

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: November 3, 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, November 3, 2008.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved adding an extra item regarding a Hold Harmless Agreement with KBW Associates, Inc. to the Regular Agenda after Public Hearings.

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on October 20, 2008 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

a. PEC recommendations:

Police Department:

Request to eliminate the rank of detective from the department's structure and add a sergeant's position to the Investigations Unit. Request to reclassify one of the police officer positions approved in the 2009 budget to a patrol sergeant position. Cost of request: \$0

PEC recommends approval of the request to eliminate the rank of detective (C42-2 paid at C43) from the department's structure effective 1/1/09. The detectives would receive the 2009 cost-of-living adjustment on 1/1/09 after which their pay would be frozen until the police officer pay scale (C42) catches up to their frozen rate of pay.

PEC recommends approval of the addition of a sergeant's position (C51-2 paid at C53) to the Investigations Unit through reclassification of an existing vacant police officer position effective 1/1/09.

PEC recommends approval of the reclassification of one of the police officer positions approved in the 2009 budget to a patrol sergeant position (C51-2 paid at C53) effective 1/1/09.

Central Garage:

Request to eliminate the Fleet Services Supervisor position and add a new Fleet Management Specialist position. Cost of request: \$0

PEC recommends approval of the elimination of the Fleet Services Supervisor position (C41-2 paid at C42) and the addition of a new Fleet Management Specialist position (C42-1) effective 11/17/08.

Request to implement an Equipment Technician I - 12-Month Promotion Policy for Central Garage and Transit.

PEC recommends approval to implement a new Equipment Technician I - 12-Month Promotion Policy for Central Garage and Transit effective immediately.

- b. Health Department budget adjustments in the amount of \$60,200 and grant agreement with Dakota Medical Foundation to place 23 AED's with first responders in North Dakota and Minnesota.
- c. Resolution approving inspection fees in connection with the rental housing inspections program.
 - (1) Direct City Attorney to draft Ordinance.
- d. Voluntary acquisition for property at 45 and 49 South Terrace for flood mitigation purposes.
- e. Voluntary acquisition for property at 1217 and 1213 El Cano Drive for flood mitigation purposes.
- f. Application filed by John and Kristin Osborne for a 5-year property tax exemption for improvements made to a building at 1032 12th Street North.
- g. Applications for Games of Chance:
 - (1) Nativity School for a raffle on 1/30/09.
 - (2) El Zagal Shrine for a raffle on 2/13/09.
 - (3) NDSU AIAS for a raffle on 12/5/08.
- h. Temporary Construction License for Improvement District No. 5798.

- i. Joint Powers Agreement with SE Cass Water Resource District for Drain 40 (Improvement District No. 5729).
- j. Purchase agreement for easements for the 32nd Avenue South Project (Project No. 5803).
- k. Cost Participation and Maintenance Agreement with the NDDOT for 12th Avenue North Reconstruction (Improvement District No. 5547; CFDA #20.205).
- l. Request for Qualifications for solicitation of Engineering Consulting Services for the University Drive South Corridor Study (Project No. 5840).
- m. Purchase agreement for property at 4600 South University Drive.
- n. Bid award to RBB Electric, Inc. in the amount of \$57,463 for lighting work at the Ground Transportation Center.
- o. Contracts and bonds for Project Nos. 5828 and 5693.
- p. Bills in the amount of \$6,826,147.65.

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

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

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota, on September 29 and October 6, 2008 and no protests either written or verbal have been received or filed in the office of the City Auditor within the legal protest period, nor at any time.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lighting, Bridge Construction and Incidentals Improvement District No. 5547.

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

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

Final Balancing Change Order No. 1 for Improvement District No. 5620 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$13,841.30 for Improvement District No. 5620.

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

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

No Protests Received for Street Lighting Improvement District No. 5773:

The Statutory Resolution of Necessity for the construction of Street Lighting Improvement District No. 5773 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on September 29, October 6 and 13, 2008 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of Street Lighting Improvement District No. 5773.

