

- e. Grant allocation from the North Dakota Department of Human Services for interpreter services (Contract #600-07110).
- f. Contracts with the North Dakota Department of Health for the VFC/AFIX immunization program and coordination of same (CFDA #93.268, Contract #08-1006 and CFDA #93.268, Contract #08-984).
- g. Authorization for City staff to contract fuel purchases for the 2009 fiscal year.
- h. Applications for 5-year property tax exemptions for improvements made to buildings:
 - (1) Mark and Teresa Moderow, 1742 15th Street South.
 - (2) Frank and Linnea Anderson, 1725 North Elm.
- i. Application filed by Home Builders Care of Fargo-Moorhead Foundation for a raffle on 3/26/09.
- j. Second Addendum to Memorandum of Understanding with Fargo Public Schools to use the City of Fargo fueling facility (moved to the Regular Agenda).
- k. NDDOT Cost Participation and Maintenance Agreement and Project Concept Report and Project Decisions for Project No. 5838.
- l. Bills in the amount of \$4,265,228.44.

Second by Wimmer. 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.

Final Balancing Change Order No. 1 for Improvement District No. 5780 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$7,712.38 for Improvement District No. 5780.

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.

Settlement in the Matter of City of Fargo v. Fargo Public School District No.1 in Connection with Right-of-Way Acquisition for the 52nd Avenue Construction Project Approved:

The Board received a communication from Assistant City Attorney Garylle B. Stewart indicating in December 2007 the City of Fargo commenced two actions against School District No. 1 to acquire right-of-way (street and utilities) together with an approximate 28 acre tract for a storm water retention pond. He said immediate possession was necessary in order to meet State and Federal mandated time deadlines relating to the 52nd Avenue Construction Project thus necessitating Eminent Domain. At that time, he said, the City of Fargo deposited the sum of

\$1,031,337.02 which included \$158,705.82 for easements and \$872,631.20 for retention pond. Following consultation with an independent review appraiser, he said, a settlement amount was negotiated and agreed upon at \$1.25 per square foot for a total of \$1,849,296.26. As part of the settlement, he said, each side is paying its own attorney's fees and costs relating to the litigation. He stated the City of Fargo will prepare formal Stipulations of Settlement to be filed with the Court after School District No. 1 approves the settlement amount per square foot.

In response to a question from Commissioner Williams regarding the amount initially paid by the City of Fargo for the land and why the City of Fargo is settling on \$1.25 a square foot, City Attorney Erik Johnson stated Fargo deposited with the court the amount of \$.70 a square foot and the \$1.25 a square foot is what was agreed upon by the City of Fargo and Fargo Public Schools after each entity's appraisal was completed.

Commissioner Wimmer moved the settlement amount of \$1.25 per square foot for the right-of-way, retention pond and utility right-of-way square footage be approved in accordance with the percentage of said amount set forth in the lawsuit.

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

Commissioner Williams voted nay.

The motion was declared carried.

Text Amendment to Article 20-02 Base Zoning Districts and Other Applicable Sections of Chapter 20 of the Land Development Code Approved:

A Hearing had been held by the Fargo Planning Commission on October 8, 2008 for the purpose of considering a request for a text amendment to Article 20-02 Base Zoning Districts and other applicable sections of Chapter 20 of the Fargo Municipal Code (Land Development Code) to create a University Mixed-Use District and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

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.

There have been no written or verbal protests to the request.

Planner Nicole Crutchfield gave a power point presentation of the history and purpose of the proposed University Mixed-Use zoning district. She stated she will work with the Roosevelt Neighborhood to create a future land use map.

Jim Laschkewitsch, 1016 College Street, Vice President of the Roosevelt Neighborhood Association, said the Association has worked very hard over the last year to discuss these issues and has built a stronger Association as a result. He said the Association is hoping the neighborhood can remain a place of residency and community and they are looking forward to the future growth of the neighborhood.

Martha Berryhill, 1354 12th Street North, said no one in the intended neighborhood area was aware of the potential for zoning changes. The neighborhood, she said, has found that balancing wants and needs is difficult and speculates whether this change will be good for the surrounding neighborhoods.

Ken Enockson, 1202 8th Street North, President of the Roosevelt Neighborhood Association, said he feels strongly there is a need for a clear land use policy. There have been no discussions with NDSU and the neighborhood, he said,

and he feels there should be. He said the neighborhood's concerns are with what is going on in the northern part of NDSU, not so much the southern part.

