

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: May 21, 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, May 21, 2007.

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 adding presentation of the Tree City Award to City Forester Scott Liudahl at the beginning of the Regular Agenda and omitting Item No. "5i" in 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 7, 2007 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. Waive requirement for receipt of an Ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
  - (1) Amending Sections 21-0706(A) and 21-0707(C) of Article 21-07 of Chapter 21 of the Fargo Municipal Code Relating to the International Building Code.
  - (2) Amending Article 21-01 of Chapter 21 of the Fargo Municipal Code Relating to the International Building Code.
  - (3) Amending Article 21.1-01 of Chapter 21.1 of the Fargo Municipal Code Relating to the International Residential Code.
  - (4) Amending Article 21.2-01 of Chapter 21.2 of the Fargo Municipal Code Relating to the International Existing Building Code.

- (5) Amending Section 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code Relating to the International Mechanical Code.
  - (6) Amending Section 30-0305 of Article 30-03 of Chapter 30 of the Fargo Municipal Code Relating to the International Mechanical Code.
  - (7) Repealing Article 30-05 of Chapter 30 of the Fargo Municipal Code Relating to the International Mechanical Code.
  - (8) Amending Article 30.1-01 of Chapter 30.1 of the Fargo Municipal Code Relating to the International Fuel Gas Code.
  - (9) Amending Article 31-01 of Chapter 31 of the Fargo Municipal Code Relating to the International Property Maintenance Code.
  - (10) Amending Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code Relating to Fire Protection and Prevention.
- b. 2nd reading, waive reading and final adoption of an Ordinance Amending Sections 25-1506 and 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to License Classifications and Fees; 1st reading 5/7/07.
- c. PEC recommendations regarding the Interpreter Services Coordinator position, the Fire Department and the Planning Department:

City Administrator Pat Zavoral requests to change the contract of the Interpreter Services Coordinator position from part-time to full-time. PEC recommends approving the contract position of Interpreter Services Coordinator to full-time effective immediately (Bremer Grant and membership funded).

Fire Department requests to front load one firefighter position due to an upcoming retirement, 2 firefighters on military leave, 1 firefighter on military leave beginning June 15. This would allow for the efficient training of 3 new firefighters and would help the department avoid additional overtime costs. This can be accomplished within the current personnel budget. PEC recommends approving the request to front load one firefighter position.

Planning request to add a FT Assistant Planner using existing vacant PT position (Parking-Kim Citrowski) with work assignment in parking and transit. Position would be funded 80% by Federal Transit Administration. PEC recommends approval of this request effective immediately. Cost: \$8,100

## d. PEC recommendations for 2007 position reclassifications:

Library - Library Director Reclassification Request – requested E82. PEC recommends the Library Director position be reclassified to E81 Step 3 \$75,375 effective 6-1-2007. Cost: \$4,267. Deputy Library Director Reclassification Request – requested D62. PEC recommends the Deputy Library Director position be reclassified to D62 Step 1 \$54,866 effective 1-1-2008. Cost: \$7,090/year.

Fire Department - Principal Office Associate B31 Step 11 \$47,226 to Office Manager C41 Step 6 \$48,754. PEC recommends the POA be reclassified as an Office Manager effective 1-1-2008. Cost: \$1,528/year. Assistant Fire Chief Reclassification Request D61 to D63. Cost: \$14,000. PEC recommends the Assistant Fire Chief positions (4) be reclassified to D62 effective 1-1-2008. Cost: \$10,900/year. Fire Fighters Reclassification Request B25-2 (B31) to B31-2 (B32). Fire Fighter Specialist be reclassified B31-2 (B32) to B32-2 (C41). PEC recommends the Fire Fighters be reclassified to B31-2 (B32) effective 1-1-2008. No change to the Fire Fighter Specialist. 3 EMT Trainers reclassified to B31-2 (C41) effective 1-1-2008. Cost: \$70,900 Fire Fighters and \$6,303 EMT Trainers.

Enterprise - Water Meters Reclassification Request to reclassify 1 Water Meter Service Tech B22-2 (B23) to Water Meter Service Tech II B24-2 (B25). PEC recommends 1 Water Meter Service Tech position be reclassified to Water Meter Service Tech II B24-2 (B25) effective 1/1/2008. Cost: \$1,670.

