

THE CITY COUNCIL
GRAND FORKS, NORTH DAKOTA
18, 1996

PROCEEDINGS OF
OF THE CITY OF
Monday, November

The city council of the city of Grand Forks, North Dakota, met in its adjourned session in the council chambers in City hall on Monday, November 18, 1996 at the hour of 7:30 o'clock p.m. with Mayor Owens presiding. Present at roll call were Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; absent: Council Members Beach, Hanson - 2.

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.

ADOPT ORDINANCE NO. 3618, RELATING TO
LAND DEVELOPMENT CODE, OFF-STREET PARKING
AND LOADING, AS IT RELATES TO CONVENIENCE,
GROCERY AND GAS/SERVICE

An ordinance entitled "An ordinance amending the Grand Forks City Code of 1987 as amended, Chapter XVIII, Land Development Code; Article 3, Rules and Regulations; Section 18-0302, Off-Street Parking and Loading; Subsection (14) Off-Street Parking; paragraph (E) Highway Oriented Commercial Uses as they relate to convenience, grocery and gas/service", which had been introduced and passed on its first reading on October 7, 1996, and upon which public hearing had been scheduled for this evening, was presented and read for consideration on second reading and final passage.

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.

Mayor Owens called for the public hearing; there were no comments and the hearing was closed.

The city auditor presented and read the report from the Planning and Zoning Commission that they had considered the matter of the request from Sid Olson on behalf of Orton's Service Station for final approval of an ordinance to amend the text of the Land Development Code, Section 18-0302 Off-Street Parking and Loading, subsection (14)(E) as it relates to highway-oriented commercial uses and more specifically for convenience, grocery, gas and service uses, and recommended final approval and passage of the ordinance amending the text of the Land Development Code.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes affirmative.

Upon call for the question of adoption of this ordinance and upon roll call vote, the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the

ordinance adopted.

ADOPT ORDINANCE NO. 3619, AMENDING ZONING
MAP TO REZONE AND INCLUDE WITHIN R-3 (MULTIPLE
FAMILY RESIDENCE, MEDIUM DENSITY) AND THE B-3
(GENERAL BUSINESS) DISTRICTS PORTIONS OF BLOCKS
66, 67, 68, 69 AND 74, ALEXANDER & IVES' ADDITION

An ordinance entitled "An ordinance to amend the Zoning Map of the city of
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Grand Forks, North Dakota, to rezone and exclude from the B-1 (Limited Business) and the R-2 (One and Two Family Residence) Districts and to include within the R-3 (Multiple Family Residence, Medium Density) and the B-3 (General Business) Districts, portions of Blocks 66, 67, 68, 69 and 74, Alexander and Ives' Addition to Grand Forks, North Dakota", which had been introduced and passed on its first reading on October 7, 1996, and upon which public hearing had been scheduled for this evening, was presented and read for consideration on second reading and final passage.

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. It was noted that the location of this property is 1310-1314 8th Avenue North.

Mayor Owens called for the public hearing.

Council Member Hagness reported that this matter had been before Planning and Zoning Commission and their recommendation was to deny because one of the residents who lives behind Mr. Mutcher wasn't protesting the business but didn't want the zoning changed. He reported that vote by Planning and Zoning was a split vote.

Mr. Mutcher reported he was proposing to purchase lot and construct building which will attach to his existing garage, that this is currently B-1 zoning and would like changed to B-3 to bring into compliance. He reported that he hasn't heard any complaints from the neighborhood, and would like to have this matter settled this evening. He stated his proposed building is 30x50' with entrances off the alley.

Council Member Hagness reported that this property next to Washington Street, doesn't believe would be detriment to the area, and that there are other businesses in the area. He stated that there was a letter of protest from a resident of the area (Vicky Corbett) but no one spoke to the matter; he would encourage the rezoning of the area.

Robert Bushfield, city planner, reported that Planning and Zoning Department staff had recommended approval of the rezoning, that currently entire area zoned B-1 all the way to the east edge of N. Washington Street; Mr. Mutcher's property is in the middle of a B-1 zone, that would have permitted him to have an office building and multiple family uses but didn't permit him the detached B-3 use, which is the diagnostic service and possibly used car lot, so couldn't rezone just that piece of property

because of "spot zoning" situation, so they looked at larger rezoning that would have attempted to make other uses in the area conforming. He stated this would have extended the B-3 Zone south from 11th Avenue to 8th Avenue North and made conforming uses out of Mr. Mutcher's property as well as First American Bank. He reported there was no opposition from property to the south. He stated that at the Planning and Zoning Commission there was opposition. Council Member Hagness stated that opposition was from Vicky Corbett; but that rezoning favors the Corbett property as property could be rebuilt if anything happened to it; he stated he wasn't aware of any other protest.

Council Member Glassheim stated that the zoning change would impinge upon the neighborhood whether they protest or not, going to legalize higher uses in front of their houses and has to down-grade the residential property; it's got to create more problems wherever have residential against business and have friction. He stated that if you want to preserve the residential character of the neighborhood to the west, not sure should rezone.

