

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: February 23, 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, February 23, 2009.

The Commissioners present or absent were as shown following:

Present: Mahoney, Piepkorn, Williams (via conference call), 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 February 9, 2009 be approved as read.

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

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 2/9/09:
 - (1) Amending Article 25-36 of the Fargo Municipal Code Relating to Re-Roofing Contractors.
 - (2) Rezoning Certain Parcels of Land Lying in Hectors Subdivision to the City of Fargo.
 - (3) Ordinance Amending Section 20-0609 of Article 20-06 of Chapter 20 of the Land Development Code Relating to Sidewalks.

- b. PEC recommendations as follows:

Information Services

Request to revise, separate and re-title the Programmer/Analyst I, II, III job descriptions to more accurately reflect the assigned duties within IS effective immediately. Cost of request: \$0

PEC recommends approval to separate and re-title the IS job descriptions effective immediately.

Request to add two FTE's including positions equivalent to a Programmer/Analyst II (C41) and Programmer/Analyst III (C43) to support new RRRDC software system effective immediately. Positions will be funded by RRRDC. Annual cost of request: \$0

PEC recommends approval to add two FTE's equivalent to a Programmer/Analyst II (C41) and Programmer/Analyst III (C43) to support new RRRDC software system effective immediately.

Central Garage

Request to reclassify one Maintenance Attendant I (A12-2 paid at A13) position to a Maintenance Attendant II (B21-2 paid at B22) in Transit effective immediately. Annual cost of request: \$5,121

PEC recommends approval to reclassify one Maintenance Attendant I (A12-2 paid at A13) position to a Maintenance Attendant II (B21-2 paid at B22) in Transit effective immediately.

Engineering

Request for out-of-grade pay (from D73 Step 4 to E81 Step 5) for the Senior Storm Sewer Utility Engineer (April Walker) due to the South Side Flood Control (SSFC) project effective immediately. Annual cost of request: \$5,275

PEC recommends approval for out-of-grade pay (from D73 Step 4 to E81 Step 5) for the Senior Storm Sewer Utility Engineer (April Walker) due to the South Side Flood Control (SSFC) project effective retroactively to January 1, 2009.

Planning

Request to add one FTE grant-funded contract position, Housing Rehabilitation Specialist (C43-2 paid at C51) for the Neighborhood Stabilization Program upon award of grant funds to the City of Fargo. Annual cost of request: \$0

PEC recommends approval to add one FTE grant-funded contract position, Housing Rehabilitation Specialist (C43-2 paid at C51) for the Neighborhood Stabilization Program upon award of grant funds to the City of Fargo.

- c. Amended contract with Garrison Enterprises, Inc. in connection with completion date of software installation for Fargo Cass Public Health.
- d. Contracts with Traill, Barnes and Steele Counties for the Women's Way recruitment program.
- e. Receive and file Summons and Complaint in the matter of Cheryl Plante vs. City of Fargo.

- f. Sixty day extension of the Class "FA" Alcoholic Beverage License held by Up the Creek until April 8, 2009.
- g. Applications for property tax exemptions for improvements made to buildings:
 - (1) Duane and Bonnie Sondeland, 2837 Maple Street North (3 year).
 - (2) Eileen Johnson, 349 Elmwood Avenue South (5 year).
 - (3) Gary and Lanette Markel, 1446 16 1/2 Street South (5 year).
 - (4) Kelly Hamilton, 1001 5th Street North (5 year).
- h. Applications for Games of Chance:
 - (1) MDA "Old Fashioned Motorcycle Run" for a raffle on 5/30/09.
 - (2) Red River Valley Figure Skating Club for a raffle on 3/15/09.
 - (3) F-M Walleyes Unlimited, Inc. for a raffle on 4/16/09.
 - (4) Susan Wedberg Benefit for a raffle on 3/13/09; Public-Spirited Resolution.
 - (5) Lincoln Elementary School for bingo and a raffle on 4/4/09.
 - (6) Metro Area Mayors Committee for People with Disabilities for a raffle on 4/30/09; Public-Spirited Resolution.
- i. Purchase Agreement for permanent right-of-way/temporary construction easement from Riverview Place, Inc. (Improvement District No. 5601).
- j. Purchase Agreement for permanent right-of-way/utility/Moorhead Public Service easements from Borg Properties 45th, LLC (Improvement District No. 5803).
- k. Bid award for Main Library signage to SDDI Sign Systems in the amount of \$83,855.37.
- l. Xcel Energy Relocation Agreement at 32nd Avenue South west of 45th Street.
- m. Contract time extension for Project No. 5828.
- n. Advertise for bids for Project No. 5866.
- o. Contract and bond for Project No. 5726.
- p. Bills in the amount of \$2,343,884.20.

