

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Special Meeting:

Wednesday:

April 2, 2009:

Agreeable with a call for a Special Meeting issued by Mayor Walaker, the Board of City Commissioners of the City of Fargo, North Dakota, convened in a Special Meeting in the City Commissioners' Room at the City Hall at 9:30 o'clock a.m., on Thursday, April 2, 2009.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Contract with Munters Corporation for the Fargodome Cleanup Approved:

The Board received a communication from Fargodome General Manager Rob Sobolik stating the Fargo Dome Authority is requesting approval of a facility recovery contract with Munters Corporation in order to proceed with cleanup after the very successful sandbagging effort at the Fargodome. He said they are anxious to return the building to pre-sandbagging condition in order to fulfill its original mission of bringing quality entertainment to the community. Fargodome staff, he stated, reviewed the needs of the venue to determine a scope of work for a professional restoration company and also a plan of action for in-house cleaning through Fargodome temporary on-call employees. Mr. Sobolik submitted a Scope of Work and said Dome staff have met with four companies and received bids for the work as described in the Scope of Work. He said they are requesting that the contract be awarded immediately to low-bidder Munters in order to begin the recovery processes as early as Friday. He said bids received are as follows:

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|------------------|-------------|
| Munters | \$ 398,230 |
| Belfor | \$ 592,604 |
| Mooring Recovery | \$ 698,000 |
| Service Master | \$1,120,000 |

He said yesterday the Fargo Dome Authority directed Fargodome management staff to coordinate flood fighting cleanup efforts with the City of Fargo Finance Department and City Attorney in order to comply with City requirements and FEMA standards. These parties, he said, are comfortable with the assessment processes used to arrive at a decision, and plans for recovery. Mr. Sobolik submitted the facility recovery Scope of Work, background information on Munters Corporation and photos of the dirt/debris throughout the building.

Finance Director Kent Costin said the expenses for the cleanup should be FEMA eligible and it is important to get the Dome up and running as soon as possible.

Mr. Sobolik gave an overview of the Scope of Work necessary to return the Fargodome to working order. He said they were contacted by four firms last week and after giving them all tours of the facility and explaining the full scope of the work, Munters came in with the low bid. He said Munter Corporation is ready to go and projects the cleanup will take five to eight days.

Commissioner Mahoney moved the contract with Munters Corporation for the Fargodome cleanup be approved.

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

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

Resolution Adopted Authorizing the Spirit of Fargo Flood Fund:

City Administrator Pat Zavoral said after discussions regarding a flood relief fund, City staff reserved the Spirit of Fargo website. He said after talking to Pat Traynor, Executive Director of Dakota Medical Foundation (DMF), it was decided Judy Greene, President of United Way of Cass-Clay, and DMF would assist in helping to formulate development of fund activity.

In response to a question from Mr. Zavoral regarding limitations the City has on using donations, City Attorney Erik Johnson said the City has legal limitations on accepting money and giving it away for purposes that are public in nature. By collaborating with DMF and United Way, he said, the public can donate funds through the DMF website and specify public, individual and non-public entities.

Mr. Traynor said the Spirit of Fargo website would be linked through the Dakota Medical Foundation Impact Fund website, making it a joint effort. He said there would be no fees charged by doing it in this manner and a committee will be run by the City to oversee the fund. He said he will advocate for \$25,000 in matching funds from Dakota Medical Foundation.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, In the spring of 2009 the Fargo/Moorhead community has experienced unprecedented flood levels causing a massive flood fighting effort; and,

WHEREAS, Non-profit organizations, quasi-governmental organizations and citizens suffered significant damage as a result of this flood event in various forms, even if flood waters did not infiltrate their property or buildings; and,

WHEREAS, There is a need for a community-based fund to be organized to collect contributions, deposit the same in a fund dedicated to assist in defraying appropriate fund-related losses;

NOW THEREFORE BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo does hereby:

1. Authorize the establishment by the City of Fargo of a 2009 flood disaster relief fund to be referred to as the "Spirit of Fargo Flood Fund" created for the purpose of collecting donations and administering the fund to allocate such donations to appropriate non-profit corporations and quasi-governmental entities.

2. Authorize and direct that the City of Fargo Community Development Committee or a subcommittee thereof shall be responsible for the administration of

funds that are to be dedicated to provide loans or grants to eligible borrowers or grantees for appropriate public purposes as allowed by law, and subject to further direction from the Fargo Board of City Commissioners.