Public Health - Office Associate III to Principal Office Associate. PEC recommends 1 OA III position be reclassified to POA B31 effective 1/1/2008. Cost: \$2,736.

Planning - Transit Administrator reclassification request from C51 to D61. PEC recommends the Transit Administrator position be reclassified to D61 effective 6/1/2007. Cost: \$2,256. Housing Rehabilitation Specialist reclassification request from C42-2 (C43) to C43-2 (C51). PEC recommends the Housing Rehab Specialist position be reclassified to C43-2 (C51) effective 1/1/2008. Cost: \$3,054. Classification to be reconsidered when position is vacant.

Finance - City Assessor request D61 to D72. PEC recommends the City Assessor be reclassified to D72 effective 6-1-2007. Cost: \$4,774/year including benefits, \$4,219 w/o benefits. One Accountant position reclassified as Accountant II C51 to C52. PEC recommends no change.

Engineering - Eng Tech Supervisor C42 to C51. (8 FTE + 1 FTE) PEC recommends position be reclassified C42 to C43 effective 1/1/2008. Cost: \$22,034. Reclassify 1 Engineering Tech III position to Engineering Tech Supervisor C41 to C51. PEC recommends reclassifying 1 Eng Tech III

position to Eng Tech Supervisor C43 effective 1/1/2008. Cost: \$2,386. Civil Engineer I C43 to C52. PEC recommends no change (5/4/2007 PEC changes recommendation to reclassify CE I to C51-See PEC Notes for 5/4/2007 meeting). Civil Engineer II C53 to D63. PEC recommends CE II position be reclassified to D62 effective 1/1/2008. Note: PE is required for reclassification-1 FTE D62, 2 FTE C53 out of grade until PE completed. Cost: \$1,606. Senior Engineers (2) reclassified from D72 to D73. PEC recommends Senior Engineer (2) be reclassified to D73 effective 1/1/2008. Cost: \$4,268. City Engineer be reclassified E82 to E83 – approved by Commission 4/23/2007. Public Works Operations Manager to PW Operations Director D72 to E81. PEC recommends no change at this time-reconsider next year following probationary period. Reclassify 1 Engineering Tech I position to Eng Tech II B23 to B25. PEC recommends reclassifying 1 Eng Tech I position to Eng Tech II B25 effective 1/1/2008. Cost: \$1,542. Reclassify 1 Senior Engineer to Deputy City Engineer D73 to E81. PEC recommends reclassifying 1 Senior Engineer to Deputy City Engineer E81 effective 1/1/2008. Cost: \$3,161.

Engineering – Public Works Operations - City Forester reclassification C51 to D61. PEC recommends reclassifying City Forester to D61 effective 1/1/2008. Cost: \$2,412. Arborist I (2) reclassification B22-2 (B23) to B23-2 (B24). PEC recommends reclassifying Arborist I (2 positions) to B23-2 (B24) effective 1/1/2008. Cost: \$3,484. Arborist II (3) reclassification B23-2 (B24) to B25-2 (B31). PEC recommends reclassifying Arborist II (3 positions) to B24-2 (B25) effective 1/1/2008. Cost: \$4,924. Reclassify 1 PW Supervisor to PW Services Supervisor/Manager C41 to D61. PEC recommends this reclassification be approved to take place when a PW Supervisor vacancy occurs; resulting in 2 PW Supervisors and 1 PW Services Supervisor/Manager. Reclassify 1 Equipment Operator III to Maintenance Crew Leader B23-2 (B24) to B31-2 (B32). PEC recommends reclassifying 1 Equipment Op III to Maintenance Crew Leader B31-2 (B32) effective 1/1/2008. Cost: \$1,812. Request to add 1 Equipment Tech III. Considered in 2008 dept budget. Request to add 2 Equipment Tech II. Considered in 2008 dept budget. Request to reclassify Stock and Parts Supervisor B31 to C41. PEC recommends reclassifying Stock and Parts Supervisor to C41 effective 1/1/2008. Cost: \$1,800. Request to move Part-Time Office Associate II to Full-Time Office Associate II B21. PEC recommends moving OA II to Full-time effective 1/1/2008. Cost: \$2,532.

