

**THE CITY COUNCIL  
GRAND FORKS, NORTH DAKOTA  
2, 1996**

**PROCEEDINGS OF  
OF THE CITY OF  
Monday, December**

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, December 2, 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, Hanson, Carpenter, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; absent: Council Members Glassheim, Sande - 2.

**ANNOUNCE AWARDS OF RECOGNITION TO WATER  
DEPARTMENT EMPLOYEES**

Mayor Owens acknowledged awards received by the following employees: Jim Evensen received operator's meritorious service award from American Waterworks Association recognizing special performance by operators for compliance with public health standards, plant maintenance, development of new ideas and outstanding achievement beyond normal operating responsibilities; Dwight Wurzbacher, water maintenance superintendent, received Samuel A. Greeley local government service award from North Dakota Chapter of American Public Works Association recognizing public works officials who have honorably and efficiently served a single local public agency in an official capacity for 30 years or more and have been members of APWA for 15 years or more; and Hazel Fetters-Sletten who had received George Warren Fuller award.

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 SEPTEMBER 24 AND 27, AND  
OCTOBER 7 AND 21, 1996**

Typewritten copies of the minutes of the special meetings of the city council held on September 24 and 27, 1996, and of the regular meeting held on October 7 and of the adjourned meeting held on October 21, 1996, were presented and read. It was moved by Council Member Hagness and seconded by Council Member Klave that these minutes be approved as read. Carried 12 votes affirmative.

**ADOPT ORDINANCE NO. 3622, RELATING TO  
MOSQUITO CONTROL FEE**

An ordinance entitled "An ordinance amending Section 15-0117 of the Grand Forks City Code relating to mosquito control fee", which had been introduced and passed on its first reading on November 18, 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 vote, the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Hanson, Carpenter, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

ADOPT RESOLUTION VACATING PORTIONS OF  
N/S UTILITY EASEMENT IN BLOCK 5, WHITE  
CLOVER SUBDIVISION

The city auditor reported that pursuant to instructions by the city council after having received a petition to vacate a portion of the north-south utility easement (excluding any portion of the intersection east-west utility easement) common to Lots 13 through 17, Block 5, White Clover Subdivision, 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

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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.

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

Council Member Ellingson introduced the following resolution which was presented and read: Document No. 7169 - Resolution.

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

REFER CONSENT AGENDA ITEMS TO COMMITTEE

It was moved by Council Member Beyer and seconded by Council Member Beach that the consent agenda items be referred to committee as noted for their consideration. Carried 12 votes affirmative.

Finance Committee:

1) matter of review of mileage policy.

Public Safety Committee:

1) matter of proposed city curfew ordinance.

REPORTS OF OFFICERS

The city auditor's report on investment activities for period ending November 30, 1996 was presented and read. It was moved by Council Member Hagness and seconded by Council Member Beyer that this report be and is hereby received and filed. Carried 12 votes affirmative.

APPROVE BILLS

Vendor Payment Listing No. 96-21, dated December 2, 1996, and totaling \$683,972.69, 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 Carpenter and seconded by Council Member

Hanson 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, Hanson, Carpenter, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried and the bills ordered paid.

DENY APPLICATION FOR 3-YEAR REMODELING  
EXEMPTION, 409 GATEWAY DRIVE

Committee No. 1, Finance, reported having considered the application for 3-year remodeling exemption from Kevin Frohlich, A-1 Vacuum, 409 Gateway Drive (Lot A, Block 49, Alexander & Ives' Addition), and recommended to deny the application.

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

ACCEPT BID FOR COPIER

Committee No. 1, Finance, reported having considered the matter of copier  
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bids, and recommended to authorize purchase of the Mita DC-8090 copier from Liberty Business Systems in the amount of \$17,792.00.

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 Beach, Polovitz, Ellingson, Hamerlik, Hanson, Carpenter, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

INTRODUCE ORDINANCE AMENDING VARIOUS  
PROVISIONS RELATING TO FEES AND CHARGES

Committee No. 1, Finance, reported having considered the matter of proposed changes in license and permit fees, and recommended approval of proposed changes and to introduce the ordinance for first reading.

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

Council Member Babinchak introduced an ordinance entitled "An ordinance amending various provisions of the Grand Forks City Code relating to fees and charges", which was presented, read and passed on first reading.

SEND RECOMMENDATION TO GROWTH FUND AUTHORITY  
OF APPROVAL OF REQUEST FOR FUNDING FOR GRAND  
FORKS VARMINTS

Committee No. 1, Finance, reported having considered the matter of Grand Forks Varmints request for funding, and recommended to approve \$40,000 loan

from Excess Sales Tax for maximum of 36 months, at rate investment portfolio currently earning (5.6% interest which is equal to 3 year Treasury rate) and that there be personal guarantees from the owners of the Grand Forks Varmints.

