

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                 Monday:                                 March 9, 2009:

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, March 9, 2009.

The Commissioners present or absent were as shown following:

Present: Mahoney, Piepkorn, Williams, Walaker.

Absent: Wimmer.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Piepkorn moved that the Minutes of the Regular Meeting of the Board held on February 23, 2009 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 8-1006 of Article 8-10 and Section 8-1606 of Article 8-16 of Chapter 8 of the Fargo Municipal Code Relating to Parking Tickets.
- b. Waiver of Any Potential Conflicts Related to Environmental Review of Proposed South Side Flood Control Project and Representation of Ingstad Broadcasting, Inc.
- c. Issuance of \$13,665,000 Refunding Improvement Bonds, Series 2009A; set sale date of April 6, 2009.
- d. Request from the El Zagal Shrine to hang banners in the skyway from March 23rd until April 7th to promote the El Zagal Shrine Circus.
- e. Request from the Multiple Sclerosis Society to hang banners in the skyway from April 8th until April 27th to promote the MS Walk.

- f. Applications for five-year property tax exemptions for improvements made to buildings:
  - (1) Randy and Connie Grondahl, 3102 9th Street North.
  - (2) John Lachance, 2001 11th Avenue South.
  
- g. Applications for Games of Chance:
  - (1) Evan Krogen Benefit Fund for a raffle on 3/28/09; Public Spirited Resolution.
  - (2) Fargo North Baseball Club for a calendar raffle from 3/30/09 to 5/18/09.
  - (3) Fargo North Fastpitch Softball for a calendar raffle from 3/16/09 to 5/30/09.
  - (4) Oak Grove Lutheran School for a raffle on 4/18/09.
  
- h. Immunization contract with the North Dakota Department of Health (CFDA #93-268).
  
- i. Request for Proposals to replace the current electronic fare collection system.
  
- j. Change Orders for the Main Library: G-8 for a decrease of \$11,682.00; G-9 for an increase of \$18,482.00; G-10 for an increase of \$24,419.00; E-2 for an increase of \$22,642.14 and E-3 for an increase of \$10,825.50.
  
- k. Final Balancing Change Order No. 1 for an increase of \$9,832.82 for Project No. 5793.
  
- l. Sole source procurement with Houston Engineers for Improvement District No. 5229 and Request for Proposals for consulting engineers for Improvement District Nos. 5609 and 5827.
  
- m. Purchase agreement for property at 1217 El Cano Drive (Improvement District No. 5747-16).
  
- n. Addendum to Development and Assessment Agreement and Joinder Agreement to Extend Special Assessment District (Improvement District No. 5777).
  
- o. Bills in the amount of \$4,695,753.95.

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

Absent and not voting: Commissioner Wimmer

The motion was declared carried.

Final Balancing Change Order No. 3 for Project No. 5812-01 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 3 for an increase of \$32,914.77 for Project No. 5812-01.

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

Absent and not voting: Commissioner Wimmer  
The motion was declared carried.

Final Balancing Change Order No. 1 for Improvement District No. 5793 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$9,832.82 for Improvement District No. 5793.

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

Absent and not voting: Commissioner Wimmer  
The motion was declared carried.

City of Fargo Concur with the NDDOT Bid Award for Improvement District No. 5530, Phase 4:

Commissioner Mahoney moved the City of Fargo concur with the NDDOT bid award for Improvement District No. 5530, Phase 4 to Industrial Builders, Inc. in the amount of \$10,705,546.94.

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

Absent and not voting: Commissioner Wimmer  
The motion was declared carried.

City of Fargo Concur with the NDDOT Bid Award for Improvement District No. 5601:

Commissioner Mahoney moved the City of Fargo concur with the NDDOT bid award for Improvement District No. 5601 to Northern Improvement Company in the amount of \$14,994,746.15.

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

Absent and not voting: Commissioner Wimmer.  
The motion was declared carried.

No Protests Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 2 and 9, 2009 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved that the Board declare that no protests have been filed to the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855.

