

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: June 30, 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, June 30, 2008.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

**Oath of Office Administered to Commissioners Piepkorn and Williams:**

Alternate Municipal Judge Steve Dawson administered the Oath of Office to City Commissioners Dave Piepkorn and Mike Williams.

**Order of Agenda Approved:**

Commissioner Mahoney moved the Order of the Agenda be approved moving Items "h" and "i" in the Consent Agenda to the beginning of the Regular Agenda.

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

**Minutes Approved:**

Commissioner Wimmer moved that the Minutes of the Regular Meeting of the Board held on June 16, 2008 be approved as read.

Second by Piepkorn. 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. Independent auditor's report and City Comprehensive Annual Financial Report for the year ending December 31, 2007.
- b. 2008 Certified Local Government grant award from the State Historical Society in the amount of \$7,285 to perform a historic building survey in the Oak Grove neighborhood (Grant # 38-08-23739-28).
- c. Contract Amendment with the North Dakota Department of Health for the AFIX/VFC Immunization Coordination Program (CFDA # 93.268).

- d. Contracts with the North Dakota Department of Health for the Tobacco Prevention and Control Program and Title V Maternal and Child Health Block Grant (CFDA #'s 93.283 and 93.994).
- e. Health Department budget adjustment and contract with the North Dakota Department of Health for Immunization Program (CFDA # 93.268).
- f. 5-year citation management agreement with NDSU.
- g. Receive and file Summons and Complaint and Admission of Service in the matter of Bruce Eggermont v. the City of Fargo.
- h. Change Orders in the total amount of \$25,381 for construction costs at the emergency shelter and detox center (moved to the beginning of the Regular Agenda).
- i. Change Orders for the Police Department remodeling project (moved to the beginning of the Regular Agenda).
- j. Application filed by Lance Bergstrom for a 3-year property tax exemption for improvements made to a building at 2601 South University Drive.
- k. Application filed by St. Anthony of Padua Church for bingo and a raffle on 9/28/08.
- l. Agreements with EAPC for architectural services for the GTC deck rehabilitation and for lighting modifications.
- m. Plat of Osgood Kindergarten School and Park Addition.
- n. Plat of Whispering Creek First Addition.
- o. Agreement Concerning Access Easements and Special Assessment Financing for an access road in Clapp Park to Bethel Evangelical Free Church.
- p. Relinquishment of Easement between Broadway and Roberts Street immediately north of 422/424 Broadway.
- q. Encroachment Agreement for balcony installation at 64½ Broadway.
- r. Bid award for Project No. 5691 to A J Construction in the amount of \$272,266.60.
- s. Bid advertisement for Project No. 5747-6.
- t. Contract and bond for Project No. 5807-2.
- u. Bills in the amount of \$5,064,435.33

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.

**No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776:**

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 26 and June 2, 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776.

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.

**Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776:**

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 25, 2008 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$1,283,435.87
Asplin Excavating, Inc. Bid:	Fargo, ND \$1,294,160.53
Master Construction Company, Inc. Bid:	Fargo, ND \$1,319,923.97
Aggregate Industries Bid:	Moorhead, MN \$1,364,985.26
Border States Paving, Inc. Bid:	Fargo, ND \$1,365,446.62
Central Specialties, Inc. Bid:	Alexandria, MN \$1,459,315.31

**Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 Awarded to Northern Improvement Company in the Amount of \$1,283,435.87:**

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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 25, 2008 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$1,283,435.87 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 Northern Improvement Company in the sum of \$1,283,435.87 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$1,283,435.87, 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 Mahoney, Williams, Piepkorn, Wimmer and Walaker voted aye.

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

**P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833: Protests Received and Declared Insufficient:**

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on May 26 and June 2, 2008 and protests representing 17.39 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved the protests be received and filed and declared insufficient.

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.

**Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833:**

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., June 25, 2008 and the bids were found to be as follows:

Paras Contracting, Inc. Bid:	Fargo, ND \$ 81,796.55
Key Contracting Bid:	Fargo, ND \$ 89,376.30
A J Construction Bid:	West Fargo, ND \$ 89,956.80
Adelman Concrete and Excavating Bid:	Fargo, ND \$ 90,332.00
Contemporary Builders Bid:	Fargo, ND \$ 92,130.50
Opp Construction Company Bid:	Fargo, ND \$ 95,352.90
Specialized Contracting Bid:	Fargo, ND \$ 97,519.85
Ti-Zack Concrete, Inc. Bid:	LeCentre, MN \$100,255.50
Northern Improvement Company Bid:	Fargo, ND \$105,888.00
Border States Paving, Inc. Bid:	Fargo, ND \$122,789.80

**Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 Awarded to Paras Contracting, Inc. in the Amount of \$81,796.55:**

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 P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received June 25, 2008 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 shows the bid of

Paras Contracting, Inc. of Fargo, North Dakota, in the sum of \$81,796.55 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 Paras Contracting, Inc. in the sum of \$81,796.55 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 in the City of Fargo, North Dakota, be and the same is hereby awarded to Paras Contracting, Inc. for the sum of \$81,796.55, 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 Mahoney, Williams, Piepkorn, Wimmer and Walaker voted aye.

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

**Street Lighting Improvement District No. 5738 (Various Locations in North Fargo):**

Commissioner Mahoney moved the following action be taken in connection with Street Lighting Improvement District No. 5738:

**Adopt Resolution Creating Improvement District No. 5738:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5738, in the City of Fargo, North Dakota, be created

On 14<sup>th</sup> Avenue North from 40<sup>th</sup> Street to 44<sup>th</sup> Street.

On 15<sup>th</sup> Avenue North from 38<sup>th</sup> Street to 45<sup>th</sup> Street.

On 16<sup>th</sup> Avenue North from 44<sup>th</sup> Street to cul-de-sac +/- 650' east.

On 38<sup>th</sup> Street North from 12<sup>th</sup> Avenue to 15<sup>th</sup> Avenue.

On 39<sup>th</sup> Street North from 12<sup>th</sup> Avenue to 15<sup>th</sup> Avenue.

On 40<sup>th</sup> Street North from 12<sup>th</sup> Avenue to cul-de-sac +/- 750' north of 15<sup>th</sup> Avenue.

On 41<sup>st</sup> Street North from 12<sup>th</sup> Avenue to 15<sup>th</sup> Avenue.

On 43<sup>rd</sup> Street North from 12<sup>th</sup> Avenue to 16<sup>th</sup> Avenue.

On 44<sup>th</sup> Street North from 14<sup>th</sup> Avenue to 15<sup>th</sup> Avenue.

**COMPRISING:**

All property located within the area bordered:

- on the north by Burlington Northern Railroad
- on the south by 12<sup>th</sup> Avenue North
- on the east by 38<sup>th</sup> Street North
- on the west by 45<sup>th</sup> Street North

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

NOW, THEREFORE, BE IT RESOLVED, That Street Lighting Improvement District No. 5738, 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. 5738:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5738, 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 \$611,270.)

**Order Plans and Specifications for Improvement District No. 5738:**

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5738, in the City of Fargo, North Dakota.

**Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5738:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5738, 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. 5738, 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 Street Lighting 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 Street Lighting, Improvement District No. 5738 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 Street Lighting must be in writing and must be filed with the City Auditor's Office within 10 days after the last 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. 5738:**

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5738, in the City of Fargo, North Dakota.

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.

**Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5818 (South Portion of Prairie Grove 1st Addition):**

Commissioner Mahoney moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5818:

**Adopt Resolution Creating Improvement District No. 5818:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5818, in the City of Fargo, North Dakota, be created

56<sup>th</sup> Avenue South, 57<sup>th</sup> Avenue South, between 26<sup>th</sup> and 27<sup>th</sup> Street South.  
27<sup>th</sup> Street South, between 56<sup>th</sup> and 58<sup>th</sup> Avenue South.

**COMPRISING:**

Lots 13 through 16, inclusive, Block 1.  
Lots 30 through 46, inclusive, Block 5.  
Lots 1 through 13, inclusive, Block 7.  
All platted in Prairie Grove 1<sup>st</sup> Addition.

Lot 1, Block 1.  
The northern 213' of Lot 2, Block 2.  
All platted in Silverleaf Addition.

All of the foregoing is 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. 5818, 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. 5818:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5818, 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 \$510,840.)

**Order Plans and Specifications for Improvement District No. 5818:**

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5818, in the City of Fargo, North

Dakota.

**Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5818:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5818, 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. 5818, 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. 5818:**

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5818, in the City of Fargo, North Dakota.

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.

**Contract for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774 Approved:**

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Kindred Plumbing and Heating, Inc. for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774 in the City of Fargo, North Dakota.

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.

**Contract Bond for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774 Approved:**

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

Western Surety Company, in the amount of \$210,085.35, for Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774 in the City of Fargo, North Dakota.

