South to 43rd Street South.

COMPRISING: (Section 2)

Lots 1 through 7, inclusive, Block 1.

Lots 1 through 10, inclusive, Block 2.
Lots 1 through 3, inclusive, Block 3.
All in Noridian Center Addition.

Lots 4 through 6, inclusive, Block 1.
Lots 1 and 2, Block 3.
Lots 1A, 1B, 1C, and 1E, Block 4.
Lots 2 and 3, Block 5.
All in Replat of Wells Fargo Addition.

Lots 1 through 3, inclusive, Block 1.
All in Wells Fargo Park, a Replat of Lots 2, 3, 7 and 8 of Block 1 of the Replat of Wells Fargo Addition.

Lot 1, Block 1.
All in Roers 1st Addition.

Lots 1 and 2, Block 1.
All in Scheels All Sports Center Addition.

Lots 1 through 16, inclusive, Block 1.
Lots 1 through 4, inclusive, Block 2.
All in Skaff's 1st Addition.

Lots 1 through 12, inclusive, Block 1.
All in Skaff's 2nd Addition.

Lots 1 and 2, Block 1.
All in Ramsey Addition.

Lot 1, Block 1.
All in Replat of Home Depot Addition.

Lot 1, Block 1.
All in Dakota West Addition.

Lot 1, Block 1.
Lots 1 through 33, inclusive, Block 2.
Lots 1 through 33, inclusive, Block 3.
Lots 1 through 17, inclusive, Block 4.
All in Dakota West 2nd Addition.

Lot 1, Block 1.
All in Schatz 2nd Addition.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 20, inclusive, Block 2.
Lots 1 through 9, inclusive, Block 3.

All in Amber Fields 1st Addition.

Lots 1 through 11, inclusive, Block 1.
Lots 1 through 16, inclusive, Block 2.
All in Amber Fields 2nd Addition.

COMPRISING: (Section 5)

Lots 1 through 25, Block 1.
Lots 1 through 17, Block 2.
Lots 1 through 27, Block 3.
Lots 1 through 9, Block 4.
All in Woodhaven 1st Addition.

Lot 1, Block 1.
All in Woodhaven 2nd Addition.

Lots 1 through 8, Block 1.
Lots 1 through 3, Block 2.
Lot 1, Block 3.
Lot 1, Block 4.
Lot 1, Block 5.
All in Woodhaven 3rd Addition.

Lot 1, Block 1.
All in Southwest Elementary Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Seal Coat and Incidentals Improvement District No. 5864, 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. 5864:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5864, 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 \$274,500.)

Order Plans and Specifications for Improvement District No. 5864:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5864, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5864:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5864, 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. 5864, 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 Seal Coat 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 Seal Coat & Incidentals, Improvement District No. 5864 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 Seal Coat & 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. 5864:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5864, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729 (Various Locations in South West Fargo):

Commissioner Wimmer moved the following action be taken in connection with Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729:

Adopt Resolution Creating Improvement District No. 5729:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5729, in the City of Fargo, North Dakota, be created

Drain #40 Channel Improvements at the following locations:

5th Avenue South
2nd Avenue South
Main Avenue North through 3rd Avenue North
7th Avenue North
Entrance into old landfill
12th Avenue North
15th Avenue North
16th Avenue North
19th Avenue North

COMPRISING

Lots 1 through 2, inclusive, Block 1.
All in Northern Sheyenne 1st Addition.

Lots 1 through 3, inclusive, Block 1.
All in North Dakota Horsepark Addition.

Lot 1, Block 1.
All in Reed Substation Addition.

Lots 1 through 4, inclusive, Block 1.
Lot 1, Block 2.
All in Sheyenne Industrial Center Second Addition.

Lots 1, 2, 6 and 7, Block 1.
Lots 1 through 3, inclusive, Block 2.
Lots 1 through 4, inclusive, Block 3.
Vacated 14th Avenue North.
All in Sheyenne Industrial Center Third Addition.

Lots 1, 4 and 5, Block 1.
All in Sheyenne Industrial Center Fourth Addition.

Lots 1 through 2, inclusive, Block 1.
All in Sheyenne Industrial Center Fifth Addition.
Lot 1, Block 1.
All in 47th Street North Addition.

Lots 1 through 7, inclusive, Block 1.
Lots 1 through 3, inclusive, Block 2.
Lots 1 through 6, inclusive, Block 3.
Lots 1 through 6, inclusive, Block 4.

