

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: December 27, 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, December 27, 2010.

The Commissioners present or absent were as shown following:

Present: Williams, Piepkorn, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Mayor Walaker stated Commissioner Piepkorn asked that Item "m" be moved from the Consent Agenda to the Regular Agenda and an extra Item "zz" be added to the Consent Agenda to Amend the Gaming Site Authorization for Red River Human Services Foundation.

Commissioner Wimmer moved the Order of the Agenda be approved moving Item "m" from the Consent Agenda to the Regular Agenda and adding an extra Item "zz" at the end of Consent Agenda.

Second by Piepkorn. 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 December 13, 2010 be approved as read.

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

Consent Agenda Approved:

Commissioner Wimmer moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 12/13/10:
 - (1) Amending Section 8-0314 of Article 8-03 of Chapter 8 of the Fargo Municipal Code Relating to the Traffic Code (reckless driving).
 - (2) Repealing and Re-Enacting Section 1-0305 of Article 03 of Chapter 1 of the Fargo Municipal Code, Relating to Ordinance Violations (traffic fines in the penalty Ordinance).

- b. Transfer GIS employees and associated budgetary items from the Engineering Department to the Information Systems Department effective January 1, 2011.

- c. Request from Fire Department employees Scot Kelsh and Ron Guggisberg for unpaid leave from 1/1/11 through 4/30/11.
- d. Contract for Library Associate III (Reference Associate) for 2011.
- e. Acceptance of proposal from Library Consulting P.A. in the amount of \$44,545.00 for strategic planning services for the Fargo Public Library.
- f. Change Order No. G-14 for a decrease of \$44,200.00 for the Main Library Project.
- g. Health Department budget adjustments and grant award from the North Dakota Department of Health in the amount of \$2,000.00 for the Moving More, Eating Smarter community program (CFDA #93.991)
- h. Grant Agreement with Dakota Medical Foundation in the amount of \$1,962.00 for an immunization education program for child care providers and parents.
- i. Contract with Cass County Social Services for provision of in home services to eligible individuals in Cass County.
- j. Health Department budget adjustment in the amount of \$4,900.00 and contract with the North Dakota Center for Persons with Disabilities for the ND HearNow Project to purchase diagnostic equipment.
- k. Agreement with the North Dakota State University Tobacco Dependence Program.
- l. Personal Services Agreement for continued polygraph services for the Police Department.
- m. Revised agreement with Fargo Catholic School Network for a School Resource Officer assigned to Shanley High School (moved to the Regular Agenda).
- n. Agreement with Tracker to provide web based portfolio accounting at an annual fee of \$2,340.00 plus an initial setup fee of \$995.00.
- o. Pass through Grant Agreement with Metro COG for Job Access and Reverse Commute (JARC) funds in the amount of \$5,318.00.
- p. Mass Transit Agreement with West Fargo for 2011.
- q. Amendment to the developer agreement with Meridian on Broadway, LLC changing the date of substantial completion to 2/1/12 and changing the maturity date of the TIF note to 12/31/2026.
- r. Agreement with BNIM in the amount of \$252,000.00 for consulting services for the Comprehensive Plan.

- s. \$12,000.00 in CDBG neighborhood project funds for playground equipment at McKinley Elementary School.
- t. Professional Service Agreement with Communication Service for the Deaf, Inc. for 2011.
- u. Receive and file Fargo's Updated Analysis of Impediments to Fair Housing Choice.
- v. Applications for five-year tax exemptions for improvements made to buildings:
 - (1) Larry and Susan Ristvedt, 1220 Oak Street.
 - (2) Andrew Moseng, 329 20th Street North.
 - (3) Bradley Garcia and Rachel Suhonen, 813 21st Avenue South.
 - (4) Jean Hagen, 33 18th Avenue North.
 - (5) Kim and Anita Kraft, 901 5th Avenue South.
 - (6) Lance and Rita Ludemann, 1438 10th Street South.
 - (7) Mukund Sibi, 1010 8th Street South.
 - (8) William and Cynthia Schwartz, 1528 2nd Street North.
 - (9) Todd and Melissa Evensen, 1125 2nd Street North.
- w. Applications for Games of Chance:
 - (1) Washington School PTA for a raffle on 3/4/11 (Amended).
 - (2) Francis J. Beaton Chapter No. 1, Disabled American Veterans for a raffle on 5/26/11.
 - (3) Muskies, Inc. F-M Chapter for a raffle on 2/10/11.
- x. Purchase Agreement with Dakota Underground for City-owned property on 3rd Avenue North near 45th Street.
- y. Junk vehicle removal agreement with Hazer's Auto and Truck Salvage for 2011.
- z. Chemical bid awards for the Water Treatment Plant for 2011.
- aa. Chemical bid awards for the Wastewater Treatment Plant for 2011.
- bb. Technical support services agreements with Moore Engineering and Siemens Water Technologies for the Effluent Reuse Facility.
- cc. Proposal from Siemens Water Technologies to replace membrane modules at the Effluent Reuse Facility.
- dd. Proposal from Aqua-Pure, Inc. for a 3-year guaranteed cost contract for polymers at the Water Treatment Plant.
- ee. Change Order No. 13 for an increase of \$2,187.50 for Project No. 5798.