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

Council Member Beach asked for further information as to the guarantees the owners will be providing. Council Member Carpenter stated that finance committee was requesting that stockholders provide personal guarantees which would require that if the corporation did not make the payment, City would have availability of going after the individuals for collection of the debt; he noted that committee did not discuss that guarantee be non-transferable. Council Member Beach suggested that the 6 major stockholders be named as guarantors with stipulation that it be non-transferable.

Jack Geller, 3321 Primrose Court, stated that would be their intention, that guarantees not tied to ownership of stock or even amount of stock, but tied to the individuals and their credit worthiness as opposed to their participation as stockholders.

Mr. Swanson advised that as he interprets the action of the committee, the guarantees would be from all shareholders and they would be jointly and severally responsible, which is in essence what Mr. Geller has stated; that as the lender the City would have the option, upon a default, to seek full recovery from any one of the guarantors or any number of the guarantors collectively, each jointly and individually responsible for the full loan amount. He stated that if, however, the committee's intention is to accept something less than 100% of the shareholders, it would be his recommendation that the motion be amended. He stated that he was making an additional

recommendation that the motion be amended to provide this as a recommendation

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to the Jobs Development Authority (JDA), which is the vehicle council should be utilizing to make an economic development loan of this nature. He further stated that the guarantees are not tied to ownership of the stock, but are personal guarantees, so issue of transferability of shares is not germane to the motion. He also stated that as he understands the motion, it would require a guarantee by all shareholders.

After further discussion re. personal guarantees only from major shareholders, etc. Council Member Hamerlik raised question of whether City should be in position of competing with private enterprise, and moved an amendment to add to the motion, "as a lender of last resort". Council Member Hanson seconded the motion. Upon call for the question and upon voice vote, the amendment was defeated.

It was moved by Council Member Carpenter and seconded by Council Member Babinchak to amend the motion that this be a recommendation to the Growth Fund Authority and not final approval by the council.

Upon call for the question on the original motion, as amended, and upon

voice vote, the motion carried.

COUNCIL MEMBER CARPENTER EXCUSED

AUTHORIZE INSTALLATION OF "TRUCK ENTERING"  
ROADWAY SIGNS NEAR CONCRETE, INC.

Committee No. 2, Public Safety, reported having considered the request from Concrete, Inc. for "truck entering" warning signs on DeMers Avenue approaching their entrance, and recommended approval of signs with the legend "trucks entering next 1/2 mile" posted east of the east ramp to I-29 and west of the west entrance to Concrete, Inc.

It was moved by Council Member Ellingson and seconded by Council Member Beyer that this recommendation be and is hereby approved. Carried 11 votes affirmative.

APPROVE REQUESTS FROM STEERING COMMITTEE  
RE. FIRST NIGHT GREATER GRAND FORKS CELEBRATION  
DECEMBER 31, 1996

Committee No. 2, Public Safety, reported having considered the request from Steering Committee for First Night Greater Grand Forks to locate portable toilet facilities on sidewalk on southeast corner of City Center Mall on December 31, 1996, and recommended approval of the request.

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

Committee No. 2, Public Safety, reported having considered the request from Steering Committee for First Night Greater Grand Forks that all traffic signals in downtown area not be put on flashing mode until 2:00 a.m., and recommended approval, and that signals will operate red/yellow/green until 2:00 a.m. from one week before to one week after New Year's Day.

It was moved by Council Members Ellingson and Beyer that this recommendation be and is hereby approved. Carried 11 votes affirmative.

APPROVE BUDGET AMENDMENTS

A request for amendment to the police department budget in the amount of

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\$2,500.00 for clothing for unanticipated hiring of personnel, was presented and read. It was moved by Council Member Ellingson and seconded by Council Member Hanson that this budget amendment be and is hereby approved. Carried 11 votes affirmative.

A request for amendment to the Wellness budget (Health Department) in the amount of \$2,800.00 to reflect unanticipated income was presented and read. It was moved by Council Member Ellingson and seconded by Council Member Hanson that this budget amendment be and is hereby approved.

Carried 11 votes affirmative.

COUNCIL MEMBER CARPENTER REPORTED BACK

APPROVE BUDGET AMENDMENTS

A request for amendment to the wastewater department budget in the amount of \$2,500.00 to reflect reimbursement for personnel costs for sampling (RDO Foods), was presented and read. It was moved by Council Member Klave and seconded by Council Member Hafner that this budget amendment be and is hereby approved. Carried 11 votes affirmative.

A request for amendment to the water maintenance department budget in the amount of \$9,000.00 to reflect unanticipated income from sale of backhoe to fire department, was presented and read. It was moved by Council Member Klave and seconded by Council Member Hafner that this amendment be and is hereby approved. Carried 12 votes affirmative.

A request for amendment to the street department budget in the amount of \$24,945.00 to cover additional expenses (vehicle maintenance), was presented and read. It was moved by Council Member Klave and seconded by Council Member Hafner that this amendment be and is hereby approved. Carried 12 votes affirmative.