John Paulsen, Chairman of the Planning Commission, said this is a work in progress and not a perfect solution. NDSU and Roosevelt want to be good neighborhoods to each other and this is a good start, he said.

Commissioner Wimmer said that it would be nice if someone could update the neighborhood on what NDSU is doing.

Bruce Frantz, NDSU Facilities Management Director, said NDSU can certainly do a presentation to the Roosevelt Neighborhood Association about the master plan that went public about a month ago. He said NDSU's proposal is to stay within the framework of the campus instead of spreading out.

Ms. Crutchfield said the Planning Department is working on a draft document to designate where single family and commercial facilities will work the best and she will keep the neighborhood up to date.

Commissioner Wimmer moved the request be approved on the basis the proposed Text Amendment complies with Section 20-0904.E (1-3) of the Land Development Code.

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

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

Ordinance Relating to Base Zoning Districts, Use Regulations, Dimensional Standards, Subdivision Design and Improvements and General Development Standards to be Placed on First Reading at the Next Regular Meeting of the Board:

Commissioner Wimmer moved the Ordinance Relating to Base Zoning Districts, Use Regulations, Dimensional Standards, Subdivision Design and Improvements and General Development Standards be received and filed and placed on first reading at the next Regular Meeting of the Board.

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

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

At 5:55 p.m. the Board took a five-minute recess.

After recess: All Commissioners present except Commissioner Mahoney. Mayor Walaker presiding.

Discussion Regarding Compliance with the Americans with Disabilities Act (Amendment to "The Mayor's Committee on Site Access, 1991 Year End Report") Postponed to February 9, 2009:

Commissioner Wimmer moved discussion regarding Amendment of "The Mayor's Committee on Site Access, 1991 Year End Report" be postponed to February 9, 2009.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Kris Sheridan and Steve Swiontek Reappointed to the Renaissance Zone Authority:

The Board received a communication from Mayor Walaker recommending that Kris Sheridan and Steve Swiontek be reappointed to the Renaissance Zone Authority.

Commissioner Wimmer moved the reappointment of Kris Sheridan and Steve Swiontek to the Renaissance Zone Authority for the term ending January 1, 2012 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Dave Selvig Reappointed to the City Hall-Auditorium Commission:

The Board received a communication from Mayor Walaker recommending that Dave Selvig be reappointed to the City Hall-Auditorium Commission.

Commissioner Wimmer moved the reappointment of Dave Selvig to the City Hall-Auditorium Commission for the term ending January 1, 2012 be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Second Addendum to Memorandum of Understanding with Fargo Public Schools to Use the City of Fargo Fueling Facility Referred to the Finance Committee:

The Board received a communication from Fleet Services Manager Harold Pedersen submitting the Second Addendum to Memorandum of Understanding between the City of Fargo and Fargo Public Schools which will allow the Fargo Public Schools to utilize the fueling site at the Public Works Buildings. He said he discussed the feasibility for using the City fueling facility with Dan Huffman, Jim Frueh and Randy Larson from Fargo Public Schools and worked with Butch McConn in drafting this Memorandum.

Commissioner Piepkorn moved the Second Addendum to Memorandum of understanding with Fargo Public Schools to use the City of Fargo fueling facility be referred to the Finance Committee to develop a recommendation regarding a price to use the facility.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change in the City's Purchasing Policy Approved:

The Board received a communication from Director of Finance Kent Costin recommending a change in the City's existing purchasing policy to enable the City to contract services in an expeditious manner. He said there may be times when this might be necessary. Generally, he said, federal grant management guidance suggests following the locally adopted policies when administering federal grant programs. He said it is his recommendation that the City purchasing policy be updated to provide the flexibility in contracting.

In response to a question from Commissioner Williams regarding the Finance Committee, Mr. Costin said the committee meets once a month or as needed when there are items that need to be expedited or when there is a tight time-line.

Commissioner Williams said he does not believe it is a good idea to have only two Commissioners making all the decisions. He said he would rather have a special Commission meeting or an item added to the agenda in these instances.

Commissioner Wimmer moved approval of a change in the City's purchasing policy that provides for the following: Upon recommendation of a department head and upon approval of the City Finance Committee and Board of City Commissioners, professional services may be procured in an amount in excess of the current policy amount because of circumstances beyond the control of the City, including but not limited to, emergencies or the availability of state or federal funds, the terms of which result in the need to accelerate the selection of professional services.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Commissioner Williams moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 26, 2009.

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

The time at adjournment was 6:14 o'clock p.m.