

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: February 25, 2008:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, February 25, 2008.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved.

Second by Wimmer. 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 February 11, 2008 be approved as read.

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

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following rezoning ordinances; 1st reading, 2/11/08:
 - (1) Certain Parcels of Land Lying in Original Townsite Addition to the City of Fargo.
 - (2) Certain Parcels of Land Lying in Roberts 2nd Addition to the City of Fargo.
 - (3) Certain Parcels of Land Lying in Village West Addition to the City of Fargo.
- b. Receive GFOA Certificate of Achievement of Excellence in Financial Reporting Award for the 2006 reporting year.
- c. Change in letter of credit policy to a flat 30% of the engineer's estimate of project cost to be effective January 1, 2008.
- d. Acquisition of a bus to be leased to Handi-Wheels.

- e. Applications for tax exemptions for improvements made to buildings:
 - (1) Anita Cruz, 306 15th Street North (5 year).
 - (2) Michael Reich, 2824 Edgewood Drive North (5 year).
 - (3) Ronald and Esther Baker, 3102 2nd Street North (3 year).

- f. Applications for Games of Chance:
 - (1) American Academy of Family Physicians - ND Chapter for a raffle on 4/4/08.
 - (2) North American Game Warden Museum for a raffle on 8/23/08.
 - (3) James Madison Elementary PTA for a raffle on 3/28/08.
 - (4) Saddle & Sirloin Club of NDSU for a raffle on 3/27/08.
 - (5) Fargo North Girls Fastpitch Softball for a calendar raffle from 3/1/08 to 6/3/08.
 - (6) PATH ND, Inc. for a raffle on 6/17/08.

- g. Revision of Policy No. 500-007 Military Leave.

- h. Receive and file Ordinance Relating to Pensions for City Employees Other Than Those in the Police and Fire Pension Systems.

- i. Bid award for supplying liquid oxygen to the Water Treatment Plant to Praxair; rescind previous bid award to Aspen Air.

- j. Purchase and Occupancy Agreements for property at 4414 University Drive South as part of a flood control project.

- k. 2008 revisions to the Infrastructure Funding Policy.

- l. NDDOT Memorandum of Understanding for the I-94 Interchange at 57th Street (Improvement District No. 5530).

- m. Western Area Power Administration License Agreement at 45th Street and 52nd Avenue South.

- n. Cost Participation with Cass County for asphalt overlay on 12th Avenue North.

- o. Scope of Work and Cost Proposal with URS Corporation for environmental assessment for the South Side Flood Control Project.

- p. Bid award for Project No. 5786 to Shermans, LLC in the amount of \$68,574.10.

- q. Bills in the amount of \$4,138,994.44.

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.

Asphalt Wearing Course and Incidentals Improvement District No. 5779 (Various Locations City-Wide):

Commissioner Coates moved the following action be taken in connection with Asphalt Wearing Course and Incidentals Improvement District No. 5779:

Adopt Resolution Creating Improvement District No. 5779:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5779, in the City of Fargo, North Dakota, be created

LOCATION: (Section 1)

On 21st Avenue North from University Drive North to 16th Street North.

On 20th Avenue North from 16th Street North to a point located 554' east of 16th Street North.

On 16th Street North from 19th Avenue North to 23rd Avenue North.

LOCATION: (Section 2)

On 4th Avenue South from Fiechtner Drive South to 36th Street South.

On 34th Street South from Main Avenue to a point located 879' south of 4th Avenue South.

LOCATION: (Section 3)

On Amber Valley Parkway South from 4th Street to a point located 144' west of the west leg of Amber Valley Court South.

On 46th Street South from 23rd Avenue South to Amber Valley Parkway South.

On Amber Valley Court South.

LOCATION: (Section 4)

On 44th Avenue South from 43rd Street South to 45th Street South.

On 45th Avenue South from Woodhaven Drive South to 44th Street South.

On 46th Avenue South from Woodhaven Drive South to 44th Street South.

On Woodhaven Drive South from 44th Avenue South to a point located 248' south of 46th Avenue South.

On 44th Street South from Woodhaven Drive South to 46th Avenue South.

