

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting:

Monday:

June 2, 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 2, 2008.

The Commissioners present or absent were as shown following:

Present: Coates, Mahoney (via conference call), 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 May 19, 2008 be approved as read.

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

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 5/19/08:
 - (1) Enacting Article 25-36 of Chapter 25 of the Fargo Municipal Code Relating to Licensing of Re-Roofing Contractors; Resolution setting fees (Attachment "A")
 - (2) Rezoning Certain Parcels of Land Lying in Hector's Subdivision to the City of Fargo.
- b. 608 and 610 Main Avenue Storefront Rehab projects.
- c. Fannie Mae line of credit to provide the Fargo Housing and Redevelopment Authority with construction financing to redevelop property at 414 11th Street North.

- d. Purchase of software for wireless communications between computers in vehicles (police and fire) from Aercor Wireless, Inc. in the amount of \$32,519.75.
- e. Six month extension of the Class "FA" Alcoholic Beverage License held by Outback Steakhouse until December 1, 2008.
- f. Contract amendment with the North Dakota Department of Health for the WIC program (CFDA #10.557).
- g. Memorandum of Understanding with NDSU for additional transit needs in 2009.
- h. Site Authorizations for Games of Chance:
 - (1) Special Olympics North Dakota at Rooters Bar.
 - (2) The ARC Upper Valley, Inc. at JT Cigarros and Sports Bar.
 - (3) National Multiple Sclerosis Society – Dakota Chapter at Rick's Bar and Grill and the Select Inn.
 - (4) Jon Greenley Amvets Post #7 at the Nestor Tavern.
 - (5) Gilbert C. Grafton Post #2 American Legion at the American Legion Club.
 - (6) Teamsters at the Teamsters Lounge.
- i. Applications for Games of Chance:
 - (1) El Zagal Mobile Nobles for a raffle on 8/12/08.
 - (2) SW Optimist Club of Fargo for a raffle on 6/24/08; Public Spirited Resolution.
- j. Change Order No. G06 for an increase of \$17,851.61 for General Construction in connection with Phase One of the Central Garage Renovation.
- k. Thomsak First Addition Plat.
- l. Amended Agreement Regarding Special Assessments on the Hector Starr Quarter (52nd Avenue South Improvement Project).
- m. Agreement to Sell Property and Relinquish Easement City-Bergseth; Resolution Regarding Property Sale (Attachment "B"); and staff authorization to dispose of remaining excess City land along vacated 22nd Street North.
- n. Bills in the amount of \$3,771,198.56.

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.

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

Commissioner Coates moved approval of the Contract between the City of Fargo and Central Specialties, Inc. for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 in the City of Fargo, North Dakota.

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.

Contract Bond for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 Approved:

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

Ohio Farmers Insurance Company., in the amount of \$287,074.29, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 in the City of Fargo, North Dakota.

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.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Dakota Underground for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 in the City of Fargo, North Dakota.

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.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 Approved:

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

United Fire and Casualty Company, in the amount of \$1,228,352.53, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5796 in the City of Fargo, North Dakota.

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.

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5385:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5385 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 28 and May 5, 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, Sidewalks and Incidentals Improvement District No. 5385.

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.

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5385:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5385 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 28, 2008 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$608,229.15
Central Specialties, Inc. Bid:	Alexandria, MN \$659,735.38
Northern Improvement Company Bid:	Fargo, ND \$661,070.00
Master Construction Company, Inc. Bid:	Fargo, ND \$668,118.10
Strata Corporation Bid:	Grand Forks, ND \$687,988.00
Aggregate Industries Bid:	Moorhead, MN \$698,406.90
Specialized Contracting Bid:	Fargo, ND \$756,095.25

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5385 Awarded to Border States Paving, Inc. in the Amount of \$608,229.15:

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, Sidewalks and Incidentals Improvement District No. 5385; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 28, 2008 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5385 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. 5385 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$608,229.15 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 \$608,229.15 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. 5385 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$608,229.15, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

No Protests Received for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746:

The Statutory Resolution of Necessity for the construction of Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 28 and May 5, 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 Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746.

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.

