

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: October 20, 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, October 20, 2008.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on October 6, 2008 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 10/6/08:
 - (1) Amending the Ordinance Rezoning Certain Parcels of Land Lying in Section 4, Township 138 North, Range 49 West, Cass County, North Dakota.
 - (2) Rezoning Certain Parcels of Land Lying in the East Half of Section 27, Township 139 North, Range 49 West, Fargo, Cass County, North Dakota.
 - (3) Rezoning Certain Parcels of Land Lying in Town Square Village Second Addition to the City of Fargo.

- b. Consent by the City of Fargo After Consultation to the Serkland Law Firm Representing the Fargo Public School District on Other Matters.

- c. Request from Beyond Shelter, Inc. to access \$120,000 from the City's HOME housing set-aside fund for the Cooper House development.

- d. Receive and file Year to Date – Budget to Actual Report for September 2008.
- e. NDDOT Traffic Safety Contracts for State and Community Highway Safety (CFDA #20.600) and Alcohol Highway Safety (CFDA #20.601).
- f. Recommendation from the Finance Committee to proceed with electronic check conversion and calculation of late fees on the entire unpaid utility bill.
- g. Proposal from MidStates Communications for the Interoperable Communications Equipment.
- h. Bid award for the West Side Fire Station Fiber Optic Cable Placement Project to Moorhead Electric, Inc. in the amount of \$19,345; and contract and bond.
- i. Applications for 5-year property tax exemptions for improvements made to buildings:
 - (1) Stacy Miller, 812 11th Street North.
 - (2) Dorothy Curry, 914 9th Street South.
 - (3) Rebecca Nelson, 745 2nd Street North.
- j. Applications for Games of Chance:
 - (1) Lewis & Clark PTA for bingo on 10/28/08.
 - (2) Fargo Angels Youth Hockey for a raffle on 12/4/08.
 - (3) Red River Nu-Voice Club for a raffle on 4/18/09; Public Spirited Resolution.
 - (4) Fargo North Hockey Booster Club for a raffle on 1/31/09.
- k. Agreement to Consider Substitute Easement and Memorandum of Understanding regarding the easement in Lot 1, Block 3, Sheyenne Industrial Center Third Addition.
- l. Purchase Agreement with MBL Properties, LLP for Lot 1, Block 7, Maple Valley Addition for future interchange right-of-way.
- m. Engineering Services Contract Amendment in the amount of \$260,000 for the Southside Flood Control Project (Improvement District No. 5073-08).
- n. Bid concurrence for Project No. 5854 to Northern Plains Contracting in the amount of \$227,800.
- o. Bid advertisement for Project No. 5725.
- p. Change Order No. 2 for an increase of \$32,575.13 for Project No. 5812-1.
- q. Final Balancing Change Orders for the following Projects: No. 1 for an increase of \$20,309 for Project No. 5645; No. 1 for an increase of \$18,780.41 for Project No. 5707.

- r. Contract and bond for Project Nos. 5798 and 5846.
- s. Bills in the amount of \$3,415,722.75.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn 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. 5364-04 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$713,747.98 for Improvement District No. 5364-04.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn 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. 5384 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$35,997.75 for Improvement District No. 5384.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn 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. 5749-2 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Specialized Contracting for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5749-2 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn 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. 5749-2 Approved:

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

The Cincinnati Insurance Company, in the amount of \$254,674.50, for Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals Improvement District No. 5749-2 in the City of Fargo, North Dakota.

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

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

Southwest Metro Transit Study Approved: Appropriate Staff Directed to Work Toward Obtaining Funding Needed to Implement the Study:

The Board received a communication from Planning Director Jim Gilmour stating the Fargo-Moorhead Metropolitan Council of Governments has completed work on a Southwest Metro Transit Study for southwest Fargo and West Fargo which he submitted for the Board's consideration. Mr. Gilmour said the study looked at future transit needs of the growing area and identified future transit route concepts. He said the study identifies the need for three additional transit routes in southwest Fargo that will be needed over the next five years and the highest priority is for a route to serve the Osgood/Microsoft area. The other two needs, he continued, are for routes to provide service south of 32nd Avenue South in southeast Fargo and north-south along 25th Street between 52nd and 13th Avenues South. Mr. Gilmour stated implementation of these additional routes will require significant resources from a combination of federal, state and local governments. He said the City will have a better idea of available funding after the 2009 session of the ND Legislature and the adoption of the next federal transportation bill. He said the City should also review options for adding local funding to implement these needed transit routes.

