

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting:

Monday:

May 19, 2008:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, May 19, 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 moving Item "d" from the Consent Agenda to the beginning of the Regular Agenda.

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 May 5, 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, 5/5/08:
 - (1) Amending Section 1-0305.C.10 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Ordinance Violations (parking ticket fees).
 - (2) Rezoning Certain Parcels of Land Lying in Morton & Dotys Addition to the City of Fargo.
 - (3) Rezoning Certain Parcels of Land Lying in Section 11, Township 138 North, Range 49 West, Cass County, North Dakota.
- b. 1st reading of an Ordinance Enacting Article 25-36 of Chapter 25 of the Fargo Municipal Code Relating to Licensing of Re-Roofing Contractors.
- c. PEC recommendations of 2008 position reclassifications:

Engineering - Engineering Technician Supervisors - request to pay out-of-grade due to market from C43 to C51. PEC recommends that the Engineering Technician Supervisors remain in the C43 (7 positions) - no change.

Engineering Tech II – request to promote Jeremy Grandstrand from Engineering Tech II B24-2 (B25) to Engineering Tech III - C41. PEC recommends that Jeremy Grandstrand be promoted to Engineering Tech III - C41 (1 position) effective 1-01-09; budget impact \$1,936.

Engineering Tech III – request to promote Rick Larson from Engineering Tech III-C41 to Engineering Tech Supervisor-C43 (C51 request denied). PEC recommends that Rick Larson be promoted to Engineering Supervisor C43 (one position) effective 1-1-09; budget Impact \$2,210.

Survey Assistant – request to promote Blake Hanten and Pat Croal from Survey Assistant A13-2 (B21) to Engineering Tech I – B22-2 (B23). PEC recommends that Blake Hanten and Pat Croal be promoted to Engineering Tech I - B22-2 (B23) (two positions) effective 1-1-09; budget impact - \$2,760.

Engineering Tech Supervisor – request to reclassify three of the Engineering Tech Supervisors C43 positions to Engineering Specialist C52. PEC recommends that three of the Engineering Tech Supervisor positions be reclassified as Engineering Specialist C51 (3 positions; employees include Steve Sly, Brent Wacha, Ben Dow) effective 1-1-09; budget impact \$8,140.

Traffic Engineering - Sign & Signal Coordinator – request to reclassify Sign & Signal Operations Coordinator from a C51-2 (C52) to a D61-2 (D62). PEC recommends that the Sign & Signal Coordinator be reclassified to a D61-2 (D62) (one position) effective 1-1-09; budget impact \$4,309.

Traffic Maintenance Technician II – request to reclassify Traffic Maintenance Technician II from B24-2 (B25) to B31-2 (B32). PEC recommends that the Traffic Maintenance Technician II remain a B24-2 (B25) (one position) (no change) budget impact \$0.

Public Works - Public Works Manager – request to reclassify the Public Works Manager from D72 to Operations Director E83. PEC recommends that the Public Works Manager be reclassified to Public Works Operations Director E81. The Public Works Operations Director will report to the City Administrator (one position); effective 1-1-09; budget impact \$3,036.

Central Garage - Office Associate II – request to reclassify the Office Associate II (B21) in Central Garage to an Office Associate III (B23). PEC recommends that the Office Associate II in Central Garage be reclassified to an Office Associate III (B23) (1 position) effective 1-1-09; budget impact \$2,436.

Forestry - Office Associate II – request to reclassify the Office Associate II from B21 to an Office Associate III - B23. PEC recommends that the Office Associate II be reclassified to an Office Associate III - B23 (1 position); effective 1-1-09; budget impact \$2,118.

IT- Principal Office Associate – request to reclassify the Principal Office Associate B31 to a Help Desk Associate C41. PEC recommends that the Principal Office Associate be reclassified to an Office Manager (C41) effective 1-09; budget impact \$1,567.