Bids Received for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746:

The bids for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 28, 2008 and the bids were found to be as follows:

Northern Improvement Company Bid:	Fargo, ND \$726,063.70
Master Construction Company Bid:	Fargo, ND \$749,889.32
Opp Construction Company Bid:	Fargo, ND \$820,576.64
Dakota Underground Bid:	Fargo, ND \$841,522.71
Strata Corporation Bid:	Grand Forks, ND \$849,196.74
Specialized Contracting Bid:	Fargo, ND \$937,317.03

Contract for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746 Awarded to Northern Improvement Company in the Amount of \$726,063.70:

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 Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 28, 2008 for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$726,063.70 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 \$726,063.70 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Storm Sewer, Paving, Street Lights, Traffic Signal Improvements and Incidentals Improvement District No. 5746 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$726,063.70, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 28, and May 5, 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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783.

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.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 28, 2008 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$1,419,533.15
Northern Improvement Company Bid:	Fargo, ND \$1,421,732.78
Strata Corporation Bid:	Grand Forks, ND \$1,429,171.38
Central Specialties, Inc. Bid:	Alexandria, MN \$1,539,390.45
Dakota Underground Bid:	Fargo, ND \$1,541,377.48
Master Construction Company, Inc. Bid:	Fargo, ND \$1,574,323.80
Aggregate Industries Bid:	Moorhead, MN \$1,584,659.25
Specialized Contracting Bid:	Fargo, ND \$1,610,847.25

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783 Awarded to Border States Paving, Inc. in the Amount of \$1,419,533.15:

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 Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 28, 2008 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$1,419,533.15 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 \$1,419,533.15 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5783 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$1,419,533.15, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5797:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5797 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 28 and May 5, 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, Sidewalks and Incidentals Improvement District No. 5797.

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.

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5797:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5797 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 28, 2008 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$1,578,976.02
Master Construction Company, Inc. Bid:	Fargo, ND \$1,588,028.70
Northern Improvement Company Bid:	Fargo, ND \$1,752,818.02
Strata Corporation Bid:	Grand Forks, ND \$1,798,900.65
Central Specialties, Inc Bid:	Alexandria, MN \$1,819,061.41
Aggregate Industries Bid:	Moorhead, MN \$1,901,312.02
Specialized Contracting Bid:	Fargo, ND \$1,979,222.21

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5797 Awarded to Border States Paving, Inc. in the Amount of \$1,578,976.02:

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, Sidewalks and Incidentals Improvement District No. 5797; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 28, 2008 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5797 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. 5797 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$1,578,976.02 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 \$1,578,976.02 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.

5797 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$1,578,976.02, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

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

Sanitary Sewer, Paving and Incidentals Improvement District No. 5826 (43rd Street North, South of 19th Avenue North):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Paving and Incidentals Improvement District No. 5826:

Adopt Resolution Creating Improvement District No. 5826:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5826, in the City of Fargo, North Dakota, be created

On 43rd Street south of 19th Avenue North between Lots 13 & 14 in Hectors Subdivision.

COMPRISING:

Part of Lot 13, described as follows:

Commencing at the NW corner of Lot 13, then on an assumed bearing of N 89 degrees 28 minutes 49 seconds E along the north line of Lot 13 a distance of 233.21 feet, then S 00 degrees 45 minutes 03 seconds E a distance of 348.16 feet, then N 89 degrees, 03 minutes 39 seconds E a distance of 303.56 feet, then S 00 degrees 06 minutes 37 seconds W a distance of 678.01 feet, then N 63 degrees 04 minutes 46 seconds W a distance of 607.63 feet along the northerly line of the RR R/W line to the west boundary of Lot 13, then north on the west line of Lot 13 (N 00 degrees 08 minutes 20 seconds E) a distance of 747.00 feet to the point of beginning.

Lot 14

Hectors Subdivision

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Paving and Incidentals Improvement District No. 5826, 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. 5826:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5826, 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 \$138,699.)

Order Plans and Specifications for Improvement District No. 5826:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5826, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5826:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5826, 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. 5826, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Sanitary Sewer, 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 Sanitary Sewer, Paving & Incidentals, Improvement District No. 5826 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

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

Protests against the proposed Sanitary Sewer, 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. 5826:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5826, in the City of Fargo, North Dakota.

