

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Tuesday: December 27, 2011:

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., Tuesday, December 27, 2011.

The Commissioners present or absent were as shown following:

Present: Mahoney (via conference call), Piepkorn, Williams, Wimmer, Walaker.

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Wimmer moved the Order of the Agenda be approved moving Item "d" from the Consent Agenda to the Regular Agenda.

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

Minutes Approved:

Commissioner Wimmer moved that the Minutes of the Regular Meeting of the Board held on December 12, 2011 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. Resolution relating to the extension of the existing lease agreement with the City of Fargo Building Authority for the 2012 calendar year, confirming appropriation of funds for required debt service payments of \$381,615.00 (Attachment "A").
- b. Summons and Complaint in the matter of Highland Park Properties, LLC v. City of Fargo.
- c. Contract with Moore Engineering, Inc. for design and construction of the west parking paving project at the Fargodome.
- d. PEC recommendations relative to reorganization/job evaluation appeal requests submitted by the Health, Engineering, Police and Enterprise – Water Departments (moved to the Regular Agenda).

- e. Expenditure of Neighborhood Stabilization Program funds for the acquisition of 719 8th Avenue North for \$20,000.00 and 1102 Third Street North for \$58,220.00.
- f. Contract with Cass County Social Services for in-home services to eligible individuals in Cass County.
- g. Receive and file an Ordinance Amending Article 18-02 of Chapter 18 of the Fargo Municipal Code Relating to Construction of Sidewalks and Driveways.
- h. Contract with Network Center Communications for the purchase of a security camera system at the Ground Transportation Center.
- i. Bid award for custodial services at the Ground Transportation Center and the Metro Transit Garage to ISS Facility Services, Inc. in the amount of \$182,352.00 for January 1, 2012 through December 31, 2016.
- j. Relinquishment of Easement for portions of land lying in Lots 3, 5 and 6, Block 9, Village West Second Addition.
- k. Applications for five-year tax exemptions for improvements made to buildings:
 - (1) Mark and Lois Anfinrud, 3002 2nd Street North.
 - (2) Samuel and Timothy Caven, 2017 9th Street North.
 - (3) Rachel Bartz, 2862 Hickory Street.
- l. Applications for Games of Chance:
 - (1) Washington School PTA for a raffle on 2/3/12.
 - (2) El Zagal Temple Holding Co. for poker on 2/24/12 and 2/25/12.
 - (3) North Central Turf Grass Association for a raffle on 2/23/12.
 - (4) FM Rotary Foundation for a raffle on 1/26/12; Public Spirited Resolution.
 - (5) Muskie's, Inc. F-M Chapter for a raffle on 2/9/12.
- m. Lease Agreement with Swanston Equipment for the use of Bobcats by the Fire Department and Buildings and Grounds through 12/31/12.
- n. Authorization for City staff to contract fuel purchases for the 2012 year.
- o. Engineering Services Contract Amendment No. 1 for an increase of \$313,000.00 for Project No. 5958-02.
- p. Change Order No. 4 for an increase of \$59,384.67 for Project No. 5946-02.
- q. Bills in the amount of \$7,236,669.94.

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.

Change Order No. 1 for Improvement District No. 5727 Approved:

Commissioner Piepkorn moved approval of Change Order No. 1 for an increase of \$16,080.00 for Improvement District No. 5727.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5706-1 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$111,659.69 for Improvement District No. 5706-1.

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.

Final Balancing Change Order No. 2 for Improvement District No. 5732 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 2 for an increase of \$27,059.71 for Improvement District No. 5732.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5821 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$13,310.61 for Improvement District No. 5821.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5964 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$5,318.51 for Improvement District No. 5964.

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.

Final Balancing Change Order No. 1 for Improvement District No. 5966-2 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$3,038.48 for Improvement District No. 5966-2.

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.