Mr. Bushfield stated that biggest problem have is in the transitional zone, that for residences that border on commercial areas a buffer yard is used; and 14714
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that higher intense use is responsible for installing the buffer yards. He stated that in older conventional zone, have more difficult time installing buffer yards because uses and property owners change. He stated it is incumbent upon Planning Office to make sure those buffer yards are installed, ie., fencing and landscape screening so as to provide a nicer transition zone between the commercial and residential areas. He also stated that if property rezoned, that should be one of the conditions of the rezoning. Mr. Mutcher agreed with putting buffer between his property and the 4-plexes, etc. according to City Code.

There was also some discussion re. safety issue, visibility at 8th Avenue and North Washington Street.

Mayor Owens closed the public hearing.

The Planning and Zoning Commission considered the matter of the request from the Finance Committee on behalf of Bob Mutcher, Sr., etal. for final approval of an ordinance to amend the Zoning Map to rezone and exclude from the B-1 (Limited Business) and the R-2 (One and Two Family Residence) Districts and to include within the R-3 (Multiple Family Residence, Medium Density) and the B-3 (General Business) Districts, portions of Blocks 66, 67, 68, 69 and 74, Alexander and Ives' Addition to the city of Grand Forks, ND (located westerly of North Washington Street between 8th and 11th Avenues North), and recommended denial of the ordinance amending the zoning map.

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

It was moved by Council Member Beyer and seconded by Council Member Bakken that the motion be amended to accept the recommendations from the Planning Office, which were included in the ordinance as introduced, and further that Mr. Mutcher install proper buffer fence. Carried 11 votes

affirmative; Council Member Glassheim voted no.

Upon call for the question of adoption of this ordinance and upon roll call vote, the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 11; voting "nay": Council Member Glassheim - 1. Mayor Owens declared the ordinance adopted.

ADOPT ORDINANCE NO. 3620, TO AMEND ZONING
MAP TO INCLUDE WITHIN B-3 (GENERAL BUSINESS)
DISTRICT ALL OF LOT 1, BLOCK 1, DREES PLACE
ADDITION

An ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota to rezone and exclude from the B-2 (Shopping Center) District, and to include within the B-3 (General Business) District, all of Lot 1, Block 1, Drees Place Addition, Grand Forks, North Dakota", which had been introduced and passed on its first reading on October 7, 1996, and upon which public hearing had been scheduled for this evening, was presented and read for consideration on second reading and final passage.

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.

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

The city auditor presented and read the report from the Planning and Zoning

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Commission that they had considered the matter of the request from Attorney Al Warcup on behalf of Orton Oil Company for final approval of an ordinance to amend the Zoning Map to exclude from B-2 (Shopping Center) District and to include within the B-3 (General Business) District all of Lot 1, Block 1, Drees Place Addition to Grand Forks, ND (located at 2002 South Washington Street), and recommended final approval and passage of the ordinance amending the zoning map.

Upon call for the question of adoption of this ordinance and upon roll call vote the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the ordinance adopted.

DEFEAT ORDINANCE TO ANNEX PORTIONS OF JOHNSON'S
2ND ADDITION AND JOHNSON'S 4TH ADDITION TO THE
CITY OF GRAND FORKS AND REFER TO PLANNING COMMISSION
FOR CONSIDERATION OF RESOLUTION OF ANNEXATION

An ordinance entitled "An ordinance to annex to the city of Grand Forks,

North Dakota, portions of Johnson's 2nd Addition and Johnson's 4th Addition to the cit of Grand Forks, North Dakota", which had been introduced and passed on its first reading on August 19, 1996, and had been continued until this evening, was presented and read for consideration on second reading.

Howard Swanson, city attorney, reported that the property owner has declined to sign the petition for annexation and advised council to defeat the ordinance, and then refer the matter to the Planning and Zoning Commission for consideration of annexation by resolution.

Upon call for the question of adoption of this ordinance and upon roll call the following voted "aye": none; voting "nay": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12. Mayor Owens declared the ordinance defeated.

It was moved by Council Member Hagness and seconded by Council Member Sande to refer this matter to the Planning and Zoning Commission for consideration. Carried 12 votes affirmative.

ADOPT ORDINANCE NO. 3621, RELATING TO
PROBATIONARY APPOINTMENTS

An ordinance entitled "An ordinance amending Section 6-0521(3) of the Grand Forks City Code relating to probationary appointments", which had been introduced and passed on its first reading on November 4, 1996, was presented and read for consideration on second reading and final passage.

Upon call for the question of adoption of this ordinance and upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the ordinance adopted.

FINALIZE COMMUNITY DEVELOPMENT BLOCK GRANT
AND HUMAN NEEDS BUDGETS, REVIEW PUBLIC COMMENT;
AND MAKE FINAL DETERMINATION ON ANNUAL ACTION PLAN/
CDBG APPLICATION

The city auditor reported that the public hearing and 30-day public comment period on the City's Annual Action Plan (CDBG application) which had begun on October 7, 1996 was before the council for review of public comments and final action.

