

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: March 8, 2010:

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, March 8, 2010.

The Commissioners present or absent were as shown following:

Present: Piepkorn, Williams, Walaker.

Absent: Mahoney, Wimmer

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Piepkorn moved the Order of the Agenda be approved.

Second by Williams. 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 22, 2010 be approved as read.

Second by Piepkorn. 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. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Veterans Park First Addition to the City of Fargo, Cass County, North Dakota.
- b. Updates to the February 2010 City of Fargo Communication Policy.
- c. Request from the St. Patrick's Day Parade Committee to hang banners in the skyway from March 9th to March 15th to promote the St. Patrick's Day Parade.
- d. Application submittal for Round 2 of the Broadband Stimulus Grant Program.
- e. Health Department budget adjustment in the amount of \$3,943.00 and contract with the North Dakota Department of Health for the Baby and Me Program (Contract #G09-667).
- f. ND Department of Transportation grant funding for traffic safety equipment (CFDA #20.600).

- g. Applications for five-year property tax exemptions for improvements made to buildings:
 - (1) Mark Armstrong, 1230 2nd Street North.
 - (2) DJ and Claudia Meberg, 2849 2nd Street North.
 - (3) Theta and Wade Miller, 1349 7th Street South.
 - (4) Mark and Kaarin Lindquist, 816 2nd Street North.
 - (5) Helen (Zeng) Bjornstad, 1618 8th Street North.
 - (6) Roger and Charlotte Burnside, 1622 4th Street North.

- h. Applications for Games of Chance:
 - (1) Rosewood on Broadway for a raffle on 4/30/10.
 - (2) National Guard Association of North Dakota for a raffle on 3/13/10.
 - (3) North Dakota Bowhunters Assoc. for a raffle on 3/27/10.
 - (4) Metro Area Mayor's Committee for a raffle on 4/15/10.

- i. Change Order No. 8 for an increase of \$1,671.00 for the US Bank Demolition Project.

- j. Change Orders for the Skyway Reconstruction Project: No. 1 for an increase of \$6.00; No. 2 for an increase of \$6,362.00; No. 3 for an increase of \$13,730.00; No. 4 for an increase of \$3,326.00; No. 5 for an increase of \$3,823.00 and No. 6 for a decrease of \$4,526.00.

- k. Request for Proposals for emergency contractor assistance in connection with flood activities.

- l. Rental contracts for emergency flood pumps and skid steer loaders.

- m. Wind turbine interconnection study by Minnkota Power Cooperative in the amount of \$20,000.

- n. 25th Street South Corridor Study.

- o. Contract with TKDA in the amount of \$42,700.00 for Project No. 5683-06.

- p. Contract awards for consulting services to Houston Engineering, Inc. for Improvement District Nos. 5681-02 and 5925-01 and to KLJ for Improvement District No. 5908-03.

- q. City Share of Special Improvements funding in the amount of \$54,108 for BNSF Quiet Zone Maintenance for 2008 and 2009.

- r. Engineering Services Contract amendment in the amount of \$33,200 for Project No. 5246-02.

- s. Task Order with AE2S in the amount of \$835,130 for final design and bidding services related to the new GSR #1 and pump station.

- t. Change Order No. 6 for an increase of \$100,933 for Project No. 5726.
- u. Change Order No. 4, Part A for an increase of \$10,669.76 for Improvement District No. 5729.
- v. Change Order No. 9 for an increase of \$15,354.52 for Project No. 5798.
- w. Change Order No. 2 for an increase of \$23,381.30 for Project No. 5799.
- x. Advertisement for bids for Project Nos. 5921 and 5927.
- y. Contract and bond for the lighting upgrade project at the Island Park Parking Ramp.
- z. Bills in the amount of \$5,321,140.51.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

No Protests Received for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640:

The Statutory Resolution of Necessity for the construction of Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 1 and 8, 2010 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 Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

Bids Received for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640:

The bids for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, March 3, 2010 and the bids were found to be as follows:

Northern Improvement Company
Bid:

Fargo, ND
\$1,296,021.73

Aggregate Industries
Bid:

Moorhead, MN
\$1,355,989.28

Central Specialties, Inc. Alexandria, MN
Bid: \$1,361,140.13

Border States Paving, Inc. Fargo, ND
Bid: \$1,532,958.61

Contract for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640 Awarded to Northern Improvement Company in the Amount of \$1,296,021.73:

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 Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 3, 2010 for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640 shows the bid of Northern Improvement Company of Fargo, North Dakota, in the sum of \$1,296,021.73 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 Northern Improvement Company in the sum of \$1,296,021.73 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Wear Course, Mill and Overlay and Incidentals Improvement District No. 5640 in the City of Fargo, North Dakota, be and the same is hereby awarded to Northern Improvement Company for the sum of \$1,296,021.73, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Mahoney.

