

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Tuesday: February 19, 2013:

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, February 19, 2013.

The Commissioners present or absent were as shown following:

Present: Sobolik, Williams, Walaker.

Absent: Wimmer and Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved.

Second by Sobolik. 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 February 4, 2013 be approved as read.

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

Consent Agenda Approved:

Commissioner Williams moved the Consent Agenda be approved as follows:

- a. Purchase Agreement and Reciprocal Access Easement Agreement for the CVS building on 25th Street and 13th Avenue South.
- b. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Valley View Addition, Fargo, Cass County, North Dakota; 1st reading, 2/4/13.
- c. Six-month extension of the Bertrosa's Class "C" alcoholic beverage license.
- d. Resolution approving Plat of PTP Addition (Attachment "A").
- e. Contract for Employment agreement with Debbie Ensrud to be an Office Associate II for the Planning and Development Department.
- f. Leave without pay for Solveig Lund from April 8 through May 27, 2013.

- g. Health Department budget adjustment and grant from United Way of Cass-Clay in the amount of \$30,000.00 for nurse home visitation to first-time, limited income mothers and their families.
- h. Fire Department budget adjustment and contract with the North Dakota Division of Homeland Security for a grant in the amount of \$96,194.05 (CFDA #97.067).
- i. Fire Department budget adjustment and contract with the North Dakota Division of Homeland Security for a grant in the amount of \$46,977.45 (CFDA #97.067).
- j. Applications for five-year property tax exemptions for improvements made to buildings:
 - (1) Joyce Rude, 405 28th Avenue North.
 - (2) Steve Revland, 616 Elm Street North.
 - (3) Janet Feder, 716 8th Street South.
 - (4) Scott and Christine Gorder, 1006 4th Street North.
 - (5) Gerald and Wanda Regstad, 3302 Longfellow Road.
- k. Amended Site Authorization for The Arc Upper Valley, Inc. at JT's Bar and Lounge, d/b/a JT Cigarros.
- l. Applications for Games of Chance:
 - (1) St. Mary's Cathedral of Fargo for a raffle on 5/5/13.
 - (2) Outdoor Adventure Foundation for a raffle on 3/16/13.
 - (3) Red River Valley FSC for a raffle on 3/10/13.
 - (4) Clara Barton Hawthorne PTA for bingo and a raffle on 3/23/13.
- m. Purchase of one auto side load refuse packer in the amount of \$296,605.00 from Sanitation Products.
- n. Contract Amendment No. 2 with Houston Engineering, for an increase of \$39,710.67, for Project No. WA0903.
- o. Time extension and Final Balancing Change Order No. 3, for a decrease of \$3,606.67, for Project No. WA0903.
- p. Agreement for Special Improvements with PROffutt Limited Partnership for Improvement District No. 6171.
- q. Reimbursement of \$8,845.45 to Brekke Custom Homes for expenses associated with building over a previously disturbed area used for emergency flood fighting.
- r. NDDOT Cost Participation and Maintenance Agreement for Project No. 6208 to include the City cost share of \$2,667.00.

- s. Engineering Services Amendment #3 with Houston Engineering totaling \$341,900.00 for Project No. 5902.
- t. Bid advertisement for Project No. 6066.
- u. Bills in the amount of \$4,714,319.00.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

No Protests Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179:

The Statutory Resolution of Necessity for the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on January 14 and 21, 2013 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Williams moved that the Board declare that no protests have been filed to the construction of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

Bids Received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179:

The bids for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., February 13, 2013 and the bids were found to be as follows:

Master Construction Company, Inc. Bid:	Fargo, ND \$793,339.70
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$876,495.70
Shermans, LLC Bid:	West Fargo, ND \$898,555.73
Dakota Underground Company Bid:	Fargo, ND \$902,458.95
H & S Contracting Bid:	Moorhead, MN \$941,333.38

Border States Paving, Inc.	Fargo, ND
Bid:	\$951,285.10

Northern Improvement Company	Fargo, ND
Bid:	\$976,533.10

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179 Awarded to Master Construction Company, Inc. in the Amount of \$793,339.70:

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received February 13, 2013 for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179 shows the bid of Master Construction Company, Inc. of Fargo, North Dakota, in the sum of \$793,339.70 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Master Construction Company, Inc. in the sum of \$793,339.70 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 6179 in the City of Fargo, North Dakota, be and the same is hereby awarded to Master Construction Company, Inc. for the sum of \$793,339.70, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The Resolution was adopted.

