

**THE CITY COUNCIL  
GRAND FORKS, NORTH DAKOTA  
5, 1996**

**PROCEEDINGS OF  
OF THE CITY OF  
Monday, August**

The city council of the city of Grand Forks, North Dakota, met in its regular session in the council chambers in City Hall on Monday, August 5, 1996 at the hour of 7:30 o'clock p.m. with Mayor Owens presiding. Present at roll call were Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; absent: Council Member Hanson - 1.

Mayor Owens announced that anyone wishing to speak to any item may do so by being recognized prior to a vote being taken on the matter.

APPROVE MINUTES JULY 1, 1996

Typewritten copies of the minutes of the regular meeting of the city council held on Monday, July 1, 1996, were presented and read. It was moved by Council Member Hafner and seconded by Council Member Hagness that these minutes be approved as read. Carried 13 votes affirmative.

ADOPT ORDINANCE NO. 3603, AMENDING THE LAND USE PLAN ELEMENT OF THE COMPREHENSIVE PLAN. AND REFER AMENDED PLAN BACK TO PLANNING AND ZONING FOR CONSIDERATION

An ordinance entitled "An ordinance relating to the Comprehensive Plan, amending Chapter XVIII, Article 8, Comprehensive Plan; Section 18-0802, Elements, of the Grand Forks City Code of 1987, as amended, pertaining to the 2015 Grand Forks Land Use Plan" which had been introduced and passed on its first reading on May 6, 1996, and upon which public hearing had been scheduled for this evening, was presented and read for consideration on second reading.

The city auditor reported that the required legal notice had been published calling for a public hearing to be held on this matter this evening and further that to date no protests or grievances had been filed with his office.

The Planning and Zoning Commission considered the matter of approval of resolution adopting the 2015 Land Use Plan, and recommended final approval and passage of the ordinance amending the Land Use Plan Element of the Comprehensive Plan.

It was moved by Council Member Hagness and seconded by Council Member Glassheim that this recommendation be and is hereby approved.

Mayor Owens called for the public hearing.

Howard Swanson, city attorney, advised council that the Planning and Zoning Commission has provided a report with an approval of the Land Use Plan, the council has before it the Plan, and council has the ability to make any modifications to the Plan that the council deems appropriate; however, if there are any modifications to the Plan, those modifications

need to be referred back to the Planning and Zoning Commission for their action if they choose to take any, if they do not take action within 30 days of council's report back to them, it will be deemed that the Commission has implicitly approved those changes, and would then be effective at the expiration of the 30 days.

Council Member Babinchak moved to amend the current Land Use Plan that was approved at Planning & Zoning Commission to change the property south of 17th

Avenue South and west of South 42nd Street back to residential with a small

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portion of that along 17th Avenue South light commercial or office commercial which had been approved during preliminary plan that they had. Council Member Sande seconded the motion.

Robert Bushfield, city planner, presented maps showing area as originally approved at preliminary approval and the way it was presented at the Century School meetings, and the way it was amended at the Planning and Zoning Commission meeting which would change that piece of property from residential to commercial, and motion at P & Z didn't differentiate between B-1 (Limited Business) type use or commercial, all designated as commercial.

Council Member Babinchak stated that one of the reasons for her amendment is that all through the process they had told residents that this area would be residential and makes sense to keep as residential as an outlet to go on the west side of the interstate as residential; commercial was not felt to be needed when discussed. She also stated that it would not be single family housing on that property but multi-residential, etc.

Council Member Hagness stated that one of the reasons that property looked at as business was because zoning can always be changed by future councils and planning commissions; that for proper, orderly growth you do not put residential housing next to an interstate highway because of noise, etc. but if have apartment units, those more transient people and don't have concerns that residential housing does; and consider what is best use in that area.

Council Member Sande urged support of the amendment; that based on current draft of the Land Use Plan, there are 2800 acres of residential property in Grand Forks and 1150 acres of commercial property, the increase in the projected growth in land use acreage shown in the draft would indicate that the city would have an increase by 2015 of 32% in residential and 42% in commercial acres, that there are quite a few commercial acres that currently are undeveloped and thinks they will be skewing the development of the city by having so many acres designated as commercial property, and urged support of the amendment.

Mr. Bushfield reviewed density of area south of 17th Avenue South and stated that he didn't support this at the Planning Commission meeting but didn't support for different reason, and why what is proposed is poor planning, that staff recommendation was to support multiple family, poor planning because do transitions in rear property lines, not across street from each other, so don't have residential uses across from commercial

uses, so he felt that this corridor should be commercial on both sides for the same depth or all commercial with transition created in rear yards. He stated that if mix uses, doesn't work very well for either, have higher volumes of traffic on arterial street, ie., South 42nd Street, and hurts commercial on west side of South 42nd St., recommended that property remain as residential or that both sides be commercial. There was also some discussion re. buffer zone area between development and Interstate, and that by putting an adequate buffer adjacent to the Interstate can probably accommodate the multiple family uses that Mr. Hagness talked about in his amendment at the Planning & Zoning Commission and they showed a 25% buffer that was 25 ft. and that buffer carried all the way through so could end up screening with fairly dense screening of evergreens, that it would be his hope that they wouldn't end up putting in buffer wall, that when detailed development plan comes in for this area, will make sure they are aware of it, and can also adjust the site plans so the buildings set as far away from Interstate as possible, and possibly screen by the garages. He stated they have ability at the Planning and Zoning Commission to adjust site plans so can use other things for barriers to serve as sight and sound protection.

Mr. Swanson advised that the motion on the floor would amend that portion of

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the Plan from commercial deleting the commercial area that Mr. Bushfield pointed out, and converting that to residential and multi-densities.

Upon call for the question on the amendment and upon roll call vote, the following voted "aye": Council Member Beach, Polovitz, Ellingson, Hamerlik, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner - 11; voting "nay": Council Member Glassheim, Hagness - 2. Mayor Owens declared the motion carried and the amendment approved.

It was moved by Council Member Beach that the Plan reflect a possible future elementary school on North 55th Street between 6th and 10th Avenues North, contingent upon action to that effect by the School District on August 13; Council Member Polovitz seconded the motion.

There was discussion as to whether the plan should include location of a future elementary school on the west side of the Interstate. It was noted by Council Member Beach that the School Board has a subcommittee known as Facilities Committee, that they met last week and said that a school would not be located in that area, but that there is considerable data that says that they might; their concern is that children from that area taken to Lake Agassiz and West Schools east of I-29, and if pulled those children out, might jeopardize future of West School; thinks there will be enough children in that area for an elementary school, especially before 2015. Council Member Sande agreed, that at her insistence there is a map of Grand Forks School District No. 1 in the revised draft of the Plan, and is appropriate that School District make mention of the possibility that they might have school there somewhere.