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

Absent and not voting: Commissioner Wimmer  
The motion was declared carried.

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 4, 2009 and the bids were found to be as follows:

Key Contracting Bid:	Fargo, ND \$26,210.00
Adelman Concrete & Excavating Bid:	Fargo, ND \$26,535.00
Heston Contracting, Inc. Bid:	Frazee, MN \$27,798.75
Quality Restoration Bid:	St. Paul, MN \$28,457.50
Opp Construction Company Bid:	Fargo, ND \$29,319.00
A J Construction Bid:	West Fargo, ND \$31,440.00
Specialized Contracting Bid:	Fargo, ND \$32,683.75
Northern Improvement Company Bid:	Fargo, ND \$39,000.00
Strata Corporation Bid:	Grand Forks, ND \$43,415.00

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855 Awarded to Key Contracting in the Amount of \$26,210.00:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 4, 2009 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855 shows the bid of Key Contracting of Fargo, North Dakota, in the sum of \$26,210.00 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Key Contracting in the sum of \$26,210.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 5855 in the City of Fargo, North Dakota, be and the same is hereby awarded to Key Contracting for the sum of \$26,210.00, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioner Wimmer  
The Resolution was adopted.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859 (Kirkham's 2nd Addition):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859:

Adopt Resolution Creating Improvement District No. 5859:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5859, in the City of Fargo, North Dakota, be created

From 11th to 12th Avenue North between College Street and 14th Street, in Block 13 of Kirkham's 2nd Addition.

COMPRISING:

Lots 1 through 22, inclusive, Block 13.  
Kirkham's 2nd Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 5859, 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. 5859:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5859, 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 \$80,000.00)

Order Plans and Specifications for Improvement District No. 5859:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5859, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5859:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5859, 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. 5859, 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 P.C. Concrete Alley Paving 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 P.C. Concrete Alley Paving & Incidentals Improvement District No. 5859 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 P.C. Concrete Alley Paving & 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. 5859:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5859, in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioner Wimmer

The motion was declared carried.

Bids Awarded for the Osgood Fire Station:

The Board received a communication from Fire Chief Bruce Hoover stating bids for construction of the Osgood Fire Station were opened on February 26, 2009. He said consistent with North Dakota Century Code requirements, separate bids were solicited for general, mechanical and electrical the low bids were as follows:

Eleven contractors bid the general portion of the project and the low bidder was TF Powers with a bid of \$1,484,775.

Eleven contractors bid the mechanical portion of the project and the low bidder was Grant's Mechanical with a bid of \$424,890.

Eleven contractors bid the electrical portion of the project and the low bidder was Red River Electric with a bid of \$301,050.

Commissioner Williams moved the bids be awarded as outlined above.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Memorandum of Understanding with the Greater Fargo Moorhead Economic Development Corporation Approved:

The Board received a communication from Ronald P. Robson, Chairman of the Board of Directors for the Greater Fargo Moorhead Economic Development Corporation, requesting the City consider approval of the Memorandum of Understanding (MOU) between the City of Fargo and Greater Fargo Moorhead Economic Development Corporation (GFMEDC). He said the MOU would outline a mutual understanding of the relationship between the GFMEDC and the municipalities with which it works. He stated this agreement defines the GFMEDC as the sole entity responsible for primary sector economic development in Cass and Clay Counties and defines the role of the partnering municipalities and members of the GFMEDC Board of Directors. The role, he said, is executed in the best interest of the entire region, which shares one economy, one labor force and one future.

Vice President of Cass County Electric Cooperative and Secretary of GFMEDC, Claire Vigesaa, said he would like the Board to consider approving the MOU. They appreciate the great working relationship with the City of Fargo, he said, and share the same visions with the City which would be sustainable growth and long-term prosperity for the community.