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

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

Bids Received for Street Lighting Improvement District No. 5773:

The bids for Street Lighting Improvement District No. 5773 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., October 29, 2008 and the bids were found to be as follows:

Fritz Electric Bid:	Fargo, ND \$17,898.80
Fargo Electric Bid:	Fargo, ND \$20,262.20
Moorhead Electric Bid:	Moorhead, MN \$27,320.35

Contract for Street Lighting Improvement District No. 5773 Awarded to Fritz Electric in the Amount of \$17,898.80:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Street Lighting Improvement District No. 5773; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received October 29, 2008 for Street Lighting Improvement District No. 5773 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Street Lighting Improvement District No. 5773 shows the bid of Fritz Electric of Fargo, North Dakota, in the sum of \$17,898.80 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 Fritz Electric in the sum of \$17,898.80 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Street Lighting Improvement District No. 5773 in the City of Fargo, North Dakota, be and the same is hereby awarded to Fritz Electric for the sum of \$17,898.80, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Piepkorn, Wimmer, Williams and Walaker voted aye.

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

Contract for Street Reconstruction and Street Reconstruction and Incidentals Improvement District No. 5601-4 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company for Street Reconstruction and Incidentals Improvement District No. 5601-4 in the City of Fargo, North Dakota.

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

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

Contract Bond for Street Reconstruction and Incidentals Improvement District No. 5601-4 Approved:

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

United Fire and Casualty Company, in the amount of \$95,895.00, for Street Reconstruction and Incidentals Improvement District No. 5601-4 in the City of Fargo, North Dakota.

Second by Piepkorn. On call of the roll Commissioners Mahoney, Piepkorn, Wimmer, 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. 5843 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5843 in the City of Fargo, North Dakota.

Second by Piepkorn. On call of the roll Commissioners Mahoney, Piepkorn, Wimmer, 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. 5843 Approved:

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

United Fire and Casualty Company, in the amount of \$113,805.02, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5843 in the City of Fargo, North Dakota.

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

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

Presentation of the 2008 Downtown Merit Achievement Award Plaque for the Fargo-Moorhead Quiet Zone:

Mayor Walaker stated in September the City was presented the 2008 Downtown Merit Achievement Award Plaque for the Fargo-Moorhead Quiet Zone. He said he would like to recognize Civil Engineer Kristy Schmidt, Senior Planner Robert Stein and Downtown Community Partnership President Dave Anderson for their achievement in this regard.

Mayor Walaker presented the award to Ms. Schmidt, Mr. Stein and Mr. Anderson and commended them for their efforts and achievement.

Resolution Adopted Annexing Approximately 419.93 Acres of Land in Sections 2, 11, 12, 13 and 14 in Stanley Township:

The Board received a communication from Planning Director Jim Gilmour stating the Fargo School District has requested annexation of property that is planned for the new Davies High School site south of 64th Avenue and east of 25th Street. Mr. Gilmour said he contacted several owners of property immediately adjacent to the high school site to see if they would allow annexation of their property so the City could provide utilities and roads to the high school site and property owners immediately to the west and south indicated they would not oppose annexation. He said based on conversations with adjacent property owners and the expected need to provide utilities along 64th Avenue South, 25th Street South and 76th Avenue South, he is submitting a draft resolution of annexation and map of the proposed annexation.

In response to a question from Commissioner Williams regarding the projected cost of services from interdepartmental staff and the use of impact fees, Mr. Gilmour said impact fees are normally used by cities that charge per housing unit to fund services and North Dakota typically uses property tax revenue for that purpose. He said a meeting is scheduled for November 18th for discussion in regard to this particular annexation as well as a tour of the proposed area before final action is taken in December.

In response to a question from Commissioner Piepkorn regarding the effect of the flood control project on this area, Mr. Gilmour said the annexation area is within the area protected by the flood plan. He said the new school could be elevated a few feet for extra protection if necessary.

Commissioner Williams moved that interdepartmental meetings be scheduled with staff and Commission liaisons within the next 21 days to consider fiscal impacts the proposed annexation might have on their departments including additional staff hours, equipment, fuel and maintenance.