Final Balancing Change Order No. 1 for Improvement District No. 6049 Approved:

Commissioner Piepkorn moved approval of Final Balancing Change Order No. 1 for an increase of \$4,705.94 for Improvement District No. 6049.

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.

Second Reading and Final Adoption of an Ordinance Relating to Signs (Portable):

Commissioner Wimmer moved that the proposed Ordinance Amending Section 20-1309 of Article 20-13 of Chapter 20 (Land Development Code) of the Fargo Municipal Code Relating to Signs (Portable) which was placed on its first reading December 12, 2011 be now placed on its second reading and a vote taken on the question of its final passage and adoption.

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.

There was unanimous consent to waive reading of the Ordinance in its entirety and no one was present to request that the Ordinance be read.

On the vote being taken on the question of the final passage and adoption of the Ordinance, Commissioners Wimmer, Piepkorn, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Ordinance was duly passed and adopted.

In response to a question from Jim Patterson, Fargo, regarding when the ordinance will go into effect, City Attorney Erik Johnson stated this is the second reading and final passage, therefore, the next step in the process is for the ordinance to be published which will then be the effective date of the ordinance. That date, he said, also begins the ten-day referral period.

In response to a question from Mr. Patterson regarding whether or not this ordinance will be reviewed, Planning Director Jim Gilmour stated it will be reviewed by the Planning Commission in a year and any recommendations would be brought to the Board for approval. Mr. Gilmour said over the next year there may be some things with the Sign Code that will be unclear so there may be a need for some clarification.

2012 City Social Service and Arts Fund Allocations Approved:

The Board received a communication from Senior Planner Dan Mahli stating the City's Social Service and Arts Fund budget is \$313,000 and on December 15 the Community Development Committee unanimously recommended the Board approve the 2012 Social Service and Arts Fund allocations. He said there is however, a provision that each agency receive half of its grant in January 2012 and the other half in July 2012, pending the outcome of the Measure No. 2 ballot initiative in the June election. He said the proposed budget is listed as follows:

Arts Partnership of the Red River Valley - \$95,000 to support the Arts partnership's re-grant program (\$85,000) and provide matching funds for a public art project (\$10,000).

CHARISM - \$25,000 to support youth development programs and skill building for low income and refugee youth.

Children's Museum - \$4,000 to support the "Hands On" educational and recreational programming for children.

Cultural Diversity Resources - \$20,000 for diversity training, financing, annual conference, leadership building, education and events.

FM Bike Workshop - \$5,000 to support an Earn-A-Bike program.

FM Homeless Coalition - \$6,000 to administer an emergency taxi ride program and work on Fargo's 10-year plan.

Fargo Native American Commission - \$15,000 to provide support for Native American programs.

Fargo Human Relations Commission - \$1,000 to provide opportunities for fair housing education in Fargo.

Fargo Youth Commission/Boys & Girls Club - \$5,000 to offer scholarships to low income youth to participate in before/after school programs.

First Link - \$5,000 to fund the information and crisis services program.

Freedom Resource Center - \$5,000 to purchase portable wheelchair ramps to be used by individuals with mobility impairments.

Handi-Wheels Transportation - \$20,000 to provide accessible and affordable transportation to people with disabilities or the elderly.

Great Plains Food Bank - \$5,000 to assist in the collection and distribution of donated food items.

Metro Interpreter Resources - \$10,000 to support interpreter resources in the FM Area.

New Life Center - \$10,000 to support emergency shelter operations.

Nokomis Child Care Center - \$5,000 to support scholarship program for low-income families.

North Dakota Coalition for Homeless People - \$5,000 to support the development of HUD's Continuum of Care application for housing and homeless programs in North Dakota.

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

Red River Human Services Activity Center - \$12,000 to support educational and social activities for people with developmental disabilities.

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

YWCA Emergency Shelter - \$15,000 to assist with operations at the emergency shelter and support services for women and children.