Commissioner Williams moved the Memorandum of Understanding with the Greater Fargo Moorhead Economic Development Corporation be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Request for an Extension of the Noise Ordinance for Rib Fest and More Approved:

The Board received a communication from Michael Brooks, Vice President/Market Manager, Go Radio Broadcasting, LLC and Rib Fest Committee Member, requesting a one hour extension of the City's Noise Ordinance for Rib Fest and More from June 3 through June 7, 2009 from 10:00 p.m. to 11:00 p.m. for live entertainment. Mr. Brooks stated they will make certain all City guidelines are followed and that noise is reduced as much as possible by the direction of the sound equipment. He also requested that they be able to maintain low-level sound up to midnight using their low-level PA for background music while patrons are exiting.

Commissioner Mahoney moved the request for a one hour extension of the City's noise ordinance for Rib Fest and More from 10:00 p.m. to 11:00 p.m. from June 3 through June 7, 2009 be approved and that they be allowed to maintain low-level sound up to midnight.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Renewal Plan for Tax Increment Financing District No. 2009-01 and Developer Agreement Approved (2828 Broadway):

A Hearing had been set for this day and hour to review a Development Plan for Tax Increment Financing District No. 2009-01 which consists of a plan to redevelop 2828 Broadway for 24 condominiums.

The Board received a communication from Planning Director Jim Gilmour stating the Planning and Development Department has completed work on a Renewal Plan for a redevelopment project at 2828 Broadway. Mr. Gilmour also submitted a Resolution to adopt the plan, a Developer Agreement and the report from the Financial Advisor. He said the Finance Committee has reviewed the request and financial advisor report and recommends approval of the Renewal Plan and Developer Agreement providing up to \$714,525 in assistance. The assistance, he said, includes \$34,025 to be paid to the City of Fargo for administrative costs.

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas or areas consisting of industrial or commercial property, or a combination of those areas of properties exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment or a combination thereof, of the area contained within the Development Plan for Tax Increment Financing District No. 2009-01 is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and



will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.

3. That there is a building in the area contained within the Development Plan with deteriorated conditions. The Renewal Area, as defined in the Development Plan, is blighted due to the presence of this building that is deteriorated and this condition has substantially impaired the growth of the City in this area, and has slowed the provision of appropriate housing in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in said area.

4. That there are no residential buildings within the plan area so no persons will be displaced by the redevelopment.

5. That the area designated as the Development Plan for Tax Increment Financing District No. 2009-01 is appropriate for a development project.

6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Development Plan for Tax Increment Financing District No. 2009-01 requires the powers and authority granted in Chapter 40-58 NDCC.

7. That the Development Plan for Tax Increment Financing District No. 2009-01 is hereby officially adopted by the Board.

8. That a Developer Agreement be prepared in regard to the Tax Increment Financing of the project under NDCC Chapter 40-58, including Section 40-58-20 et sequitur.

9. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof and that the County Auditor and Treasurer shall do so in accordance with NDCC Chapter 40-58.

Second by Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney and Walaker voted aye.

Commissioner Williams voted nay.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

Application Filed by Kobe's Japanese Cuisine d/b/a Kobe's Japanese Cuisine for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Kobe's Japanese Cuisine d/b/a Kobe's Japanese Cuisine for a Class "F" Alcoholic Beverage License at 4228 15th Avenue SW, notice of which had been duly published in the official newspaper for the City of Fargo.

The Board received a communication from City Auditor Steven Sprague stating the Commission approved the issuance of a Class "FA" alcoholic beverage license to Kobe's Japanese Cuisine d/b/a Kobe's Japanese Cuisine at their February 9, 2009 Commission Meeting. He said the applicant has reconsidered the type of license needed and would now like a Class "F" Alcoholic Beverage License.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

#### 2009 Community Development Action Plan and 2009 City Social Service/Arts Fund

##### Approved:

A Hearing had been set for this day and hour on the 2009 Action Plan update for housing and community development resources which will be used in the next fiscal year in accordance with the community's Consolidated Plan update.

