

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting:

Monday:

August 25, 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, August 25, 2008.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Wimmer moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Piepkorn moved that the Minutes of the Regular Meeting of the Board held on August 11, 2008 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 8/11/08:
 - (1) Enacting Article 3-20 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales and Use Tax (Infrastructure Capital Improvements).
 - (2) Rezoning Certain Parcels of Land Lying in Corwin Addition to the City of Fargo.
 - (3) Rezoning Certain Parcels of Land Lying in Hector's Addition to the City of Fargo.
 - (4) Amending Planned Unit Development on Certain Parcels of Land Lying in Skaff's First Addition to the City of Fargo.
- b. Waive requirement for receipt of an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 8-1606 of Article 8-16 of Chapter 8 of the Fargo Municipal Code Relating to Parking Tickets (to reduce the appeal time from 10 days to 5 days).

- c. Resolutions Authorizing the Issuance and Sale of Sales Tax Revenue Bonds: Series 2008A in the amount of \$63,725,000 (Attachment "A"); 2008B in the amount of \$29,240,000 (Attachment "B"); 2008C in the amount of \$1,200,000 (Attachment "C") and 2008D in the amount of \$2,500,000 (Attachment "D").
- d. City of Fargo Health Insurance Plan Amendment No. 4.
- e. Renewal of the lease agreement between Charism, Inc. and the Fargo Police Department.
- f. Police Department budget adjustment and Department of Commerce/DHS FY 2007 Public Safety Interoperable Communications Grant (CFDA # 11.555).
- g. Contract with the North Dakota Department of Health for assistance with vector control activities (CFDA #93.283).
- h. Contracts with the North Dakota Department of Health for the regional Public Health Emergency Preparedness and Response (PHEP) and the PHEP City Readiness Initiative (CFDA #'s 93.283).
- i. City Commission meeting schedule for 2009.
- j. Applications for Games of Chance:
 - (1) Fargo North High School Boys Soccer for raffles from 8/1/08 to 10/31/08.
 - (2) Riverview Place for a raffle on 10/12/08.
 - (3) Knights of Columbus #6570 Nativity for a raffle on 9/28/08.
- k. Site Authorizations for Games of Chance:
 - (1) Ducks Unlimited, Inc. at the Holiday Inn.
 - (2) Fargo Youth Hockey Association at the Civic Auditorium on 10/17/08.
- l. Applications for five-year tax exemptions for improvements made to buildings:
 - (1) Benton Strand, 702 10th Street North.
 - (2) Dan and Soni Dillon, 1002 8th Street South.
 - (3) Connie Erickson, 617 12th Avenue North.
 - (4) Ferny Holdings LLC, 495 7th Street North.
- m. NDSU transit agreements: Amendment to Joint Powers Agreement for Transit Support, Agreement for Transit Services for 2008-2009 and Student Union Transit Agreement for 2008-2009.
- n. Plat of R.D.O. Second Addition (3845 and 3825 34th Ave. S.).
- o. Sewer Agreement with Robert and Mary Saunders, 8517 University Drive South.

- p. Relinquishment of Easement on Lot 47, Block 1, Meadow Creek Addition.
- q. Contract Amendments 1, 2 and 3 in the total amount of \$499,700 for South Side Flood Control Project development services (Improvement District No. 5073-05).
- r. Agreement for Special Improvements with Charles Baxter of Willow Crossing, LLC.
- s. Contract with Ulteig Engineers, Inc. for consulting services for Project No. 5838.
- t. Bid awards for Project Nos. 5647 to Aggregate Industries in the amount of \$51,656 and 5849 to Key Contracting in the amount of \$85,138.
- u. Advertise for bids for Project Nos. 5799 and 5814.
- v. Contract and bond for rehabilitation of Primary Clarifier No. 2 at the Wastewater Treatment Plant.
- w. Bills in the amount of \$7,289,948.12.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

No Protests Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819:

The Statutory Resolution of Necessity for the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on July 21 and 28, 2008 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Wimmer moved that the Board declare that no protests have been filed to the construction of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Bids Received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819:

The bids for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., August 20, 2008 and the bids were found to be as follows:

Aggregate Industries Bid:	Moorhead, MN \$419,233.70
Border States Paving, Inc. Bid:	Fargo, ND \$443,253.65
Central Specialties, Inc. Bid:	Alexandria, MN \$453,473.70
Northern Improvement Company Bid:	Fargo, ND \$479,903.86
Specialized Contracting Bid:	Fargo, ND \$603,529.91

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819 Awarded to Aggregate Industries in the Amount of \$419,233.70:

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received August 20, 2008 for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819 shows the bid of Aggregate Industries of Moorhead, Minnesota, in the sum of \$419,233.70 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Aggregate Industries in the sum of \$419,233.70 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5819 in the City of Fargo, North Dakota, be and the same is hereby awarded to Aggregate Industries for the sum of \$419,233.70, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Contract Time Extension for Improvement District No. 5780 Approved:

Commissioner Wimmer moved approval of a Contract Time Extension from September 1 to September 26, 2008 for Improvement District No. 5780.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 5824 Approved:

Commissioner Wimmer moved approval of Change Order No. 1 for an increase of \$15,380.10 for Improvement District No. 5824.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 2 for Improvement District No. 5824 Approved:

Commissioner Wimmer moved approval of Change Order No. 2 for an increase of \$31,435.20 for Improvement District No. 5824.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 3 for Improvement District No. 5824 Approved:

Commissioner Wimmer moved approval of Change Order No. 3 for an increase of \$5,843.89 for Improvement District No. 5824.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 4 for Improvement District No. 5824 Approved:

Commissioner Wimmer moved approval of Change Order No. 4 for an increase of \$730.73 for Improvement District No. 5824.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. 5682 Approved:

Commissioner Wimmer moved approval of Final Balancing Change Order No. 1 for an increase of \$113,493.65 for Improvement District No. 5682.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. 5785 Approved:

Commissioner Wimmer moved approval of Change Order No. 1 for an increase of \$28,485.31 for Improvement District No. 5785.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5853 (On 47th Street North from 12th to 13th Avenues North):

Commissioner Wimmer moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5853:

Adopt Resolution Creating Improvement District No. 5853:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5853, in the City of Fargo, North Dakota, be created

On 47th Street North from 12th to 13th Avenue North.

COMPRISING:

Lots 1 through 6, inclusive, Block 4.

Lots 1 through 3, inclusive, Block 5.

All in Fayland Industrial 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5853, 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. 5853:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5853, 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 \$805,200.)

Order Plans and Specifications for Improvement District No. 5853:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5853, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5853:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5853, 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. 5853, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Sanitary Sewer, Water Main, Storm Sewer, Paving, 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights & Incidentals, Improvement District No. 5853 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

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

Protests against the proposed Sanitary Sewer, Water Main, Storm Sewer, Paving, 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. 5853:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5853, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Street Lighting Improvement District No. 5738 Approved:

Commissioner Wimmer moved approval of the Contract between the City of Fargo and Strata Corporation for Street Lighting Improvement District No. 5738 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Street Lighting Improvement District No. 5738 Approved:

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

Western Surety Company, in the amount of \$423,687.45, for Street Lighting Improvement District No. 5738 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 Approved:

Commissioner Wimmer 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. 5776 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 Approved:

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

Western Surety Company, in the amount of \$1,283,435.87, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5776 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for P.C. Concrete Pavement and Incidentals Improvement District No. 5777 Approved:

Commissioner Wimmer moved approval of the Contract between the City of Fargo and Dakota Underground Company, Inc. for P.C. Concrete Pavement and Incidentals Improvement District No. 5777 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for P.C. Concrete Pavement and Incidentals Improvement District No. 5777 Approved:

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

United Fire Casualty Company, in the amount of \$2,577,981.71, for P.C. Concrete Pavement and Incidentals Improvement District No. 5777 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5818 Approved:

Commissioner Wimmer moved approval of the Contract between the City of Fargo and Shermans, LLC for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5818 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5818 Approved:

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

Western Surety Company, in the amount of \$361,969.31, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5818 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 Approved:

Commissioner Wimmer moved approval of the Contract between the City of Fargo and Paras Contracting, Inc. for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Contract Bond for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 Approved:

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

Merchants Bonding Company, in the amount of \$81,796.55, for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5833 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Request for an Extension of the Noise Ordinance for the American Red Cross Motorcycle Run Approved:

The Board received a communication from Randy Thorson, requesting an extension of the City's Noise Ordinance on September 6, 2008 from 10:00 p.m. to 11:00 p.m. at Borrowed Bucks Roadhouse. Mr. Thorson stated Wheels, Inc. and Borrowed Bucks Roadhouse are sponsoring a motorcycle run with the Iron Warriors Motorcycle Club to benefit the American Red Cross.

Commissioner Wimmer moved the request be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Development of Plans and Specifications for Construction of a Fire Station at 40th Avenue South at Village Lane Authorized: Appropriate Staff Directed to Initiate Construction of the Fire Station:

The Board received a communication from Fire Chief Bruce Hoover stating the preliminary feasibility study undertaken by T. L. Stroh Architects for constructing a fire station/police precinct facility in the Osgood neighborhood has been completed. Chief Hoover said it has been determined that both facilities cannot be accommodated on this site and he submitted the architect's notice of the finding. He said the study did show the site is very suitable for a fire station and the building committee for this project reviewed the plans to construct a stand-alone fire station on the site and recommend moving forward. Chief Hoover stated the preliminary cost estimate for the station is \$2.8 million and a financing plan has been developed in the City's 2009 budget to address the construction costs and the acquisition of a fire truck for the facility. He said the 2009 budget also funds the remaining six positions needed to staff the station and there will be a total of 12 firefighters available at this station on a full-time basis to respond to emergency events. Chief Hoover requested the development of final plans and specifications for the fire station be authorized and that the appropriate staff be directed to initiate construction.

Terry Stroh with T.L. Stroh Architects, made a power point presentation on the proposed fire station. He said the fire station will be located northwest of the new Osgood Hornbachers on the corner of Village Lane and 40th Avenue South.

There was discussion regarding incorporating energy efficient options into the plans and specifications.

Mr. Stroh stated the Fire Department staff asked his firm to look into those options. He said his firm has done facilities utilizing energy efficient items like geothermal which has become a real winner.

Commissioner Wimmer moved the development of plans and specifications for the fire station be authorized and the appropriate staff be directed to initiate construction of a fire station at 40th Avenue South at Village Lane.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Renaissance Zone Project for JPO Rentals, LLP Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for JPO Rentals, LLP at 400 Roberts Street.

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 JPO Rentals, LLP 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 JPO Rentals, LLP for a project located at 400 Roberts Street be approved as recommended by the Renaissance Zone Authority and the income tax and property tax exemptions be granted contingent upon completion of the project and verification of costs.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Renaissance Zone Project for Christopher and Julie Hemmah Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Christopher and Julie Hemmah at 806/808 2nd Avenue North.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Christopher and Julie Hemmah 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 Christopher and Julie Hemmah for a project located at 806/808 2nd Avenue North be approved as recommended by the Renaissance Zone Authority and the income tax and property tax exemptions be granted contingent upon completion of the project and verification of costs.

Second by Piepkorn. On call of the roll Commissioners Wimmer, Piepkorn, 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 Sterling Restaurant Management Group, LLC d/b/a Bennigan's Grill and Tavern to Brent Olson d/b/a TBD
Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Sterling Restaurant Management Group, LLC d/b/a Bennigan's Grill and Tavern to Brent Olson d/b/a TBD at 1776 45th Street South notice of which had been duly published in the official newspaper for the City of Fargo.

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

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

Commissioner Piepkorn moved the application be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Resolution Adopted Vacating 8th Street Between 2nd Avenue and 3rd Avenue North and to the Alley in Block 9 of Robert's Addition to the City of Fargo, Cass County, North Dakota (Abutting 711, 723, 811 2nd Avenue North; 216, 224 7th Street North and 225 8th Street North):

Commissioner Wimmer offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Vacation Plat, of 8th Street between 2nd and 3rd Avenue North and the Alley in Block 9 of Roberts' Addition to the City of Fargo, North Dakota".

