

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: March 24, 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, March 24, 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 Williams. 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 March 10, 2008 be approved as read.

Second by Williams. 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, 3/10/08:
 - (1) Amending Sections 6-0211, 6-0214, 6-0216, 6-0217 and 6-0218 of Article 6-02 of Chapter 6 of the Fargo Municipal Code Relating to Pensions for City Employees Other Than Those in the Police and Fire Pension Systems.
 - (2) Rezoning Certain Parcels of Land Lying in Autumn Fields Addition to the City of Fargo.
 - (3) Rezoning Certain Parcels of Land Lying in Woodruff's Addition and Rupert's Subdivision to the City of Fargo - Historic Overlay District.
- b. Receive and file Ordinance Relating to Restrictions on Sale, Service or Dispensing of Alcoholic Beverages (relating to extended stay hotels or motels).
- c. Receive and file Ordinance Relating to Licensing of Re-Roofing Contractors.

- d. Resolution Authorizing Call and Redemption of Lodging Tax Revenue Bonds of 1992 of the City of Fargo (Attachment "A").
- e. Resolution Authorizing Call and Redemption of the Refunding Improvement Bonds of 1998, Series B, of the City of Fargo (Attachment "B").
- f. Precinct inspectors for the June 10, 2008 election.
- g. PEC recommendations:

Effective July 1, 2008, approve market adjustments in the form of out-of-grade pay with the incumbents receiving a minimum of a 3% increase for the following positions: Assistant Fire Chiefs, Equipment Operator II, Equipment Operator III, Police Sergeant, Police Lieutenant, Police Captain

Effective July 1, 2008, approve market adjustments in the form of reclassification with the incumbents receiving a minimum of a 3% increase for the following positions: Chief Chemist, Library Branch Manager
- h. Memorandum of Understanding with Fargo Catholic Schools Network relative to School Resource Officers.
- i. Employment contract with Greg Anderson as Project Coordinator for the Red River Regional Dispatch Center's CAD/RMS System.
- j. Development and Assessment Agreement with Urban Plains.
- k. Applications for property tax exemptions for improvements made to buildings:
 - (1) Inreit Properties LLLP, 4310 17th Avenue South (3 year).
 - (2) Janis Kirsch, 801 11th Avenue North (5 year).
 - (3) Michael and Tammy Binder, 1527 3rd Avenue South (5 year).
- l. Site Authorization for Delta Waterfowl at the Best Western Doublewood Inn on 4/17/08.
- m. Applications for Games of Chance:
 - (1) Fargo-Moorhead Cosmopolitan Club for raffles from 8/1/08 to 6/30/09.
 - (2) Fargo-Moorhead Cosmopolitan Club for sports pools from 7/1/08 to 12/31/08.
 - (3) El Zagal Arab Patrol for a raffle on 5/15/08.
 - (4) American Indian Science and Engineering Society for a raffle on 4/24/08.
- n. Contracts and bonds for general, electrical and mechanical construction on the Police Department remodeling project.
- o. Agreement with Fred Martin Hector, Jr. for entry and construction for property located along 52nd Avenue South.

- p. National Fish and Wildlife Foundation Grant Agreement for Hickson and Christine dams in connection with Project No. 5153-3.
- q. NDDOT Cost Participation and Maintenance Agreement for Project No. 5691.
- r. Corps of Engineers Project Partnership Agreement for Improvement District No. 5229.
- s. Utility Permit Application with SE Cass Water Resource District for Improvement District No. 5314.
- t. Bid award for Project No. 5809 to Luxury Landscaping in the amount of \$31,915.53.
- u. Bid advertisement for Project No. 5812-01.
- v. Contracts and bonds for Project Nos. 5771 and 5786.
- w. Bills in the amount of \$4,585,643.31.

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.