The Board received a communication from Senior Planner Dan Mahli stating the Community Development Committee is recommending approval of the submitted 2009 Community Development Action Plan and Social Service Fund budget. He stated the proposed 2009 community development budget includes \$697,500 in Community Development Block Grant (CDBG) funds, \$651,000 in HOME funds and \$301,000 in City Social Service/Art funding. Mr. Mahli also submitted an outline of the four community development goals which include Affordable Housing and Homelessness, Poverty Reduction, Community Culture and Arts and Entertainment. On January 20, 2009, he said, the Community Development Action Plan was advertised and made available for a 30 day public comment period. He said there were five written comments from Frazer LTD, FirstLink, Cultural Diversity Resources, the New Sudanese Community Association and the Senior High School All Night Party. Upon City Commission approval, he said, applicants will be notified of the Commission's recommendation and the 2009 Community Development Action Plan will be forwarded to the U.S. Department of Housing and Urban Development for review and final approval. He said the projects in the City's 2009 Community Development budget include the following:

HOUSING REHABILITATION: \$340,000 to be available for rehabilitation of existing owner-occupied housing units. This includes \$40,000 in CDBG and \$300,000 in HOME funds.

DOWNPAYMENT ASSISTANCE: \$90,000 to be available to assist lower income families in purchasing homes. This includes \$80,000 in HOME funds and the City will apply to the State of ND for \$10,000 in American Dream Down Payment Initiative funds.

##### AFFORDABLE HOUSING PROJECTS:

Beyond Shelter CHDO Project - \$100,000 in HOME funds for housing at 414 11th Street North.

Habitat for Humanity - \$60,000 in HOME funds to acquire 2 lots for construction in 2009.

Special Projects: Workforce Housing/Homelessness - \$40,000 of HOME funds for projects that address priorities established around homelessness and workforce housing.

DOWNTOWN PROJECTS: \$150,000 in CDBG funds for projects that address slum and blight conditions in downtown Fargo.

FACILITIES/CAPITAL PROJECTS:

International Market Plaza - \$160,000 in CDBG funds to be used to assist with site acquisition and predevelopment costs for the International Market Plaza to be located at 414 11th Street North.

Family Health Care Center Elevator - \$90,000 in CDBG funds to assist with an elevator for the Family Health Care Center's proposed expansion into a larger building.

Neighborhood Project - \$12,000 in CDBG funds for a potential project that will help beautify and improve a low/moderate income neighborhood.

CDBG PUBLIC SERVICE PROJECTS:

Homebuyer and Tenant Education - \$30,000 in CDBG and \$10,000 in HOME funds to support the Village Financial Service Center with the Homebuyer and Tenant Education programs.

Emergency Shelter - \$50,000 in CDBG funds to provide operating support at the Gladys Ray Shelter in Fargo.

Metropolitan Transportation Initiative - \$13,000 in CDBG funds to support transportation services for low income individuals in Fargo.

Job Training and Creation - \$10,000 in CDBG funds to support individualized job training for low income and immigrant populations at the Skills and Technology Training Center.

Snow Removal Assistance - \$2,500 in CDBG funds to offer emergency snow removal assistance to low income senior households and people with disabilities.

SOCIAL SERVICE/ARTS PROJECTS (City funded):

CHARISM - \$25,000 to support outreach and communication with low income ethnic communities.

Cultural Diversity Resources - \$25,000 to support operations and leadership programs.

Fargo Moorhead Coalition for Homeless Persons - \$5,000 to support Fargo's 10 Year Plan activities and transportation for homeless individuals needing emergency shelter (\$2,500 for operations and \$2,500 for transportation services).

Fargo Senior Services - \$30,000 to support the Meals on Wheels program.

Fargo Youth Commission/Boys & Girls Club - \$5,000 to provide scholarships to assist low income youth in the before and after school program.

Giving+Learning Program - \$10,000 to support refugee assistance and mentor program.

Handi-Wheels Transportation - \$10,000 to assist with operational expenses and provide transportation to people with disabilities;

LSS of ND-Daily Bread & Great Plains Food Bank - \$5,000 to provide the intake and distribution of donated food items.

Metro Youth Partnership - \$30,000 to support partnership programs for youth and adults to engage in healthy relationships.

