

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:

Monday:

December 24, 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 10:00 o'clock a.m., Monday, December 24, 2012.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved moving Item "g" from the Consent Agenda to the end of the Regular Agenda.

Second by Sobolik. 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 10, 2012 be approved as read.

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

Consent Agenda Approved:

Commissioner Mahoney moved the Consent Agenda be approved as follows:

- a. Waive requirement for receipt of an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 25-3501 of Article 25-35 of Chapter 25 of the Fargo Municipal Code Relating to Secondhand Goods Dealers.
- b. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading 12/10/12:
  - (1) Amending Section 6-0105.A of Article 6-01 of Chapter 6 of the Fargo Municipal Code Relating to Pensions (Police Pensions).
  - (2) Amending Sections 6-0209 and 6-0218 of Article 6-02 of Chapter 6 of the Fargo Municipal Code Relating to Pensions (City Employees' Pensions).
  - (3) Enacting Section 3-0108 of Article 3-01 of Chapter 3 of the Fargo Municipal Code Relating to Investment of Funds.

- c. 1st reading of an Ordinance Enacting Section 25-1506.Y of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages (Establishing a Class "Y" license for a production brewery).
- d. 1st reading of 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 (Setting license fees for a Class "Y" License).
- e. Live Entertainment License for Quaker Steak & Lube at 1776 45th Street South.
- f. Renewal of gaming services contract with Terri Sprenger.
- g. Acceptance of offer to purchase property at 4332 Timberline Drive South for \$460,000.00 (moved to the end of the Regular Agenda).
- h. Request from Cass Clay Healthy People Initiative to hang banners in the skyway from 7/1/13 to 7/14/13 and from 8/11/13 to 8/25/13 to promote Streets Alive!
- i. Applications for tax exemptions for improvements made to buildings:
  - (1) Bruce and Dede Meidinger, 2909 Maple Street Northeast (3 year).
  - (2) John Jr. and Amy Johnson, 817 11th Street South (5 year).
  - (3) Debrah Maul, 338 21st Street North (5 year).
  - (4) Shawn and Nicole Lees, 801 15th Street South (5 year).
- j. Resolution in Support of the Adjusted Fargo-Moorhead Urbanized Area Boundary as approved by the Metro COG Policy Board (Attachment "A").
- k. Applications for Games of Chance:
  - (1) Disabled American Veterans, Francis J. Beaton Chapter 1, for a raffle on 5/9/13.
  - (2) NDSU Judging Club for a raffle on 3/9/13.
  - (3) Kari (Greuel) Anderson Benefit for a raffle on 2/2/13; Public Spirited Resolution.
  - (4) USA Wrestling of North Dakota for a raffle on 4/26/13.
- l. Lease Agreement with Swanston Equipment for use of two bobcats, one by the Fire Department and one by Buildings and Grounds, through 12/31/13.
- m. 2012/2013 hydrant guard contract award to Team Laboratory Chemical Corp. at a price of \$22.00 per gallon (\$66,000.00).
- n. Purchase of one front wheel assist tractor from RDO Equipment Company for \$48,900.00.
- o. Purchase of a compact track loader from the Minnesota State Equipment Contract for \$38,954.56.

- p. Chemical bid awards for the Wastewater Treatment Plant for 2013.
- q. Purchase Agreement – Permanent Easements for Michael and Elizabeth Rentfrow (Project No. 6043-02).
- r. Purchase Agreement – Permanent Easements for Brent Hella and Michelle Radke-Hella (Project No. 5958-02).
- s. Staff authorization to solicit proposals for professional auction services for buyout homes.
- t. Request for reimbursement, in the amount of \$7,423.98, to the property owners at 431 Harwood Drive for flood fight damages.
- u. Final Balancing Change Order No. 1, for an increase of \$2,058.90, for Project No. 6064.
- v. Bills in the amount of \$8,439,089.52.

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

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

Engineering Services Proposal from Lightowler Johnson Associates for Improvement District Nos. 6036 and 6165 Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating the Committee reviewed correspondence from Division Engineer Brenda Derrig related to an Engineering Services Proposal in the estimated amount of \$58,632.00. They said this proposal covers the design and construction inspection of a wear course project on 23rd Avenue South from 45th Street to Veterans Boulevard (Improvement District No. 6036), and a paving project on 51st Street South from 23rd Avenue South to Amber Valley Parkway (Improvement District No. 6165). They said Director of Engineering Mark Bittner suggested that staff work with the developer to create a developers agreement to spell out the terms of the projects, what the oversight fees will be and how they will be financed.

Commissioner Mahoney moved the Engineering Services Proposal from Lightowler Johnson Associates in the estimated amount of \$58,632.00 for Improvement District Nos. 6036 and 6165 be approved.

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

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

Final Balancing Change Order No. 1 for Project No. 6030 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$11,461.22 for Project No. 6030.

Second by Wimmer. On call of the roll Commissioners Mahoney, Wimmer, Williams, Sobolik 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. 6069 Approved:

Commissioner Mahoney moved approval of Final Balancing Change Order No. 1 for an increase of \$42,744.11 for Improvement District No. 6069.

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

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

Change Order No. 2 for Improvement District No. 6101-01 Approved:

Commissioner Mahoney moved approval of Change Order No. 2 for an increase of \$28,205.45 for Improvement District No. 6101-01.

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

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

Renaissance Zone Project for Westwind Properties, LLP Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Westwind Properties, LLP at 711 NP Avenue North.

