

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Special Meeting: Wednesday: March 26, 2008:

Agreeable with a call for a Special Meeting issued by Mayor Dennis Walaker, the Board of City Commissioners of the City of Fargo, North Dakota, convened in a Special Meeting in the City Commissioners' Room at the City Hall at 4:00 o'clock p.m., on Wednesday, March 26, 2008.

The Commissioners present or absent were as shown following:

Present: Coates, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

City Attorney Erik Johnson announced an Executive Session has been called to discuss the Sauby case.

Commissioner Wimmer moved the Commissioners enter into an Executive Session as authorized by NDCC, Section 44-04-19.2 to discuss said pending litigation matters.

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

The Board adjourned to the River Room to discuss the litigation matters.

The Executive Session ended at 4:55 o'clock p.m.

The Board of City Commissioners reconvened in the City Commission Room at 4:58 p.m.

Moratorium Declared on the Levying of Fines for Violations of Fargo Municipal Code to the Extent Such Fines Exceed the Limits for Equivalent Violations Set Forth in NDCC 39-06.1-06 Effective Immediately:

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, the City of Fargo is a party to a lawsuit filed in United States District Court, District of North Dakota, entitled Stephanie Sauby, individually and on behalf of those similarly situated, v. City of Fargo [Case Number No. 3:07-cv-10]; and

WHEREAS, the Federal District Court certified a question to the North Dakota Supreme Court as follows:

May the City of Fargo, pursuant to its home rule charter, lawfully impose a fee for a violation, in the City of Fargo, of a Fargo ordinance regulating the operation or equipment of motor vehicles or regulating traffic that exceeds the limits for equivalent categories of violations set forth in N.D.C.C. § 39-06.1-06?; and,

WHEREAS, the North Dakota Supreme Court issued an opinion dated March 25, 2008, answering "no" to the question; and,

WHEREAS, the City of Fargo desires to clarify its current position relative to the enforcement of Fargo municipal ordinances;

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota:

The Board of City Commissioners of the City of Fargo acknowledges the opinion of the North Dakota Supreme Court in the case of Stephanie Sauby v. City of Fargo, 2008 ND 60 (Case Number 20070202) and recognizes said opinion as the interpretation of law in the state of North Dakota as of the date of this Resolution and hereby directs and declares a moratorium on the levying of fines for violations of Fargo Municipal Code to the extent such fines exceed the limits for equivalent violations set forth in N.D.C.C. §39-06.1-06 effective immediately; and,

That the city of Fargo does not concede any matter relative to the aforesaid Federal District Court case, but places the Plaintiff, and any other plaintiffs that may join said matter, on the strictest proof thereof.

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

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Commissioner Coates moved that the Board adjourn.

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

The time at adjournment was 5:00 o'clock p.m.