New Life Center - \$15,000 to support operations that serve the homeless people.

ND Homeless Coalition for Homeless People - \$5,000 to support activities related to the North Dakota Continuum of Care application.

Rape and Abuse Crises Center of FM - \$15,000 to provide crisis support and services for victims of domestic violence and sexual assault.

Red River Human Services Foundation, Activity Center - \$12,000 to fund educational and social programs for those people with disabilities.

River Keepers - \$4,000 to renovate bathrooms at the Red River Living/Learning Center.

Village Family Services, Nokomis Childcare Centers - \$5,000 to support a scholarship program for low income families that need childcare services.

YWCA Cass Clay Emergency Shelter - \$15,000 to assist with operational costs and support services for women and children.

The Arts Partnership - \$85,000 to support the Council's Arts Fund (\$30K for operations and \$55K for programs).

ADMINISTRATION: \$140,000 in CDBG funds for project development, planning, and administrative costs associated with the delivery of the CDBG program. HOME funds will provide an additional \$51,000 for administration. This item includes \$1,000 for fair housing activities and \$5,000 for a study on homelessness.

Commissioner Mahoney moved the 2009 Community Development Action Plan be approved and staff be directed to submit the plan to the U.S. Department of Housing and Urban Development.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Commissioner Piepkorn moved the 2009 City Social Service/Arts Fund be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Addition of Route 34 Between North Dakota State University Memorial Union and Stop-N-Go/Skills & Technology Center on 19th Avenue and University Drive North  
Approved:

A Hearing had been set for this day and hour for the purpose of adding Route 34 to the existing transit system with the proposed starting date for Monday, March 16, 2009. The notice stated Route 34 will travel between the North Dakota University Memorial Union and Stop-N-Go/Skills & Technology Center on 19th Avenue and University Drive North with hours of service from 7:44 a.m. to 4:55 p.m.

A Hearing had been set for December 29, 2008 regarding the addition of Route 34 to the existing transit system effective January 1, 2009, however, Valley Bus

Company protested the recommendation to add Route 34 to the existing transit system. At the December 29, 2008 meeting, a majority of the Board did not vote in favor of the addition of Route 34 to the existing transit system effective January 1, 2009. The Board voted unanimously in favor of initiating an advisory board opinion from the Federal Transit Administration (FTA) and that current service be continued with Valley Bus Company until an opinion is received.

On February 9, 2009, the Board received a communication from City Attorney Erik Johnson stating the FTA responded in a manner favorable to the City's adding Route 34. The Board voted unanimously to re-advertise for a public Hearing on March 9, 2009 for the proposed Route 34 and to return with a revised Amendment to the Agreement with NDSU.

The Board received a communication from Planning Director Jim Gilmour stating the City has been working with NDSU to implement an additional bus route to serve the NDSU campus and the commercial area to the north of the campus. He said the route would provide service to the Stop-N-Go Center, the Skills & Technology Training Center, two hotels, a drug store and several restaurants and would connect with Routes 13A and 13B at the Union bus shelter. Mr. Gilmour stated NDSU is willing to provide the money needed for the cost of this new route and has worked with the City Attorney on an amendment to one of the existing transit agreements. The agreement, he said, runs to August 17, 2009 and the route may be continued beyond that date as part of the transit agreements for the 2009-2010 school year. He stated the proposed Route 34 routing and timing will provide an excellent way for people to travel between the core of the NDSU campus and the commercial area to the north. He said this service will be open to the general public and be part of the transit system.

The Board received a communication from Linda Onstad stating fixed route ridership should receive more services instead of NDSU getting another route.

In response to a question from Commissioner Piepkorn, Mr. Gilmour said they are currently using an old bus, but will be getting a new bus when delivery of the new buses is done this summer.