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

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

P.C. Concrete Alley Paving & Incidentals Improvement District No. 5858 (Chandlers Broadway Addition):

Commissioner Piepkorn moved the following action be taken in connection with P.C. Concrete Alley Paving & Incidentals Improvement District No. 5858:

Adopt Resolution Creating Improvement District No. 5858:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5858, in the City of Fargo, North Dakota, be created

From 16th to 17th Avenue North between 9th Street and 10th Street, in Block 11 of Chandler's Broadway Addition.

COMPRISING:

Lots 1 through 11 and 14 through 24, inclusive, Block 11.
Chandler's Broadway Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving & Incidentals Improvement District No. 5858, 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. 5858:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5858, 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 \$80,000.00)

Order Plans and Specifications for Improvement District No. 5858:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5858, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5858:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5858, 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. 5858, 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 P.C. Concrete Alley Paving & 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 P.C. Concrete Alley Paving & Incidentals, Improvement District No. 5858 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 P.C. Concrete Alley Paving & 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. 5858:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5858, in the City of Fargo, North Dakota.

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

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

Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks & Incidentals Improvement District No. 5703 (West Portion of Woodhaven 5th Addition):

Commissioner Piepkorn moved the following action be taken in connection with Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks & Incidentals Improvement District No. 5703:

Adopt Resolution Creating Improvement District No. 5703:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5703, in the City of Fargo, North Dakota, be created

This project is for the installation of concrete curb & gutter, asphalt pavement, street lights, sidewalks & incidentals at the location described as follows:

On Loden Court South, Woodhaven Drive South, 43rd Street South & 44th Street South from 49th Avenue South to 52nd Avenue South.

This project also includes sidewalk on the south side of 49th Avenue South from Woodhaven Street South to 45th Street South.

COMPRISING:

Lots 1 through 7, inclusive, Block 1.

Lots 1 through 38, inclusive, Block 2.

Lots 1 through 9, inclusive, Block 3.
Lots 1 through 9, inclusive, Block 4.
Lots 1 through 20, inclusive, Block 5.
Lots 1 through 11, inclusive, Block 6.
Lots 1 through 16, inclusive, Block 7.
Lots 1 through 12, inclusive, Block 8.
All in Woodhaven 5th Addition.

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

NOW, THEREFORE, BE IT RESOLVED, That Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks & Incidentals Improvement District No. 5703, 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. 5703:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5703, 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 \$605,000.00)

Order Plans and Specifications for Improvement District No. 5703:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5703, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5703:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5703, 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. 5703, 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 & Gutter, Asphalt Pavement, Street Lights, Sidewalks & 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 & Gutter, Asphalt Pavement, Street Lights, Sidewalks & Incidentals, Improvement District No. 5703 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 Concrete Curb & Gutter, Asphalt Pavement, Street Lights, Sidewalks & 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. 5703:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5703, in the City of Fargo, North Dakota.

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

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

Change Order No. 1 for Improvement District No. 5763 Approved:

Commissioner Piepkorn moved approval of Change Order No. 1 for an increase of \$6,647.78 for Improvement District No. 5763.

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

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

Professional Services Contract for Indigent Services (Tabled to February 23, 2009; Requested to be Continued to March 9, 2009):

The Chairman announced, that without objection, Professional Services Contract for Indigent Services be continued to March 9, 2009.

Amendment to the Transit Service Agreement with First Transit for Increased Management Services and GTC Dispatch Services Approved:

The Board received a communication from Planning Director Jim Gilmour stating staff have been working with First Transit to provide additional staff support for the operation of the public transportation system. He said additional staff time is for dispatch at the Ground Transportation Center and for supervisory staff. The additional staff at the Ground Transportation Center is needed, he said, because of the larger number of phone inquiries, more passengers purchasing passes and more questions on the service. The amendment, he said, will increase the dispatch weekly staff hours from 114 hours a week to 140 hours a week. This will provide, he said, a second staff person for over three hours in the morning and two hours in the afternoon, Monday through Friday. He stated additional supervisory staff is needed to train and supervise bus

drivers. The number of hours of paratransit service, he said, has increased by over 20,000 hours a year from what was estimated when the contract was agreed to in 2006. He stated Paratransit hours are 70% higher than expected and fixed route hours are 20% higher because of additional routes. Overall, he said, Fargo is operating 35 percent more hours than expected under the contract. The increase in supervisory staff will be from 2.5 staff to 3 full-time staff members, he said.

