

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: December 31, 2007:

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 3:00 o'clock p.m., Monday, December 31, 2007.

The Commissioners present or absent were as shown following:

Present: Williams, Wimmer, Walaker.

Absent: Coates, Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Williams moved the Order of the Agenda be approved omitting Item "i" in the Consent Agenda.

Second by Wimmer. All the Commissioners present 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 December 17, 2007 be approved as read.

Second by Williams. 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. Waive requirement for receipt of an ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Ordinance Violations.
- b. 1st reading of the following Ordinances:
 - (1) Repealing Section 9-0412 of Article 9-04 of Chapter 9 of the Fargo Municipal Code Relating to Fire Hazards.
 - (2) Amending Sections 18-0308 and 18-0310 and Enacting Sections 18-0310.1 Through 18-0310.8 of Article 18-03 of Chapter 18 of the Fargo Municipal Code Relating to Use and Care of Streets and Sidewalks.
 - (3) To Create and Enact Article 25-37 of Chapter 25 of the Fargo Municipal Code Relating to Tanning Facilities.

- c. Health Department budget adjustment and contracts with the North Dakota Department of Health for public health emergency planning and regional pandemic flu planning (CFDA # 93.283).
- d. Police Department 2007 year end budget adjustments.
- e. Memorandum of Understanding between the Fargo and West Fargo Police Departments for K9 Services.
- f. Acceptance of the Department of Emergency Services FY 2007 Law Enforcement Terrorism Grant Program funding (CFDA # 97.074).
- g. Agreement for Special Improvements with Bethany Homes for municipal improvements in Bethany Homes First Addition.
- h. Agreement for Entry and Construction with Rommesmo Family LTD PTSHP for property located along 52nd Avenue South.
- i. Indigent defense services contract with the law firm of Ross Brandborg for the period of 1/1/08 to 12/31/10 (omitted).
- j. Applications for property tax exemptions for improvements made to buildings:
 - (1) Ronald and Earline LaLonde, One 29th Avenue NE (3-year).
 - (2) Gill's Investment, Inc., 66 Broadway (5-year).
- k. Applications for Games of Chance:
 - (1) Fargo Motor Patrol, Inc. for a raffle on 3/1/08.
 - (2) Muskies, Inc. F-M Chapter for a raffle on 2/7/08.
- l. RFP for engineering services related to wastewater and storm sewer infrastructure projects.
- m. Change Order No. 1 for a reduction of \$8,087 for the 64th Avenue South water tower.
- n. Bills in the amount of \$8,261,366.03.

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

Absent and not voting: Commissioners Coates and Mahoney.

The motion was declared carried.

(Commissioner Coates present)

Five Year Lease Agreement with the Food Pantry for the City Owned Building on 10th Street and 15th Avenue North Approved:

The Board received a communication from City Administrator Pat Zavoral stating the Food Pantry of Fargo has been operating out of the vacated fire station on 10th Street and 15th Avenue North for over 10 years. He said the last time the Food

Pantry had a formal lease agreement with the City was in 1997 for one year. Since then, he continued, the Food Pantry has been operating out of the building on a year to year extension of the 1997 lease and they are requesting a more permanent arrangement. Mr. Zavoral stated he has been working with Finance Director Kent Costin, Civic Auditorium Director Bob Getz and City Attorney Erik Johnson to determine the best approach to allow the Food Pantry continued operation in the current facility. He said they have agreed this is the best use of the building at this time and also recognize the importance of keeping this building in the City inventory in the event the City will need to perform major work on the water tower that sits next to the building. Therefore, he said, it is recommended that a five year lease with additional five year extensions thereafter be granted. He said the monthly lease will be for \$110 for the first year and an escalator of 3% annually thereafter with a 30 day termination clause. In addition, he said, the lessee will be responsible for all repairs and liabilities associated with their operations of the building.

Commissioner Williams moved a five year lease with the Food Pantry for the City owned building on 10th Street and 15th Avenue North with the terms stated above be approved.

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

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

(Commissioner Mahoney present)

Application Filed by Coulter Lodging d/b/a Expressway Suites for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Coulter Lodging d/b/a Expressway Suites for a Class "F" Alcoholic Beverage License at 4303 17th Avenue 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 Mahoney moved the application be approved.

