

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: December 10, 2012:

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, December 10, 2012.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Sobolik moved the Order of the Agenda be approved moving Item "r" from the Consent Agenda to the end of the Regular Agenda and omitting Item No. 6 in the Regular Agenda.

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

Minutes Approved:

Commissioner Williams moved that the Minutes of the Regular Meeting of the Board held on November 26, 2012 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. Receive and file Year to Date – Budget to Actual Report for November 2012.
- b. 2013 grant allocation, in the amount of \$2,000.00, from the Cass County Commission and Cass County Social Service Board for the Gladys Ray Shelter.
- c. Five-year Indigent Defense Service contracts with Joe Johnson and Stormy Vickers for January 1, 2013 through December 31, 2017.
- d. Addendum to the Regional HazMat Response Protocol.
- e. Amendment No. 1 with First Transit for Mass Transit Operational Services including management, driver and fixed route dispatch services beginning January 1, 2013.

- f. Extension of in-kind/trade agreements with Radio Fargo-Moorhead through 12/31/15.
- g. Use of CTS LanguageLink Services for over-the-phone language translation services by City departments.
- h. Waive requirement for receipt of an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Enacting Section 3-0108 of Article 3-01 of Chapter 3 of the Fargo Municipal Code Relating to Investment of Funds.
- i. 1st reading of an Ordinance Amending Section 6-0105.A of Article 6-01 of Chapter 6 of the Fargo Municipal Code Relating to Pensions (Police).
- j. 1st reading of an Ordinance Amending Sections 6-0209 and 6-0218 of Article 6-02 of Chapter 6 of the Fargo Municipal Code Relating to Pensions (City Employees).
- k. Amended Site Authorization for Northern Prairie Performing Arts at the Windbreak Saloon.
- l. Applications for Games of Chance:
 - (1) NDSU Plant Science Grad Association for a raffle on 3/1/13.
 - (2) FM Rotary Foundation for a calendar raffle from 3/1/13 to 3/31/13.
 - (3) Grace Lutheran School for a raffle on 3/23/13.
 - (4) Kim Evenson Benefit for a raffle on 1/19/13; Public Spirited Resolution.
 - (5) Washington School PTA for a raffle on 3/22/13.
- m. Purchase of two loader-mounted snowplows with wings from RDO Equipment for \$62,250.00.
- n. Sale of a 2007 Ford with sander and snowplow to the Fargo Dome Authority for \$33,000.00.
- o. Proximity Agreement (regarding Airport and noise attenuation) for Robert and Patty Nelson's land near Hector International Airport.
- p. Encroachment into City right-of-way by John and Arlene Kolrud at 1646 4th Street North and waiving the annual fee.
- q. Three-Year Consulting Engineering Services Agreement with Wenck Associates, Inc. for services in connection with the Municipal Waste Landfill.
- r. Fargo Park District water rate of \$.60 per 1,000 gallons to make snow for the Dike East Park sledding hill (moved to the end of the Regular Agenda).
- s. Award of bids for Water Treatment Plant chemicals.

- t. Final Balancing Change Orders for Project No. WA0901 as follows: No. 3 for General Construction for an increase of \$2,650.37; No. 1 for Mechanical Construction for \$0.00; No. 3 for Electrical Construction for an increase of \$2,170.12.
- u. NDDOT Cost Participation and Maintenance Agreement for the pedestrian bridge over I-94 near 16 1/2 Street South.
- v. Professional Services Amendment #2 with AE2S, in the amount of \$2,700.00, for Project No. 6075.
- w. Professional Services Amendment #4 with Ulteig Engineers, in the amount of \$22,461.00 for Improvement District No. 5202.
- x. Recommendation to retain Kadrmas, Lee & Jackson, Inc. for consulting services in connection with Improvement District No. 6173.
- y. Recommendation to retain RM Hoefs & Associates, Inc., SRF Consulting Group, Inc. and Ulteig for appraisal services for 2012, 2013, 2014 and 2015 (Project No. 6180).
- z. Purchase Agreement – Permanent Easements with Steven and Tara Thom (Project No. 5949-3).
- aa. Purchase Agreement – Permanent Easements with Charles and Marian Sauvageau (Improvement District No. 5969).
- bb. Purchase Agreement with Jerald and Patricia Desotel (Improvement District No. 5915).
- cc. Declaration Concerning Dedication for property in connection with Project No. 5944.
- dd. Recommendation to develop an RFP for landscape architect services to assist with the design of streetscape features for the NP and 1st Avenue corridors.
- ee. Recommendation to develop an RFP for survey assistance associated with the development of an appeal to the preliminary floodplain map.
- ff. Declaration of Flood Protection Elevation for property at 431 Harwood Drive South.
- gg. Final Balancing Change Order No. 6, for an increase of \$10,085.25, for Project No. 5946-02.
- hh. Contract and bond for Project No. 6112.
- ii. Bills in the amount of \$5,539,758.79.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Change Order No. 1 for Improvement District No. 6161 Approved:

Commissioner Wimmer moved approval of Change Order No. 1 for an increase of \$155,400.00 for Improvement District No. 6161.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Chuck Hoge Appointed to the Growth Initiative Fund Board of Directors:

The Board received a communication from Mayor Walaker recommending that Chuck Hoge be appointed to the Growth Initiative Fund Board of Directors to fill the vacancy caused by the departure of Jon Strinden.

Commissioner Wimmer moved Chuck Hoge be appointed to the Growth Initiative Fund Board of Directors for a three-year term ending December 31, 2015.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

(Commissioner Mahoney present)

Ordinances Relating to Alcoholic Beverages to be Placed on First Reading at the Next Regular Meeting of the Board:

The Board received a communication from City Attorney Erik Johnson stating the Liquor Control Board received a request for a special license that will authorize a production brewery to produce and sell malt beverages manufactured on the licensor's premise directly to consumers for both on and off-sale. He said the Liquor Control Board has recommended approval of the "Y" license and they are recommending an initial license fee of \$3,000.00 with annual fees of \$500.00.

City Auditor Steve Sprague said Fargo Brewing Company has been in business for a number of years, however, they have had the beer brewed in Wisconsin and shipped here. He said with the approval of this license, they would be able to brew the beer in Fargo and would work with a distributor to distribute the beer.

Commissioner Wimmer moved the Ordinance Enacting Section 25-1506.Y of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages, and an Ordinance Amending Sections 25-1507 and 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages be received and filed and placed on first reading at the next Regular Meeting of the Board.

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

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

Appropriate Staff Directed to Proceed with the Purchase of the Flatin and CVS Buildings:

The Board received a communication from City Administrator Pat Zavoral stating two properties within the City are for sale and have generated interest at the department level to seek Commission approval for purchase. He said the Flatin property located at 510 23rd Street North is a 150' by 267' parcel of land adjoining the bus maintenance facility and is the last remaining privately owned property on this block. City ownership, he said, would allow for future expansion needs of the maintenance facility. The asking price is \$135,000.00, he said, and the Finance and Transit staff have identified a source of funds for the purchase. A second site of interest, he said, is the CVS facility on 13th Avenue South and 25th Street South—formerly the Osco Drug/Sunmart facility. He said, it would be an ideal location for the Fargo Cass Public Health Department which currently is operating out of a building at 3rd Avenue and 4th Street in downtown Fargo with satellite sites throughout the community. Purchase of this building would allow for the consolidation of all Public Health functions under one roof, he said, resulting in more efficient administration and delivery of services to area citizens. He said a purchase price of \$3,000,000.00 has been negotiated with a closing in early 2013 and the Public Health Director and staff are working with a local architect to develop final plans (estimated to be between \$5 and \$6 million) for remodeling the structure with an anticipated construction schedule of 14 to 16 months. He said if this purchase is approved by the City Commission, the present Public Health facility will be repurposed in use with the Police Department and Assessor's Office given first chance at its utilization. The financing of the two aforementioned structures is envisioned to be part of a Facilities Capital Improvement Funding Plan, he said, that will include a City Hall, Police precinct station and Public Works facilities in south Fargo.

Mr. Zavoral said earlier this week an underground storage tank was discovered beneath the Flatin property; therefore, there will be an additional \$1,500.00 reduction as part of the demolition. He said the current Health building remodel will cost between \$1 and \$1.5 million and the intention is to bring the Assessor's office back into a City owned building.