Final Balancing Change Order No. 1 for Project No. 5676 Approved:

Commissioner Coates moved approval of Final Balancing Change Order No. 1 in the amount of an increase of \$10,379.43 for Project No. 5676.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5243-1 Approved:

Commissioner Coates moved approval of Final Balancing Change Order No. 1 in the amount of an increase of \$98,728.34 for Improvement District No. 5243-1.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5671-2 Approved:

Commissioner Coates moved approval of Final Balancing Change Order No. 1 in the amount of an increase of \$171,958.74 for Improvement District No. 5671-2.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5742 Approved:

Commissioner Coates moved approval of Final Balancing Change Order No. 1 in the amount of an increase of \$2,402.52 for Improvement District No. 5742.

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.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 19, 2008 and the bids were found to be as follows:

MIC Bid:	Moorhead, MN \$146,333.20
Rising Sun Construction, Inc. Bid:	Fargo, ND \$149,581.00
Shermans, LLC Bid:	West Fargo, ND \$151,873.24
Master Construction Company, Inc. Bid:	Fargo, ND \$163,920.25
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$166,484.80
Dakota Underground Bid:	Fargo, ND \$175,246.00
George E. Haggart, Inc. Bid:	Fargo, ND \$187,669.00
Robert Gibb and Sons Bid:	Fargo, ND \$218,623.00

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792 Awarded to MIC in the Amount of \$146,333.20:

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. 5792; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 19, 2008 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792 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. 5792 shows the bid of MIC of Moorhead, Minnesota, in the sum of \$146,333.20 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 MIC in the sum of \$146,333.20 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. 5792 in the City of Fargo, North Dakota, be and the same is hereby awarded to MIC for the sum of \$146,333.20, 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, Williams, Mahoney and Walaker voted aye.

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

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5384 (30th Avenue South from 39th to 41st Streets):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5384:

Adopt Resolution Creating Improvement District No. 5384:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5384, in the City of Fargo, North Dakota, be created

On 30th Avenue South from 41st Street to 100' north of the east/west quarter line of Section 22, Township 139N, Range 49W.

COMPRISING:

The south 1400' of unplatted land lying in the northeast quarter (NE ¼) of Section 22, Township 139N, Range 49W.

All unplatted land lying in the southeast quarter (SE ¼) of Section 22, Township, 139N, Range 49W.

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

Lots 1 and 2, Block 1.
Lot 1, Block 2.
All in West 29 1st Addition.

Lot 1, Block 1 of West 29 2nd Addition.

Lot 1, Block 1 of Asplin Subdivision.

Lot 1, Block 1 of Asplin 2nd Subdivision.

Lots 1 through 3, inclusive, Block 1.

Lots 1 and 2, Block 2.

Lots 1 and 2, Block 3.

All in Adams 6th Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5384, 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. 5384:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5384, 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 \$786,216.)

Order Plans and Specifications for Improvement District No. 5384:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5384, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5384:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5384, 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. 5384, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5384:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5384, in the City of Fargo, North Dakota.

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.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 (30th Avenue South and Calico Drive):

Commissioner Coates moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770:

Adopt Resolution Creating Improvement District No. 5770:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5770, in the City of Fargo, North Dakota, be created

On 30th Avenue South from 43rd to 45th Street.

On Calico Drive South from 30th Avenue South to a point 500' north.

COMPRISING:

Lots 1 through 8, inclusive, Block 1.

Lots 1 through 4, inclusive, Block 2.

Lots 1 through 6, inclusive, Block 3.

All in Calico Prairie Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That 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 created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5770:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5770, 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 \$474,012.)

Order Plans and Specifications for Improvement District No. 5770:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5770, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5770:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5770, 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. 5770, 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights 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 Concrete Curb & Gutter, Asphalt Pavement, Street Lights & Incidentals, Improvement District No. 5770 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 concrete Curb & Gutter, Asphalt Pavement, Street Lights & 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. 5770:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5770, in the City of Fargo, North Dakota.

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.

Mill and Overlay and Incidentals Improvement District No. 5780 (Various Locations in South Fargo):

Commissioner Coates moved the following action be taken in connection with Mill and Overlay and Incidentals Improvement District No. 5780:

Adopt Resolution Creating Improvement District No. 5780:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5780, in the City of Fargo, North Dakota, be created

On 14th Avenue South from 32nd Street South 35th Street South.