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 for an Extension of the Noise Ordinance for Rib Fest and More Approved:

The Board received a communication from Michael Brooks, Vice President/Market Manager, Go Radio Broadcasting, LLC and Rib Fest Committee Member, requesting a one hour extension of the City's Noise Ordinance for Rib Fest and More from June 4 through 7, 2008 from 10:00 p.m. to 11:00 p.m. for live entertainment. Mr. Brooks stated they will make certain all City guidelines are followed and that noise is reduced as much as possible by the direction of their sound equipment. He also requested that they be able to maintain low-level sound up to midnight using their low-level PA for background music while patrons are exiting.

Commissioner Wimmer moved the request for a one hour extension of the City's noise ordinance for Rib Fest and More from 10:00 p.m. to 11:00 p.m. from June 4 through 7, 2008 be approved and that they be allowed to maintain low-level sound up to midnight.

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

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

Amended Renaissance Zone Fund Agreement with NDSU Research Park Ventures, LLC Approved:

The Board received a communication from Senior Planner Robert Stein stating at their March 10, 2008 meeting the City Commission approved the request from the NDSU Research and Technology Park to proceed with the creation of a Renaissance Zone Fund Organization and to develop an agreement to that effect. He said this action was also recommended by the Renaissance Zone Authority. Mr. Stein submitted the agreement and stated the following change should be made on page 2, paragraph 1: "the corporation is hereby designated to serve as the a renaissance fund..." He said this change would make the document consistent with language on page 1; and would accurately reflect the fact that there is another renaissance zone fund, and a request for a third fund.

Commissioner Wimmer moved the agreement with NDSU Research Park Ventures, LLC be approved with the change recommended by Mr. Stein.

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.

Application Filed by Mosaic Foods, LLC d/b/a Café Mosaic Downtown for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Mosaic Foods, LLC d/b/a Café Mosaic Downtown for a Class "G" Alcoholic Beverage License at 69 4th Street North, 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, Coates and Walaker voted aye.

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

Application Filed by Mosaic Foods, LLC d/b/a Café Mosaic South for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Mosaic Foods, LLC d/b/a Café Mosaic South for a Class "GH" Alcoholic Beverage License at 1638 32nd 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, Coates and Walaker voted aye.

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

Application Filed by Tatjana Fazlovic d/b/a Piccolo for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Tatjana Fazlovic d/b/a Piccolo for a Class "GH" Alcoholic Beverage License at 2225 13th 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, Coates and Walaker voted aye.

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

Application to Transfer the Alcoholic Beverage License from Grandma's, Inc. d/b/a Grandma's Saloon and Grill to FTS Fargo, Inc. d/b/a Hooters Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Grandma's, Inc. d/b/a Grandma's Saloon and Grill to FTS Fargo, Inc. d/b/a Hooters, at 1649 38th Street South notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner Mahoney moved the application be approved.

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

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

Renaissance Zone Project Application for Bristol Street Development, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Bristol Street Development, LLC at 8 Seventh Street North.

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 Bristol Street Development, 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 Bristol Street Development, LLC for a project located at 8 Seventh Street North be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Resolution Adopted Approving AES Livestock Management Addition to the City of Fargo, Cass County, North Dakota (3816-3900 19th Avenue North):

Commissioner Coates offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "AES Livestock Management Addition" containing 1 Lot, 1 Block and 121.24 acres of land more or less, located at 3816-3900 19th Avenue North; and

WHEREAS, A Hearing was scheduled to be held April 9, 2008 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on May 26 and June 2, 2008 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., June 2, 2008 at which time said Plat would be considered and all interested persons would be heard.

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

Second by 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.

Parcels of Land in Whispering Creek First Addition Rezoned (2552 53rd Avenue South):

At a Hearing held on May 14, 2008 the Fargo Planning Commission recommended approval of a change in zoning from MR-3, Multi-Dwelling to SR-4, Single-Dwelling on Lots 2 through 23, Block 1, Whispering Creek First 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 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 review criteria of Section 20-0906.F (1-4) has been met.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, 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 Whispering Creek First 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 Whispering Creek First Addition to the City of Fargo be placed on first reading.