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

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

MAT Paratransit's Implementation of Agency Rates for Specific User Groups Approved Effective February 1, 2008:

A Hearing had been set for this day and hour to receive comments on implementation of an agency rate of \$15.00 per one-way trip on MAT Paratransit for specific user groups, effective February 1, 2008.

The Board received a communication from Transit Administrator Julie Bommelman stating the proposed \$15.00 agency rate is per one-way trip (origin to destination). She said skilled nursing and ICF/MR facilities are paid a designated rate

by Medicaid to provide routine services which includes transportation and it is the responsibility of the facility to provide transportation to their residents. She said the agency rate would apply only to medical trips provided to residents of skilled nursing facilities and day program trips provided to residents of the following ICF/MR facilities:

Fargo Skilled Nursing Facilities:

Bethany Homes	201 South University Drive, Fargo
Elim Care Center	3534 South University Drive, Fargo
Manorcare Health Service	1315 South University Drive, Fargo
Rosewood on Broadway	1351 Broadway, Fargo
Villa Maria	3102 South University Drive, Fargo

Fargo and West Fargo ICF/MR (Intermediate Care) Facilities:

Fraser 2574	2574 Arrowhead Road, Fargo
Fraser 2726	2726 18th Street South, Fargo
Friendship 1635	1635 34th Avenue South, Fargo
Friendship 2302	2302 18th Street South, Fargo
Friendship 2424	2424 18th Street South, Fargo
Friendship 2502	2502 33rd Avenue South, Fargo
Fraser 631	631 22nd Street East, West Fargo
Fraser 651	651 12 ½ Avenue East, West Fargo

Ms. Bommelman stated in addition, the City's Transit Department is in the process of becoming a Medicaid provider which will allow the City to directly bill medical rides for a Medicaid eligible paratransit rider and the current rate of reimbursement is \$10.96/ride. She said Paratransit has experienced significant ridership growth and associated costs have risen each year. She said the proposed agency rate will help defray the rising costs of paratransit and shift the burden from the City to the agencies already receiving Medicaid for transportation. She said the joint Fargo-Moorhead MAT Coordinating Board are recommending approval of the proposed agency rate.

Commissioner Williams moved a \$15.00 agency rate for medical trips for skilled nursing facilities and day program trips for day programs be approved effective February 1, 2008.

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

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

Resolution Adopted Approving a Two-Year Tax Exemption for New Homes Starting Between February 1, 2008 and January 31, 2010: Planning Department Directed to Schedule a Meeting Regarding Land Use Strategy:

The Board received a communication from Ben Hushka, City Assessor and Member of the Tax Exempt Review Committee, stating the Tax Exempt Review Committee met to discuss the extension of the two-year tax exemption for new residences. Mr. Hushka said currently the policy approved by resolution on January 2, 2007 allows the full exemption available by current law (\$75,000 of building value) for new homes constructed between February 1, 2007 and January 31, 2008. Mr. Hushka stated there have been discussions and dialog with representatives of the FM

Home Builders Association and there were also conclusions reached by a task force formed to study the new residence exemption. He said based on those discussions and conclusions, the Committee recommends continuing the exemption for homes constructed in the 2008 and 2009 tax years for the maximum valuation allowed by law, but not available to the builder unless the home is the builder's permanent residence.

The Board received a communication from Bryce Johnson, Executive Vice President, and Dan Lindquist, President, Home Builders Association of Fargo-Moorhead, stating for 25 years, the two-year tax exemption on new home construction has been effectively utilized to foster growth and prosperity for the City. They said the two-year exemption is not a golden ticket to homeownership, nor is it a perfectly written law and, instead, it is an opportunity given to each local jurisdiction by the state legislature to offer a small incentive to reduce the cost of growth and of new housing. They said given the steady increases in area housing prices, along with the increase in construction costs, now is not the time to remove the exemption and put up an additional barrier between the consumer and the American dream. Ms. Johnson and Mr. Lindquist said recently, the Tax Exemption Review Committee voted to recommend the continuation of the two-year tax exemption on a biennial basis. They said the Committee's recommendation was also to remove the builder's ability to file for the exemption, however, due to the timetable of the exemption starting when construction starts, if no one files for the exemption the tax savings and the point of the exemption will be lost. They said this is why the state law specifically targets single-family homes for both builders and new homeowners. Ms. Johnson and Mr. Lindquist stated according to City records, since 2004 there have been 19 instances when builders have received the full two-year exemption. They said to put the number in perspective, since 2004, the City has given the exemption to over 500 homes a year on average which results in less than two percent of cases where the builder ended up with the full exemption. They said the City should not cripple the ability of the consumer to receive the full exemption just to stop something that happens in only two percent of the cases. They said these property tax savings allow builders to reduce a line item when figuring out the cost of the home and every line item, big and small, helps more consumers afford their own home. Ms. Johnson and Mr. Lindquist asked the City Commission to continue the exemption as it has been in the past and allow the consumer to get the full benefit of the exemption.