Lots 1 through 3, inclusive, Block 5.
Vacated 14th Avenue North.
All in Fayland Industrial First Addition.

Lot 1, Block 1.
All in Marvin Subdivision.

Lots 2 through 5, inclusive, Block 1.
All in Tecton – GPK Addition.

Lots 1, 2, 3, 4, 25 and 26.
All in Hector's Subdivision.

Lots 1 through 10, inclusive, Block 1.
Lot 1, Block 2.
All in the replat of Lot 27, Hector's Subdivision.

Lots 1 through 4, inclusive, Block 8.
Lot 1, Block 9.
Lots 1 through 6, inclusive, Block 10.
Lots 1 through 6, inclusive, Block 11.
All in Industrial Subdivision No. 1 and its replats.

Lots 1 through 5, inclusive, Block 12.
Lots 1 through 4, inclusive, Block 13.
All in Industrial Subdivision No. 2.

Lots 4 through 7, inclusive, Block 17.
All in the replat of Industrial Subdivision No. 3.

Lots 1 through 5, inclusive, Block 4.
Lots 1 through 6, inclusive, Block 5.
Lots 1 through 8, inclusive, Block 6.
Lots 1 through 8, inclusive, Block 7.
All in Jacob H. Goldberg Addition No. 2 and its replats.

Lot 1, Block 1
All in Lafarge Dakota Subdivision.

Lots 3 through 4, inclusive, Block 1.
All in A.I. Subdivision.

Lots 1 through 2, inclusive, Block 1.
All in A.I. Second Addition.

Lot 1, Block 1.
All in Industrial Acres Addition.
Lot 1, Block 1.

All in Persellin Addition.

Lot 1, Block 1.
All in Llad Subdivision.

Lot 1, Block 1.
All in Galarneau Subdivision.

Lot 1, Block 1.
All in Gadberry's Addition.

Lots 1 through 4, inclusive, Block 1.
All in Rosa Investment Addition.

Lot 1, Block 1.
All in Lucken Addition.

Lots 3 through 6, inclusive.
Lots 11 through 14, inclusive, and vacated 10th Avenue.
All in Arndt's Devener Subdivision.

Lots 1 through 3, inclusive, Block 1.
All in L & L Addition.

Lots 1 through 5, inclusive, and 10 through 14, inclusive, Block 1.
Lots 1 through 24, inclusive, Block 2.
Lots 1 through 11, inclusive, and 14 through 22, inclusive, Block 3.
Lots 1 and 2, Block 3A.
Lots 1 through 17, inclusive, and 21 through 29, inclusive, Block 4.
Lots 1 through 7, inclusive, Block 4A.
Lots 1 through 15, inclusive, Block 5A.
Lots 1 through 18, inclusive, Block 6A.
Lots 1 through 9, inclusive, Block 7A.
Lots 1 through 23, inclusive, Block 8A.
All in E.G. Clapp First Addition and its replats.

Lots 1 through 3, inclusive, Block 1.
All in Pierce's Third Addition.

Lot 1, Block 1.
All in Prairie Public Broadcasting Addition.

Lots 1 and 2, Block 1.
All in Wallwork's Subdivision.

Lots 1 through 9, inclusive, Block 1.
All in Sprague's Subdivision.
Lot 1, Block 2.

All in Geller Addition.

Lots 1 through 2, inclusive, Block 1.
All in Kounovsky's First Addition.

Lots 1 through 15, inclusive.
All in Porritt's Subdivision.

Lots 3 and 6, Block 1.
Lots 1 through 4, inclusive, and 6, Block 2.
All in West Park Subdivision.

Lots 1 through 9, inclusive, Block 1.
Lots 1 through 20, inclusive, Block 2.
Lots 1 through 4, inclusive, Block 3.
Lots 1 through 8, inclusive, Block 4.
Lot 1, Block 6.
All in West Park Second Subdivision.

Lot 1, Block 1.
All in West Park Third Addition.

Lots 1 through 3, inclusive, Block 1.
All in Corwin Addition.

Lots 1 through 2, inclusive, Block 1.
All in Progressive AG Addition.

Lots 1 through 2, inclusive, Block 1.
All in Lunde Addition.

Lot 1, Block 1.
All in Buena Vista Courts Addition.

Lots 1 and 2, Block 1.
All in 45th Street Park Addition.

Lot 4, Block 1.
All in 45th Street Park Second Addition.

Lots 1 through 2, inclusive, Block 1.
All in 45th Street Park Third Addition.