Police Department – Lieutenants reclassified D61-Commission approved 4/23/2007. Request to reclassify 2 Captains from D62 to D71. PEC recommends reclassifying 2 Captains to D63 effective 1/1/2008. Cost: \$5,178. Request to reclassify 1 Assistant Chief from D64 to E82. PEC recommends reclassifying 1 Assistant Chief to D72 effective 1/1/2008. Cost: \$4,163. Request to reclassify Chief of Police E82 to E91 – Approved by Commission 4/23/2007 reclassified to E83 6/1/2007.

Airport - Request to reclassify Airport Director from E81 to E82. PEC recommends reclassifying Airport Director to E82 effective 1/1/2008. Cost:

\$3,352. Request to reclassify Assistant Airport Director from C53 to D62. PEC recommends reclassifying Assistant Airport Director to D62 effective 1/1/2008. Cost: \$2,417. Total Cost - \$183,790.

- e. List price for NRI property at 1122 7th Avenue South at \$122,900.
- f. Agreement to purchase 1519 1st Avenue South for the Emergency Shelter/Detox Center.
- g. Municipal lease financing in the amount of \$1,400,000 for the transit maintenance facility building.
- h. Memorandum of Understanding between the Fargo Police Department and the U.S. Department of Veterans Affairs.
- i. Joinder Agreement with CoBank, ACB relating to Cass-Clay facilities financed with MIDA bonds in 2002.
- j. Encroachment Agreement with NDSU Development Association to vacate the alley bisecting Block 21, Roberts Second Addition (east of the Pioneer Mutual building on 10th Street North).
- k. Site Authorizations for Games of Chance:
  - (1) Roy Chandler Post #762 - Veterans of Foreign Wars at the VFW Club - Post #762.
  - (2) North Dakota Association for the Disabled, Inc. at Mr. G's and O'Kelly's.
  - (3) Gilbert C. Grafton Post #3 American Legion at the American Legion Club.
  - (4) Plains Art Museum at The Bowler, Expressway Inn and Big Top Bingo.
  - (5) Prairie Public Broadcasting, Inc. at Tailgator's, Labby's and Dempsey's Public House.
  - (6) West Fargo Hockey Association, Inc. at Old Chicago.
  - (7) Red River Human Services Foundation at Playmakers Sports Café/Bar and The Northern.
- l. Applications for Games of Chance:
  - (1) Fargo Moorhead Cosmopolitan Club for a sports pool from 7/1/07 to 12/31/07.
  - (2) Mike Baker Benefit Fund for a raffle on 6/15/07; Public Spirited Resolution.
  - (3) Willy Korinta Benefit for a raffle on 6/30/07; Public Spirited Resolution.
  - (4) North High Volleyball for a calendar raffle from 8/30/07 to 11/1/07.
- m. Land purchase at 52nd Avenue and 57th Street South for a new ground storage reservoir and future satellite water treatment facility.

- n. Bid awards for the Water Treatment Plant chiller and HVAC system to Grant's Mechanical, Inc. in the amount of \$207,800 for mechanical and to JDP Electric, Inc. in the amount of \$19,497.00 for electrical.
- o. Early building permit agreement for the Urban Plains Center.
- p. RFP for pavement marking management contract and street rehab funding of approximately \$50,000 for 2007.
- q. Contracts and bonds for Project Nos. 5679 and 5734-1.
- r. Bills in the amount of \$3,536,993.92.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney 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. 5711: Protests Received and Declared Insufficient:**

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5711 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on April 16 and 23, 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 Coates moved the protests be received and filed and declared insufficient.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney 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. 5711**

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5711 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., May 16, 2007 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$1,315,485.05
Dakota Underground Bid:	Fargo, ND \$1,383,649.64
Border States Paving, Inc. Bid:	Fargo, ND \$1,496,531.38



**Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 Approved:**

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

United Fire and Casualty Company, in the amount of \$2,152,163.35, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5682 in the City of Fargo, North Dakota.

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

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

**Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 Approved:**

Commissioner Coates moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 in the City of Fargo, North Dakota.

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

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

**Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 Approved:**

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

United Fire and Casualty Company, in the amount of \$261,831.34, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5697 in the City of Fargo, North Dakota.

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

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

**Contract for Water Main and Incidentals Improvement District No. 5741 Approved:**

Commissioner Coates moved approval of the Contract between the City of Fargo and Master Construction Company, Inc. for Water Main and Incidentals Improvement District No. 5741 in the City of Fargo, North Dakota.