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Mayor Owens called for the public hearing. There were no comments and the public hearing was closed.

The Urban Development Committee reported having considered the matter of review/prioritization of applications for CDBG and Human Needs funds for 1997 and allocation of funds, recommended adoption of the following funding recommendations: CDBG Bricks & Mortar Projects:

Shelter for the Homeless	\$ 65,000
Office of Urban Development (Affordable Housing)	100,000

Community Violence Intervention Center, Inc.	40,000
Office of Urban Development (Nodak bldg. accessibility)	15,500
Office of Urban Development (Royce LaGrave Park)	8,000
Office of Urban Development (Riverbank Park)	18,000
Office of Urban Development (Storefront Rehabilitation)	45,000
Office of Urban Development (Acquisition and Demolition)	50,000
Prairie Harvest Human Service	20,000
D & J Enterprises	23,500
River Forks Commission	5,000
	<u>390,000</u>
	\$ 390,000

The Urban Development Commission reported having considered the matter of review/prioritization of applications for CDBG and Human Needs funds for 1997 and allocation of funds: CDBG and Human Needs Public Service Projects:

Third Street Clinic	\$ 18,000
Community Violence Intervention Center, Inc.	60,000
GF Housing Authority Family Self-Sufficiency	10,000
GF Food Cupboard	13,000
Office of Urban Development (Affordable Housing)	10,000
Office of Urban Development (Youth Employment Program)	18,000
YMCA Family Center (Little Brother/Little Sister Program)	2,000
Children's Science & Tech. Education Foundation	8,000
Mayor's Comm. on Employment of People w/Disabilities	2,000
Red River Valley Community Action (eviction Prevention)	6,500
Just Say No - Dakota (Youth Power)	2,500
Mountainbrooke (Transitional Employment Program)	5,000
Listen, Inc.	28,000
Eagle Project & UND Foundation (Indian Youth Education Success and Community Service Program)	7,000
	<u>190,000</u>
	\$ 190,000

It was moved by Council Member Glassheim and seconded by Council Member Hafner that these recommendations be and are hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": Council Member Bakken. Mayor Owens declared the motion carried.

DESIGNATE POLLING PLACES, APPOINT ELECTION OFFICIALS AND SET POLLING HOURS FOR SPECIAL CITY ELECTION DECEMBER 3, 1996

The city auditor presented listing of polling sites and inspectors for the special city election to be held on Tuesday, December 3, 1996, and the matter of establishing polling hours.

It was moved by Council Member Hamerlik and seconded by Council Member Bakken that the listing of polling sites and inspectors of election be approved, and that the hours of election be set as 7:00 a.m. to 8:00 p.m. Carried 12 votes affirmative.

CANVASS RESULTS OF SPECIAL CITY ELECTION HELD IN CONJUNCTION WITH GENERAL ELECTION

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The city auditor presented certification from the county auditor on the canvass of the results of the special city election on the question of continuation of mosquito control program held in conjunction with the general election on November 5, 1996 as approved by the County Canvassing Board: 18,402 voting Yes; and 1,654 voting No.

It was moved by Council Member Babinchak and seconded by Council Member Sande to accept and file the canvass of the results of the November 5, 1996 special city election. Carried 12 votes affirmative.

REFER CONSENT AGENDA ITEMS TO COMMITTEE

It was moved by Council Member Sande and seconded by Council Member Ellingson that the consent agenda items be referred to committee as noted. Carried 12 votes affirmative.

Finance Committee:

1) request from Grand Forks Public Schools for space in City Center Mall for alternative program for 13-15 year olds called "Success Academy".

Public Service Committee:

1) matter of joint exercise of powers agreement for cities, counties and water resource districts in Devils Lake Basin and along the Sheyenne and Red Rivers.

REPORTS OF OFFICERS

The city auditor's statement of changes in cash balances as of October 31, 1996 was presented and read. It was moved by Council Member Ellingson and seconded by Council Member Klave that this report be and is hereby received and filed. Carried 12 votes affirmative.

REPORT OF BOARD OF ZONING ADJUSTMENTS

A communication from the secretary of the Board of Zoning Adjustments was presented and read stating that the Board had held a public hearing in City Hall on October 31, 1996, that notice had been published as required and that the following appeals were heard: 1) Sid Olson on behalf of Orton Oil Company, 2002 South Washington Street, request for variance to the rear setback requirements to erect a new service station, variance approved allowing a fifteen ft. setback to the rear of the building to construct a new building; 2) EAPC Architects/Engineers on behalf of Bethel Lutheran Church, 1616 South 17th Street, request for variance to the impervious surface area requirements to erect an addition to the church, variance approved allowing impervious surface area to be forty-eight percent (48%) of the lot area to construct an addition; 3) Richard and Deloris Young, 2804 Walnut Street, request for variance to the accessory building and dwelling separation requirements to erect an addition to the dwelling, variance approved allowing six feet of separation to construct an addition to the dwelling; and 4) Loyd Schneiner on behalf of Northern States Power Company, 1206 5th Avenue South, request for variance to the off street parking setback requirements to pave the parking area, variance approved to allow the off-street parking setback and allowing no set back in the front yard to pave the parking lot.