Planning - Assistant Planner – request to reclassify an Assistant Planner C42 to Planner C43. PEC recommends that one Assistant Planner position be reclassified to a Planner position (1 position; Monica Graber); effective 1-1-09; budget impact \$2,709 (funded by HUD grants).

Water/Wastewater - Water/Wastewater Plant Operator II – request to reclassify Water/Wastewater Plant Operator II from B24-2 (B25) to B25-2 (B31). PEC recommends that the Water/Wastewater Plant Operator II's be reclassified to a B25-2 (B31) (16 positions) effective 1-1-09; budget impact; \$25,372.

Water/Wastewater Plant Operator I – request to reclassify Water/Wastewater Plant Operator I from B22-2 (B23) to B23-2 (B24). PEC recommends that the Water/Wastewater Plant Operator I's remain a B22-2 (B23) (no change); budget impact \$0.

Residuals Plant Operator - request to reclassify the Residuals Plant Operator from B23-2 (B24) to B24-2 (B25). PEC recommends that the Residuals Plant Operator be reclassified to a B24-2 (B25) (1 position); effective 1-1-09; budget impact \$1,582.

Water Plant Electronics Technician - request to reclassify the Water Plant Electronics Technician from B24-2 (B25) to B25-2 (B31). PEC recommends that the Water Plant Electronics Technician be reclassified to a B25-2 (B31) (one position); effective 1-1-09; budget impact \$1,711.

Auditor's Office - City Auditor – request to reclassify the City Auditor from D61 to D64. PEC recommends that the City Auditor be reclassified to D64 (one position); effective 1-1-09; budget impact \$3,429.

Accountant - request to create the Accountant II level and to reclassify the Accountant position responsible for accounts payable, receivable and payroll from C51 to Accountant II - C52. PEC recommends that the Accountant II level be created and the accountant responsible for payroll, etc. be reclassified to C52 (one position; Sheree Calkins); effective 1-1-09; budget impact \$3,115.

Financial Analyst - request to reclassify the Financial Analyst position from C51 to C52. PEC recommends that the Financial Analyst be reclassified to C52 (one position); effective 1-1-09; budget impact \$2,210.

Administration/Department Heads - City Administrator - PEC recommends that the E93 pay scale be increased by 4% effective 1-1-09; budget impact \$4,978. Department Directors - PEC recommends that the E83 pay scale be increased by 4% effective 1-1-09; budget impact \$36,360.

PEC recommends a cost analysis be completed on the potential of increasing the D & E pay grade spreads from 38% to 50%. This option is to be considered during the budgeting process for 2009.

Total budget impact: \$109,978

- d. Contract with T. L. Stroh Architects for architectural services for a fire station in the area of 45th Street and 40th Avenue South (moved to the beginning of the Regular Agenda).
- e. Community Development Committee recommendation for downtown projects to receive 2008 CDBG funds for storefront rehab projects.
- f. Acceptance of 2008 American Dream Downpayment Initiative (ADDI) grant from the State Department of Commerce.
- g. Sale of property at 1012 9th Street North to Kathleen Pepple for \$8,200.
- h. Receive and file Year to Date – Budget to Actual Report for April 2008.
- i. Agreement for Special Improvements with Matrix Properties for improvements in Autumn Fields Addition.
- j. Agreement for Special Improvements with Clapp Partnership (E. G. Clapp) for improvements from 41st Street NE to a point 100 feet north of the quarter section line.
- k. Site Authorizations for Games of Chance:
 - (1) North Dakota Association for the Disabled at O'Kelly's and Mr. G's.
 - (2) Prairie Public Broadcasting, Inc. at Dempseys Public House, Labbys and Tailgators.
 - (3) North Dakota Childhood Language Disorder Center – Fargo, at the Fargo Masonic Center.
 - (4) Roy Chandler Post #762 – Veterans of Foreign Wars at the VFW – Post #762.
 - (5) West Fargo Hockey Association at Old Chicago.
 - (6) Fargo Youth Commission at Slammer's Sports Bar and Borrowed Bucks Roadhouse.