Council Member Carpenter stated he supported intent of Council Member Beach's motion, that they talk about affordable housing and this is

probably area where most affordable housing is and not willing to support it in the long range plan with an elementary school, should be doing that rather than forcing all of the residential development to the south end where more expensive to develop and build than going to the west; and moved to delete contingency from the amendment; Council Member Babinchak seconded the motion.

Council Member Hamerlik stated he didn't like amendment, that it's only if they act on August 13, and suggested deleting that date. Council Members Beach and Polovitz agreed to delete date from their motion.

Council Member Beach stated he understood it was policy in the Planning Dept. and in Planning & Zoning Commission that when project future schools, you basically reflect feelings of the School District and have not over-ruled them.

Robert Kweit, chairman of the subcommittee reported that the committee put together this plan and did not wrestle with a commercial area south of 17th Avenue, but did wrestle with where the schools should be placed; that the discussion was that they have no authority over School District, that our responsibility is to tell them where we project residential growth and other growth in the city, and that based upon our projections they will make their projections as to where they will need schools. He stated in light of issues raised, the School Board said they would reconsider locating a school west of the Interstate and apparently that's what they are doing, and would be happy to include a school where the School Board wants to put it, but we have no authority over the School Board and council has no authority over the School Board except for persuasion.

Council Member Carpenter stated the intent of his amendment was to delete any reference to the School District, that they recommend that it be put into the plan that there be a school in the Richard's West area.

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Mr. Swanson stated they are dealing with the amendment to the amendment and that deletes any reference to the School Board, that if that motion carries, would then be voting on the motion that would place the projected school in the Richard's West Addition between 6th and 10th Avenues North along North 55th Street.

Upon call for the question on the amendment to the amendment and upon voice vote, the motion carried.

It was moved by Council Members Bakken and Glassheim to amend the motion to show location west of interstate and north of BNRR.

Mr. Swanson advised they are dealing with a plan, the plan will show specific locations, if you review your land use plan you will see specific locations for proposed schools, parks, proposed development, and to simply approve a concept plan, long term plan, without some location, does it provide any benefit. He also advised that this body has no authority to determine the location of a school whatsoever.

Council Members Beach and Polovitz asked to delete any reference to

additions, and to say in the proximity of 55th Street and 6th Avenue North.

After further discussion Council Member Glassheim withdrew his second to the amendment; and Council Member Bakken withdrew his motion.

Upon call for the question on the amendment as amended, the motion carried 13 votes affirmative.

Upon call for the question on the original motion and second reading of the ordinance, as amended and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the ordinance adopted.

Mr. Swanson advised that insofar as the Plan has now been amended following the report from the Planning and Zoning Commission, the matter should be referred back to the Planning & Zoning for their consideration.

Moved by Babinchak and Carpenter to refer the matter back to Planning & Zoning for their consideration. Carried 13 votes affirmative.

Mr. Bushfield and Mayor Owens thanked Dr. Kweit for the work he put into this plan.

HOLD PUBLIC HEARING AND CONTINUE MATTER OF  
DETERMINATION OF SUFFICIENCY OF PROTEST TO  
PROPOSED ANNEXATION OF SHADYRIDGE ESTATES FIRST,  
SECOND AND THIRD ADDITIONS, SHADYRIDGE ESTATES  
FOURTH AND FIFTH RESUBDIVISIONS AND UNPLATTED  
PORTION OF SECTIONS 26 AND 27, T151N, R50W OF  
5TH PM TO AUGUST 19, 1996

The city auditor reported the proper notice had been placed in the official newspaper publishing the resolution of annexation passed on May 6, 1996 and that the City has provided the required mailed notice to the individual property owners relative to the annexation of all of Shadyridge Estates First Addition, all of Shadyridge Estates Second Addition, all of Shadyridge Estates Third Addition, all of Shadyridge Estates Fourth Resubdivision, all of Shady- ridge Estates Fifth Resubdivision, and an unplatted portion of Sections 26 and 27, T151N, R50W of the 5th PM, and that the notice called for a hearing this evening for the purpose of hearing and determination of the sufficiency of any  
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protests to the proposed annexation.

The city auditor reported that his office has received petitions from property owners of Lot 4, Lot 5, Lot 6, Lot 7, Lot 8, Lot 9, Lot 10, Lot 11, Lot 12, Lot 13 which is now Lot B, Lot 14 which is now Lot A, Lot 15, Block 1, Shadyridge Estates 1st Addition, which constitutes 32.24% of the total acreage of the territory proposed to be annexed and the protest represents more than 25% of the territory and that is a sufficient protest at this time.

Mr. Swanson, city attorney, advised that since there is more than 25%

protest the proper motion would then be to determine a sufficiency of protest, and then council has decision to make: 1) either terminate the proceedings on annexation as it has been brought before them, or 2) petition the attorney general's office to convene an annexation review commission. He stated that the matter before the council is to determine a sufficiency of protest and based upon those protests there is a sufficiency of protest.

Mayor Owens called for the public hearing.

Pat Morley, attorney representing the developers, Lavonne and Darrell Adams, stated that when this area first developed Shadyridge One was the first area of development and originally was planned to be three-acre sites, but due to the flood plain and the agricultural zoning the lots are five-acre sites, that many of the lots are sold and planned to be annexed January 1, 2014. He stated that Mrs. Adams petitioned to annex 53 acres of land, that once the process started it was out of Mrs. Adams' control and this is what we have left, approx. 200 acres. He stated that it is the position of the Adams' that they cannot economically develop this property if annexed in one group, not including the area that is to be annexed January 1, 2014. He stated that many of the people who have purchased lots in Shadyridge I, would like to see this area annexed no sooner than 2014. He stated that it is the request of the Adams' that the City terminate the annexation proceedings and also that the property remaining to be annexed January 1, 2014 and that there would be no protests at that time. He stated that the area is unworkable, too large and cannot be absorbed economically by the City or by the developer, and would in effect put the developer out of business of developing this area. He also stated that there have been some other changes, Sisters of St. Francis property has been sold and is in the process of being developed, that at a later date Mrs. Adams and Darrell Adams will be coming back for additional annexation in smaller parts (in 10-20 acres parcels). He stated that in behalf of the developers, his request is that the annexation proceedings be terminated and sent back to the particular body that would need to look at this again. He stated that there are some property owners in Shadyridge I that have strong feelings about not coming into the city until 2014, they were told that when they bought these lots that they would not be annexed for 20-25 years; that has been changed to 2014 and he understands that is a satisfactory compromise; that they are concerned that if this goes back for review that they may be annexed sooner than that. He stated that is the position of the developer and of the owners, but that he doesn't represent any of the owners, because it is not an economical basis, would be subject to special assessments.