It was moved by Council Member Ellingson and seconded by Council Member Klave that this report be and is hereby received and filed. Carried 12 votes affirmative.

APPROVE BILLS

Vendor Payment Listing No. 96-20, dated November 18, 1996 and totaling 14718
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\$2,519,148.53, 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 Ellingson and seconded by Council Member Carpenter 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 Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried and the bills ordered paid.

ADOPT RESOLUTION AUTHORIZING THE ISSUANCE AND AWARDING THE SALE OF SALES TAX RESERVE REVENUE BONDS (CIRRUS PROJECT), SERIES 1996A TO FINANCE THE ACQUISITION AND CONSTRUCTION OF ECONOMIC DEVELOPMENT FACILITIES

Committee No. 1, Finance, reported having considered the matter of financing for Cirrus Industries, and recommended to adopt resolution authorizing the issuance and awarding the sale of Sales Tax Reserve Revenue Bonds (Cirrus Project), Series 1996A, to finance acquisition and construction of economic development facilities.

It was moved by Council Member Hamerlik and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 12 votes affirmative.

Council Member Hamerlik introduced the following resolution and moved its adoption, which motion was seconded by Council Member Babinchak: Document No. 7168 - Resolution.

Upon vote being taken thereon, the following voted in favor thereof: Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; and the following voted against the same: none; whereupon the resolution was declared duly passed and adopted.

Al Erickson, Springsted, Inc., reported that the Cirrus financing went very well today, the true interest cost was at a rate of 5.85% which is very good and came in lower than they anticipated; and that they appreciate opportunity to work with the City.

APPROVE PLEDGED SECURITIES

Committee No. 1, Finance, reported having considered with the city auditor the requirements of the North Dakota Century Code, as amended, which require that pledges made by designated depositories of the public funds

be approved in January of each even-numbered year and semi-annually, and reported that they examined the records and found that the First National Bank of Grand Forks has deposited with the Bank of North Dakota in a designated pledge pool \$23,548,711, (with attached detailed listing), that all have been pledged as securities for public funds for the members of the pledge pool which requires a pledged amount of \$13,013,656, and recommended that these pledged securities be and are hereby re-approved as required.

It was moved by Council Member Hamerlik and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 12 votes affirmative.

REFER MATTER OF REQUEST FROM COMMUNITY VIOLENCE
INTERVENTION CENTER, INC. FOR WAIVER OF RENTAL
FOR LOCATION IN CITY CENTER MALL BACK TO COMMITTEE

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Committee No. 1, Finance, reported having considered the request from Community Violence Intervention Center, Inc. for waiver of rental for location in City Center Mall, and recommended to approve a three-year lease with a 90-day notice period if the City sells the building or a paying tenant is found for the building, tenant is responsible for utilities and Mall operating expense and City will continue the \$7200.00 payment for 1997, that in future years that will be subject to budget allocations, and lease specifically to state that at the end of the three years the free rent will be discontinued and there will be a dollar amount of rent paid in future years as a direction to those negotiating a future lease.

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

Council Members Hamerlik and Carpenter asked that this matter be sent back to committee for further consideration.

APPROVE REMODELING OF KITCHEN OF SENIOR
CENTER AT 620 4TH AVENUE SOUTH

Committee No. 1, Finance, reported having considered the plans for remodeling of kitchen area at Senior Center, 620 4th Avenue South, and recommended to authorize the remodeling of the kitchen of the Senior Center and to be paid with funds privately raised by the Senior Center.

It was moved by Council Member Hamerlik and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 12 votes affirmative.

RECEIVE AND FILE 1995 AUDIT FOR THE
CONVENTION & VISITORS BUREAU

Committee No. 1, Finance, reported having considered the matter of Greater Grand Forks Convention & Visitors Bureau 1995 audit, and recommended to receive and file the audit for the Convention & Visitors Bureau.

It was moved by Council Member Hamerlik and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 12 votes affirmative.

AUTHORIZE FINAL PAYMENT ON WAGE STUDY

Committee No. 1, Finance, reported having considered the matter of payment to Ralph Andersen Associates for wage study, balance of \$15,655.00, and recommended to approve final payment in the amount of \$15,655.00.

It was moved by Council Member Hamerlik and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

DELETE POLICY RE. CANCELLATION OF SPECIAL
ASSESSMENT IN CIP AND INCLUDE REFERENCE TO
APPROPRIATE SECTION OF NORTH DAKOTA CENTURY CODE

Committee No. 1, Finance, reported having considered the matter of five-year special assessment cancellation for streets, sidewalks, etc., and recommended that we delete the policy under Section 8 as stated on page 18 of the six-year Capital Improvements budget and replace it with reference to the appropriate sections of the North Dakota Century Code.

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It was moved by Council Member Hamerlik and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 12 votes affirmative.