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

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

Parcels of Land in the Southeast Quarter of Section 1, Township 138 North, Range 49 West Rezoned (6064 South University Drive):

At a Hearing held on May 14, 2008 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to MHP, Mobile Home Park on the Southeast Quarter of Section 1, Township 138 North, Range 49 West, less that part West of Highway 81 lying in the County of Cass, North Dakota.

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 on the basis that review criteria of Section 20-0906.F (1-4) has been met.

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 the Southeast Quarter of Section One, Township One Hundred Thirty-Eight North, Range Forty-Nine 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 the Southeast Quarter of Section One, Township One Hundred Thirty-Eight North, Range Forty-Nine West, Cass County, North Dakota be placed on first reading.

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

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

Parcels of Land in the Southeast Quarter of Section 16, Township 138 North, Range 49 West, Cass County, North Dakota Rezoned (8487 45th Street South):

At a Hearing held on May 14, 2008 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to SR-1, Single-Dwelling for approximately three acres within that part of the Southeast Quarter of Section 16, Township 138 North, Range 49 West, Cass County, North Dakota, described as follows: Commencing at the Southeast corner of Section Sixteen (16); Thence N 90 degrees 00' 00" W along the southerly line of Section 16 for 2060' to the point of beginning; Thence N 00 degrees 00' 00" E, for a distance of 300'; thence N 90 degrees 00' 00" E parallel to the southerly line of Section 16 for a distance of 217'; thence N 00 degrees 00' 00" E for a distance of 317'; thence N 90 degrees 00' 00" W parallel to the southerly line of Section 16 for a distance of 317'; thence S 00 degrees 00' 00" W for a distance of 617'; thence S 90 degrees 00' 00" E along the southerly line of Section 16 for a distance of 100' to the 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 on the basis that review criteria of Section 20-0906.F (1-4) has been met.

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 the Southeast Quarter of Section Sixteen, Township One Hundred Thirty-Eight North, Range Forty-Nine 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 the Southeast Quarter of Section Sixteen, Township One Hundred Thirty-Eight North, Range Forty-Nine 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.

Petition Requesting the Rezoning of Parcels of Land in the Southwest Quarter of Section 18, Township 138 North, Range 48 West Denied (8452 South University Drive):

At a Hearing held on May 14, 2008 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to LC, Limited Commercial with a Conditional Overlay on an approximately 10 acre portion of the Southwest Quarter of Section 18, Township 138 North, Range 48 West, Cass County, North Dakota, described as follows: Commencing at the Northwest corner of said Southwest Quarter; thence N 89 degrees 57'09" E along the north line of said Southwest Quarter for a distance of one hundred feet to the point of beginning; thence continue N 89 degrees 57'09" E along the north line of said Southwest Quarter for a distance of five hundred sixty feet; thence S 00 degrees 36'37" E parallel to the west line of said Southwest Quarter for a distance of seven hundred seventy eight feet; thence S 89 degrees 57'09" W parallel to the north line of said Southwest Quarter for a distance of five hundred sixty feet; thence N 00 degrees 36'37" W parallel to the west line of said Southwest Quarter for a distance of seven hundred seventy eight feet to the 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.

Written protests to the change in zoning as petitioned for had been received, such protests representing 29.3 per cent of the legal protest area.

Senior Planner Jim Hinderaker stated the requested zoning change is for the purpose of establishing a zoning classification that would allow the petitioner to move forward with the construction of a new office building and an attached warehouse on the property which will be used as the new home for Hogenson Construction. He said the company designs and builds commercial grain storage, feed mills, bulkweigher systems, fertilizer plants, and grain dryers, as well as providing millwright services and all of the construction equipment associated with the business is located at the various job sites. Mr. Hinderaker stated the property is located within the extraterritorial (ET) jurisdiction of the City and, therefore, the City has zoning, platting and building permitting authority within a four-mile radius of the City's corporate limits. He said this authority allows the City to ensure that development is orderly and adheres to the development standards of the Land Development Code. He said many of the City facilities and services that are typically a part of the existing infrastructure within the City limits may be limited and/or non-existent within the ET area. He said the petitioner was advised that future development may also be limited in terms of its size and scope based on the availability of these necessary facilities and services. He said in an effort to address concerns that had been raised, the petitioner made a number of changes to his request which Mr. Hinderaker summarized. He said staff and the Planning Commission are recommending approval of the requested zoning change.

