

- g. Purchase of Service Agreement with the North Dakota Department of Health for Tuberculosis screening activities (CFDA #93.116).
- h. Purchase of Service Agreement with the North Dakota Department of Health for HIV counseling, testing and referral program (CFDA #93.943).
- i. Applications for 5-year tax exemptions for improvements made to buildings:
 - (1) Chris and Tricia Myers, 1711 7th Street South.
 - (2) Randy and Rebecca Unterseher, 1437 5th Street South.
- j. Appointment of Assistant City Attorneys as follows: Robert L. "Butch" McConn, Jr., Jason Loos, Scott O. Diamond, Jodi A. Bass, Garylle B. Stewart and John Olson (Special Assistant City Attorney for legislative matters).
- k. Intergovernmental Agreement with the Municipal Airport Authority for use of MAA property for law enforcement training purposes.
- l. Receive and file Summons and Complaint in the matter of Vickie Lee v. City of Fargo.
- m. Sale of used sweeper to Pro Sweep, Inc. for \$70,500.00.
- n. 5-year lease of one loader from Butler Machinery for \$6,272.71 per year.
- o. Purchase Agreement with Farm Power, Inc. for Temporary/Permanent Easements in connection with Improvement District No. 5726.
- p. Termination of contract on Project No. 5957 and demolition of house at 2130 Sterling Rose Lane.
- q. \$4,963.68 City reimbursement to River Keepers for work at 5508 South University Drive.
- r. Advertisement for bids for Project Nos. 5747-24 and 5747-25.
- s. Bills in the amount of \$3,941,168.31.

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.

Final Balancing Change Order No. 2 for Improvement District No. 5863 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 2 for an increase of \$24,207.60 for Improvement District No. 5863.

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.

Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 (Various Locations in South Fargo):

Commissioner Mahoney moved the following action be taken in connection with Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971:

Adopt Resolution Creating Improvement District No. 5971:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5971 in the City of Fargo, North Dakota, be created

On 38th Street South from 2nd Avenue South to a point located approximately 400 feet south of 2nd Avenue South.

On 40th Street South from Main Avenue to 13th Avenue South.

On 41st Street South from 2nd Avenue South to 4th Avenue South.

On 2nd Avenue South from 38th Street South to 42nd Street South.

On 4th Avenue South from 38th Street South to 42nd Street South.

On 9th Avenue South from 38th Street South to 42nd Street South.

On 11th Avenue South from 40th Street South to 42nd Street South.

COMPRISING:

The land in the east half of Section 10, Township 139 N, Range 49 W, City of Fargo, Cass County, North Dakota bounded on the north by Main Avenue, on the south by 13th Avenue South, on the east by Interstate 29, and on the west by 42nd Street South.

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 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. 5971:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5971 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 \$3,318,750.00.)

Order Plans and Specifications for Improvement District No. 5971:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5971 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5971:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5971 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. 5971 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 Water Main Replacement, Storm Sewer, Street Rehabilitation 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 Water Main Replacement, Storm Sewer, Street Rehabilitation and Incidentals Improvement District No. 5971 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and 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. A map of the district is attached hereto and incorporated as if fully set forth herein.

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 Water Main Replacement, Storm Sewer, Street Rehabilitation and 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. 5971:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5971 in the City of Fargo, North Dakota.

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.

Amendments to the City of Fargo Economic Development Policy Approved:

The Board received a communication from City Assessor Ben Hushka submitting recommended amendments to the policy related specifically to the New Industry Exemption/Payment in Lieu of Tax (PILOT) incentive for revenue producing

properties. The first recommended amendment he said, states that benefits granted for this incentive shall accrue to the applicant, whether they are the owner or lessee of the property. Simply stated, he said, the qualifying project operator must benefit from any incentive granted by being responsible for the property taxes on the property. He said this may be either by ownership or being a tenant who is responsible for the property tax on the property. The second recommended amendment he said, states that incentives may be considered for projects occupied by public educational institutions. He said this serves to clarify the exclusion of the education industry for consideration of this incentive to those being in the private education industry as opposed to public.

Commissioner Wimmer moved the amendments be approved.

Second by Piepkorn. 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.

Applications for Games of Chance Approved:

Commissioner Piepkorn moved the following applications to conduct games of chance be approved:

Holy Spirit Catholic Church for raffles from 3/7/11 to 3/28/11.

Fargo Moorhead Curling Club for a raffle on 4/12/11.

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.

Briefing from Public Works Director of Operations Regarding the New Year's Holiday Storm Event:

The Board received a communication from Public Works Director of Operations Ben Dow stating the heavy snowfall and winds experienced during the New Year's holiday weekend presented many conditions and decisions affecting public safety. He briefed the Board on the timeline, decisions made and costs encumbered.

Renaissance Zone Project for Kevin J. Riley at 300 Broadway, #305 Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Kevin J. Riley at 300 Broadway, #305.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Kevin J. Riley at 300 Broadway, #305 meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Piepkorn moved the Renaissance Zone application filed by Kevin J. Riley for a project located at 300 Broadway, #305 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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.