3. Authorize and direct that the City Administrator work toward the establishment of a fund into which contributions may be allocated, at the request of the donor, toward purposes that are "non-public" in nature.

4. Direct that any donations and contributions to the City of Fargo that are identified or earmarked by the grantor for the "Spirit of Fargo Flood Fund" shall be deposited in a separate fund established for the purposes herein stated and such others as may be established by the Board of City Commissioners by subsequent resolution or ordinance.

5. Direct that the City Finance Director establish such fund and that the City Administrator take such steps as may be necessary and appropriate for the administration of such fund.

6. Direct that the City Attorney draft such ordinances and resolutions as may be necessary and appropriate to effect the purposes described herein.

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

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

Resolution Adopted Regarding Emergency Procurement Policy:

City Attorney Erik Johnson stated because of the recent flood emergency, he drafted a Resolution regarding the ability of City staff to acquisition purchases without soliciting bids. He said the resolution will allow for staff to get bids verbally and receive department head approval. The Board of City Commissioners, he said, would ultimately approve the purchases.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, In the spring of 2009 the City of Fargo has experienced unprecedented flood levels causing a massive flood fighting effort; and,

WHEREAS, On March 6, 2009, the Mayor of the City of Fargo proclaimed a state of emergency in the City of Fargo; and,

WHEREAS, While it is generally beneficial to the public that competitive proposals and bids be obtained for procurement of goods and services, the spring 2009 flood fight created an urgency for City officials and staff to procure goods and services on an emergency basis which required a variance from the customary practice and procedures that required days, if not weeks, of time in order to solicit bids or proposals for projects.

NOW THEREFORE BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo do hereby:

1. Approve and ratify the acts and decisions of the Department Heads of the City of Fargo (hereinafter "City") in acquiring goods, services and professional services appropriate and necessary to prepare for rising flood waters and to protect the health, safety and welfare of the citizens and the property, public and private,

within and around the City and so hereby approve and ratify the acts of Department Heads, and their designees, in this emergency situation to quickly and efficiently obtain the benefit of goods and services without the time-consuming process of soliciting detailed proposals or bids.

2. Approve a variance from the customary practice and procedures for procurement by the City of all goods and services and professional services by allowing such procurement to be obtained with an abbreviated procedure as follows:

a. Small Projects/Verbal Solicitation and Response Needed Only. As to items or projects of less than \$100,000, unless exigent circumstances exist which, in the opinion of the applicable Department Head, require more abbreviated acquisition process to protect the health, safety and welfare of the citizens or to protect private or public property from threat of harm, Department Heads may obtain proposals for flood fighting, flood recovery and post-flood restoration upon verbal or telephonic solicitation for multiple bids or quotes and verbal responses.

b. Large Projects/Written Solicitation and Response Needed. As to items or projects of more than \$100,000, unless exigent circumstances exist which, in the opinion of the applicable Department Head, require more abbreviated acquisition process to protect the health, safety and welfare of the citizens or to protect private or public property from threat of harm, Department Heads may obtain proposals for flood fighting, flood recovery and post-flood restoration upon written solicitation for multiple bids or quotes and written responses; provided, however, that the amount of time between the solicitation for responses and the deadline for submission may be shortened to such time as may be deemed appropriate, under the circumstances, by the acquiring Department Head.

3. Declare that for purposes of this Resolution, verbal solicitations and quotes shall include conversations in person or by telephone (or verbally by other electronic means) and written solicitations and quotes shall include communication by email, fax or other written forms that result in documentation and that a Department Head may elect to utilize a more intensive method for requesting proposals or bids than is set forth in this Resolution as he or she deems appropriate under the circumstances.

Nothing in this Resolution is intended to authorize the City, Department Heads, or their designees, to ignore requirements of federal, state or local law.

This Resolution shall be deemed to be retroactive to the beginning of the flood incident, which has been recognized as commencing March 13, 2009, and will continue to be in effect until it is withdrawn by the Board of City Commissioners, but in no event will this Resolution extend beyond December 31, 2009. Awards of bids and contracts in effect prior to the termination or withdrawal of this Resolution shall not be invalidated or impaired by such termination or withdrawal.

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

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

Commissioner Wimmer moved that the Board adjourn.

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

The time at adjournment was 10:00 o'clock a.m.