Lots 1 through 3, inclusive, Block 1.
All in 45th Street Park Fourth Addition.

Lots 1 through 3, inclusive, Block 1.
All in DeMaio Addition.

Lots 1 through 8, inclusive, and 11 through 14, inclusive, Block 1.
Lots 1 through 6, inclusive, Block 2.
Lot 1, Block 3.
Lot 1, Block 4.
Lots 1 and 2, Block 5.
Lots 1 through 7, inclusive, Block 6.
Lots 1 and 2, Block 7.
All in Village West Addition.

Lots 1 through 9, inclusive, and 24, Block 1.
Lots 1 through 11, inclusive, Block 5.
Lots 1 through 5, inclusive, Block 6.
Lots 1 through 6, inclusive, Block 7.
Lots 1 through 14, inclusive, Block 8.
Lots 1 through 13, inclusive, Block 9 and vacated cul-de-sacs.
Lots 1 through 3, inclusive, Block A.
Lots 1 through 8, inclusive, Block B.
All in Village West Second Addition and its replats.

Lots 1 and 2, Block 1.
All in Village West Third Addition.

Lots 1 through 3, inclusive, Block 1.
All in Sisters Path Addition.

Lots 1 through 3, inclusive, Block 1.
All in Tower Park Plaza First Addition.

Lots 1 through 3, inclusive, Block 1.
All in Builder's Square First Addition.

Lots 1 through 71, inclusive, Block 1.
Lots 1 through 6, inclusive, Block 2.
Lots 1 through 33, inclusive, Block 3.
Lots 1 through 7, inclusive, Block 4.
Lots 1 through 20, inclusive, Block 5.
Lots 1 through 16, inclusive, Block 6.
Lots 1 through 4, inclusive, Block 7.
All in Westfield First Addition.

Lots 1 through 6, inclusive, Block 1.
Lots 1 through 12, inclusive, Block 2.
Lots 1 through 14, inclusive, Block 3.
Lots 1 through 15, inclusive, Block 4.
Lots 1 through 20, inclusive, Block 5.
Lots 1 through 10, inclusive, Block 6.
All in Westfield Second Addition.

Lots 3 through 5, inclusive, Block 1.
All in Rabanus Second Addition.

Lots 1 and 3, Block 1.
All in Rabanus Third Addition.

Lots 1 through 2, inclusive, Block 1.
All in Rabanus Fourth Addition.

Lots 1 through 4, inclusive, Block 1.
All in Rabanus Farmstead Addition.

Lots 2, and 4 through 5, inclusive, Block 1.
All in Wal-mart First Addition.

Lot 1, Block 1.
All in Wal-mart Second Addition.

Lots 1 through 6, inclusive, Block 1.
Lots 1 through 4, inclusive, Block 2.
Lots 1 through 5, inclusive, and 8 through 12, inclusive, Block 5.
Lots 1 through 14, inclusive, Block 6.
Lots 1 through 18, inclusive, Block 7.
Lots 1 through 6, inclusive, and 9 through 14, inclusive, Block 8.
Lots 1 through 4, inclusive, Block 9.
Vacated 13½ Avenue Southwest, 14th Avenue Southwest and 43½ Street Southwest.
All in Rabanus Addition and its replats.

Lot 2, Block 1.
All in William A. Schlossman Addition.

Lots 1 through 5, inclusive, Block 1.
All in Capital Square Addition.

Lots 1 through 3, inclusive, Block 1.
All in Concierge Southwest Addition.

Lots 1 and 2, Block 1.
All in Isaak-Dosch Addition.

Lots 1 through 20.
All in West Acres Mall Addition.

Lots 1 and 2, Block 1.
Vacated 18th Avenue Southwest.
All in West Acres First Subdivision.

Lots 1 through 8, inclusive, Block 1.
Lots 1 through 7, inclusive, Block 2.
Lots 1 through 3, inclusive, Block 3.
All in West Acres Second Addition.

Lots 5 through 6, inclusive, Block 1.
Lots 1 through 12, inclusive, Block 3.
Lots 1 through 10, inclusive, Block 4.
Lots 1 through 20, inclusive, Block 5.
Lots 1 through 10, inclusive, Block 6.
Lots 1 through 10, inclusive, Block 7.
Lots 1 through 5, inclusive, Block 8.
Vacated 39th Street Southwest.
All in West Acres Fourth Addition.