Asphalt Wearing Course and Incidentals Improvement District No. 6182 (Various Locations in South Fargo):

Commissioner Williams moved the following action be taken in connection with Asphalt Wearing Course and Incidentals Improvement District No. 6182:

Adopt Resolution Creating Improvement District No. 6182:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6182 in the City of Fargo, North Dakota, be created

On Pierce Street South from 36th Avenue South to 37th Avenue South.
On Lincoln Street South from 36th Avenue South to 37th Avenue South.

On 37th Avenue South from Fillmore Street South to 45th Street South.

On Village Lane South from 38th Avenue South to 40th Avenue South.

On 38th Avenue South from 45th Street South to Village Lane South, plus a 142' extension west of Village Lane South.

On 47th Street South from 47th Avenue South to 52nd Avenue South.

On 47th Avenue South west of 47th Street South.

On 48th Avenue South west of 47th Street South.

On Lavonne Court South west of 47th Street South.

On 47th Avenue South from 53rd Street South to 51st Street South.

On 48th Avenue South from 53rd Street South to 51st Street South.

On 49th Avenue South from 53rd Street South to 50th Avenue South.

On 50th Avenue South from 53rd Street South to 51st Street South.

On 51st Street South from 47th Avenue South to 50th Avenue South.

On 52nd Street South from 47th Avenue South to 48th Avenue South.

On Harvest Drive South from 47th Avenue South to 48th Avenue South.

On 53rd Street South from 47th Avenue South to 52nd Avenue South.

On 51st Avenue South from 53rd Street South to Veterans Boulevard.

On NDSU Research Park Drive North from 18th Street North to 17th Avenue North.

COMPRISING:

Lots 1 through 3, Block 1, Inclusive.

Lots 1 through 11, Block 3, Inclusive.

Lots 1, 3 through 9, Block 4, Inclusive.

All in Vista Village Addition.

Lots 2, 4 through 8, 12 through 75, Block 1.

All in Vista Village 2nd Addition.

Lots 1 through 3, Block 1, Inclusive.

All in Vista Village 3rd Addition.

Lots 1, 3 through 5, Block 1.

All in Vista Village 4th Addition.

Lots 1 through 10, Block 1, Inclusive.

Lots 1 through 2, Block 2, Inclusive.

Lots 2 through 7, Block 3.

All in Town Square Village Addition

Lot 1, Block 1, Inclusive.

All in Town Square Village 2nd Addition.

Lots 1 through 119, Block 1, Inclusive.

Lots 1 through 24, Block 2, Inclusive.
Lots 1 through 20, Block 3, Inclusive.
Lots 1 through 48, Block 4, Inclusive.
Lot 3, Block 5.
Lot 1, Block 6.
All in Osgood Townsite 7th Addition.

Lots 3 through 5, Block 1.
All in Osgood Townsite 8th Addition

Lots 1 through 4, Block 1.
All in Osgood Townsite 9th Addition.

Lots 1 through 31, Block 1, Inclusive.
Lots 1 through 11, Block 2, Inclusive.
Lots 1 through 15, Block 3, Inclusive.
Lots 1 through 19, Block 4, Inclusive.
Lots 1 through 14, Block 5, Inclusive.
All in South Forty at Osgood.

Lots 1 through 38, Block 1, Inclusive.
Lots 1 through 34, Block 2, Inclusive.
Lots 1 through 6, Block 3, Inclusive.
All in South Forty at Osgood 2nd Addition.

Lots 17 through 19, Block 1.
Lots 7 through 23, Block 3.
Lot 59, Block 5.
All in Veterans Park 1st Addition.

Lots 1 through 9, Block 1, Inclusive.
Lots 1 through 5, Block 2, Inclusive.
All in Rocking Horse East 2nd Addition.

Lots 1 through 13, Block 1, Inclusive.
All in Commerce on 52nd 1st Addition.

Lots 1 through 3, Block 1, Inclusive.
Lots 1 through 5, Block 2, Inclusive.
All in NDSU Research and Tech Park 1st Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota

NOW, THEREFORE, BE IT RESOLVED, That Asphalt Wearing Course and Incidentals Improvement District No. 6182 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. 6182:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6182 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 \$1,009,800.00.)

