

**THE CITY COUNCIL
GRAND FORKS, NORTH DAKOTA
29, 1996**

**PROCEEDINGS OF
OF THE CITY OF
Monday, April**

The city council of the city of Grand Forks, North Dakota met in special session in the council chambers in City Hall on Monday, April 29, 1996 at the hour of 12:00 noon with Mayor Polovitz presiding, pursuant to call by Mayor Polovitz, which was served on all members of the council on April 26, 1996: Document No. 7023 - Notice.

Present at roll call were Council Members Beach, McCabe, Hoepfner, Hamerlik, Hanson, Carpenter, Sande, Klave, Beyer, Babinchak, Hagness - 11; absent: Council Members Glassheim, Geller, Johnson - 3.

The city auditor reported that the items for consideration were as listed on the agenda and in the notice of special meeting:

- 1) a Home Rule charter ordinance authorizing the issuance of reserve revenue bonds for economic development facilities.
- 2) preliminary resolution authorizing the issuance of bonds for Cirrus building and calling for a public hearing.
- 3) matter of release of economic development funds to Cirrus.

The city auditor reported that the council has approved some of the background for this in the intent documents, however, his office was asked to release \$1.224 million of cash that had been obligated by the City but had not gone through any of the formal information on the bond issuance nor had they received complete rulings from bond counsel on whether these bonds could even be issued, and therefore, felt it was in the best interest of everyone involved to start some of the preliminary work, but that does not necessarily mean that everything is in place, and will consider release of the funds to Cirrus based on some projections. He stated this is preliminary work but have received verbal commitments from the State Industrial Commission on the \$3.5 million allocation of the bonds, that there is a certain process that has to be followed and that has just been started because of information that has just been received on the design of the facility and the manufacturing part of that facility, that there are requirements that if doing private bonds for manufacturing, no more than 25% of the proceeds can be spent on anything other than the manufacturing facility that has to be ruled on by our bond counsel according to IRS regulation and that has to get an allocation from the State.

INTRODUCE ORDINANCE RE. ISSUANCE OF REVENUE
BONDS TO FINANCE ACQUISITION, CONSTRUCTION
AND RENOVATION OF BUILDINGS TO BE OWNED BY THE
CITY IN FURTHERANCE OF THE CITY'S ECONOMIC
DEVELOPMENT PROGRAM; PROVIDING FOR THE APPROPRIATION
OF SALES TAX REVENUES TO SECURE BONDS; PROVIDING
A RESERVE THEREFOR AND PROVIDING FOR A LEVY TO
RESTORE DEFICIENCIES IN SAID RESERVE

The city auditor presented the ordinance authorizing the issuance of reserve revenue bonds for economic development facilities, and reported

that this ordinance will allow council to do this type of bond issue on economic development facilities, which is facility owned by the City and then leased; however, they will still have to go through process of adopting preliminary resolution and calling for public hearing, and after hearing go through actual bond resolutions, etc.

It was moved by Council Member Carpenter and seconded by Council Member Hoepfner that the ordinance be approved and introduced for first reading. Carried 11 votes affirmative.

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Council Member Hanson introduced an ordinance entitled "An ordinance relating to the issuance of revenue bonds to finance acquisition, construction and renovation of buildings to be owned by the City in furtherance of the City's economic development program; providing for the appropriation of sales tax revenues to secure the bonds; providing a reserve therefor; and providing for a levy to restore deficiencies in said reserve", which was presented, read and passed on its first reading.

ADOPT RESOLUTION RE. FINANCING OF CERTAIN
PUBLIC IMPROVEMENTS BY THE CITY,
ESTABLISHING
COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS
UNDER THE INTERNAL REVENUE CODE, AND CALLING
A PUBLIC HEARING

The city auditor presented the preliminary resolution authorizing the issuance of bonds for Cirrus building and calling for a public hearing.

Dick Olson, Grand Forks Development Foundation, was present to answer council's questions.

Howard Swanson, city attorney, reported that in conversations with the State, there are still on-going negotiations that they hope to have resolved today, with closing on Wednesday. He stated that he has reviewed documents and based upon documents provided to him there was nothing that required Cirrus to come to Grand Forks, that there was requirement that they come to the State of North Dakota, and it was his recommendation that be changed. He stated that in action to be taken under the agenda items, the City will be releasing funds without having any assurance that the bonds will be sold or at what rate sold, so will have advanced municipal funds in front of the bond sale.

