

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: May 5, 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, May 5, 2008.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on April 21, 2008 be approved as read.

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

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 1st reading of an Ordinance Amending Section 1-0305.C10 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Ordinance Violations.
- b. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 4/21/08:
 - (1) Amending Section 7-0302 of Article 7-03 of Chapter 7 of the Fargo Municipal Code Relating to Civil Service.
 - (2) Rezoning Certain Parcels of Land Lying in Arndts-Devener Subdivision to the City of Fargo.
- c. 2nd reading, waive reading and final adoption of an Ordinance Relating to Licensing of Re-roofing Contractors; 1st reading, 3/24/08 (delay until 5/19/08).
- d. Agreement with the North Dakota Department of Health for Ryan White Title 11 Case Program/Management for People Living with HIV/AIDS (CFDA # 93.917).

- e. Applications for tax exemptions for improvements made to buildings:
 - (1) Duane and Nancy Fureby, 702 University Drive South (3 year).
 - (2) Gary Frederick and Kathryn Larson, 1422 10th Street South (5 year).
 - (3) Merrill and Noell Reinhiller, 1522 12th Street South (5 year).

- f. Site Authorizations for Games of Chance:
 - (1) Northern Prairie Performing Arts at the Windbreak Lounge, Doublewood Inn and Old Broadway.
 - (2) ShareHouse, Inc. at Woody's Bar and Bismarck Tavern.
 - (3) Team Makers Club, Inc. at the Holiday Inn and the Fargodome.

- g. Applications for Games of Chance:
 - (1) F-M Walleyes Unlimited, Inc. for a raffle on 9/18/08.
 - (2) Trollwood Performing Arts School for a raffle on 6/3/08.
 - (3) Trollwood Performing Arts School for raffles from 7/2/08 through 8/4/08.
 - (4) Friends of Justin Benson for a raffle on 5/22/08; Public Spirited Resolution.

- h. Sale of NRI property at 1122 7th Avenue South for \$110,500.

- i. Plat of L, L & L Addition.

- j. Replat of Bethany South First Addition.

- k. Farm Lease Agreement with Claude Richard for the 2008 and 2009 seasons for a 40.86 acre parcel of land at 52nd Avenue and 57th Street South.

- l. Bid award for printing and mailing the 2007 Water Quality Report to Knight Printing in the amount of \$11,359.51.

- m. Change Order No. EO3 for an increase of \$685.58 for electrical construction in connection with Phase 1 of the Central Garage Renovation.

- n. Context Sensitive Design features for the 12th Avenue North reconstruction project (Improvement District No. 5547).

- o. 66" culvert installation on Drain 10 as part of the 12th Avenue North Reconstruction (Improvement District No. 5547).

- p. Contract Amendment with KLJ in the amount of \$605,800 for Improvement District No. 5314-08.

- q. Scope of Work and Cost Proposal from Houston Engineering in the amount of \$10,500 for developing floodplain datasets for cost-benefit analysis purposes (Project No. 5073-6).

- r. Engineering Services Contract Amendment with Ulteig Engineering in the amount of \$5,900 for Project No. 5667.
- s. Bid award for Project 5807-1 to Fargo Electric Construction in the amount of \$68,521.70.
- t. Sole source procurement of AutoCAD design/drafting software.
- u. Partial relinquishment of easement and relinquishment of easement releasing dike easements on Lots 1 and 2, Block 4, Lindsay's Addition.
- v. Contract and bond for Project SW 08-01.
- w. Bills in the amount of \$2,568,244.10.

Second by Mahoney. On call of the roll Commissioners Coates, Mahoney, Williams, 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 and Incidentals Improvement District No. 5770:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March 31 and April 7, 2008 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Coates moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770.