Second by Mahoney.

Mr. Gilmour stated fiscal impacts cannot be known until the developer decides on the density and type of the development.

Mayor Walaker said he is against impact fees and Fargo is trying to reduce property taxes. He said the school will not generate taxes so Fargo needs to expand.

On call of the roll Commissioner Williams voted aye.

Commissioners Mahoney, Piepkorn, Wimmer and Walaker voted nay.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, The City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, with about ninety-five thousand (95,000) inhabitants; and

WHEREAS, There is contiguous and adjacent to the City of Fargo, a tract or parcel of land hereinafter specifically described, containing approximately 419.93 acres, more or less, which tract or parcel of land is not presently a part of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that the boundaries of the City of Fargo be, and they hereby are, extended so as to include and incorporate within the corporate limits of the City of Fargo, Cass County, North Dakota, the following described land: that part of Sections 2, 11, 12, 13 and 14, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota more particularly described as follows: beginning at the southeast corner of said Section 2; thence along the current City of Fargo corporate limit line on the following courses: South 89°11'11" West along the south line of said Section 2 a distance of 400.00 feet to the southwest corner of Januscheitis Subdivision as recorded in Document 502109, Book J, Page 96 at the Cass County Recorder's Office; thence northerly along the west line of said Januscheitis Subdivision a distance of 771.56 feet to the southeast corner of Lot 1, Block 5 of Silverleaf Addition as recorded in Document 1139884, Book V1, Page 9 at the Cass County Recorder's Office; thence westerly along the south line of said Lot 1 a distance of 400.25 feet to the southwest corner of said Lot 1; thence southerly along the east right of way line of 27th Street South as dedicated in said Silverleaf Addition a distance of 771.56 feet, to a point on the south line of said Section 2; said point being 800.25 feet west of the southeast corner of said Section 2; thence westerly along the south line of said Section 2 a distance of 73.00 feet to the west right of way line of said 27th Street South; thence northerly along said west right of way line of 27th Street South a distance of 540.74 feet to the southeast corner of Lot 41, Block 2 of said Silverleaf Addition; thence westerly a distance of 272.00 feet to the most southwesterly corner of Lot 39, Block 2 of said Silverleaf Addition; thence northerly a distance of 135.00 feet to a point 8.94 feet east of the southwest corner of Lot 39, Block 2 of said Silverleaf Addition; thence westerly a distance of 480.00 feet to the southwest corner of Lot 34, Block 2 of said Silverleaf Addition; thence northerly along the west line of said Silverleaf Addition 304.26 feet more or less to the southeast corner of Lot 85, Block 8 of Maple Valley Addition to the City of Fargo as recorded in Document 1222177, Book W1, Page 97 at the Cass County Recorder's Office; thence westerly along the south line of Block 8 of said Maple Valley Addition a distance of 978.25 feet to a point of intersection with the north-south quarter line of said Section 2; thence continuing westerly along the south line of Block 8 of said Maple Valley Addition to a point 180.34 feet east of the southwest corner of Lot 56, Block 8 of said Maple Valley Addition; thence southerly along a line parallel to the north-south quarter line of said Section 2 a distance of 613.16 feet; thence North