APPROVE 1996-97 SNOWMOBILE ROUTE MAP, WITH
EXCEPTION OF PORTION ALONG 32ND AVENUE SOUTH
WHICH WAS REFERRED TO COMMITTEE WITH POWER TO ACT

Committee No. 2, Public Safety, reported having considered the matter of 1996-97 snowmobile route map, and recommended approval of the following changes to the snowmobile route map: to move snowmobile route from the north side of Gateway Drive to the south side between Columbia Road and Stanford Road, and to move the west connection from DeMers Avenue to Gateway Drive.

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

Council Member Hafner questioned route along 32nd Avenue South from 42nd Street to South Columbia Road and out of town as the property along the right of way has been purchased.

After some discussion it was moved by Council Member Beyer and seconded by Council Member Ellingson to refer that portion of the route back to committee with power to act.

Council Member Hafner asked to be excused from voting on this matter, and

it was so moved by Council Members Hagness and Babinchak. Carried 10 votes affirmative.

Upon call for the question on the original motion and upon voice vote the motion carried 12 votes affirmative.

APPROVE AMENDMENT TO GRANT AGREEMENT WITH
STATE DEPARTMENT OF HEALTH (IMMUNIZATION
GRANT)

Committee No. 2, Public Safety, reported having considered the matter of grant agreement with ND State Department of Health, Immunization grant amendment, and recommended to approve the grant amendment in the amount of \$7,905.00.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 12 votes affirmative.

INTRODUCE ORDINANCE SETTING MOSQUITO
CONTROL FEES

Committee No. 2, Public Safety, reported having considered the matter of proposed mosquito ordinance setting mosquito control fees, and recommended to approve the proposed ordinance setting fees and charges in the amount of \$1.00 per month for the months of February through September for each housing unit furnished or served water by the city, and to introduce the ordinance for first reading.

It was moved by Council Member Ellingson and seconded by Council Member Sande that this recommendation be and is hereby approved. Carried 12 votes affirmative.

Council Member Ellingson introduced an ordinance entitled "An ordinance amending Section 15-0117 of the Grand Forks City Code relating to mosquito control fee", which was presented, read and passed on first reading.

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APPROVE BUDGET AMENDMENTS

A request to amend Communicable Disease budget in the amount of \$7,905.00 to reflect additional monies from the State for 7th grade immunizations, was presented and read. It was moved by Council Member Ellingson and seconded by Council Member Sande that this amendment be and is hereby approved. Carried 12 votes affirmative.

A request to amend the Police Department budget in the amount of \$3,300.00 to increase locker space 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 12 votes affirmative.

A request to amend Communicable Disease budget in the amount of \$750.00 to reflect reimbursement for adult immunization advertising, 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 12 votes affirmative.

A request to amend the Communicable Disease budget in the amount of \$7,700.00 to reflect unanticipated revenue for flu shots and hepatitis B immunizations, 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 12 votes affirmative.

ACCEPT BIDS FOR SANITATION DEPARTMENT
EQUIPMENT

Committee No. 3, Public Service, reported having considered the matter of bids for sanitation department equipment: a) heavy-duty trucks, b) refuse compactors; and recommended to return the unopened bids of Swanston Equipment and Wittke Waste as they did not give demonstration of their equipment.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Carried 12 votes affirmative.

Committee No. 3, Public Service, reported having considered the matter of bids for sanitation department equipment: a) heavy-duty trucks, and recommended to accept the low bid of Rydell Truck Center for the front-load truck in the amount of \$85,205, less trade, for a total bid of \$67,205.00.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

Committee No. 3, Public Service, reported having considered the matter of bids for sanitation department equipment: b) refuse compactors, and recommended to accept the bid of Sanitation Products for the rear-load compactor in the amount of \$39,090.00 and the front-load compactor in the amount of \$54,733.00, less trade-in of \$18,000, for total bid of \$75,823.00.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

Committee No. 3, Public Service, reported having considered the matter of bids for sanitation department equipment: heavy-duty trucks, and recommended to

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accept the low bid of W. W. Wallwork, Inc., Fargo, for the rear-load truck in the amount of \$60,313.00.

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

It was moved by Council Member Hagness and seconded by Council Member Bakken to accept the bid of Rydell Truck Center, Grand Forks in the amount of \$60,363, because of availability of service and warranty work.

There was considerable discussion re. local service vs. service from out of town company. Council Member Beyer stated that W.W. Wallwork, Inc. had stated that they would provide letter of assurance that warranty work could be done here, and should follow City's policy of accepting low bid. She also stated that if council doesn't accept low, could hurt City in the future because of lack of competition. Council Member Klave agreed, should adhere to policy that if specifications are met low bid should be accepted.

Greg Bryson, Rydell Chevrolet, asked for consideration of their bid which is \$50.00 higher than bid of W.W. Wallwork because they are local dealer; he stated that there are other dealers within city limits and City would always get competitive bids.