Second by Mahoney. On call of the roll Commissioners Coates, Mahoney, Williams, 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 and Incidentals Improvement District No. 5770:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 30, 2008 and the bids were found to be as follows:

| | |
|------------------------------------|--------------------------------|
| Border States Paving, Inc. Bid: | Fargo, ND \$374,642.25 |
| Central Specialties, Inc. Bid: | Alexandria, MN \$382,823.30 |
| Paras Contracting, Inc. | Fargo, ND |

| | |
|--------------------------------------|---------------------------------|
| Bid: | \$388,276.50 |
| Northern Improvement Company Bid: | Fargo, ND \$399,070.25 |
| Aggregate Industries Bid: | Moorhead, MN \$402,368.40 |
| Strata Corporation Bid: | Grand Forks, ND \$411,903.55 |

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 Awarded to Border States Paving, Inc. in the Amount of \$374,642.25:

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 30, 2008 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 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 and Incidentals Improvement District No. 5770 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$374,642.25 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Border States Paving, Inc. in the sum of \$374,642.25 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$374,642.25, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Mahoney, Williams, Wimmer and Walaker voted aye.

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

No Protests Received for Mill and Overlay and Incidentals Improvement District No. 5780:

The Statutory Resolution of Necessity for the construction of Mill and Overlay and Incidentals Improvement District No. 5780 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on March

31 and April 7, 2008 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Coates moved that the Board declare that no protests have been filed to the construction of Mill and Overlay and Incidentals Improvement District No. 5780.

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

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

Bids Received for Mill and Overlay and Incidentals Improvement District No. 5780:

The bids for Mill and Overlay and Incidentals Improvement District No. 5780 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 30, 2008 and the bids were found to be as follows:

| | |
|--------------------------------------|---------------------------------|
| Strata Corporation Bid: | Grand Forks, ND \$539,734.40 |
| Border States Paving, Inc. Bid: | Fargo, ND \$554,671.99 |
| Northern Improvement Company Bid: | Fargo, ND \$565,295.15 |
| Central Specialties, Inc. Bid: | Alexandria, MN \$566,048.05 |
| Aggregate Industries Bid: | Moorhead, MN \$591,215.00 |

Contract for Mill and Overlay and Incidentals Improvement District No. 5780 Awarded to Strata Corporation in the Amount of \$539,734.40:

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Mill and Overlay and Incidentals Improvement District No. 5780; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 30, 2008 for Mill and Overlay and Incidentals Improvement District No. 5780 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Mill and Overlay and Incidentals Improvement District No. 5780 shows the bid of Strata Corporation of Grand Forks, North Dakota, in the sum of \$539,734.40 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Strata Corporation in the sum of \$539,734.40 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Mill and Overlay and Incidentals Improvement District No. 5780 in the City of Fargo, North Dakota, be and the same is hereby awarded to Strata Corporation for the sum of \$539,734.40, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 30, 2008 and the bids were found to be as follows:

| | |
|--------------------------------------|---------------------------------|
| Central Specialties, Inc. Bid: | Alexandria, MN \$287,074.29 |
| Aggregate Industries Bid: | Moorhead, MN \$294,839.77 |
| Border States Paving, Inc. Bid: | Fargo, ND \$295,662.80 |
| Northern Improvement Company Bid: | Fargo, ND \$306,987.49 |
| Paras Contracting, Inc. Bid: | Fargo, ND \$311,926.83 |
| Strata Corporation Bid: | Grand Forks, ND \$334,565.91 |

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 Awarded to Central Specialties, Inc. in the Amount of \$287,074.29:

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 30, 2008 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 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 and Incidentals Improvement

District No. 5793 shows the bid of Central Specialties, Inc. of Alexandria, Minnesota, in the sum of \$287,074.29 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 Central Specialties, Inc. in the sum of \$287,074.29 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 in the City of Fargo, North Dakota, be and the same is hereby awarded to Central Specialties, Inc. for the sum of \$287,074.29, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Mahoney, Williams, Wimmer and Walaker voted aye.

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 30, 2008 and the bids were found to be as follows:

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|---|--------------------------------|
| Dakota Underground Bid: | Fargo, ND \$1,228,352.53 |
| Rising Sun Construction Bid: | Fargo, ND \$1,257,015.32 |
| Ryan Contracting Bid: | Shakopee, MN \$1,262,474.13 |
| Master Construction Company, Inc. Bid: | Fargo, ND \$1,344,890.28 |
| Kvamsdal Construction Bid: | Wilmar, MN \$1,353,092.43 |
| George E. Haggart, Inc. Bid: | Fargo, ND \$1,426,782.55 |
| Robert Gibb and Sons, Inc. Bid: | Fargo, ND \$1,867,475.67 |

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 Awarded to Dakota Underground in the Amount of \$1,228,352.53:

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 30, 2008 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 shows the bid of Dakota Underground of Fargo, North Dakota, in the sum of \$1,228,352.53 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Dakota Underground in the sum of \$1,228,352.53 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground for the sum of \$1,228,352.53, 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 Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Mahoney, Williams, Wimmer and Walaker voted aye.