On 15th Avenue South from 32nd Street South to 35th Street South.

On 16th Avenue South from 32nd Street South to 34th Street South.

On Prairiewood Circle South from Prairiewood Drive South to 35th Street South.

On 33rd Street South from 13th Avenue South to 15th Avenue South.

On 34th Street South from 14th Avenue South to 35th Street South.

On 35th Street South from 14th Avenue South to Prairiewood Circle South.

COMPRISING:

Lot 1, Block 1.

Lots 1 through 8, Block 2.

Lot 2, Block 3.

All in Saks Addition.

Lots 1 through 10, Block 1.

Lots 1 through 12, Block 3.

Lots 1 through 8, Block 4A.

Lots 1 through 9, Block 4B.

Lots 1 through 10, Block 4C.

Lots 1 through 10, Block 4D.

All in Hub Addition.

Lot 1, South Meadows Subdivision.

Lots 1 through 10, Block 1.

Prairie South Addition.

Lots 1 through 25, Block 1.

All in a replat of Lot 3, Block 3, Dakota Land Addition.

Lots 6 and 7, Block 1.

Lots 1 through 5, Block 2.

Lots 1 through 6, Block 3.

All in Dakota Land Addition.

Lots 1 and 2, Block 1.

Lots 1 through 5, Block 2.

All in Dakota Land 2nd Addition.

Lots 1 through 16, Block 1.

Points West Addition.

Lots 1 through 9, Block 1.

Points West 2nd Addition.

Lots 2 through 9, Block 10.

Lots G and H, Block 18.

Prairiewood Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Mill and Overlay and Incidentals Improvement District No. 5780, 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. 5780:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5780, 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 \$638,750.)

Order Plans and Specifications for Improvement District No. 5780:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5780, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5780:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5780, 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. 5780, 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 Mill and Overlay 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 Mill & Overlay & Incidentals, Improvement District No. 5780 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 Mill & Overlay & 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. 5780:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5780, in the City of Fargo, North Dakota.

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.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793 (44th Street South from 15th to 17th Avenues):

Commissioner Coates moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5793:

Adopt Resolution Creating Improvement District No. 5793:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5793, in the City of Fargo, North Dakota, be created

On 44th Street from 15th Avenue to 17th Avenue South

COMPRISING:

The North 746' of Lot 2 as measured at a right angle to the North line of said Lot 2, Block 1.

All in William A. Schlossman Addition.

Lots 1 through 3, inclusive, Block 1.

All in Concierge Southwest Addition.

A replat of part of Lot 2, Block 1 of William A. Schlossman Addition.

All of the unplatted land lying in Section 15, Township 139N, Range 49W bounded on the north by 15th Avenue South, bounded on the east by 44th Street South, bounded on the south by 17th Avenue South and bounded on the west by 45th Street South.

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

NOW, THEREFORE, BE IT RESOLVED, That 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 created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5793:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5793, 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 \$422,400.)

Order Plans and Specifications for Improvement District No. 5793:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5793, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5793:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5793, 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. 5793, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5793:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5793, in the City of Fargo, North Dakota.

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.

Contract for Water Main and Incidentals Improvement District No. 5583 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and MIC for Water Main and Incidentals Improvement District No. 5583 in the City of Fargo, North Dakota.

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.

Contract Bond for Water Main and Incidentals Improvement District No. 5583 Approved:

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

Granite Re, Inc., in the amount of \$129,395.50, for Water Main and Incidentals Improvement District No. 5583 in the City of Fargo, North Dakota.

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.

Validity and Sufficiency of Petitions to Prohibit Smoking in Indoor Workplaces Including All Bars and Truck Stops Accepted and Item to be Placed on the June 10, 2008 Ballot:

The Board received a communication from City Auditor Steve Sprague stating the Auditor's Office received a petition to prohibit smoking in indoor workplaces including all bars and truck stops and the validity and sufficiency of the petitions were examined on March 13, 2008. Mr. Sprague said during this procedure 3,690 signatures were examined and approximately 15.19% of the required number of petitioners needed to refer an ordinance were contacted by phone. He said the phone conversations verified the signer indeed signed the petition and verified their address and that they are qualified to vote in the City of Fargo. He said the Auditor's Office is of the opinion that the petitions are valid and sufficient and the requisite numbers of signatures were gathered.

