

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: January 29, 2007:

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, January 29, 2007.

The Commissioners present or absent were as shown following:

Present: Williams, Wimmer and Coates.

Absent: Mahoney and Walaker.

Deputy Mayor Coates presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved moving Item No. "f" from the Consent Agenda to the Regular Agenda after Item No. "1".

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on January 15, 2007 be approved as read.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Rezoning Ordinances (1st reading, 1/15/07):
 - (1) A Certain Parcel of Land Lying in Town Square Addition to the City of Fargo.
 - (2) Certain Parcels of Land Lying in Creekside 2nd Addition to the City of Fargo.
 - (3) A Certain Parcel of Land Lying in Adams 6th Addition to the City of Fargo.
 - (4) Certain Parcels of Land Lying in Osgood Townsite City Centre First Addition to the City of Fargo.
- b. Budget amendment to the 2006 General Fund in the amount of \$650,000 for vehicle funding and public safety building costs.
- c. Receive and file fourth quarter preliminary financial status report.

- d. Resolution Authorizing the Issuance of \$7,755,000 Airport Reserve Revenue Bonds, Series 2007A (Attachment "A").
- e. Appointment of 3 individuals as special police officers for NDSU.
- f. Application filed by James Alsop for a five-year property tax exemption for improvements made to a building at 1607 8th Street South (moved to the Regular Agenda.)
- g. Applications for Games of Chance:
 - (1) Fargo South High Baseball Club for a raffle on 5/30/07.
 - (2) Home Builders Care of Fargo-Moorhead for a raffle on 3/29/07.
 - (3) Francis J. Beaton, Chapter No. 1, Disabled American Veterans for a raffle on 5/24/07.
 - (4) Fargo Catholic School Network for a raffle on 4/28/07.
- h. RFQ for Project Nos. 5499 and 5681.
- i. Change Order No. 1 in the amount of \$14,509.02 for Project No. 5422.
- j. Advertise for bids for Project No. 5715.
- k. Bills in the amount of \$3,391,020.95.

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

Absent and not voting: Commissioners Mahoney and Walaker.

The motion was declared carried.

Ridgewood Flood Control Improvement District No. 5229: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of Ridgewood Flood Control Improvement District No. 5229 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota, on December 25, 2006 and January 1, 2007 and protests representing less than 1% percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved the protests be received and filed and declared insufficient.

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

Absent and not voting: Commissioners Mahoney and Walaker.

The motion was declared carried.

Seal Coat and Incidentals Improvement District No. 5709 (Various Locations City-Wide):

Commissioner Williams moved the following action be taken in connection with Seal Coat and Incidentals Improvement District No. 5709:

Adopt Resolution Creating Improvement District No. 5709:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5709, in the City of Fargo, North Dakota, be created

LOCATION: (SECTION 1)

On 10th Street North from ½ way between 42nd Avenue North and 43rd Avenue North to 130' north of 47th Avenue North.

On 47th Avenue North from 10th Street North to the north end of Lot 8, Block 3 of Riverwood 8th Addition.

On 46th Avenue North from 10th Street North to University Drive.

On 45th Avenue North from 10th Street North to 44th Avenue North.

On 44th Avenue North from 10th Street North to 45th Avenue North.

On 43rd Avenue North from University Drive to Riverwood Drive.

On Riverwood Drive from 43rd Avenue North to the north end of Lot 8, Block 3 of Riverwood 4th Addition.

On University Drive North from Cass County Highway #20 to 46th Avenue North.

LOCATION: (SECTION 5)

On 51st Street South from 7th Avenue South to 9th Avenue South.

On 7th Lane South from 51st Street South to 17th Street East.

On 8th Avenue South from 51st Street South to 17th Street East.

On 9th Avenue South from 51st Street South to 17th Street East.

On 10th Avenue South from 51st Street South to 17th Street East.

LOCATION: (SECTION 6)

On 47th Street South from 13th Avenue South to 11th Avenue South.

On 11th Avenue South from 47th Street South to 45th Street South.

LOCATION: (SECTION 8)

On 38th Street South from 17th Avenue South to 40th Street South.

On 17th Avenue South from 42nd Street South to 38th Street South.

On 18th Avenue South from 42nd Street South to 39th Street South.

On 18th Avenue South from 43rd Street South to 45th Street South.

On 19th Avenue South from 43rd Street South to 39th Street South.

On 39th Street South from 17th Avenue South to 19th Avenue South.

On 40th Street South from 17th Avenue South to 20th Avenue South.

On 43rd Street South from 18th Avenue South to 19th Avenue South.