Metro COG Community Development Planner Wade Kline stated at the request of the City of Fargo and as recommended by the 2007 Metro Transit Plan, Metro COG conducted the Southwest Metro Transit Study. He said the intent of the Study is to understand the options for transit expansion in the Southwest and most specifically, the Study was tasked with identifying new transit options for the next five years. He said as part of the Study plan development a number of emerging issues were identified surrounding the expansion of transit service in the study area. Mr. Kline stated the Study outlines the existing conditions of transit operations in the Southwest Metro and highlights the dynamics and evolution of existing transit options in the study area. He said the Southwest Metro is an evolving part of the MAT Service Area and the transit network which serves the area has been continuously modified to stay abreast of changes and development trends in the study area. He stated the Study sets the stage for the development of new transit options in the Southwest Metro. He said the alternatives developed by the Study aim to maintain existing service levels while, at the same time, balance bold new route initiatives to meet the growing demand and utility of transit in the study area and system wide. Mr. Kline summarized the proposed transit needs outlined in the Study.

Commissioner Wimmer moved the Southwest Metro Transit Study be approved and the appropriate staff be directed to work toward obtaining the funding needed to implement the study.

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

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

Application to Transfer the Alcoholic Beverage License from Timber Lodge Steak House, Inc. d/b/a Timber Lodge Steak House to Timber Lodge Steak House Acquisitions, LLC d/b/a Timber Lodge Steakhouse Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Timber Lodge Steak House, Inc. d/b/a Timber Lodge Steak House to Timber Lodge Steak House Acquisitions, LLC d/b/a

Timber Lodge Steakhouse, at 1111 38th 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, Mahoney 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 Fargo Plaza Liquors, Inc. d/b/a Bottle Barn Liquors to KJW Investments, Inc. d/b/a Bottle Barn Liquors Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "B" Alcoholic Beverage License from Fargo Plaza Liquors, Inc. d/b/a Bottle Barn Liquors to KJW Investments, Inc. d/b/a Bottle Barn Liquors, at 2301 South University Drive, #7 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 Mahoney. On call of the roll Commissioners Piepkorn, Mahoney, Williams, Wimmer and Walaker voted aye.

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

Application Filed by Concessions Management, LLC d/b/a Concessions Management, LLC for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Concessions Management, LLC d/b/a Concessions Management, LLC for a Class "N" Alcoholic Beverage License at 5220 30th 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 Piepkorn moved the application be approved.

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

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

Resolution Adopted Vacating 14th Avenue North Between Lot 1, Block 3 of Sheyenne Industrial Center Third Addition and Lot 1, Block 5 of Fayland Industrial First Addition to the City of Fargo, Cass County, North Dakota (1292 and 1406 47th 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 14th Avenue North between Lot 1, Block 3 of Sheyenne Industrial Center Third Addition and Lot 1, Block 5 of Fayland Industrial First Addition to the City of Fargo, Cass County, North Dakota"; and

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 August 13, 2008, and Notice of such Hearing had been published on July 28 and August 4, 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 October 13 and 20, 2008, that a Hearing would be held in the City Commissioners' Room at the City Hall, Fargo, North Dakota, at 5:15 o'clock PM, on Monday, October 20, 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 14th Avenue North between 47th Street North and the Sheyenne Diversion North Tieback Levee of Fayland Industrial First Addition be vacated.

NOW THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted on the basis that the proposal complies with the adopted Area Plan, the standards of Article 20-06, and all other applicable requirements of the Land Development Code and that 14th Avenue North between 47th Street North and the Sheyenne Diversion North Tieback Levee of Fayland Industrial First Addition be vacated within the City of Fargo, North Dakota and that the Plat entitled "Vacation Plat of 14th Avenue North between Lot 1, Block 3 of Sheyenne Industrial Center Third Addition and Lot 1, Block 5 of Fayland Industrial First Addition to the City of Fargo, Cass County, 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, Mahoney and Walaker voted aye.

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

Hearing on a Petition for a Zoning Change in Erskines Addition Continued to November 17, 2008 (1117 and 1155 13th Avenue South):

This was the time and date set for a Hearing on a petition for a zoning change on the south 51 feet of Lots 1, 2, 3, 4 and 5; the south 51 feet of the south 101 feet of the west 8.4 feet of Lot 6; the southern 70 feet of the east 16.6 feet of Lot 6; all of Lot 7; and the west 8.4 feet of Lot 8, Block SS of Erskines Addition, however, the Planning Commission continued their Hearing to November 12, 2008 and, therefore, the City Commission will need to continue their Hearing to November 17, 2008.

Commissioner Wimmer moved the Hearing be continued to November 17, 2008.