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.

**Contract for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 Approved:**

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Landwehr Construction, Inc. for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 in the City of Fargo, North Dakota.

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.

**Contract Bond for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 Approved:**

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

Western Surety Company, in the amount of \$1,319,326.31, for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 in the City of Fargo, North Dakota.

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.

**Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832 Approved:**

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Paras Contracting, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832 in the City of Fargo, North Dakota.

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.

**Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832 Approved:**

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

Merchants Bonding Company, in the amount of \$79,435.13, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832 in the City of Fargo, North Dakota.

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.

**Change Orders for Construction Costs at the Emergency Shelter and Detox Center Approved:**

The Board received a communication from Senior Planner Dan Mahli submitting change orders for the emergency shelter and detox center. Mr. Mahli summarized the changes which total \$25,381 and stated the shelter makes up \$7,421 of the total and the detox center makes up \$17,960. He said the change orders can be paid for using a 10% contingency fund that was set up using federal CDBG dollars to cover additional construction costs. He said the 10% is based on the total construction budget of \$687,000.

Commissioner Mahoney moved approval of the change orders for construction costs at the emergency shelter and detox center using the 10% contingency in federal CDBG funds.

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

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

#### **Change Orders for the Police Department Remodeling Project Approved:**

Police Chief Keith Ternes summarized the proposed change orders for the Police Department remodeling project and stated the remodeling project was the result of additional space that was necessary in his department to accommodate increased workloads by his staff and the City Prosecutor's office. He said the change orders were for minor modifications that came along during the course of the project.

Commissioner Wimmer moved approval of the following change orders for the Police Department remodeling project:

Revised E-3 for an increase of \$1,115.00.

Revised G-2 for a deduction of \$378.18.

B&S-1 for an increase of \$465.34.

H-1 for an increase of \$13,614.31.

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.

#### **Commissioner Mahoney Appointed Deputy Mayor:**

The Board received a communication from Mayor Walaker recommending that Commissioner Mahoney be appointed Deputy Mayor.

Commissioner Williams moved Commissioner Mahoney be appointed Deputy Mayor.

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

Commissioner Mahoney abstained from voting.

The motion was declared carried.

#### **Liaison Commissioner Assignments Approved:**

The Board received a communication from Mayor Walaker submitting the following recommendations for Liaison Commissioner assignments:

**Mahoney**

Departments: Health  
 Committees: MetroCOG, GFMEDC, Community Development, Health Insurance  
 Board Liaison: Board of Health, Human Relations, Native American

**Piepkorn**

Departments: Finance  
 Committees: MetroCOG, Finance, Renaissance Zone, Community Development, Liquor Control, Metro Area Transit Coordinating Board  
 Board Liaison: Special Assessment, Housing Authority

**Walaker**

Departments: Engineering, Enterprise, Police, City Commission, Human Resources  
 Committees: GFMEDC, Tax Exempt Review, Finance, Liquor Control, Utility, Position Evaluation, Vector Control  
 Board Liaison: Dome Authority, Airport Authority

**Williams**

Departments: Fire, Information Services  
 Committees: MetroCOG, Library Building, Traffic Tech, Parking, Utility, Cable Review, Metro Area Transit Coordinating Board, Renewable Energy and Conservation  
 Board Liaison: Library, Auditorium

**Wimmer**

Departments: Planning  
 Committees: MetroCOG, Tax Exempt Review, Position Evaluation, Renaissance Zone, Cass County Planning  
 Board Liaison: Planning, Board of Adjustment, Civil Service, Historic Preservation

Commissioner Wimmer moved the recommendations submitted by Mayor Walaker be approved as outlined above.

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.

**Resolution Adopting Rules and Regulations Relative to the Operation of the Agenda and Conduct of City Commission Meetings:**

The Board received a communication from Executive Assistant Sharon Odegaard submitting a copy of a Resolution adopting rules and regulations relative to the operation of the agenda and the conduct of City Commission meetings. Ms. Odegaard stated she would like to call the Board's attention to Page 2, Item "C", under Rules Governing Conduct of City Commission Meetings which allows citizens three minutes to speak. She said this rule has not been enforced in the past and she is wondering if Commissioners wish to keep it or delete it.

Mayor Walaker stated he feels the City Commissioners need to allow the citizens the opportunity to express themselves to the best of their ability. He said he feels the wording which allows the citizens only three minutes to speak should be deleted.