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

**Final Balancing Change Order No. 1 for Improvement District No. 5736
Approved:**

Commissioner Coates moved approval of Final Balancing Change Order No. 1 for an increase of \$30,773.10 for Improvement District No. 5736.

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

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

**P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832
(Chandler's Broadway Addition):**

Commissioner Coates moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832:

Adopt Resolution Creating Improvement District No. 5832:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5832, in the City of Fargo, North Dakota, be created

From 15th to 16th Avenues North between 9th Street and 10th Street, in Block 4 of Chandler's Broadway Addition.

COMPRISING:

Lots 1 through 24, inclusive, Block 4.
Chandler's Broadway Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 5832, 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. 5832:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5832, 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 \$113,520.)

Order Plans and Specifications for Improvement District No. 5832:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5832, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5832:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5832, 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. 5832, 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 P.C. Concrete Alley Paving 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 P.C. Concrete Alley Paving & Incidentals, Improvement District No. 5832 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 P.C. Concrete Alley Paving & 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. 5832:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5832, in the City of Fargo, North Dakota.

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

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

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5384 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5384 in the City of Fargo, North Dakota.

Second by Mahoney. On call of the roll Commissioners Coates, Mahoney, Williams, 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, Storm Sewer and Incidentals Improvement District No. 5384 Approved:

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

United Fire and Casualty Company, in the amount of \$539,587.50, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5384 in the City of Fargo, North Dakota.

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

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

Contract for Asphalt Wearing Course and Incidentals Improvement District No. 5779 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Aggregate Industries for Asphalt Wearing Course and Incidentals Improvement District No. 5779 in the City of Fargo, North Dakota.

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

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

Contract Bond for Asphalt Wearing Course and Incidentals Improvement District No. 5779 Approved:

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

Safeco Insurance Company of America, in the amount of \$771,450.69, for Asphalt Wearing Course and Incidentals Improvement District No. 5779 in the City of Fargo, North Dakota.

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

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

Request of Doyle's Yellow Checker Cab, Inc. for a Rate Change Approved:

The Board received a communication from James Peinovich, Doyle's Yellow Checker Cab, Inc., requesting a change in Doyle's Yellow Checker Cab, Inc.'s Taxi and Operating Schedules. Mr. Peinovich stated their last rate change occurred two years ago and since that time the price for gasoline and their general operating costs have changed dramatically. He said the changes they are requesting are as follows:

The hourly rate will increase from \$30.00/hour to \$36.00/hour.

The City flat rate schedule will be adjusted to show the pricing change.

The meter will change from \$3.50 flag drop to \$4.50 flag drop for the first 1/8 mile.

The out-of-town rate will remain the same at \$1.00 roundtrip mile.

All negotiated rates will be changed to reflect the changes listed above.

The Board also received a communication from City Auditor Steve Sprague recommending approval of the requested rate change for Doyle's Yellow Checker Cab, Inc.

Commissioner Wimmer moved the request be approved.

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

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

Request for Extensions of the City's Noise Ordinance for the MDA Fun Run and Street Fair Approved:

The Board received a communication from Dave Anderson, MDA Committee Member and Sponsor and President of the Downtown Community Partnership requesting an extension of the City's Noise Ordinance on May 31, 2008 from 10:00 p.m. to 11:00 p.m. for the MDA fundraiser street dance in the Old Broadway parking

lot and on July 17 and 18, 2008 from 10:00 p.m. to 11:00 p.m. for the Street Fair live music in the Old Broadway Parking lot.

Commissioner Williams moved the request be approved.