DIRECT THAT CITY DRAFT LETTER OF SUPPORT  
ADOPTING MINNESOTA DESIGN TEAM CONCEPT FOR  
RIVER FORKS COMMISSION APPLICATION

Committee No. 4, Urban Development, reported having considered the matter of River Forks Commission application to Minnesota Design Team for consideration of a MDT visit in the fall of 1997 for generating ideas and an overall vision for downtown and riverfront areas, and recommended that the City draft a letter of support adopting Minnesota Design Team concept.

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

Council Member Beyer questioned whether East Grand Forks was going to be doing DeMers Avenue in 1997 construction season; and whether City could contact them so get that street scape so Grand Forks match to East Grand Forks. Mr. Bushfield stated they East Grand Forks will be doing this, CPS doing design work, and had approved \$240,000 and received additional \$130,000 to spend on that project, from Sorlie Bridge east to 7th Street. He stated that what City intending is to tentatively use the drawings in the River Forks plan as a basis for the 1997 East Grand Forks/DeMers Avenue project, and then try to carry those through on the Grand Forks side in 1999/2000; some details still have to be worked out but do intend to follow concept in River Forks plan.

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

APPROVE BUDGET AMENDMENT

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A request for amendment to the Urban Development department budget in the

amount of \$92,477 to set up final Rent Rehab Grant funds received from HUD for this program, was presented and read. It was moved by Council Member Polovitz and seconded by Council Member Beach that this amendment be and is hereby approved. Carried 12 votes affirmative.

APPROVE CHANGE ORDER FOR CIRRUS BUILDING PROJECT

Committee No. 4, Urban Development, reported having considered the matter of change order for Cirrus building project, and recommended to approve the change order in the amount of \$3,624.00.

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

APPROVE ADDITIONAL FUNDING FOR REMODELING OF FORMER NODAK BUILDING

Committee No. 4, Urban Development, reported having considered the matter of additional funding for remodeling of Nodak building, and recommended that we authorize an additional \$20,000 from CDBG Contingencies to the Nodak Accessibility Project.

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

APPROVE DEFINED CONTRIBUTION AND BENEFIT PLANS TRUST AGREEMENTS, SUBJECT TO FINAL REVIEW BY THE CITY ATTORNEY

The Pension/Insurance Committee reported having considered the matter of defined contribution plan trust agreement and defined benefit plan trust agreement, and recommended approval of defined contribution plan trust agreement and defined benefit trust agreement subject to final review by city attorney.

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

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

Upon call for the question and upon voice vote, the motion carried 11 votes affirmative; Council Member Carpenter abstaining.

APPROVE ESTIMATES, VARIOUS PROJECTS

Estimate Summary No. 291, dated November 30, 1996 and totaling

\$964,975.88, was presented and read.

It was moved by Council Member Beyer and seconded by Council Member Carpenter 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.

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Council Member Babinchak asked that she be allowed to abstain from voting on any payments to Duckstad Contracting; it was so moved by Council Members Beyer and Klave. Carried 11 votes affirmative.

Upon call for the question and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Hanson, Carpenter, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; 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 projects in a satisfactory manner, and recommending acceptance by the council: Watermain Project No. 4340, District No. 243; Parking Lot Project No. 4367, Senior Citizens; Sewer Project No. 4386, District No. 366; 1996 Concrete Street Repair Project No. 4427; 1996 Asphalt Street Repair Project No. 4428; 1996 Sanitary Sewer Rehab Project No. 4450; Sewer Rehab Project No. 4450.2; and Street Lighting Project No. 4508, District No. 117.

It was moved by Council Member Hafner and seconded by Council Member Ellingson that these recommendations be and are hereby approved.

Council Member Babinchak asked that she be allowed to abstain from voting on any payments to Duckstad Contracting; it was so moved by Council Members Ellingson and Beach. Carried 11 votes affirmative.

Upon call for the questions and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Ellingson, Hamerlik, Hanson, Carpenter, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried.

#### REFER VARIOUS ITEMS TO COMMITTEE

Various items were presented to the council and referred to committee for consideration.

- 1) Council Member Hamerlik presented the matter of sunset clause relative to certain selected street signs; the matter was referred to the public safety committee.
- 2) the matter of amendment of Greater Grand Forks Convention & Visitors Bureau by-laws was presented to council; and the matter was referred to the finance committee for consideration.
- 3) it was noted that the city council sitting as the canvassing board would canvass results of the special city election on December 4, at 12:00



noon.

4) the matter of the street department cost of services study was presented to council; no action was taken.

ADJOURN

It was moved by Council Member Hamerlik and seconded by Council Member Beach that we do now adjourn until Wednesday, December 4, 1996 at 12:00 noon. Carried 12 votes affirmative.

Respectfully submitted,

Saroj Jerath, Deputy City Auditor

Approved:

Patricia A. Owens, Mayor