WHEREAS, Said Plat had been approved by the City Engineer, and a Hearing had been held on said Plat by the Fargo Planning Commission on March 12, 2008, continued to April 9, 2008, then continued to May 14, 2008 and continued again to July 9, 2008, and Notice of such Hearing had been published on February 11, 18, 25, and March 3, 2008, as required by law, and said Plat had been approved by the Fargo Planning Commission; and

WHEREAS, the City Auditor published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on August 4, 11, 18, and 25, 2008, that a Hearing would be held in the City Commissioner's Room at the City Hall, Fargo, North Dakota, at 5:15 o'clock PM, on Monday, August 25, 2008, at which time said Plat would be considered and all interested persons would be heard; and

WHEREAS, The City Auditor reports that no protest or objections have been received or filed in the office of the City Auditor, either written or verbal, objecting to

the vacation petitioned for and the Board of City Commissioners finds and declares that no written protests have been filed for the attention of the Board and no person is present at this Hearing to protest or offer objection thereto; and

WHEREAS, The Board of City Commissioners hereby declares that it is in the best interest of the adjoining property owners and for the public that 8th Street between 2nd and 3rd Avenue North and the Alley in Block 9 of Roberts' Addition be vacated.

NOW THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff be accepted and 8th Street between 2nd and 3rd Avenue North and the Alley in Block 9 of Roberts' Addition be vacated within the City of Fargo, North Dakota and that the Plat entitled "Vacation Plat, of 8th Street between 2nd and 3rd Avenue North and the Alley in Block 9 of Roberts' Addition to the City of Fargo, North Dakota" be and the same is hereby in all things affirmed and approved, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Piepkorn, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Board of Adjustment's Denial of a Request for a Variance to the Accessory Structure at 1515 4th Street North Upheld:

A Hearing had been set for this day and hour on the appeal of a July 22, 2008 ruling of the Board of Adjustment denying the request from Marty Schoenfeld for a variance for a 644 square foot variance of the 1036 square foot maximum size for an accessory detached structure at 1515 4th Street North.

Written protests to the granting of the variance have been received and filed.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

Senior Planner Jim Hinderaker stated Mr. Schoenfeld wants to replace the detached garage with a much larger garage. He said the structure of the house is 1,064 square feet and the proposed garage would be 1680 square feet which would supersede the size of the house by 644 square feet. He said the approval criteria for a variance has to be met and there are two that have not been met. He said the first one is the requested size of the accessory detached structure is preferential to the property owner and is not a result of the zoning district or unique conditions of the property. The second one, he continued, is the size of the structure is preferential and is considered an economic hardship, not a physical hardship. He said staff is recommending the request be denied.

Mr. Schoenfeld stated his SUV and pickup do not fit in the garage. He said he is looking for a spot to park his vehicles and also have room for a work space. He said if the garage was attached to his house he could build it as big as he wanted to and he does not understand why it has to be attached to do that.

Mayor Walaker stated he would like to see something from the neighbors indicating they do not have any objections to the size of the garage.

There was discussion regarding the criteria requirements.

Commissioner Wimmer moved the findings of staff and the Board of Adjustment be accepted and that the 644 square foot variance of the 1,036 square foot maximum size for an accessory detached structure be denied on the basis that review criteria of Section 20-0914.E (1 and 3) have not been met.

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

Commissioner Walaker voted nay.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Request to Turn 11th Street South Between 13th and 14th Avenues into a Northbound One-Way Street Approved:

The Board received a Report of Action from the Traffic Technical Advisory Committee stating received a request from the Grace Lutheran School in October of 2007 to turn the one block of 11th Street South, between 13th and 14th Avenues, into a northbound one-way street. They said the school had concerns with the safety around the school during the morning arrival and the afternoon departure of the children that attend the school. They said the school principal explained that the school recently went through an accreditation process and one of the recommendations was that the traffic along 11th Street should be looked at to achieve more safety. The Committee stated when parents are dropping off their children, they park on both sides of the street, narrowing the street to effectively a one lane street. They said the principal felt by turning the street into a northbound one-way, it will help parents flow through, as they will not have to contend with on-coming traffic while they stop to drop off/pick up their children. They said an officer from the Traffic Safety Unit conducted a site study around the school to identify solutions for the safe pickup and drop-off of the children during these heavy traffic periods and the officer did not have any objection to turning the street into a northbound one way. The Committee stated a memo was sent out to property owners in the area asking for feedback and very little was received, however, Olivet Lutheran Church was very much in favor of the request. They said key points of discussion regarding the request were on street parking, street width to accommodate parking on both sides, and the operations of the intersection of 11th Street and 13th Avenue South in the event that the request would get approved. They said parking is currently allowed on the west side of the street 24/7, but parking is not allowed on the east side of the street except on Sundays, when it is allowed all day. They said the existing street width is 30' from curb to curb and Fire Marshal Norm Scott indicated that allowing parking on both sides on Sundays does not provide the street with a clear 20' wide path for a fire truck to pass through and he would like to completely ban parking on the east side of the street 24/7. The Committee said it was their consensus that allowing parking on both sides of the street for one day out of seven should be acceptable. The Committee recommended the request be approved.

Commissioner Williams moved the request to turn 11th Street South between 13th and 14th Avenues into a northbound one-way street be approved with an implementation date of September 2, 2008 and that parking be eliminated on the east side of the street.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Ordinance Annexing a Certain Parcel of Land Lying in the North Half of Section 3, Township 138 North, Range 49 West, in Cass County, North Dakota to be Placed on First Reading at the Next Regular Meeting of the Board:

The Board received a communication from Planning Director Jim Gilmour stating the City received a petition for annexation of 88 acres of property south of 52nd Avenue South and about 2,000 feet west of I-29 from White Oaks Trust, the owner of the property. He said property immediately to the east and west of the White Oaks property has already been annexed into the City. He said the 88 acres petitioned for annexation are part of the proposed "The District" commercial development. Mr. Gilmour stated property to the west and east from 45th Street to I-29 will also be part of the commercial development.

Commissioner Piepkorn moved the Ordinance Annexing a Certain Parcel of Land Lying in the North Half of Section 3, Township 138 North, Range 49 West, in Cass County, North Dakota be received and filed and placed on first reading at the next Regular Meeting of the Board.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Guy Fox and Gus Claymore Appointed to the Native American Commission:

The Board received a communication from Mayor Walaker recommending that Guy Fox and Gus Claymore be appointed to the Native American Commission to fill the unexpired terms of Ronald Laverdure and Samuel Robertson.

Commissioner Wimmer moved the appointment of Guy Fox for the term ending June 30, 2009 and Gus Claymore for the term ending June 30, 2010 to the Native American Commission be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

2009 Preliminary Budget Received and Filed:

The Board received a communication from Mayor Walaker submitting the 2009 preliminary budget for the Board's review. He said the preliminary budget must be approved by September 10, 2008 and he is recommending it be received and filed and that budget discussions be scheduled for the September 8, 2008 City Commission meeting. He said this will allow ample time for the Board to review and discuss the 2009 budget recommendations prior to the next meeting. He said the budget document will also be posted on the City's Web site for easy access to those interested in participating in the budget hearing. Mayor Walaker stated subsequent to the approval of the preliminary budget the public hearing will be set for September 22,

2008 at which time anyone may comment on it. He said final adoption is required by October 7, 2008.

Commissioner Williams stated the Fargo School District is accelerating their plans for a new school on 70th Avenue South and that may have an impact on the City's budget. He said there are a number of concerns relating to the higher gas prices, infrastructure and annexation requirements that could impact the budget. He said he would like to ask the City Commission's permission to draft a letter to present to the School Board to let them know of some of the City's concerns.

Commissioner Williams moved the 2009 Preliminary Budget be received and filed.

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

There was discussion regarding the items the City would be involved in relating to the new school.

City Administrator Pat Zavoral stated it is the City's turn to sponsor a get together with the School District and the items of concern could be discussed at that time.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, September 8, 2008.

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

The time at adjournment was 6:25 o'clock p.m.