Mr. Swanson stated that if proceedings terminated that the plats tentatively approved in any of the concept or detailed development plans are no longer valid, excluding Shadyridge I. Mr. Adams stated that was satisfactory.

John Hill, 1720 Belmont Road, property owner in Shadyridge First Addition, asked if the property owners in Shadyridge First Addition would withdraw their protest, will the year 2014 stand as the earliest possible annexation date. Mr. Swanson stated that without knowing calculations of what portion Shadyridge First comprises of the total annexation area, can't answer that; if the area is still in excess of 25% having protests, wouldn't

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stated that those property owners would like to go on record that if Shady- ridge First has enough acreage to make protest less than 25%, would like to withdraw their protest to keep year 2014 as earliest possible date of annexation. Mr. Hill reported he has signed petitions from residents withdrawing their protest and presented signed withdrawals.

There was some discussion that if annexation proceedings terminated, who could start proceedings for annexation in the future; Mr. Swanson stated that council can move forward with annexation proceedings without consent of the property owner, and go through same procedures.

Ross Haugen, owner of Lot No. 9 in Shadyridge First Addition, asked questions re. annexation procedures.

David Wilson, owner of Lot 10 in Shadyridge First Addition, stated that it was very disappointing for the property owners to have to continue to come back before council, that the issue is that Mr. Adams wants to develop one small piece of property that is becoming adjacent to the city and the other property owners want to be in the country, where they were verbally promised by Mr. Bushfield and Mr. Adams, and questioned whether council would stand by what these people verbally promised, and would like to see this issue addressed and finalized.

Mr. Morley stated that this started with simple request from Lavonne Adams to annex Shadyridge Third, the parcel closest to Belmont Road, that there must be some way that residents can be assured that they won't be annexed until 2014; that there never was any intent to annex all of this property at the same time, and because of that have the controversy, and it is Mr. Adams request that the City terminate the proceedings. He stated that the property owners don't need the City right now, have Traill County Water, Nodak Electric, telephone service and not a burden on the City; that at some time they should be brought into the city, but with the same orderly development that other areas brought in; that he can't think of a time when the City annexed 200 acres at one time, that the cost of providing services, lift station, etc. and his request again on behalf of Mr. and Mrs. Adams to terminate the annexation proceedings and assure the property owners that they will be brought into the city no sooner than 2014.

Lavonne Adams stated that they paid \$390,000 for their road and that city people use their road every day, and they have to take Belmont Road to town and they do support the city of Grand Forks, and that people outside the city have no rights, that they met with Mr. Bushfield and were told that property would not be brought into the city for 20 years; and questioned how all that property could be annexed at one time.

Mr. Bushfield reported that he met with Dr. Wilson and also with the Adams' re. this property and worked with them closely on the development of the property, that when he was asked whether Shadyridge First Addition was going to come in, it was without the knowledge that the Sisters property was going to be annexed, and without the knowledge that Mr. and Mrs. Adams were going to ask for the development of Shadyridge Second, Third, Fourth and Fifth Additions; that had he known some of those

answers, he probably would have responded differently when Dr. Wilson called him. He stated that when they are asked by the public what their best guess is here, they have to give it to them and try to be as honest as he can with the information available to them at the time. He stated that in his estimation the best interest of the community is to annex that property, and would like to remind everyone that these property owners had covenants attached to their property wherein they agreed not to protest annexation; that when property developed and when it becomes contiguous their recommendation as staff is going to be consistent with policies adopted by the council, and that is to annex it.

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Mr. Morley stated that Mrs. Adams petitioned for annexation of Shadyridge Estates Third Addition only.

Mr. Swanson stated for the record there have been turned in withdrawals of protest by Terry Amble, Lot 11, Shadyridge Estates First; Ross Haugen, Lot 9, Shadyridge Estates First; Dale Romuld, Lot 6, Shadyridge First; Mr. and Mrs. Jon Raymond, Lot 7, Shadyridge First; Mr. and Mrs. Steven Bollinger, Lot 8; Mr. and Mrs. David Wilson, Lot 10; Mr. Hill, Lot 4; Mr. Ahmed, Lot 13; that appears to reduce the protest from 66.4 acres down to 20 acres, there is some issue with regard to Grand Forks Traill Water as to what standing they have or what property interests they have and whether or not that area is calculated twice with other protests. He stated he will not make a determination tonight nor does he think this body should rely on staff to make a decision tonight on whether or not that meets 25% protest, and his recommendation to this body is that given the withdrawal of protests that are now made of record, that they close the public hearing with regard to protest issues and continue the matter for two weeks for determination of sufficiency of protest.

Dr. Wilson stated to clarify Mr. Bushfield's comments, that he didn't come to Grand Forks until a little over year ago, and didn't buy the property until approx. January 1995.

Dr. Abdel Ahmed, owner of Lot 13, Shadyridge I, stated that it is not that the people who live in that particular area don't want to get into the city, was told at the time he purchased the lot that property could not be in the city and that would not happen for 20 years and subsequently lots divided differently with a higher price, that they would look at it as honor that they be given some time to recoup their expense, and why annex now when everything has been done, rather than two years ago.

Scott Stradlie, RR 1, Grand Forks Township, stated he was speaking in behalf of John Drees and himself, both members of the Grand Forks Township Board of Supervisors, that the city of Grand Forks is largely developed from Grand Forks Township, that it began at DeMers and runs to the RR track to the west and to the south to County road known as the Merrifield Road; that about 30% of this township remains, other 70% having been annexed by the City; that the annexation process is creating a financial problem for them, that they have 16 miles of rural roads to maintain, that they do get some money from gasoline tax but rely on property taxes. He stated that one of the roads the annexation is

adjacent to is a township road (mis-identified as County road on the maps) that runs about 1/8th mile east of Belmont to the Coulee; that the annexation creating more traffic for the township road and at the same time taking away property tax base from them. He stated that he is here to address the whole issue of orderly development, that this annexation violates the principle of orderly development because orderly development has to consider the financial viability of other governmental units impacted by these actions, and that this particular annexation as proposed would affect them financially and would encourage council to vote entire annexation down and send back to square zero and in the process would hope there was opportunity for the Township to have more say/participation in the hearing process in order to try to get more Township input into the notion of what orderly development is.