Commissioner Wimmer stated the Mayor should be able to control the meetings and if the wording limiting the time to speak is removed, it could create additional problems.

There was discussion regarding changing the wording in Item "C" to suggest the citizens speak three minutes and it was agreed the wording would be changed to accommodate the word "suggested".

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, It is desirable that the transaction of City business be done in an orderly fashion; and

WHEREAS, The Board of City Commissioners of the City of Fargo deems it desirable and necessary to promulgate rules and regulations for the guidance of commissioners and citizens.

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Fargo that the following rules and regulations relative to the operation of the agenda and the conduct of City Commission meetings IS HEREBY ADOPTED, superseding any and all former rules and regulations which have been adopted:

#### I. AGENDA

- A. There shall be one agenda prepared for each meeting.
- B. Any City Commissioner, City employee or citizen of the City may place an item or issue on the agenda.
- C. All agenda items or issues to be qualified for regular consideration must be submitted in clear, articulate and definite terms and must be communicated to the City Commission office prior to 12:00 noon on the Thursday preceding the meeting.
- D. Agenda items must be accompanied by a written explanation of the item. A "suggested" motion must be typed at the end of the communication which states the action being requested of the Board. If the communication is for information purposes only, there should be a statement to that effect at the beginning of the letter.
- E. Any correspondence or other supporting material for any item on the agenda which is intended to become a part of the public records of the City must be received in the City Commission office no later than 12:00 noon on the Thursday preceding the meeting. In the event such material is not submitted to the City Commission office as stated above, such material and the related agenda item shall be stricken and placed on the agenda for the next regular meeting.

- F. Any item or issue placed on the agenda may be removed or withdrawn only by the person who placed it there, or by his or her duly and properly authorized agent.
- G. Any items or issues which have not qualified for the regular agenda under the rules as stated above, or any new and timely issues which arise after preparation of the regular agenda may, with the consent of a majority of the City Commissioners who are present and voting, be considered as an extra item.
- H. Ordinances shall be sponsored by a member of the Board of City Commissioners or the City Commission as a whole. Any citizen or City employee desiring any ordinance change shall submit such request to a member of the Board of City Commissioners or to the Commission as a whole. No ordinances shall be drafted by the City Attorney, except upon request of a member of the Board of City Commissioners or by the City Commission as a whole.
- I. The order of the agenda shall be as determined by the Executive Assistant to the Board of City Commissioners utilizing general guidelines as follows:
  - 1. Consent agenda at the beginning of the agenda. The consent agenda shall be non-controversial routine items as may be determined by the Executive Assistant.
  - 2. Non-consent agenda at the end of the agenda. Non-consent items shall be as determined by the Executive Assistant.
- J. The calling and conduct of special meetings shall be in accordance with ordinances of the City of Fargo and laws of the State of North Dakota.

## II. RULES GOVERNING CONDUCT OF CITY COMMISSION MEETINGS

- A. Meetings shall be conducted in accordance with Roberts Rules of Order, except that the principle of majority rule shall always prevail, and any such rule may be changed or suspended by a majority vote of the Board of City Commissioners.
- B. At each regular meeting, the first item of business shall be the consideration and approval of the agenda, including the deletion of any item which the Commission deems to be frivolous or repetitious and the addition of requested extra items.
- C. The Mayor or other presiding Commissioner will announce the item on the agenda. It is suggested the person who requested placement of the item on the agenda be given up to three (3) minutes to present any additional information not included in the letter. There will be opportunity for input after a motion is made and seconded. Proponents will be recognized first,

then opponents. It is suggested persons wishing to speak be allowed no more than three minutes each. Time for each side will be designated by the Chair. Additional time will be allowed only if Commissioners have questions or if there has been a majority vote to allow additional discussion. The item will be voted upon and no further discussion will be allowed.