Howard Swanson, city attorney, advised that law very clear, that this body does not have authority to geographically determine the source of bids, any decision with respect to the best interest of the city has to be made on a rational basis that can be articulated on the council floor; that simply because bid received from Fargo or elsewhere does not give council the basis to reject the low bid unless you have some other factual basis for doing so.

Council Member Hagness stated the reason for the amendment was because of service, warranty work, and quickness of repair.

Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Bakken, Hafner, Hagness - 7; voting "nay": Council Members Carpenter, Sande, Klave, Beyer, Babinchak - 5. Mayor Owens declared the amendment carried.

Upon call for the question on the original motion, as amended, and upon roll call vote, the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Bakken, Hafner, Hagness - 7; voting "nay": Council Members Carpenter, Sande, Klave, Beyer, Babinchak - 5. Mayor Owens declared the motion carried.

ACCEPT LOW BIDS AND AWARD CONTRACTS FOR
PROJECT NO. 4438, UPGRADING OF MASTER LIFT
STATION NO. 17

Committee No. 3, Public Service, reported having considered the matter of Project No. 4438, upgrade master lift station No. 17, for construction, and recommended to accept low bids and to award general construction contract to Moorhead Construction, Inc., Moorhead, MN in the amount of \$331,053.00 and to award electrical construction contract to John's Refrigeration & Electrical, Inc., Valley City, in the amount of \$192,950.00.

It was moved by Council Member Hafner and seconded by Council Member Klave

that this recommendation be and is hereby approved.

Council Member Beyer asked to be excused from voting on this matter, and it was so moved by Council Members Babinchak and Klave. Carried 11 votes affirmative.

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Upon call for the question and upon roll call vote, the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Babinchak, Bakken, Hafner, Hagness - 11; voting "nay": none; Council Member Beyer abstaining.

APPROVE AMENDMENT NO. 1 TO ENGINEERING
CONTRACT, PROJECT NO. 4438

Committee No. 3, Public Service, reported having considered the matter of Project No. 4438, amendment to engineering contract, Amendment No. 1, and recommended to approve Amendment No. 1 to the agreement for engineering services in the amount of \$12,000.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Beyer, Klave, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE AMENDMENT NO. 2 TO ENGINEERING
CONTRACT FOR PROJECT NO. 4438

Committee No. 3, Public Service, reported having considered the matter of Amendment No. 2 to engineering contract, Project No. 4438, construction phase, and recommended to approve Amendment No.2 to the agreement for professional services for Upgrade of Lift Station No. 17 in the amount of \$47,598.00.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Beyer, Klave, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

ACCEPT BID FOR NEWSPAPER RECYCLING

Committee No. 3, Public Service, reported having considered the matter of newspaper recycling bids, and recommended to accept the bid of Vern's Refuse Service, Inc. for collection and recycling of newspapers and other paper fiber materials from City-owned front-loading containers at six sites at \$130.00/per collection for a total annual cost of \$13,520.00; and accept the unit price per ton of recyclable materials of \$10/ton, for net bid of \$10,760.00; and \$35.00 for additional collections per site.

It was moved by Council Member Beyer and seconded by Council Member Klave

that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Beyer, Klave, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

AUTHORIZE STAFF TO NEGOTIATE FOR ENGINEERING SERVICES ON PROJECT NO. 4377

Committee No. 3, Public Service, reported having considered the matter of negotiating engineering services for design work at sludge plant, and recommended to authorize staff to negotiate with Advanced Engineering for engineering services on the project.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Carried 12 votes affirmative.

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DENY REQUEST FOR CONDITIONAL USE PERMIT TO OPERATE CHILD CARE CENTER IN R-2 DISTRICT

The Planning and Zoning Commission reported having considered the matter of request from Kimberly Brodensteiner for approval of a conditional use permit to operate a child (day) care center in an R-2 (one and Two Family Residence) District (located at 1415 15th Avenue South), Grand Forks, ND, and recommended denial of the request for conditional use permit to operate a child daycare center.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes affirmative.

APPROVE FINAL PLAT OF REPLAT OF BLOCK C OF REPLAT OF BLOCK 1, COLUMBIA PARK ADDITION

The Planning and Zoning Commission reported having considered the matter of the request from Larry McLain for final approval of a Replat of all of Block C of the Replat of all of Block 1, Columbia Park 15th Addition to the city of Grand Forks, ND (located between South 35th Street, Sara Lyn Drive and 28th Avenue South), and recommended final approval subject to special conditions shown on or attached to the review copy.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes affirmative.

APPROVE FINAL PLAT OF REPLAT OF LOT 1, BLOCK 1, MEDVUE ESTATES SIXTH RESUBDIVISION

The Planning and Zoning Commission reported having considered the matter of the request from Tracy Doe on behalf of The Gentry Corp. for final approval (fast track) of a Replat of Lot 1, Block 1, Medvue Estates Sixth Resubdivision to the city of Grand Forks, North Dakota (located south of

Knight Drive between South Columbia Road and the English Coulee), and recommended final approval subject to special conditions shown on or attached to the review copy.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes affirmative.