89°03'32" East a distance of 55.00 feet; thence South 73°27'54" East a distance of 201.74 feet; thence South 2°59'26" East a distance of 306.67 feet to a point on the south line of said Section 2, 105.41 feet east of the south quarter corner of said Section 2; thence leaving the existing City of Fargo corporate limit line, easterly along the south line of said Section 2 to the northeast corner of Auditor's Lot 2 of the Northeast Quarter of said Section 11; thence southerly along the east line of said Auditor's Lot 2 to a point on the north line of the Southeast Quarter of said Section 11; thence westerly along the north line of the Southeast Quarter of said Section 11 to the northwest corner of the Southeast Quarter of said Section 11; thence southerly along the west line of the Southeast Quarter of said Section 11 to the south line of the North Half of the North Half of the Southeast Quarter of said Section 11; thence easterly along the south line of the North Half of the North Half of the Southeast Quarter of said Section 11 to a point 100.00 feet west of the east line of said Section 11 as measured perpendicular to the east line of said Section 11; thence southerly and parallel to the east line of said Section 11 to a point 100.00 feet south of the westerly extension of the north line of said Section 13 as measured perpendicular to the north line of said Section 13; thence easterly and parallel to the north line of said Section 13 to a point on the west line of Amber Plains Second Subdivision of the East Half of said Section 13 as recorded in Document 852409, Book P, Page 95 at the Cass County Recorder's Office; thence northerly along the west line of said Amber Plains Second Subdivision to the south line of 76th Ave. S. as dedicated in said Amber Plains Second Subdivision; thence easterly along said south line of 76th Ave. S. to a point of intersection with the southerly extension of the west line of Walsh's First Subdivision of the Southeast Quarter of said Section 12 as recorded in document 957353, Book R1, Page 95 at the Cass County Recorder's Office; thence northerly along the southerly extension of the west line of said Walsh's First Subdivision to a point on the south line of said Section 12, the existing City of Fargo corporate limit line; thence along the current City of Fargo corporate limit line on the following courses: westerly along the south line of said Section 12 to the southwest corner of the Southeast Quarter of said Section 12; thence northerly along the west line of the Southeast Quarter of said Section 12 to the southeast corner of the Northwest Quarter of said Section 12; thence leaving the existing City of Fargo corporate limit line, westerly along the south line of the Northwest Quarter of said Section 12 to a point 980.96 feet east of the west line of said Section 12; thence northerly and parallel to the west line of said Section 12 to a point on the existing City of Fargo corporate limit line, a line parallel to and 426.00 feet south of the north line of said Section 12; thence along the current City of Fargo corporate limit line on the following courses: westerly and parallel to the north line of said Section 12 to a point on the west line of said Section 12; thence northerly along the west line of said Section 12 to the point of beginning. Said tract contains 419.93 Acres, more or less.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo once each week for two successive weeks, and a Hearing be held on the 29th day of December, 2008, at 5:15 p.m., in the City Commission Room, City Hall, Fargo, North Dakota.

Second by Piepkorn.

Commissioner Williams said he does not approve of the annexation until the various impacts to City departments and services are determined. He said this type

of strip annexation is not conducive to efficient growth and will have a profound negative impact on future City budgets and will increase special assessments and property taxes unnecessarily for homeowners in the current City footprint.

In response to a question from Commissioner Mahoney regarding the December public hearing for this item, Mayor Walaker said there will be plenty of opportunity for discussion on the annexation at that time.

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

Commissioner Williams voted nay.

The Resolution was adopted.

Renaissance Zone Project for Irish Properties II, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Rehabilitation Project for Irish Properties II, LLC at 313 NP Avenue where the applicant proposes to upgrade the interior space, replace the electrical/mechanical systems and expand the commercial work space.

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 Irish Properties II, 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 Piepkorn moved the Renaissance Zone application filed by Irish Properties II, LLC for a project located at 313 NP Avenue be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Parcels of Land in West Park Addition Rezoned (441 and 501 38th Street South):

At a Hearing held on October 8, 2008 the Fargo Planning Commission recommended approval of a change in zoning from GC, General Commercial to LI, Limited Industrial on Lots 1, 2, 4 and the adjacent 20 feet of the vacated street lying along the western edge of Lots 1 and 2, Block 2, West Park Addition.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

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

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

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in West Park Addition to the City of Fargo:

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

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

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

Parcels of Land in Town Square Village Addition Rezoned (3921 and 3957 Village Lane South):

At a Hearing held on October 8, 2008 the Fargo Planning Commission recommended approval of a change in zoning from MR-1, Multi-Dwelling to LC, Limited Commercial on Lots 5, 6 and 7, Block 3, Town Square Village Addition.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, 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 Town Square Village Addition to the City of Fargo:

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

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

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

Parcels of Land in Section 3, Township 138 North, Range 49 West Rezoned (5498 45th St. S. and 4136 and 4250 52nd Ave. S.):

At a Hearing held on October 8, 2008 the Fargo Planning Commission recommended approval of a zoning change on property located in Section 3, Township 138 North, Range 49 West from AG, Agricultural to the following: GC, General Commercial with a Conditional Overlay on the northwest quarter of the northwest quarter and LC, Limited Commercial with a Conditional Overlay on portions of the north half.