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

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

Human Relations Commission Update on Activities:

The Board received a communication from Community Development Planner Nate Bailly stating Prairie Rose, Chair of the Fargo Human Relations Commission (FHRC), will be updating the City Commission on the current activities and initiatives of the FHRC. He said she will provide details in her presentation on the goals, objectives and activities found within the 2008 Strategic Plan, which he attached. Mr. Bailly stated the FHRC was created in 2000 to serve as an advisory board to the City Commission on issues relating to diversity and human rights development. He said in an effort to assure that the connection with the City Commission stays strong, the FHRC would like to remain proactive about providing updates and information to the City. In addition to this presentation, he continued, the FHRC intends to provide a combined end-of-the-year report and revised Strategic Plan in early 2009. He said the FHRC remains a strong and active organization that is integral to the City's community development. He said the FHRC is extremely grateful for the City's support, and look forward to continuing their efforts.

Ms. Rose stated the group has restructured their meeting schedule in order to have working meetings every other month and regular Commission meetings on the opposite months. She said the three goals of the Commission are to measure and monitor community relations and civil rights issues, educate the community on civil rights and encourage adherence to federal and state civil rights. She distributed a sample of the Law Enforcement Quick Reference Card from the Know Your Rights Initiative and she said the goal is to translate the cards but the cost is making the project difficult to complete. The goal of the Commission, she said, is to continue to be visible in the community while maintaining fiscal responsibility with the reduced budget. She said the Commission will do strategic planning at the January meeting and she thanked the City Commissioners for their support.

Renaissance Zone Project Application for 64 Broadway Investments, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for 64 Broadway Investments, LLC at 64 1/2 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 Project application presented by 64 Broadway Investments, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by 64 Broadway Investments, LLC for a project located at 64 1/2 Broadway be approved as recommended by the Renaissance Zone Authority and the income tax and property tax exemptions be granted contingent on the completion of the project and verification of costs.

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

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

Renewal Plan for Tax Increment Financing District No. 2008-01 and Developer Agreement Approved:

A Hearing had been set for this day and hour to review a Renewal Plan for Tax Increment Financing District No. 2008-01 to redevelop an area southwest of 12th Avenue North and Albrecht Boulevard for main floor commercial use and upper story apartments.

The Board received a communication from Planning Director Jim Gilmour stating the Planning and Development Department has completed the work on a Renewal Plan for a redevelopment project on 12th Avenue North near NDSU. He said this is the second phase of a project by FM City Development, LLC with this phase located at 1430, 1434 and 1436 12th Avenue North. Mr. Gilmour also submitted a Resolution to adopt the plan, a Developer Agreement and reports from the Financial Advisor. He said the Finance Committee has reviewed the request and the financial report and recommends approval of the Renewal Plan and a Developer Agreement providing up to \$437,000 in assistance. The assistance, he said, includes \$20,000 to be paid to the City for administrative costs with the total level of assistance reduced to \$375,300 if there is a 60 mill reduction in the property tax rate.

The Board received a communication from Attorney Jonathan Garaas written on behalf of William Rakowski, owner of the property at 1424-1426 12th Avenue North. He stated opposition to any attempt to utilize Tax Increment Financing for District 2008-01 to redevelop an area southwest of 12th Avenue North and Albrecht Boulevard for the following reasons:

1. The project does not have proper parking precluding any Conditional Use Permit; and
2. There cannot be a Building Permit issued for the project based upon violations of Fargo's municipal ordinances, so no Tax Increment Financing Plan should be contemplated until a building permit is also possible.

In addition, he said, this proposed project subjects Mr. Rakowski's property to two towering structures on either side of his property in disregard of the impact on his property and the neighborhood.

Mr. Gilmour submitted a memorandum from Planner Nicole Crutchfield explaining the background and application process for the Conditional Use Permit (CUP) applied for by FM City Development. He said NDSU students and staff will be the main tenants and customers of the complex. The two main factors considered for the CUP, he said, were student parking in campus lots and parking needs related to

housing. He said Planning staff took the factors of student and business parking as well as bus route access into consideration for the CUP and the Planning Commission approved it.

Mr. Garaas said there was no parking agreement between the developer and NDSU. He said only the City Commission can change parking requirements, not the Planning Commission. Lack of access for emergency vehicles, he said, is another problem.