INTRODUCE ORDINANCE TO AMEND ZONING MAP
TO INCLUDE WITHIN B-3 (SERVICE BUSINESS)
DISTRICT BLOCK O, LOTS 9 AND 11, BUDGE AND
ESHelman'S 2ND ADDITION

The Planning and Zoning Commission reported having considered the matter of the request from Cliff Coss for preliminary approval of an ordinance to amend the Zoning Map to exclude from R-4 (Multi-Family Residence) District and to include within the B-3 (Service Business) District Block O, Lots 9 and 11, Budge and Eshelman's 2nd Addition (located at 1216 1st Avenue North), and recommended preliminary approval of the ordinance amending the zoning map, to introduce the ordinance, to set the date of the public hearing for December 16, 1996, and also to support a request to the Board of Zoning Adjustments for approving a variance to the buffer yard requirements between the subject property and the adjoining lot to the east.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes

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affirmative.

Council Member Hagness introduced an ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota, to rezone and exclude from the R-4 (Multi-Family Residence) District and to include within the B-3 (Service Business) District, Block O, Lots 9 and 11, Budge and Eshelman's 2nd Addition, Grand Forks, North Dakota", which was presented, read and passed on first reading.

ACCEPT PETITION FOR VACATION OF N/S
UTILITY EASEMENT IN LOTS 13-17, BLOCK 5,
WHITE CLOVER SUBDIVISION

The Planning and Zoning Commission reported having considered the matter of the petition from Ernest Lizakowski, et al, for approval to vacate a 20-foot wide N/S utility easement (excluding any portion of the intersecting E/W utility easement) common to Lots 13 through 17, Block 5, White Clover Subdivision to Grand Forks, ND and of which a portion now lies within Lot B of the Replatting of part of Lot 15 and all of Lots 16 through 24, White Clover Subdivision of Grand Forks, ND (located east of South 10th Street between 24th and 25th Avenues South), and recommended approval of a resolution to vacate the utility easement as described above (the date of the public hearing has been set for December 2, 1996).

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes affirmative.

ACCEPT PETITION TO VACATE PORTION OF UTILITY
EASEMENT LOCATED WITHIN VACATED ASH STREET AS
PLATTED IN THE REPLATTING OF LINDSAY'S ADDITION

The Planning and Zoning Commission reported having considered the matter of the petition from Kenneth Peterson et al for approval to vacate a portion of a utility easement located within vacated Ash Street as platted in the Replatting of Lindsay's Addition to Grand Forks, North Dakota and more specifically described as being the westerly 14 feet of the easterly 37.5 feet of said vacated Ash Street, and recommended approval of a resolution to vacate the perpetual dike easement as described above and to set the date of the public hearing for January 6, 1997.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved, that the petition filed is in proper form and contains the requisite signatures, that it be filed with the city auditor and that a notice of public hearing be published as required. Carried 12 votes affirmative.

INTRODUCE ORDINANCE TO AMEND TEXT OF LAND
DEVELOPMENT CODE, OFF-STREET PARKING AND
LOADING, AS IT RELATES TO PAVEMENT SETBACKS
IN SIDE AND REAR YARDS

The Planning and Zoning Commission reported having considered the matter of the request from the Inspection Department on behalf of Council Member Gerald Hamerlik for preliminary approval of an ordinance to amend the text of the Land Development Code, Section 18-0302 Off-Street Parking and Loading, subsection (3) Design of Parking and Loading Facilities, Table I, as it relates to pavement setbacks in the side and rear yards and as identified by the letters K and P on the diagram. The request is to allow within the R-1 and R-2 Districts the construction of off-street parking facilities up to a property line which does not abut a street right of way. The Commission

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recommended preliminary approval of an ordinance amending the text of the Land Development Code, to introduce the ordinance and to set the date of the public hearing for December 16, 1996.

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

Council Member Sande questioned whether gist of this amendment would be permit common driveways in R-1 and R-2 Districts. Mr. Swanson, city attorney, advised that the ordinance does not address driveways (curb cuts), this would allow a driveway adjoining a property line if adjoining property owner in agreement.

After further discussion and upon voice vote, the motion carried 11 votes affirmative; Council Member Sande voted against the motion.

Council Member Hagness introduced an ordinance entitled "An ordinance amending Section 18-0302(5) of the Grand Forks City Code relating to off-street parking and loading", which was presented, read and passed on first reading.

APPROVE PRELIMINARY PLAT, AND INTRODUCE ORDINANCE
TO AMEND STREET AND HIGHWAY PLAN TO INCLUDE THE
PUBLIC RIGHTS OF WAY SHOWN AS DEDICATED ON THE
PLAT OF WILBUR-ELLIS ADDITION

The Planning and Zoning Commission reported having considered the matter of the request from A & J Fertilizer on behalf of Wilbur-Ellis Company for preliminary approval of the plat of Wilbur-Ellis Addition to the city of Grand Forks, ND, being a part of the Northwest Quarter of Section 33, Township 152 North, Range 51 West of the 5th Principal Meridian (located north of Bacon Road and west of Mill Road), and recommended preliminary approval subject to special conditions shown on or attached to the review copy, to introduce the ordinance amending the Street and Highway Plan and to set the date of the public hearing for December 16, 1996.