Commissioner Coates moved the validity and sufficiency of the petition to prohibit smoking in indoor workplaces including all bars and truck stops be accepted and the item be placed on the June 10, 2008 ballot.

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.

City Attorney Directed to Modify the Questions that will be Placed on the Ballot for the June 10, 2008 Election:

The Board received a communication from City Auditor Steve Sprague submitting the suggested ballot wording for the following questions to be placed on the June 10, 2008 ballot:

Referred Ordinance prohibiting smoking in all public indoor workplaces except for an all-enclosed bar area which prohibits entry of customers under the age of 21; in designated areas of truck stops restricted for use of professional drivers and their adult companions only; and in J.T. Cigarro Tobacco Bar.

Initiated Ordinance prohibiting smoking in indoor workplaces including all bars and truck stops.

Proposed Home Rule amendment regarding initiated or referred Ordinances.

Question regarding publishing City Commission minutes.

City Attorney Erik Johnson stated the questions will be placed on the June 10, 2008 ballot and Mr. Sprague reviewed these questions with him.

Commissioner Williams stated questions that have previously been placed on the ballot required a simple yes or no answer. He said the question normally states shall the ordinance be approved and he submitted a sheet outlining his proposal for the wording of the four questions. He said he is recommending the City Commission use the same format for the proposed ballot questions.

There was discussion regarding clarifying the wording on the ballot.

Randy Thorson, 4202 Timberline Drive, stated the petitions and referrals say what they say and that is how the questions should be put to the vote of the people. He said the ballot questions should be exactly as they were submitted. He said that is what Mr. Sprague has done with the wording and Commissioner Williams' proposal would be confusing.

Commissioner Williams stated his point is to clarify the questions and make it easier for the public to understand what they are voting for.

Commissioner Coates stated, as she understands it, the wording for the questions would remain as submitted but the yes and no lines would be deleted and replaced with Commissioner Williams' proposed wording.

Commissioner Williams moved the City Attorney be directed to modify the questions as proposed and bring them back for action at the next City Commission meeting.

Second by Mahoney. 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.

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 Withdrawn:

This was the time and date set for a Hearing on an application to transfer the Class "FA" Alcoholic Beverage License held by Grandma's, Inc. d/b/a Grandma's Saloon and Grill to FTS Fargo, Inc. d/b/a Hooters, 1649 38th Street South, however, the application has been withdrawn by the applicant.

Renaissance Zone Project Application for Charles Homme Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Charles Homme at 505 Broadway, #309.

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 Charles Homme 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 Charles Homme for a project located at 505 Broadway, #309 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.

Renaissance Zone Project Application for B. Joanne Schlanser Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for B. Joanne Schlanser at 505 Broadway, #306.

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 B. Joanne Schlanser 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 B. Joanne Schlanser for a project located at 505 Broadway, #306 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 Country Meadows Second Subdivision to the City of Fargo, Cass County, North Dakota (8417 and 8505 25th Street South):

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 "Country Meadows Second Subdivision" containing 4 Lots, 1 Block and 14.94 acres of land more or less, located at 8417 and 8505 25th Street South; and

WHEREAS, A Hearing was scheduled to be held March 12, 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 March 17 and 24, 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., March 24, 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 "Country Meadows Second Subdivision" 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.