Commissioner Williams questioned if it is a good idea to go from a yearly review on the tax exemption to a two year review.

Commissioner Wimmer stated some members of the task force felt the review should be every three to five years and two years was a reasonable compromise.

Commissioner Williams stated every two years would not be too bad because it coincides with the legislature. He said it would be helpful if the Home Builders Association would go out to the legislature next session to assist the City in an effort to get additional funding for education and property tax relief.

Commissioner Coates stated she thinks when the tax exemption was initiated it was to get home building started in reaction to very high interest rates. She said maybe it is time to start thinking about eliminating the exemption.

Mayor Walaker stated the reason to continue the exemption is to stay in competition with West Fargo and Moorhead who also offer tax exemptions.

Bob Kochmann, representing the Home Builders Association, stated the Home Builders feel this program has been a benefit. He said as far as the cycle whether the issue is reviewed every one or two years, it takes time on everybody's part. He said this issue can be brought up at any time by the City Commission.

Commissioner Williams questioned if the Home Builders have been focusing on the green issue and if they have any ideas on how to achieve the goal of green energy.

Mr. Kochmann stated the green issue is at the initial steps. He said there are going to be added costs with this initiative. He said the Home Builders are for the environment but they want to see the price tag.

Commissioner Wimmer stated the tax exemption has been a wonderful tool for the Home Builders and it has worked for Fargo. He said he hopes the Commission will endorse the two year exemption and two year review.

Mayor Walaker stated he does not think this issue should be made larger than it really is. He said Fargo is fortunate to have people building homes because it is not what is going on nation-wide. He said keeping Fargo competitive is the only thing the Commission can do right now.

Commissioner Williams stated he agrees the Commission would not want to throw the whole thing away but it could be tweaked to conform to the City's goals. He said the Commission could consider changes like applying the tax exemption to no more than 12,000 square feet which would affect lots on golf courses and limit it to geographic areas to encourage building.

Commissioner Williams suggested the Commission approve a two year tax exemption that would not apply to lots over 12,000 square feet and it would go from north of 64th Avenue South and south of 40th Avenue North.

Commissioner Coates stated she likes the idea of targeting a geographical area.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, Section 57-02-08 of the North Dakota Century Code permits up to \$75,000 of the true and full value of all single family, town-home, twin-home and condominium residential property, exclusive of the land on which it is situated, to be exempt from taxation for up to the first two taxable years after the taxable year in which construction is begun.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners of the City of Fargo, in accordance with Section 57-02-08, NDCC, hereby grants approval of a two-year tax exemption for new homes started between February 1, 2008 and January 31, 2010.

BE IT FURTHER RESOLVED, That all properties eligible for the exemption will receive the full allowable exemption of up to \$75,000 of the building value for the first owner after the builder or the builder if the home is the builder's permanent residence.

Second by Wimmer.

Commissioner Williams stated he would like to make a suggestion to the motion. He said last year the Tax Exempt Review Committee was asked to study this issue and maybe the Planning Department could also be involved to show why the City needs to make some changes.

Planning Director Jim Gilmour stated his department could look at the housing trend in the area, lot sizes and compare values and bring that information back to the

City Commission. He said the other thing to consider is how the City finances the special assessments.

On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Mahoney and Walaker voted aye.

Commissioner Williams voted nay.

The Resolution was adopted.

Commissioner Williams moved the Planning Department be directed to dedicate a meeting towards seeing what the other departments have in common with the land use strategy.

Second by Coates. On call of the roll Commissioner Williams, Coates, Mahoney and Wimmer voted aye.

Mayor Walaker voted nay.

The motion was declared carried.

Commissioner Williams moved that the Board adjourn to 5:00 o'clock p.m., Monday, January 14, 2008.

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

The time at adjournment was 3:52 o'clock p.m.