Mike Juntunen, attorney representing Grand Forks Traill Water, stated they have furnished water utility services to this area and have an investment that is protected by federal law and the annexation presents a conflict, whether it goes forward now or later. He stated there have been other conflicts in utility services and there will continue to be conflicts as the city grows into competing areas of other utility providers. He stated protests filed on their behalf, that they have not been announced publicly before, but wishes to make it a matter of public record that if the City annexes, they are competing with another utility provider and that there is a federal statute

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which grants them priority, and you cannot displace, in his opinion, their particular rights to provide water to these services.

Mr. Swanson stated that Grand Forks Traill Water owns an easement in the property that has been identified on their protest and asked who holds fee title. Mr. Juntunen stated fee title to whomever the land owners were at the time they were granted by Lavonne Adams.

Council Member Carpenter stated there is 230 acres in the annexation, have protests for 66 acres, and asked what status of the balance of that property. Mr. Morley stated the remainder of the property is owned by Ralph Adams and Lavonne Adams, but understood they had protested.

Mayor Owens closed the public hearing.

It was moved by Council Member Glassheim and seconded by Council Member Carpenter that the determination of sufficiency of protest be continued to August 19, 1996. Carried 13 votes affirmative.

APPROVE APPLICATION FOR MOVING PERMIT TO MOVE  
BUILDING TO 1406 10TH AVENUE FOLLOWING PUBLIC  
HEARING

The city auditor reported that the notice of public hearing on the application by Troy A. Schill to move building from 920 South 19th Street to 1406 10th Avenue South to be used as a garage had been published and posted as required.

Mayor Owens called upon the audience to see if there was anyone present who had comments to make on this matter. There were none.

Committee No. 3, Public Service, reported having considered the application for permit to move garage from 920 South 19th Street to 1406 10th Avenue South, and recommended to approve application, subject to the public hearing.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved and further that Mr. Schill be authorized to move the building. Carried 13 votes affirmative.

COUNCIL MEMBER BEYER EXCUSED

ADOPT RESOLUTION VACATING PORTION OF BIKEWAY  
AND PEDESTRIAN WALKWAY EASEMENT IN BLOCKS 1  
AND 2, GARDEN VIEW ESTATES FIRST ADDITION

The city auditor reported that pursuant to instructions by the city council after having received a petition to vacate the 20-foot wide easterly and westerly bikeway and pedestrian walkway easement lying 10 feet on either side of the lot line common to Blocks 1 and 2, Garden View Estates First Addition, the required legal notice had been published calling for a public hearing to be held this evening and further that no protests or grievances had been filed with his office.

Mayor Owens called upon the audience to see if there was anyone present who had comments to make on the matter. There were none.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that we do hereby find and determine an insufficiency of protest on the request for vacation. Carried 12 votes affirmative.

Council Member Hagness introduced the following resolution which was presented and read: Document No. 7132 - Resolution.

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It was moved by Council Member Klave and seconded by Council Member Sande that this resolution be and is hereby adopted. Carried 12 votes affirmative.

RECESS FOR 5-MINUTES; RECONVENE

Mayor Owens called for a 5-minute recess; the council reconvened at 9:25 p.m. with all members present except Council Member Hamerlik.

REPORTS OF OFFICERS

The city auditor's report on investment activities for period ending July 31, 1996 was presented and read. It was moved by Council Member Babinchak and seconded by Council Member Ellingson that this report be received and filed. Carried 12 votes affirmative.

COUNCIL MEMBER HAMERLIK REPORTED BACK

REPORT OF ZONING ADJUSTMENTS

A communication from Bev Collings, secretary, Board of Zoning Adjustments, was presented and read stating that the Board had held a public hearing in City Hall on July 18, 1996, that notice had been published as required and that the following appeals were heard: 1) Bob Klave on behalf of Albertus and Caroline Kresel, 322 North 5th Street, request for variance to the accessory building requirements to erect a garage, with variance approved allowing a five ft. setback to the overhead door of a garage to construct an accessory building; 2) John O'Keefe on behalf of James Senske, 2697 and 2649 North 44th Street, request for variance to the paving and landscaping requirements for parking lots to erect a building and pave at a future date, with variance approved allowing the paving and curbing requirements of the parking lot to be delayed for five years and paving and curbing to be completed by the end of the fifth year; 3) Radke Construction on behalf of James Ness and Debra Hartje, 307 7th Avenue North, request for variance to the front yard setback requirements to erect an addition onto the dwelling, with this item being held as no one appeared to speak to the matter.

It was moved by Council Member Sande and seconded by Council Member Polovitz that this report be and is hereby received and filed. Carried 13 votes affirmative.

APPROVE BILLS

Vendor Payment Listing No. 96-13, dated August 5, 1996, and totaling \$669,067.83, all having been audited by the city auditor for payment in accordance with Regulation No. 2, was presented and read.

It was moved by Council Member Hafner and seconded by Council Member Beyer that these bills be allowed and that the city auditor be authorized to issue warrants in payment of the same. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried and the bills ordered paid.

ADOPT RESOLUTION RELATING TO \$4,530,000  
REFUNDING IMPROVEMENT BONDS, SERIES 1996B,  
AND CALLING FOR PUBLIC SALE THEREOF

Committee No. 1, Finance, reported having considered the matter of sale of refunding bonds, and recommended that we adopt the resolution authorizing issuance of \$4,530,000 Refunding Improvement Bonds, Series 1996B, and offer for sale, with sale date set for September 16, 1996.  
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It was moved by Council Member Babinchak and seconded by Council Member Carpenter that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Babinchak introduced the following resolution and moved its adoption, which motion was seconded by Council Member Carpenter:

Document No. 7133 - Resolution.

Upon vote being taken thereon, the following voted in favor thereof: Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; and the following voted against the same: none; whereupon the resolution was declared duly passed and adopted.

REJECT COPIER BIDS, AND AUTHORIZE REBID

Committee No. 1, Finance, reported having considered the matter of copier bids, and recommended to reject the bids and authorize the finance department to rebid.

It was moved by Council Member Babinchak and seconded by Council Member Carpenter that this recommendation be and is hereby approved. Carried 13 votes affirmative.

AUTHORIZE HEALTH BENEFITS FOR GRANT-FUNDED POSITIONS

Committee No. 1, Finance, reported having considered the matter of health benefits for grant-funded positions, and recommended that the request be denied.

It was moved by Council Member Babinchak and seconded by Council Member Carpenter that this recommendation be and is hereby approved.

After some discussion and upon call for the question and upon roll call vote, the following voted "aye": Council Members Hamerlik, Babinchak - 2; voting "nay": Council Members Polovitz, Ellingson, Glassheim, Carpenter, Sande, Klave, Beyer, Bakken, Hafner, Hagness, Beach - 11. Mayor Owens declared the motion defeated.

It was then moved by Council Member Carpenter and seconded by Council Member Ellingson that we allow health benefits for grant-funded positions.