The Resolution was adopted.

No Protests Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907:

The Statutory Resolution of Necessity for the construction of Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 1 and 8, 2010 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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907.

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

Absent and not voting: Commissioners Wimmer and Mahoney.
The motion was declared carried.

Bids Received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907:

The bids for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., Wednesday, March 3, 2010 and the bids were found to be as follows:

Dakota Underground Company Bid:	Fargo, ND \$597,624.90
Kindred Plumbing and Heating, Inc. Bid:	Kindred, ND \$624,881.94
Shermans, LLC Bid:	West Fargo, ND \$628,487.21
Northern Improvement Company Bid:	Fargo, ND \$667,380.53
Central Specialties, Inc. Bid:	Alexandria, MN \$675,058.95
Master Construction Company, Inc. Bid:	Fargo, ND \$678,166.60
United Crane and Excavation, Inc. Bid:	Grand Forks, ND \$686,028.88
Northdale Construction Bid:	Albertville, MN \$708,252.40
LaTour Construction, Inc. Bid:	Maple Lake, MN \$714,927.58
Border States Paving, Inc. Bid:	Fargo, ND \$723,323.28
George E. Haggart, Inc. Bid:	Fargo, ND \$725,997.65
Rising Sun Construction, Inc. Bid:	Fargo, ND \$730,082.85
Kuechle Underground Bid:	Kimball, MN \$764,521.44

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 Awarded to Dakota Underground Company in the Amount of \$597,624.90:

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 Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 3, 2010 for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 shows the bid of Dakota Underground Company of Fargo, North Dakota, in the sum of \$597,624.90 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 Dakota Underground Company in the sum of \$597,624.90 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 5907 in the City of Fargo, North Dakota, be and the same is hereby awarded to Dakota Underground Company for the sum of \$597,624.90, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Mahoney.

The Resolution was adopted.

Bids Received for Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4:

The bids for Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4 in the City of Fargo, North Dakota were opened by NDDOT on February 19, 2010 and the bids were found to be as follows:

Industrial Builders, Inc. Bid:	Fargo, ND \$7,669,060.89
Northern Improvement Company Bid:	Fargo, ND \$7,780,400.69
Upper Plains Contracting, Inc. Bid:	Aberdeen, SD \$7,790,006.94

Wanzek Construction, Inc.
Bid:

Fargo, ND
\$7,992,837.78

Strata Corporation
Bid:

Grand Forks, ND
\$8,436,301.30

Contract for Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4 Awarded to Industrial Builders, Inc. in the Amount of \$7,669,060.89:

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 Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received February 19, 2010 for Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4 shows the bid of Industrial Builders, Inc. of Fargo, North Dakota, in the sum of \$7,669,060.89 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 Industrial Builders, Inc. in the sum of \$7,669,060.89 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Grading, Surfacing, Storm Drain, Structural, Signals, Lighting, Marking and Incidentals Improvement District No. 5700, Phase 4 in the City of Fargo, North Dakota, be and the same is hereby awarded to Industrial Builders, Inc. for the sum of \$7,669,060.89, 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 Piepkorn. On the vote being taken on the question of the adoption of the Resolution Commissioners Williams, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Mahoney.

The Resolution was adopted.

Presentation to the City of Fargo for Successfully Completing the 2009 Safety Outreach Program:

Don Pfaff, WSI Safety Consultant, presented the City of Fargo with a certificate for successfully completing the 2009 Safety Outreach Program. By completing the safety action menu items set forth for the year 2009 and by reducing the frequency and severity of injuries by over ten percent, he said, the City received a savings in premium of \$456,583.72.