Order Plans and Specifications for Improvement District No. 6182:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6182 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6182:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6182 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. 6182 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 Asphalt Wearing Course 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 Asphalt Wearing Course and Incidentals Improvement District No. 6182 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 Asphalt Wearing Course and Incidentals must be in writing and must be filed with the City Auditor's Office within 15 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. 6182:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6182 in the City of Fargo, North Dakota.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

(Commissioner Mahoney present)

Flat Residential Sewer Rate for the Fargo Park District Warming Houses Approved:

The Board received a communication from the Utility Committee stating Enterprise Director Bruce Grubb received a memo from the Fargo Park District requesting elimination of the monthly sewer fees at the District's warming houses. They said the District has 16 warming houses that have water services ranging in size from 1" to 1 1/2" and as such, the houses get charged a monthly fee for water and sewer service. Some of the warming houses, they said, are charged a "flat" residential sewer rate while others are charged a "volumetric" commercial sewer rate. They said the District's request is based on a minimal amount of water being returned to the sewer at each location from a single toilet and sink at each warming house. They said most of the water used at the warming houses is to flood ice rinks in the winter and water trees in the summer. They said they discussed the following three options with respect to the District's request:

1. Keep the current monthly sewer rate as is.
2. Assign a "flat" residential sewer rate to all the warming houses.
3. Eliminate the monthly sewer rate for all the warming houses.

Commissioner Williams moved a flat residential sewer rate for the Fargo Park District warming houses be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Emergency Generator Upgrades at the Water Treatment Plant and Wastewater Treatment Plant Approved:

The Board received a Report of Action from the Utility Committee stating Enterprise Director Bruce Grubb presented a memo and price quote for upgrading the emergency generators at the Water Treatment Plant (WTP) and Wastewater Treatment Plant (WWTP). Both generators are under peak shaving (load shedding) agreements with Xcel Energy, they said, which has resulted in annual electricity savings of approximately \$30,000.00 (WTP) and \$10,000.00 (WWTP). They said the EPA recently adopted new National Emission Standards for the Hazardous Air Pollutants (NESHAP) and upgrades are necessary for the generators to be compliant with the EPA's NESHAP and to maintain eligibility in the peak shaving program. To

terminate the peak shaving agreements, Xcel Energy requires a 3-year advance notice, they said, and without that notice, the City would be required to pay back the previous 18-months of accrued savings, approximately \$45,000.00 (WTP) and \$15,000.00 (WWTP). They said the upgrades are not funded in the Water Treatment fund; therefore, it is recommended to fund the upgrades in the respective 2013 Infrastructure Sales Tax Budgets. They said the price quotes for the generator upgrades are \$56,961.00 for the WTP Generator and \$44,418.00 for the WWTP Generator.

Commissioner Williams moved the emergency generator upgrades at the Water Treatment and the Wastewater Treatment Plants be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application Filed by Wisent II Properties, LLC for a Ten-Year Payment in Lieu of Tax Exemption (PILOT) Approved:

A Hearing had been set for this day and hour on an application filed by Wisent II Properties, LLC for payment in lieu of property tax exemption for operation of rental property at 1017 and 1021 16th Street North.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

The Board received a communication from Planning Director Jim Gilmour stating the developer has requested PILOT assistance for a 12 unit townhome style apartment project to be built at 1017 and 1021 16th Street North. The request was reviewed by the City's financial advisors, he said, and the report concluded that the project would unlikely be feasible without assistance. The Finance Committee recommends approval of a maximum of \$176,636.00 of PILOT assistance, he said, with the PILOT exemption to be for a maximum of 10 years. He said City policy calls for a five percent administrative fee, which increases the amount to \$183,367.00.

Commissioner Sobolik moved that the application filed by Wisent Properties LLC for a ten-year payment in lieu of tax exemption in the amount of \$183,367.00 pursuant to Chapter 40-57.1, NDCC be approved.

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

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Legislative Update:

City Administrator Pat Zavoral provided a summary of the hearings taking place this week.

City Assessor Ben Hushka reviewed the bills he is personally tracking and tracking for the State Assessor's Association.

Commissioner Sobolik moved that the Board adjourn to 5:00 o'clock p.m., Monday, March 4, 2013.

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

The time at adjournment was 5:40 o'clock p.m.