John O'Leary, executive director Urban Development, asked that they be allowed to make administrative decision on percentage basis.

Upon call for the question and upon voice vote the motion carried 12 to 1, Council Member Babinchak voted against the motion.

APPROVE BUDGET AMENDMENT

A request to amend the Assessing Department budget to reflect transfer from cash carryover in the amount of \$1,532.00 to authorize re-arrangement of work stations, was presented and read. It was moved by Council Member Babinchak and seconded by Council Member Carpenter that this amendment be approved. Carried 13 votes affirmative.

APPROVE REQUEST FROM SKI AND BIKE SHOP TO  
BLOCK PORTION OF RIVERBOAT ROAD FOR GT AIRSHOW  
ON AUGUST 9

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Committee No. 2, Public Safety, reported having considered the request from the Ski & Bike shop to block Riverboat Road from just east of Bremers Driveup facilities to DeMers Avenue on Friday, August 9, from 3:00 to 9:00 p.m. for event featuring GT Air Show (traveling bicycle stunt team), and recommended to approve the request.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE REQUEST FROM AMERICAN DIABETES  
ASSN. TO HOLD ANNUAL FALL RIDE & STRIDE  
ON SEPTEMBER 8

Committee No. 2, Public Safety, reported having considered the request from American Diabetes Assn. to use city bikepath to hold its annual Fall Ride & Stride fund raising event on September 8, and recommended to approve the request.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

AUTHORIZE INSTALLATION OF STOP SIGNS AT 26TH  
AVENUE SOUTH AND SOUTH 26TH STREET

Committee No. 2, Public Safety, reported having considered the request to convert yield signs to stop signs at 26th Avenue South and South 26th Street, and recommended to approve the request and authorize installation of the stop signs.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 voted affirmative.

AUTHORIZE INSTALLATION OF YIELD SIGNS ON  
SOUTH 15TH STREET AND ON 7TH AVENUE SOUTH

Committee No. 2, Public Safety, reported having considered the request for intersection control along South 15th Street between 13th Avenue South and DeMers Avenue, and recommended to authorize installation of yield signs on South 15th Street at 11th Avenue South and on 7th Avenue South at South 15th Street.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

AUTHORIZE SPEED LIMIT SIGNS IN ALLEY BEHIND  
LUCKY INN AT 1130 HAMMERLING AVENUE

Committee No. 2, Public Safety, reported having considered the request for closing alley behind Lucky Inn at 1130 Hammerling Avenue, and

recommended to receive and file, and to direct that speed limit signs be placed in the alley.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

AUTHORIZE REMOVAL OF PARKING AT INTERSECTION  
OF LETNES AND SOUTH 12TH STREET  
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Committee No. 2, Public Safety, reported having considered the request for "no parking here to corner" signs at Letnes and South 12th Street, and recommended to authorize removal of parking 50 ft. in either direction at this inter- section.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE REQUEST FOR NO PARKING AND STRIPING  
ON CURVE AT 49TH AVENUE SOUTH AND CHESTNUT  
STREET

Committee No. 2, Public Safety, reported having considered the request for "no parking" signs and yellow stripe on curve at 49th Avenue South and Chestnut Street, and recommended to approve the request.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

AUTHORIZE INSTALLATION OF YIELD SIGNS ON 4TH  
AVENUE NORTH AT NORTH 6TH STREET

Committee No. 2, Public Safety, reported having considered the request for intersection control at 4th Avenue North and North 6th Street, and recommended to authorize installation of yield signs on 4th Avenue North at North 6th Street.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE GRANT AGREEMENTS WITH ND DEPARTMENT  
OF HEALTH

Committee No. 2, Public Safety, reported having considered the matter of grant applications for health department: a) Community Health Immunization Info. Network Access and License Agreement; b) Care Coordinating Service for Children with Special Needs; and c) Amendment to Tuberculosis Control grant agreement; and recommended to approve the grant agreements, contingent upon review and approval by the city attorney.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 13 votes affirmative.

#### APPROVE BUDGET AMENDMENTS

A request for amendment to the Care Coordination Services for Children with Special Health Care Needs Grant budget in the amount of \$12,600 to reflect new grant monies, was presented and read. It was moved by Council Member Ellingson and seconded by Council Member Sande that this budget amendment be and is hereby approved. Carried 13 votes affirmative.

A request for amendment to the Communicable Disease budget in the amount of \$3,063.00 to reflect additional monies for Families First (for quarter ending 3/31/96), was presented and read. It was moved by Council Member Ellingson and seconded by Council Member Sande that this budget amendment be and is hereby approved. Carried 13 votes affirmative.

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#### DEFEAT MOTION TO REQUEST CIVIL SERVICE COMMISSION TO CERTIFY EXISTING ELIGIBILITY REGISTER FOR POLICE CAPTAIN

Committee No. 2, Public Safety, reported having considered the matter of requesting Civil Service Commission to re-interview candidates for police captain, and recommended that we approve a resolution asking the Civil Service Commission to reconsider their decision and certify the existing eligibility register.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved.

Council Member Babinchak asked to be excused from voting on this matter. It was moved by Council Members Hagness and Klave that Council Member Babinchak be allowed to abstain from voting. Carried 12 votes affirmative.

Council Member Sande reported that in response to the action of the Civil Service Commission in not certifying the promotional register for police captain, she feels that it is appropriate that this come from the public safety committee and thinks it is appropriate for her as chairman to bring this to the council, that the Implementation Committee has been working hard trying to bring the police department on track, improve morale, that they have worked to re-organize the department based on the consultant's report and that by refusing to certify the promotional register, this was a true setback for the Implementation Committee. She stated there have been several questions with regard to the process that she would like to assure people that with regard to the order of candidate interviews, that the order of interviews was set up based upon the convenience of the department and work schedules of people involved rather than any rank order of scores of the candidates, and the basic

questions are much the same for sergeant, lieutenant and captain, with a few which were different among the three categories, basically the questions on the interview were pretty much the same and are what anyone could expect to be asked. She stated in addition the members of the interview board asked one or two questions of their own; however, it is her strong feeling that since the Civil Service Commission set the qualifications, the Human Resources and chief of police determined which of the applicants were qualified initially, the Civil Service Commission determined the cutoff for the exam and those people who passed the exam were interviewed, three of them, and that three members of the Interview Board gave grades between 33 and 39 out of a possible 40, and the member of the Civil Service Commission gave a grade as low as 10 and none of them a grade above 30; since that member of the Civil Service Commission wrote a lengthy explanation and had opportunity to persuade other members of the Commission to her point, in spite of the fact that three professional police officers of many years experience and a Human Resources department member, who has had long experience, felt that these people were qualified to serve as captains, the Civil Service Commission refused to certify. She stated it is her belief that the purpose of the probationary period gives the opportunity for the successful candidate to demonstrate his abilities and therefore, asked council to ask Civil Service Commission to reconsider and to certify the promotional register.