- l. Application filed by the Fargo Lions Club for sports pools from 9/8/08 through 12/22/08.
- m. Application filed by Aaron Knuth for a 3-year property tax exemption for improvements made to a building at 446 Oakland Avenue.
- n. Change Order No. E-7, for an increase of \$1,570.00 for the Dr. James Carlson Library.
- o. Cost Participation and Maintenance Agreements with NDDOT for Project No. 5811.
- p. Scope of Work and Cost Proposal from Houston Engineering in the amount of \$95,200 for Project No. 5073-5.
- q. Bid advertisement for Project Nos. 5691 and 5807-2.
- r. Contracts and bonds for Project Nos. 5801, 5802, 5807-1 and 5812-01.
- s. Bills in the amount of \$3,956,850.24.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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. 5702 Approved:

Commissioner Coates moved approval of Final Balancing Change Order No. 1 for an increase of \$22,673.90 for Improvement District No. 5702.

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

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

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5713:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5713 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 14 and 21, 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. 5713.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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. 5713:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5713 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 14, 2008 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$1,303,248.65
Specialized Contracting Bid:	Fargo, ND \$1,394,499.08
Northern Improvement Company Bid:	Fargo, ND \$1,398,090.06
Border States Paving, Inc. Bid:	Fargo, ND \$1,405,079.00
Aggregate Industries Bid:	Moorhead, MN \$1,469,398.10
Dakota Underground Bid:	Fargo, ND \$1,607,684.66

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5713 Awarded to Master Construction, Inc. in the Amount of \$1,303,248.65:

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. 5713; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 14, 2008 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5713 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. 5713 shows the bid of Master Construction, Inc. of Fargo, North Dakota, in the sum of \$1,303,248.65 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 Master Construction, Inc. in the sum of \$1,303,248.65 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. 5713 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction, Inc. for the sum of \$1,303,248.65, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer and Walaker voted aye.

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

Bids Received for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5775:

The bids for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5775 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 14, 2008 and the bids were found to be as follows:

United Crane and Excavation, Inc. Bid:	Grand Forks, ND \$587,585.03
Ryan Contracting Bid:	Shakopee, MN \$610,804.80
Dakota Underground Bid:	Fargo, ND \$678,349.50
Rising Sun Construction, Inc. Bid:	Fargo, ND \$780,487.00
Master Construction Company, Inc. Bid:	Fargo, ND \$583,884.40

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5775 Awarded to United Crane and Excavation, Inc. in the Amount of \$587,585.03:

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. 5775; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 14, 2008 for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5775 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. 5775 shows the bid of United Crane and Excavation, Inc. of Grand Forks, North Dakota, in the sum of \$587,585.03 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 United Crane and Excavation, Inc. in the sum of \$587,585.03 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. 5775 in the City of Fargo, North Dakota, be and the same is hereby awarded to United Crane and

Excavation, Inc. for the sum of \$587,585.03, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer and Walaker voted aye.

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

No Protests Received for Water Main Replacement and Incidentals Improvement District No. 5781:

The Statutory Resolution of Necessity for the construction of Water Main Replacement and Incidentals Improvement District No. 5781 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 14 and 21, 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 and Incidentals Improvement District No. 5781.

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

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

Bids Received for Water Main Replacement and Incidentals Improvement District No. 5781:

The bids for Water Main Replacement and Incidentals Improvement District No. 5781 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 14, 2008 and the bids were found to be as follows:

Shermans, LLC Bid:	West Fargo, ND \$353,747.99
Earth Developers, Inc. Bid:	Fargo, ND \$375,261.50
Border States Paving, Inc. Bid:	Fargo, ND \$397,654.45
Rising Sun Construction, Inc. Bid:	Fargo, ND \$398,853.30
Master Construction Company, Inc. Bid:	Fargo, ND \$412,354.70
George E. Haggart, Inc. Bid:	Fargo, ND \$424,346.08