LOCATION: (Section 5)

On 14th Street South from 58th Avenue South to 62nd Avenue South.

On Marten's Way South from 61st Avenue South to 16th Street South.

On 16th Street South from 61st Avenue South to 62nd Avenue South.

On 61st Avenue South from 14th Street South to 16th Street South.

On 62nd Avenue South from University Drive South to 152' west of 16th Street South.

COMPRISING: (Section 1)

Lots 1 and 2, Block 1.

Lot 1, Block 2.

All in Vision Addition.

Lots 1 and 2, Block 1.

Lot 6, Block 1.
Lot 7, Block 2.
All in Hector Airport Addition.

Lots 1 and 2, Block 1,
Hector Airport 2nd Addition.

Lot 1, Block 1.
Lots 4 through 6, Block 1.
All in Martin Hector Subdivision.

Lots 2 and 3, Block 1,
Wild Wings Subway Addition.

Land in Hector Airport South Aviation.
Land in Hector International Airport (land).

COMPRISING: (Section 2)
Lots 3 and 4, Block 1.
Lot 1, Block 2.
All in Westrac 2nd Addition.

Lots 1 through 5, Block 1.
Lot 7, Block 1.
All in Master Addition.

Lots 1 and 2, Block 1,
Cape Development.

Lots 1 through 4, Block 1,
Premiere 1st Addition.

Lots 1 and 2, Block 1,
Timber Addition.

Lots 1 and 2, Block 1,
Cody Addition.

Lot 1, Block 2
Cass County Corrections Addition.
Lots 1 through 7, Block 1,
Engkjer Addition.

Lots 1 and 2, Block 1,
Bachman Addition.

Lots 2 through 5, Block 1.
Lots 1 and 2, Block 2.
Lots 4 through 8, Block 2.
Lot 1, Block 3.

Lots 1 and 2, Block 4.
Lots 5 and 6, Block 4.
Lot 2, Block 6.
Lots 17 through 21, Block 7.
Lots 1 through 11, Block 8.
Lots A, B, C, D, E and F, Block 8.
All in Burlington I-29 South Industrial Center.

COMPRISING: (Section 3)

Lot 1, Block 3,
Agassiz Crossing 1st Addition.

Lots 1, 2 and 3, Block 1.
Lot 5, Block 1.
All in Amber Valley Business Center 1st Addition.

Lot 3, Block 1,
Midwest Behavioral Healthcare 1st Addition.

Lots 1 through 3, Block 1,
Pracs Addition.

Lot 1, Block 1,
Pracs 2nd Addition.

Lots 1 through 3, Block 1.
Lots 2 through 4, Block 2.
All in Amber Valley 1st Addition.

Lots 1 and 2, Block 1,
Amber Valley 2nd Addition.

Lots 1 through 8, Block 1,
Amber Valley 3rd Addition.

Lot 1, Block 1,
Amber Valley 4th Addition.

Lot 1, Block 1,
Amber Valley 5th Addition.

Lots 1 through 3, Block 1.
Lots 1 through 21, Block 2.
Lots 1 through 12, Block 3.
Lot 1, Block 4.
Lot 1, Block 5.
All in Amber Valley 6th Addition.

Lots 1 through 4, Block 1,
Amber Valley 7th Addition.

Unplatted land in NE ¼ of Section 21, TWP 139N, R49W between Lot 1, Block 1 of Pracs 2nd Addition and Lot 1, Block 4 of Amber Valley 6th Addition.

COMPRISING: (Section 4)

Lots 1 through 19, Block 1.
Lots 1 through 17, Block 2.
Lots 1 through 36, Block 3.
Lot 1, Block 4.
Lots 3 through 15, Block 4.
All in Woodhaven 2nd Addition.

Lots 1 through 17, Block 1,
Estoria 1st Addition.

Lots 1 through 8, Block 1.
Lots 1 through 3, Block 2.
Lot 1, Block 3.
Lot 1, Block 4.
Lot 1, Block 5.
All in Woodhaven 3rd Addition.

COMPRISING: (Section 5)

Lot 1, Block 2.
Lot 1, Block 3.
All in Waterford Park Addition.