- ff. Change Order No. 4, Part B for an increase of \$3,529.95 and Change Order No. 2, Part C for an increase of \$2,782.25 for Improvement District No. 5729.
- gg. Agreement for Entry and Construction with Dean Lohmeier for property in Timberline Addition (Improvement District No. 5949).
- hh. Acquisition of lot at 3109 41st Avenue South for resale upon completion of Timberline levee construction.
- ii. City payoff of deferred special assessments at 2501 58th Avenue South prior to marketing for sale of property.
- jj. FM Metro COG Transportation Planning Agreement Project 2011-1005 (Project No. 5981).
- kk. Engineering Services Contract Amendment No. 2 in the amount of \$2,630.50 for Project No. 5957.
- ll. Engineering Services Contract Amendment No. 3 in the amount of \$6,900.00 for Project No. 5574.
- mm. Engineering Services Contract Amendment No. 1 in the amount of \$71,112.00 for Project No. 5946.
- nn. Project Concept Report for bridge replacement on 52nd Avenue South at Drain 27 (Project No. 5925).
- oo. City policy for reimbursement of crop damages associated with City construction projects.
- pp. Bid award for Engineering Department office furniture to Business Essentials in the amount of \$15,648.60.
- qq. Final Balancing Change Order No. 1 for an increase of \$77.74 for Project No. 5809.
- rr. Change Order No. 1 for an increase of \$10,145.00 and time extension for Project No. 5860.
- ss. Change Order No. 1 for an increase of \$99,254.30 and time extension for Project No. 5915.
- tt. Change Order No. 1 for an increase of \$78,517.73 for Project No. 5947.
- uu. Change Order No. 1 for an increase of \$14,700.00 for Project No. 5979.
- vv. Bills in the amount of \$6,343,461.25.

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

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

Change Order No. 3 for Improvement District No. 5640 Approved:

Commissioner Wimmer moved approval of Change Order No. 3 for an increase of \$5,868.42 for Improvement District No. 5640.

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

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

Change Order No. 1 for Improvement District No. 5941 Approved:

Commissioner Wimmer moved approval of Change Order No. 1 for an increase of \$2,670.75 for Improvement District No. 5941.

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

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

Change Order No. 1 for Improvement District No. 5966-01 Approved:

Commissioner Wimmer moved approval of Change Order No. 1 for an increase of \$54,587.17 for Improvement District No. 5966-01.

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

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

Amended Site Authorization for Red River Human Services Foundation Approved:

Commissioner Wimmer moved approval of the Amended Gaming Site Authorization for Red River Human Services Foundation at the Fargo Elks, 3435 North Broadway.

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

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

Preliminary Approval for \$50,000 of TIF Assistance for Property at 1424-1426 12th Avenue North:

The Board received a communication from Planning Director Jim Gilmour stating FM City Development has obtained an option to purchase a deteriorated building located on the lot between their two new buildings and is requesting \$50,000 of TIF assistance for costs associated with demolishing the existing structure located at 1424-1426 12th Avenue North.

Mr. Gilmour said the City previously approved two renewal plans and Tax Increment Funding (TIF) for the two new buildings. He said this is different than the

standard TIF policy since the district has been created and this is for an expansion. This is for preliminary approval, he said, and will give the developer an indication of support which could mean going ahead with the purchase.

Roger Gilbertson, FM City Development, stated his company would like to demolish the existing building and connect the two new buildings and parking lots. He said the new space would add eight units on the second and third floors, and commercial space at ground level. He said apartment rental in the existing buildings is going well and once Spicy Pie moves in, all the existing commercial spaces will be filled.

Commissioner Piepkorn moved preliminary approval for \$50,000 in TIF assistance for property at 1424-1426 12th Avenue North and that appropriate staff be directed to prepare amendments to the existing renewal plan and developer's agreement, and schedule a public hearing for final approval.

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

Absent and not voting: Commissioner Mahoney

The motion was declared carried.

Revised Agreement with Fargo Catholic School Network for School Resource Officer Assigned to Shanley High School Approved:

The Board received a communication from Chief of Police Keith Ternes stating the Fargo Catholic School Network requested a revision in an agreement which has been in place since 2008 that reimburses the Police Department 100% of the cost of a School Resource Officer at Shanley High School. He said due to financial and budgetary constraints, the Fargo Catholic School Network is requesting the costs associated with the School Resource Officer assigned to Shanley be shared 50/50, the same as with Fargo Public Schools, effective January 1, 2011. Chief Ternes stated it has been a very positive program and there is no question School Resource Officers are invaluable in relationship building, not just individually for the officers, but between the Police Department, the community and young people.

Commissioner Wimmer applauded the SRO Program and stated whether public or parochial, all the youth deserve the attention.

Chief Ternes said if this agreement is approved Oak Grove will also be approached and an offer of the same terms made.

Commissioner Wimmer moved revisions in the agreement between the Fargo Police Department and the Fargo Catholic School Network be approved and costs associated with having a School Resource Officer assigned to Shanley High School as described within the revised agreement, be shared.

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

Absent and not voting: Commissioner Mahoney

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Two Centuries, Inc. d/b/a Barnstormer to Hungry's Restaurant, Inc. d/b/a Sky Dine Services Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "A" Alcoholic Beverage License from Two Centuries, Inc. d/b/a Barnstormer to

Hungry's Restaurant, Inc. d/b/a/ Sky Dine Services at 2801 32nd Avenue North, 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, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney

The motion was declared carried.

Application Filed by El Azteca, Inc. d/b/a El Azteca Mexican Restaurant for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by El Azteca, Inc. d/b/a El Azteca Mexican Restaurant for a Class "F" Alcoholic Beverage License at 1111 38th Street South, 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, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney

The motion was declared carried.

Application Filed by Spicy Pie NDSU LLC d/b/a Spicy Pie NDSU for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Spicy Pie NDSU LLC d/b/a Spicy Pie NDSU for a Class "H" Alcoholic Beverage License at 1414 12th Avenue North, Suite B, 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, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney

The motion was declared carried.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 10, 2011.

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

The time at adjournment was 5:26 o'clock p.m.