Resolution Adopted Determining Protests Insufficient on Resolution Annexing Approximately 153 Acres in Section 12 of Stanley Township:

The Board received a communication from the Planning Department staff stating on January 30, 2008 the City Commission adopted a resolution to annex a portion of properties located in Section 12, Township 138 North, Range 49 West, Cass County, North Dakota. They said the properties in question are owned by the City, Fred Hector, Jr. and Gerald Johnson, et al. They said notice of the resolution/hearing was published in the newspaper and copies were sent to all owners of property in the annexation area. They said the purpose of the hearing is to determine if protests to the annexation have been filed and, in the absence of protests filed by the owners of no more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the City. Staff stated the Garaas Law Firm, representing Fred and Earlyne Hector, filed a protest petition on March 4, 2008 and submitted a copy of the protest petition. Staff recommended the protests on the proposed annexation be determined insufficient.

The Board received a communication from Jonathan Garaas, Attorney representing the Hectors, stating the Hectors' agricultural land will not receive any benefit being annexed to the City. He said in this specific case, Planning Director Jim Gilmour has advised the Planning Commission that no infrastructure is planned to be placed upon this ribbon of land and its only purpose is to connect the City's existing boundaries to properties of others to the south of Hector lands. In other words, he continued, to promote a leapfrog development at a time that the owners are merely attempting to shop their property for sale to unidentified and non-existent developers. He said this violates Policy Letter 205 of the Comprehensive Policy Plan of the City of Fargo and would violate the concepts set forth in the 2007 Growth Plan. He also summarized other cases that invalidated annexation and stated the terms "contiguous" and "adjacent" are used synonymously and interchangeably and, if the territory sought to be annexed is not contiguous to the municipality, the proceedings are without legal effect.

Mr. Garaas stated there should be a comprehensive plan and the City should not force the owners to come back and ask for de-annexation. He requested that the City reject the annexation.

Commissioner Williams stated just because the City is allowed to annex this land does not mean it should be annexed.

Gerald Johnson stated he wants to have his land annexed for future development.

Commissioner Wimmer stated the School District has plans for a high school and elementary school in this area. He said plans need to be made for the future and the City has been forced to go south.

At 6:05 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

There was discussion regarding the legality of the annexation.

City Attorney Johnson stated the City has been following the statutory process.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, A Resolution of Annexation was published, as required by law, in the official newspaper for the City of Fargo on February 11 and 18, 2008, annexing approximately 153.38 acres of land located in parts of the east half of Section 12, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota; and

WHEREAS, The Board of City Commissioners finds that protests representing 5.9% of the protest area have been filed with the City Auditor's Office after publication of the Annexation Resolution adopted by the Board of City Commissioners on January 30, 2008.

NOW, THEREFORE, BE IT RESOLVED, That the protests be declared insufficient and that the tract of land described in said Resolution of Annexation be and the same is hereby annexed to, made part of and included within the corporate limits of the City of Fargo, Cass County, North Dakota, and that the City Auditor's Office be and is hereby directed to record said annexation plat in the Cass County Recorder's Office in Fargo, North Dakota.

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

Commissioner Williams voted nay.

The Resolution was adopted.

Dr. Nicholas Dorsher Appointed to the Board of Health:

The Board received a communication from Mayor Walaker recommending that Dr. Nicholas Dorsher be appointed to the Board of Health to replace Dr. Paul Tronsgard whose term has expired.

Commissioner Mahoney moved the appointment of Dr. Nicholas Dorsher to the Board of Health for the term ending December 31, 2010 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.

Don Kilander Reappointed to the Airport Authority:

The Board received a communication from Mayor Walaker recommending that Don Kilander be reappointed to the Airport Authority.

Commissioner Wimmer moved the reappointment of Don Kilander to the Airport Authority for the term ending April 8, 2013 be approved.

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

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

City Commission Staff to Utilize Electronic vs. Paper Copies of Consent Agenda Items:

City Administrator Pat Zavoral stated staff is attempting to reduce the amount of paper generated for the City Commission meetings. He said all the agenda information will be scanned and available on computers which would eliminate the need for paper copies. He said staff would start with eliminating the paper copies of the consent agenda.

Commissioner Wimmer moved staff be directed to utilize the electronic vs. paper copies of the consent agenda items.

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

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

Commissioner Coates moved that the Board adjourn to 5:00 o'clock p.m., Monday, April 7, 2008.

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

The time at adjournment was 6:30 o'clock p.m.