Payment in Lieu of Taxes Policy to Encourage New Housing in the University Mixed Zoning District Adopted:

The Board received a communication from Planning Director Jim Gilmour stating the Planning Department has been working with the Tax Exempt Review Committee on a new policy to allow the use of a Payment in Lieu of Taxes (PILOT) program to encourage redevelopment in the University Mixed Use Zoning District near NDSU. He said the new policy would provide property tax incentives to new housing developments for up to a ten year period. This policy is similar to what has been provided downtown, he said, and would make more areas eligible for assistance because the program would not be limited to blighted areas.

In response to a question from Commissioner Williams about whether or not there are income levels that the properties will be sold or rented to, Mr. Gilmour stated there are no income requirements directly stated in the policy for this program. Mr. Gilmour stated business plans would be looked at to determine if the plan is to rent to students and if so they would likely be eligible for the incentive.

Commissioner Williams said his only concern with the policy is that the intent of the PILOT program for workforce style housing doesn't seem to be addressed. He said the policy needs to speak for itself and be clear.

Commissioner Williams moved the policy for Payment in Lieu of Taxes in the University Mixed Zoning District be adopted contingent upon eligibility of policy being clearly defined and brought back to the City Commission for final approval.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

2010 Community Development Action Plan and 2010-2014 Consolidated Plan for Housing and Community Development Approved:

A Hearing had been set for this day and hour on the draft 2010-2014 Consolidated Plan for Housing and Community Development activities which includes an Action Plan for how community development resources will be used in fiscal year 2010.

The Board received a communication from Senior Planner Dan Mahli stating the Community Development Committee is recommending approval of the 2010 Community Development Action Plan and the 2010-2014 Consolidated Plan for Housing and Community Development. He stated the proposed 2010 budget includes \$784,237 in Community Development Block Grant (CDBG) funds and \$610,000 in HOME funds. He said public participation was part of the planning process and the input received helped the Committee identify needs and gaps in services and develop priorities for allocation of federal funds. The Plan, he said, contains recommendations in six priority areas which include: Affordable Housing and Homeownership, Homelessness, Neighborhoods, Fair Housing and Diversity, Poverty Reduction and Administration. Upon City Commission approval, he said, the plans will be forwarded to the Department of Housing and Urban Development for final review and approval. He said projects in the 2010 Action Plan include the following activities:

HOUSING REHABILITATION – Owner Occupied: \$350,000 for rehabilitation of

existing owner-occupied housing units. This includes \$50,000 in CDBG and \$300,000 in HOME funds.

DOWNPAYMENT ASSISTANCE: \$159,000 in HOME funds to assist lower income families with home purchases.

AFFORDABLE HOUSING PROJECTS:

Beyond Shelter, Inc. CHDO Projects - \$100,000 in HOME funds for senior housing at 1670 East Gateway Circle South.

DOWNTOWN PROJECTS: \$150,000 in CDBG funds for projects that address slum and blight conditions in downtown Fargo.

PUBLIC SERVICE PROJECTS:

Homebuyer and Tenant Education - \$30,000 in CDBG funds to support the Village Financial Service Center with the Homebuyer and Tenant Education programs.

Emergency Shelter - \$40,000 in CDBG funds to provide operating support at the Gladys Ray Shelter in Fargo.

Snow Removal Assistance - \$2,500 in CDBG funds to offer emergency snow removal assistance to low income senior households and people with disabilities.

Metropolitan Transportation Initiative - \$10,000 in CDBG funds to support transportation services for low income individuals in Fargo.

Skills and Technology Training Center - \$5,000 in CDBG funds for job skills development for refugees and low income individuals.

Cooper House Nurse - \$20,000 in CDBG funds to help support a full-time nurse serving long-term homeless populations at the Cooper House permanent supportive housing development.

FACILITIES/CAPITAL:

Facilities and Capital Projects - The following projects will be considered for \$273,351 in CDBG facilities/capital project funds:

Family Health Care Center - Assist with facility expansion/renovation into a new location at 301 NP Avenue North.

Fraser, Ltd. - Facility improvements to 711 South University Drive Transitional Housing for Young Adults.

Immigrant Development Center - Assist with the facility and landscape development of a downtown farmer's market employing low-income entrepreneurs.