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

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

**Contract Bond for Water Main and Incidentals Improvement District No. 5741 Approved:**

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

United Fire and Casualty Company, in the amount of \$51,865.00, for Water Main and Incidentals Improvement District No. 5741 in the City of Fargo, North Dakota.

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

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

**Presentation of the Tree City Award to City Forester Scott Liudahl:**

Mayor Walaker stated this year marked the 30th time the National Arbor Day Foundation has named Fargo a Tree City USA. He presented the award to City Forester Scott Liudahl and commended him for his efforts in this regard.

**Request from Heritage Hills Estates Home Owners Association to Explore the Feasibility of Annexation into the City of Fargo Referred to the Ad Hoc Committee:**

The Board received a communication from William Craig Strehlow stating at their recent annual meeting, the Heritage Hills Estates Home Owners Association voted unanimously to explore the feasibility of annexation into the City of Fargo. Mr. Strehlow requested a meeting with the City of Fargo to discuss that topic.

City Administrator Pat Zavoral stated there has been an ad hoc committee consisting of Mayor Walaker and Commissioner Coates who have reviewed these types of requests in the past and it would be appropriate to refer this request to that committee.

Commissioner Wimmer moved the request be referred to the ad hoc committee.

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

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

**Request for an Extension of the City's Noise Ordinance for the Muscular Dystrophy Association Fundraiser/Street Dance and the Street Fair Live Music at US Bank Plaza:**

The Board received a communication from Dave Anderson, MDA Committee Member and Sponsor and President of the Downtown Community Partnership, requesting an extension of the City's Noise Ordinance on June 2, 2007 from 10:00 p.m. to 11:00 p.m. for the Muscular Dystrophy Association fundraiser/street dance in front of the Old Broadway and on July 19 and 20, 2007 from 10:00 p.m. to 11:00 p.m. for the Street Fair live music on the US Bank Plaza.

Commissioner Wimmer moved the request be approved.

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

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

**Suzanne Morrison and Dr. Herb Snyder Reappointed to the Library Board:**

The Board received a communication from Mayor Walaker recommending that Suzanne Morrison and Dr. Herb Snyder be reappointed to the Library Board.

Commissioner Coates moved the reappointments of Ms. Morrison and Dr. Snyder to the Library Board for terms ending June 30, 2010 be approved.

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

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

**Michael Beaton and Steve Bladholm Appointed to the Special Assessment Commission:**

The Board received a communication from Mayor Walaker recommending that Michael Beaton be appointed to the Special Assessment Commission to replace James Hohncke whose term will expire July 1, 2007 for a three-year term ending July 1, 2010. Mayor Walaker also recommended the appointment of Steve Bladholm to fill the Alternate position on the Special Assessment Commission to replace Mr. Beaton.

Mayor Walaker stated since the letter was received, Mr. Hohncke has resigned and the appointments will be effective immediately.

Commissioner Wimmer moved the appointments of Michael Beaton as a member of the Special Assessment Commission for the term ending July 1, 2010 and Steve Bladholm as an Alternate Member of the Special Assessment Commission for the term ending July 1, 2008 be approved.

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

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

**Application Filed by Fieldstone Village Senior Apartments for a Five Year Property Tax Exemption Approved:**

A Hearing had been set for this day and hour on an application filed by Fieldstone Village Senior Apartments for a property tax exemption and or payment in lieu of tax (PILOT) for a low income housing project at 4574 44th Avenue South.

No written protests have been filed for the attention of the Board.

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

The Board received a communication from Ben Hushka, City Assessor and Tax Exempt Review Committee member, stating the Committee feels this project meets the necessary criteria to be eligible for an exemption and they recommend approval of a 15 year payment in lieu of tax exemption on the project improvements. He said the payments are to be based on a project value at 5.5 times the initial year gross rent schedule and 2% annual growth factor.

Commissioner Wimmer moved approval of a payment in lieu of tax starting in the 2008 tax year for Fieldstone Village Senior Apartments according to the following payment schedule based on a project value at 5.5 times the initial year gross rent schedule and 2% annual growth factor:

Year 1 - \$28,883; Year 2 - \$29,461; Year 3 - \$30,050; Year 4 - \$30,651; Year 5 - \$31,264; Year 6 - \$31,889; Year 7 - \$32,527; Year 8 - \$33,177; Year 9 - \$33,841; Year 10 - \$34,518; Year 11 - \$35, 208; Year 12 - \$35,912; Year 13 - \$36,631; Year 14 - \$37,363; Year 15 – \$38,111

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.