Lots 1 through 3, inclusive, Block 1.
All in Safari Addition.
Lot 1, Block 1.
All in Pinehurst Addition.

Lots 1 and 2, Block 1.
All in AAA North Dakota Addition.

Lots 1 through 3, inclusive, Block 1.
All in Ekman Addition.

Lots 1 through 4, inclusive, Block 1.
All in West Acres Business Park First Addition.

Lots 2 through 3, inclusive, Block 1.
All in West Acres Business Park Second Addition.

Lots 1 through 7, inclusive, Block 1.
Lots 2 through 3, inclusive, Block 2.
All in West Acres Business Park Third Addition.

Lots 1 through 3, inclusive, Block 1.
All in West Acres Business Park Fourth Addition.

Lots 1 and 2, Block 1.
All in West Acres Business Park Fifth Addition.

Lot 1, Block 1.
All in West Acres Business Park Sixth Addition.

Lots 1, and 3 through 4, inclusive, Block 1.
All in West Acres Business Park Seventh Addition.

Lot 1, Block 1.
All in West Acres Business Park Eighth Addition.

Lot 1, Block 1.
All in West Acres Business Park Ninth Addition.

Lots 1 through 3, inclusive, Block 1.
All in West Acres Business Park Tenth Addition.

Lots 1 through 2, inclusive, Block 1.
All in GRB Subway Properties Addition.

Lot1 and 2, Block 1.
All in Kelly Prairie Pasta Addition.

Lot 1, Block 1.
All in Crop Growers Subdivision.

Lot 1, Block 1.
All in Staybridge Addition.

Lots 1 through 7, inclusive, Block 1.
All in Dakota View Estates.

Lots 1 through 4, inclusive, Block A.
All in Dakota View Estates Second Addition.

Lots 1 through 7, inclusive, Block 1.
Lots 1 through 10, inclusive, Block 2.
Lots 1 through 3, inclusive, Block 3.
All in Noridian Center Addition.

Lots 1 and 2, Block 1.
All in Scheels All Sports Center Addition.

Lot 1, Block 1.
All in Roers First Addition.

Lots 1 and 2, Block 1.
All in Ramsey Addition.

Lots 1 through 16, inclusive, Block 1.
Lots 1 through 4, inclusive, Block 2.
All in Skaff's First Addition.

Lots 1 through 12, inclusive, Block 1.
All in Skaff's Second Addition.

Lots 4, 5 and 6, Block 1.
Lots 1, 2 and 4, Block 3.
Lots 1A, 1B, 1C and 1E, Block 4.
Lots 2 and 3, Block 5.
All in Wells Fargo Addition and its replats.

Lots 1, 2 and 3, Block 1.
All in Wells Fargo Park Addition.

Lot 1, Block 1.
All in Replat of Home Depot Addition.

Lots 1 through 4, inclusive, Block 1.
All in Dakota West Addition.

Lot 1, Block 1.
Lots 1 through 33, inclusive, Block 2.
Lots 1 through 33, inclusive, Block 3.
Lots 1 through 17, inclusive, Block 4.
All in Dakota West Second Addition.

Lots 1 and 2, Block 1.
All in the replat of Schatz First Addition.

Lot 1, Block 1.
All in Schatz Second Addition.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 20, inclusive, Block 2.
Lots 1 through 9, inclusive, Block 3.
All in Amber Field's First Addition.

Lots 1 through 11, inclusive, Block 1.
Lots 1 through 16, inclusive, Block 2.
All in Amber Field's Second Addition.

All of the unplatted described as follows:

In Section 33, Township 140 North
In Section 3, Township 139 North
The East Half (E ½) of Section 4, Township 139 North
In Section 10, Township 139 North
In Section 15, Township 139 North

All of the foregoing located in Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer Force Main, Drain 40 Improvements and Incidentals Improvement District No. 5729, 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. 5729:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5729, 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 \$5,800,000.00)

Order Plans and Specifications for Improvement District No. 5729:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5729, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5729:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5729, 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. 5729, 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. 5729:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5729, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Cost Participation Agreement with West Fargo for Improvement District No. 5729:

The Board received a Cost Participation Agreement with West Fargo in connection with Drain 40 for Improvement District 5729.

Commissioner Wimmer moved the Cost Participation Agreement be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

(Commissioner Mahoney present)

Presentation of the Report of Investigation by Norman Anderson and Tom O'Halloran Regarding Conditions of South University Drive Prior to the December 10, 2008 Accident:

City Attorney Erik Johnson stated Tom O'Halloran and Norman Anderson have completed their investigation regarding the condition of South University Drive in relation to the December 10, 2008 accident.