Mr. Gilmour said corrected cost figures were distributed to the Commission. The total increase for management services, he said, will be \$2,986.13/month and \$2,289.58/month for GTC Dispatch Services.

In response to a question from Commissioner Wimmer regarding the length of the contract, Mr. Gilmour said the contract will be ending at the end of this year. At that time, he said, there are a couple of options. He stated one would be to extend the contract for another year or two and the other option would be to get bids from other companies. He said he will want to get input from the Commission in the next couple of months as to the route that should be taken with the contract.

Commissioner Wimmer moved the amendment to the Transit Service Agreement with First Transit be approved.

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

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

Application Filed by Pizza Ranch 45th Street, Inc. d/b/a Pizza Ranch for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Pizza Ranch 45th Street, Inc. d/b/a Pizza Ranch for a Class "H" Alcoholic Beverage License at 4480 23rd Avenue South, Suite A, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

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

Application Filed by Kobe's Japanese Cuisine d/b/a Kobe's Japanese Cuisine for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Kobe's Japanese Cuisine d/b/a Kobe's Japanese Cuisine for a Class "FA" Alcoholic Beverage License at 4228 15th Avenue SW, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

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

Application to Transfer the Alcoholic Beverage License from B & D, Inc. d/b/a Sidestreet Grille & Pub to Spirit Properties, Inc. d/b/a Sidestreet Grille & Pub Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "ABH" Alcoholic Beverage License from B & D, Inc. d/b/a Sidestreet Grille & Pub at 301 3rd Avenue North to Spirit Properties, Inc. d/b/a Sidestreet Grille & Pub notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

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

Application to Transfer the Alcoholic Beverage License from Brent C. Olson d/b/a Norman's Prime Steaks and Seafood to Norman's Cattle and Fine Foods, LLC d/b/a Norman's Prime Steaks and Seafood Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Brent C. Olson d/b/a Norman's Prime Steaks and Seafood at 1776 45th Street South to Norman's Cattle and Fine Foods, LLC d/b/a Norman's Prime Steaks and Seafood notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

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

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

Special Assessment List for 2008 New Construction of City Ordered Sidewalks and Approaches Improvement District No. 5801 Approved:

A Hearing had been set for this day and hour on the special assessment list for the construction of 2008 New Construction of City Ordered Sidewalks and Approaches Improvement District No. 5801 in the City of Fargo, North Dakota, on

which special assessment list a Hearing had been held by the Special Assessment Commission after which it had been confirmed and filed with the Board of City Commissioners.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment list for the 2008 New Construction of City Ordered Sidewalks and Approaches Improvement District No. 5801 be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

Special Assessment List for 2008 Reconstruction of City Ordered Sidewalks and Approaches Improvement District No. 5802 Approved:

A Hearing had been set for this day and hour on the special assessment list for the construction of 2008 Reconstruction of City Ordered Sidewalks and Approaches Improvement District No. 5802 in the City of Fargo, North Dakota, on which special assessment list a Hearing had been held by the Special Assessment Commission after which it had been confirmed and filed with the Board of City Commissioners.

No appeals have been filed in writing against any item appearing on such special assessment list and no person is present at this Hearing to appeal or offer any objection thereto.

Commissioner Wimmer moved that the special assessment list for 2008 Reconstruction of City Ordered Sidewalks and Approaches Improvement District No. 5802 be and the same is hereby approved and confirmed and ordered filed in the office of the City Auditor, that the City Auditor's Office be instructed to proceed to collect the assessments in the manner provided by law and that the interest rate be set at 1% per annum over the net rate on bonds financing said projects.

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

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

2009 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the matrix indicating the 2009 Legislative Bills that the City supports and opposes.

Legislative lobbyist John Olson was introduced to the Commission. He also reviewed the 2009 Legislative Bills that the City supports and opposes.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, March 9, 2009.

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

The time at adjournment was 6:03 o'clock p.m.