Contract for Water Main Replacement and Incidentals Improvement District No. 5781 Awarded to Shermans, LLC in the Amount of \$353,747.99:

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 and Incidentals Improvement District No. 5781; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 14, 2008 for Water Main Replacement and Incidentals Improvement District No. 5781 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement and Incidentals Improvement District No. 5781 shows the bid of Shermans, LLC of West Fargo, North Dakota, in the sum of \$353,747.99 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 Shermans, LLC in the sum of \$353,747.99 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement and Incidentals Improvement District No. 5781 in the City of Fargo, North Dakota, be and the same is hereby awarded to Shermans, LLC for the sum of \$353,747.99, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer 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. 5782:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5782 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 14 and 21, 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. 5782.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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. 5782:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5782 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 14, 2008 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$1,466,140.30
Northern Improvement Company Bid:	Fargo, ND \$1,506,790.27
Border States Paving, Inc. Bid:	Fargo, ND \$1,542,936.78
Ernst Trenching, Inc. Bid:	Fargo, ND \$1,569,499.50
Central Specialties, Inc. Bid:	Alexandria, MN \$1,579,880.51
Dakota Underground Bid:	Fargo, ND \$1,590,085.95
Specialized Contracting Bid:	Fargo, ND \$1,906,867.26

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5782 Awarded to Master Construction Company, Inc. in the Amount of \$1,466,140.30:

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. 5782; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 14, 2008 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5782 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. 5782 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$1,466,140.30 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 Master Construction Company, Inc. in the sum of \$1,466,140.30 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. 5782 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$1,466,140.30, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer and Walaker voted aye.

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

Bids Received for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824:

The bids for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 14, 2008 and the bids were found to be as follows:

Landwehr Construction, Inc. Bid:	St. Cloud, MN \$1,319,326.31
Master Construction Co., Inc. Bid:	Fargo, ND \$2,598,966.83
Dakota Underground Company Bid:	Fargo, ND \$1,558,271.50

Contract for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 Awarded to Landwehr Construction, Inc. in the Amount of \$1,319,326.31:

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, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received May 14, 2008 for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 shows the bid of Landwehr Construction, Inc. of St. Cloud, MN, in the sum of \$1,319,326.31 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 Landwehr Construction, Inc. in the sum of \$1,319,326.31 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Storm Sewer, Sanitary Force Main, Street Reconstruction and Incidentals Improvement District No. 5824 in the City of Fargo, North Dakota, be and the same is hereby awarded to Landwehr Construction, Inc. for the sum of \$1,319,326.31, 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Mahoney, Wimmer and Walaker voted aye.

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

Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774 (53rd Avenue South from 53rd to 57th Streets):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774:

Adopt Resolution Creating Improvement District No. 5774:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5774, in the City of Fargo, North Dakota, be created

On 53rd Avenue South from 52nd Avenue South to 57th Street South.

COMPRISING:

Lots 2 through 8, inclusive, Block 1.
Lots 1 through 5, inclusive, Block 2.
All in Austin's Subdivision.

Lots 1 through 4, inclusive, Block 1,
Dakota Plaza Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main and Incidentals Improvement District No. 5774, 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. 5774:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5774, 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 \$303,600.)

Order Plans and Specifications for Improvement District No. 5774:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5774, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5774:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5774, 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. 5774, 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. 5774:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5774, in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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, Sidewalks and Incidentals Improvement District No. 5776 (Maple Valley Addition):

Commissioner Coates moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776:

Adopt Resolution Creating Improvement District No. 5776:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5776, in the City of Fargo, North Dakota, be created

On 33rd Street South from 63rd Avenue South to 64th Avenue South.

On 36th Street South starting from the quarter section line to 63rd Avenue South.

On 63rd Avenue South from 33rd Street South to 36th Street South.

Maple Valley Drive South from 63rd Street South to Autumn Drive South the second time.