The Board received the Report of Investigation from Mr. O'Halloran and he stated the report only states details and does not represent any opinion on the part of the investigators.

Commissioner Wimmer moved the Report of Investigation from Norman Anderson and Thomas O'Halloran be received and filed.

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

Communication Received Regarding Fargodome Financial Report and the City's Comprehensive Report:

The Board received a communication from Jon Lindgren, 2001 7th Street North, stating since the Fargodome opened for business, they have made an annual report to the citizens of Fargo. He said this report has never provided citizens with an accurate picture of the Fargodome's financial picture. Each year, he stated, the Fargodome Authority reports to the City that it has made a profit with the implication that the Fargodome returns money to taxpayers each year. He said this is reported in spite of the fact the Fargodome has never made a profit. Mr. Lindgren said the taxpayers are subsidizing the Fargodome with millions of dollars so the Fargodome incurs losses each year, not profits. He said, as former Mayor of Fargo, he is aware of the first Fargodome report issued and at the time he asked how such a profit could be reported and was told two different entities are involved, the Fargodome Authority and the City Government with the Fargodome Authority making a profit and the City, as owner, incurring the losses. This distinction between the Fargodome and Fargo's City Government, he said, is a false one and the two are one and the same. He said the City of Fargo owns the Fargodome, approves the Fargodome budget and appoints the Fargodome Authority members. Thus, he said, when the Fargodome Authority presents a financial report that differs from the City's own Fargodome data, the City is engaging in a less than ethical practice, making Fargodome finances less, rather than more transparent. He stated the City of Fargo's Comprehensive Annual Financial Report paints a much different picture of Fargodome finances than does the Fargodome Authority. For example, he said, in 2007 the Fargodome Authority reported a profit and numbers deep within the City's official Financial Report showed that the Fargodome had a loss of \$2.5 million dollars. Thus, he said, this difference between the Fargodome's picture of its finances and the real numbers has occurred each year over the entire life of the facility. He said it is important to correct this practice so that the public understands the true cost of existing and proposed arena facilities. He stated it is equally important that the citizens of Fargo understand the true cost of the Fargodome and other arenas so they do not underestimate this cost. He said his request is that the City Commission eliminates the discrepancy between

the Fargodome Authority's Financial Report and its own Comprehensive Report, requiring the Fargodome Authority to give citizens access to an accurate picture of Fargodome finances.

City Finance Director Kent Costin said the Comprehensive Annual Financial Report (CAFR), used by the City, is in the prescribed format of the General Accounting Standards Board. He said depreciation of the Fargodome, a \$60 to \$70 million facility, amounts to \$2.6 million a year. The Fargodome report, he said, is an operating report and the City consolidates all activity into the CAFR. Interpretation of the financial reports is the issue, he said, not the presentation of the reports.

Mr. Lindgren stated the honest and helpful way of reporting to the public is to use the City's financial report. He said the Fargodome should share in its successes; not by reporting profits which are subjective.

Commissioner Mahoney moved the communication from Jon Lindgren be received and filed.

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

Renaissance Zone Project for Intelligent InSites, Inc. Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Intelligent InSites, Inc. for a business leasing property as part of a zone project at 102 Broadway.

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 Law states "a business that purchases or leases property as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone". He said the Fargo Renaissance Zone Development Plan further states "Tenant must be leasing space in a building that has been approved as a zone project to be eligible for consideration". He stated the Renaissance Zone Authority felt that lease projects such as the application from Intelligent InSites, Inc. would generally be straightforward and could be advanced to the City Commission following staff review and would generally not require direct Authority action. He said staff review found the applicant has met the aforementioned requirements. He said the project addresses the business retention and expansion goals stated in the Renaissance Zone Development Plan.

Commissioner Piepkorn moved the Renaissance Zone application filed by Intelligent InSites, Inc. for a project located at 102 Broadway be approved and the income tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Renaissance Zone Project for TL Stroh Architects Ltd. Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for TL Stroh Architects Ltd. for a business leasing property as part of a zone project at 8 North 7th Street.

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 Law states "a business that purchases or leases property as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone". He said the Fargo Renaissance Zone Development Plan further states "Tenant must be leasing space in a building that has been approved as a zone project to be eligible for consideration". He stated the Renaissance Zone Authority felt that lease projects such as the application from TL Stroh Architects Ltd. would generally be straightforward and could be advanced to the City Commission following staff review and would generally not require direct Authority action. He said staff review found the applicant has met the aforementioned requirements. He said the project addresses the business retention and expansion goals stated in the Renaissance Zone Development Plan.