Roger Gilbertson, President of FM City Development, said traffic flow for the commercial businesses will predominantly be walk-up traffic. He said students that rent the apartments can purchase parking passes for the T Lot. There are 784 parking spaces in the T Lot, he said, so this would help alleviate on-site parking issues.

Mr. Gilmour said there are two ways to meet parking requirements for this location - either with sufficient on-site parking or an Alternative Access Plan (AAP). He said the Conditional Use Permit satisfies the AAP. As far as fire concerns, he said, the Fire Department reviewed the plan and approved access through the alley.

Bruce Frantz, NDSU Facilities Management Director, said even with overselling T Lot permits by 15%, there is plenty of parking available for potential renters. He said there is open parking on weekends and evenings in the T Lot. The proximity to campus, he said, minimizes car traffic for both the businesses and the apartments. NDSU, he said, is also very pleased with the appearance of the complex.

John Paulsen, Chair of the Planning Commission, said the 12th Avenue project is good for NDSU and the neighborhood. Planning staff, he said, is also working with the Roosevelt neighborhood to protect their interests.

Mr. Garaas said the Land Development Code states an AAP needs to be recorded with the Register of Deeds. He said there was no mailing, no action plan and the law was ignored so this is a violation of the law which makes the request for the Tax Increment Financing invalid.

City Attorney Erik Johnson said the AAP is defined by Ordinance and the Conditional Use Permit meets the requirement for an AAP. He said the parking issue has been handled but Mr. Garaas is using this argument to stop the approval of the Tax Increment Financing.

Mr. Garaas said he will withdraw his protest if an AAP is given to him in writing. He also said a building permit should not be issued because they did not follow the correct process.

Mr. Johnson submitted three items in respect to Mr. Garaas's protests; a photocopy of the Conditional Use Permit, a document dated March 24th that shows the action taken by the Planning Commission and a copy of the Conditional Use Permit that was granted. He said the Planning Commission approved the AAP.

Commissioner Coates moved the three items submitted by City Attorney Johnson be received and filed.

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

Commissioner Coates moved to accept the following findings: the proposed TIF Developer Agreement will not result in unfair competition and is in the best interests of the City of Fargo as a whole.

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

Commissioner Williams voted nay.

The motion was declared carried.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas or areas consisting of industrial or commercial property, or a combination of those areas of properties exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment or a combination thereof, of the area contained within the Development Plan for Tax Increment Financing District No. 2008-01 is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are several buildings in the area contained within the Development Plan with deteriorated conditions. The Renewal Area, as defined in the Development Plan, is blighted due to the presence of three buildings that are deteriorated and this condition has substantially impaired the growth of the City in this area, and has slowed the provision of appropriate housing in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in said area.
4. That comparable replacement dwellings or housing is available to persons displaced by the proposed Tax Increment Project which will not create any undue hardship to those persons. Housing vacancy rates in the area surrounding the Renewal are high enough to meet the needs of the persons that will be displaced.
5. That the area designated as the Development Plan for Tax Increment Financing District No. 2008-01 is appropriate for a development project.
6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Development Plan for Tax Increment Financing District No. 2008-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Development Plan for Tax Increment Financing District No. 2008-01 is hereby officially adopted by the Board.
8. That a Developer Agreement be prepared in regard to the Tax Increment Financing.
9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof and that the County Auditor and Treasurer shall do so in accordance with this section.

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

Commissioner Williams voted nay.

The Resolution was adopted.

At 6:10 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Hearing on a Petition for a Zoning Change on Certain Parcels of Land in Hector's Subdivision Continued to May 19, 2008 (4218 19th Avenue North):

At a Hearing held on April 9, 2008 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GC, General Commercial on part of Lot 13, Hector's 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 Planning staff is trying to find balance between industrial use and the landowners to the north. He said three protest letters were received which represent 11% of the protest area.

Greg Wettstein, 4206 North 19th Avenue, said he is one of the landowners to the north and one of the three that is protesting the request. He said neither he nor his neighbors received notification of the rezoning request and he only happened to find out because he contacted the Planning Department about drainage concerns. He distributed a packet of information in regard to the rezoning request. He said they are not opposed to the rezoning request but are concerned about continued use of their property for residential purposes. The three landowners that submitted protests, he said, are also concerned about drainage and right-of-way on their property.