Nokomis Childcare Center - Assist with facility improvements at 658 23rd Street South to improve energy efficiency and health/safety/code issues.

Myrt Armstrong Center - \$10,516 in CDBG funds to assist with floor replacement at the drop-in center at 1419 1st Avenue South.

Neighborhood Project - \$12,000 in CDBG funds for a potential project that will help enhance a low/moderate income neighborhood.

Native American Commission - \$10,000 in CDBG funds for improvements to a sweat lodge facility in Fargo.

YWCA Cass Clay - \$14,023 in CDBG funds for security system improvements at the Women's Shelter in South Fargo.

ADMINISTRATION: \$156,847 in CDBG funds for project development, planning and administrative costs associated with the delivery of the CDBG program. HOME funds will provide an additional \$51,000 for administration.

Commissioner Piepkorn moved the 2010 Community Development Action Plan and the 2010-2014 Consolidated Plan for Housing and Community Development be approved.

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

Absent and not voting: Commissioner Wimmer and Mahoney.

The motion was declared carried.

**Resolution Adopted Approving the Request for Advance Measures Assistance:
Flood Update Received: Purchase of Eight Additional Homes Approved:**

Commissioner Williams offered the following Resolution and moved its adoption:

WHEREAS, Public Law 84-99, as amended, (33 U.S. Code, Section 701n) provides a means of preparing for and combating damage by floods and flood waters; and

WHEREAS, Fargo, ND has exhausted all resources available to it for flood emergency preparation and flood fighting and rescue operations; and

WHEREAS, On the date of this Resolution, emergency flood preparation is needed and assistance required for this purpose as well as for flood fighting and rescue operations.

NOW, THEREFORE, BE IT RESOLVED, That the U.S. Army Corps of Engineers be, and is hereby, requested to furnish assistance in flood emergency preparation and in flood fighting and rescue operations.

BE IT FURTHER RESOLVED, That in consideration of such assistance the above-named Governmental body agrees to:

- a. Provide to the United States all lands, easements and rights-of-way for the emergency work, including, but not limited to, levee, borrow, spoil and access rights-of-way.
- b. Hold and Save the United States free from all claims for damages attributable to the construction works except for damages due to the fault or negligence of the United States or its Contractors.
- c. Operate and maintain the emergency construction works for the duration of the flood emergency.
- d. Provide common labor.
- e. Provide, as required under the applicable provisions of Public Law 91-646, relocation assistance payments to those eligible because of dislocation of persons or property from their dwellings, farms or

businesses due to the acquisition of rights-of-way for the emergency flood construction work.

- f. Remove, after the flood emergency, without cost to the U.S. Army Corps of Engineers, any temporary emergency works constructed for the flood emergency, with the initiation of the removal within 30 days of the conclusion of the flood event as determined by the U.S. Army Corps of Engineers.

BE IT FURTHER RESOLVED, That the Mayor of the City of Fargo, North Dakota be authorized to enter into agreements with the Corps of Engineers in furtherance of this Resolution and as to the means of supplementing the local flood emergency preparation and flood fighting and rescue operations.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The Resolution was adopted.

Enterprise Director Bruce Grubb stated compared to last year sandbag volunteering is light and the goal to make one million sandbags in three weeks is still on track.

City Engineer Mark Bittner stated they are still tabulating how many earth levees and sandbag levees will be needed. He said the plan is to build to 44 feet and adjust from that level.

Finance Director Kent Costin stated the State of North Dakota has inquired about a status report on the expenditures so far. Only about \$10,000 has been expended so far, but there is a build-up in obligations of about \$1.4 million, he said, largely due to the start of the sandbagging operations.

Assistant City Attorney Butch McConn stated with the flood forecast there has been heightened interest in the flood buyout program. He said there are two homes that are under contract at this time and an additional eight homes are being looked at to purchase.

Commissioner Williams moved approval of the purchase of eight additional homes.

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

Absent and not voting: Commissioners Wimmer and Mahoney.

The motion was declared carried.

Commissioner Piepkorn moved that the Board adjourn to 5:00 o'clock p.m., Monday, March 22, 2010.

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

The time at adjournment was 6:01 o'clock p.m.