

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

Regular Meeting:                                      Monday:                                      January 20, 2014:

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, January 20, 2014.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Mahoney moved the Order of the Agenda be approved.

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

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on January 6, 2014 be approved as read.

Second by Sobolik. 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. 2nd reading, waive reading and final adoption of Ordinances Rezoning Certain Parcels of Land Located in the following Additions; 1st reading, 1/6/14:
  - (1) James Holes Subdivision, Fargo, Cass County, North Dakota.
  - (2) Anderson Park Second Addition, Fargo, Cass County, North Dakota.
- b. Waiver of Service and Complaint in the matter of Highland Park Properties, LLC v. City of Fargo.
- c. First Amendment to the Lease Agreement with BOAS Northport LLC for the Northport Branch Library location.
- d. Contract with Cass County Social Services for the provision of in home services to eligible individuals in Cass County.
- e. Purchase of Service Agreement with the North Dakota Department of Health for HIV Counseling, Testing and Referral (CFDA #93.940).

- f. Agreement with Patricia J. Pederson for transcription services for the nursing program.
- g. Employment Agreement with Jennifer Hirschert to be a Transit Reservationist.
- h. 26th Avenue South Easement Agreement for Anderson Park Second Addition.
- i. Applications for property tax exemptions for improvements made to buildings:
  - (1) Cheryl and John Koch, 2002 25 1/2 Avenue South (3 year).
  - (2) Nathan Larson, 819 8th Avenue North (5 year).
- j. Applications for Games of Chance:
  - (1) Disabled American Veterans, Fargo Chapter 1 for a raffle on 5/8/14.
  - (2) Dakota Medical Foundation (Lend A Hand) for a raffle on 1/24/14; Public Spirited Resolution.
  - (3) North Central Turf Grass Association for a raffle on 2/27/14.
- k. Junk vehicle removal services agreement with Hazer's Auto and Truck Parts, Inc. for 2014.
- l. Agreement for Special Improvements Master Security:
  - (1) Corn II, LLC (Deer Creek Addition)
  - (2) J & O Real Estate, LLC (Ashwood 4th Addition)
- m. Bid advertisements for Project Nos. HD-14-0, HD-14-1 and HD-14-2.
- n. Contract and bond for Project No. 6172-03.
- o. Bills in the amount of \$4,002,100.37.

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.

Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-5 (West 29th Addition):

Commissioner Mahoney moved the following action be taken in connection with Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-5:

Adopt Resolution Creating Improvement District No. PN-14-5:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. PN-14-5 in the City of Fargo, North Dakota, be created

On 24th Avenue South between 41st Street and 42nd Street South.

On 41st Street South between 24th Avenue and 26th Avenue South.

COMPRISING

Lot 1, Block 1.

All in West 29 4th Addition.

The unplatted parcel adjacent to 24th Avenue South and 41st Street South.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-5 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. PN-14-5:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. PN-14-5 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 \$513,875.00.)

Order Plans and Specifications for Improvement District No. PN-14-5:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. PN-14-5 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. PN-14-5:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. PN-14-5 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. PN-14-5 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights and Incidentals Improvement District No. PN-14-5 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 Concrete Curb and Gutter, Asphalt Pavement, Street Lights 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. PN-14-5:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. PN-14-5 in the City of Fargo, North Dakota.

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.

Amended Resolutions Changing Improvement District No. 6111 to PN-14-7 and No. 6240 to UN-14-0 Approved:

The Board received a communication from City Engineer April Walker stating the Engineering Department has changed the numbering scheme for projects and improvement districts to be bid in 2014. She said there are two improvement districts to be bid in 2014 that were created in 2013 using the old numbering system. She said they would like to change Improvement District No. 6111 to PN-14-7 and Improvement District No. 6240 to UN-14-0. She said the City Attorney has provided amendments to the Resolutions that originally created the improvement districts.

Commissioner Mahoney moved the amended Resolutions changing Improvement District No. 6111 to PN-14-7 and Improvement District No. 6240 to UN-14-0 be approved and attached to the Resolutions that originally created the improvement districts (Attachment "A" and Attachment "B").

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.