There was discussion regarding the problem of providing adequate services to the petitioner.

Randy Schneider, petitioner, stated this project is one that is following the rules and regulations by the book. He summarized his project and stated this is basically going to be a one-story office building

Heather Budge, 1629 Round Hill Drive, spoke in opposition to the project. She said the residents do not feel a construction office would be good for their neighborhood.

Commissioner Williams questioned why the residents were concerned with the construction office.

Ms. Budge stated the residents are concerned that if this project is approved, it could lead to downzoning at a later date.

Commissioner Coates stated state law is really stringent on what grounds the City Commission can deny a request like this. She said it can only be denied on the basis of what criteria is not satisfied.

There was discussion regarding the criteria the project did not address.

Commissioner Wimmer stated the Commission can deny the request if all of the criteria has not been met.

Mr. Hinderaker stated an office building does fit in with the growth plan for this area.

(Commissioner Mahoney absent)

At 6:11 p.m. the Board took a five-minute recess.

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

Dale Ziegler, 1630 Round Hill Drive, stated there is only one access point to this area on 81st Avenue and adding more cars to that one entrance makes it a safety issue. He said the proposed project is not a good fit for this area.

Richard Thomas, 404 River Drive South, stated he is not sure the services that need to be provided for this project will be adequate. Another thing, he continued, this is zoning without representation. He said the residents in Round Hill cannot vote for Commissioners.

Rick Flacksbarth, 1241 45th Avenue North, stated he is representing Harold Newman, owner of Newman Sign Company. He said their concern is the restrictions listed in the Conditional Overlay, particularly the ones relating to signs. He said it seems like over the past year or so an overlay is thrown in and more and more conditions are being added. He said when these conditions are placed on the property, the City becomes the enforcer. He said the City should not be spending taxpayer money to have City employees making sure all of the conditions in the overlays are being followed.

Rodney Young, President of Amber Plains; Rob Hansen, 8308 Riverview Road; Dave Ekman, 1615 Round Hill Drive; Kristi Marks, 1220 76th Avenue South; and Paulette Ekman, 1615 Round Hill Drive spoke in opposition to the rezoning request and stated their concerns.

Mr. Hinderaker said their concerns have been addressed by the petitioner.

There was discussion regarding flooding concerns.

Mr. Schneider stated he has done everything the Planning staff asked him to do and changed his plan to follow everything to a tee. He said this project is for engineers who use laptops and not cranes.

City Attorney Erik Johnson stated the protest percentage is over 20% which means a super majority or 4/5 vote of the City Commissioners is needed to approve the zoning change.

State Senator Jim Pomeroy stated he and State Representative Lee Myxter are here at the request of the Round Hill residents. He said these residents cannot vote for the Fargo City Commissioners and they feel they have no representation on this issue. He said that is a concern of his and he would like to look into that issue further.

Commissioner Coates stated according to state law this body has voting control in this area. She said the way it is set up now is not fair. She said this is something that will probably be changed in the future and she is in favor of that, however, at the present time the City's actions must comply with state law.

Commissioner Coates moved to accept the findings and recommendations of staff and approve the request for rezoning.

Second by Wimmer.

There was discussion regarding certain criteria that the proposed zoning change did not comply with.

Commissioner Williams stated if the petitioner does not meet some of the criteria, the City Commission can deny the request.

On call of the roll Commissioner Coates voted aye.

Commissioners Wimmer, Williams and Walaker voted nay.

Absent and none voting: Commissioner Mahoney.

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

Commissioner Williams moved the request for rezoning be denied on the basis that approval criteria 20-0906.F.2 of the Land Development Code was not met, citing inadequate flood protection and inadequate response time for fire protection.

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

Absent and not voting: Commissioner Mahoney

The motion was declared carried.

At 7:00 p.m. the Board took a five-minute recess.