Commissioner Wimmer moved the 2012 City Social Service and Arts Fund Allocations be approved with each agency receiving half of its grant in January 2012 and the other half in July 2012, pending the outcome of the Measure No. 2 ballot initiative in the June election.

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.

Renaissance Zone Project for T & S Investments, LLC Approved:

A Hearing had been set for December 12, 2011 on a Renaissance Zone Project for T & S Investments, LLC at 35 North 4th Street.

At the December 12, 2011 meeting, the Hearing was continued to this day and hour.

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 T & S Investments, LLC 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 T & S Investments, LLC for a project located at 35 North 4th Street 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.

Application Filed by Oasis Cafe d/b/a Oasis Cafe for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Oasis Cafe d/b/a Oasis Cafe for a Class "GH" Alcoholic Beverage License at 1638 32nd Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

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, Wimmer, Mahoney and Walaker voted aye.

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

Ninety-Day Extension of the Contract with the Podesta Group Approved:

The Board received a communication from City Administrator Pat Zavoral stating the City's contract with the Podesta Group expires on December 31. He said the discussions the Mayor and he have had with Podesta's lead lobbyist for Fargo's efforts to secure additional federal funding and authorization for the Diversion project

have led to a recommendation to extend the contract at the same rate of reimbursement, \$15,000 per month, until the end of March 2012. The ninety-day extension, he said, would allow time for the City to determine if additional funding for the Diversion project has been included in the President's budget for Fiscal Year 2013, which commences in October 2012. The initial contract with the Podesta Group was executed prior to the establishment of the Diversion Authority, he said. Mr. Zavoral stated due to the timing of the extension recommendation and the fact that there are no Diversion Authority meetings until January, the Mayor and he feel it would be best to continue this contract. Further contract extensions, he said, would be pursued by the Diversion Authority.

Commissioner Wimmer moved the ninety-day extension of the contract with the Podesta Group be approved beginning January 1, 2012 at a rate of \$15,000 per month.

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.

Position Evaluation Committee Recommendations Approved:

The Board received a communication from Director of Human Resources Jill Minette stating the Position Evaluation Committee (PEC) has completed the review of the reorganization requests for 2012. She said they are recommending approval of the following requests:

Public Health:

Medical Billing and Coding Specialist - Request to classify one Office Associate II and one Office Associate III position to Medical Billing and Coding Specialist (Grade 10). Annual cost of request: \$2,662.

PEC recommends approval of reclassifying one Office Associate II and one Office Associate III position to Medical Billing and Coding Specialists (Grade 9) effective January 1, 2012.

Environmental Health Practitioner - Request to create two levels of Environmental Health Practitioners I and II. EHP I moves to EHP II after obtaining the NEHA Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) certification (EHP I – Grade 12; EHP II – Grade 13). Annual cost of request: \$6,885.

PEC recommends approval to create two levels of Environmental Health Practitioners. EHP I would remain a Grade 12. EHP II would be a Grade 13 effective January 1, 2012.

Engineering:

Special Assessments - Request to move Special Assessments from Auditors to Engineering effective January 1, 2012. Request to reclassify Special Assessments Coordinator from Grade 17 to Grade 20.

PEC recommends approval to move Special Assessments from Auditors to Engineering (contingent upon legal review of the new reporting structure) to create redundancy in the processes. The PEC

recommends the reporting change only. No change to grade at this time.

Director of Engineering - Request to reorganize and create a Director of Engineering level and move the City Engineer (Grade 23) into this position. The Director of Engineering would be paid at a Grade 24. Annual cost of request: \$2,246.

PEC recommends approval to reclassify the City Engineer position (Grade 23) to a Director of Engineering position (Grade 24) effective January 1, 2012.

City Engineer/Deputy City Engineer - The Deputy City Engineer position is currently vacant. Request includes two options: Option #1 - to maintain the Deputy Engineer position and move the position from a Grade 22 to Grade 23. Option #2 – to reclassify the Deputy City Engineer position to the City Engineer moving the position from a Grade 22 to a Grade 23. Annual cost of request: \$1,310.