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 Westwind Properties, LLP meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. He said the project is for the construction of a new 33-unit residential building. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by Westwind Properties, LLP for a project located at 711 NP Avenue North be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

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

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

Smoking Ban on the Entire Grounds of the Ground Transportation Center Approved:

The Board received a communication from Transit Administrator Julie Bommelman stating the MAT Coordinating Board is recommending smoking be banned on the entire grounds of the Ground Transportation Center (GTC). She said North Dakota's smoke-free law took effect December 6, 2012 and with the GTC being

frequented by patrons and employees of MATBUS, many of whom are smokers, under the new law they will be prohibited from smoking by the several air intake units, entrances and buses. Areas that are further than 20 feet around the GTC would be hazardous to allow smoking, she said, such as behind the buses and along the area where buses exit every fifteen minutes. She said the request is to ban smoking on the entire grounds of the GTC, effective immediately.

Commissioner Williams moved a smoking ban on the entire grounds of the Ground Transportation Center be approved, effective immediately.

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

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

Agreement for Downtown Business Improvement District Services and Materials Approved:

The Board received a communication from City Auditor Steve Sprague stating the City advertised for proposals for management of the Downtown Business Improvement District (BID) and the sole respondent was the Downtown Community Partnership. He said staff feels the Downtown Community Partnership is a responsible bidder and the contract for management of the BID should be awarded to the Downtown Community Partnership.

Commissioner Wimmer moved the agreement for Downtown Business Improvement District Services and Materials between the City of Fargo and the Downtown Community Partnership from January 1, 2013 through December 31, 2017 be approved.

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.

2013 Capital Improvement Plan Approved:

The Board received a communication from the Public Works Projects Evaluation Committee stating they reviewed and are recommending approval of the 2013 Capital Improvement Plan (CIP) Map and Project List prepared by City Engineer April Walker. They said the plan includes approximately \$100 million in Engineering Department Projects and an additional \$14 million in Water and Wastewater Improvements that have already been approved by the Commission. The 2013 Capital Improvement Plan, they said, includes the following:

Flood Control	\$69.6 million
Water Main and Street Reconstruction	\$ 9.1 million
Transportation/Traffic	\$11.7 million
Pavement Management	\$ 6.0 million
Water/Wastewater CIP	\$14.0 million
Other Projects	\$ 3.6 million

Commissioner Wimmer moved the 2013 Capital Improvement Plan be approved with the understanding that the projects need to come back to the Commission for final approval.

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

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

Offer to Purchase Property at 4332 Timberline Drive South Accepted: Appropriate Staff Directed to Put a Procedure in Place to Set a Firm Price Before Final Commission Approval:

The Board received a communication from Planning Director Jim Gilmour stating the residential property at 4332 Timberline Drive South was acquired by the City of Fargo to obtain right-of-way for a public infrastructure project. The infrastructure project was completed and the property was listed for sale with Dave Noah of REMAX Realty 1 on December 5, 2011, he said. An offer of \$460,000.00 has been received, he said, and reviewed by City Assessor Ben Hushka, Division Engineer Nathan Boerboom and him, and they are all recommending acceptance of the offer. He said the potential buyer owns a home in the Oak Creek neighborhood that is being purchased by the City of Fargo for flood protection. As part of the purchase of the Oak Creek property, he said, the City of Fargo will pay off the Special Assessments on the property at 4332 Timberline Drive South.

Mr. Noah said another offer has come in for basically the same terms, but for \$15,000.00 more.

Rich Kaul, Oak Creek, said he currently lives in the Oak Creek neighborhood and is part of the buyout process in that neighborhood. He said he made an offer on the property last Thursday morning and kind of assumed it was a done deal, until he found out that another offer had come in late Sunday night. He said he is a little disappointed that can happen and change the direction of this deal. The house needs a lot of work, he said; however, he would be willing to raise his bid to \$480,000.00.

Robbie Quick, Realtor for Park Company Realtors, said she is representing the individuals who put in the late night bid. She said she does not know what is fair at this point as she does not have authorization to place a higher bid, however, they may be willing to pay more if given the chance.

City Administrator Pat Zavoral said he does not know if there is a real importance in selling the property at this time. He said he would suggest delaying the outcome until the first of the year and each party could submit a sealed bid, staff would then be directed to open the bids and see what transpires from there.

Commissioner Williams said he thinks this should be denied and a better process be put in place for these types of home sales.

Commissioner Wimmer said he thinks the Commission should approve the offer and move forward.

Mr. Noah said he has handled this offer exactly how Jim Gilmour explained it should be done and regardless of this home, the City could run into the same problem in the future. He said his suggestion for future offers is not to allow everyone to know the offer amount.

Nancy Shappell, 1314 3rd Street North, said she does not know why the City would want to accept a lesser offer for the property, as it is the Commissioners' responsibility to serve the public and she thinks that it would serve all of the community to get the most out of the property.

Commissioner Williams moved the offer to purchase property at 4332 Timberline Drive South for \$460,000.00 be denied and appropriate staff directed to put a procedure in place that sets a time certain for these offers.

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

Commissioners Wimmer and Walaker voted nay.

The motion was declared carried.

Commissioner Wimmer moved the offer from Rich Kaul to purchase property at 4332 Timberline Drive South for \$480,000.00 be accepted.

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

Commissioner Mahoney voted nay.

The motion was declared carried.

Commissioner Williams moved staff be directed to come up with a process to establish a firm price before coming to the Commission for final approval.

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

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

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 7, 2013.

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

The time at adjournment was 10:56 o'clock a.m.