LOCATION: (SECTION 9)

On 23rd Avenue South from 25th Street South to Wheatland Drive.

On 33rd Street South from 23rd Avenue South to 220' south of Parkview Drive.

On Parkview Drive from 33rd Street to 26th Avenue South.

On Wheatland Pines Drive from 23rd Avenue South to 23rd Avenue South.

On 26th Avenue South from Parkview Drive to Wheatland Drive.

On Wheatland Drive from 23rd Avenue South to 30th Avenue South.

On 28th Avenue South from Wheatland Drive to ½ way between Wheatland Drive and 36th Street South.

On 30th Avenue South from 150' east of 34th Street South to 36th Street South.

On 34th Street South from 30th Avenue South to 31st Avenue South.

On 31st Avenue South from 34th Street South to 33rd Street South.

On 30th Avenue South from 32nd Street South to the east end of the cul-de-sac.

On 31st Street South from 30th Avenue South to the south end of the cul-de-sac.

LOCATION: (SECTION 10)

On 33rd Street South from 32nd Avenue South to 35th Avenue South.

On 35th Avenue South from 33rd Street South to 36th Street South.

On 33rd Avenue South from 32nd Street South to 33rd Street South.

LOCATION: (SECTION 11)

On Rose Creek Boulevard South from 25th Street to East Rose Creek Parkway South.

On Rose Creek Parkway South from Rose Creek Boulevard South to East Rose Creek Parkway South.

On East Rose Creek Parkway South from 52nd Avenue to University Drive South.

COMPRISING: (SECTION 1)

Lot 1 through 8, Block A.

All in Riverwood 2nd Addition (Replat of Blocks 3 & 4).

Lots 1 through 13, Block 1.

Lots 1 through 6, Block 2.

All in Riverwood 2nd Addition.

Lots 1 through 6, Block 5.

Lots 1 through 16, Block 6.

Lots 1 through 8, Block 7.

All in Riverwood 3rd Addition.

Lots 1 through 8, Block 1.

Lots 1 through 8, Block 2.

Lots 1 through 8, Block 3.

Lots 1 through 12, Block 4.

All in Riverwood 4th Addition.

Lots 1 through 4, Block 1.

Lots 1 through 6, Block 2.

Lots 1 through 9, Block 3.

All in Riverwood 5th Addition.

Lots 1 through 10, Block 1.

Lots 1 through 4, Block 2.

Lots 1 through 6, Block 3.

All in Riverwood 6th Addition.

Lots 1 through 7, Block 1.
Lots 1 through 4, Block 2.
Lots 1 through 8, Block 3.
All in Riverwood 7th Addition.

Lots 1 through 4, Block 1.
Lots 1 through 4, Block 2.
Lots 1 through 8, Block 3.
All in Riverwood 8th Addition.

Lots 1 through 10, Block 1.
Lots 1 through 12, Block 2.
All in Riverwood 1922 1st Addition.

All unplatted land 2629' north of Cass County Highway #20 and 671' west of University Drive North in the southeast (SE ¼) quarter of Section 13, Township 140N, Range 49W.

COMPRISING: (SECTION 5)

Lots 1 through 6, Block 1.
Lots 1 through 12, Block 2.
Lots 1 through 14, Block 3.
Lots 1 through 15, Block 4.
Lots 1 through 20, Block 5.
Lots 1 through 10, Block 6.
All in Westfield 2nd Addition.

COMPRISING: (SECTION 6)

Lot 4, Block 7.
All in Westfields 1st Addition.

Lot 1, Block 1.
All in Wal-Mart 2nd Addition.

Lot 5, Block 1.
All in Rabanus 2nd Addition.

Lot 1 through 3, Block 1.
All in Rabanus Farmstead Addition.

COMPRISING: (SECTION 8)

Lot 1, Block 1.
All in Crop Growers Subdivision.

Lot 1, Block 1.
All in Staybridge Addition.

Lots 1 and 2, Block 1.
All in GRB Subway Properties Addition.

Lots 4 and 5, Block 8.
All in West Acres 4th Addition.

Lot 1, Block 1.
All in West Acres Business Park 7th Addition.

Lots 6 and 7, Block 1.
Lot 3, Block 2.
All in West Acres Business Park 3rd Addition.

Lot 3, Block 1.
All in West Acres Business Park 2nd Addition.

Lots 1 through 3, Block 1.
All in West Acres Business Park 10th Addition.

Lots 1 through 3, Block 1.
All in West Acres Business Park 4th Addition.

Lots 3 through 11, Block 1.
Lots 12 through 16 and 18 through 20, Block 1.
All in West Acres Mall Addition.