Commissioner Williams moved the addition of Route 34 effective March 16, 2009 be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Commissioner Williams moved an amendment to the Transit Services Agreement with NDSU for the operation of Route 34, with NDSU providing the City of Fargo the amount of \$42,000, be approved

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

#### Indigent Defense Services Contracts Awarded to Joe Johnson and Stormy Vickers Law Firms for One Year:

At the February 9, 2009 meeting the Board received a protest from Joe Johnson regarding the recommendation to award the indigent defense services

contract to Stormy Vickers Law Firm. The Board tabled the motion for two weeks to allow Director of Finance Kent Costin to contact the review team.

At the February 23, 2009 meeting, the Board continued the indigent defense services contract award to March 9, 2009.

The Board received a communication from Director of Finance Kent Costin stating the review committee, consisting of Commissioner Dave Piepkorn, Clerk of Court Sue Thompson and himself, conducted interviews with the proposers for the indigent defense services contract. He said the committee concluded that with the growing case load and the need for adequate backup support, the overall needs of the Municipal Court would be most adequately covered by issuing contracts with two firms for this service. He stated the committee is recommending contracts be offered to Joe Johnson and Stormy Vickers Law Firms for a one year term, with an option to extend contracts for up to three years.

Commissioner Piepkorn moved indigent defense services contracts be awarded to the Joe Johnson and Stormy Vickers Law Firms for one year effective March 23, 2009 at an annual compensation level of \$45,600 per year per contract.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Appropriate Staff Directed to Work with Colleen Tuhy to Draft a Text Amendment to the City's Ordinance to Allow Dog Grooming as a Home Occupation:

The Board received a communication from Colleen Tuhy, 1801 57th Avenue South, requesting that dog grooming be allowed as a home occupation. She said the current ordinance could allow changes for dog groomers to successfully run a home business. It is her understanding, she said, that there have been issues in the past with negligent dog groomers and she submitted several suggestions to prevent any future issues. She said she owned and operated "Tails" grooming in Fargo until her partner left, at which time she was unable to afford the lease on her own and had to close. She said she had intended to move into West Fargo where dog grooming as a home business is allowed, however, when the house purchase in West Fargo fell through and she sought housing in Fargo, she was not aware dog grooming as a home business was not allowed. She said that she is most desperate for a change in this ordinance.

Senior Planner Jim Hinderaker said Planning staff is not supportive of this change. The change would be too hard to enforce and could have negative impacts on the neighborhood, he said.

Commissioner Piepkorn moved appropriate staff be directed to work with Ms. Tuhy to draft a Text Amendment to allow dog grooming as a home occupation.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Board of Equalization to Meet at 7:30 a.m. on Tuesday, April 14, 2009:

Commissioner Williams moved the Board of Equalization meet at 7:30 a.m. on Tuesday, April 14, 2009.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Flood Update Received:

City Administrator Pat Zavoral gave an update on the flood outlook for the City of Fargo. City staff are going to start planning early, he said.

Senior Engineer April Walker said her office has been receiving a lot of calls from homeowners about flood insurance. She said they have about another week window to purchase the policies, because there is a 30-day wait from the time the policy is taken out until a claim can be made. A Flood '09 information page has been put on the City of Fargo website, she said, with valuable information for citizens.

2009 Legislative Issues and Stimulus Plan Discussed:

City Administrator Pat Zavoral reviewed the matrix indicating the 2009 Legislative Bills that the City supports and opposes. Mr. Zavoral also gave an update on the Stimulus Plan.

Assistant City Attorney Robert L. McConn Jr. announced that there are pending litigation matters to be discussed in Executive Session, specifically the Sauby Case and Free Thinkers.

Commissioner Mahoney moved the Commissioners meet in Executive Session in the River Room as authorized by NDCC, Section 44-04-19.2 to discuss said pending litigation matters.

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

At 6:18 p.m. the Board moved to the River Room to discuss the litigation matters in Executive Session.

Members present were: Mahoney, Williams, Piepkorn and Walaker.

Absent and not voting: Commissioner Wimmer.

The Executive Session closed at 7:24 o'clock p.m. and the meeting was adjourned.

The next meeting of the Board will be held at 5:00 o'clock p.m., Monday, March 23, 2009.