Council Member Glassheim stated that as he understands the position of the Civil Service Commission is that what they were saying by their votes is that this is very important top management position and cannot get that position merely because you're employed in the department, that there has to be some preparation for administration or management, some demonstration of that, although that's not part of the minimum requirements, but not guaranteed that there will be promotion from within at that level. He stated that as it stands now any of the candidates will be allowed to apply for a newly opened position, and will have opportunity to compete. He also stated that he  
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opposes the motion because the City has Civil Service Commission and unless there's an extended series of grievances with them, not sure council should interfere or send messages about what we like or don't like about what they did. He stated the purpose of the Commission is to take all of this out of politics, out of preferences by council people, they are supposed to look at qualifications and make a decision.

Council Member Hagness stated that as third member of the Implementation Committee to speak to this, he supports Council Member Sande's statement, that if it was the Commission's decision individually that they had knowledge that none of the candidates qualified as Ms. Page stated he can respect that, but when other Commission members state that they are voting along with Ms. Page because she is a knowledgeable person, then going along with her even though the committee that did the interviewing voted three to one to recommend the register. He stated the City should be hiring from within or individuals shouldn't be in the positions they are in right now.

After further discussion and upon call for the question and upon voice

vote, the motion was defeated; Council Member Babinchak was excused from voting on this matter.

AUTHORIZE PROCEEDING WITH BIKEPATH PROJECT ALONG  
RED RIVER, USING ALTERNATE DESIGN, PROJECT NO. 4349

Committee No. 3, Public Service, reported having considered the matter of Project No. 4349, bikepath along Red River from Plum Avenue to Lincoln Drive, and recommended that we proceed with the project using the alternate design.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE ACQUISITION OF PROPERTY FOR WATER  
PLANT EXPANSION, PROJECT NO. 4408

Committee No. 3, Public Service, reported having considered the appraisal report by Appraisals & Real Estate Research for property acquisition for possible future water plant expansion, Project No. 4408, at 620 South 3rd Street (SE one-half of Lot 7, Block 1, Hubert's Addition), for the sum of \$43,600.00 and other good and valuable considerations, from David Jr. and Joni Helmer, and recommended that we authorize purchase of the property in the amount of \$43,600.

Committee No.3, Public Service, reported having considered the appraisal report by Appraisals & Real Estate Research and by Reilly appraisal Consultants, Inc. for property acquisition for possible future water plant expansion, Project No. 4408, at 311 Minnesota Avenue (Lot A, Block 1, Hubert's Addition) for the sum of \$46,000.00 and other good and valuable considerations, Gordon O. and Elaine Thompson, grantors, and recommended that we authorize purchase of the property in the amount of \$46,000.00.

Committee No. 3, Public Service, reported having considered the matter of appraisal report by Appraisals & Real Estate Research for property acquisition for possible future water plant expansion, Project No. 4408, at 622 South 3rd Street (Lot 9, Block 1, Hubert's Addition), for the sum of \$58,000 and other good and valuable considerations, Lawrence T. and Betty Miller, grantors, and recommended that we authorize purchase of the property in the amount of \$58,000.

It was moved by Council Member Beyer and seconded by Council Member Hafner that these recommendations be and are hereby approved. Upon roll call the

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following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

AUTHORIZE CITY TO JOIN IN PETITION TO  
VACATE PORTION OF 2ND AVENUE NORTH

Committee No. 3, Public Service, reported having considered the petition for the vacation of a portion of 2nd Avenue North for right of way to be used for parking and accessory uses to the renovation of the adjoining building, formerly known as The Pink Hanger Building located at 2nd Avenue North between North 3rd Street and 150 feet northeasterly thereof, and recommended that the proper City officials join in the petition to vacate.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE ENGINEERING AGREEMENT FOR PROJECT  
NO. 4530, WATER DISTRIBUTION SYSTEM STUDY

Committee No. 3, Public Service, reported having considered the matter of engineering agreement for Water Distribution System Study, Project No. 4530, and recommended to approve the engineering agreement with Webster, Foster & Weston in the amount of \$97,246.00, based on an hourly rate not to exceed.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE AMENDMENT TO ENGINEERING SERVICES  
AGREEMENT FOR PROJECT NO. 4333, FORCEMAIN  
VALVE REPLACEMENT

Committee No. 3, Public Service, reported having considered the matter of amendment to engineering services agreement for construction phase services for Project No. 4333, forcemain valve replacement, and recommended to approve the amendment to the agreement with Webster, Foster & Weston in the amount of \$15,152.00.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE THREE-WAY AGREEMENT FOR PRIVATE  
INSTALLATION OF UTILITIES IN RIVERS EDGE  
ADDITION

Committee No. 3, Public Service, reported having considered the matter of three-way agreement for Rivers Edge utilities, and recommended to authorize City to enter into a three-way agreement with the developers and engineers for private installation of underground utilities.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner,  
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Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE THREE-WAY AGREEMENT FOR PRIVATE  
INSTALLATION OF UTILITIES IN DESOTO FIRST  
ADDITION

Committee No. 3, Public Service, reported having considered the matter of three-way agreement for installation of utilities in Desoto First Addition, and recommended to authorize City to enter into three-way agreement with developer and engineer for private installation of underground utilities in Desoto First Addition.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

ACCEPT CASTING QUOTES

Committee No. 3, Public Service reported having considered the matter of quotes for castings, and recommended to accept the low bid of Fargo Water in the amount of \$14,017.14.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

ADOPT RESOLUTION APPROVING PLANS AND  
SPECIFICATIONS AND ADVERTISEMENT FOR BIDS,  
PROJECT NO. 4523, SEWER DISTRICT NO. 377

Committee No. 3, Public Service, reported having considered the matter of plans and specifications for assessment/construction projects: Project No. 4523, District No. 377, sanitary sewer to serve English Coulee Center 2nd Addition, and recommended that we pass a resolution approving the plans and specifications for this construction and further that the city auditor be directed to advertise for bids on the project.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Beyer introduced the following resolution which was presented and read: Document No. 7134 - Resolution.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this resolution be and is hereby adopted. Carried 13 votes affirmative.

ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ADVERTISEMENT FOR BIDS, PROJECT NO. 4524, WATERMAIN DISTRICT NO. 250

Committee No. 3, Public Service, reported having considered the matter of plans and specifications for assessment/construction projects: Project No. 4524, District No. 250, watermain to serve English Coulee Center 2nd Addition, and recommended that we pass a resolution approving the plans and specifications for this construction and further that the city auditor be directed to advertise for bids on the project.