Lots 1 through 3, Block 1.
All in Safari Addition.

Lots 1 and 2, Block 1.
All in West Acres 1st Subdivision.

Lot 1, Block 1.
All in Pinehurst 1st Addition.

Lots 1 through 3, Block 1.
All in Ekman Addition.

Lots 5 and 6, Block 1.
Lots 1 through 12, Block 3.
Lots 1 through 10, Block 4.
Lots 1 through 20, Block 5.
Lots 1 through 10, Block 6.
Lots 1 through 10, Block 7.
All in West Acres 4th Addition.

Lots 1 and 2, Block 1.
All in AAA North Dakota Addition.

Lots 1 through 7, Block 1.
All in Dakota View Estates.

Lots 2 through 4, Block A.
All in Dakota View Estates 2nd Addition.

COMPRISING: (SECTION 9)

Lot 1, Block 1.
Lot 1, Block 2.
Lots 1 through 8, Block 3.
Lots 1 through 9, Block 4.
All in Blue Sky Addition.

Lot 1, Block 6.
Lots 1 through 3, Block 8.
Lot 5, Block 8.
All in Bluemont Lakes 3rd Addition.

Lot 2, Block 2.
All in Bluemont Park 1st Addition.

Lot 15, Block 2.
All in Bluemont Park 5th Addition.

Lots 4 through 13, Block 2.
Lots 1 through 5, Block 3.
All in Bluemont Park 7th Addition.

Lot 1, Block 1.
All in Fargo Baptist Addition.

Lot 1, Block 1.
All in Virgil Montplaisier Subdivision.

Lot 4, Block 1.
All in Virgil Montplaisier 2nd Subdivision.

Lots 1 through 3, Block 1.
All in Parkview 1st Addition.

Lots 11 and 12, Block 2.
Lot 1, Block 3.
Lot 9, Block 4.
Lots 1 through 8, Block 5.
All in Parkview South 1st Addition.
Unplatted land in the NW ¼ of Section 23.

Lots A through P, Block 1.

All in Westlake 3rd Addition.

Lots 1 through 13, Block 1.
Lot 4, Block 2.
All in Westlake 6th Addition.

Lots 8 through 10, Block 1.
Lots 12 and 13, Block 1.
Lot 5, Block 2.
Lots 1 through 3, Block 3.
All in Wheatland 2nd Addition.

Lots 1 through 4, Block 1.
Lots 1 through 17, Block 2.
Lots 1 through 5, Block 3.
All in Parkview South 6th Addition.

Lots 1 through 22, Block 1.
All in Bluemont Park 8th Addition.

Lots 1 through 14, Block 1.
Lots 1 through 9, Block 2.
All in Parkview South 7th Addition.

Lots 1 through 10, Block 1.
Lots 1 through 8, Block 2.
All in Wheatland 3rd Addition.

Lots 1 through 5, Block 1.
All in Doeden Addition.

Lots 1 and 2, Block 1.
All in Fargo Baptist 2nd Addition.

Lots 1 through 4, Block 1.
All in Wheatland 4th Addition.

Lots 9 through 47, Block 1.
Lots 1 through 10, Block 3.
Lots 1 through 12, Block 4.
Lots 1 through 13, Block 5.
All in Woodbury Park Addition.

Lots 1 through 2, Block 1.
All in Wheatland 5th Addition.
Lot 1, Block 1.
All in Charlie's Addition.

Lot 1, Block 1.
All in Charlie's 2nd Addition.

Lots 1 through 16, Block 1.
All in Woodbury Park Homes Addition.

Lots 1 through 12, Block 1.
Lots 1 and 2, Block 2.
All in Wheatland Pines First Addition.

Lots 1 through 8, Block 1.
All in Woodbury Park 2nd Addition.

Lots 1 and 2, Block 1.
All in Beautiful Savior Addition.

COMPRISING: (SECTION 10)

Lot 2, Block 1.
All in Davron 1st Addition.

Lots 4 through 10, Block 1.
Lot 1, Block 2.
Lots 4 through 6, Block 2.
Lots 1 and 2, Block 3.
Lots 4 and 5, Block 3.
Lots 8 and 9, Block 3.
Lots 12 and 13, Block 3.
Lots 1 through 4, Block 5.
All in Southwood Park.

Lots 1 and 2, Block 2.
All in Stonebridge Farms 4th Addition.

Lots 3 through 11, Block 1.
All in Vincent Marie Addition.

Lots 1 and 2, Block 1.
All in Dauk's 1st Addition.