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

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

Hearing on Proposed Increase in Passenger Fares for Metro Area Transit and MAT Paratransit: Fare Increases Approved Effective January 1, 2009:

A Hearing had been set for this day and hour to consider the following proposed increase in passenger fares for Metro Area Transit and MAT Paratransit effective January 1, 2009:

MAT Fixed Routes

<u>Cash Fare</u>		<u>30-Day Pass Fare</u>	
Adult	\$1.00 + \$.25 = \$1.25	Adult	\$35 + \$5 = \$40
Elderly	\$.50 + \$.10 = \$.60	Elderly	\$23 + \$3 = \$26
Disabled	\$.50 + \$.10 = \$.60	Disabled	\$23 + \$3 = \$26
Youth	\$.50 + \$.10 = \$1.25	Youth	\$23 + \$3 = \$26

MAT Paratransit

Cash and Coupon Fare

Eligible Passenger \$2.00+ \$.50 = \$2.50

Coupons are sold in books of 20

The Board received a communication from Transit Administrator Julie Bommelman stating the general fund subsidy from the City of Fargo has increased from \$311,644 in 1998 to \$416,211 in 2007 and a projected \$893,826 in 2009. She said the MAT Fixed Route cash fare has been at \$1.00 for 10 years and the monthly pass fare last changed in 2003. She said the fares for MAT Paratransit service for persons with disabilities was last increased eight years ago. MAT Paratransit rates per the Americans with Disabilities Act, she said, cannot exceed twice the full fare of the Fixed Routes and the proposed increase from \$2.00 to \$2.50 meets this requirement. She said although transit has seen sizeable increases in ridership the past few years, the fare revenue has not been enough to pay for rising fuel costs. In order to maintain transit service, she said, additional revenue is needed from all sources. She stated a fare comparison between similar transit systems was conducted, including the cities of Grand Forks, Bismarck, Rochester and Duluth. She

said MAT's adult cash fare was the lowest at \$1, with the others ranging from \$1.25-\$1.50 and MAT's pass fares at \$35 are comparable with the other systems, which range from \$30-\$35. MAT's discount pass rates for elderly, disabled and youth, she said, are at the low end of the scale at \$23 compared to \$20-\$35 on the other systems and MAT's rates for Paratransit service were the lowest at \$2.00, with the other transit systems rates ranging from \$2.50 to \$3.00. Ms. Bommelman stated the joint Fargo-Moorhead MAT Coordinating Board met on July 15, 2008 and it was the consensus of the members present to recommend approval of the passenger fare increase. She said a public informational meeting was held at the GTC on Friday, September 26, 2008 at which nine passengers attended. Written comments were also received, she said, from eight MAT passengers and no comments were received from MAT Paratransit clients or agencies. She said Moorhead City Council approved the proposed fare increases on October 13, 2008.

Commissioner Wimmer questioned why Transit has not requested increases more often.

Ms. Bommelman stated Transit was trying to build the ridership without increasing the rates.

Mayor Walaker stated a letter of protest was received from Linda Onstad who has been a bus rider for 28 years and staff should respond to some of the concerns in her letter.

Commissioner Williams moved the proposed increase in passenger fares on Metro Area Transit and MAT Paratransit be approved as outlined above effective January 1, 2009.

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

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

Hearing on the Special Assessment List for the Island Park Ramp:

A Hearing had been set for this day and hour on the special assessment list for the Island Park Ramp in the City of Fargo, North Dakota.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment list for the Island Park Ramp be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor and that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law.

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

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

Special Assessment List for New Construction of City Ordered Sidewalks Approved (Project No. 5651):

A Hearing had been set for this day and hour on the special assessment list for New Construction of City Ordered Sidewalks in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment

Commission after which it had been confirmed and filed with the Board of City Commissioners.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment list for New Construction of City Ordered Sidewalks be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

Special Assessment List for Reconstruction of City Ordered Sidewalks Approved (Project No. 5652):

A Hearing had been set for this day and hour on the special assessment list for Reconstruction of City Ordered Sidewalks in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment Commission after which it had been confirmed and filed with the Board of City Commissioners.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment list for Reconstruction of City Ordered Sidewalks be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

Special Assessment Lists for Various Improvement Districts Approved:

A Hearing had been set for this day and hour on the special assessment lists for the construction of the following Improvement Districts in the City of Fargo, North Dakota, on which special assessment lists Hearings had been held by the Special Assessment Commission after which they had been confirmed and filed with the Board of City Commissioners:

Dike Construction and Incidentals No. 4980.

Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals No. 5671-2.

Water Main Replacement, Street Reconstruction and Incidentals No. 5682.

Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving, Curb and Gutter, Lighting and Incidentals No. 5690.

Water Main Replacement, Street Reconstruction and Incidentals No. 5694.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5697.

Water Main Replacement, Street Reconstruction and Incidentals No. 5711.

Water Main Replacement, Street Reconstruction and Incidentals No. 5712.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5736.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 5742.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights, Sidewalks and Incidentals No. 5743.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 5748.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 5757.

New Construction City Ordered Sidewalks and Approaches Project No. 5765.

Seal Coat and Incidentals No. 5778.

Asphalt Wearing Course and Incidentals No. 5779.

Water Main Replacement and Incidentals No. 5785.

Winter Decorating Improvements and Maintenance No. 5851.

No appeals have been filed in writing against any item appearing on such special assessment lists and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment lists for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

Special Assessment Lists for Improvement District Nos. 5702, 5704, 5740 and 5759

Approved:

A Hearing had been set for this day and hour on the special assessment lists for the construction of the following Improvement Districts in the City of Fargo, North Dakota, on which special assessment lists Hearings had been held by the Special Assessment Commission after which they had been confirmed and filed with the Board of City Commissioners:

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5702.

PC Concrete Pavement and Incidentals No. 5704.

Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals No. 5740.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals No. 5759.

The Board received a communication from Jonathan Garaas, Attorney representing Fred Hector, appealing the special assessments for Improvement District Nos. 5702, 5704, 5740 and 5759. Mr. Garaas submitted a packet of information outlining the reasons for the appeals.

Mr. Garaas handed out additional information regarding Mr. Hector's reasons for objecting to the assessments. He said in regard to the special assessment for Improvement District No. 5704, Mr. Hector objects to the corrected assessment of \$297,739.91 which is at least \$161,739.91 too much and he summarized the reasons for the objection. He said as to the special assessment for Improvement District No. 5740, Mr. Hector objects to the assessment of \$25,261.87 and he summarized the reasons for the objection. He said regarding the special assessment for Improvement District No. 5702, Mr. Hector objects to the assessment of \$247,361.70 which is at least \$82,453.73 more than possible or it is as much as \$233,084.01 more than is possible and he summarized the reasons for the objection. He said as to the special assessment for Improvement District No. 5759, Mr. Hector objects to the assessments of \$38,643.40, \$23,212.94 and \$105,562.77 and he summarized the reasons for the objection.

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

After recess: All Commissioners present. Mayor Walaker presiding.

Special Assessment Coordinator Dan Eberhardt explained the City's process in determining the special assessments for Mr. Hector's property. He also responded to Mr. Garaas's statements regarding each of the Improvement Districts in question and summarized the City's method in determining the assessments.

There was discussion regarding the error made in the assessments for Improvement District No. 5704.

Mr. Eberhardt stated the original memorandum that was sent to Mr. Hector listed the 2006 figures as the estimated assessments for Improvement District No. 5704 and, after the final figures went out, the numbers were calculated with the 2008 figures. He said the assessment should have been figured using the 2007 amount, however, the Special Assessment Commission used the 2006 figures since that was the amount listed in Mr. Hector's original memorandum. He said Mr. Hector got a break on that assessment because it was lower than it should have been.

In answer to a question, Mr. Eberhardt stated the Special Assessment Commission uses the same calculations for everyone's assessments.

In answer to a question, Mr. Eberhardt stated changes can still be made after the Commission approves the special assessments.

Daniel Dunn, Chair of the Special Assessment Commission, stated when the letters for the special assessments are sent out, the Special Assessment Commission holds hearings to answer citizens questions about their assessments. He said the citizens are also told if they have additional questions and concerns they can be addressed by the City Commission at their hearing on the assessments. He said ultimately, the City Commission does have authority to make changes to the special assessments.

Commissioner Mahoney moved that the special assessment lists for the construction of the above listed Improvement Districts be and the same are hereby approved and confirmed and ordered filed in the office of the City Auditor, that the

City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law, that the interest rate be set at 1% per annum over the net rate on bonds financing said projects and that Mr. Eberhardt be directed to address Mr. Garaas's concerns and review the numbers in Improvement District Nos. 5702, 5704, 5740 and 5759.

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

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

Michael Love Appointed as an Alternate Member of the Board of Adjustment:

The Board received a communication from Mayor Walaker recommending that Michael Love be appointed as an Alternate Member of the Board of Adjustment.

Commissioner Mahoney moved that the Board approve and confirm the appointment of Michael Love as an Alternate Member of the Board of Adjustment for the term ending June 30, 2011.

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

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

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, November 3, 2008.

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

The time at adjournment was 6:39 o'clock p.m.