Director of Public Health Ruth Bachmeier said Health Department staff is located in several locations throughout the city – with staff in eight main buildings, plus several individuals located in buildings throughout the City. The space available in the current building is about 29,000 square feet, she said. The space needed, with consolidating as many of the satellite locations as possible, with a little built in for expansion, would be about 46,000 square feet, she said. The vision for the renovation of the CVS site, she said, would be to consolidate as many public health services as possible under one roof with adequate meeting space and parking and with a staff of about 110, this would allow for about 80 staff to be consolidated into one building. She said this would be an ideal location as the population that they serve is no longer in the downtown area.

Chief of Police Keith Ternes said for some time now he has felt very strongly that there is a need for a police presence in the southern area of the City. He said as the City continues to grow further to the south it is becoming a more pressing issue to have a permanent presence in the far south part of the City. He said along with that fact is that the Police Department is out of space at the current location and the CVS site could not only provide a police presence, but also some space relief. He said he

envisions similar services that are provided in the downtown location to be provided at the CVS site and the future possibility of police officers reporting to that facility.

Commissioner Mahoney moved appropriate staff be directed to proceed with the purchase of the Flatin building for \$135,000.00 minus the \$1,500.00 for removal of an underground storage tank and move forward with demolition of the structure.

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

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

Commissioner Mahoney moved appropriate staff be directed to proceed with the purchase of the CVS building for \$3,000,000.00 and move forward with the rehabilitation of the structure.

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

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

Adjustment to the 2013 Budget to Provide Additional Funding for an Assistant Planner Position Approved:

The Board received a communication from Planning Director Jim Gilmour stating the 2013 City of Fargo budget approved in September required the reduction of two staff members in the Planning Department. He said the reductions are the result of decreases in federal housing and community development grants. The approved budget for 2013 included 11.5 positions, eliminating a Planner and an Assistant Planner position in the Community Development Division, he said. Due to the questions raised by City Commissioners on staffing levels, he said, he met with the Finance Committee to discuss the proposed cuts. He said he feels the highest need is to retain the Assistant Planner position in the Community Development Division at a cost to the general fund of approximately \$75,000.00.

Commissioner Sobolik moved the 2013 budget adjustment to provide additional funding for an Assistant Planner position in the Planning Department be approved.

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

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

City of Fargo Hardship Policy for Planned Acquisitions Approved:

The Board received a communication from City Engineer April Walker stating in September staff was approached by a property owner on the flood acquisition list with a request to accelerate their buyout due to an illness in the family. She said there is not a policy in place to recognize medical hardships; therefore, staff drafted a hardship policy modeled after the Diversion Authority Hardship Policy. She said the Finance Committee recommended implementation of the policy at its October 31, 2012 meeting.

Commissioner Wimmer moved the City of Fargo Hardship Policy for planned acquisitions be approved.

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

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

Item No. 6 Omitted:

Item No. 6 (Recommendation that staff be authorized to purchase Trap Bag at a cost not to exceed \$200,000.00) was omitted.

Discussion Regarding the Legislative Reception Being Held on Wednesday, December 12, 2012:

City Administrator Pat Zavoral stated the Cities of Fargo and West Fargo are co-sponsoring a Legislative Reception on Wednesday, December 12, 2012. He said the meeting will take place in the Commission room and will be the same layout as the last Legislative Reception. Mr. Zavoral went over the topics that will be discussed and said his goal is to have everyone out of the meeting in one hour.

Water Rate to the Fargo Park District for Making Snow on the Dike West Park Sledding Hill Approved:

The Board received a communication from the Utility Committee stating Public Works Operations Director Ben Dow presented the Committee with a memo and letter of request from the Fargo Park District related to snow making for the Dike West Park sledding hill. They said the request is for the City to donate the water required to make snow in an amount not to exceed 540,000 gallons. The dollar value of the donation would be approximately \$2,200.00, they said, based on the City's current rate for bulk water of \$4.00 per 1,000 gallons. However, they said, the actual incremental cost of producing this additional water is about \$.60 per 1,000 gallons which equates to \$324.00.

Mayor Walaker said he feels this is an underutilized facility; however, this cost should be Fargo Park District's, not the City of Fargo's.

Commissioner Wimmer said the hope is that if this is successful, that the Fargo Park District would take over the cost next year.

Commissioner Wimmer moved the water rate of \$.60 per 1,000 gallons to the Fargo Park District for making snow at the Dike West Park sledding hill be approved.

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

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

Commissioner Wimmer moved that the Board adjourn to 10:00 o'clock a.m., Monday, December 24, 2012.

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