Lot 2, Block 1.
All in Valley Ford 1st Addition.

COMPRISING: (SECTION 11)

Lots 33 through 38, Block 1.
Lots 7 through 13, Block 2.
All in Rose Creek 4th Addition.

Lots 1 through 29, Block 1.

Lots 1 through 32, Block 2.
Lots 1 through 23, Block 3.
All in Rose Creek 5th Addition.

Lots 1 through 31, Block 1.
Lots 1 through 7, Block 2.
Lots 1 through 13, Block 13.
All in Rose Creek 6th Addition.

Lot 1, Block 1.
Lot 1, Block 2.
All in Rose Creek 7th Addition.

Lot 1, Block 1.
Atonement 1st Addition.

Lots 2 through 4, Block 1.
Rose Creek Golf Course Addition.

Unplatted land in the south half of Township 139, Range 49.

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

NOW, THEREFORE, BE IT RESOLVED, That Seal Coat and Incidentals Improvement District No. 5709, 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. 5709:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5709, 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 \$592,870.)

Order Plans and Specifications for Improvement District No. 5709:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5709, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5709:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5709, 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. 5709, 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 Seal Coat 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 Seal Coat & Incidentals Improvement District No. 5709 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 Seal Coat & 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. 5709:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5709, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioners Mahoney and Walaker.

The motion was declared carried.

First Reading of an Ordinance Relating to Storm Water Management:

The Board received a communication from Storm Sewer Utility Engineer April Walker submitting Storm Water Management Ordinance revisions. Ms. Walker stated clarification was needed on enforcement of the ordinance after the permitting process for the ordinance was enacted in March 2006. She stated three documents have been updated in conjunction with Engineering staff and/or Patty Roscoe Assistant City Attorney.

Ms. Walker stated the Ordinance revisions provide for the following:

- Clarifies the enforcement process.
- Deems the owner to have designated the operator as his or her agent for purposes of compliance with the chapter and as to notice of any violations.
- Notification of violations via electronic format.
- Authority to impose a late permit fee for those situations where the operator/owner does not apply for and obtain any permit required under the storm water management rules and regulations

Ms. Walker also submitted a proposed resolution approving permit fees and noncompliance fees related to storm management. She stated the purpose of this proposed resolution is to set the late permit fee. All other fees listed in the resolution remain the same as previously authorized, she said.

An updated copy of the City of Fargo's Guide to Erosion and Sediment Control Practices was also submitted. Ms. Walker said this document has been updated to remove inconsistencies and add additional Best Management Practices to the menu of items available for residential builders.

Ms. Walker stated she received a letter of support from the Home Builders Association.

Commissioner Wimmer moved first reading of an Ordinance Amending Articles 37-01, 37-02, 37-03 and 37-04 of Chapter 37, of the Fargo Municipal Code Relating to Storm Water Management.

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

Absent and not voting: Commissioners Mahoney and Walaker.

The motion was declared carried.

Application filed by James Alsop for a five-year property tax exemption for improvements made to a building at 1607 8th Street South Approved:

Commissioner Coates stated this agenda item provides the opportunity for awareness to property owners regarding the five-year property tax exemption offered by the City of Fargo for significant improvements. She encouraged eligible owners to apply.

Commissioner Wimmer stated that the Alsop property is an example of preserving existing neighborhoods with the opportunity to keep older properties upgraded.

Commissioner Wimmer moved the approval of the application filed by James Alsop for a five-year property tax exemption for improvements made to a building at 1607 8th Street South.

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

Absent and not voting: Commissioners Mahoney and Walaker.

The motion was declared carried.

2007 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the current matrix indicating the 2007 Legislative bills the City supports, opposes and monitors. He stated last Monday was the deadline for introducing bills and several bills are being watched closely. He said currently the City is monitoring 160 bills in addition to the 60 on the oppose/support list.

Commissioner Williams stated SB 2164 is on the list to be monitored. There was discussion regarding support of the bill because of inconsistencies with the smoking task force.

Commissioner Williams moved the Board support SB 2164.

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

Mr. Zavoral stated he received a call from Municipal Judge Davies regarding House Bill 1259. He said the Judge has concern with administration of the bill.

Police Chief Ternes stated he also received an e-mail from Judge Davies regarding HB 1259 and he is aware of a couple other DUI bills but has not seen this particular one. He said the problem is in the administration of the law and he would oppose any bill that would encourage people not to take a breath test.

Commissioner Williams moved that the Board adjourn to 5:00 o'clock p.m., Monday, February 12, 2007.

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

The time at adjournment was 5:35 o'clock p.m.