Lots 1 through 9, Block 1.
Lots 1 through 3, Block 2.
All in Winchester Square.

Lots 6 through 11, Block 1.
Lots 1 through 24, Block 2.
Lots 1 through 18, Block 3.
Lots 1 through 26, Block 4.
Lots 1 through 19, Block 5.
Lots 23 through 26, Block 5.
Lot 46, Block 5.
Lots 1 through 14, Block 6.
Lots 1 through 21, Block 7.
Lots 1 through 25, Block 8.
All in Marten's Way Addition.

Lots 1 through 4, Block 1,
Marten's Way Twins 2nd Addition.

Lots 1 through 24, Block 1,
Marten's Way West Heritage Addition.

Lots 1 through 3, Block 1,
Marten's Southwest Townhomes Addition.

Lots 1 through 14, Block 1,
Wellington Court.

Lots 1 through 6, Block 1,
Marten's Way Salem Court Townhomes 1st Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Asphalt Wearing Course and Incidentals Improvement District No. 5779, 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. 5779:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5779, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,197,966.)

Order Plans and Specifications for Improvement District No. 5779:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5779, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5779:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5779, 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. 5779, 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 Asphalt Wearing Course 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 Asphalt Wearing Course & Incidentals, Improvement District No. 5779 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 Asphalt Wearing Course & 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. 5779:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5779, in the City of Fargo, North Dakota.

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.

Water Main Replacement and Incidentals Improvement District No. 5785 (8th Street North from 1st to 2nd Avenues):

Commissioner Coates moved the following action be taken in connection with Water Main Replacement and Incidentals Improvement District No. 5785:

Adopt Resolution Creating Improvement District No. 5785:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5785, in the City of Fargo, North Dakota, be created

On 8th Street from 1st Avenue North to 2nd Avenue North.

COMPRISING:

Lots 8 through 14, Block 8.
Roberts Addition.

Lots 7 through 12, Block 22.
Roberts 2nd Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement and Incidentals Improvement District No. 5785, 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. 5785:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5785, 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 \$80,000.)

Order Plans and Specifications for Improvement District No. 5785:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5785, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5785:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5785, 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. 5785, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5785:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5785, in the City of Fargo, North Dakota.

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.

Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792 (44th Street South from 15th to 17th Avenues):

Commissioner Coates moved the following action be taken in connection with Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792:

Adopt Resolution Creating Improvement District No. 5792:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5792, in the City of Fargo, North Dakota, be created

On 44th Street from 15th Avenue to 17th Avenue South

COMPRISING:

The North 746' of Lot 2 as measured at a right angle to the North line of said Lot 2, Block 1.

All in William A. Schlossman Addition.

Lots 1 through 3, inclusive, Block 1.

All in Concierge Southwest Addition.

A replat of part of Lot 2, Block 1 of William A. Schlossman Addition.

All of the unplatted land lying in Section 15, Township 139N, Range 49W bounded on the north by 15th Avenue South, bounded on the east by 44th Street South, bounded on the south by 17th Avenue South and bounded on the west by 45th Street South.

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

NOW, THEREFORE, BE IT RESOLVED, That Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District No. 5792, 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. 5792:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5792, 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 \$211,200.)

Order Plans and Specifications for Improvement District No. 5792:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5792, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5792:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5792, 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. 5792, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5792:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5792, in the City of Fargo, North Dakota.

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.

Recommendation to Proceed with a Request for Proposals for an Architectural Firm to Design a Fire Station in the Area of 45th Street and 40th Avenue South Approved:

The Board received a communication from Fire Chief Bruce Hoover stating the City of Fargo budget for 2008 includes funds for architectural services for a new fire station in the area of 45th Street and 40th Avenue South to be constructed in 2009. He said the anticipated schedule for this project is as follows:

Advertise for proposals from architectural firms immediately.

The selection committee will review proposals, interview architects and have a firm selected by April 2008.

Design complete by fall of 2008.

Bid the project in late 2008 or early 2009 with an anticipated cost of 1.8 to 2 million dollars.

Completion of project and occupying the fire station by late fall 2009.