- D. Each member of the Board of City Commissioners shall vote on every issue unless absent from the meeting or excused from voting. Any member wishing to be excused from voting, or who does not feel qualified to vote because of a conflict of interest, shall ask to be excused from voting and state the reasons therefore. The remaining Commissioners shall, by majority vote, either grant or deny such request to be excused. If the Commissioner making such request is excused, he or she shall be deemed to be disqualified and the abstention shall not be counted as an aye or nay. If the request is denied and the Commissioner refuses to vote, his or her vote shall be deemed to be the same as the majority of those voting.
- E. The Chairman of the meeting shall not refuse to recognize any member who wishes to make a motion or to be heard on a particular item.
- F. A member of the Board of City Commissioners voting with the minority on any issue may not move to reconsider that issue or place the matter on the agenda again until a minimum of 28 days has elapsed since the issue was last considered.
- G. In the event that any member of the Board of City Commissioners moves to reconsider an issue previously decided after formal hearing pursuant to published notice, the Board shall vote on the motion to reconsider, subject to the restrictions contained in rule F above. In the event the motion for reconsideration passes, the matter shall not be reconsidered until all persons appearing at the original hearing on the matter have been advised and offered an opportunity to appear and be heard again, or until notice of rehearing on the matter has been published in the official newspaper of the City.
- H. Any on duty policeman may be considered as a sergeant at arms for Commission meetings and may be summoned to maintain order by any member of the Board of City Commissioners at any time.

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

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

**Application Filed by The Cajun Café, Inc. d/b/a The Cajun Café for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by The Cajun Café, Inc. d/b/a The Cajun Café for a Class "F" Alcoholic Beverage License at

1324 25th Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner Mahoney moved the application be approved.

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

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

**Parcels of Land in Hector Airport 2nd Addition Rezoned (2131 16th Street North and 1501 21st Avenue North):**

At a Hearing held on June 11, 2008 the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to LI, Limited Industrial on the north 237 feet of Lot 2, Block 1, Hector Airport 2nd 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 rezoning be approved with the following Conditional Overlay requirements and the findings of staff be accepted on the basis that review criteria of Section 20-0906.F (1-4) has been met:

1. The Limited Industrial zoning uses are limited to those uses allowed in General Commercial as outlined in table 20-0401 of the LDC.
2. All outdoor storage must be completely screened from view of the properties located to the south and east by an 8 foot high opaque fence.
3. All of Lot Two (2), Block One (1), Hector Airport 2nd Addition will be landscaped to the GC requirements of 3 plant units for each 1,000 square feet of lot area.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Williams, Mahoney, Piepkorn 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 Hector Airport 2nd 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 Hector Airport 2nd Addition to the City of Fargo be placed on first reading.

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

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

**Parcels of Land in Stonebridge Farms 2nd Addition Rezoned (3545 25th Street South):**

At a Hearing held on June 11, 2008 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling and a Special Use Permit to LC, Limited Commercial with a Conditional Overlay on Lot 1, Block 3, Stonebridge Farms 2nd 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 rezoning be approved with the following Conditional Overlay requirements and the findings of staff be accepted on the basis that review criteria of Section 20-0906.F (1-4) has been met:

1. All primary structures shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally colored, textured or glazed concrete masonry units; high quality pre-stressed concrete wall systems, or glass. Natural wood or wood paneling shall not be used as the principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.
2. Color schemes shall tie building elements together, relate pad structures in the same development to each other, and shall enhance the architectural form of a structure.
3. All facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, and extending at least 20 percent of the length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet. An articulated façade would

emphasize elements on the face of a wall including change in setback, materials, roof pitch or height.

4. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view with parapets. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance greater than 150 horizontal feet.
5. Off premise signs (billboards) and portable signs are prohibited.
6. On premise signs shall be designed to incorporate a precise concept or theme. Provisions for consistency, placement, sign scale in relationship with the structure(s), and sign readability shall be considered in developing the sign concept.
7. Land uses/tenants are limited to the following in Limited Commercial Zoning: Colleges, Community Service, Day Care, Health Care, Religious Institutions, Safety Services, Office, and Retail Sales and Service.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, Williams, 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 Stonebridge Farms 2nd 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 Stonebridge Farms 2nd Addition to the City of Fargo be placed on first reading.

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.

**Recommendation from Mayor Walaker for Appointments to Various Boards and Commissions Approved:**

The Board received a communication from Mayor Walaker recommending the following appointments to several Boards and Commissions of the City for the terms listed:

**Board of Adjustment**

Ken Lepper (previously an alternate)

**Term Expires**

June 30, 2011

**Human Relations Commission**

Joy Rice	July 1, 2011
Mitch Marr	July 1, 2011
Hatem Nour	July 1, 2011
Amy Jacobson	July 1, 2010
Lori Brownshield	July 1, 2009

**Library Board**

Dawn Morgan	June 30, 2011
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Commissioner Wimmer moved the appointments be approved as outlined above.

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

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

Commissioner Williams moved that the Board adjourn to 5:00 o'clock p.m., Monday, July 14, 2008.

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

The time at adjournment was 5:32 o'clock p.m.