Resolution Adopted Approving Tuscan Villas at Osgood Second Addition to the City of Fargo, Cass County, North Dakota (4301 through 4389 55th Street South and 5547 through 5691 44th Avenue South):

Commissioner Wimmer 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 "Tuscan Villas at Osgood Second Addition" containing 23 Lots, 2 Blocks and 3.66 acres of land more or less, located at 4301 through 4389 55th Street South, and 5547 through 5691 44th Avenue South; and

WHEREAS, A Hearing was held November 2, 2010 and continued to December 7, 2010 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 January 3 and 10, 2011 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 p.m., January 10, 2011 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff and the Planning Commission be accepted and the Plat entitled "Tuscan Villas at Osgood Second Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Standards of Article 20-06, and all other applicable requirements of the Land Development Code, 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 Wimmer, Williams, Mahoney, Piepkorn and Walaker voted aye.

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

Request for Tax Increment Financing for a Project South of 13th Avenue South Between 7th and 8th Streets Referred to Appropriate Staff for Review:

The Board received a communication from Planning Director Jim Gilmour submitting a request from Terry Stroh, T.L. Stroh Architects and Interiors, for Tax Increment Financing (TIF) for a project located south of 13th Avenue South between

7th and 8th Streets. He said the proposed project would be for the redevelopment of the site and the construction of 10 townhouses.

Mr. Stroh stated the whole idea behind the TIF is to defray some of the costs associated with the purchase price and the demolition. He said when the project is complete it could generate upwards of nine to ten times more than what the taxable value of the property is now.

In response to a question from Commissioner Wimmer regarding why this property is eligible for TIF, Mr. Gilmour stated this is a case of whenever there is a redevelopment of this type of property the developer has higher land acquisition and demolition costs. He said the reason for the City to get involved is to level the costs down to what it might be if a developer went to southwest Fargo and bought a similar property. The other thing to note, he said, is this project complies with the current zoning so there is no need for a zoning change.

Commissioner Piepkorn moved staff be directed to submit the proposal to the City's financial advisors for review, to prepare a renewal plan and to draft a development agreement.

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

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

Planning Staff Directed to Initiate the Process to Adopt the Prior Sign Code: First Reading of an Ordinance Enacting and Establishing an Ordinance Related to the Issuance of Sign Permits:

The Board received a communication from City Attorney Erik Johnson stating an issue has arisen regarding the effect of the recent petition for referral of the new Sign Code, Ordinance No. 4772. The issue presented, he said, is whether the filing of the referral petition, which purports to refer only to the new Sign Code but does not refer to the repeal of the old Sign Code, would leave the City of Fargo without a Sign Code in effect until the next City wide election. He said he has spoken with the petitioners' attorney, Jonathan Garaas, and the petition states that it only intends to refer sections 2 and 4.

Frank Anderson, 1725 North Elm, stated he cannot figure out what happened and why a second petition has to be signed when a vote was taken in 2006 to approve portable signs.

Commissioner Williams said the referral went into effect in 2006 and since then there have been changes in the sign industry. He said the Commission needs to continue to modify the City's ordinances and laws and part of that is the new technology in electronic messaging signs that is not included in the old Sign Code. There is language in the Home Rule Charter, he said, that gives the Commission the right to change ordinances after a certain amount of time, due to the fact that the City does not want to lock in a law that is not pertinent to current day technology.

At 6:06 the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Jonathan Garaas, Attorney representing the petitioners', stated the petitioners have spent a considerable amount of time researching the Sign Code and are vitally

concerned about the development of an appropriate Sign Code. He said there is no question that the petitioners understood that the only issue that was being referred was the new Sign Code, which the petitioners felt basically cuts them off at the knees and takes away their business. He said the petitioners understood that the old Sign Code was repealed and applauded that action; however, the petitioners do not want the enforcement of the new Sign Code. The petitioners, he said, understood this law and what the petitioners did was in the best interest of the City of Fargo and its citizens.

Commissioner Piepkorn said he feels the portable sign companies are taking a huge gamble referring the new Sign Code. He said there were individuals who wanted to have a much stricter Sign Code and now what could happen is that another group of individuals could put together a Sign Code vote to ban portable signs.

Jody Boeckel, Boeckel Mobil Advertising; Bernie Dardis, Indigo Signworks, Inc.; Russ Newman, Newman Outdoor Advertising; Marty Riske, 2901 27th Street South; and Steven Stremick, 1155 13th Avenue South spoke in opposition to the new Sign Code.

Natasha Neihart, 1102 9th Street South, spoke in favor of the new Sign Code.

Commissioner Mahoney moved the opinion presented by the City Attorney be adopted and Planning staff be directed to adopt the prior sign code, including provisions to address electronic message center signs and such other provisions as may be recommended; and moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Enacting and Establishing an Ordinance Related to the Issuance of Sign Permits be placed on first reading.

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

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

2011 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the matrix indicating the 2011 Legislative bills the City supports, opposes and monitors.

Commissioner Wimmer moved the Support and Oppose matrix be approved.

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

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 24, 2011.

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

The time at adjournment was 7:30 o'clock p.m.