Bill King, vice president of Cirrus Design, stated that there has been a specific supplement created for the institutional investor, that there have been a number of changes made to that document which include adding Grand Forks into the North Dakota provision, that there's put option on the stock, so that if they leave Grand Forks stock would have to be redeemed.

Mr. Swanson stated that he does have concern that if City advancing that type of money and there is neither lease for the facility being built and nothing in the stock documents indicating that they are coming to Grand Forks, and wanted to make council aware. He stated that he will make

sure that documents properly amended.

There was some discussion relative to releasing of monies, that cash release by City and State contingent upon each releasing at same time, and bond sale separate from that. The city auditor stated they want to be comfortable with bond sale before releasing \$1.224 million in cash; bond sale approx. \$3.5 million. Mr. Olson stated that the State is giving Cirrus \$600,000 equity investment and \$100,000 relocation grant, and stated that package they brought to council gave assurances that none of their funds would be disbursed and would not close until all parties have everything in place.

Mr. King stated that funds would be used for working capital in designing and manufacturing the molds in Duluth for Grand Forks facility, and they are scheduling so that molds finished and ready to ship when building completed in Grand Forks. He stated that they will then be shifting all the molds for the wing and assemblies to Grand Forks, that they will be the property of Dakota Aircraft, which is the legal entity that will be operating in Grand Forks, as well as establishing their operation in Grand Forks, starting process of hiring people, etc. He also stated that there is a put option on the stock in the agreement that if they ever leave, City would be redeemed out of it; that the Company's position is that you don't go through this expense and move
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unless making long-term permanent commitment and that they have to have this wing assembly plant up and operational by this time next year. Mr. King stated they are operating under the Memorandum of Understanding that they have had in place for about 8 or 9 months because they couldn't put lease together because didn't know how much building going to cost; that it will be a cost plus type of contract for the City. He stated they would have to cover costs and in exchange building built to suit their needs and that City has lot more leverage to generate capital for the building at better rates. Mr. Olson stated that the term of the lease is 20-years, which is the term of the bond; the cost of the lease won't be known until the building is built, that the agreement will stipulate a price and the lease will be administered by the Growth Fund.

Mr. Swanson reported that the preliminary resolution is specifically with regard to the sale of the bonds, and the sale of the bonds more closely associated with the construction of the facility than stock acquisition.

It was noted that funds would be released based upon council's action.

Mr. Swanson stated that with the \$1.2 million the City is acquiring stock, that at the time of closing the City's conveyance of funds will result in a likewise conveyance of stock, and that only concern he had was that in the documents he had seen, indicated the State of North Dakota and not the City of Grand Forks, other funds used for construction of the building.

Council Member Carpenter introduced the following resolution which was presented and read: Document No. 7024 - Resolution.

It was moved by Council Member Carpenter and seconded by Council Member Klave to adopt the preliminary resolution and call for public hearing to

be held on May 20, 1996. Upon roll call the following voted "aye": Council Members Beach, McCabe, Hoepner, Hamerlik, Hanson, Carpenter, Sande, Klave, Beyer, Babinchak, Hagness - 11; voting "nay": none. Mayor Polovitz declared the resolution adopted.

AUTHORIZE RELEASE OF FUNDS TO GROWTH FUND
JOBS DEVELOPMENT AUTHORITY

The city auditor presented the matter of the release of \$1.224 million to Cirrus and reported that the funds would come from the economic development funds which includes some excess sales tax monies.

It was moved by Council Member Carpenter and seconded by Council Member Hanson that we authorize release of \$1.224 million in funds to the Jobs Development Authority.

Council Members Carpenter and Beach who are chair and vice chair of the Jobs Development Authority assured the council that one of them would sign the release of funds in behalf of the Jobs Development Authority and that they would not authorize release of funds until all documents completed and approved by the city attorney.

Upon roll call the following voted "aye": Council Members Beach, McCabe, Hoepner, Hamerlik, Hanson, Carpenter, Sande, Klave, Beyer, Babinchak, Hagness - 11; voting "nay": none. Mayor Polovitz declared the motion carried.

ADJOURN

It was moved by Council Member Beyer and seconded by Council Member Hoepner that we do now adjourn. Carried 11 votes affirmative.

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Respectfully submitted,

John M. Schmisek
City Auditor

Approved:

Michael Polovitz, Mayor