Commissioner Piepkorn moved the Renaissance Zone application filed by TL Stroh Architects Ltd. for a project located at 8 North 7th Street be approved and the income tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Parcels of Land in Hectors Subdivision Rezoned (4106 19th Avenue North):

At a Hearing held on January 14, 2009 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GC, General Commercial on a portion of Lot 13 of Hectors Subdivision.

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

Senior Planner Jim Hinderaker said the growth plan supports the zoning change. He said the major issue is the interim time period for transition from rural to commercial use. The petitioner, he said, will continue to live in the home on the property making it a good transition to commercial.

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 2007 Growth 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 Lying in Hectors Subdivision 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 Hectors Subdivision 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.

Text Amendment to Section 20-0609 of Article 20-06 of Chapter 20 of the Land Development Code Approved:

A Hearing had been held by the Fargo Planning Commission on January 14, 2009 for the purpose of considering a request for a text amendment to Section 20-0609 of Article 20-06 of Chapter 20 of the Land Development Code would repeal the majority of the existing Sidewalk Waiver Guidelines while establishing a provision for an Alternative Sidewalk Plan that retains the ability to request a sidewalk waiver at the time of approval of a subdivision and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

There have been no written or verbal protests to the request and no one is present to protest thereto.

Senior Planner Jim Hinderaker said the major change is streamlining of the language in regards to sidewalk planning at the time of development

In response to a question from Commissioner Mahoney regarding waivers for new residents moving into an area after being platted, Mr. Hinderaker said a sidewalk waiver is not allowed. He said the text amendment allows for connectivity of neighborhoods and sidewalks are a major component for accomplishing this.

Commissioner Wimmer moved the request be approved on the basis the proposed Text Amendment complies with Section 20-0904.E (1-3) of the Land Development Code.

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.

First Reading of an Ordinance Relating to Sidewalks:

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 Amending Section 20-0609 of Article 20-06 of Chapter 20 of the Land Development Code Relating to Sidewalks 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.

Bid Awarded for Project No. 5728 to Riley Brothers Company:

The Board received a communication from City Engineer Mark Bittner stating bids were opened on February 4, 2009 for Project No. 5729. He said the Engineer's estimate for the Project was \$7,500,000 and the low bid was submitted by Riley Brothers Company at \$7,360,511. Four bids, he said, were not opened due to a discrepancy, which was the exclusion of the wbe/mbe form in the bid security envelope as specified in the bid documents. He said the Engineering Department staff recommends concurrence in the Houston Engineering's bid award to Riley Brothers Company in the amount of \$7,360,511 as the lowest and best bid, contingent upon concurrent approval by the Department of Health.

The Board received a second communication from City Engineer Mark Bittner stating several of the contractors stated the confusion for the missing documentation resulted from the ambiguity between the Bids Wanted and the Specifications. After consulting with the City Attorney, he said, there was a recommendation to reject all bids and to rebid the Project.

Mr. Bittner stated City Attorney Garrylle Stewart recommended to not open the four bids. When similar situations have occurred in the past, he said, bids have been rejected and rebid. He stated the recommendation was then made to award the bid because there was no ambiguity in the contract requirements. After the bid opening, Mr. Bittner, said one of the rejected bidders came forward saying their bid was lower than the awarded bid. He said the decision is ultimately the Board's.

City Attorney Erik Johnson said in 2007 the law changed with a provision to approve the lowest responsible bid unless all bids were unsatisfactory or there was evidence of collusion. He said before 2007 all bids could be rejected but the law now indicates the award goes to the apparent low bidder.

David Cullen, attorney for the Fabyanske Law Firm, said he reviewed the North Dakota Century Code and he said it clearly stated that once bids are opened they should award to the lowest bidder unless bids are unsatisfactory or deceptive. He said the bid ad and the project manual clearly states the forms are required.

Commissioner Wimmer moved the bid for Project No. 5728 be awarded to Riley Brothers Company.

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.