He said the members on the Review Committee for the project will be:

Pat Zavoral, City Administrator

Kent Costin, Director of Finance

Bruce Hoover, Fire Chief

Dean Meyer, Assistant Fire Chief

Chief Hoover said \$100,000 was approved in the 2008 budget for this project. It is important, he said, to get the fixed numbers so they can figure what will be needed for next year's budget. He said Commissioner Wimmer has also agreed to be on the Review Committee.

Commissioner Wimmer moved the Request for Proposals for an architectural firm to design a fire station in the area of 45th Street and 40th Avenue South be approved.

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

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

Appropriate Staff Directed to Draft an Ordinance to Address the Licensing of Contractors to Perform Repair, Rehabilitation or Re-Shingling of Residential Roofs Within the City of Fargo:

The Board received a communication from Mayor Walaker stating the recent interest in the re-roofing of homes due to last summer's hailstorms coincided with staff work on administering a program for contractors undertaking the work on roofs of homes and apartment buildings. He said after talking with staff, he suggested an amendment to the City building codes be adopted to address issues concerned with the re-roofing. He said a licensing process should be put in place whereby state

licensed roof and general contractors purchase a local roofing license at an annual nominal fee from the City. These contractors, he said, would need to show evidence of a current state contractor's license, liability insurance and capability to secure a performance bond for work. He said the staff has surveyed surrounding communities in the tri-state area and the Sioux Falls, South Dakota model seems most appropriate for Fargo. City Planning and Codes staff, he said, have met with City Attorney Erik Johnson, City Administrator Pat Zavoral and himself and asked permission to bring forward a draft ordinance with provisions as stated.

Mayor Walaker said it is prudent to know who is working in the City and a licensing system will require that certain criteria are met by the contractors. He said new construction projects would not need licensing. It is impossible, he said, to inspect all roofing projects but at least the City would have a handle on who is doing the work.

Commissioner Williams moved the appropriate staff be directed to draft an Ordinance to address the licensing of contractors to perform repair, rehabilitation or re-shingling of residential roofs within the City of Fargo.

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

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

Hearing on Application to Transfer the Alcoholic Beverage License from Grandma's, Inc. d/b/a Grandma's Saloon & Grill to FTS Fargo, Inc. d/b/a Hooters Continued to March 24, 2008:

This was the time and date set for a Hearing on an application to transfer the Class "FA" Alcoholic Beverage License from Grandma's, Inc. d/b/a Grandma's Saloon & Grill to FTS Fargo, Inc. d/b/a Hooters, at 1649 38th Street South, however, the Liquor Control Committee has requested the Hearing be continued to March 24, 2008.

Commissioner Coates moved the Hearing be continued to March 24, 2008.

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

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

Hearing on MIDA Bond Financing Filed by Metro Sports Foundation, Inc. Continued to March 10, 2008:

This was the time and date set for a Hearing on an application filed by Metro Sports Foundation, Inc. for MIDA bond financing in the amount of \$15,000,000 to finance construction and equipping a 5,000 spectator ice arena, however, the Attorney for the Metro Sports Foundation, Inc. has requested the Hearing be continued to March 10, 2008.

Commissioner Coates moved the Hearing be continued to March 10, 2008.

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

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

Peggy Palmes Appointed to the Planning Commission:

The Board received a communication from Mayor Walaker recommending that Peggy Palmes be appointed to the Planning Commission to fill the unexpired term of Terry Nordenstrom who resigned.

Commissioner Coates moved the appointment of Peggy Palmes to the Planning Commission for the term ending June 30, 2008 be approved.

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

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

Ron Robson and Doug Scaper Appointed to the Renaissance Zone Authority:

The Board received a communication from Mayor Walaker recommending that Ron Robson and Doug Scaper be appointed to the Renaissance Zone Authority to replace Mick Hammerstrom and Bill Marcil, Sr. whose terms have expired.

Commissioner Wimmer moved the appointment of Ron Robson and Doug Scaper to the Renaissance Zone Authority for the terms ending January 1, 2011 be approved.

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

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

Commissioner Coates moved that the Board adjourn to 5:00 o'clock p.m., Monday, March 10, 2008.

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

The time at adjournment was 5:20 o'clock p.m.