Autumn Drive South from existing and continuing to Maple Valley Drive South.

COMPRISING:

Lots 1 through 71, inclusive, Block 1.

Lots 1 through 10, inclusive, Block 2.

Lots 1 through 22, inclusive, Block 3.

Lots 1 through 19, inclusive, Block 4.

Lots 1 through 40, inclusive, Block 5.

Lots 1 through 38, inclusive, Block 6.

Lots 1 through 3, inclusive, Block 7.

Lots 1 through 85, inclusive, Block 8.

Lots 1 through 7, inclusive, Block 9.

All are platted in Maple Valley Addition.

All unplatted land located in the southwest corner of Section 2, Township 138N, Range 49W.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776, 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. 5776:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5776, 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 \$1,789,920.)

Order Plans and Specifications for Improvement District No. 5776:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5776, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5776:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5776, 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. 5776, 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, Sidewalks 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, Sidewalks & Incidentals, Improvement District No. 5776 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, Sidewalks & Incidentals, must be in writing and must

be filed with the City Auditor's Office within 30 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. 5776:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5776, in the City of Fargo, North Dakota.

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

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

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5787 (Hilleboe 1st Addition):

Commissioner Coates moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5787:

Adopt Resolution Creating Improvement District No. 5787:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5787, in the City of Fargo, North Dakota, be created

On 21st Street South from 9th Avenue to 13th Avenue South.

On 18th and 20th Street South from 13th Avenue South going north to dead end.

On 19th Street South from 11th to 13th Avenue South.

On 12th Avenue from 19th to 21st Street South.

COMPRISING:

Lots 5 and 6, Block 1.

Lots 5 through 8, Block 2.

Hilleboe 1st Addition.

Lots 3 through 6, 11 through 14 and 19 and 20, Block 3.

Replat of Hilleboe 1st Addition.

Lots 16 through 26, Block 8.

Lots 7 through 16, Block 9.

Lots 15 through 26, Block 10.

Lots 1 through 13, 15 through 20 and 22 and 29, Block 11.

Hilleboe Terrace.

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5787, 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. 5787:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5787, 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 \$1,262,500.)

Order Plans and Specifications for Improvement District No. 5787:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5787, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5787:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5787, 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. 5787, 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 Water Main Replacement, Street Reconstruction 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 Water Main Replacement, Street Reconstruction & Incidentals, Improvement District No. 5787 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 Water Main Replacement, Street Reconstruction & 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. 5787:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5787, in the City of Fargo, North Dakota.

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

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

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 (Broadway and 7th Street North from 15th to 16th Avenues):

Commissioner Coates moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833:

Adopt Resolution Creating Improvement District No. 5833:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5833, in the City of Fargo, North Dakota, be created

From 15th to 16th Avenue North between Broadway and 7th Street, in Block 1 of Chandler's Broadway Addition.

COMPRISING:

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

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833, 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. 5833:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5833, 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 \$118,800.)

Order Plans and Specifications for Improvement District No. 5833:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5833, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5833:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5833, 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. 5833, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving and Incidentals Necessary:

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

That it be and is hereby declared necessary to construct PC Concrete Alley Paving & Incidentals, Improvement District No. 5833 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 PC Concrete Alley Paving & Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5833:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5833, in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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, Sidewalks and Incidentals Improvement District No. 5760 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Northern Improvement Company for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5760 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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, Sidewalks and Incidentals Improvement District No. 5760 Approved:

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

Western Surety Company, in the amount of \$664,901.03, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5760 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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. 5770 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Border States Paving, Inc. for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer 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. 5770 Approved:

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

Liberty Mutual Insurance Company, in the amount of \$374,642.25, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. 5770 in the City of Fargo, North Dakota.

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

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

Contract for Mill and Overlay and Incidentals Improvement District No. 5780 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Strata Corporation for Mill and Overlay and Incidentals Improvement District No. 5780 in the City of Fargo, North Dakota.