It was moved by Council Member Hagness and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Carried 12 votes affirmative.

Council Member Hagness introduced an ordinance entitled "An ordinance to amend the Street and Highway Plan of the city of Grand Forks, North Dakota, to include the public rights of way shown as dedicated on the plat of Wilbur-Ellis Addition to the city of Grand Forks, North Dakota", which was presented, read and passed on its first reading.

INTRODUCE ORDINANCE TO AMEND ZONING MAP
TO INCLUDE WITHIN I-2 (HEAVY INDUSTRIAL)
DISTRICT LOT 1, BLOCK 1, WILBUR-ELLIS
ADDITION

The Planning and Zoning Commission reported having considered the matter of the request from A & J Fertilizer on behalf of Wilbur-Ellis Company for preliminary approval of an ordinance to amend the Zoning Map to exclude from the A-1 (Limited Development) District and to include within the I-2 (Heavy Industrial) District all of Lot 1, Block 1, Wilbur-Ellis Addition to the city of Grand Forks, ND (located north of Bacon Road and west of Mill Road), and recommended preliminary approval of the ordinance amending the Zoning Map, to introduce the ordinance and to set the date of the public hearing for December 16, 1996.

It was moved by Council Member Hagness and seconded by Council Member Polovitz
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that this recommendation be and is hereby approved. Carried 12 votes affirmative.

Council Member Hagness introduced an ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota, to rezone and exclude from the A-1 (Limited Development) District and to include

within the I-2 (Heavy Industrial) District, all of Lot 1, Block 1, Wilbur-Ellis Addition, Grand Forks, North Dakota", which was presented, read and passed on first reading.

AUTHORIZE PURCHASE OF PROJECT PROFESSIONAL
LIABILITY INSURANCE

The Events Center Core Committee reported having considered the matter of purchase of project professional liability insurance, and recommended that project professional liability insurance from DPIC for \$25,000 deductible at a cost of \$226,398. be approved.

It was moved by Council Member Babinchak and seconded by Council Member Hamerlik that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Polovitz, Ellingson, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE POLICY ON EMPLOYMENT OF PART-TIME
EMPLOYEES

The Pension/Insurance Committee reported having considered the matter of part-time employment of retired employees, and recommended the adoption of a policy on employment of part-time employees as follows: A department head must submit a written request to the mayor seeking authority to hire part-time help. The letter must include the position being filled, hourly rate and if it is currently budgeted, expected hours per week, expected length of employment, and the name and qualifications of person being considered. if the person is a retired City employee, the department head must demonstrate to the mayor that there is a shortage of interested candidates, an inability to recruit for the job in our local market, or a specific need of the City. In addition, the hourly rate of part-time employees will be set at the entry level for that position. All part-time positions must be approved by the mayor before hiring and reviewed on an annual basis by the mayor and human resources.

It was moved by Council Member Carpenter and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 12 votes affirmative.

APPROVE APPOINTMENTS, VARIOUS COMMITTEES

Mayor Owens announced the following appointments: Emergency Management Board, Council Member Ellingson for a one-year term expiring December 31, 1997; Riverfork Commission, Steve Hess for a three-year term expiring December 31, 1999; Council Member Sande to replace former Council Member Hoepfner on the CIP Committee; and Sgt. Dennis Eggebraaten to replace Richard Duquette on the Youth Committee.

It was moved by Council Member Glassheim and seconded by Council Member Babinchak that these appointments be and are hereby approved. Carried 12 votes affirmative.

ADOPT RESOLUTIONS CONGRATULATING CITY OF GRAFTON
ON THEIR MARKETING TO OBTAIN MARVIN WINDOWS

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Mayor Owens asked for concurrence in the adoption of a resolution congratulating the City of Grafton on their successful marketing to obtain Marvin Windows. It was moved by Council Member Sande and seconded by Council Member Hagness that we send letter congratulating the City of Grafton. Carried 12 votes affirmative.

Mayor Owens asked for concurrence in the adoption of a resolution expressing appreciation to Marvin Windows for allowing City to submit a proposal. It was moved by Council Member Glassheim and seconded by Council Member Ellingson that we send a letter of appreciation to Marvin Windows. Carried 12 votes affirmative.

REFER VARIOUS ITEMS TO COMMITTEE

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

- 1) Council Member Bakken presented request for four-way stop at South 20th Street and 20th Avenue South because of high volume of traffic. The matter was referred to the public safety committee.
- 2) Council Member Carpenter presented matter of refuse containers on street on Campbell between 10th and 12 Streets. The matter was referred to the street department.

ADJOURN

It was moved by Council Member Sande and seconded by Council Member Babinchak that we do now adjourn. Carried 12 votes affirmative.

Respectfully submitted,

John M. Schmisek
City Auditor