

BOARD OF CITY COMMISSIONERS  
Fargo, North Dakota

**Regular Meeting: Monday: November 16, 2009:**

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, November 16, 2009.

The Commissioners present or absent were as shown following:

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

Absent: None.

Mayor Walaker presiding.

**Order of Agenda Approved:**

Commissioner Piepkorn moved the Order of the Agenda be approved.

Second by Mahoney. 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 November 2, 2009 be approved as read.

Second by Mahoney. 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 the following rezoning Ordinances; 1st reading, 11/2/09:
  - (1) Certain Parcels of Land Lying in J Starr Second Subdivision, Cass County, North Dakota.
  - (2) Certain Parcels of Land Lying in Mehl First Addition to the City of Fargo, Cass County, North Dakota.
- b. Receive and file Summons and Complaint in the matter of Progressive Direct Insurance Company vs. the City of Fargo et al.
- c. Receive and file Notice of Appeal filed by Fred M. Hector, Jr. vs. the City of Fargo.
- d. Receive and file Year to Date – Budget to Actual Report for October 2009.
- e. Engagement letter with Eide Bailly, LLP for auditing services for the 2009-2011 calendar years.

- f. Cable franchise fee auditing services contract with Lewis & Associates for 2005, 2006 and 2007.
- g. Two year contract extension with Alltel for wireless phone services.
- h. Agreements with LilyCare Clinic and Octus, Inc. and MeritCare Health System for H1N1 vaccinations.
- i. Contracts for the Tobacco Prevention and Control Program.
- j. Applications for Games of Chance:
  - (1) Muskies, Inc. F-M Chapter for a raffle on 2/5/10.
  - (2) North Dakota Autism Center, Inc. for a raffle on 1/30/10.
  - (3) Fargo Motor Patrol, Inc. for a raffle on 2/5/10.
  - (4) Fargo All City Youth Hockey: Girl's Program for a raffle on 1/9/10.
- k. Contract for bailiff services for 2010.
- l. Mutual Aid Agreement with Cass and Clay County law enforcement.
- m. Appointment of Julie Hinkel as a special police officer for NDSU.
- n. Addendum to Agreement with the Fargo School District for janitorial services.
- o. Purchase of laboratory equipment for the Water Treatment Plant.
- p. Priority list for 2011 Transportation Enhancement Project applications.
- q. Purchase Agreement with JP Everist, Sr. Marital Trust for temporary/permanent sanitary sewer easements for Improvement District No. 5726.
- r. Encroachment Agreement with AMVETS, Jon A. Greenly, Post #7 at 1001 1st Avenue South.
- s. Temporary Construction and Permanent Easements with Southeast Cass Water Resource District for the Drain 27 improvement project.
- t. Engineering Services Contract Amendment in the amount of \$114,500 for Project No. 5073.
- u. Contract Amendment No. 3 with KLJ in the amount of \$37,452 for Project No. 5798.
- v. Concurrence with the NDDOT bid awards for Project Nos. 5574 in the amount of \$528,547.80 and 5701 in the amount of \$746,743.94.
- w. Change Order No. 1 for an increase of \$9,737.73 for Project No. 5854.

- x. Contract and bond for the General Construction of the skyway replacement project.
- y. Contracts and bonds for Project Nos. 5897-2, 5902 and 5909.
- z. Bills in the amount of \$11,897,158.56.

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

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

**Skyway and Incidentals Improvement District No. 5910 (Skyway Adjacent to US Bank Building at 505 2nd Avenue North):**

Commissioner Mahoney moved the following action be taken in connection with Skyway and Incidentals Improvement District No. 5910:

**Adopt Resolution Creating Improvement District No. 5910:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5910 in the City of Fargo, North Dakota, be created

Skyway adjacent to US Bank Building at 505 2nd Avenue North.

**COMPRISING:**

Lots 10, 11, 12 and 13.

All in Keeney & Devitts First Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Skyway and Incidentals Improvement District No. 5910 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. 5910:**

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5910 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 \$369,750.00)

**Order Plans and Specifications for Improvement District No. 5910:**

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5910 in the City of Fargo, North Dakota.

**Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5910:**

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5910 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. 5910 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 Skyway 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 Skyway and Incidentals Improvement District No. 5910 in the City of Fargo, North Dakota, according to 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.

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 Skyway 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. 5910:**

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5910 in the City of Fargo, North Dakota.

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

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

**First Reading of an Ordinance Relating to City Street Lighting System Utility:**

The Board received a communication from Director of Finance Kent Costin submitting a proposed street lighting utility Ordinance as detailed and approved in the 2010 budget. The Budget Review Team as well as the Finance Committee, he said, agrees that the long term impact of having a street lighting utility is beneficial to operations as energy costs continue to climb over time. He stated North Dakota

Century Code enables the creation of a street lighting utility and some cities have already established or are in the process of establishing such a utility as authorized.

In response to a question from Commissioner Mahoney regarding the cost of the service, Mr. Costin stated a \$4.00 per month charge would be added to City residents' utility bills.

In response to a question from Commissioner Williams regarding more green lighting in the City, Mr. Costin stated the public has the ability to weigh in on the type of street light that is installed. A petition would be done by the residents and approved by Special Assessments, he said.

Commissioner Wimmer moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Enacting Article 38-01 of Chapter 38 of the Fargo Municipal Code Relating to City Street Lighting System Utility be placed on first reading.

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.

#### **David Obermiller Appointed to the Board of Appeals:**

The Board received a communication from Mayor Walaker recommending that David Obermiller be appointed to the Board of Appeals to fill the unexpired term of Randy Buth who resigned.

Commissioner Mahoney moved the appointment of David Obermiller to the Board of Appeals for the term ending June 30, 2014 be approved.

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

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

#### **Linda Klebe and Steve Stoner Reappointed to the Community Development Committee:**

The Board received a communication from Mayor Walaker recommending that Linda Klebe and Steve Stoner be reappointed to the Community Development Committee.

Commissioner Mahoney moved the reappointment of Linda Klebe and Steve Stoner to the Community Development Committee for terms ending December 31, 2012 be approved.

Second by Wimmer. On call of the roll Commissioners Mahoney, Wimmer, Williams, Piepkorn 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, November 30, 2009.

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

The time at adjournment was 5:14 o'clock p.m.