Jay Alsop, P.O. Box 2325, Fargo, and John Hager, 723 Main Avenue, Hickson, said they are planning to put up a storage shed for a contracting business on the land being petitioned for rezoning. Mr. Alsop said there are evergreens on the property which would provide a buffer. He said he talked to April Walker, Fargo Senior Engineer, and she informed him there is enough slope on the property for drainage. He said he is also in conversation with BNSF and a watershed attorney in regards to drainage issues.

Mayor Walaker said there seem to be concerns regarding mixed use with the neighbors and he asked if both parties would agree to meet and then come back to the Commission in two weeks.

Mr. Hinderaker said he is open to meeting with the parties and feels two weeks is ample time.

Mr. Alsop said they started the process for getting a building permit and feels there is time for discussion.

Commissioner Williams moved the Hearing be continued to May 19, 2008.

Second by Mahoney.

Commissioner Wimmer said he is concerned with the notification process if all three of the protesters did not receive the notice of hearing.

Mr. Hinderaker said the letter sent to the protest area was dated March 20, 2008 and the Planning Department staff has a list of who was to receive the letters. He said the letters are not sent by certified mail.

Mr. Alsop said he received the letter.

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

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

Parcels of Land in Morton and Dotys Addition Rezoned (1330 13 1/2 Street South and 1315 and 1331 University Drive South):

At a Hearing held on April 9, 2008 the Fargo Planning Commission recommended approval of a change in zoning from SR-3, Single-Dwelling to LC, Limited Commercial on Lots 17 through 19, Block 1 and MR-2, Multi-Dwelling to LC, Limited Commercial on Lots 20 through 24, Block 1, Morton and Dotys 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.

Senior Planner Jim Hinderaker said Manor Care Health Service is requesting the rezoning in order to expand the facility.

In response to a question from Commissioner Wimmer regarding parking issues with expansion, Mr. Hinderaker said this is a primary site so there is no need for an Alternate Access Plan. He said because of the type of facility, parking is used mainly by staff and visitors.

Tami Norberg, Vogel Law Firm, said Manor Care is a reputable company. She said the average stay is 50 to 55 days and the plan is to add 22 beds and additional therapy rooms. She said with the increased need for rehabilitation services, it is a good time to expand.

Commissioner Coates 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 it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code.

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Morton and Dotys Addition to the City of Fargo:

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Morton and Dotys Addition to the City of Fargo be placed on first reading.

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

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

Parcels of Land Lying in Section 11, Township 138 North, Range 49 West Rezoned (3340 64th Avenue South):

At a Hearing held on April 9, 2008 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GC, General Commercial beginning at the NW corner of Section 11, Township 138 North, Range 49 West; thence easterly 444.95 feet along the northern line of said section to a point intersecting with the easterly right-of-way line of Interstate 29 and the true point of beginning; thence southerly 2640 feet along the easterly right-of-way line of Interstate 29 to a point intersecting the southern line of the NW 1/4 of said section; thence easterly 1320 feet along the southern line of the NW 1/4 of said section; thence northerly 2640 feet along a line parallel to the easterly right-of-way line of Interstate 29 to a point intersecting the north line of the NW 1/4 of said section; thence westerly 1320 feet to the true point of beginning.

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 Coates 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 as the proposal complies with the adopted Area Plan, Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, 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 Section 11, Township 138 North, Range 49 West, Cass County, North Dakota:

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Section 11, Township 138 North, Range 49 West, Cass County, North Dakota be placed on first reading.

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

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

Request from the Inspections Department to Hire a Full-time Plumbing Inspector I Approved:

The Board received a communication from Inspections Administrator Ron Strand requesting a full-time Plumbing Inspector I position for the Inspections Department. He said this request is very similar to the original 2008 budget request. The total budget adjustment, he said, would be approximately \$62,000. He said this request is based on the best information available as of April 30, 2008 which indicates that building construction and plumbing permit activity continue to create the demand for the additional services that a second plumbing inspection position will provide.

Commissioner Williams moved the request from Ron Strand to hire an additional full-time Plumbing Inspector I be approved.

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

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

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, May 19, 2008.

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

The time at adjournment was 7:05 o'clock p.m.