Contract Language Added to the Management and Concession Agreement Between the Fargo Dome Authority and Global Spectrum, LP Approved:

The Board received a communication from City Attorney Erik Johnson stating a three-year extension of the Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP was approved at the December 23rd meeting, subject to a change in the language to provide three one-year extensions rather than a single three-year extension. Discussions with Global Spectrum did not find mutually acceptable language regarding said three one-year extensions, he said,

and contract language has been proposed that provides automatic annual renewals, subject to the right of the City to terminate the agreement before an annual renewal date, with a prior 90 day notice. He said such language provides:

“The Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP, effective as of January 1, 2011 is hereby extended through a period ending December 31, 2014. Said Agreement shall be automatically extended for successive one-year periods ending December 31, 2015 and 2016, respectively, unless written notice to Manager at least ninety (90) days prior to the end date of each such one-year period.”

Mr. Johnson said Global Spectrum would like greater assurance that the contract would not be terminated without cause unless it is related to the need for shared management of a second facility and suggests language as follows:

“The Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP, effective as of January 1, 2011 is hereby extended through a period ending December 31, 2014. Said Agreement shall be automatically extended for successive one-year periods ending December 31, 2015 and 2016, respectively, unless the City, acting through the Board of City Commissioners, determines that a second (in addition to the Fargodome building) City-owned facility is to be constructed, such construction will be complete prior to the expiration of any of the said one-year extension periods and the City wishes the two facilities will be under joint management and the City provides written notice to Manager at least ninety (90) days prior to the end date of each such one-year period.”

Fargo Dome Authority President Deb Mathern said Global Spectrum is currently working without a contract which lends some uncertainty to Fargodome management. While Global Spectrum is agreeable to a year-to-year clause and the 90-day notice, she said, they would like to include the language that termination would be in the case of a second facility being built.

Fargodome Manager Rob Sobolik stated it would be difficult from both a business continuity standpoint and for job security to have a contract that can be cancelled at will with a 90-day notice. He said he sees three possibilities should the City change the management of City-owned facilities: Global Spectrum could be approached to also manage the Civic Center; Global Spectrum could continue under the current contract with existing Civic Center staff managed under a different agreement; or a full RFP could be done. He said if the contract is changed to a year-to-year agreement the dollar amount could change as well.

Commissioner Wimmer stated it seems best to be flexible until the options can be explored.

In response to a question from Commissioner Mahoney about penalties, Mr. Johnson said if the language Global Spectrum seeks is included in the contract, there would be a breach of contract if it is terminated in advance without cause, unless a second City-owned facility is built.

Commissioner Williams said having options is important for flexibility and there will be further discussions regarding facilities, potential efficiencies and combined management, regardless of the decision made tonight. He suggested the contract language Mr. Johnson proposes for three successive one-year agreements be offered to Global Spectrum.

Commissioner Mahoney said the proposed change in the contract is not a reflection on Global Spectrum; rather it is the result of discussions about combining

management for better utilization of facilities and human resources. He said the intent is to retain flexibility with the Civic Center and not be tied into a three-year contract. The planning process for the new City Hall showed support for downtown facilities and a need for more convention space, he said.

Mayor Walaker said this started with discussions on a new City Hall and working to save the Civic Auditorium. He said with the new City Hall design still in its early stages, many variables remain. He said the City Commission will work closely with the Fargo Dome Authority prior to decisions being made.

Commissioner Williams moved the following contract language be approved: "The Management and Concession Agreement between the Fargo Dome Authority and Global Spectrum, LP, effective as of January 1, 2011 is hereby extended through a period ending December 31, 2014. Said Agreement shall be automatically extended for successive one-year periods ending December 31, 2015 and 2016, respectively, unless the City provides written notice to the Manager at least ninety (90) days prior to the end date of each such one-year period."

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

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

City Administrator Pat Zavoral said it would be best to form a committee with two elected officials and appropriate staff to meet with Fargodome representatives.

Commissioner Mahoney moved that a committee be established consisting of two City Commissioners and appropriate staff to work with Fargodome representatives on forming a closer management and operations arrangement.

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

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

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, February 3, 2014.

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

The time at adjournment was 5:28 o'clock p.m.