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

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

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

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff and the Planning Commission be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that it satisfactorily complies with the Comprehensive Plan/Area Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, 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 Section 3, Township 138 North, Range 49 West, Cass County, North Dakota:

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Section 3, Township 138 North, Range 49 West, Cass County, North Dakota be placed on first reading.

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

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

Hold Harmless Agreement with Batcheller Real Estate, LLC Approved:

The Board received a communication from Richard Kosel, KBW Associates, stating they are expecting FAA approval for the Appareo Systems building location any day and have been told it is in the final determination stage. He said Ulteig Engineering has surveyed and certified the location coordinates and confirmed that the building is outside the flight path easement.

City Attorney Erik Johnson said he has reviewed the agreement and sees no problem with the request. He said the contractors need to begin work before the ground freezes.

Commissioner Wimmer moved the Hold Harmless Agreement with Batcheller Real Estate, LLC be approved.

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

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

City Administrator Directed to Develop a Recommendation for Retention of a Legislative Lobbyist:

The Board received a communication from City Administrator Pat Zavoral regarding retention of a Legislative lobbyist for the City of Fargo. He stated the North Dakota legislative session begins in January 2009 and there has been discussion about employing a lobbyist during the past legislative sessions. He stated during the League of Cities annual conference held in Fargo in September, he and Mayor Walaker met with leaders from Bismarck, Grand Forks, and Minot to discuss the upcoming legislative session. During these discussions, he said, the suggestion came up that a lobbyist might be beneficial for issues that are common to the major urban centers in the state. Since then, he said, there have been a couple of conversations with the other city administrators about this topic and they are bringing the matter of using a lobbyist to their elected bodies. Mr. Zavoral said the North Dakota League of Cities will contract with a lobbyist for the upcoming session. In the past, he said, Fargo and the other cities have relied on the League to coordinate the legislative hearing schedule with local leaders and to act as the cities' representative on short notice if local elected officials and staff could not attend vital hearings. He said it appears the need to employ a lobbyist, either collectively with other cities, or individually to address Fargo's concerns, is worthy of discussion. He said he has asked local legislators what the legislature's reaction would be if such a step were taken and it seems that if Fargo were to contract with a reputable lobbyist (firm), the City could gain valuable insight and information on the legislative process. He said with funding for a major flood control project a top priority and other urban related issues being considered at the legislature, it seems the need for daily oversight is important to Fargo. Mr. Zavoral said he has contacted a veteran lobbyist firm to secure information as to what the cost of such a service would be to the City. He said to simply monitor legislative actions from December 2008 through April 2009, the range would be in the \$5,000 range and to employ a lobbyist year round would be in the \$40,000 to \$50,000 range. It appears, he said, the City would not need someone

for the full year but could use a lobbyist for the December through April schedule. He said the duties of the lobbyist would entail more than monitoring the legislature, but would not require them to be the only spokesperson for the City--the elected officials and staff would still provide testimony when needed. Other details and responsibilities of a lobbyist, he said, would be worked out if a decision is made to go forward with this suggestion. It should be noted, he said, time is short to secure the services of a capable lobbyist and most of them like to have contracts executed with their clients well ahead of the legislative session.

Commissioner Wimmer suggested Mr. Zavoral return to the Commission with a proposal and a short list of experienced lobbyists. He said the possibility of sharing a lobbyist with other cities in North Dakota would decrease the expense.

Commissioner Williams said a defined scope of work would give the Commission a specific idea without doing a full solicitation.

Commissioner Wimmer moved City Administrator Pat Zavoral develop a recommendation for retention of a Legislative lobbyist.

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

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

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, November 17, 2008.

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

The time at adjournment was 6:04 o'clock p.m.