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

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

Contract Bond for Mill and Overlay and Incidentals Improvement District No. 5780

Approved:

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

Western Surety Company, in the amount of \$539,734.40, for Mill and Overlay and Incidentals Improvement District No. 5780 in the City of Fargo, North Dakota.

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

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

Staff Directed to Work with T.L. Stroh Architects for Architectural Services for a Fire Station and Possible Police Precinct:

The Board received a communication from Fire Chief Bruce Hoover stating on February 25, 2008, the City Commission approved proceeding with the selection of an architectural firm to design a fire station in the area of 45th Street and 40th Avenue South. He said the selection committee, consisting of Commissioner Wimmer, City Administrator Pat Zavoral, Finance Director Kent Costin, Fire Chief Bruce Hoover and Assistant Fire Chief Dean Meyer interviewed three firms and are recommending the firm of T.L. Stroh Architects.

Mr. Zavoral said it recently came to his attention that the Police Department is interested in being included in the south side fire station project. He said the Police Department request could be added to the architectural services contract.

Police Chief Keith Ternes said the downtown police station has gone through two remodeling projects and has outgrown its current location - both for office space and parking. There is a need, he said, for a fully functioning site on the south side of Fargo. The current south side work station at West Acres, he said, is a place for officers to respond from but citizens cannot receive services. He said officers and support staff could be housed at the new location and depending on the size and scope, one-third of the staff from downtown could be moved to the shared site which would allow for growth at the downtown location.

In response to a question from Commissioner Williams, Chief Ternes said the CHARISM site allows the Police Department a south side location but it is not easily identifiable and only has two offices for additional staff. The Osgood location, he said, would be more high profile and would provide space for police services as the City grows.

Chief Ternes said he and Chief Hoover will visit the location soon to determine the feasibility of the police portion of the project.

Commissioner Wimmer moved the contract with T.L. Stroh for architectural services for a fire station in the area of 45th Street and 40th Avenue South be approved with a police precinct being investigated by City staff for possible inclusion in the contract.

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 to Transfer the Alcoholic Beverage License from Wold Properties, Inc. d/b/a Holiday Inn to FCH Fargo HI, LLC d/b/a Holiday Inn Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "ABH" Alcoholic Beverage License from Wold Properties, Inc. d/b/a Holiday Inn to FCH Fargo HI, LLC d/b/a Holiday Inn, at 3803 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, Coates, Wimmer and Walaker voted aye.

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

Parcels of Land in Hector's Subdivision Rezoned (4218 19th Avenue North):

At a Hearing held on April 9, 2008 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural to GC, General Commercial on Lot 13, Hector's Subdivision.

The City Auditor's Office published a Notice of Hearing stating May 5, 2008 is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

At the May 5, 2008 meeting, the Hearing was continued to this date and hour.

Senior Planner Jim Hinderaker stated Planning staff met with the petitioner and neighbors the week of May 12th. He said the main concerns were landscape buffering and drainage. The parties, he said, came to an agreement by including five conditions which are included in the revised Ordinance.

Greg Wettstein, 4206 19th Avenue North, said he appreciated the opportunity for Planning staff to consider the resident's concerns and thanked them for helping reach an acceptable agreement.

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 written protests to the request for rezoning representing 11% of the legal protest area.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff and the Planning Commission be accepted and the rezoning be approved with a Conditional Overlay on the basis that the proposal satisfactorily complies with the Comprehensive Plan and the review criteria of Section 20-0906.F (1-4) of the Land Development Code 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 Hector's Subdivision 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 Hector's Subdivision 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.

Request of Lucky 7 Taxi Service, Inc. for a Rate Change Approved:

The Board received a communication from Laurie and Jeff Dodd, Lucky 7 Taxi Service, Inc., requesting a change in Lucky 7 Taxi Service's schedule. They stated their last rate change occurred a couple of years ago and with the high gasoline hike, increased labor costs, and cost of living expenses they would like the Board to consider the following changes:

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

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

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

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

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

The Board also received a communication from City Auditor Steve Sprague recommending approval of the requested rate change for Lucky 7 Taxi Service, Inc.