**Parcels of Land in Urban Plains Center Addition Rezoned (North of 32nd Avenue South and West of 51st Street South):**

At a Hearing held on May 9, 2007 the Fargo Planning Commission recommended approval of a change in zoning from LC, Limited Commercial to GC, General Commercial and retention of the zoning overlay Ordinance No. 4320 on Lot 2, Block 2; Lots 2, 4, 5 and 6, Block 3; and all of Block 4, Urban Plains Center Addition.

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

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 no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the rezoning be approved.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Wimmer, 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 Urban Plains Center Addition 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 Urban Plains Center Addition to the City of Fargo be placed on first reading.

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

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

**Resolution Adopted Approving Urban Plains Center Addition to the City of Fargo, Cass County, North Dakota:**

Commissioner Coates offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Urban Plains Center Addition" containing 11 Lots, 5 Blocks and 77.28 Acres of land more or less, located at 51st Street and 30th Avenue South; and

WHEREAS, A Hearing was scheduled to be held April 11, 2007 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on May 8 and 14, 2007 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., May 21, 2007 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the Plat entitled "Urban Plains Center Addition" 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 Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

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

**Amendment to the Growth Plan Approved (5201 52nd Avenue South):**

A Hearing had been set for this day and hour to consider approval of a Growth Plan Amendment from medium/high density residential to commercial on Lots 6 and 7, Block 3, South Forty at Osgood Second Addition.

The Fargo Planning Commission recommended approval of the amendment to the Growth Plan at their April 11, 2007 meeting.

No written protest or objection to the amendment to the Plan has been received or filed in the Planning and Development Department.

The Board determined that no person is present to protest or offer objection to the Growth Plan amendment.

Commissioner Coates moved the Growth Plan Amendment be approved.

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

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

**Parcels of Land in South Forty at Osgood Second Addition Rezoned (5201 52nd Avenue South):**

At a Hearing held on April 11, 2007 the Fargo Planning Commission recommended approval of a change in zoning on Lots 1 through 41, Block 1; Lots 1 through 34, Block 2; and Lots 1 through 5, Block 3; from AG, Agricultural to SR-4, Single Dwelling and on Lots 6 and 7, Block 3; from AG, Agricultural to GC, General Commercial subject to a Conditional Overlay approved by the Fargo Planning Commission on May 9, 2007 (with conditions listed in the ordinance), over Lot 6, Block 3, all in South Forty at Osgood Second Addition.

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

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 no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the rezoning be approved.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney, Williams 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 South Forty at Osgood Second Addition 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 South Forty at Osgood Second Addition to the City of Fargo be placed on first reading.

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

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

**Resolution Adopted Approving South Forty at Osgood Second Addition to the City of Fargo, Cass County, North Dakota:**

Commissioner Coates offered the following Resolution and moved its adoption:

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

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "South Forty at Osgood Second Addition" containing 80 Lots, 3 Blocks and 46.24 acres of land more or less, located on a part of the East half of the Southwest quarter of Section 33, Township 139 North, Range 49 West; and

WHEREAS, A Hearing was scheduled to be held April 11, 2007 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on May 14 and 21, 2007 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., May 21, 2007 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the Plat entitled "South Forty at Osgood Second Addition" 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 Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney, Williams and Walaker voted aye.

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

**Parcels of Land in Beardsleys and William G. Johnson Additions Rezoned (1130, 1132, 1136 and 1142 17th Street North):**

At a Hearing held on May 9, 2007 the Fargo Planning Commission recommended approval of a change in zoning from SR-3, Single-Dwelling Residential to LC, Limited Commercial on Lots 2, 3 and 4, Block 3, Beardsleys Addition; and petition for a zoning change from MR-2, Multi-Dwelling Residential to LC, Limited Commercial on Block 8, William G. Johnson Addition.

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

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 no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the rezoning be approved.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney, Williams 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 Beardsleys Addition 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 Beardsleys Addition to the City of Fargo be placed on first reading.

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

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

**First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in William G. Johnson Addition 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 William G. Johnson Addition to the City of Fargo be placed on first reading.