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It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Beyer introduced the following resolution which was presented and read: Document No. 7135 - Resolution.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this resolution be and is hereby adopted. Carried 13 votes affirmative.

ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ADVERTISEMENT FOR BIDS, PROJECT NO. 4525, SEWER DISTRICT NO. 378

Committee No. 3, Public Service, reported having considered the matter of plans and specifications for assessment/construction projects: Project No.4525, District No. 378, storm sewer to serve English Coulee Center 2nd Addition, and recommended that we pass a resolution approving the plans and specifications for this construction and further that the city auditor be directed to advertise for bids on the project.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Beyer introduced the following resolution which was presented and read: Document No. 7136 - Resolution.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this resolution be and is hereby adopted. Carried 13 votes affirmative.

APPROVE PLANS AND SPECIFICATIONS FOR PROJECT NO. 4548, PARKING LOT IMPROVEMENTS

Committee No. 3, Public Service, reported having considered the matter of plans and specifications for assessment/construction projects: Project No. 4548, parking lot improvements for Bridge and County lots, and recommended that we approve plans and specifications and authorize call for bids, contingent upon engineer's comments.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

DELAY PROJECT NO. 4260, BRIDGE REPLACEMENT  
AT 27TH AVENUE NORTH AND ENGLISH COULEE, FROM  
1997 TO 1998

Committee No. 3, Public Service, reported having considered the matter of authorizing consultant selection for Project No. 4260, Bridge Replacement at 27th Avenue North and English Coulee, and recommended that we delay project from 197 to 1998.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

ACCEPT BIDS FOR TRAFFIC MARKING PAINT

Committee No. 3, Public Service, reported having considered the matter of bids for traffic marking paint, and recommended to accept the bid of Vogel Paint & 14606 August 5, 1996

Wax Co., Inc. for 990 gal. white traffic paint at \$7.98/per gal. and 770 gal. yellow traffic paint at \$7.85/per gal. for a total bid of \$13,944.70, paint to be delivered in 55-gal drums.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE REQUEST FROM GRAND FORKS CENTRAL HIGH SCHOOL TO USE RIVERBANK FOR HOMECOMING EVENT

Committee No. 4, Urban Development, reported having considered the matter of request from Grand Forks Central High School to use riverbank for Homecoming event (bonfire) on September 19, and recommended to approve the request.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE SPECIFICATIONS FOR REMOVAL OF BOX ELDER TREES IN NEAR NORTHSIDE, BEAUTIFICATION PROJECT

Committee No. 4, Urban Development, reported having considered the matter of specifications and request for bids for removal of box elder trees in near northside neighborhood, beautification project, and recommended to proceed with the project.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

AUTHORIZE NORTH VALLEY ARTS COUNCIL TO UTILIZE  
SPACE IN CITY CENTER MALL ON TEMPORARY BASIS,  
WITHOUT CHARGE

Committee No. 4, Urban Development, reported having considered the request from North Valley Arts Council for temporary office space during construction on Empire Theatre building, and recommended to grant authorization to City Center Mall management to allow North Valley Arts Council to utilize space without charge in the City Center Mall during construction phase of the Empire Theatre project.

It was moved by Council Member Beyer and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

REPORT FROM EVENTS CENTER CORE COMMITTEE

Council Member Carpenter reported that the Core Committee met today and considered the 42nd Street traffic study but did not make any recommendations and will consider again; that the steam study came back with some positive results, that there are some cost benefits for utilizing steam, however, engineers will also be looking at that versus electric or geothermal solution; staff, including design team, construction manager and City staff, will be considering what could be built for the \$49 million, discussing private funding options (fund raising, loans from other entities, etc.) and no recommendations other than to ask the Chamber of Commerce to look at that.

APPROVE APPOINTMENTS TO PLANNING & ZONING  
COMMISSION

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Mayor Owens announced the following appointments to the Planning & Zoning Commission for five-year terms ending August 6, 2001 and asked for concurrence in these appointments: Council Member Polovitz, Gary Malm and Keith Lieberg.

It was moved by Council Member Beyer and seconded by Council Member Beach that these appointments be and are hereby approved. Carried 13 votes affirmative.

APPROVE APPOINTMENT TO 911 AUTHORITY BOARD

Mayor Owens announced the appointment of Council Member Ellingson to the

911 Authority Board, and asked for concurrence in this appointment. It was moved by Council Member Beyer and seconded by Council Member Beach that this appointment be and is hereby approved. Carried 13 votes affirmative.

#### APPROVE APPOINTMENTS TO HISTORIC COMMISSION

Mayor Owens announced the appointment of Sandra Slater, Fred Schneider and Dr. Gordon Iseminger to the Historic Commission for two year terms expiring July 1, 1998, and asked for concurrence in these appointments. It was moved by Council Member Beyer and seconded by Council Member Beach that these appointments be and are hereby approved. Carried 13 votes affirmative.

#### APPROVE APPOINTMENTS TO VARIOUS COMMITTEES

Mayor Owens announced the following appointments and asked for concurrence in these appointments:

Grand Forks Substance Abuse and Traffic Safety Council: Council Member Beyer

City Bus Committee: Council Member Hanson

Growth Fund: Council Members Beach, Hanson, Polovitz and Carpenter for one-year terms expiring in June, 1997; and Joan Johnson for a three-year term expiring in April, 1999.

MPO Executive Policy Committee: Council Members Beyer and Hamerlik for two year terms expiring August 1, 1998.

Housing Authority: Joan Johnson and Council Member Hafner for five-year terms expiring July 14, 2001.

Dial-A-Ride: Judy Sannes, Bobby Vogel, Joan Koppy for two-year terms expiring July 1, 1998.

It was moved by Council Member Beyer and seconded by Council Member Beach that these appointments be and are hereby approved. Carried 13 votes affirmative.

#### APPROVE APPOINTMENT OF HEALTH OFFICERS

Mayor Owens announced the appointment of Dr. James D. Brosseau as City Health Officer, Dr. James E. Hargreaves as Infectious Disease Officer, and Dr. Eric R. Lunn as Maternal and Child Health Officer for a two-year terms expiring in June, 1998. It was moved by Council Member Beyer and seconded by Council Member Beach that these appointments be and are hereby approved. Carried 13 votes affirmative.