Commissioner Coates moved the request be approved.

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

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

Update on Renaissance Zone Projects:

The Board received a communication from Senior Planner Robert Stein stating the Fargo Renaissance Zone program has been in effect since January of 2000. He said there have been many activities that have spurred investment in Downtown Fargo and he submitted a table indicating a pre-project value of \$15,132,500 and a post-project value of \$72,909,300. He said property values increased by a factor of 4.8% since the Renaissance Zone program was initiated and the property tax payback period once the property returns to the tax rolls is less than two years. Mr.

Stein stated the program has also affected property values outside of the zone. He said in 1998 and 1999, downtown property values were decreasing and blight was spreading and between 2001 and 2006 these values increased by 17%.

In response to a question from Commissioner Coates, Mr. Stein said he was in Bismarck in February for a meeting regarding Renaissance Zone programs and it would be good idea to share this information. Other cities in North Dakota, he said, have also had positive results from Renaissance Zone programs.

Communication Received from Attorney Jonathan Garaas Regarding the Development Plan for the Proposed Tax Increment Financing District No. 2008-01:

The Board received a communication from Attorney Jonathan Garaas on behalf of William Rakowski, the owner of the property at 1424-1426 12th Avenue North. He said Mr. Rakowski is deeply concerned about parking and emergency access issues arising out of the project for the Renewal Plan for Tax Increment Financing District No. 2008-01 which apparently includes "Off-Site Parking". He listed Mr. Rakowski's concerns and stated the City should not countenance any property owner making neighbors provide parking on the lands of the neighbors or on the public streets in front of the lands of the neighbors. He said if the City Planner's report is accurate, a minimum of 78 on-site parking spaces are mandated by City of Fargo ordinances and it could be as high as 103 if the retail space is used for restaurant purposes. He said to ignore the law and reduce the on-site parking to 33 parking spaces means the City ignores its own laws and dumps 45 to 70 cars on to land owned by others. Mr. Garaas stated making money off of a "parking fine program" directed toward university student parking on neighborhood streets is wrong, but when the City places even greater demand upon the same neighborhood streets by allowing a developer to ignore on-site parking mandates, it is also preposterous.

The Board also received a communication from City Attorney Erik Johnson in response to the concerns listed in Mr. Garaas's communication. Mr. Johnson stated there is no agreement for off-site parking in existence.

Mr. Garaas said he is asking the City Commission to nullify the May 5, 2008 decision made to approve the TIF based on the fact that the Commission did not follow the rules and the documents needed were non-existent.

In response to a question from Commissioner Wimmer, Mr. Garaas said Mr. Rakowski wants only to be left alone by the City of Fargo and to sell his property.

At 6:00 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Mr. Johnson said Mr. Garaas is raising the same issues he did two weeks ago and those issues have been addressed. He said Mr. Garaas admitted the 10 day appeal period was missed so it is a moot point to continue the argument.

Bruce Frantz, NDSU Facilities Management Director, said upon initial conversations with Roger Gilbertson, President of FM City Development, NDSU looked at all 7 properties when considering the parking needs for the entire block.

Planning Director Jim Gilmour said Mr. Rakowski has received several violations from the City in regards to his rental properties and made the decision to leave his property vacant since 2000. Recently, he said, the Health Department was notified to check on complaints about broken windows and birds getting into the

houses. He said if Mr. Rakowski chooses not to redevelop his property, then the City will continue to monitor the condition of that property.

Mr. Gilbertson said the development was split into two phases after Mr. Rakowski turned down the offer to sell his property. He said Mr. Rakowski's property would make a nice addition as green space for the development.

It was determined this item was acted on at the May 5, 2008 meeting so no further action was needed.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 2, 2008.

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

The time at adjournment was 6:36 o'clock p.m.