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

Plat of Dakota Boys and Girls Ranch and Petition Requesting the Rezoning of Parcels of Land in Dakota Boys and Girls Ranch Subdivision Denied (2038 76th Avenue South):

At a Hearing held on April 9, 2008 the Fargo Planning Commission recommended approval of a Plat of Dakota Boys and Girls Ranch and change in zoning from AG, Agricultural to MR-3, Multi-Dwelling on Lots 1 and 2, Block 1 and Lot 2, Block 2, Dakota Boys and Girls Ranch Subdivision, in the East Half of the Northwest Quarter of Section 13, Township 138 North, Range 49 West and from AG, Agricultural to SR-4, Single Dwelling on Lots 1, 3 and 4, Block 2, Boys and Girls Ranch Subdivision, in the East Half of the Northwest Quarter of Section 13, Township 138 North, Range 49 West.

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.

Written protests to the plat and change in zoning as petitioned for had been received, such protests representing 61.6 per cent of the legal protest area.

Senior Planner Jim Hinderaker stated the Dakota Boys and Girls Ranch own approximately 80 acres of land on the south side of 76th Avenue South, approximately one-fourth mile east of 25th Street. He said the petitioner proposes to create a six lot subdivision on the north 52.92 acres with the intent of building the new Dakota Boys and Girls Ranch facility on the largest lot. He said the main area includes a private school, gymnasium, dining hall, chapel, residential treatment center, safe home, a future adolescent assessment center and a future childcare center along with possible soccer and softball fields. He said staff determined the Dakota Boys and Girls Ranch facility is best defined and classified as a Community Service use. He said Community Service uses are public, nonprofit or charitable uses generally providing a local service to people of the community. Mr. Hinderaker summarized the criteria required by the LDC before a major plat can be approved and stated that criteria has been satisfied.

Tim Eissenger, Vice President of Dakota Boys and Girls Ranch, stated their group purchased this property two years ago. He said they felt the property would allow for an adequate buffer and the location would put them in a position to be successful. He summarized the proposed project and also reviewed the Dakota Boys and Girls Ranch program.

In answer to a question, Mr. Eissenger stated Dakota Boys and Girls Ranch has four locations in the City.

Commissioner Williams brought up concerns relating to providing adequate services to the area.

Mr. Eissenger stated his group held meetings with the neighborhood and also offered tours of their facilities so the neighborhood could see what their program was all about. He said only two people participated in the tours.

Commissioner Wimmer stated the services the Dakota Boys and Girls Ranch provides are wonderful, however, he is concerned with the compatibility issue with the neighborhood and providing adequate services to this area.

Mr. Eissenger stated the Round Hill Neighborhood Association did contact their facility in Minot and were told it had very little impact on the neighborhood and property values. He said it would be unfortunate if they do not have the opportunity to prove themselves as good neighbors. He said he thinks they could be a good model and a contributor to South Fargo.

There was discussion regarding the types of individuals the Dakota Boys and Girls Ranch accepts into their program.

Police Chief Keith Ternes stated calls the Police Department has received for the facility have been for disturbances that were contained in the facility and runaways. He said the main calls were for runaways.

In answer to a question, Chief Ternes stated the Cass County Sheriff's Department would be responding to calls at the proposed facility.

Cass County Sheriff Paul Laney stated it is hard to predict response time in that area but they normally respond pretty quickly.

Dr. Cal Fercho, 2525 East County Club and Paula Ekman, 1615 Round Hill Drive; spoke in opposition to the zoning change and stated their concerns regarding property values and the safety of the children in the neighborhood.

At 8:03 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Perry Ronning, Township Supervisor, stated the only access to this area is a gravel road which is a safety concern. He said his biggest concern is providing enough services for this area.

Commissioner Coates moved to accept the findings and recommendations of staff and approve the Dakota Boys and Girls Ranch Subdivision plat and zoning change.

The motion died for the lack of a second.

Commissioner Coates stated she can understand the Round Hill residents' concerns but these are the community's children. She questioned where this facility can be located if everyone says not in my back yard. She said as a community, all of the citizens' needs should be addressed and she hopes the Dakota Boys and Girls Ranch will be able to find a location in Fargo.

Commissioner Wimmer moved the Dakota Boys and Girls Ranch Subdivision plat and request for rezoning be denied on the basis that approval criteria 20-0906.F.2 of the Land Development Code had not been met citing the lack of being able to provide adequate services based on the magnitude of the project.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 16, 2008.

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

The time at adjournment was 8:17 o'clock p.m.