At 5:55 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Appropriate Staff Directed to Re-advertise for Proposed Route 34 and to Revise the Amendment to the Agreement with NDSU:

The Board received a communication from City Attorney Erik Johnson stating that at the regular City Commission meeting on December 29, 2008 the Board approved a motion directing the staff to seek an advisory opinion from the Federal Transit Administration (FTA) as to whether or not the proposed Route 34 (servicing the area in and around the NDSU campus) is a "charter service" under the FTA regulations. He said it was the position of the Valley Bus Company that the proposed Route 34 was a "charter service" under federal regulations and, therefore, private companies should be given an opportunity to provide this service. On January 21, 2009, he stated, Jim Gilmour submitted the request and the FTA responded in a manner favorable to the City's adding Route 34. He said FTA denied the request for issuance of an advisory opinion because, "...we determined that the questions posed in your advisory opinion request have been addressed in previously issued advisory opinions, which addressed the question of adding additional routes." He stated, in the Miller Transportation case, the Transit Administration initially found the bus route constituted a "shuttle service" and therefore violated federal regulations; however, upon reconsideration, the Transit Administration issued an amended advisory opinion saying that the proposed route did, in fact, share common stops with other routes in the River City Transit system and the bus route in question did not constitute a charter service. He said a letter dated February 2, 2009 from FTA supports the conclusion that the proposed Route 34 is not a "shuttle service" and, therefore, is not prohibited by FTA regulations. The proposed new Route 34 was to commence January 1, 2009 and payments from NDSU to the City were to commence in January 2009, he said. Also, the Amended Agreement, he said, clarified that only the City would be authorized to make adjustments to the routes and the transit schedule. On December 29th, he said, the City Commission approved a motion directing that "... an advisory board opinion from the FTA be initiated and that current service be continued with Valley Bus Company until that opinion has been received." He stated that now that the City has the FTA's response, action may need to be taken with respect to the proposed Route 34. Mr. Johnson said Valley Bus remitted a Request for Advisory Opinion and Cease and Desist Order on January 15, 2009 in which Valley Bus complained of the addition of the proposed Route 34. He said, as of February 5, 2009, the City had not learned of any response from the FTA to Valley Bus' request.

Planning Director Jim Gilmour said the new route could be implemented by March 16, 2009 if the route is re-advertised, a Public Hearing is held March 9, 2009 and the agreement with NDSU revised with new dates and dollar amounts.

Charles Chinquist, Valley Bus Assistant Manager, submitted a letter from Valley Bus to the Board. Mr. Chinquist said he and Tim McLaughlin met with Mr. Johnson and Mr. Gilmour on November 25, 2008. After that meeting, he said, an Amendment to Agreement for Transit Services was prepared and approved by the City Commission on December 15, 2008. He said the amendment has two areas of revisions that are important to note. The first, he said, is the addition of public transportation services and the second revises the language of Article 4, Route/Service Adjustments. He stated the new language indicates the City may make

adjustments to the routes and transit schedule based on information provided by NDSU with all prior agreements stating that the City and NDSU would have to mutually agree to any changes. Valley Bus management, he said, stated the proposed Route 34 may not violate the Private Charter Rule in the most technical sense but the City-MAT-NDSU arrangements certainly violate the spirit of the rule.

Mr. Gilmour said charter bus service is a type of service that is hired for specific groups like the League of Cities convention held in Fargo last fall. He said transit buses would not be used for those types of services so as to not compete with charter bus service. He stated the area by NDSU includes apartments, hotels and businesses which are all served by MAT bus service. He said MAT has other routes that operate around NDSU and the advantage to one service is the ability for riders to transfer.

Bruce Frantz, NDSU Facilities Management Director, stated NDSU students ride for free so to have the commonality of MAT provides the ability to go within the entire MAT system.

Commissioner Mahoney moved staff be directed to re-advertise for a public hearing on March 9, 2009 for the proposed Route 34 and to return with a revised Amendment to the Agreement with NDSU.

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.

Discussion Regarding Compliance with the Americans with Disabilities Act Postponed:

City Administrator Pat Zavoral stated the discussion regarding compliance with the Americans with Disabilities Act be postponed to allow time to incorporate new information from the recently received Department of Justice report. He said the City has 60 days to review and adopt the agreement with the Department of Justice.

Fire Department Budget Adjustments for F-M Haz Mat Training Approved:

Commissioner Wimmer moved Fire Department budget adjustments in the amount of \$1,559.14 for F-M Haz Mat training 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.

Fire Department FY 2008 Staffing for Adequate Fire and Emergency Response Grant (SAFER) Approved:

Commissioner Wimmer moved the Fire Department FY 2008 Staffing for Adequate Fire and Emergency Response (SAFER) grant in the amount of \$1,300,560 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.