#### APPROVE APPOINTMENT TO PLANNING AND ZONING COMMISSION

Frank Matejcek, president of the Planning and Zoning Commission, stated John Drees is a County member of that Commission and his term has expired and

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he will be re-appointed at the Commission meeting tomorrow (August 6), and asked that in the future those appointments be coordinated with Mr. Bushfield of the Planning Office and for County representatives sixty days notice before their appointment because of difference in meeting dates, etc.

Howard Swanson, city attorney, stated that the question is whether Mr. Drees would be eligible to vote at the next Planning and Zoning meeting which is August 7, and advised council to pass motion to appoint Mr. Drees to the Planning and Zoning Commission contingent upon approval by the County Board and final approval by the city attorney.

It was moved by Council Ellingson and seconded by Council Member Polovitz that John Drees be appointed to the Planning and Zoning Commission for a five-year term expiring August 4, 2001, contingent upon approval by the Board of County Commissioners and upon final approval by the city attorney. Carried 13 votes affirmative.

#### AUTHORIZE ATTENDANCE AT NATIONAL LEAGUE OF CITIES CONVENTION

Mayor Owens presented the matter of the attendance at the National League of Cities convention in San Antonio, Texas December 7-10, 1996 and that last year it was determined that two council members could attend in addition to the mayor if funding were available. It was noted that Council Member Carpenter will be attending and representing the North Dakota League of Cities. Council Members Hagness, Beach, Hamerlik and Klave stated they would be available to attend. It was moved by Council Members Beyer and seconded by Council Member Babinchak that Council Members Hagness and Klave were selected to attend the conference in addition to the mayor. Carried 13 votes affirmative.

#### APPROVE APPOINTMENTS TO LEGISLATIVE COMMITTEE

Mayor Owens announced the appointment of Chief Paschke and Robert Bushfield to the Legislative Committee representing the public safety committee and MPO, respectively. It was moved by Council Member Beyer and seconded by Council Member Glassheim that these appointments be and are hereby approved. Carried 13 votes affirmative.

#### APPROVE ESTIMATES, VARIOUS PROJECTS

Estimate Summary No. 286, dated July 31, 1996, and totaling \$2,411,173.61, was presented and read.

It was moved by Council Member Hagness and seconded by Council Member Beyer that these estimates be and are hereby approved and that the city auditor be and is hereby authorized to issue warrants in payment of the same.

Council Member Babinchak asked to be excused from voting on any estimates to Duckstad Contracting. It was moved by Council Member Beyer and seconded by Council Member Beach that Council Member Babinchak be excused

from voting on those items relating to Duckstad Contracting. Carried 13 votes affirmative.

Upon roll call the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

#### APPROVE CERTIFICATES OF COMPLETION

Communications were presented and read from the city engineer certifying that the contractors had successfully completed the construction of the following

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projects in a satisfactory manner, and recommending acceptance by the council: Paving Project No. 4266, District No. 536; and Street Lighting Project No. 4308, District No. 103.

It was moved by Council Member Beyer and seconded by Council Member Klave that these recommendations be and are hereby approved. Carried 13 votes affirmative.

#### RECONSIDER COUNCIL ACTION RELATING TO AWARD OF CONTRACT FOR PROJECT NO. 4414, AND REMOVE CONTINGENCY

Council Member Beyer moved to reconsider award of Project No. 4414, paving 47th Avenue South to Ulland Park, which was contingent upon filing of the plat by the Park District, and contingent upon the Park District granting an easement for the southend drainway. The motion for reconsideration was seconded by Council Member Hafner. Carried 13 votes affirmative.

The motion on the floor is to accept the bid of Valley Contracting Company for Alternate No. 1 in the amount of \$288,944.40 with the City's share of approx. \$108,000 to come from Highway Users, contingent upon the Park Board granting the easement for the south end drainway and contingent upon filing of the plat for Ulland Park by the Park District.

It was then moved by Council Member Beyer and seconded by Council Member Hagness that since the Park District has contributed \$50,000 to the project that the City remove the contingency requiring the Park District to grant an easement for the southend drainway. Carried 13 votes affirmative.

Upon call for the question on the motion, as amended, and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the motion carried.

#### REFER VARIOUS ITEMS TO COMMITTEE

Various items were presented to the council and/or referred to committee as follows:

1) Council Member Ellingson reported that he has received calls re. repair of fire hydrants; the matter was referred to the water maintenance department.

1) Council Member Sande reported on the matter of awards procedure for the police department, that it is the opinion of the Implementation Committee that the police department can implement this without the authorization of the council since this is an internal policy and that this should go forward.

2) Council Member Sande presented the matter of disciplinary policy for the revision of the Civil Service Code; this matter was referred to the finance committee.

APPROVE APPOINTMENT OF CITY PROSECUTORS/  
ASSISTANT CITY ATTORNEYS

Mr. Swanson announced that he had appointed Dwight Kalash as city prosecutor and assistant city attorney, and asked for approval of the appointment. It was moved by Council Member Beyer and seconded by Council Member Ellingson to approve the appointment as noted. Carried 13 votes affirmative.

Mr. Swanson announced the appointment of Gary Euren and Jacqueline Gaddie as assistant city prosecutors and assistant city attorneys, and asked for concurrence in these appointments. It was moved by Council Member Glassheim  
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and seconded by Council Member Hafner that these appointments be approved. Carried 13 votes affirmative.

MATTER OF STATUS OF CONTRACT FOR CONSTRUCTION  
MANAGER FOR THE EVENTS CENTER

Mr. Swanson advised the council that the City does not as yet have a signed contract with Mortenson as construction manager for the events center, that they are still debating several provisions of the contract.

MOVE THAT COUNCIL ENTER INTO ATTORNEY  
CONSULTATION PERIOD

Mr. Swanson advised the council that he had two items he wished to discuss with them regarding pending litigation and recommended that they discuss that in closed meeting; that if that be the desire of the council, that they move to enter into an attorney consultation period under North Dakota Century Code 4404-19.1. It was moved by Council Members Beyer and Klave to enter into an attorney consultation period. Carried 13 votes affirmative.

The council chambers was cleared of all persons with the exception of the council and Mr. Swanson.

RECONVENE MEETING

Mr. Swanson reported that after having an attorney consultation, it would be his recommendation that the council pass a motion authorizing the proper City officials to execute settlement documents in that matter captioned as City of Grand Forks vs. RDO Food Co. and RDO Food Co. vs. City of Grand Forks, contingent upon final approval by the city attorney. It was so moved by Council Member Hagness and seconded by Council Member Hamerlik. Carried 13 votes affirmative.

ADJOURN

It was moved by Council Member Beyer and seconded by Council Member Carpenter that we do now adjourn until Monday, August 19, 1996 at 7:30 o'clock p.m. Carried 13 votes affirmative.

Respectfully submitted,

John M. Schmisek  
City Auditor