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

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

**Application Filed by Roger Teegarden d/b/a Garden Pavilion for an Alcoholic Beverage License Approved:**

A Hearing had been set for May 7, 2007 on the application filed by Roger Teegarden d/b/a Garden Pavilion for a Class "F" Alcoholic Beverage License at 1421 7th Avenue North, notice of which had been duly published in the official newspaper for the City of Fargo.

At the May 7, 2007 meeting, the Hearing was continued to this day and hour.

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.

There was discussion regarding Mr. Teegarden's credit history.

Police Chief Keith Ternes stated in this particular case, there was a financial concern, however, he did not feel the application should be denied for that reason. He said he recommended the license be approved.

Commissioner Mahoney moved the application be approved.

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

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

**Application Filed by Lakemode Liquors, Inc. d/b/a Lakemode Liquors for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by Lakemode Liquors, Inc. d/b/a Lakemode Liquors for a Class "B Limited" Alcoholic Beverage License at 4265 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 Mahoney moved the application be approved.

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

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

**Application Filed by ABD, LLC d/b/a Dublin House for an Alcoholic Beverage License Withdrawn:**

A Hearing had been set for this day and hour on the application filed by ABD, LLC d/b/a Dublin House for a Class "Z" Alcoholic Beverage License at 4265 45th Street South, however, the application had been withdrawn by the applicant.

**Application Filed by Labby's Grill & Bar d/b/a Labby's Grill & Bar for an Alcoholic Beverage License Approved:**

A Hearing had been set for this day and hour on the application filed by Labby's Grill & Bar d/b/a Labby's Grill & Bar for a Class "Z" Alcoholic Beverage License at 1100 19th Avenue North, 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.

Daniel Labernik stated he currently has a "FA" License at the requested location and, if the "Z" License is approved for his current location, he would transfer the "FA" License to a new business and location to be determined in the future.

Commissioner Mahoney moved the application be approved subject to the "FA" License being transferred to a new business and location by May 31, 2008.

Second by Williams.

City Auditor Steve Sprague stated there were two applicants for the Class "Z" license, however, one of the applicants withdrew their application. He said if there had been two for the one available license, Section 25-1507 U8 of the Municipal Code states the successful applicant would be determined by a drawing in the presence of the governing body.

There was discussion regarding other methods of determining the successful applicant.

Mr. Sprague stated the Liquor Control Committee can look into this issue.

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.

**Temporary Speed Tables to be Installed Along 20th Avenue South from 14th to 17th Streets:**

The Board received a Report of Action from the Traffic Technical Advisory Committee stating Shane Gebeke, a resident of 20th Avenue South, approached the Committee last July and again this past March to discuss speed related traffic safety on 20th Avenue South. They said the Engineering Department collected speed and volume data last fall and this April to assess the speeds on the street and Mr. Gebeke indicated he feels the only solution is to put down speed tables. They said Traffic Engineer Jeremy Gorden stated the next logical step would be to place temporary speed tables on 20th Avenue South and conduct more studies this summer to see if they are going to positively impact the speeds on the street. They said the speed humps would be placed approximately every other block along the problem area. The Committee stated 20th Avenue South between 13 1/2 and 25th Streets is functionally classified as a local collector street which, as per City policy, would not be eligible to

receive speed tables. They said City staff recommended allowing the temporary speed tables to be installed this summer along 20th Avenue South as it carries less traffic than a typical collector street and there is a bike trail crossing located at 16 1/2 Street. They said it would also allow staff to collect both speed and volume data to analyze the effect of speed humps.

Mr. Gebeke stated from 17th to 25th Streets has always been a traffic problem and some people use these streets as a drag strip.

Fred Hammer, 1906 14 1/2 Street South, questioned what the speed humps would do. He said it will only cause more noise.

City Engineer Mark Bittner stated he would like to test this before a recommendation is brought forward. He said this type of project would require an assessment district and, at this point, the committee was not comfortable doing that.

Commissioner Williams moved the installation of three temporary rubber speed tables currently in City stock along 20th Avenue South from 14th to 17th Streets, with an implementation date sometime the week of May 21, 2007 be approved with removal taking place sometime in late October.

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

Mayor Walaker voted nay.

The motion was declared carried.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, June 4, 2007.

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

The time at adjournment was 6:16 o'clock p.m.