PEC recommends approval of both options. The option utilized would be determined following the recruiting process. At that time, if a candidate for the vacant position meets the requirements including the experience needed to function as the City Engineer, the Director of Engineering may elect to implement the second option of filling the position as a City Engineer (Grade 23) effective January 1, 2012.

Division Engineer - Request to create a Division Engineer level position at a Grade 22 and move the incumbent Senior Engineers to these positions. This would move the incumbents from a Grade 20 to Grade 22. Annual cost of request: \$4,035

PEC recommends approval to create a Division Engineer level position at a Grade 22 and move the incumbent Senior Engineers (currently Grade 20) to these positions effective January 1, 2012.

Senior Engineer - Request to elevate one Civil Engineer II (Grade 17) to a Senior Engineer (Grade 20). Annual cost of request: \$1,373.

PEC recommends approval to elevate one Civil Engineer II (Grade 17) to a Senior Engineer (Grade 20) effective January 1, 2012.

Engineering Technician II - Request to add 1 FTE Engineering Technician II in the Storm Sewer Division at the current Grade 11. Annual cost of request: \$43,077.

PEC recommends approval to add 1 FTE Engineering Technician II in the Storm Sewer Division at the current Grade 11 effective January 1, 2012.

Police:

Police Officer - Request to add 1 FTE Police Officer to 2012 budget. Initially requested through 2012 budget process contingent upon receiving COPS grant funding. Did not receive grant funding. Annual cost of request: \$46,530.

PEC recommends approval of 1 FTE Police Officer effective January 1, 2012.

Department Restructure - Review Police Department restructuring plans to merge Assistant Chief and Captains into three Deputy Chiefs with division responsibilities.

PEC supports the restructuring and recommends approval effective January 1, 2012. The changes to the captain's pay and titles were approved during the appeal process.

Enterprise – Water:

Control Systems Manager - Request to approve moving promoted Control Systems Manager from Grade 14, Step 1 (\$26.09) to Step 3 (\$27.66). Annual cost of request: \$3,266.

PEC supports moving the promoted Control Systems Manager from Grade 14, Step 1 (\$26.09) to Step 3 (\$27.66) retroactively to the date of promotion.

Promotion, Reclassification and Out-of-Grade Pay Policies:

PEC recommends a change to current policies relating to promotions, reclassifications and out-of-grade pay. The Committee recommends raising the promotional, reclassification and out-of-grade pay increases from 3% (and then placed on next step in new pay grade) to 5% (and then placed on next step in new pay grade) effective January 1, 2012.

City Administrator Pat Zavoral said there are two times during the year that the City addresses payroll issues. The first time being in April, he said, and the other time is during the budget process. During the last budget process, he said, three departments came in and asked for a restructure based on some of the changing needs in their departments. He said instead of making the departments restructure during the budget process, it was suggested that the restructuring be discussed at a special Position Evaluation Committee hearing.

Commissioner Piepkorn stated his main focus is on the Special Assessments request and why that department is being moved from Auditors to Engineering. He said in looking at the request he does not feel that there are enough common denominators with Special Assessments and Engineering as there are with the Auditor's Office.

In response to Commissioner Piepkorn's question, Mr. Zavoral said that one of the issues that the City has right now is that the Special Assessments division is quite light in terms of redundancy. He said the Special Assessments process used to be in the Engineering Department and the way that Special Assessments process is set-up, the Engineering Department has all the technology and staff to become more familiar with the process. At this time, he said, the only other person that is knowledgeable about the process is the City Engineer. He said if this change does not work it can be moved back, however, at this time it is just easier to get redundancy from the Engineering Department.

Commissioner Wimmer moved the recommendations from the PEC to implement the job classification and pay grade changes as outlined 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.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 9, 2012.

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

The time at adjournment was 5:34 o'clock p.m.