Purchase of Self-Contained Breathing Apparatus from Grand Forks Fire Equipment Approved:

Commissioner Wimmer moved purchase of self-contained breathing apparatus from Grand Forks Fire Equipment for the amount of \$266,889.60 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.

Professional Services Contract for Indigent Services for Fiscal Years 2009, 2010 and 2011 Tabled Until February 23, 2009:

City Attorney Erik Johnson stated he asked that Item "h" (Professional services contract for indigent defense services with the Stormy Vickers Law Office for fiscal years 2009, 2010 and 2011) be moved to the Regular Agenda to allow Joe Johnson an opportunity to comment.

Director of Finance Kent Costin stated the City contracted for many years with Cash Aaland for indigent defense services and prior to 2008 the City was notified by the Aaland firm they were no longer interested in the contract. In 2008, he said, the City contracted with Joe Johnson and Ross Brandborg for one year. After experiencing an increase in the case load for indigent services in 2008, he said, an RFP was written in order to have one unified contract with one lead attorney to direct the case load. There was a conflict with the initial RFP, he said, so the committee rewrote the RFP.

Attorney Joe Johnson submitted a communication to the Board in regards to the recommendation of the indigent defense services contract to Stormy Vickers Law Office. Mr. Johnson said he had the contract for the last one and half years and has been practicing criminal defense law for 16 years. He stated his work experience, criminal defense experience, North Dakota licensure and support staff qualifies him for the position. He requested this item be delayed to allow the committee to consider his materials and credentials.

Mr. Costin said standard process was followed for the RFP. The main concern of the committee, he said, was the need to have a single point of contact in order for someone to take the lead, eliminating the coordination between agencies. He said Mr. Johnson's second proposal showed no evidence of any other attorneys and no back up support staff. He said the issue of the change from three years to a one year contract was an oversight.

In response to a question from Mr. Johnson regarding Mr. Vickers not being licensed in North Dakota, Mr. Costin said there are two attorneys licensed in North Dakota in Mr. Vickers' office and part of the Minnesota bar exam is uniform to many states, including North Dakota. Mr. Vickers, he said, is in the process of getting his North Dakota license.

There was discussion regarding the options of whether to award the contract to the Vickers Law Firm, ask for input from the review team or overrule the recommendation and award the contract to Mr. Johnson.

Commissioner Mahoney moved to table the motion for two weeks

Second by Piepkorn.

Mr. Costin said he supports the recommendation to delay the recommendation. He said the RFP asked the proposers for time and cost for services and Mr. Johnson

failed to provide some of the requirements. The Review Committee, he said, took the process seriously and would like to award the contract.

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

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

Change Orders from Function Furniture and Christianson's for the Main Library Furnishings Approved:

Commissioner Piepkorn requested Item "I" be moved to the Regular Agenda because he wanted more information regarding the change orders for office furniture expenses from Library Director Tim Dirks.

Library Director Tim Dirks stated after the bids for the Main Library public furniture and proposals for the RFP for office furniture were awarded, the total savings on the FF&E allowance was \$256,330. He said the savings on the furniture allowances have assisted in keeping the building project within budget.

Commissioner Williams moved Change Order No. 1 from Function Furniture for an increase of \$2,850.78 and Change Order No. 1 from Christianson's Business Furniture for an increase of \$38,121.01 for Main Library furnishings be approved.

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

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

Library Budget Adjustment and Grant Agreement with the ALA/FINRA Smartinvesting@yourlibrary Grant Program Approved:

The Board received a communication from Deputy Library Director Beth Postema stating the Fargo Public Library has been awarded a \$53,000 grant from the Smartinvesting@yourlibrary grant program, a cooperative effort of the of the American Library Association and the Financial Institutions Regulatory Authority (FINRA) Investor Education Foundation. She said this grant will allow the library to increase its ability to meet the needs of citizens seeking financial and investment information and to provide investor education programs to a variety of audiences within the community.

Library Director Tim Dirks stated the grant will provide programming on investing for teens, young adults, new Americans and the elderly. The funds, he said, will also go towards enhancing the collection with materials on investing.

Commissioner Wimmer moved approval of the grant agreement with the ALA/FINRA Smartinvesting@yourlibrary grant program and the resulting budget adjustment of \$53,000.

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.

2009 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the latest bills that are new to the 2009 Legislative matrix.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, February 23, 2009.

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

The time at adjournment was 7:45 o'clock p.m.